


<p style="text-align: center;">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p style="text-align: center;">GENERAL ORDER</p>	<p>SUBJECT: VEHICLE TRAFFIC STOPS AND CHECKPOINTS</p>		<p>NUMBER: 601.7</p>
	<p>EFFECTIVE DATE: March 1, 2021</p>	<p>REVIEW: March 2025</p>	
	<p>TOPIC: PURPOSE AND POLICY</p>		
<p>RESPONSIBLE ENTITY: Patrol Bureau</p>			<input type="checkbox"/> New Directive <input type="checkbox"/> Replaces: <input checked="" type="checkbox"/> Last Revised: 01/01/21
<p>ACCREDITATION STANDARDS:</p>	<p>CALEA 1.2.3, 1.2.9</p>	<p>VLEPSC ADM.02.02, ADM.02.05</p>	

I. PURPOSE

The purpose of this General Order is to establish guidelines regarding traffic stops, investigative vehicle stops, and road check procedures.

II. POLICY


Traffic enforcement is an important aspect of policing in Fairfax County. Officers are to provide traffic enforcement and education with the goal of gaining voluntary community compliance with the traffic laws and the reduction of traffic accidents.

When making traffic stops, it is the policy of the Department, absent mitigating or exigent circumstances, for officers to immediately greet and identify themselves to the operator and state the basis for the stop.

Non-consensual investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the [Fourth Amendment of the U.S. Constitution](#). Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, searches, and property seizures.


Except as provided below, officers shall not consider physical characteristics in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider physical characteristics in deciding to initiate even those consensual encounters that do not amount to legal detentions or requests for consent to search.

Officers may take into account the reported physical characteristics of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons with specific physical characteristics to a particular unlawful incident(s). Physical characteristics can never be used as the sole basis for probable cause or reasonable suspicion, and except as provided above, shall not be considered in making law enforcement decisions.

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III. DEFINITIONS


- A. Investigative Stop: Temporary detention of a subject when the officer has reasonable suspicion that criminal activity or traffic infraction has occurred, is occurring, or is about to occur.
- B. Reasonable Suspicion: Facts and circumstances which, taken together with rational inferences therefrom, would cause an officer to reasonably suspect that a person is, has been, or is about to be, involved in criminal activity or in violation of a traffic law.
- C. Probable Cause:
1. Probable Cause to Arrest: Facts and circumstances which, taken together with rational inferences therefrom, would lead a prudent person to believe that a crime is being or has been committed and that a particular person committed it; or
 2. Probable Cause to Search: Facts and circumstances which, taken together with rational inferences therefrom, would lead a prudent person to believe that evidence of a crime or contraband is in the place to be searched.

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	VLEPSC ADM.02.02, ADM.02.03, ADM.02.05, OPR.07.01, OPR.07.02, OPR.07.03, OPR.07.04, OPR.07.10		


IV. VEHICLE STOPS

The United States Supreme Court decision in [Delaware v. Prouse, 440 U.S. 648 \(1979\)](#) limited the statutory authority granted to law enforcement officers in Virginia under [Va. Code Ann. § 46.2-103](#), which allowed officers to stop any vehicle for the purpose of inspection. The court's decision established the following premises to be considered in the realm of vehicle stops:

- The stopping of an auto and the detention of its occupant(s) constitutes a seizure within the meaning of the [Fourth](#) and [Fourteenth Amendments](#), even though the purpose of the stop is limited and the resulting detention quite brief.
 - The state's interest in indiscriminate spot checks as a means of ensuring safety on its highways does not outweigh the resulting intrusion on the privacy and security of the person detained.
 - An individual operating or traveling in an automobile does not lose all reasonable expectations of privacy simply because the automobile and its use are subject to government regulation.
- A. Officers shall make vehicle stops only when they are able and prepared to articulate at least a reasonable suspicion that criminal activity or traffic violation has occurred or is occurring.
 - B. As a reminder, pursuant to [Va. Code Ann. § 18.2-250.1](#), no officer may lawfully stop, search, or seize any person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or obtained, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.
 - C. Absent any mitigating or exigent circumstances, officers shall immediately greet and identify themselves to the operator and state the basis for the stop.


