

<b>FAIRFAX COUNTY POLICE DEPARTMENT</b>  <b>GENERAL ORDER</b>	<b>SUBJECT:</b> <b>ARREST PROCEDURES</b>		<b>NUMBER:</b> <b>601</b>
	<b>EFFECTIVE DATE:</b> September 22, 2023	<b>REVIEW:</b> September 22, 2027	
<b>RESPONSIBLE ENTITY:</b> PATROL BUREAU			<input type="checkbox"/> New Directive <input type="checkbox"/> Replaces: <input checked="" type="checkbox"/> Revised: 06/24/2022
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I. PURPOSE

The purpose of this General Order is to establish guidelines and procedures for all officers when conducting felony, misdemeanor, and summons releasable arrests.

II. POLICY

It is the policy of the Fairfax County Police Department (FCPD) that the arrest of any individual by an officer be conducted professionally and in strict accordance with Department training, policy, and within established legal principles. Officer and public safety concerns are of paramount concern during all encounters with community members, and officers shall exercise sound judgement, to include criminal justice diversion alternatives when appropriate, during all arrest incidents.

III. DEFINITIONS

A. Advanced Tactics: Specialized measures to be considered whenever executing a high-risk arrest. These tactics include, but are not limited to, (1) dynamic building entry, (2) forced breaching of doors, (3) pre-planned deployment of chemical agents or diversionary devices, (4) Tactical Vehicle Intercepts, and/or (5) unique tactical deployments requiring specialized training or equipment such as rifle bunkers, armored vehicles, or scoped rifles. For purposes of this General Order, felony traffic stops and/or ruses are not considered to be advanced tactics.

B. Arrest: When an individual is taken into custody in order so that they may answer for an offense, or when there is a deprivation or restraint of an individual's liberty in any significant way.

C. De-Arrest: The release of an individual from custodial arrest when the arresting officer determines either probable cause no longer exists, the person under arrest did not actually commit a crime, or that further investigation subsequent to the arrest reveals that the event does not constitute a crime.

- D. Detention: The temporary restriction of an individual's freedom of movement for a reasonable period of time, often for purposes of questioning. Officers who detain an individual are required to have reasonable suspicion of unlawful activity in order to legally detain an individual.
- E. Exigent Circumstances: Those circumstances that permit an officer to conduct an otherwise permissible search, including entry into a home, without first obtaining a warrant. [Courts have recognized the following as factors relevant to a determination of exigent circumstances](#): (1) the degree of urgency involved and the time required to get a warrant; (2) the officers' reasonable belief that contraband is about to be removed or destroyed; (3) the possibility of danger to others, including police officers left to guard the site; (4) information that the possessors of the contraband are aware that the police may be on their trail; (5) whether the offense is serious, or involves violence; (6) whether officers reasonably believe the suspects are armed; (7) whether there is, at the time of entry, a clear showing of probable cause; (8) whether the officers have strong reason to believe the suspects are actually present in the premises; (9) the likelihood of escape if the suspects are not swiftly apprehended; and (10) the suspects' recent entry into the premises after hot pursuit.
- F. High-Risk Arrest: An arrest that presents increased risk to the officer(s) making the arrest or to other members of the public that necessitates the use of advanced tactics as approved by the Department.
- G. Hot Pursuit: Any pursuit of a fleeing offender into a residence or structure where probable cause to arrest the individual exists and where potentially breaking off or delaying chase in order to obtain a warrant would likely result in significant danger to any person, loss of evidence, or escape of the suspect.
- H. 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.
- I. Strip Search: Search of an individual that consists of the removal or rearrangement of some or all of their clothing so as to directly permit visual inspection of their genitals, buttocks, anus, female breast region, or undergarments.

#### IV. ARREST CLASSIFICATIONS

A. Criminal arrests may be generally divided into the following two (2) categories:

1. **Misdemeanor** arrests may be conducted (1) whenever the offense is personally observed by the arresting officer, (2) with a valid arrest warrant, or

(3) for the following offenses not personally observed by the officer:

- a. Shoplifting
- b. Possession of a Weapon on School Property
- c. Assault and Battery
- d. Brandishing a Firearm
- e. Destruction of Commercial Property
- f. Driving While Intoxicated
- g. Assault and Battery of a Family or Household Member
- h. Violation of a Protective Order

2. **Felony** arrests may be conducted (1) whenever the offense is personally observed by the arresting officer, (2) where probable cause exists to believe that the individual committed a felony, (3) with a valid arrest warrant, or (4) where the officer has knowledge of the existence of a felony warrant.

#### V. MISDEMEANOR ARRESTS

A. Individuals arrested for misdemeanor infractions shall be released upon a summons unless (1) a separate provision of the Code of Virginia requires that the individual be brought before the magistrate or (2) sufficient evidence exists per the [Code of Virginia](#) permitting the officer to place the individual under arrest.

B. **Class 1 and 2 Misdemeanors:** At least one of the following conditions shall exist prior to an arresting officer bringing a person before a Magistrate for a Class 1 or 2 misdemeanor:

1. Refusal to furnish name and address.
2. The individual fails or refuses to sign the summons (subject to exceptions for traffic offenses as outlined in Section VI of this General Order).
3. The individual fails or refuses to discontinue the unlawful act.
4. The arresting officer believes the individual will disregard the summons. This belief shall be based upon one or more of the following facts:
  - a. **Lack of Community Ties:** Officers shall conduct all arrests of documented and undocumented individuals in strict accordance with [FCPD General Order 604](#), Immigration Status, Citizenship, and National Origin, and are further reminded that the lack of proper identification does not necessarily mean that an individual does not have community ties. Officers shall make reasonable efforts and use de-escalation measures whenever possible to gain voluntary compliance to establish an individual's community ties (ex: interviews of others, phone verification, utility bills, etc.). Furthermore, where an individual fails to comply with a

lawful request for identification, officers should consider that the failure may be attributed to cultural differences, lack of understanding, or mental health concerns.

