

CITY OF FAIRFAX POLICE DEPARTMENT

GENERAL ORDER

Subject	Number
ARREST PROCEDURES	4-6
Effective Date	Rescinds
September 1, 2010	General Order 4-6, dated 06-09-08
Accreditation Standards	Authority
Fifth Edition 1.2.1 thru 1.2.7, 74.3.1	Colonel Richard J. Rappoport Chief of Police

PURPOSE:

To define arrest and the authority to arrest; distinguish the process of arrest from other lawful types of restraint and detention; and to offer guidelines and circumstances when officers may exercise alternatives to arrest.

POLICY:

Officers have the legal, moral and ethical duty to use the power of arrest responsibly and with due regard to the rights of all parties involved. Officers have a broad range of discretion in some misdemeanor arrest situations, particularly if a local ordinance is involved. Officers have little or no discretion with most felonies. Arrests made by officers while off duty in the City are limited to incidents where a felony is involved, a criminal misdemeanor is committed in the officer's presence, or a breach of the peace jeopardizing public safety is imminent.

DISCUSSION:

For the purpose of this directive, the following definitions apply:

ARREST: When a person is taken into custody in order that they may answer for an offense or when there is a deprivation or restraint of another's liberty in any significant way.

DE-ARREST: The release of an individual from full custody arrest when the arresting officer determines that the person under arrest did not commit a crime, or that upon further investigation the event is found not to constitute a crime.

PROBABLE CAUSE: Where facts and circumstances are such as to cause a person of reasonable caution to believe that an offense is being or has been committed, and that the person to be arrested has committed the offense.

REASONABLE SUSPICION: Defined by the courts as a standard less than probable cause to arrest and is a circumstance or collection of circumstances which lead a trained and experienced law enforcement officer to believe that criminal activity may be afoot.

STOP AND FRISK: Temporary detention of a subject when the officer has reasonable suspicion that criminal activity has occurred, is occurring, or is about to occur. Frisk entails the "pat down" type search of the person stopped when the officer suspects that the person may be carrying a concealed weapon which would pose a safety threat to the officer.

PROCEDURE:

I. AUTHORITY TO ARREST

A. The power and authority for City police officers to arrest is found in Code of Virginia Section 15.2-1704. Criminal offenses for which an individual may be arrested by police officers are divided into felony and misdemeanor categories.

B. A felony arrest may be effected when any of the following occur:

1. If a felony offense is observed by the arresting officer.
2. If probable cause exists.
3. With a valid felony arrest warrant.
4. Upon knowledge of the existence of a felony warrant.

C. A misdemeanor arrest may be effected when any of the following occur:

1. If the offense is observed by the arresting officer.
2. With a valid arrest warrant in their possession.
3. Under the provisions of Section 19.2-81 of the Code of Virginia an officer may make an arrest committed not in their presence in the following cases:
 - a. Upon receipt of a teletype or radio transmission from ECC that a valid warrant is on file
 - b. Misdemeanor shoplifting
 - c. Carrying a concealed weapon on school property
 - d. Assault and Battery
 - e. Brandishing a firearm in violation of 18.2-282
 - f. Destruction of property in violation of 18.2-137
 - g. Officers are to have a full working knowledge of Section 19.2-81 concerning these exceptions.

D. Authority of Citizens

1. A private citizen may arrest another:

a. For breach of the peace, or

b. When a felony has been committed in their presence.

II. WARRANTS

A. Warrant Service

1. When practical, arrests are made after issuance of a warrant. Arrest warrants are executed by sworn law enforcement officers only.

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3. [REDACTED]

4. [REDACTED]

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[REDACTED]

8. Unless one of the requirements of Section II.A.6. as listed above are met, a search warrant must be obtained prior to conducting a search of a third party residence. These requirements do not apply to property owned or leased by the person named in the warrant. Probable cause to believe the person named in the warrant is present on their own premises is sufficient reason to conduct the search.

B. Warrant Control Procedures

1. See General Order 4-8 of the same title.

C. Mental Petitions:

1. See General Order 4-20 of the same title.

III. DOCUMENTING USE OF FORCE

- A. General Order 4-11 Use of Force governs use of force issues.**

- B. An In-Custody Report, form PD-120, is completed by the arresting officer for any arrest or incident involving custody, which includes:**

1. All physical arrests.

2. Any custodial transport of an individual.
3. Any physical transport of a juvenile.
4. Any custodial detention of an adult or juvenile.
5. Any custodial detention of an individual, subject to the service of a mental petition.