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- D. Mitigating and exigent circumstances shall only include articulable officer safety concerns, medical emergencies or situations where the best interests of the Department and County would not be served by advising the basis for the stop.
- E. Upon stopping a vehicle, officers need not in all circumstances issue a Virginia Uniform Summons (PD60). In cases where no summons is issued, officers shall capture the information related to the stop in the current eCitation System. If the eCitation System is not available or malfunctioning, the information shall be captured in the appropriate module of the current Records Management System (RMS).
- F. In circumstances where a vehicle stop is made due to suspicion of criminal activity, the officer shall document such information in the Field Contact Module when no arrest is made. If an arrest is made, the arrest shall be documented in the current Records Management System (RMS). All such documentation will include, but is not limited to, the following:
1. Time the stop began and ended.
 2. Location of the stop.
 3. Reason(s) for the stop.
 4. Vehicle operator and occupants, if applicable.
 5. Vehicle description.
- G. In circumstances where a vehicle is stopped, the operator or passenger(s) are detained for questioning and/or provide information concerning their identity, and probable cause or reasonable suspicion for the stop ceases to exist, the officer shall document the contact in the Field Contact module or in an incident report.
- H. In circumstances where a vehicle is stopped and it is quickly determined that the stop was in error (e.g., misreading of inspection sticker), the operator shall be informed as to why they were stopped. The officer shall not request identification from the operator and the operator shall be immediately released. No formal documentation of the stop is required; however, the officer shall make a note of the stop in their field notebook.


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V. VEHICLE SEARCHES

- A. Consent Search: When a person who shares use, access, or control of a vehicle voluntarily consents to allow a police officer to search it, a warrantless search of the vehicle may be conducted.
1. A consent search may be revoked or limited by the person in control of the vehicle at any time while the search is being conducted. At that time the officer must stop the search or abide by the limitations.
 2. If asked, officers shall advise community members that they have the right to refuse to consent to a search of their vehicle.
 3. An officer's use of coercive or intimidating language may be interpreted by a community member as compelling compliance. Requests for a consent search shall be conveyed in a manner that the community member has a choice and that compliance is not required.
- B. Vehicle Frisk: A frisk for weapons in the passenger compartment of a vehicle is permissible if there is reasonable suspicion to believe that a dangerous weapon is quickly accessible within the vehicle. The frisk is limited to places in the interior passenger compartment in which a weapon could be placed or hidden. A closed container found in the passenger compartment can only be opened and checked for weapons if the contents of the container could be opened quickly by the occupant(s). ([Michigan vs. Long, 463 U.S. 1032 \(1983\)](#))
- C. Carroll Doctrine: When probable cause exists that a vehicle in a public place contains contraband or evidence of a crime, a warrantless search of the vehicle may be conducted. (As a reminder, pursuant to [Va. Code Ann. § 18.2-250.1](#), no officer may lawfully stop, search, or seize any person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or obtained, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.)

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1. The scope of the search is defined by the object of the search and the places in which there is probable cause to believe that it may be found.
 2. If probable cause justifies a search of the vehicle, an officer may search, without a warrant, the vehicle and any containers in the vehicle which may conceal the object of the search.
 3. If probable cause justifies only a limited search of a vehicle for a particular container, the container itself may be searched without a warrant.
- D. Vehicle Searches Incident to Arrest: If the arrestee was the driver, passenger, or recent occupant of a vehicle, the interior passenger compartment of the vehicle may be searched incident to the arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense for which the person was arrested (see: [AZ v. Gant, 556 U.S. 332 \(2009\)](#)). This limitation on the search incident to arrest of the driver, passenger, or recent occupant of a vehicle does not prevent a more complete search of the passenger compartment based on another exception to the warrant requirement, such as a consent search, inventory search, or a search based on the motor vehicle exception.
- E. Documentation of Vehicle Searches and Requests
1. Consent Searches: Officers requesting consent to search a vehicle shall document their request. The denial of consent to search by the person in control of the vehicle, and any property seized or confiscated, shall also be documented.
 - a. When a consent search is requested and denied, documentation shall be satisfied by properly completing the Field Contact Module or an Incident Report in the current RMS.
 - b. When a consent search is requested and granted and no property/contraband is seized or confiscated, documentation shall be satisfied by properly completing the Field Contact Module or an Incident Report in the current RMS.
 - c. When a consent search is granted and property/contraband is discovered, the search and property disposition shall be recorded in an Incident Report in the current RMS. The event classification "Vehicle Search" shall be written on the incident report, documenting a

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consensual search or denial of consent to search. In cases where a criminal violation is also being reported, the "Vehicle Search" classification shall be listed after the criminal offense classification.

