




## ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

<b>Chapter: 5</b> Procedures	<b>Effective Date:</b> May 18, 2018	<b>Amends/Supersedes:</b> March 1, 2005	<b>By Authority of the Chief of Police</b>   Charles A. Penn
<b>Accreditation Standard(s):</b> N/A			

### 538.02 Armed Citizen Encounters

#### I. Policy

An officer who comes in contact with a person carrying a handgun should first and foremost use caution and good judgment; remembering that not everyone carrying a weapon is a criminal, but that criminals carrying weapons are considered a dangerous threat to law enforcement officers as well as the community.

Individuals exercising their right to openly carry a handgun within Arlington County should not be subject to investigatory detention unless an officer has reasonable suspicion that the aforementioned individual has committed or is about to commit a crime. However, nothing within this Manual section is intended to prevent an officer from approaching an individual openly carrying a handgun for purposes of engaging them in voluntary conversation regarding the circumstances of the carry.

#### II. Code Requirements

- A. §18.2-308. Carrying concealed weapons; exceptions; penalty.
- B. § 18.2-308.01. Carrying a concealed handgun with a permit.
- C. § 18.2-308.012. Prohibited conduct.
- D. § 18.2-308.014. Reciprocity.

The [Code of Virginia, Title 18.2, Chapter 7](#). Crimes Involving Health and Safety, Articles 4 through 7, includes a comprehensive listing of laws pertaining firearms.

#### III. Definitions

- A. Open Carry – A handgun which is being carried while not hidden from common observation by an individual legally entitled to possess a firearm.
- B. Handgun - Any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion from one or more barrels when held in one hand.
- C. Reciprocity – Agreements among states where each state honors the other state's concealed carry permit.

#### IV. Procedure

- A. Carrying or Transporting Firearms - When a person, other than a law-enforcement official, is discovered to be in possession of a handgun during the course of an investigatory detention, the officer may take control of the handgun and then determine whether the individual is carrying the handgun legally as part of the officer's investigation into suspected criminal activity.
1. Open Carry – No permit is required, nor is it illegal, for an individual to openly carry a handgun within Arlington County provided that the individual has not been convicted of a crime which would prevent them from possessing a firearm. If it is determined that the individual has no known felony convictions, active protective orders, or mental health disqualifiers, in any jurisdiction, the subject should be released and their weapon returned without further action. If the record indicates otherwise seizure of the weapon is required and arrest of the individual if they are a convicted felon.
  2. Concealed Carry – The prohibition of carrying a concealed handgun does not apply to a citizen who has been issued one of the following valid concealed handgun permits:
    - a. Virginia Resident Concealed Handgun Permit - Virginia Resident Concealed Handgun Permits are issued by the circuit court of the county or city in which the applicant resides.
    - b. Virginia Nonresident Concealed Handgun Permit – A five-year permit to carry a concealed handgun, issued to non-Virginia residents by the Virginia State Police.
    - c. Out of State Concealed Weapons Permit - The holder of a valid concealed handgun or concealed weapon permit or license issued by another state may carry a concealed handgun in Virginia.

Virginia law does not require a citizen to notify an officer that they have a permit or are in possession of a lawfully concealed handgun. However, all persons to whom a permit is issued are required by Virginia Code to have such permit on their person at all times when carrying a concealed handgun and to display that permit and a valid photo-identification issued by a government agency or by the U.S. Department of Defense or U.S. State Department upon demand by a law-enforcement officer. The permit information and identification should be scrutinized for authenticity and accuracy, paying particular attention to the expiration date.

If all documentation is in order, the investigation has been concluded and there are no known felony convictions the subject should be released and their weapon returned without further action. Conversely, if a person does not have a permit and the appropriate photo identification, or refuses to present either of them to the officer, the individual should be charged with carrying a concealed weapon; which would require the seizure of the weapon.

3. Transporting Firearms - A concealed handgun permit is not necessary when transporting a handgun in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel. The term “secured” as used does not require the compartment to be locked. [OAG opinion 11-111](#).
- B. VCIN/NCIC/NLETS Inquiries - When further investigation of a concealed handgun permit holder is warranted by officers the ECC has the capabilities of conducting the following NCIC/VCIN concealed handgun permit inquiry:
1. Query Gun (QG) – The “QG” message key code will generate an inquiry on a gun serial number and provides access to stolen, recovered, lost, and felony gun records.
  2. Query History (QH) - The “QH” message key code with the purpose code “F” will indicate if the person has mental health challenges or has been convicted of a crime or offense that prevents them from possessing a firearm.
  3. Query Concealed Permit (QCP) - The “QCP” message key code will query the Virginia Concealed Weapons Registry concealed weapons file to reveal if an individual has a concealed weapons permit on file in Virginia.
  4. Query Concealed Weapons Permit (QCWP) – The “QCWP” message key code will reveal if Virginia recognizes an out of state concealed weapons permit when the state is not a member of the compact.
  5. Concealed Weapons Permit Information Exchange System (CWQ) – Allows NLETS users to exchange concealed weapon permit information between local, state, and federal law enforcement and criminal justice agencies.
- C. Law Enforcement Officers Safety Act (LEOSA) – Federal law that allows qualified law enforcement officers, both active and retired, to carry a concealed firearm in any jurisdiction in the United States or United States Territories, regardless of state or local laws, with certain exceptions. An individual who qualifies under LEOSA is not required to have a state-issued permit to carry a concealed firearm. However, it does not exempt them from state laws that permit private persons or entities from prohibiting or restricting the possession of concealed firearms on their property; or state laws prohibiting or restricting the possession of firearms on any state or local government property, installation, building, base or park.
1. Active Officers - Must present a photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer. The definition of a qualified law enforcement officer and further guidance with regard to qualifications is set forth in [U.S. Code §926B](#).

2. Retired Officers - Must present a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm. The definition of a qualified retired law enforcement officer and further guidance with regard to qualifications is set forth in [U.S. Code §926C](#)
  3. In either case if the individual does not have the appropriate photo identification, or refuses to present it to the officer, the person should be charged with carrying a concealed weapon.
- D. Arrest - Any person charged with a violation of Virginia Code regarding a concealed handgun should be released on a summons or bodily arrested, as appropriate. A copy of the case report will be routinely forwarded to the Commonwealth's Attorney's office via the Central Records Unit. However, if an individual is arrested for any offense and has a concealed handgun permit, the report should be prominently marked "CHP" to facilitate possible revocation of the arrestee's permit at the arraignment hearing.
  - E. Seizure of Weapon - Any person carrying a concealed or openly carried handgun and found to be in violation of the Virginia Code will have their handgun seized and placed in the Property Unit following established procedures. The officer will notify the Virginia Department of State Police Criminal Firearms Clearinghouse by completing Virginia State Police (VSP) form SP-187. A Firearms Documentation Information Sheet is not required for a violation of the concealed handgun law.
  - F. Handgun Kept for Safekeeping - An officer who makes a bodily arrest of a person who is legally in possession of a handgun will place the handgun in the Property Unit for safekeeping. Under no circumstances will a seized handgun be brought into the detention center.
  - G. Commonwealth's Attorney's Responsibilities - The Office of the Commonwealth's Attorney will notify the Virginia State Police of any permit forfeiture so the VCIN entry can be updated. They will also check for permit holder status at the arraignment stage in the Arlington courts and run periodic records checks on Arlington and Falls Church permit holders to determine if they have been convicted of disqualifying crimes committed outside of Arlington.