

COMMONWEALTH OF VIRGINIA



OFFICE OF THE NORFOLK COMMONWEALTH'S ATTORNEY

800 E. City Hall Avenue, Suite 600
Norfolk, Virginia 23510

Phone Number: (757) 664-4444

Fax Number: (757) 664-4445 or (757) 664-4447

Victim/Witness Assistance Program Phone Number: (757) 664-4850

January 3, 2019

Dear Judges, City/State Leaders, and Criminal Justice/Public Safety Colleagues:

As we begin this new year, I write to share a few meaningful directives prosecutors of the Office will follow with the handling of cases they respectfully submit to Norfolk General District Court, Norfolk Juvenile & Domestic Relations Court, and Norfolk Circuit Court for decisions. Generally, the Office has already operated in accordance – with collaborative input from involved parties (historically and recently) – and this letter now simply serves as the appropriate formal notification.

The directives outlined below are in keeping with the Office's sworn duty to criminal justice and public safety under the Code of Virginia and are balanced with responsible, focused reforms widely accepted and implemented at local, state, and federal levels to avoid disparate impact on citizens and criminalization of poverty. In addition, consistent budget reductions for 5+ years to the Office must be met with a measured approach and change to the allocation of prosecutorial resources. The directives with a general overview of each are as follows:

- Bail Position in Misdemeanor Cases – When appropriate, the Office will support the release of a defendant on bail with a personal recognizance bond with or without conditions. The conditions may include supervision by Pretrial Services. There are a variety of cases/defendants unequivocally exempt from this position. A few examples of the exemptions include cases where the charges are associated with domestic violence/stalking/firearms/felony act of violence, cases where the defendant injured a police officer/firefighter/paramedic or other such public servant, cases where the defendant has an extensive criminal history, cases where the defendant has a history of failing to appear in court, and cases where the Commonwealth will seek an active jail sentence of greater than 30 days.
- Bail Position in Felony Cases – When a defendant is charged with a felony other than one for which there is a rebuttable presumption against release on bail per the Code of Virginia, the Office will support the release of the defendant without a secured bond with conditions. The conditions may include supervision by Pretrial Services. There are a variety of

cases/defendants unequivocally exempt from this position. A few examples of the exemptions include cases where the charges are associated with domestic violence/stalking/firearms/felony act of violence, cases where the defendant has an extensive criminal history, and cases where the defendant has a history of failing to appear in court.

- Misdemeanor Marijuana Possession Cases – The Office already does not prosecute these cases; however, some come to the Office as misdemeanor appeals or when attached to felony charges or misdemeanor charges the Office handles. The Office will cease prosecuting all misdemeanor marijuana possession cases and will move to nolle prosequi or dismiss such cases that fall within our purview.
- Prostitution Cases – When a prostitute and a customer (“John”) agree to engage in consensual sex in exchange for money there should be parity between the sentences that they receive. The Office will seek similar dispositions upon convictions for these similarly-situated defendants.

In preparing these directives, I researched criminal justice and public safety reform work in various jurisdictions across the country. I then tasked a group of the Office’s prosecutors to review all relevant materials and develop applicable uses here in Norfolk. We also sought input from 2 researchers with Old Dominion University – both professors with the Department of Sociology & Criminal Justice. The work of this group will continue and may lead to new ways the Office handles other cases in the reform field.

Please know I welcome the continued healthy, constructive dialogue of public safety and criminal justice matters. Do not hesitate to contact me if you would like to discuss the information outlined in this letter in greater detail.

Very truly yours,



Gregory D. Underwood
Commonwealth’s Attorney

GDU/amh