

GENERAL ORDER
FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: EMOTIONALLY DISTURBED PERSONS CASES	NUMBER: 603.3
CANCELS ORDER DATED: 4-1-13	DATE: 10-25-13

I. POLICY

Police encounters with persons displaying symptoms of a mental disorder require the exercise of extreme caution and adherence to established guidelines in order to protect the rights of individuals and ensure public safety. It is the policy of the Department that non-arrest resolutions of cases involving emotionally disturbed persons (EDP) will be attempted whenever possible. Ideally, contacts with EDPs exhibiting symptoms of a mental illness will result in a referral to appropriate facilities on a voluntary basis. When public safety demands otherwise, involuntary detentions must be resorted to; however, the placing of criminal charges for the purpose of taking such persons into custody is to be avoided if possible. The effective and humane disposition of calls involving EDPs requires adherence to the procedures set forth in this general order. A coordinated effort between the police, courts, and mental health agencies is essential to the achievement of a professional approach to the problem.

II. STATE LAW

Code of Virginia §37.2-808, sets forth the procedures to be followed regarding the involuntary emergency custody of mentally disturbed adults. An amendment to this section in 2008 sets forth procedures that allow a law enforcement officer to take an adult into emergency custody without judicial authorization if the officer has PROBABLE CAUSE to believe based upon the officer's own observation **or** the reliable reports of others, if that adult is mentally ill and is in need of EMERGENCY evaluation.

The standard for probable cause based upon the change in the code is as follows:

....that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

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Code of Virginia §16.1-340 sets forth similar procedures to be followed regarding the involuntary emergency custody of mentally disturbed minors. As with adults, law enforcement officers may take a minor into emergency custody without prior judicial authorization if the officer has PROBABLE CAUSE to believe, based upon the officer's own observation or the reliable reports of others, that a minor is mentally ill and is in need of an EMERGENCY evaluation. The standard for probable cause for a minor is as follows:

(i) because of mental illness, the minor

(a) presents a serious danger to himself or others to the extent that severe or irreparable injury is likely to result, as evidenced by recent acts or threats,

or

(b) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusional thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;

and

(ii) the minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment.

The period of emergency custody is limited to four hours. If necessary, one two-hour extension shall be granted by a magistrate if good cause exists. The specific procedures relating to involuntary temporary custody initiated by police officers is set forth in Section III. D below.

Unless otherwise specified, the use of the term "persons" or "EDP" refers to both adults and minors.

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III. PROCEDURES

A. Voluntary Admissions to Mental Health Facilities

1. Persons who appear to be in need of mental health treatment, and do not pose an imminent danger to themselves or others, should be referred to a mental health facility. A family member or other responsible person is often available to assist the EDP in seeking such treatment. Emergency clinics are operated at the Woodburn Center and the Mount Vernon Center for Community Mental Health. Northern Virginia Mental Health Institute is a public inpatient facility for Northern Virginia.
2. Persons who have been or are under the care of a private physician should be referred to the physician, if possible.

B. Involuntary Admissions Where No Emergency Exists

1. If no emergency exists, a relative or any responsible person may petition a magistrate on duty at the ADC or Mount Vernon District Station for an emergency custody order to order the detention and a hearing for a person who is believed to be in need of mental health treatment. Any person for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to determine whether the person meets the criteria for temporary detention pursuant to §37.2-809 (adult) or §16.1-340.1 (juvenile) and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.
2. Police officers should refrain from initiating involuntary admissions unless there is no relative or other responsible person available and/or the suspected EDP appears to be dangerous to self or others as defined above.

C. Mobile Crisis Unit

1. The Woodburn Center operates a Mobile Crisis Unit during the hours of 0800 to 2300, seven days a week. The unit is comprised of mental health

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professionals who operate out of the Emergency Services Section of the Woodburn Center. Two of the above persons will be working as a team during the stated hours. The unit responds on a 24-hour basis under special circumstances such as a hostage/barricade situation.

