



Alexandria Police Department

Directive 10.24



MISDEMEANANT RELEASE

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10.24.01 POLICY/PURPOSE

It is the policy of this Department to release individuals on a summons to appear when they are charged with a misdemeanor offense, in accordance with the Code of Virginia, except in certain instances as noted in 10.24.03,A (below).

The purpose of this Directive is to establish guidelines for compliance with the Code of Virginia.

10.24.02 AUTHORITY

The authority to release adult misdemeanants on a summons is granted by Sections 19.2-74, 19.2-81, 19.2-82 of the Virginia State Code. Police Directive 10.1, Adult Arrests, gives additional information on arrest authority. [1.2.6]

10.24.03 RULES/RESPONSIBILITIES

- A. Whenever a person is arrested for any misdemeanor offense committed in the arresting officer's presence, the arresting officer will take the name and address of

such person and issue a summons, except in specific cases as listed below. Upon receiving the signed promise to appear, the officer will forthwith release the person from custody.

- B. The officer should make an effort to complete additional descriptive Virginia Uniform Summons (VUS) information (such as the date of birth of the arrestee), however, the arrestee is not required by law to provide this information upon arrest, and **cannot be detained** by the officer **for the sole purpose** of obtaining this additional information. [1.2.6]

1. Class 1 and Class 2 misdemeanors – The officer will take the arrestee before a magistrate if any of the following circumstances occur:
 - a. The arrestee refuses to discontinue the unlawful act;
 - b. The arrestee refuses to provide the officer with a name and address;
 - c. The arrestee refuses to sign the summons;
 - d. The arresting officer believes that the arrestee is likely to disregard the summons; and/or
 - e. The arresting officer reasonably believes that the arrestee is likely to cause harm to himself or herself or to any other person.
2. The officer *shall* take the arrestee before a magistrate, when the arrest is *a misdemeanor offense not committed in the officer's presence*, if any of the following circumstances occur:
 - a. The arrestee is charged with a violation of:
 - i. Carrying a weapon on school property in violation of section 18.2-308.1;
 - ii. Assault and battery;
 - iii. Brandishing a firearm in violation of section 18.2-282; or
 - iv. Destruction of property in violation of section 18.2-137, when such property is located on premises used for business or commercial purposes.
 - b. Officers may issue a summons to an adult arrested for a misdemeanor violation involving shoplifting (*Virginia Code Sections 18.2-96 or 18.2-103*). Juveniles will not be eligible for release on a summons in shoplifting cases.
3. Class 3 and Class 4 misdemeanors – The officer will take the arrestee before a magistrate if any of the following circumstances occur:
 - a. The arrestee refuses to provide the officer with a name and address;
 - b. The arrestee refuses to sign the summons;
 - c. The arrestee refuses to discontinue the unlawful act; and/or
 - d. The arrestee is charged with a violation of section 18.2-407 (Unlawful Assembly) or 18.2-388 (Drunk in Public).

4. Misdemeanor arrests that are exempt from the provisions of Section 19.2-74 and are provided for elsewhere in the Virginia Code are:
 - a. Title 46.2 et seq. (traffic code); and
 - b. 18.2-266 (D.W.I.) (See Virginia Code 19.2-81, subsection C and D.)
 - c. *Domestic Assault and Battery (Virginia Code 18.2-57.2)*
 - d. *Violation of a Protective Order (Virginia Code 18.2-60.4)*
- C. The arresting officer will complete the necessary paperwork, conduct a wanted check on the subject and ensure that Information Services (ISS) is notified of the arrest. That notification is to be documented on the *report*. Officers will keep adequate personal notes as to an arrest and their decision not to release on a summons. [1.2.6]
- D. The arresting officer will submit all arrest reports, VUS's, and other paperwork *containing all pertinent information related to the case* to a supervisor for review before the end of their work shift.
- E. The patrol supervisor will ensure the *report* and the VUS are completed accurately. After review, the supervisor or the officer will turn the forms in to ISS.

10.24.04 PROCEDURES

- A. In cases where a VUS is issued for a criminal arrest, the officer will complete the VUS and the *report* with as much information as possible.
- B. In completing the witness section of the VUS, the arresting officer will fill in the name, address and daytime phone number (when available) in order to assist the court in contacting witnesses.
- C. The specific code section and a brief description of the charge will be indicated on the VUS.
- D. The arresting officer will enter the case number on the lower right hand corner of the VUS. Do not place this data in the File Number or Hearing Date spaces.
- E. If more than one charge originates from the same incident, the officer will place page numbers in the uppermost right hand corner above file number (i.e., page 1 of 2).
- F. Distribution of the VUS:
 1. First & Second Copy (White) – forwarded to ISS to be sent to court.
 2. Third Copy (Yellow) – given to the defendant.
 3. Fourth Copy (White) – to be used to request a driver's record transcript. Dispose of prior to turning in to ISS if no transcript is being requested.
 4. Fifth Copy (White) – forwarded to ISS for Department use.
 5. Sixth Copy (White) – kept by the officer until final disposition of the case.

- G. Procedures for all adult physical arrests (booked in the Adult Detention Center) will conform to existing Department standards. See Directives 10.1 (Adult Arrests) and 10.27 (Prisoner Transport). [74.3.1]

10.24.05 CONSERVATORS OF THE PEACE

- A. **Conservators of the Peace and Special Police Officers** – have the authority to release adult misdemeanants on a summons, when the offense was committed in their presence.
- B. Officers dispatched to assist conservators of the peace or special police officers will verify that they are actually a conservator or special police officer, and that they witnessed the offense.
1. In order to confirm that an individual is a conservator, the officer should check the individual's identification card issued by the Alexandria Circuit Court and signed by the Clerk.
 2. If the card is unavailable, the Circuit Court keeps a record of all conservators.
 3. Once this is confirmed, and there is no reason to believe that the arrestee will not appear in court, the arrestee will be released on a summons (officer to provide the VUS and assist with the issuance) by the conservator.
 4. If there is reason to believe that the arrestee will not appear in court, the officer will take the arrestee before the magistrate, the conservators of the peace or special police officers will respond to obtain the warrant and the officer will complete an Offense/Incident Report APD-7.
- C. In shoplifting cases, if there is probable cause to believe that a subject has committed a shoplifting offense, it is Department policy to release the adult arrestee on a VUS provided they meet the eligibility criteria listed in Section A above. The officer releasing the adult arrestee will complete the APD-7 and any other necessary paperwork. **Juveniles will not be eligible for release on a summons in shoplifting cases.**
- D. Officers of this Department will assist conservators and special police officers with any necessary paperwork or prisoner transportation required in a lawful arrest. See Police Directive 10.27, Prisoner Transport.

By Authority of:

Michael L. Brown
Chief of Police