- **Military:** Military non-residents who do not have a local address or are stationed in the metropolitan area pursuant to military orders are not considered to lack community ties.
- **Language Barriers:** Language barriers are not adequate grounds for establishing insufficient community ties, and officers shall utilize all appropriate department resources to communicate with the individual.
- **Administrative Immigration Warrants:** Officers **shall not** consider the existence of a civil administrative immigration warrant in their determination of whether or not to release an individual on a summons. As referenced in FCPD [General Order 604](#), Immigration Status, Citizenship, and National Origin, an “Outstanding Administrative Warrant of Removal” and an “Outstanding Administrative Warrant of Arrest for Immigration Violations” are civil administrative warrants. Any form of enforcement of these civil warrants is prohibited.

- b. **False or Misleading Information:** The officer cannot establish identity because the person has provided multiple names, false identification(s), or other types of false information. Officers shall accept all forms of valid identification, to include passports, driver’s licenses, and valid documents with identifying information and make all reasonable efforts to verify the information provided.
- c. **Resists Arrest:** The individual attempts to escape, resists arrest, or states their intent to disregard the summons.
- d. **Previous Failures to Appear:** The arresting officer has verified the person has previously failed to appear in court.
- e. **Existence of Warrant(s):** A warrant check discloses the existence of an outstanding criminal warrant on file for the person.

C. **Class 3 and 4 Misdemeanors:** For Class 3 and 4 Misdemeanors for which there is no jail sentence, individuals may be arrested and taken before a magistrate only if one or more of the following conditions exist:

1. Refusal to furnish name and address.
2. Refusal to sign the summons.
3. Refusal to discontinue the unlawful act.

4. [Remaining at the scene of a riot, after being told to disperse and the individual refuses to discontinue the unlawful act.](#)

5. [Drunkenness in Public.](#)

D. **Possession of Marijuana and Marijuana Products:** Per the [Code of Virginia](#), simple possession of marijuana and marijuana product infractions that constitute civil offenses only require officers to issue a summons. Officers **shall not** bring an individual before a Magistrate for civil violations, even where the individual refuses to provide name and address, fails to sign the summons, fails to discontinue the illegal act, or if the officer believes the individual will disregard the summons. Where these instances occur, the officer shall document all circumstances in the current Records Management System (RMS) and release the individual.

## VI. TRAFFIC OFFENSES

A. **Release on Summons:** Individuals shall be released on a Virginia Uniform Summons for motor vehicle violations under [Title 46.2](#), unless another Code section provides the particular offense is not summons releasable. Issuing officers should take the name and address of the violator, the license number of the involved motor vehicle, and issue a summons to appear at the time and place written on the summons.

B. **Refusal to Sign:** Violators are no longer required to give written promise to appear for Title 46.2 traffic offenses and thus may refuse to sign a traffic summons. Where a person refuses to give written promise to appear, issuing officers shall write “**REFUSED**” in the summons signature block, provide a copy with the time and place of the hearing to the violator, and release them forthwith. Refusal to sign a summons does not constitute a factor to determine whether an individual will ultimately disregard the summons.

C. **Driving on a Suspended or Revoked License:** Though permitted by the Code of Virginia, the Chief Judge of the Fairfax County General District Court does not grant officers universal approval to take individuals into custody for violations of Va. Code Ann. §§ [46.2-301](#) and [46.2-302](#). Accordingly, officers should only take violators into custody for these traffic offenses where the person is likely to disregard the summons or other factors exist allowing arrest.

D. **County Code:** As many traffic offenses have been adopted by reference into the Fairfax County Code of Ordinances § [82-1-6](#), for prosecution purposes, the State and County Code sections adopted under § [82-1-6](#) are identical and as such, officers, whenever citing one of these offenses, shall cite the County Code under § [82-1-6](#).

- E. **Other Jurisdiction Parking Summons:** Officers who serve a parking summons from another jurisdiction shall not complete a Virginia Uniform Summons.
- F. **Motor Vehicle Accident Cases Involving Traffic Infraction Charges:** Where officers respond to motor vehicle accidents and issue a summons to any driver, the following shall apply:
1. **Field Subpoenas:** Officers should not issue field subpoenas on accident scenes to witnesses where a violator is charged with a pre-payable offense.
  2. **Pre-Payment Sheets:** Where officers issue a summons for a pre-payable offense, they should provide a current copy of the Fairfax County General District Court's, "Information on Pre-Payable Offense and Requesting Trials in Accident Cases," form and attempt to answer any question the violator may have about either pre-payment or appearing in court to contest the charges.
    - a. Where a defendant pleads not guilty to the charge at the original court date, officers must complete District Court form DC-325, [Request for Witness Subpoena](#), and submit it to the court via the Clerk's office for issuance of witness subpoenas. Officers should include known telephone numbers for subpoenaed witnesses, in the event the defendant elects to later prepay and the Clerk's Office attempts to notify the witnesses they are no longer required to appear.

## VII. WARRANT SERVICES

- A. **General Procedures:** Warrant services shall be performed with an overall objective of minimal disruption to the general public, as well as a defendant's home, surrounding neighborhood, and/or place of employment.
- B. **Misdemeanor Warrant Service:** Misdemeanor warrant services shall only be attempted between the hours of 0800-2200. Prior to attempting physical arrest, officers shall make a reasonable effort via telephone or other electronic means to facilitate the defendant turning themselves in at a local law enforcement facility for service of the warrant. These restrictions do not apply to wanted persons already in custody on separate charges. Other exceptions may be granted under the following circumstances:
1. There is reason to believe the defendant is avoiding arrest or may flee.
  2. Delay of the warrant service may jeopardize public safety.
  3. Based upon prior knowledge or articulable facts, notice to the defendant may create an officer safety risk to serving officers.

Where any approved exception is utilized, the reason(s) for the exception and

name of the approving supervisor shall be noted in an incident report.

C. **Special Procedures in Misdemeanor Warrant Cases:** Officers may encounter unusual circumstances in which a wanted individual should not be taken into custody (ex: individual cares for small children or appears ill).