2. The mission of the Mobile Crisis Unit is twofold:
 - a. To respond to calls from Judges, Special Justices, and Special Magistrates for the purposes of evaluating persons to determine whether detention is warranted, or in effecting feasible alternatives to involuntary detention.
 - b. To respond to Police Department and Fire and Rescue Department requests for assistance in cases involving EDPs where counseling is of potential benefit. Assistance may be provided by telephone consultation or by response to the scene where appropriate.
3. If the EDP in need of mental health treatment is an imminent danger to self or others or in need of medical treatment and immediate involuntary detention is appropriate, the procedures outlined under III. D. below shall be followed in lieu of contacting the Mobile Crisis Unit. If a family member is available, that person should be the petitioner.
4. If the EDP appears willing to talk with a mental health professional, but is unwilling or unable to come to a mental health facility, the Mobile Crisis Unit should be contacted for telephone consultation or to arrange for a field visit if appropriate. The Mobile Crisis Unit may be contacted at 703-560-0224. Telephone hours for the Mobile Crisis Unit are 0800-2400.
5. If the Mobile Crisis Unit responds to a scene to assist the Department, police officers shall remain at the scene until the Mobile Crisis Unit arrives and the safety of all persons is assured.
6. In cases where the Mobile Crisis Unit responds to a scene, but determines that involuntary detention is unavoidable, a family member or a police officer shall be the petitioner as only in the rarest of circumstances can the mental health screener be the petitioner. The procedures outlined in III. D. below applies where a police officer is the

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petitioner. Members of the Mobile Crisis Unit do not have the authority to detain a person suspected of being mentally ill.

7. Where the Mobile Crisis Unit makes a field contact at the request of the court, a magistrate may be designated to request simultaneous assistance from the Police Department. Upon such request, appropriate staffing will be dispatched to the scene to meet with the Mobile Crisis Unit and provide security assistance until there is a reasonable certainty that no imminent danger to the persons involved exists, and that immediate detention is not appropriate. If immediate detention is appropriate, utilize the procedures outlined in III. D. of this Order.
8. The Mobile Crisis Unit is unable to provide transportation. In some voluntary cases the police may be requested to transport after voluntary treatment has been arranged. Whenever possible, a member of the Mobile Crisis Unit will be requested to accompany such cases in the police vehicle.

D. Emergency Custody Initiated by Police Officers

1. An officer may take an adult EDP into emergency custody for an emergency mental health evaluation if the officer has PROBABLE CAUSE, based upon the officer's own observations or the reliable reports of others, that any person:

(i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future,

(a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any,

OR

(b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs,

(ii) is in need of hospitalization or treatment,

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AND

(iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

2. An officer may take a minor EDP into emergency custody for an emergency mental health evaluation if the officer has PROBABLE CAUSE, based upon the officer's own observations or the reliable reports of others:

That the minor EDP, as a result of mental illness, presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats

OR

That the minor EDP is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusionary thinking (i.e., false or unrealistic beliefs, hallucinations such as hearing voices or seeing things that are not there) or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;

AND

The minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment.

3. If an officer believes that probable cause exists to take custody of an EDP under these circumstances set forth in section III. D(1) or (2), the officer shall observe the following procedure:
 - a. The EDP will need to undergo a medical screening prior to admission to a mental health facility. When the mental health facility does not have the capability of performing a medical assessment, the EDP shall

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be transported to an authorized hospital for such an evaluation. Officers shall follow the procedures established in SOP 09-035.

- b. Transport the EDP to one of the facilities listed below for evaluation to assess the need for hospitalization.

Woodburn Center for Community Mental Health
3340 Woodburn Rd; Annandale, 703-573-5679
24 hours/day, 7 days/week, including holidays

Northwest Center for Community Mental Health
North County Human Services Building
1800 Cameron Glen Dr.; Reston 703-481-4100
0900-1700 Monday-Friday
Closed Holidays
Use Woodburn Center when closed.

Mount Vernon Center for Community Mental Health
8119 Holland Rd.; Alexandria 703-360-6910
0900-2030 Monday-Thursday; 0900-1700 Friday;
Closed Holidays; Use Woodburn Center when closed.

- c. Such evaluations shall be conducted immediately. The period of custody shall not exceed four hours from the time the law enforcement officer takes the EDP into custody. However, upon a finding by a magistrate that good cause exists to grant an extension, the magistrate shall issue an order extending the period of emergency custody one time for an additional period not to exceed two hours. Good cause for an extension includes the need for additional time to allow (a) the Fairfax-Falls Church Community Services Board (CSB) to identify a suitable facility in which the EDP can be temporarily detained pursuant to §37.2-809, or (b) a medical evaluation of the EDP to be completed if necessary. During this process an officer must remain at the facility with the EDP until a temporary detention order (TDO) is issued, or until the EDP is released. If it appears that the four hour time window might expire, the officer assigned to the case shall notify his first-line supervisor. The first-line supervisor shall consult with the emergency room physician and/or the appropriate CSB staff from their

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Emergency Services Unit to assess the need for requesting the two hour extension. If, in the judgment of any of those professionals, or in the judgment of the first-line supervisor, there would be a public safety concern to abandon the process at four hours, the police officer assigned to the case shall seek the two hour extension from the magistrate.