C. The In-Custody Report is due at the end of the tour of duty in which the incident occurred. After review by the Duty Supervisor the PD-120 is distributed as follows:

1. The WHITE copy (original) is attached to the original paper copy of the written or supplemental PD-104 report form if used and if the case required a report. All copies are then forwarded to Police Records. When there is no written report required or when an electronic Case or Supplement Report is written, the white copy is destroyed or retained by the arresting officer with their arrest notes.
2. The YELLOW copy (NCR copy) is forwarded to police records and then routed to Administrative Services Division.

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3. See also General Order 4-7 Search and Seizure.

IV. STOP AND FRISK

- A. For a comprehensive description of Department policy and procedure on stop and frisk, refer to General Order 4-18 Field Interrogations.

V. ARREST AND DETENTION FOR SHOPLIFTING

- A. Authority of Police Officers and other persons to arrest and detain:

1. Police Officers:

- a. The authority of police officers to arrest for shoplifting is contained in Section 19.2-81, Code of Virginia. Arrests without warrants may be effected for misdemeanors involving shoplifting in violation of Sections 18.2-96 and 18.2-103 of the Code of Virginia and the similar City ordinances, when the arrest is based on probable cause upon reasonable complaint of a person who observed the commission of the offense.

2. Merchants or their Employees or Agents:

- a. Under Section 18.2-105, Code of Virginia, merchants or their agents or employees who cause the arrest of any person for shoplifting are provided an exemption from civil liability, provided they had probable cause. Section 18.2-105.1, Code of Virginia, authorizes merchants or their agents or employees to detain a person suspected of shoplifting for a period not to exceed one hour, pending arrival of a law enforcement officer, based upon probable cause that the person committed larceny, or willfully concealed merchandise.
3. Registered Employee of a Private Security Services Business:
 - a. The powers of arrest for a registered employee of a private security services business is controlled by Section 54.1-1907, Code of Virginia. Such employees may arrest for offenses committed in their presence or in the presence of a merchant, their agent or employee, if probable cause exists to believe that the person arrested has shoplifted or committed willful concealment of goods. This arrest is valid **ONLY ON THE PREMISES** or after close pursuit off the location which the private security services firm has contracted to protect.
 4. Special Conservators:
 - a. Special conservators are commissioned by the Chief Judge of the Nineteenth Judicial Circuit and are given full arrest power at their specific place of employment for all offenses.
 5. Electronic Article Surveillance Devices:

- a. For purposes of this section, "ELECTRONIC ARTICLE SURVEILLANCE DEVICE" means an electronic device designed and operated for the purpose of detecting the removal from the premises, or a protected area within such premises, of specially marked or tagged merchandise.
- b. The activation of an electronic article surveillance device as a result of a person exiting the premises or an area within the premises of a merchant where an electronic article surveillance device is located, constitutes probable cause for the detention of such person by such merchant, his agent or employee, provided such person is detained only in a reasonable manner and only for such time as is necessary for an inquiry into the circumstances surrounding the activation of the device, and provided that clear and visible notice is posted at each exit and location within the premises where such a device is located indicating the presence of an anti-shoplifting or inventory control device.
- c. Officers are reminded that probable cause for detention under Code of Virginia 18.2-105 is not the same as probable cause for arrest under 19.2-81.

B. Responsibilities of Police Officers for arrest and detention by other persons:

1. Detention by Merchants, their Agents or Employees:

- a. Complaints involving the detention of a shoplifting suspect by non-sworn merchants, their agents or employees (hereafter referred to as the complainant) require the following:
- b. The officer must consider the facts and circumstances and determine whether probable cause exists to arrest the person detained

for the alleged offense. If the officer concludes that probable cause does not exist, the officer informs the complainant of this decision and advises the complainant of the right to seek a warrant from a magistrate.

c. If probable cause exists that a FELONY occurred, the officer effects an arrest and proceeds as follows:

- Transport the suspect to a magistrate and secure the appropriate warrant(s). In cases where the registered employee of a private security firm is the complainant it should be requested that the warrant be issued with their name.
- Complete all department reports, forms, CCRE forms, fingerprint the suspect and serve the warrant.
- Deliver the suspect to ADC personnel or follow other remanding instructions as may be issued by the magistrates.

d. If probable cause exists that a MISDEMEANOR occurred, the officer proceeds as follows:

- Virginia Residents
 - (a) The officer secures the suspect's identification and checks the suspect through communications to ensure that the suspect is not wanted and checks the suspect's criminal history for past larceny/shoplifting offenses. Suspects who have been convicted two or more times of larceny offenses as outlined in 18.2-104 of the Code of Virginia are processed as felons as outlined in Section B.1.b. above.

