

	FREDERICKSBURG POLICE DEPARTMENT DIRECTIVES	
	OPERATIONS	
301.00	APPROVED: <i>David W. Nye, Chief of Police</i>	Initiated: 10/01/2007
		Revised: 3/29/2011

ARREST PROCEDURES

301.00 – Arrest Procedures – Officers shall observe the laws of arrest, search, and seizure (ref. Search & Seizure Directive) when making an arrest. Employees shall be responsible for the safety and protection of a person in custody and that person’s personal property. This responsibility shall continue until the person is released or delivered to the custody of the Jail or other receiving facility or law enforcement officer.

Note: Should the arrestee be entitled to some degree of immunity based on their congressional or diplomatic status, refer to Foreign Nationals Directive for additional information and procedure.

Code of Virginia §19.2-72 describes the procedure for obtaining an arrest warrant and the requirements for completion of the warrant. The warrant shall:

- Be directed to an appropriate officer or officers
- Name the accused or, if the name is unknown, set forth a description by which the accused can be identified with reasonable certainty
- Describe the offense charged with reasonable certainty
- Command that the accused be arrested and brought before a court of appropriate jurisdiction in the county, city, or town in which the offense was allegedly committed
- Be signed by the issuing officer

When seeking the issuance of an arrest warrant, direct indictment, or **acting upon an NCIC/VCIN notification that a warrant exists against a person with whom the officer has contact**, officers shall take **reasonable** steps to ensure the personal information provided to obtain the warrant/indictment **or affect the arrest** is accurate for the person who is to be arrested. Reasonable steps include as many of the following criteria as is necessary to identify the person:

- Name
- **Gender**
- **Race and/or Ethnicity**
- **Height and weight**
- **Hair and eye color**
- Date and place of birth
- Address or area where the person is expected to be found
- Social Security Number
- Physical descriptors, scars, marks, tattoos
- Nickname or AKA
- Photographs and photo line-ups
- Motor vehicle information
- **FBI number, fingerprint classification, and criminal history data**

RMS does not display records prior to the year 2000. RMS records will not be used as the sole-source to identify suspects, but may assist in identification. If suspect identification information is entered into the Incident/Investigation Report, officers shall note where the information was obtained from (ex. RMS and verified by VCIN/NCIC records; photo line-up; witness identification).

Officers may assist citizens in obtaining their own warrant by providing suspect information to the citizen; however it is the policy of this department that any information provided from RMS records must be corroborated as described above prior to such information being given.

If the officer has probable cause to believe the person being detained is the same person named on the warrant, the officer may affect the arrest. The officer is not required to accept every claim of mistaken identity at face value. However, upon receiving a claim of mistaken identity, the officer must make use of the identifying information or exculpatory evidence reasonably available under the circumstances to prove or disprove the claim. If probable cause is in doubt, the officer shall call a supervisor for assistance. If the supervisor cannot resolve the question of identity on the basis of information reasonably available, the supervisor may direct that the person be released or arrange for the person to be transported to headquarters for a fingerprint comparison. So long as there remains probable cause to believe that the person under arrest is the person named in the warrant, after review of information reasonably available at the time, the person may be kept in custody.

If at any point there is no longer probable cause to believe the person being detained is the same person named on the warrant, the person shall be released immediately.

If a suspected wanted person is transported for the purpose of identification and the person is subsequently released, a report will be completed detailing the basis for the detention and release. Reasonable accommodations should be made to ease any inconvenience, such as providing the person transportation home.

Code of Virginia §19.2-81 explains when an officer may affect an arrest without a warrant:

- A misdemeanor or felony offense that occurs in the officer's presence.
- The officer has probable cause to believe the arrestee has committed a felony.
- Shoplifting offenses.
- Carrying a weapon on school property.
- Brandishing a firearm.
- Assault and battery, including domestic violence.
- Destruction of property involving a business or commercial property.
- Receipt of a teletype or photocopy of a warrant from another jurisdiction.

The following procedures will be followed for all arrests, made with or without a warrant:

- The arrest will be documented by an incident report or supplemental report by the arresting officer. [1.2.5, a]
- The regional jail will process (fingerprint and photograph) individuals incarcerated by this agency. [1.2.5, b, c]. Individuals arrested, but released on summons, will be processed as required by the fingerprint clerk. This will occur after the individual has appeared in court.
- Juveniles will be managed as described in the Juvenile Operations Directive Section.

NOTE: Diplomatic personnel who may not be arrested or detained due to diplomatic immunity shall not be fingerprinted or photographed.

301.01 – Custodial Arrest – When executing arrest warrants, officers shall make custodial arrests as directed. Officers are permitted to make a custodial arrest of a subject when probable cause exists that the subject has committed or is committing a felony. Officers may also affect a custodial arrest of a subject who has committed a misdemeanor in the officer's presence and for other specific situations as listed in Virginia Code section § 19.2-81.