Because an EDP will have been in custody for four to six hours depending on whether or not an extension is granted, once the time limits have expired, officers shall remove themselves from scene upon expiration of their statutory time limits for lawful detention. When this occurs, officers shall let the affected CSB staff know they are leaving, and:

- Officers shall make all reasonable attempts to notify the complainant and any other individual to whom the detained EDP has made threats as part of this process - ALL attempts shall be documented in the report, whether they are successful or unsuccessful. This will include who was spoken to and/or who was left a message and in what capacity (voice message, message with a family or household member, etc.).
- Officers shall accurately indicate in their police report the specific times that they originally took the EDP into custody, the time that a two hour extension was requested and approved, when the two hour extension expired, and who was informed that they were leaving upon expiration of the lawful detention time. This should include the name of the CSB staff, patrol supervisor, and duty officer.
- The report should also reflect that the officer informed the affected patrol district or other police jurisdiction of the circumstances to include a description of the EDP and the possible location he may go. If the location is in Fairfax County, officers shall patrol the area when possible.
- Copies of all reports where the four hour (no extension authorized) or six hour emergency custody expires and

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officers are removing themselves from the scene shall be sent to the Patrol Bureau via an I/LEADS link to the aide to the Deputy Chief for Patrol who will be tracking these cases.

- d. When a TDO is obtained, the officer shall deliver the EDP to the facility indicated on the detention order.
- e. If a TDO is denied, the officer shall offer to return the EDP to the location where custody occurred.
- f. When a TDO is issued under these circumstances, the officer will not be required to attend the detention hearing unless the officer was the petitioner. Family members or others close to the EDP should be used as the petitioner, whenever possible.

E. Jail Diversion

1. EDPs who have committed a non-violent misdemeanor offense may be referred to the Jail Diversion program at the Woodburn Center in lieu of arrest. EDPs who are referred to Jail Diversion must meet the following criteria:
 - At least 18 years of age.
 - Suffering from an obvious mental illness as determined by the officer.
 - Have committed a non-violent misdemeanor offense in which the victim does not wish to prosecute.
 - The EDP may be taken to the Woodburn Center under voluntary or involuntary circumstances.
2. Officers who encounter an EDP who is eligible for Jail Diversion shall determine if there is a victim in the case who wishes to pursue charges. In these instances, the officer shall advise the victim of the diversion program and determine if they will forgo charges in lieu of diversion. If the victim refuses to consider diversion, the officer shall follow appropriate Department policy regarding arrest procedures.

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3. The determination of mental illness for diversion is dependent upon the officer's training and experience, and not any formal medical assessment. It can include, but not be limited to, any abnormalities in the individual's perception, thought, or mood. The decision to use diversion shall rest with the investigating officer.
4. EDPs eligible for diversion shall have the process explained to them in an effort to gain their voluntary entry into the program. The explanation should include the alternative of treatment at the Woodburn Center in lieu of having criminal charges placed against them. If the EDP voluntarily agrees to diversion, the officer shall transport them to the Woodburn Center. EDPs who do not agree to diversion and do not meet the criteria for involuntary detention should be processed in accordance with General Order 601.1, Misdemeanor Arrests/Summons Release.
5. An EDP who has committed a criminal offense and is transported to the Woodburn Center under voluntary circumstances may leave the facility at any time. In the event that this occurs, the investigating officer shall make the decision as to whether to obtain a warrant for the original offense. An EDP who is transported to Woodburn Center under involuntary means shall not be permitted to leave the facility until the evaluation is completed or the time limit has expired (four hours or six hours, if a two hour extension was granted by a magistrate) for the officer to lawfully detain the person, whichever shall come first.
6. EDPs who are involuntarily detained by an officer for an emergency psychiatric evaluation and who have committed a minor criminal offense may be eligible for Jail Diversion if they meet the diversion criteria. These persons may be transported directly to the Woodburn Center for evaluation. This evaluation shall be conducted within the time period permitted for emergency detentions. During this time period, an officer must remain at the facility with the EDP until a TDO is issued, the EDP is released, or the EDP voluntarily agrees to enter the diversion program.

F. Domestic Violence and the Emotionally Disturbed Person

There may be circumstances where family members call the police for assistance with handling an EDP who is in a mental health crisis, and has

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committed a simple assault against a family member, and the family member is not interested in criminal prosecution. In these cases, with the concurrence of a supervisor, an officer may assist the family by invoking the mental health emergency custody process in lieu of making a domestic assault arrest; keeping in mind that accomplishing the goal of removing the violence is the same under either scenario, and the criminal process requires the officer to prove criminal intent which might be difficult under these circumstances.