(b) If the suspect is found to be a Virginia resident with valid identification and will promise to appear in court the officer prepares a summons charging the suspect with the appropriate City Code Section.

(1) City Code Section 54-62 - Concealing Merchandise / Altering Price Tags

(2) City Code Section 54-61 - Petit Larceny

(3) See Attachment "A" for a completed sample summons.

(c) Once the suspect has signed the summons they are released. Suspects released on a summons are not to be detained for the completion of CCRE paperwork and fingerprinting. Refer to Section VI.D. of this General Order for CCRE procedures.

(d) While still on the scene the officer completes a Request For Witness Subpoena, General District Court Form DC-325. The request must include the home and business addresses and phone numbers for the complainant and any other witnesses the officer wants to be subpoenaed (refer to Attachment "B" for a sample completed request). The officer is to ensure that the complainant knows the scheduled Court date (for all City cases the officer uses their next assigned court date), and knows where the Court is located. The completed Request for Witness Subpoena is then stapled to the Court copy of the summons by the officer and forwarded by police records to the Clerk of the Court for processing.

(e) The officer advises the complainant to retain any physical evidence (perishable items should be photographed following the provisions in State Code 19.2-270.1) and to bring the evidence with them to court.

(f) If the above cannot be done because of the physical demeanor of the suspect (i.e., fighting, disorderly or drunkenness) or the officer is unable to confirm the suspects identity, address, or other reasons as outlined in 19.2-74 of the Code of Virginia, concerning issuance and release on a summons, then the officer should effect a physical arrest following the provisions in Section 2 listed below.

- Non Virginia Residents and Virginia Residents Who Refuse to Give Promise to Appear

(a) In these cases the officer is to ask the suspect to voluntarily accompany the officer to the magistrates office and have the complainant respond to the magistrates office and obtain any misdemeanor warrants involved.

(b) Officers are to assist complainants with the magistrate process. Officers are to provide the complainant with the correct City code section and the officers next City Court date and explain to the complainant that they should seek a warrant using this information.

(c) If the suspect refuses to accompany the officer, or is a Virginia resident who refuses to sign a summons giving promise to appear, or for some legitimate reason the complainant cannot leave the incident location the officer is to:

(1) Effect an arrest and obtain the warrant. The charges are to be placed under City Code 54-61 or 54-62 and set for the officer's next City Court date.

(2) Prior to leaving the scene the officer is to complete a Request for Witness subpoena as outlined in Section c.(1)(d) above.

- If the complainant is uncertain or declines prosecution the officer provides the complainant with the suspects full information, details the warrant process, and advises the complainant to contact the officer should they later desire to prosecute within the statute of limitations. If contacted the officer is to assist the complainant through the warrant process.

2. Arrests by Special Conservators:

- a. When an officer responding to a shoplifting complaint finds that a suspect has been arrested by a special conservator the responding officer is responsible for the following:

- Transportation to a magistrate.
- Completion of all Department reports and CCRE forms as needed.
- Ensuring that the Special Conservator seeks the warrant in their name to ensure that the court docket will reflect the person who is actually the source of action against the defendant.

- b. NOTE: Special police or conservators that have arrest authority in another jurisdiction and no authority in the City of Fairfax are considered the same as any other citizen.

3. Arrest and Detention of Juveniles:

- a. Juveniles detained by special conservators, merchants, their agents or employees, or registered security employees for shoplifting are released at their discretion. These persons are responsible for contacting parents and filing petitions with the Juvenile and Domestic Relations Court. Officers should assist in determining identity and advising the complainant of the petition process.
- b. Officers handling shoplifting offenses committed in their presence by juveniles, or based on probable cause on reasonable complaint of a merchant, or their employees, or agents who observed the alleged offense, should use the formal or informal process in accordance with General Order 5-18, Juvenile Cases.
- c. Juveniles may be released after identification, preferably to a parent or guardian.
- d. In circumstances where a juvenile's identity cannot be determined, or no responsible person can be found who will assume custody, the assigned officer should transport the juvenile to an intake officer of the Juvenile Court.
 - If the intake officer determines a detention order is necessary, the officer transports the juvenile as directed in the order for a court hearing or to the appropriate juvenile facility.
 - After hours cases may require assistance from the Support Operations Division.