1. Where a wanted individual is the sole caregiver for small children, all efforts shall be made to ensure the children are not separated from their sole caregiver. If the circumstances dictate that the individual be arrested, officers should consider requesting additional officers, contacting other family members or the Victim Services Division, or contacting Child Protective Services (CPS) to ensure that the child is not left unattended.
2. Officers who encounter these circumstances shall notify their supervisor, who should contact a Magistrate (if available, the issuing Magistrate) and request authority to serve the warrant as a summons.
3. Where approval to serve the warrant as a summons is granted by the Magistrate, officers shall give the defendant a copy of the warrant and complete the arrest and warrant module in the RMS. In lieu of the defendant's signature, officers should write in the area below the Magistrate's signature, "**Summons/Warrant, Authority (Name of Magistrate).**"
4. Upon serving the warrant, serving officers shall promptly return the executed original of the warrant to the Magistrate who authorized service as a summons. The warrant shall then be completed and processed in accordance with departmental procedures.

D. **Summons Releasable Warrants:** Misdemeanor warrants issued for service as a summons shall be handled as follows:

1. Serving officers shall provide a copy to the defendant and execute the original to indicate service.
2. Officers shall complete a warrant and arrest module in the RMS. The arrest type in the arrest module should be marked "**SUMMONS/CITED.**"
3. The serving officer shall call the Warrant Desk and notify Warrant Desk personnel that the warrant was served. The original warrant and completed Warrant Control Form (if applicable) shall be forwarded to the Warrant Desk for transmittal to the court. The remaining portion of the warrant should then be processed in accordance with departmental procedures.
4. **Refusal to Sign:** Where a defendant refuses to sign the warrant/summons, they should then be taken before the nearest Magistrate for further disposition. When serving a "summons only warrant" on a corporation, the

individual accepting service shall not be required to sign the summons.

E. **Service of Magistrate Summonses:** Magistrate summonses are processed similarly to warrants; however, they cannot be entered into VCIN per the Code of Virginia since officers from other agencies would not have access to the summons to serve on wanted individuals, and there is no basis for a wanted individual to be detained until the magistrate summons could be located from the entering agency and served on the subject.

1. Officers serving a magistrate summons shall deliver a copy to the defendant and execute the original to indicate service. Individuals shall not be taken into custody solely on a magistrate summons charge(s), or to effect service.
2. Officers shall complete a Virginia Uniform Summons whenever a magistrate summons is served for a traffic violation not entered into the RMS. The summons may be completed in one of the following two ways, and shall be submitted attached to the magistrate summons to avoid the placing of duplicate charges:
  - a. A PD60 is completed, and the Court copy is submitted along with the magistrate summons. No other copies of the PD60 are required.
  - b. From the Citation Module, the Summons Report (Court Copy) may be printed and submitted along with the magistrate summons.

**Note:** In either case, the Remarks section of the PD60 or Citation Module should have the text of “**Magistrate Summons**” and the signature line should have the text of “**Served True Copy**” notated.

3. No signature is necessary on a Virginia Uniform Summons in the case of a service of a magistrate summons.

F. **Third-Party Residences:** Officers executing arrest warrants shall not search third-party residences for a suspect unless there is probable cause to believe the suspect is present on the premises and one of the following situations exists:

1. An officer is in hot pursuit of a suspect.
2. The owner or premise occupant(s) consents to the premises being searched.
3. The totality of the circumstances shows an emergency such as imminent harm to others, a threat to the officer themselves, destruction of evidence, or escape from the home, or
4. Other exigent circumstances exist (i.e., those circumstances requiring immediate law enforcement action)

**Note:** Absent the existence of these circumstances, officers shall obtain a search warrant to search the premises.

- G. **Defendant Residences:** Officers who have probable cause to believe that the home that they are entering is a wanted suspect's residence may conduct searches of the residence for purposes of apprehending the individual if there is probable cause to believe the individual is present inside at the time of service.
- H. **High-Risk Warrant Services:** Where any officer or detective believes a potential warrant service involves a high-risk arrest necessitating the use of advanced tactical procedures, a first-line supervisor shall be notified and the [Tactical Analysis Worksheet](#) (TAW) shall be completed for risk assessment purposes.
1. Where the first-line supervisor concurs that the warrant service is high-risk, they shall advise the station or division commander accordingly, or the acting duty officer if the station or division commander are both unavailable.
  2. The reviewing commander shall evaluate all potential threats documented on the completed TAW. Where the reviewing commander concurs the event is high-risk, or perceives the need for advanced tactics, that commander shall advise the commander of the Special Operations Division (SOD) or their designee, who shall further evaluate and determine whether or not the Department SWAT Team shall be utilized.
  3. Where a warrant service originates from another law enforcement agency to conduct or assist in a high-risk warrant service, that request shall be forwarded to the investigations section normally responsible for investigating the particular crime for which the arrest is sought. Upon review, the supervisor of that investigations section shall be responsible for completion of the TAW and notification of the appropriate commander if they determine the warrant service is high-risk.
  4. All completed TAWs shall be forwarded to the SOD commander once the investigation has been completed, regardless of whether advanced tactics were approved or utilized for warrant service.

**Note:** These procedures do not apply in exigent circumstances cases where delay would create a danger to either officers or the community.

I. **Warrant Control Procedures:**

1. **Warrant Status:** Warrant status shall be monitored through the current RMS and in accordance with the [Report Writing Manual](#). Obtaining officers are responsible for entering warrants into the RMS upon issuance via Warrant Desk personnel. All personnel entering warrants shall attach a paper copy of the Warrant Worksheet to the warrant which shall denote proof of entry. A

copy of the Warrant Worksheet shall be sent to the district station to serve as a notice that the person is wanted, their information, address, etc, for service attempts.

**Note:** Officers who obtain felony warrant(s) for any offense shall forward a link to the warrant(s) through the current RMS to the Fugitive Section.