G. Custody and Transportation of EDPs

1. Proper restraining devices will be used, if necessary, to prevent injury to the EDP or the officer. The decision to use handcuffs will be based on the totality of circumstances and the potential for violence exhibited by the detainee.
2. EDPs taken into custody shall be transported in a cruiser equipped with a safety shield. If possible, two officers should handle the custody and transport of EDPs. Extremely violent EDPs may require special restraints and transportation by ambulance to the detention facility. If ambulance transportation is used, one officer will accompany the ambulance crew during transport if requested by them.
3. EDPs taken into emergency custody who are in apparent need of medical treatment independent of their mental disorder must be taken to a hospital Emergency Room prior to being taken to the detention facility. The period of emergency custody shall not exceed four hours, with one two hour extension granted by a magistrate if necessary.
4. EDPs taken into custody pursuant to a TDO who are in apparent need of medical treatment independent of their mental disorder must be taken to a hospital emergency room prior to being taken to the detention facility. When an individual needs to be medically admitted to the hospital during this process, Virginia Code § 37.2-809 (E) provides that law enforcement has custody until the individual is detained in a secure facility or in the facility identified in the TDO. Until that time, the individual shall remain in law enforcement's custody, after the TDO has been issued by the magistrate, regardless of whether or not the document has been served on the individual. The TDO must be served within 24 hours of issuance by the magistrate. If there is a delay in getting to the named TDO facility,

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as in the case of medical clearance processes, the TDO should be served even if the individual is not yet at the TDO facility. The law enforcement officer, however, shall remain with and transport the individual to the facility specified in the TDO once the individual is medically cleared.

If it appears that the individual is to be detained until the hearing at a facility other than the one named in the TDO, the officer should contact Woodburn Emergency Services to discuss the problem. Either Woodburn or the officer can then contact the Office of the Magistrate to request that a change be made on the TDO and to depict the new TDO facility. Upon approval by the magistrate to change the name of the TDO facility, the officer is authorized to cross off the facility name listed on the TDO and write in the new facility name. The officer shall include the name of the authorizing magistrate on the TDO document and the date and time of the authorization. Upon approval by the magistrate to change the name of the TDO facility and **the acceptance** of the individual by the new TDO facility, the individual is no longer in the officer's custody.

5. EDPs taken into custody will remain the responsibility of the police officer until custody is assumed by receiving personnel at the detention facility. If the officer has the proper detention order upon arrival at the designated facility, there should be minimal delay in relieving the officer of custodial responsibility. In the case of an escapee, the arresting officer shall transport the subject back to the facility the patient escaped from. The facility will either find bed space for the subject, or make arrangements to transfer custody to the Sheriff's Office. Until placement is determined, the arresting officer is responsible for custody of the escapee.
6. If an officer is guarding an EDP at a hospital and for reasons of personal safety feels that physical restraints are necessary for the patient, due to the EDP's conduct, the officer should contact the Administrative Nursing supervisor. The Administrative Nursing supervisor should be requested to observe the EDP's actions or conduct and to contact the appropriate physician, if restraints are required. Nothing in this section shall preclude officers from restraining EDPs without prior approval in an emergency situation.
7. On rare occasions when no bed space is available in a secured mental health treatment facility anywhere else in the Commonwealth of Virginia,

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EDPs may be detained at the direction of a magistrate at the Woodburn Place (Crisis Care) located at 3300 Woodburn Road. This facility, which is considered an approved facility by the Board of Behavioral Health and Developmental Sciences and is managed by the CSB, is **not** a secure facility and the CSB will only use this facility for those EDPs under a TDO who are not a threat for violence or escape. As an officer's lawful authority to take action under §37.2-809 ceases upon delivery of the EDP to the facility listed on the TDO, officers will **not** be requested to guard EDPs at this location. If the CSB requests that an officer provide a guard at this facility, the duty officer shall be contacted immediately.

8. Officers shall cooperate fully with and assist personnel at the detention facility. This includes compliance with any detention facility regulations concerning the securing of police weapons.
9. Officers shall wear their service weapons at all times while guarding EDPs at any hospital facility.
 - a. If an officer is assigned to guard an EDP at a Psychiatric Unit at any hospital, the officer shall contact the Administrative Nursing supervisor to request that the EDP be moved to another ward. If the officer is unable to resolve the matter at this level, the officer's supervisor shall be contacted. The supervisor will notify the hospital authority of Department policy, and that the EDP will not be guarded without the officer being armed.
 - b. The Psychiatric Unit at Fair Oaks Hospital is not an actual secured Psychiatric Unit as are the units at Fairfax and Mount Vernon Hospitals. If an officer is assigned to guard an EDP on this unit, weapons shall be worn.
10. The officer transporting the EDP shall advise the Department of Public Safety Communications of the officer's destination and estimated time of arrival so that a telephone call can be made alerting the receiving facility that an EDP is en route.
11. The list of facilities authorized to receive EDPs under a TDO is maintained by the Magistrate's Office and the police liaison commander (PLC). On an annual basis, the PLC will verify the accuracy of this approved list with