4. Custody of Evidence and Court Appearance:

- a. Unless the officer obtains a warrant in their name, the custody of evidence relating to shoplifting offenses remains the responsibility of the complainant regardless of whether a police officer makes an arrest. The officer handling the case is to explain the complainants

responsibility and importance concerning the documentation, custody and retention of evidence.

b. Police officers assigned to shoplifting complaints do not appear in court for the prosecution of such offenses unless:

- The officer obtained the warrant in their name or issued an on scene summons for the offense.
- The officer observed the offense, or has eyewitness or other information essential to the prosecution.
- The Office of the City or Commonwealth's Attorney requests their presence in court.
- In answer to a subpoena.

5. Officers are to assist complainants with any questions they may have concerning the court process.

VI. MISDEMEANORS OTHER THAN SHOPLIFTING AND TRAFFIC OFFENSES

A. Arrests for misdemeanors other than traffic offenses and shoplifting are conducted in accordance with Code of Virginia 19.2-74 and this general order. For procedures for conducting traffic arrests, see General Order 6-2, Traffic Summons, Warning, Arrest.

B. Criminal Misdemeanors:

1. Officers must release a defendant on a summons for any misdemeanor committed in their presence, except when:

a. The officer has reason to believe the accused will not appear in court, such as inability to establish identity or address.

b. The officer has reason to believe that the accused is dangerous to themselves or someone else.

c. The accused fails to sign the summons to give a written promise to appear. (See Section VII for diplomatic exceptions)

d. The accused fails or refuses to discontinue the unlawful act after being warned to cease and desist.

e. In the case of Class 3 or Class 4 misdemeanors and all non-jailable offenses, where the accused will not give a written promise to appear in court, such as not signing a summons.

f. In the case of violations of Title 46.2 of the Code of Virginia concerning driving while intoxicated such as State Code 18.2-266, City Code 54.228 - Intoxication in Public, State Code 18.2-407 - Unlawful Assembly or other parallel City ordinances.

2. If an officer has reason to believe one or more of the exceptions should be invoked, the officer must take the accused before the nearest magistrate, who determines whether a summons or a warrant should be issued.

C. Special Procedures in Warrant Cases (Applicable Only to Misdemeanor Warrants).

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[REDACTED]

6.

[REDACTED]

- a. The service officer executes the original, having the accused sign the summons section of the warrant to indicate service, and gives the defendant their copy.
- b. A Uniform Summons form is completed for City Records. In the "Describe Charge" section on the summons the officer writes that it is a warrant service, the charge on the warrant and the complainant's name. An example is found below.

<p>WARRANT SERVICE: Petit Larceny Complainant = Steve J. Sample</p>
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- c. The original of the warrant, the Police Records copy of the summons and a completed Warrant Control Form, if applicable are forwarded to the Duty Supervisor for review prior to going to Communications for transmittal to court. With the exception of the Records Copy of the summons all other pages are destroyed.
 - d. If the defendant refuses to sign the warrant's summons section, they are to be taken before the nearest magistrate for further disposition.
7. If the time involved in forwarding the warrant to Communications will not ensure that the warrant reaches the Court prior to the court date, the serving officer makes arrangements to have the paperwork hand carried to the appropriate court (local only) and notify the Warrant Control Person in Communications of this action.

D. CCRE Requirements

1. Persons arrested and to be released on a summons must not be held in custody after the issuance of the summons for the purpose of completing the CCRE reports. Refer to Codes 19.2-74 and 19.2-340 of the Code of Virginia.

2. Persons released on a summons and thus not fingerprinted, who are later convicted are finger-printed in accordance with 19.2-340 of the Code of Virginia. It is the responsibility of the original arresting officer to ensure that the CCRE process is completed as outlined below.
 - a. Normally the presiding judge will remand the defendant to the custody of the officer for CCRE processing upon the defendants conviction.

 - b. If for some reason the presiding judge does not remand the defendant to the officers custody then the arresting officer is to request the defendant to voluntarily submit to the required fingerprinting and CCRE attendant paperwork. The defendant is to be asked to report to the officer at a specific time at Police Headquarters after court for processing. Should the defendant have no transportation the defendant may be transported by police vehicle.

