

SECTION N

TOPIC: LAWS OF ARREST

GOAL: The probationary officer will learn the laws of arrest and the policies and procedures involving arrest situations.

1. VIRGINIA CODES

- A. Issuance of Summons vs. Warrant 19.2-73
- 19.2-73 also allows an officer to issue a summons, in lieu of arrest and transport to the magistrate, to any person under suspicion for driving while intoxicated who has been taken to a medical facility for treatment or evaluation of his medical condition and / or for refusal of tests.
- Notice of Issuance of Warrant / Summons (FTA) 19.2-73
 - Issuance / Service of Summons 19.2-74
 - Officer **shall issue a summons** to the arrested person for violation of any Class 1 or 2 misdemeanors unless....
- B. Copy of Process left with Accused 19.2-75
- C. Execution / Return of Warrant / Summons 19.2-76
- D. Mailing Summons 19.2-76.2
- 1. Fail to Appear on Return Date 19.2-76.3
- E. Escape, Flight & Pursuit; 19.2-77
Arrest anywhere within Virginia
- F. Uniform of Arresting Officer
- 19.2-78. Officer shall be dressed at the time of making any such arrest, search or seizure in such uniform as he may customarily wear in the performance of his duties which will clearly show him to casual observation to be an officer.

- 46.2-882. Officer to be in uniform and displays his badge of authority for Radar and Lidar tickets.

G.	Authority of Officers from other States In Close Pursuit	19.2-79
H.	Duties of Arresting Officer	19.2-80
I.	Arrest without Warrant	19.2-81

Officers may arrest a person without a warrant:

1. For a **crime in the presence of the officer or a felony not in his presence.** (see also 19.2-100 for authority to arrest in felonies)
2. For **operating any watercraft or motorboat while intoxicated.**
3. **At the scene of any accident** involving a motor vehicle, watercraft or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.
4. **Within 3 hours of the alleged offense**, arrest without a warrant at any location any person whom the officer has probable cause to **suspect of driving** or operating a motor vehicle, watercraft or motorboat **while intoxicated.**
5. Arrest persons duly charged with a crime in another jurisdiction upon receipt of information from that jurisdiction.
6. **For warrant or capias** for such offense is on file.
7. For an alleged misdemeanor not committed in their presence involving:
 - **Shoplifting**
 - **Carrying a weapon on school property.**
 - **Assault and battery** (see also 19.2-81.3 for DomVio arrest)
 - **Brandishing a firearm.**
 - **Destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes.**

1.	Procedures upon Arrest without Warrant	19.2-82
J.	Authority of Officers	
1.	Search Beyond the Person	G.O. 540.2 V, C
2.	Period of Detention	G.O. 540.2 V, D
3.	Use of Force in Investigative Stops	G.O. 540.2 V, E
K.	CCRE Reporting Procedures	19.2-390
L.	Arrested taken Before Magistrate	46.2-940
M.	Provide Criminal History to Magistrate	19.2-80.2
2.	FELONY CLASSIFICATION & PUNISHMENT	18.2-10
3.	MISD. CLASSIFICATION & PUNISHMENT	18.2-11
4.	PUNISHMENT NOT PRESCRIBED	18.2-12
5.	ARREST PROCEDURES	
1.	Warrant Service	G.O. 601-IV
2.	Warrant Control	G.O. 601-IV, B; RWM, Sect 2, Chap 16.
3.	Use of Force	G.O. 540.1
4.	Search of Prisoners	G.O. 601-VI
5.	Transporting Prisoners	G.O. 203.3
6.	CCRE Reporting Procedures	G.O. 601-VII
8.	Misdemeanor Arrest Procedures	G.O. 601.1
9.	Traffic Offense Procedures	G.O. 601.1-II
10.	Special Arrest Situations	G.O. 601-VIII, A-C
11.	Arrest of Military Personnel	G.O. 601- VIII, D
12.	Off Duty Incidents	G.O. 601, VII, E
6.	MISDEMEANOR ARREST / SUMMONS RELEASE	G.O. 601.1
A.	Misdemeanor, other than traffic	
B.	Release on Summons (Class 1& 2)	
C.	Special Procedures Warrant Case	
D.	C.C.R.E. Procedures	
E.	Service of Magistrate's Summons	

- 7. **TRAFFIC OFFENSES**
 - A. Arrest, Non-Residents 46.2-946
 - Reciprocal States
 - B Release on Summons 46.2-945

- 8. **REQUEST FOR IMMEDIATE TRIAL** 46.2-936
G.O. 601.1 III

- 9. **CLOSE PURSUIT, BEYOND FX CO.** G.O. 501.1, XIII

- 10. **CLOSE PURSUIT, MD & DC** G.O. 501.1 XII

- 11. **CLOSE PURSUIT WITHIN VA** G.O. 501.1 XI & XIV

- 12. **OFFENSES COMMITTED IN ADJACENT CITY/COUNTY BOUNDARIES & ESCAPE OR FLIGHT OF PRISONER** REG. 101
19.2-76/19.2-77

- 13. **ARREST CERTAIN FACILITIES** G.O. 601.3
 - A. Within Fairfax County
 - B. Fairfax Hospital

- 14. **SHOPLIFTING ARRESTS** G.O. 602.1
 - A. Authority
 - B. Officer Responsibility
 - C. Release from Custody
 - D. Arrest of Juveniles
 - E. Evidence

CONCEALMENT OF MERCHANDISE- Virginia State Code 18.2-103

- Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise, (i) willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment, or (ii) alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another, or (iii) counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than \$200, shall be guilty of petit larceny and, when the value of the goods or merchandise involved in the offense

is \$200 or more, shall be guilty of grand larceny. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

Grand Larceny- Virginia State Code 18.2-95

- Any person who (i) commits larceny from the person of another of money or other thing of value of \$5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of \$200 or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than twenty years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding twelve months or fined not more than \$2,500, either or both.