2. **Warrant Information:** Warrants sought by officers shall be personally examined upon issuance by a Magistrate to ensure proper identifiers and a Magistrate's signature are included. Warrants cannot be entered into either the National Crime Information Center (NCIC) or Virginia Criminal Information Network (VCIN) without the following information: (1) name, (2) date of birth, (3) sex, (4) race, (5) height, (6) weight, and (7) hair color. Officers should attempt to ensure the wanted individual's full name (last, first, middle initial, Jr., Sr. etc.) is included on the warrant.
3. **Warrant Service:** Officers should attempt warrant service in a timely manner after issuance by a Magistrate. Officers conduct a NCIC/VCIN query prior to attempting a warrant service to determine the suspect's current wanted status (verifying the warrant control sheet information) and any additional warrants which may exist. Employees who receive a warrant at a district station shall note in the tracking field when the warrant was received. All service attempts shall also be noted in the RMS Warrant Module tracking field and include the date, location, attempted method of service, and as applicable, any reason(s) the officer was unable to serve the warrant and relevant notations, such as that the wanted individual has moved. Where it is determined the wanted person no longer resides at the address listed on the warrant, the Warrant Worksheet shall be sent to the Warrant Desk with notation that the person no longer resides at the address listed on the warrant.
4. **Served Warrants:** Upon service of the warrant, the serving officer is responsible for notifying the Warrant Desk via telephone so the warrant can be removed from the current RMS. The serving officer shall also notify Teletype via telephone so that the warrant can be removed from NCIC/VCIN. Officers shall specifically state to Teletype and the Warrant Desk whether a "COPY" or "ORIGINAL" warrant was served. Warrant worksheets shall then be shredded, and the Warrant Desk is responsible for notifying the original obtaining officer that the warrant was served, as well as verify whether a copy or original warrant was served. Where a copy has been served, the Warrant Desk shall be required to follow-up and ensure whether the original has been tagged, removed, and labeled as served, both in the warrant module and physically from the district station where it was housed.
5. **Unserved Warrants:** Unserved warrants except Domestic Assault Warrants and Emergency Protection Orders (EPOs) shall be kept on file at the warrant desk. Unserved out-of-jurisdiction warrants shall be kept at the Warrant Desk

and not housed at district stations. A copy of the warrant worksheet shall be provided to the stations to notify officers of warrants in their patrol areas.

Domestic assault warrants / EPO's shall be sent to the station where the wanted individual resides. These shall be tracked and updated in the current RMS warrant module. Every instance where the warrant is provided to another officer for service, the tracking shall be updated. Where an EPO expires, the warrant and associated EPO shall be returned to the Warrant Desk immediately.

Copies of summons releasable warrants and magistrate summonses can be faxed by the Warrant Desk for service at a station if applicable. The serving officer shall contact the Warrant Desk after service and the officer shall fax/return their served copy to the Warrant Desk.

6. **Warrant Checks:** All officers who make a physical arrest of an individual shall conduct a NCIC/VCIN warrant query either via CAD or radio to determine the potential existence of additional warrants whenever possible. Additionally, officers are required to check in the Department's current records management system to verify whether any active warrants are housed locally or elsewhere.
  7. **Arrest Indictments:** Arrest indictments received from the court shall be treated as arrest warrants for purposes of warrant control procedures.
  8. **Out of County:** The Fairfax County Sheriff's Office (FCSO) is responsible for transporting and processing any prisoner detained on a Fairfax County criminal warrant throughout the Commonwealth of Virginia. Inquiries from other jurisdictions within the Commonwealth regarding prisoner transportation shall be directed to the FCSO.
  9. **Out of State Extraditions:** Notification shall be made to the Extradition Squad of the Major Crimes Bureau (MCB) of all out of state extraditions. Provided information shall include the defendant's name, location of extradition, and applicable charge.
- J. **Warrant Service for the District of Columbia:** For individuals in custody wanted on an outstanding warrant from the District of Columbia, the following procedures shall apply:
1. Upon confirmation of the active warrant, officers shall transport the individual to the Fairfax County Adult Detention Center (ADC).
  2. Officers shall request a teletype confirmation from the Teletype Section.
  3. Officers shall not obtain a fugitive warrant as the teletype confirmation serves

as a federal detainer. The prisoner shall then be transferred into the custody of the FCSO without LiveScan or fingerprint/booking photos.

**Note:** MCB does not need to be notified in these cases.

## VIII. DE-ARRESTS

- A. **General Procedures:** Officers may encounter circumstances where probable cause initially exists to arrest an individual for a criminal offense, however, subsequent investigatory information reveals that in fact, the individual under arrest did not commit a crime, a crime did not actually occur, or that probable cause no longer exists. Once any of these circumstances exist, the officer shall immediately de-arrest the individual and release them from custody. Where de-arrest occurs, the officer should attempt to restore the individual to the same location and/or position occupied prior to arrest or improve upon it. This includes the return of vehicles to operators or registered owners that were towed subsequent to arrest. Officers must be mindful that if the arrestee does not consent to being transported, the officer may not keep the arrestee in custody.
- B. **De-Arrest Documentation and Reporting:** Where de-arrest occurs, officers shall immediately contact their first-line supervisor and notify them of the incident.
1. Officers shall further document the following information in a subsequent incident report in the current RMS:
    - a. Date and time of the arrest.
    - b. Name, address, date of birth, and race of the arrested individual.
    - c. Location of arrest.
    - d. Location and time of de-arrest and any transportation of the individual.
    - e. Reasons or discovery of information that led the officer to de-arrest.
    - f. Witnesses to the arrested individual's involvement in the alleged crime.
  2. Reviewing supervisors shall forward all de-arrest reports to the Internal Affairs Bureau (IAB) through their respective station/division commander.
  3. Officers who are denied warrants by a Magistrate shall de-arrest the individual at the Magistrate's window. Officers should then consult with their supervisor and with the arrestee's consent, either restore the person to their original location (or a mutually agreeable location) or release the individual at the ADC.
    - a. Officers shall record in their incident report the specific time the individual was taken into custody, the time the warrant was denied, and the name of the denying magistrate. The report shall be forward to the appropriate Patrol Bureau commander via the district/station commander.

- b. In these instances, officers shall keep their case active and subsequently consult with the Office of the Commonwealth Attorney for further prosecutorial guidance. Officers should then document any follow-up conversations or actions in a supplemental report to the original case.
- c. **Domestic Assault:** In warrant denial cases involving domestic assault, officers shall immediately make all reasonable efforts to notify the complainant, victim(s), and any other individual with whom the previously arrested individual was allegedly violent once they are released from custody. All efforts shall be documented in the incident report, to include who was spoken to and any messages left.