 - c. If the defendant will not volunteer to the CCRE process, or has left the Court, then the officer is to report to the Clerk of the Court's office and advise a member of the Court Staff that the defendant needs to be remanded for CCRE processing. If the defendant is present, the Court will remand the defendant to the officer. If the defendant has left the Court, the Court will prepare the appropriate order commanding the defendant to report and submit for the CCRE processing and have it served on the defendant.

3. See General Order 4-10, Processing and Temporary Detention, for complete procedures for completing CCRE reports.

VII. IMMUNITY FROM ARREST

- A. Except for treason, felony, or breach of the peace, members of the Virginia General Assembly, clerks and their assistants, are privileged from arrest during the session of the General Assembly, and five days before and after the session. For the purpose of this section, a breach of the peace includes all criminal misdemeanors. This immunity does not apply to traffic related charges.

- B. Except for treason, felony, or breach of the peace, members of Congress of the United States are privileged from arrest during session and in traveling to and from session. For the purpose of this section, a breach of the peace includes all criminal misdemeanors. This immunity does not apply to traffic charges.

- C. Witnesses entering the State of Virginia, or traveling through the state enroute to another state, in response to a summons directing them to give testimony are immune from arrest in connection with matters which arose before their entrance into this state under the summons. They are subject to arrest for any violations committed after entry into the state.

- D. The service of warrants is prohibited inside any courtroom while court is in session.

- E. The Sheriff's Department should be notified of any warrant to be served on Fairfax County Courthouse grounds.

F. Diplomatic officers, their family members, members of their official staff, and their servants enjoy various levels of immunity from arrest, detention or prosecution. Diplomats of all levels are subject to the following actions:

1. Diplomats or consular officers may be detained for a reasonable amount of time in order to verify diplomatic status.

2.



3. Diplomats and consular officers who are driving while intoxicated should not be permitted to continue driving. Alternate arrangements must be made for transportation. Vehicle impoundment, if necessary, must be in accordance with established routine procedures.

4. Criminal offenses involving diplomats must be developed and documented precisely and in detail. Although a physical arrest cannot be made, the Department of State may seek approval for prosecution or termination of immunity for unusual cases which assure successful prosecution.

5. Officers may exercise the option to obtain a warrant of arrest. Although it cannot be served, it can be entered into the records of the U.S. immigration authorities and thus serve to bar the subsequent issuance of a U.S. visa permitting such person to re-enter the United States. (See Special Order 4-6, 7-2)

6. Police authorities may intervene, to the extent necessary, to halt such activity in those circumstances where public safety is in imminent danger or a serious crime may otherwise be committed.

7. In addition to personal immunity, the private residence and vehicles of a diplomat or selected employees is inviolable.

8. In any case in which a question arises concerning a person's diplomatic immunity or what action might be appropriate, the following offices should be contacted:

- a. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

9. The Department of State is interested in all incidents involving a diplomat or consular officer in any role. The Bureau of Diplomatic Security is notified via NLETS of any incident involving resident foreign officials or diplomats, their families, or their properties. Within 24 hours of such an incident, the officer handling the matter should provide a message to Communications with sufficient information to send an NLETS message to the Department of State. The text of the message should contain only basic information. Communications sends this message to NLETS terminal #DCDOS0005. The officer's PD-104 Incident or electronic Case Report should reflect that an NLETS message was forwarded to the Department of State.

10. Arrest of Foreign Nationals

- a. When a person of foreign citizenship is taken into custody to answer a criminal charge, this fact shall be reported by the arresting officer to the embassy of the arrestee's foreign government within a reasonable period of time after the arrest.
- b. This applies to persons of foreign citizenship in general and is not restricted to persons having some form of immunity or employed by a foreign embassy.
- c. A FAX (Attachment C) should be sent to the embassy. A list of embassy FAX numbers is located in the processing room in the Consular Notification and Access Book.

VIII. ARRESTS OF MILITARY PERSONNEL

- A. The criminal arrest of an active duty member of the Armed Forces should be reported as soon as possible to the appropriate liaison officer listed below, regardless of the hour of day.

B [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- C. Notification is required only where the person is taken into physical custody and is not required when he/she is released on a summons. The notification should be made regardless of the arrestee's rank, residence, or current duty station.