2. Non-Consensual Searches: All non-consensual searches shall be documented in an Incident Report in the current RMS. The event classification "Vehicle Search" shall be written on the Incident Report, documenting the non-consensual search. In cases where a criminal violation is also being reported, the "Vehicle Search" classification shall be listed after the criminal offense classification.

A non-consensual search is not a vehicle inventory, for procedure regarding vehicle inventories. (See [General Order 520.4](#), Impoundment or Seizure of Motor Vehicles)

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VI. CHECKPOINTS

It is the policy of the Fairfax County Police Department that checkpoints will be utilized for the purpose of inspecting motor vehicles, trailers, or semitrailers for equipment and operation; manufacturer's serial or engine number(s); enforcement of operator's license and vehicle registration laws; apprehending alcohol and/or drug impaired drivers; and appropriate enforcement action for other violations of law that come to the officers' attention.

Additionally, this policy is applicable to the inspection of motor vehicles, trailers, or semitrailers for the purposes defined in [Title 49 of the Code of Federal Regulations, as adopted by the Virginia Code](#).

Vehicle stops, based on reasonable, articulable suspicions, are not checkpoint seizures; therefore, no specific plan, supervisory restrictions, or other implementations need to be considered, other than those necessary to ensure public and officer safety (i.e., the possible consideration for visibility, terrain, weather, traffic cones, signage, or use of any other location and/or safety equipment that officers and/or supervisors may deem appropriate). Virginia courts have upheld checkpoints using reasoning similar to the U.S. Supreme Court; however, the checkpoint must be carried out pursuant to a plan embodying explicit neutral limitations on the conduct of the officers.

[Hall v. Commonwealth, 12 Va. App. \(1991\)](#) restricted officers from deciding when and where a checkpoint would take place because the discretion was too broad and was thus likely to lead to abuse. [Crouch v. Commonwealth, 26 Va. 214 \(1997\)](#) upheld the constitutionality of a checkpoint when officers do not have "unbridled discretion" in deciding when and where to begin stopping vehicles. The U.S. Supreme Court decision in [Michigan State Police v. Sitz, 496 U.S. 444 \(1990\)](#) upheld the constitutionality of sobriety checkpoints if they are established according to certain guidelines.


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[Bailey v. Commonwealth, 28 Va. App. 724 \(1999\)](#) established that evasive maneuvers seemingly intended to avoid a roadblock may also establish reasonable suspicion for a stop. However, merely avoiding a roadblock via completely legal maneuvers will not justify a stop; there must be some other factors which suggest that the motorist turned in order to evade the roadblock.

All checkpoints involve a constitutional detention, a seizure of a person, without any level of particular, individualized doubt, (i.e., reasonable suspicion or probable cause). Because there is no focused suspicion on an individual, rather than assessing the existence or absence of probable cause or reasonable suspicion when the use of a checkpoint is challenged, courts will examine police conduct and the circumstances of the stop and determine if the checkpoint is a reasonable intrusion and therefore justifiable, under the [Fourth Amendment](#). In the context of sobriety checkpoints, this reasonableness determination involves an analysis of three factors: (i) the magnitude of the state's interest in preventing accidents caused by intoxicated drivers; (ii) the extent to which the checkpoint advances that goal; and (iii) the measure of intrusion on an individual's privacy, both objectively, as perceived by the reviewing court, and subjectively, as the motorist may perceive the intrusion.

A. Supervisor Responsibilities

1. Checkpoint sites will be selected by the Operations Support Bureau (OSB) DWI Coordinator or first line supervisors and approved by their respective station/division commander using the following criteria:
 - a. The location should provide maximum safety for both the approaching motorists and the officers conducting the checkpoint. Consideration should be given to posted speed limits, traffic volume, and sight distance.
 - b. The site should have adequate space available to park police vehicles and allow motorists to be pulled out of the traffic flow for further interview and/or administration of field sobriety tests.
 - c. The site should have sufficient lighting to illuminate the checkpoint and adjacent pull-off area. If permanent lighting is unavailable, adequate portable lighting must be provided.
 - d. The location must allow for placement of advance warning signs that clearly notify approaching motorists of the sobriety checkpoint ahead. Flares, traffic cones, and/or other warning devices should be utilized to enhance safety and traffic flow.

