



INTRO TO COURTS '25

VIRGINIA BEACH ~ JURY ASSEMBLY ROOM
October 9, 2025 ~ 2p-4pm

MCLE Pending

An Introduction to Local Practices in all Beach Courts

Basic Discovery in District Courts and Circuit Courts
Motions Practice in Circuit Court
Uncontested Divorce Practice in Circuit Court
E-Filing and Circuit Court

Christianna Dougherty-Cunningham, Esq.,

Christianna Dougherty-Cunningham is an Associate City Attorney for the City of Virginia Beach has handled eminent domain, §1983 defense, code enforcement, local taxation, worker's compensation, municipal liability claims, and presently represents the City's Department of Human Services in all facets of Public Health and Welfare. Prior to coming to the City, she was with the law firm of Tavss Fletcher in Norfolk, VA.

She is a member of the VB JDR Court Improvement Committee, the VB JDAI Committee, the Virginia Beach Bar Association Juvenile Court Committee, and a Past President for the James Kent American Inn of Court. She was a recipient of the VBBA Bar Service Award and presently serves as Treasurer for the VBBA Executive Board.

Ms. Cunningham has been a speaker at numerous statewide CLEs and conferences on DSS and DARS Matters and has drafted teaching materials on a wide range of topics, including but not limited to, Adult Protective Services issues, Guardian and Conservatorships, HIPAA and 42 CFR Regulations, Abuse, Neglect and Foster Care Proceedings in Virginia, and Ethics and Family Partnership Meetings. She currently serves on the stakeholders/advisory groups for Virginia 988/ Marcus Alert, the Indian Child Welfare Act in Virginia, and the VDSS CPS Local Conference Policy Group. She has also conducted numerous training sessions on all aspects of trial preparation and civil liability for law enforcement and social work staff.

Ms. Cunningham graduated with a B.A. in Broadcasting *cum laude* from Arizona State University and received her JD *cum laude* from Saint Louis University School of Law.

Gerald "Jerry" Harris, Esq.

Jerry Harris brings over a decade of legal expertise and public sector experience to his practice. His work is centered on advising clients through the complexities of real estate development, land use, zoning, and permitting. With a background as a Senior Litigation Attorney for the City of Virginia Beach, Jerry has a valuable understanding of municipal processes, enabling him to effectively guide clients through administrative and regulatory requirements at local, state, and federal levels.

In addition to his focus on real estate and development matters, Jerry has a proven track record as a litigator. He represents clients in civil litigation, legal dispute resolution,

administrative appeals, and enforcement actions brought by government authorities. Whether helping clients navigate regulatory hurdles or defending their interests in court, Jerry is known for his strategic insight and dedication to achieving results.

Jerry's legal career began in the courtroom as a Commonwealth's Attorney, where he prosecuted violent crimes, drug offenses, and other felonies in Norfolk and Virginia Beach. He later served as a Senior Litigation Attorney for the Office of the City Attorney in Virginia Beach, handling a range of complex civil litigation matters including civil rights claims and zoning disputes.

Jerry is a proud alumnus of Cape Henry Collegiate and has served as a member of the Alumni Board which includes his service as a past president. A lifelong resident of Virginia Beach, Jerry enjoys surfing, fishing, and spending time with his wife, son, and two daughters.

C. Andrew Rice, Esq.

Rice has been a prosecutor at the Virginia Beach Commonwealth's Attorney's Office for over eleven (11) years and has spent seven (7) of those years on the Juvenile and Domestic Relations prosecution team. He specializes in child abuse and sexual assault cases as well as juvenile gang cases.

Rice is on the faculty of several prosecutor trainings to include Prosecutor Bootcamp (taught twice a year), Sound of Silence, and IMPACT. He teaches a total of fifteen (15) hours of instruction yearly and has taught over 48 hours in the last three years. His program evaluation ratings for last year were 99+% Excellent/Good. Rice is working with a team to bring wellness training to CASC and contributes to hospitality events at conferences as well.