## IX. SEARCHES OF INDIVIDUALS

- A. **General Procedures:** Officers shall search all individuals in their custody pursuant to arrest for evidence, contraband, and/or potential weapons that could be used to inflict harm upon themselves or others and/or facilitate escape. Prior to incarceration, all valuables and personal items shall be removed from prisoners and safeguarded by officers. Upon discovery of weapons or contraband, officers shall take appropriate action in seizing said items and obtaining applicable warrants. Officers shall assist FCSO personnel in visually observing searches of any prisoner brought to the ADC.
- B. **Search Incident to Arrest:** Officers shall perform a prompt and systematic search in accordance with their training of all individuals in their custody prior to transporting them in a police vehicle. Search incident to arrest includes a thorough search of the suspect's clothing and pockets, and removal of coats, jackets, or other outer garments. It also includes a search of the area within the arrestee's immediate control at the time of his arrest, to include any unlocked bags, purses, or containers within that area, but only if the arrestee is unsecured and within reaching distance of the container at the time of the search. This authority does not extend to locked items, as they are not accessible to the arrestee. Any officer accepting custody of a prisoner from another officer shall assume the individual has not been searched and shall take it upon themselves to conduct their own search prior to assuming custody.
  - 1. **Cell Phones and Electronic Devices:** Search incident to arrest does not extend to digital information on a cell phone or other personal electronic device seized from an arrestee. Officers may not search for digital information on a cell phone or other personal electronic device seized from an arrestee absent consent, exigent circumstances, or a validly executed search warrant.
  - 2. **Vehicles:** Where the arrestee was a 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 unsecured and 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 individual was arrested.

**Note:** The limitations on the search incident to arrest of the driver, passenger, or recent occupant of a vehicle, and to bags, purses, containers, digital information on a cell phone or other personal device, or passenger compartment of a vehicle, does not prevent a more complete search if the search is based upon another exception to the warrant requirement, such as a consent search, inventory search, or search based upon the motor vehicle exception.

C. **Strip Searches:** Strip searches of individuals by officers are strictly prohibited except (1) where an officer reasonably believes an arrestee is concealing a potential weapon on their person in a manner that is not likely to be discovered using traditional search methods, or (2) upon authority of a search warrant. Any officer conducting a strip search, whenever possible, shall immediately notify an on-duty supervisor who shall respond to the scene. Any officer who conducts a strip search shall document the search and results in an incident report in the current RMS.

1. Prior to conducting a strip search, officers should consider the alleged crime and the immediate necessity of the suspected item to be seized. Unless exigent circumstances exist or there is an imminent threat to officer or public safety, officers shall conduct all strip searches in a secure detention facility, use proper hygienic procedures, request the assistance of qualified medical personnel as needed, and use at least one additional officer as a witness.
2. Absent exigent circumstances, strip searches may only be conducted by officers of the same sex as the arrested individual and in a location where the search cannot be observed by persons not physically conducting the search. Officers shall also account, whenever possible, for the individual's age, gender, gender identity, gender expression, and mental capacity as well as the environment in which the search is to occur.
3. **Body Cavity Searches:** Body cavity searches (other than the mouth) shall not be performed unless pursuant to a warrant and under the supervision of medically trained personnel.
4. **Juveniles:** Officers may not perform strip searches on juveniles unless they are in custody and there is probable cause to believe they are concealing a weapon in an area not discoverable through traditional search methods

## X. REPORTING PROCEDURES-IDENTIFICATION PROCESSING

A. All persons taken into custody under the following offenses shall be processed under Central Criminal Record Exchange (CCRE) reporting procedures:

1. Treason.
2. Any felony.
3. Any misdemeanor punishable by confinement in jail under Title 18.2, or 19.2 *Code of Virginia*, or any similar ordinance of any county, city or town, under Va. Code Ann. § [20-61](#), or under § [16.1-253.2](#); or
4. Any offense in violation of §§ [3.2-6570](#), [4.1-309.1](#), [5.1-13](#), [15.2-1612](#), [46.2-339](#), [46.2-341.21](#), [46.2-341.24](#), [46.2-341.26:3](#), [46.2-817](#), [58.1-3141](#), [58.1-4018.1](#), [60.2-632](#), [63.2-1509](#).
5. Any offense punishable as a misdemeanor under Title 54.1, *Code of Virginia*. Individuals arrested for misdemeanors reportable to the CCRE who are released on a summons shall not be processed until a disposition of guilt is entered by the court.

**NOTE:** Arrests for traffic violations, Class 3 and 4 Misdemeanors under Title 18.2 are not reportable to CCRE.

- B. Persons arrested and released on a summons shall not be held in custody after the summons is issued for purposes of completing CCRE reports. Where the offense is CCRE reportable, CCRE processing shall be completed by the Sheriff's Department after a disposition of guilt is entered by the court.
- C. CCRE forms are sent to Central Exchange as a package, including where fingerprint cards are left at the jail for a prisoner to be processed prior to release.
- D. For all CCRE reportable cases where an arrested person is brought before a Magistrate, the arresting officer is responsible for completing CCRE reports and should attempt to identify the arrestee prior to appearing before the Magistrate.
- E. Where a charge is amended in court to an offense that is not CCRE reportable, nolle-prossed, dismissed, or the individual is found not guilty, no report to the CCRE shall be made.
- F. Porelon pads shall not be used to fingerprint prisoners. Porelon pads are only used for processing community member walk-in requests, children fingerprinting programs, and other non-police related uses.
- G. **LiveScan System:** Individuals taken into custody for CCRE reportable offenses shall be processed via LiveScan whenever possible. Arresting officers shall complete (1) one Arrestee Information Worksheet for each arrestee and (2) one IBR Information Sheet for each CCRE charge. LiveScan assigns a Fairfax Contributor Number (FCN) to an arrestee after comparing their fingerprints in the NOVARIS database. Should the arrestee have an existing FCN, that number will

be returned to the LiveScan unit. The IBR Information Sheet and copy of the LiveScan disposition sheet are then attached to the LiveScan FBI card.