IX. ARRESTS OF GEORGE MASON UNIVERSITY STUDENTS

- A. The arrest of a George Mason University student should be reported as soon as possible to the George Mason University Police Department.
- B. The George Mason University Police Department routinely institutes internal disciplinary investigations of such arrests, which may cause a disciplinary action against the student in addition to court action on the original charge.
- C. Officers may use this notification process as an alternative to a misdemeanor arrest if it is determined that the offense is minor and the internal discipline of the student would outweigh the advantage of bringing the charge before the court.

X. ARREST OF PROBATION / PAROLE VIOLATORS

- A. Probation/parole violators are arrested only upon receipt of, or with the knowledge of the existence of an outstanding warrant as indicated in warrant procedures.

B. The Probation/Parole Department frequently sets appointments with probationers or parolees who have been found in violation of the terms of their probation/parole and for whom outstanding warrants need to be served.

C. The Probation/Parole Department should provide ample forewarning to this Department when such an arrest is to occur within the confines of their offices. During such arrests, the following procedures apply:

1. The Dispatcher should obtain the information necessary for the normal CAD entry and information on the suspect to include:

a. Defendant's name, physical description and mode of travel, if known.

b. Time of the appointment.

c. Defendant's likelihood to resist arrest or history of violence, if known.

d. Confirmation and location of the warrant, capias or court document.

e. The location and who will be meeting the officer to escort the officers to the suspects location.

2. Officers responding to the Probation/Parole office should conduct the arrest in accordance with a pre-established plan that lends itself to officer safety and the safety of others. Initial pre-established departmental plans include:

a. A member of the staff will meet the responding officers at a pre-determined location in order to escort them to the suspects location.

b. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. The warrant, capias or other court document should be in the possession of the Probation/Parole Officer or easily obtainable from any local warrant control desk, court, or other authority.

D. The same procedures should be followed for arrests at the ASAP office located in the same building. (Attachment E).

XI. ARREST OF CERTAIN SCHOOL EMPLOYEES

A. Code Section 19.2-83.1 of the Code of Virginia requires our department to notify the local school Division Superintendent of the arrest of any school teacher or employee of a public school division for certain offenses.

B. The reportable offenses are any which involve the sexual molestation, physical or sexual abuse, or rape of a child.

- C. Besides any other command notifications necessary, any member arresting a subject meeting the above requirements will notify the Criminal Investigations Division so that CID can make the required notification.

XII. DETOXIFICATION DIVERSION

- A. Code Section 18.2-388 allows for the voluntary treatment of intoxicated persons at Court approved detoxification centers in lieu of their arrest for being intoxicated in public.

- B. While not the norm, officers may use their discretion in evaluating the circumstances of the incident to determine whether to utilize the local detoxification center for intoxicated persons who volunteer for such treatment. To be eligible for consideration the intoxicated person must:
 - 1. Have exhibited behavior/acts which established probable cause for an arrest of being Intoxicated in Public.

 - 2. Be 18 years or older.

 - 3. Have no active warrants on file against them.

 - 4. Have committed no other criminal violations, including DWI.

 - 5. Volunteer to be transported and remain at the Detoxification Center.

6. Not in need of any medical attention.
7. There must be space available at the Fairfax Detoxification Center.
8. Be willing to be searched, secured with handcuffs and obey police instructions during the transport and registration process.
9. Exhibits none of the following behavior;
 - a. Any violent behavior.
 - b. Suicidal tendencies.
 - c. Show any signs of having hallucinations or delusions.
 - d. Show any signs that they may pose a risk to the staff or other inebriates at the Detoxification Center.

C. In those instances where the Detoxification Center process is to be utilized the following steps shall be taken.

1. Communications is radioed and asked to call the Detoxification Center to ensure that there is space available for the subject.
2. Ensure that the subject is volunteering and fully explain to them that they will need to remain at the center until released by staff and that

should they elect to leave the center they may be subject to arrest for being Intoxicated in Public.

3. The subject will be handcuffed then searched following the guidelines in General order 4-9, Prisoner Transport.
 4. Transport the subject to the Detoxification Center, delivering them to the registration area for screening, and remain with the subject for the 5 to 10 minute screening process.
 5. Should the subject fail the screening criteria due to medical reasons the Center will have the subject transported to an appropriate medical facility.
 6. Should the subject withdraw their volunteered consent, become violent, non-compliant, or otherwise no longer meet the eligibility criteria while enroute to the Center, the subject is to be arrested and handled as in any other Intoxicated in Public case.
 7. If the subject leaves the Center after being admitted, the Center will contact the Fairfax County Police so that they may have patrol units take appropriate arrest actions.
- D. In all cases where the Detoxification Diversion process is used, or is initially used and later changed to an arrest, an Incident Report (PD-104) or electronic Case Report documenting the incident, and that the subject clearly volunteered for the diversion, and an In-Custody Report (PD-120) shall be completed.