He is the President Elect of the Virginia Beach Bar Association. Rice received the 2023 Crime Solvers Prosecutor of the Year Award. He received his bachelor's degree from the Virginia Military Institute in 2009 and his J.D. from Regent University in 2012 and has dedicated his entire career to prosecution.

Rice recently received the 2024 Michael R. Doucette Lecturer of Merit Award. The award is named after longtime Commonwealth's Attorney for Lynchburg who is now a Circuit Court judge. This award recognizes dedicated leadership and a commitment to training fellow prosecutors.



Tina Sinnen has been a Virginia Beach resident for many years, this is her home. She owes everything she is today to her parents, Hernesto & Mary Esguerra. Her dad came here from the Philippines and served in the U.S. Navy for 30 years and decided to retire in Virginia Beach. She attended all Virginia Beach schools, graduating in 1977 from Kellam High School. She attended Old Dominion University and then went to work in the Circuit Court Clerk's Office.

Tina was employed with the Virginia Beach Circuit Court on November 1, 1991, as Executive Assistant to the Circuit Court Clerk and the Chief Deputy Clerk. She also worked in and supervised the Probate Department and the Marriage License Department of the Clerk's Office and assisted the Clerk in all administrative functions of the office, including, but not limited to, preparing the budget for the City and for the State, preparing office policy, hiring and firing, keeping on top of all legislative changes each year regarding all departments; civil, criminal, deeds, judgments, marriage licenses and probate of wills and estates.

On July 17, 2000, she was appointed as the Chief Deputy of the Virginia Beach Circuit Court Clerk's Office, and she served in that capacity as Chief Deputy until the Clerk, Curtis Fruit, retired in 2003. At that time, she found herself involved in politics, and she was fortunate enough to be elected Circuit Court Clerk by the citizens of Virginia Beach in 2003. She made history as the first Filipino American woman ever elected as a Constitutional Officer in Va. Beach, something she is very proud of. She was elected for a 2nd term in November 2011, and very proud to say she was re-elected for her 3rd term in November 2019. She has a total of over 35 years in the Circuit Court Clerk's Office, more than 22 of those years as the Clerk.

Tina has been married to her high school sweetheart, Matt Sinnen, for 44 years. They have 4 sons. Her oldest, Brooks, is 40 years old and is a business graduate of Old Dominion University working for Sinnen-Green and Associates as a partner and residential real estate appraiser. Her 30-year-olds, Kurt, Sam and Turner, and even her oldest, Brooks, all played Division 1 baseball at Old Dominion University. AND, she finally has some pink in her life with the addition of 3 grand-daughters, Lucy 13, Ruby 10 and Finley 9, AND three up and coming baseball players, Walker 6, Beckham 2 and Campbell 5 months!

Discovery Rules!

3A:11 8:15 7C:5

C. ANDREW RICE
ACA VIRGINIA BEACH

Rule 3a:11

- ▶ Circuit Court
- ▶ JDR Juvenile Felonies 8:15

Rule 8:15 JDR Discovery

- ▶ **(a) Adult Criminal Case.** In any cases involving adults charged with crime, the provisions of Rule 7C:5 govern discovery.
- ▶ **(b) Juvenile Delinquency Cases.** In juvenile delinquency cases, when the juvenile is charged with an act that would be a felony if committed by an adult, or in a transfer hearing or a preliminary hearing to certify charges pursuant to § 16.1-269.1, the court must, upon motion timely made by the juvenile or the Commonwealth's Attorney, and for good cause, enter such orders in aid of discovery and inspection of evidence as provided under Rule 3A:11. In juvenile delinquency cases when the juvenile is charged with an act that would be a misdemeanor if committed by an adult, the court must, upon motion timely made and for good cause, enter such orders for discovery as provided under Rule 7C:5.