Petit Larceny- Virginia State Code 18.2-96

Any person who:

1. Commits larceny from the person of another of money or other thing of value of less than \$5, or
2. Commits simple larceny not from the person of another of goods and chattels of the value of less than \$200, except as provided in subdivision (iii) of § 18.2-95, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

Possession of Burglarious Tools- Virginia State Code 18.2-94

If any person have in his possession any tools, implements or outfit, with intent to commit burglary, robbery or larceny, upon conviction thereof he shall be guilty of a Class 5 felony. The possession of such burglarious tools, implements or outfit by any person other than a licensed dealer, shall be prima facie evidence of an intent to commit burglary, robbery or larceny.

DEPARTMENTAL POLICY (G.O. 602.1)

Police Officers

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

Merchants, or Their Employees or Agents

Under Section 8.01-226.9, 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. 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 based on probable cause that the person committed larceny, or concealed merchandise. The purpose of the detention is to hold the person until the arrival of a police officer.

➤ **Complaints involving the detention of a shoplifting suspect by non-sworn merchants, their agents or employees require the officer to do the following:**

1. The officer must consider the facts and circumstances presented and determine whether probable cause exists to arrest the person detained for the alleged offense.

2. If probable cause exists, the officer shall affect an arrest in felony cases or release on a summons in misdemeanor cases in accordance with General Order 601.1, Misdemeanor Arrests/Release on Summons. If the officer concludes that probable cause does not exist, the person who detained the suspect shall be advised of their right to seek a warrant from a special magistrate.

3. In cases where an arrest is made and the detainee is not released on a summons, **the person observing the offense shall accompany the officer in order to provide evidence for probable cause.**

4. **The person observing the offense shall appear as the complainant on the warrant issued.**

5. The assigned officer shall complete all Department forms, arrest documents, and shall process for CCRE in cases of juvenile arrest, pursuant to General Order 602.2, Arrest and Detention of Juveniles.

Registered Employee of a Private Security Services Business

The powers of arrest for a registered employee of a private security services business is controlled by Section 9.1-146, 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 had shoplifted or committed willful concealment of goods. This arrest is valid only on the premises at a location which the private security services firm has contracted to protect.

- Arrests of persons by registered employees of private security firms shall be the complete responsibility of such employees when the offense involves only a misdemeanor.
- For felonies, with probable cause established, the responding officer shall be responsible for the following:
 - 1. Transportation to a special magistrate.
 - 2. Completion of all Department reports, forms, CCRE forms, and service of the warrant.
 - 3. The registered employee of a private security firm shall be the complainant on the warrant issued.

Special Conservators

Special conservators are commissioned by the Chief Judge of the Nineteenth Judicial Circuit. Special conservators are given full arrest power at their specific place of employment for all offenses.

- When an officer responding to a shoplifting complaint finds that a suspect has been arrested by a special conservator, the officer shall offer full assistance. The responding officer is responsible for the following:
 - 1. Transportation to a special magistrate.
 - 2. Completion of all Department reports, forms, and CCRE forms as needed.
 - 3. The special conservator shall appear as the complainant in the warrant issued. This assures that the court docket will reflect the person who is actually the source of action against the defendant.

NOTE: Special police or conservators that have arrest authority in another jurisdiction and no authority in Fairfax County shall be considered as non-sworn personnel.

15. **DE-ARREST, DISCRETIONARY ARREST & FALSE ARREST**
G.O. 601 V; RWM, Section 1, Chapter 2.
16. **“STOP & FRISK ” (Terry Stop)** G.O. 540.2 V
17. **SEARCH INCIDENT TO ARREST** G.O. 601 VI
18. **TRANSPORTATION OF PRISONERS** G.O. 203.3
19. **OBSERVE & EVAL. PHYSICAL CONDITION OF ARRESTED TO ASSESS NEED FOR MEDICAL ATTENTION** G.O. 203.3
20. **EXPLAIN DEPARTMENTAL POLICY REGARDING USE OF FORCE ISSUES, PHYSICAL RESTRAINTS, & WEAPON** G.O. 540.1
21. **EXPLAIN DEPARTMENT POLICY REGARDING THE TREATMENT OF PRISONERS** G.O.'S 203.1-203.7
22. **EXPLAIN DEPARTMENT POLICY & PROCEDURES REGARDING STRIP SEARCHES OF ARRESTED SUBJECTS** G.O. 601 VI
23. **IMMUNITY FROM ARREST, SPECIAL INSTANCES** G.O 601 VIII