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the chief magistrate that the list is still accurate. This verification will be done within the first week of the new calendar year

12. For transports to facilities more than 90 minutes from Fairfax County, consideration should be given to the comfort of the EDP being transported and officers should use a designated transport vehicle when it is available. The Patrol Bureau will be responsible, through the PLC, to inform affected personnel of the availability and location of the vehicle.
- H. Hearings Following Involuntary Detention
1. The officer executing the detention order is not required to attend the hearing unless the officer is named as the petitioner. This should only occur in cases where immediate detention is necessary and there is no relative or other responsible person available to request detention.
 2. A hearing will be held within 48 hours of detention unless waived by the detainee. The officer's presence is necessary at this hearing if the officer is the petitioner.
- I. Service of Emergency Custody Orders, Temporary Detention Orders or Escape Warrants
1. Department of Public Safety Communications personnel who receive a request for the service of a warrant/order shall record the necessary information for the dispatch of an officer.
 2. The officer receiving the warrant/order shall immediately verify that it has been properly completed and signed. Special instructions as to the time of service or place of detention shall be noted. An emergency custody order (ECO) is valid for 6 hours upon issuance. A TDO is only valid for 24 hours from the time it is issued unless it specifically indicates otherwise.
 3. Upon receipt of an ECO or a TDO, or as soon as practical thereafter, the obtaining officer shall ensure the order is entered into the Warrant Module of I/LEADS for tracking purposes. The Warrant Module shall also be updated upon service, or if an expired order is returned to the issuing authority's office.

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4. If the warrant/order cannot be served within the same shift as received or at the time designated, the issuing authority shall be notified and the reason service cannot be made shall be provided. The issuing authority shall determine whether another attempt at service should be made later or whether the warrant/order should be returned to the court or detention facility. The officer shall notify the Warrant Desk of warrants which are being held for service; such warrants shall be entered into the Department's active warrant file.
5. Police officers are required to fill out the execution block on the lower left-hand corner of the order. The mental detention order is not valid until this is done. The hospital or other institutions can refuse to accept EDPs presented for admission if the detention order is not properly executed. Failure to execute this order and deliver a copy of this order is a cause for a technical dismissal of the matter during the hearing.
6. When an officer responds to Woodburn for the service of a juvenile petition for mental health and the subsequent TDO, the CSB will automatically notify the shift commander at the ADC. The Sheriff's Office will be responsible for the service of the petition only, in accordance with §16.1-341. The officer is still responsible for service of the TDO and transport of the juvenile to an approved facility.
7. EDPs served with mental petitions for detention at the Northern Virginia Mental Health Institute during the periods between 1700 and 0800 hours on regular weekdays, on weekends and State (not County) holidays, must first be taken to the Woodburn Center for Community Mental Health, where they will be examined by a physician. The officer(s) must remain at Woodburn during this time. At the conclusion of the examination, the officer(s) will then take the EDP to the Northern Virginia Mental Health Institute for detention.

J. Reporting Procedures

1. A complete incident report shall be submitted by the assigned officer, detailing the circumstances of the incident. Ten-99 clearances of such cases are not acceptable. The assigned officer shall contact the Warrant Desk whenever the warrant/order is served or returned to the issuer. The

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warrant control procedure shall be in accordance with General Order 601, Arrest Procedures, IV. B.

2. A complete incident report shall be submitted by the assigned officer for all cases involving Jail Diversion. The space provided for Event 1 on the incident report shall be used to record the criminal event found at the location of an occurrence. If the EDP is referred, either through voluntary or involuntary means, to the Jail Diversion Program, then Event 2 on the Incident Report shall have the classification, "Jail Diversion."

IV. LEGAL REFERENCES

Code of Virginia

16.1-340 37.2-808
16.1-340.1 37.2-809
16.1-341

V. ACCREDITATION STANDARDS REFERENCE

VLEPSC
OPR.
08.03
09.01
12.01
12.02

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This General Order becomes effective October 25, 2013 and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

A handwritten signature in black ink, appearing to be 'S. C. U.', written over a horizontal line.

Chief of Police

APPROVED BY:

A handwritten signature in black ink, appearing to be 'Edward L. Lyda', written over a horizontal line.

County Executive