

**GENERAL ORDER**  
FAIRFAX COUNTY POLICE DEPARTMENT



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SUBJECT: ARREST AND DETENTION FOR  
SHOPLIFTING

NUMBER: 602.1

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CANCELS ORDER DATED: 10-1-02

DATE: 7-1-10

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I. PURPOSE

The purpose of this general order is to identify the responsibilities of officers for events involving shoplifting, to describe the authority of persons other than officers in such cases, and to establish procedures for officers called to shoplifting scenes.

II. AUTHORITY OF POLICE OFFICERS AND OTHER PERSONS TO ARREST AND DETAIN

A. 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.

B. 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.

C. 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

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location which the private security services firm has contracted to protect.

D. 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.

E. Electronic Article Surveillance Devices

The activation of an electronic article surveillance device as a result of a person exiting the premises or an area within the premises of a merchant where an electronic article surveillance device is located, shall constitute probable cause for the detention of such person by such merchants, their agents or employees, provided such person is detained only in a reasonable manner and only for such time as is necessary for an inquiry into the circumstances surrounding the activation of the device, and provided that clear and visible notice is posted at each exit and location within the premises where such a device is located indicating the presence of an anti-shoplifting or inventory control device. For purposes of this section, "electronic article surveillance device" means an electronic device designed and operated for the purpose of detecting the removal from the premises, or a protected area within such premises, of specially marked or tagged merchandise.

III. RESPONSIBILITIES OF POLICE OFFICERS FOR ARREST AND DETENTION BY OTHER PERSONS

A. Detention by Merchants, Their Agents or Employees

Complaints involving the detention of a shoplifting suspect by non-sworn merchants, their agents or employees require 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.

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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.

**B. Arrests by Registered Employees of Private Security Firms**

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.

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C. Arrests by Special Conservators

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.

IV. IMMEDIATE RELEASE FROM CUSTODY WITH A SUMMONS

Police officers that affect an arrest of an adult for a shoplifting related offense shall release on summons as appropriate in accordance with General Order 601.1, Misdemeanor Arrest/Release on Summons, unless the offense was a felony. Persons arrested for all felonies and misdemeanors where summons release is not possible shall be transported to the nearest available special magistrate in accordance with Section 19.2-82, Code of Virginia.

V. ARREST AND DETENTION OF JUVENILES

Juveniles detained or arrested by special conservators, merchants, their agents or employers, or registered security employees for shoplifting shall be released at their discretion. These persons are responsible for contacting parents and filing petitions with the Juvenile and Domestic Relations Court. Officers shall assist in determining identity and advising the complainant of the petition process. Juveniles arrested by police officers for shoplifting offenses committed in their presence, or

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based on probable cause on reasonable complaint of a merchant, or their employees, or agents who observed the alleged offense, shall be processed in accordance with General Order 602.2. In circumstances where a juvenile's identity cannot be determined, or no responsible person can be found who will assume custody, the assigned officer shall contact an Intake Officer of the Juvenile Court. Intake Officers will not make a determination over the telephone if a detention order will be issued for the juvenile; they will provide guidance and assist the officer with identifying an appropriate course of action. If the officer is still unable to locate a person to take custody, or on recommendation of the Intake Officer based on the circumstances, the officer shall transport the juvenile, accompanied by the complainant, to the court for disposal.

VI. CUSTODY OF EVIDENCE AND COURT APPEARANCE

- A. The custody of evidence relating to shoplifting offenses shall remain the responsibility of the special conservator, store employee, or registered security employee, regardless of whether a police officer makes an arrest. The police officer shall explain the responsibility and custody of evidence to the complainant.
  
- B. Police officers assigned to shoplifting complaints shall not appear in court for the prosecution of such offenses unless:
  - 1. The officer observed the offense, or has other information essential to the prosecution; or,
  - 2. The Office of the Commonwealth's Attorney requests the officer's presence in court.

The police officer shall advise the complainant of his responsibility for appearing in court.

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VII. LEGAL REFERENCE

Code of Virginia

8.01-266.9

9.1-146

18.2-103

18.2-105.1

19.2-81

19.2-82

VIII. ACCREDITATION STANDARDS REFERENCE

VLEPSC

ADM. OPR.

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This general order becomes effective July 1, 2010 and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

Handwritten signature of the Chief of Police, appearing as 'M. M. L.' in cursive.

Chief of Police

Handwritten signature of the County Executive, appearing as 'A. H. G. G.' in cursive.

County Executive