- H. **Ink Fingerprinting:** Where LiveScan is unavailable, arresting officers shall use the traditional ink process to record an arrest. Prior to doing so, officers must contact the Records Section to determine if the individual has previously been assigned a contributor's number or if a new number must be assigned by NOVARIS. Officers shall also include their specific Employee Identification Number (EIN) adjacent to their signature on all fingerprint cards and CCRE forms. The following forms must be completed:
1. One photograph.
  2. 1 set – CCRE form including the CCRE Fingerprint Card.
  3. 1 copy – FBI Fingerprint Card
  4. 1 copy – Palm Print Card (felonies only).
- I. **NCIC Check and Clearance Requirements:** Whenever an arrestee is brought before a special Magistrate, arresting officers shall initiate a NCIC warrant check of that individual. If the arrestee is wanted in NCIC, the arresting officer shall contact DPSC to arrange for removal of the arrestee's name from NCIC or notification of the arrest to the jurisdiction that made the NCIC entry.
- J. **Documentation of Physical Arrests:** Officers who arrest any individual shall document the circumstances of that arrest in an incident report or supplement.
- K. **Arrests of Persons with Concealed Handgun Permits:** Any officer who arrests an individual with a Concealed Handgun Permit (CHP) shall document this finding in an incident report and send an info copy to the Concealed Weapon Unit. Cases involving arrests for offenses involving drugs, alcohol, assault, domestic violence, stalking, or any felony shall be immediately forwarded to the Resource Management Bureau (RMB).

## XI. SPECIAL ARREST INSTANCES

- A. **Arrests of Foreign Nationals, Diplomats, and/or Documented and Undocumented Individuals:** Officers shall conduct all arrests of foreign nationals, diplomats, and/or documented or undocumented individuals in strict accordance with FCPD [General Order 604](#), Immigration Status, Citizenship, and National Origin.
- B. **Arrests of School Employees:** Any officer who arrests an individual for a felony or Class 1 Misdemeanor (or equivalent offense in another state) known or discovered to be a full-time, part-time, permanent, or temporary teacher or other employee in a public-school division for the Commonwealth shall promptly notify their supervisor. The School Liaison Commander (SLC) shall be responsible for reporting the arrest to the appropriate school division safety official as soon as

practicable, but no later than 48 hours after the arrest occurs. Notifications shall be made either by (1) certified mail, return receipt requested, or (2) via fax **and** email. Officers who are conducting preliminary investigations of known school employees shall further ensure the SLC is notified, regardless of case status, and the SLC shall establish necessary procedures to make notifications within the Department as well as the appropriate school division superintendent.

C. **Mandatory Virginia Employment Commission Queries:** In accordance with the [Code of Virginia](#), any officer who arrests an individual for any offense(s) listed within the [Sex Offender and Crimes Against Minors Registry](#) shall conduct a query of the individual in the Virginia Employment Commission (VEC) database prior to the conclusion of their shift in which the person was arrested. Where the VEC query reveals that the individual is a full-time, part-time, permanent, or temporary teacher or other employee for any public-school division for the Commonwealth, the reporting of the arrest to the appropriate school division safety official shall be conducted as prescribed above in Section XI(B). Where any arresting officer is unsure if any arresting offense is covered by the Registry, they shall perform the VEC inquiry to ascertain the person's current employer.

1. **Mandatory Arresting Officer Procedures for Positive Hits:** Where any VEC inquiry under these procedures returns a positive hit that an arrested individual is a full-time, part-time, permanent, or temporary Virginia school division teacher or employee, the arresting officer shall promptly notify their supervisor. All VEC database queries conducted by officers or performed on behalf of any officer shall be documented in an incident report or supplement in the Department's current records management system by officers along with any performed notifications made.
2. **Mandatory Supervisor Procedures for Positive Hits:** Supervisors who are notified of a positive VEC hit shall review the facts and circumstances of the event and confirm that all arrest notification procedures are conducted. The notified supervisor shall promptly inform the on-duty Duty Officer of the arrest, and send notification via email to [FCPD-SROSupervisors@fairfaxcounty.gov](mailto:FCPD-SROSupervisors@fairfaxcounty.gov) with the arrestee's name, employer, offense(s), case number, and date and time of the offense utilizing the following format:
  - FCPD Case Number.
  - Date/Time Arrest Occurred.
  - Arrested Person's Name and Date of Birth.
  - School Division Employer.
  - Offense(s).
3. **Mandatory Duty Officer Procedures:** Notified Duty Officers are required, through the Police Liaison Commander (PLC), to notify the SLC or on-call SRO Supervisor of the arrest in accordance with [FCPD Standard Operating Procedure 23-066 \(Mandatory Notification Events\)](#).

4. **School Liaison Commander and/or SRO Supervisor Procedures:** The notified SLC and/or SRO Supervisor(s) shall ensure that the event notification provides all necessary information to complete the mandated notification to the appropriate Virginia school division, and directly consult with the originating supervisor and/or arresting officer to obtain any missing information as needed. The SLC or their designee shall be responsible for reporting the arrest to the appropriate school division safety officer as soon as reasonably possible, but no later than 48 hours after the arrest occurs. Notifications shall be made either (1) via certified mail, return receipt, or (2) via fax **and** email. School division safety officer notifications shall be documented by the SLC or their designee in a supplement to the original event in the Department's current RMS.
5. **District Station Police Citizen Aides:** All District Station Police Citizen Aides (PCA) shall obtain authorization via the Department's Information Technology Bureau to perform VEC inquiries and assist arresting officers as needed with any employment checks. VEC database information user information shall be maintained on the Department's internal BlueNET.

D. **Arrests of Military Personnel:** If an active-duty member of the Armed Forces is taken into custody (not released on summons) by an officer, notification should be made in a timely manner to the following liaison officer regardless of time of day, or the arrestee's rank, residence, or current duty station:

1. **Army/Marines:** U.S. Army Provost Marshal's Office or U.S. Marine Corps Provost Marshal, Joint Base Myer-Henderson Hall (703-696-3525 or x3526).
2. **Navy:** Regional Duty Officer, Naval District Washington (202-439-4243).
3. **Air Force:** Chief of Security Police, Andrews/Bolling Air Force Base (301-981-2001).
4. **Coast Guard:** Command Officer of the Day (703-313-5400).
  - No special circumstances apply to military personnel who commit traffic violations, with the exception of those outlined in Va. Code Ann. §§ [46.2-221.4](#) and [46.2-600](#). Notifications are not required in these instances.