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2. An operations plan will be developed for each checkpoint site by a first line supervisor and approved by their respective station/division commander. Checkpoints specifically designed to apprehend alcohol and/or drug impaired drivers shall be reviewed and approved by the OSB Traffic Division Commander before implementation.

All checkpoint plans shall address the following points:

- a. Statistical data supporting the selection of the checkpoint site.
- b. Date, hours of operation, and location of each checkpoint.
- c. A contingency plan, in the event safety considerations prevent checkpoint operations at the intended location.
- d. Procedures for screening alternatives if traffic volume or other factors prevent the pre-planned method of screening. The method for determining when to change screening procedures, who will make the decision, and the alternative procedures will be listed in detail in the operations plan and shall not be deviated from by participating personnel. Vehicles will not be stopped on a discretionary basis. All vehicles, regardless of type, shall be checked. This includes commercial vehicles such as buses and large trucks.
- e. The number of officers to be assigned to the checkpoint.
- f. A diagram of each checkpoint location, depicting the roadway, placement of traffic control devices, and investigation areas for administering field sobriety tests.
- g. List of equipment required for conducting the checkpoint.

B. Officer Responsibilities

1. Officers shall not conduct checkpoints without the approval of their first line supervisor.
2. Vehicle stops based on reasonable, articulable suspicions, such as expired State vehicle registrations and inspections, may be utilized at checkpoints.
3. Officers on checkpoint detail are responsible for ensuring that all necessary precautions are taken to afford the highest degree of safety to officers and motorists.

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4. Patrol vehicles should be parked to provide protection to the officers and high visibility to approaching motorists.
 5. Officers shall be in uniform, including hat, and shall wear the reflective traffic safety vest.
 6. During their initial contact officers shall identify themselves and advise the operator why they have been stopped. Officers may utilize discretion in issuing summonses.
- C. An operational briefing will be conducted prior to the establishment of each checkpoint. The purpose of the briefing is to:
1. Ensure that all personnel fully understand the Department policy concerning checkpoints.
 2. Designate assignments and respective duties.
- D. For the purpose of public information and education, the Department may announce to the media the approximate time frame within which checkpoints will be conducted.
1. The Department may encourage media interest in the sobriety checkpoint program to enhance public perception of aggressive enforcement, to heighten the deterrent effect and to ensure protection of constitutional rights.
 2. The Department will provide advance notification of the checkpoint to public safety agencies expected to be impacted.

E. Sobriety Checkpoints


It is the policy of the Department to utilize sobriety checkpoints in order to apprehend impaired drivers and increase the perception of "risk of apprehension" of motorists who would operate a vehicle while impaired by alcohol or other drugs.

The following guidelines shall be adhered to when conducting a sobriety checkpoint:

1. A supervisor shall be present at the checkpoint. All operational decisions shall be made by the on-site supervisor.

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2. All participating personnel involved in screening vehicles shall be in uniform and shall wear the reflective traffic safety vest, with uniform hat or issued ball cap.
3. Traffic control measures shall be implemented to provide adequate warning to motorists approaching the checkpoint.
4. Patrol vehicles shall be parked to provide protection to officers and to be highly visible to approaching motorists. Patrol vehicles should also be situated to allow for pursuit, if necessary.
5. Adequate space should be available away from the checkpoint for the parking of suspected impaired drivers' vehicles and the administration of field sobriety tests. This space should be a coned traffic lane, a wide shoulder area, or other suitable location. Provisions shall also be made for the vehicles of arrested parties in keeping with Department policy.
6. Vehicles will not be stopped on a discretionary basis (i.e., due to the "looks" of the vehicle). However, this does not preclude stopping a vehicle when the driver exhibits obvious signs of intoxication.
7. Depending on the configuration of the checkpoint, sufficient personnel should be used as screening officers. When approaching a vehicle, screening officers shall scan the interior and occupants for weapons and/or other contraband. Upon determining that no hazard exists, the officer shall advise the driver the purpose of the stop. Delays of motorists shall be kept to a minimum, averaging 25-30 seconds.
8. All vehicles, regardless of type, should be subject to screening.
9. In the event articulable signs or behavior normally associated with DWI are observed, further investigation will be conducted. From this point on, normal investigative/arrest techniques shall be used. Arrestees should be transported as expeditiously as possible. The officer who originally screens the driver shall conduct field sobriety tests and arrest. Transportation should normally be handled by the arresting officer. Drivers who are not arrested after completing the field sobriety tests shall be directed back into traffic.
10. The supervisor is responsible for the overall operation of the checkpoint and ensuring that the above procedures are adhered to. The supervisor is also responsible for ensuring that a record is kept of the number of vehicles that pass through the checkpoint, the number of arrests made, and any problems encountered.