Contents

3A:11

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- ▶ Subsection (a) General Provisions
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 - ▶ Subsection (d) Discovery by the Commonwealth
 - ▶ Subsection (g) Protective Order
 - ▶ Rule 3A:12

Subsection (a) General Provisions

- ▶ Subsection (a)2 adds exculpatory evidence to the discovery Rule: “..[D]uties of the Commonwealth’s attorney to provide exculpatory and/or impeachment evidence to an accused supersede any limitation or restriction on discovery provided pursuant to this Rule.”

Rule 3.8 Professional Conduct

- ▶ Special Responsibilities of a Prosecutor
- ▶ Brady 373 US 83
- ▶ Giglio 405 US 150

Subsection (a) general provisions

- ▶ Subsection (a)4 provides that any discovery material filed with the court will be placed under seal at the time it is filed.

Purpose

- ▶ Subsection (a)4 prevents a party from attempting to get around the constraints of Rule 3.6 of the Rules of Professional Conduct
-

Subsection

(b)

DISCOVERY BY THE
ACCUSED

- ▶ (b)1
 - ▶ This is the first of the key changes to the Rule, and may cause many offices to significantly alter the manner in which they provide discovery
 - ▶ In this subsection, the defense is entitled to inspect and review (but not copy) “RELEVANT REPORTS PREPARED BY LAW ENFORCEMENT OFFICERS...IN CONNECTION WITH THE PARTICULAR CASE.”
-

Subsection (b)

DISCOVERY BY THE
ACCUSED

What are Relevant Reports?

- ▶ Clearly, it covers an officer's incident report and any supplements, but
 - ▶ Does it include emails sent to the prosecutor on a case? Phone calls?
 - ▶ Notice, the Rule does NOT specify that the reports to which it refers be written reports.
 - ▶ What, then, is considered attorney work product?
-

Subsection (b) DISCOVERY BY THE ACCUSED

What are Relevant Reports? (II)

- ▶ Cf. (b) 6: “The Rule does not authorize discovery or inspection of the Commonwealth’s, “work product...internal reports, witness statements, memoranda, correspondence, legal research or other internal documents prepared by the office of the Commonwealth’s attorney or its agents in anticipation of trial.”

Subsection

(b)

DISCOVERY BY THE
ACCUSED

- ▶ **What are Relevant Reports?** (III)
- ▶ For purposes of the Rule, what is work product?
- ▶ For purposes of the Rule, are police officers no longer agents of the Commonwealth attorney?
- ▶ "[W]here an agency is involved in the investigation or prosecution of a particular criminal case, agency employees become agents of the Commonwealth for purposes of Rule 3A:11..." Commonwealth v. Ramirez, 20 Va. App. 292, 456 S.E.2d 531 (1995)

Subsection

(b)

DISCOVERY BY THE ACCUSED

- ▶ **(b)2(A):**
- ▶ While the Commonwealth has previously not been required to share written or recorded statements or the substance of any oral statements made by the accused to anyone other than law enforcement officers, **the new rule requires that such statements be provided in discovery.**

Subsection

(b)

DISCOVERY BY THE
ACCUSED

- ▶ (b)2(c):
 - ▶ Such statements made to a co-defendant or co-conspirators *that the Commonwealth intends to use at trial* must also be disclosed to the defense in discovery.
-

Subsection

(b)

DISCOVERY BY THE
ACCUSED

▲ (b)3:

- ▲ Looks the same but it is not.
- ▲ The court has added the word recordings to be allowed to be copied. BWC could have to be copied.

Subsection (b)

DISCOVERY BY THE
ACCUSED


- ▶ **(b)4(A):**
- ▶ The Commonwealth must provide the report of any expert it intends to use at trial or sentencing, along with the expert's contact information.
- ▶ If there is no written report, then a summary of the expert's conclusions must be provided to the defense

Subsection

(b)

DISCOVERY BY THE
ACCUSED

- ▶ **(b)5:**
- ▶ Provide to the accused a list of the names and, if known, the addresses of all persons who are expected to testify on behalf of the Commonwealth at trial or sentencing. This provision is subject to subpart (c)(l) of this Rule and to any protective orders entered by the court pursuant to subpart (g).