Arresting officers are legally responsible for the safety, custody, and control of their prisoner until such time as the prisoner is released judicially by a magistrate, or by posting bond, released on summons, or incarcerated. The arresting officer's responsibility will cease if the prisoner is placed in the custody of another officer directed to transport the prisoner to the booking facility or magistrate's office.

An arresting officer may not leave his/her prisoner unattended unless there is a clear and immediate danger to another person and there is minimal risk to the prisoner

After an arrest, the prisoner is thoroughly searched for weapons and contraband. In this situation, the Police Department does not mandate handcuffing before or after the search. Such function is the officer's decision, however in normal usage, the placement of handcuffs upon a suspect is not considered a use of force.

Upon making a custodial arrest, Code of Virginia § 19.2-80 requires officers to bring the arrested person before a judicial officer without unnecessary delay.

As an alternative and when permitted, a Virginia Uniform Summons may be issued in certain circumstances instead of making a custodial arrest.

301.02 – Obtaining Arrest Warrants – When a situation requires law enforcement action that may result in an arrest, officers shall consider alternatives to arrest as described in the Alternatives to Arrest Directive (103.00). Officers shall also consider if an immediate arrest is necessary or if further investigation and/or a direct indictment would better manage the situation. Note: A subject who presents a danger to others or themselves is **not** a candidate for an alternative to arrest when an arrest is appropriate.

Code of Virginia § 19.2-72 permits a magistrate to issue a felony warrant to a law enforcement officer without a criminal complaint after the officer has been examined. The Code also permits non-law enforcement individuals to obtain a felony warrant if the complainant submits a written criminal complaint to the magistrate and the magistrate consults with the Commonwealth’s Attorney (CA). If the CA is unavailable the magistrate must then consult the law enforcement agency having jurisdiction over the offense before issuing the warrant.

It is the policy of the Fredericksburg Police Department to **not** obtain a felony warrant for offenses that are better served by assisting the complainant to obtain the warrant themselves. Officers will not obtain a felony warrant for “unauthorized use” of a motor vehicle unless extenuating circumstances exist (ex. The complainant is physically unable to go to the magistrate’s office).

301.03 – Arrest: Release on Summons – Code of Virginia § 19.2-74 governs the issuance of a Virginia Uniform Summons (VUS) and is generally an alternate form of arrest for misdemeanor offenses. It is incumbent on each officer to use the VUS within the parameters of this code. The offense committed and the discretion given to an arresting officer determines whether an arrestee must be released on a summons or taken before a magistrate. The Code of Virginia or any applicable opinion of the Attorney General shall supersede this procedure in the event that any conflict exists.

Unless prohibited from release on summons by the Code of Virginia (ex. - certain motor vehicle offenses listed in Title 46.2, DUI, and drunk in public), a subject who has committed an offense classified as a Class 1 or 2 misdemeanor or any other misdemeanor for which the subject may receive a jail sentence, **shall** be released on summons by the officer. Additionally, offenses for class 3 and 4 misdemeanors require the officer to release the subject on summons (except as provided for in § 18.2-407, rioting or § 18.2-388, public drunkenness). Exceptions to release subjects on summons are defined in the following directive.

301.04 – Arrest: Exceptions to Release on Summons – Code of Virginia § 19.2-74 specifies circumstances when an officer shall take a subject into custody and before the magistrate. The circumstances are if the subject:

- Refuses to discontinue the act/offense.
- Is likely to disregard the summons.

- Refuses to give written promise (including the inability to positively identify the subject).
- Is reasonably believed the subject will cause harm to him/herself or any other person.

301.05 – VINE (Victim Information & Notification Everyday) – A national network created to keep victims informed about the custody status of their offenders. VINE is a free service that only tracks offenders who have been **incarcerated** upon arrest.

Detectives/ Officers - When making an arrest on cases involving:

- **Domestic Violence**
- **Crimes of personal violence that have a Fredericksburg report number.**
(Including arrests on victim obtained warrants)
Ex: Stalking, Felonious assault, Malicious wounding, Rape, Sexual assault.

Shall:

- Make certain the victim has been notified of the benefits provided by VINE by accomplishing one of the following:
 1. Distributing VINE information by providing a VINE Leaflet, or
 2. Providing a Victim & Witness Resource Pamphlet or,
 3. Advising the victim of the web link for VINE. www.vinelink.com, or
 4. Providing the toll free phone number for VINE / 800-467-4943, or
 5. Directing the victim to access the Police Department's City Page Website for information about VINE.

If for some reason a victim(s) cannot be located or contacted, the officer/detective will document their efforts in their report or supplement.

VINE Leaflets and Victim & Witness Resource Pamphlets can be found on the Network Server or in the Patrol Roll Call Training Room.