XIII. JUVENILE ARRESTS

A. See General Order 5-18, Juvenile Cases

XIV. OFF DUTY ARRESTS

A. [REDACTED]

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[REDACTED]

D.

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XV. DE-ARREST

A. Legal Background:

1. In some instances, officers may encounter a circumstance where probable cause develops to arrest an individual for an offense only to find out shortly thereafter that the person under arrest did not commit a crime,

or that further investigation reveals the event does not constitute a crime. In such cases, it is imperative that the officer terminate the arrest process immediately to avoid becoming liable for false imprisonment. False imprisonment, as defined in Montgomery Ward v. Freeman, 199 F 2D 720 (1953), "is the restraint of one's liberty without any sufficient legal excuse."

B. De-arrest/Documentation and Reporting:

1. The arresting officer is not to formally charge those under arrest when it is proven to the officer's satisfaction that either the person under arrest did not commit a crime or that an event investigated is found not to constitute a crime.

2. When an officer de-arrests a subject, they should be returned to the same location or position occupied before the arrest, or improve upon it. An example of this would be if a subject is arrested and the officer begins to transport the subject and then learns that the probable cause utilized to make the arrest no longer exists. Instead of releasing the subject along the roadside, the officer should return to the original contact point and release the subject. If a vehicle has been towed, the vehicle must be returned to the operator/registered owner. A supervisor should authorize release at City expense. The tow bill should be forwarded to Administration for payment.

3. Upon releasing a subject in a de-arrest circumstance, the officer must immediately contact their first-line supervisor and advise them of the incident.

4. [REDACTED]

|

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Normally probable cause does not diminish between the time of arrest and the time the officer and detainee reach the magistrate. If probable cause ceases to exist prior to reaching the magistrate, the arresting officer is responsible for immediate de-arrest of the detainee.

6. If an officer makes an arrest and takes a detainee before a magistrate who subsequently declines to issue a warrant, the "no warrant" decision by the magistrate will be handled as a de-arrest situation and the officer is responsible for following the de-arrest procedures outlined in this General Order.

XVI. COURT CAPIAS / BONDSMEN

- A. Arrest of Persons on Court Capias who are Under Contract for Bail with Bondsmen:

- B. Capias directed to "Any Police Officer";
 - 1. Capias directed to any police officer must be examined for validity in all respects, as any other Capias.
 - 2. The affected bondsman must not assist the arrest at the time the Capias is served.
 - 3. After service of the Capias, the defendant must be transported directly to the nearest accessible magistrate for arraignment.

- C. A Surety Capias directed to "Any Authorized Officer" should be forwarded to the Fairfax County Sheriff's Office for service.

- D. Any Capias which is issued as a result of a bondsman's application to a court that is directed only to a bondsman must not be served by any officer, nor must any officer assist in such service.

- E. Officers must recognize that no bondsman is specifically authorized to carry a concealed weapon, unless a permit has been issued by the Chief Judge of the Circuit in which he/she resides. Officers must also recognize

that bondsmen are criminally and civilly liable for the injury of third persons who are harmed as a result of the bondsman's actions while effecting an arrest.

Colonel Richard J. Rappoport / Chief of Police

Special Order A: Immigration Enforcement Policy

Special Order B: Certificates of Analysis in DWI and Drug Cases

Attachment A: Completed Sample Summons for Shoplifting Cases

Attachment B: Completed Sample Request for Witness Subpoena

Attachment C: Foreign National Notification FAX Form

Attachment D: Virginia State Code 19.2-81

Attachment E: Arrest Procedures at ASAP Office

Index as: Alternative to Arrest - Intoxicated Pedestrians

Arrest of Certain School Employees

Arrest Procedures

Authority to Arrest

Bondsmen

Capias

CCRE - Procedures upon summons release

De-Arrest

Detoxification Diversion

Diplomatic Immunity

Felony Arrests

George Mason Student Arrests

In-Custody Report, PD-120

Military Arrests

Misdemeanor Arrests

Off-Duty Arrests

Physical Arrest Report

Probation & Parole Arrest

Release on Summons

Shoplifting Arrests

Warrant Service