Subsection (c) Redaction and Restricted Dissemination Material

Subsection

(c)

Redaction and
Restricted
Dissemination Material

- ▶ **(c)1(A):** The Commonwealth may redact dates of birth and social security numbers for any person whose identity must be revealed to the defense.
- ▶ The address, telephone number, email address and place of employment of any **victim** as defined in §19.2-11 et al

Subsection (c) Redaction and Restricted Dissemination Material

- ▶ **BUT** (New Hearing Alert!) the defendant may move the court to compel the Commonwealth to disclose that personal information.
- ▶ The court may order that the information be designated Restricted Dissemination Material (RDM).

Subsection (c) Redaction and Restricted Dissemination Material

- ▶ RESTRICTED DISSEMINATION
MATERIAL (c)2(B)
- ▶ RDM is that which would result in cognizable danger to the safety or security of a witness or victim; or
- ▶ Would result in cognizable danger of a witness being intimidated or tampered with; or

Subsection (c) Redaction and Restricted Dissemination Material

- ▶ RESTRICTED DISSEMINATION MATERIAL (II)
 - ▶ May compromise an ongoing criminal investigation or confidential law enforcement technique; or
 - ▶ Relates to the statement of a child victim or witness ≤ 14 years of age
-

Subsection (c) Redaction and Restricted Dissemination Material

- ▶ RESTRICTED DISSEMINATION MATERIAL (III)
- ▶ (New Form Alert!) The Commonwealth's attorney must execute a document certifying that the material qualifies as RDM unless the attorney for the accused agrees to the designation

Subsection (c) Redaction and Restricted Dissemination Material

- ▶ RESTRICTED DISSEMINATION MATERIAL (IV)
- ▶ RDM may only be disclosed to the attorney for the accused
- ▶ Defense attorney cannot reproduce, copy or disseminate RDM in any way. (c)(2)(iii)

Subsection (c) Redaction and Restricted Dissemination Material

- ▶ RESTRICTED DISSEMINATION MATERIAL (V)
- ▶ Where a defendant is not represented by counsel (New Hearing Alert!), the Commonwealth must move the court to limit the scope of discovery

Subsection (d)

Discovery by the
Commonwealth

- ▶ (d)4:
- ▶ Requires defense to notify the Commonwealth in writing of the intent to use expert testimony at trial or sentencing, and provide the same information that the Commonwealth is required to give pursuant to (b)4.

Subsection (d)

Discovery by the
Commonwealth

- ▶ (d)5:
- ▶ Requires defense to provide the Commonwealth a list of witnesses it intends to use at trial or sentencing, and provide the same information that the Commonwealth is required to give pursuant to (b)5.

New rule:

Subsection (g) Protective Orders



Subsection (g) Protective Orders

- ▶ **(g)1:**
 - ▶ Either party may petition the court to protect materials required for discovery by ordering any, all, or other conditions for disclosure. Examples are:
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Subsection (g) Protective Orders

- ▶ Restrict public disclosure including to any website (e.g., Facebook);
- ▶ Restrict disclosure to any third party except expert witnesses;
- ▶ Authorization to withhold any personal information listed in (c)1;
- ▶ Place additional restricts on withholding non-exculpatory evidence

Rule 7C:5 General District

- ▶ General District
 - ▶ Beware of RDM – Can't un-ring a bell.
- ▶ any relevant written or recorded statements or confessions made by the accused, or copies thereof and the substance of any oral statements and confessions made by the accused to any law enforcement officer; and
- ▶ any criminal record of the accused.

Rule 7C:5

- ▶ When does this apply?
- ▶ Notice this is very different than Circuit
- ▶ Don't get in trouble with RDM
- ▶ But also don't hide the ball....
 - ▶ The intent was for more information to be shared.

Questions

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