E. **Arrest Immunity:** The following individuals have limited arrest immunity:

1. **Witnesses:** Witnesses entering or traveling through the Commonwealth of Virginia to another state in response to a summons directing them to give testimony for matters that arise prior to their entrance into the Commonwealth of Virginia. These individuals are still subject to arrest for violations committed after they enter into the Commonwealth of Virginia.

2. **Courthouses:** Individuals who are wanted and physically located outside of a courtroom (within the courthouse) while court is in session.
  3. **Overdoses:** Per the [Code of Virginia](#), individuals experiencing and/or reporting an overdose under certain conditions.
  4. **Virginia General Assembly Members:** Members of the Virginia General Assembly during sessions of the General Assembly, and five (5) days before and after the session, except for treason, breach of the peace, and felonies.
  5. **Members of Congress:** Members of Congress of the United States during session and whenever traveling to and from session, except for treason, breach of the peace, and felonies.
    - a. **Congressional Member Vehicles:** Vehicles that belong to Members of Congress that bear congressional license plates are exempt from both State and local vehicle registration requirements. Those vehicles owned by Members of Congress and their administrative aides that do not bear congressional license plates may obtain from the Department of Motor Vehicles a “Nonresident Permit” that allows the vehicle to be exempt from State and local vehicle registration requirements. In order for the exemption to apply, an application must be filed, and the resulting permit must be displayed in the lower left-hand corner of the vehicle windshield.
- F. **Off-Duty Arrests:** Arrests made by officers while off-duty in Fairfax County shall be limited to 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. Whenever possible, officers should verbally identify themselves prior to taking police action, and utilize visual items (ex: badge of authority, police arm band) to identify themselves, maintain officer safety, and prevent friendly fire situations. Officers who use police vehicles off-duty shall have those items readily accessible. Officers may refer to the Council of Governments (COG) Policy on “Casual Clothes Officer Interactions” as outlined in FCPD [SOP 11-040](#), Stakeout /Surveillance for further guidance.
1. **Notifications:** Any officer making an off-duty arrest shall notify the Department of Public Safety Communications (DPSC) in a timely manner. The Police Liaison Commander (PLC) shall contact the on-duty squad supervisor in the district where the arrest occurred, who shall respond and investigate the circumstances of the arrest. That supervisor’s findings shall be forwarded to the officer’s district station/division commander for review.
  2. **Documentation:** Arrests made by off-duty officers shall be documented in an incident report whenever (1) an arrest is made or warrant obtained, (2) the officer has reason to believe an involved individual may obtain a warrant, (3)

the situation involves the use of force or pointing of a firearm, (3) the officer exercises police power, or (5) the incident may result in further involvement of the officer and/or Department.

3. **Personal Vehicles:** Officers shall not use personal vehicles to overtake and stop motorists under any circumstances. Where serious traffic violations are observed that necessitate immediate enforcement action (ex: suspicion of DWI, hit and run), officers should attempt to obtain as much information as possible and relay that information in a timely manner to Department personnel or DPSC. Where a violator can be identified but not immediately apprehended, officers may elect to seek warrants and have them served when they return to duty.
4. **Outside Jurisdictions:** Off-duty officers in other jurisdictions are considered private citizens and do not have law enforcement authority. Officers in these cases may only take action that would prevent or assist in the apprehension of an individual who committed a felony or a breach of the peace in the officer's presence.

G. **Arrests Made During Secondary Law Enforcement Assignments:** Officers who make arrests during the course of secondary assignments shall notify the on-duty supervisor in the district of the assignment and ensure all necessary reports are completed in a timely manner. Arrests made during secondary assignments should be set for the arresting officer's scheduled court dates as applicable, and officers may not receive additional compensation from a non-regular employer for any arrest made during a secondary assignment.

H. **Arrests of Individuals on a Capias Under Contract for Bail With Bondsmen:** A capias directed to "any police officer," shall be (1) examined for validity by officers, (2) the affected bondsman shall not be present for service, and (3) after service, the arrestee shall be transported directly to the nearest Magistrate for arraignment.

1. Any capias issued as the result of a bondsman's application to a court that is directed only to a bondsman shall not be served by any officer, nor shall any officer assist in such service.
2. Unless authorized by the Chief Judge of the Nineteenth Judicial Circuit, no bondsman is authorized to carry a concealed weapon. Bondsmen are both criminally and civilly liable to injuries incurred to persons harmed as the result of a bondsman's effort to effect an arrest.

I. **Arrests and Contacts at Certain Facilities:** Officers shall exercise utmost discretion whenever attempting to make arrests or initiate contacts in certain facilities within Fairfax County, to specifically include those facilities designed to promote the general welfare of community members. These locations are

designed to ensure those community members in crisis are able to seek help when needed and are not intended to promote unobstructed law enforcement access to individuals potentially named in arrest warrants or sought for questioning in criminal matters.

The following guidelines shall be used in any police-involved circumstances involving any treatment, counseling, or rehabilitation facility, to include privately operated shelters and facilities located on County property. This includes, but is not limited to, County-sponsored community centers, substance abuse programs, mental health centers, homeless shelters, and group homes:

1. The service of warrants and summonses or the interview of any individual or other police-related contacts shall be accomplished, whenever possible, by arranging to meet the sought individual at an alternative location other than the training or treatment facility.
  2. Where efforts to facilitate a meeting at an alternative location ultimately prove unsuccessful, and the seeking officer is left with no other recourse, officers shall notify their supervisors and telephone the facility director or supervisor so that a mutually agreeable solution can be reached to bring the individual into the director's office or other designated location.
  3. Where the seeking officer has reason to believe the individual is dangerous or likely to flee if arrest is sought, the officer shall notify their supervisor of that fact who will assess the situation, consult with their district or station commander, and determine the most prudent course of action presenting the least potential for risk to both the community and the Department.
  4. No officer is prohibited from entering any such facility when in hot pursuit of an individual who has committed a crime and the officer has reason to believe that delay in arrest of the individual will potentially jeopardize public safety.
- J. **Arrest and Contacts at Fairfax Hospital:** The following procedures shall be adhered to by all officers whenever it becomes necessary to arrest or interview any individual located within Fairfax Hospital:
1. **Arrests:** Prior to attempting a warrant service or pre-planned arrest, officers shall contact the Security Supervisor (703-776-3180) either in person or by telephone, or, in the event the Security Supervisor is unavailable, the hospital operator who shall locate them. This requirement does not apply to emergencies necessitating immediate arrest for public safety purposes.
  2. **Patient Interviews:** Where officers are attempting to interview or interrogate a hospital patient, they should solicit the permission of an on-duty emergency room physician and consult with the Office of Safety and Security (703-776-3180). Clearance for the interview may be sought from the patient's

physician via the Nursing Supervisor. Permission may be denied if the physician believes the discussion may be detrimental to the individual's care.