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F. A complete written evaluation report shall be prepared for each sobriety checkpoint operation by the supervisor in charge. Items in the report should include:


1. Date, time, and location of the checkpoint.
2. Weather conditions.
3. Number of vehicles passing through the checkpoint.
4. Average time delay to motorists.
5. Predetermined order of selecting motorists.
6. Number and types of arrests.
7. Number of motorists detained for field sobriety testing.
8. Identification of unusual incidents such as safety problems, or other concerns.

G. The complete sobriety checkpoint operations plan, briefing notes/lesson plan, and evaluation report shall be forwarded to the Commander of the Traffic Division, or their designee.


H. Commercial Motor Vehicle (CMV) Checkpoints

Officers who have satisfactorily completed training in the inspection of commercial motor vehicles, and are certified “Special Agents” of the Federal Motor Carrier Safety Administration, are granted the authority under [Title 49, 396.9 of the Code of Federal Regulations](#) to stop and inspect any commercial motor vehicle or trailer. Any stop conducted under such authority shall be to inspect a commercial motor vehicle or its driver. Enforcement action may be taken on any violation which comes to the attention of the officer. Any violations may be written under the applicable county, state, or federal code.

1. A CMV checkpoint location should be selected using the following criteria:
 - a. It is preferred that large checkpoint operations be conducted in open areas such as parking lots.


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- b. If an inspection site is located adjacent to the roadway, it should have adequate visibility to provide safety to approaching motorists and officers conducting the checkpoint.
 - c. Sites should have adequate space available to park police vehicles and allow motorists to be pulled out of the traffic flow.
 - d. Sites should be approved for a specific time frame. Factors for consideration include weather conditions and traffic volume.
 - e. If the CMV checkpoint is conducted on private property, permission of the property owner or agent should be secured prior to the checkpoint.
2. The Traffic Safety supervisor, or designee, is responsible for the planning and execution of commercial motor vehicle checkpoints.
3. The supervisor shall establish the procedures for stopping and inspecting vehicles.
4. At the direction of any Motor Carrier Safety qualified officer, Traffic Division Officers may escort commercial motor vehicles into the CMV checkpoint location for inspection.
5. All CMV inspections will be documented on a Motor Carrier Safety Inspection Form (PD110) or recorded in the ASPEN database.

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	VLEPSC N/A		

VII. LEGAL REFERENCE

- A. [AZ vs. Gant, 556 U.S. 332 \(2009\)](#)
- B. [Bailey v. Commonwealth, 28 Va. App. 724, 508 S.E.2d 889 \(1999\)](#)
- C. [Crouch v. Commonwealth \(1997\)](#)
- D. [Delaware v. Prouse, 440 U.S. 648 \(1979\)](#)
- E. [Fourth Amendment of the US Constitution -- Search and Seizure](#)
- F. [Fourteenth Amendment of the US Constitution -- Rights Guaranteed: Privileges and Immunities of Citizenship, Due Process, and Equal Protection](#)
- G. [Hall v. Commonwealth \(1991\)](#)
- H. [Michigan vs. Long, 463 U.S. 1032 \(1983\)](#)
- I. [Michigan State Police v. Sitz \(1990\)](#)
- J. [Title 49 CFR § 396.9 - Inspection of motor vehicles and intermodal equipment in operation](#)
- K. [Va. Code Ann. § 15.2-1722.1](#), Prohibited Practices; Collection of Data
- L. [Va. Code Ann. § 18.2-250.1](#), Possession of Marijuana Unlawful
- M. [Va. Code Ann. § 46.2-103](#), Stopping Vehicles for Inspection or to Secure Information
- N. [Va. Code Ann. § 52-30.2](#), Prohibited Practices; Collection of Data
- O. [Virginia Community Policing Act](#)

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This General Order becomes effective March 01, 2021, and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:



 Chief of Police



 County Executive