3. **Psychiatric Unit:** Officers required to conduct law enforcement services (ex: detention hearings) in the Hospital Psychiatric Unit shall secure their weapons within the gun lockers of the Office of Safety and Security but may retain ammunition within their possession. Where officers respond to calls for service in the Psychiatric Unit, they shall retain custody of their weapons.

## XII. LEGAL REFERENCES

1. [Arizona v. Gant, 556 U.S. 332 \(2009\).](#)
2. [Lange v. California, 594 U.S. \(2021\).](#)
3. [U.S. v. Davis](#), No. 20-4035 (4<sup>th</sup> Cir. 2021).
4. [U.S. v. Brinkley](#), 980 F.3d 377 (4<sup>th</sup> Cir. 2020).
5. [Verez v. Commonwealth](#), 230 Va. 405 (1985).
6. [Commonwealth v. Talbert](#), 23 Va. App. 552, 557-558, 478 S. E. 2d 331, 334, 1996.
7. [Holt v. City of Richmond](#), 204 Va. 364 (1963).
8. [McHone v. Commonwealth](#), 190 Va. 435 (1950).
9. [Montgomery Ward v. Freeman](#), 199 F 2D 720 (1952).
10. [Winston v. Commonwealth](#), 188 Va. 386 (1948).
11. [Report of the Attorney General of Virginia \(1971\), Page 102.](#)
12. [United States Constitution](#), Article 1, Section 6 & 8.
13. [Code of Virginia Sex Offender and Crimes Against Minors Registry Act.](#)
14. [Va. Code Ann. § 4.1-1100 et seq.](#): Possession of Marijuana and Marijuana Products.
15. [Va. Code Ann. § 9.1-902](#), Offenses requiring registration.
16. [Va. Code Ann. § 18.2-119](#), Trespass After Having Been Forbidden to do so.
17. [Va. Code Ann. § 18.2-251.03](#), Arrest and prosecution when experiencing or

reporting overdoses.

18. [Va. Code Ann. § 18.2-388](#): Intoxication in Public; Penalty; Transportation of Public Inebriates to Detoxification Center.
19. [Va. Code Ann. § 18.2-407](#): Remaining at Place of Riot or Unlawful Assembly After Warning to Disperse.
20. [Va. Code Ann. § 18.2-415](#), Disorderly Conduct in Public Places.
21. [Va. Code Ann. § 19.2-59.1](#), Strip Searches Prohibited; Exceptions; How Strip Searches Conducted.
22. [Va. Code Ann. § 19.2-72](#), When it May Issue; What to Recite and Require.
23. [Va. Code Ann. § 19.2-74](#): Issuance and Service of Summons in Place of Warrant in Misdemeanor Case; Issuance of Summons by Special Conservators of the Peace.
24. [Va. Code Ann. § 19.2-76](#), Execution and Return of Warrant, Capias or Summons; Arrest Outside County or City Where Charge is to be Tried.
25. [Va. Code Ann. § 19.2-81](#), Arrest Without Warrant Authorized in Certain Cases.
26. [Va. Code Ann. § 19.2-82](#): Procedure Upon Arrest Without Warrant.
27. [Va. Code Ann. § 19.2-81.3](#), Arrest without a warrant authorized in cases of assault and battery against a family of household member and stalking and for violations of protective orders, procedure, etc.
28. [Va. Code Ann. § 19.2-82](#), Procedure Upon Arrest Without Warrant.
29. [Va. Code Ann. § 19.2-83.1](#), Report of Arrest of School Employees and Adult Students for Certain Offenses.
30. [Va. Code Ann. § 19.2-390](#), Reports to be Made by Local Law-Enforcement Officers, Conservators of the Peace, Clerks of Court, Secretary of the Commonwealth and Corrections Officials to State Police; Material Submitted by Other Agencies.
31. [Va. Code Ann. § 46.2-221.4](#), Grace Period for Replacement of License Plates or Decals and Registrations for Certain Persons in Service to the United States Government.
32. [Va. Code Ann. § 46.2-301](#): Driving While License, Permit, or Privilege to Drive Suspended or Revoked.

33. [Va. Code Ann. § 46.2-302](#): Driving While Restoration of License is Contingent on Furnishing Proof of Financial Responsibility.
34. [Va. Code Ann. § 46.2-600](#), Owner to Secure Registration and Certificate of Title or Certificate of Ownership.
35. [Va. Code Ann. § 46.2-920](#), Certain Vehicles Exempt from Regulations in Certain Situations, Exceptions and Additional Requirements.
36. [Va. Code Ann. § 46.2-936](#): Arrest for Misdemeanor; Release on Summons and Promise to Appear; Right to Demand Hearing Immediately or Within 24 Hours; Issuance of Warrant on Request of Officer for Violations of §§ 46.2-301 and 46.2-302; Violations.
37. [Va. Code Ann. § 46.2-940](#): When Arresting Officer Shall Take Person Before Issuing Authority.
38. [Fairfax County Code 82-1-6](#): Adoption of State Law.
39. [Fairfax County Code 82-1-31](#): Arrest for Misdemeanors; Release on Summons and Promise to Appear; Admitting to Bail; Violations.

General Order 601 becomes effective on the above date and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:



\_\_\_\_\_  
Chief of Police

APPROVED BY:



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County Executive