

LEESBURG POLICE DEPARTMENT REGULATIONS AND GENERAL ORDERS MANUAL		
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Title: LEGAL PROCESS		
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I. Authority to Execute the Criminal Process.

The Code of Virginia §19.2-76, states A law-enforcement officer may execute within his jurisdiction a warrant, capias or summons issued anywhere in the Commonwealth. A jail officer as defined in § 53.1-1 employed at a regional jail or jail farm may execute upon a person being held in his jail a warrant, capias or summons issued anywhere in the Commonwealth. A warrant or capias shall be executed by the arrest of the accused, and a summons shall be executed by delivering a copy to the accused personally.

If the accused is a corporation, partnership, unincorporated association or legal entity other than an individual, a summons may be executed by service on the entity in the same manner as provided in Title 8.01 for service of process on that entity in a civil proceeding. However, if the summons is served on the entity by delivery to a registered agent or to any other agent who is not an officer, director, managing agent or employee of the entity, such agent shall not be personally subject to penalty for failure to appear as provided in § 19.2-128, nor shall the agent be subject to punishment for contempt for failure to appear under his summons as provided in § 19.2-129.

The law-enforcement officer or jail officer executing a warrant or capias shall endorse the date of execution thereon and make return thereof to a judicial officer. The law-enforcement officer executing a summons shall endorse the date of execution thereon and make return thereof to the court to which the summons is returnable.

Whenever a person is arrested upon a warrant or capias in a county or city other than that in which the charge is to be tried, the law-enforcement officer or jail officer making the arrest shall either (i) bring the accused forthwith before a judicial officer in the locality where the arrest was made or where the charge is to be tried or (ii) commit the accused to the custody of an officer from the county or city where the charge is to be tried who shall bring the accused forthwith before a judicial officer in the county or city in which the charge is to be tried. The judicial officer before whom the accused is brought shall immediately conduct a bail hearing and either admit the accused to bail or commit him to jail for transfer forthwith to the county or city where the charge is to be tried.

II. Jurisdiction.

A. Within the corporate boundaries of the Town of Leesburg, police officers are empowered to enforce the Code of Virginia and the ordinances set forth in the Leesburg Code of Ordinances. This authority extends to all property within the Town including that, which is owned and operated by any other county, city or town.

B. Leesburg Police officers are empowered to enforce the criminal laws of the Commonwealth of Virginia to 300 yards beyond the corporate limits of the Town of Leesburg. Offenses

occurring within this 300-yard zone must be prosecuted under the State law. Such enforcement should be limited to these situations where there is an immediate need to act. Traffic infractions are not covered under these guidelines. See Code of Virginia, §19.2-250.

- C. Whenever a person in the custody of an officer shall escape or whenever a person shall flee from an officer attempting to arrest him, such officer, with or without a warrant, may pursue such person anywhere in the Commonwealth and, when actually in close pursuit, may arrest him wherever he is found. If the arrest is made in a county or city adjoining that from which the accused fled, or in any area of the Commonwealth within one mile of the boundary of the county or city from which he fled, the officer may forthwith return the accused before the proper official of the county or city from which he fled. If the arrest is made beyond the foregoing limits, the officer shall proceed according to the provisions of § 19.2-76, and if such arrest is made without a warrant, the officer shall procure a warrant from the magistrate serving the county or city wherein the arrest was made, charging the accused with the offense committed in the county or city from which he fled and any offense committed during the close pursuit in the county or city where such offense was committed. See Code of Virginia, 19.2-77.

III. RECORDS

A. Warrant Control.

1. Warrants are maintained in the Communications Section which allows for 24-hours a day accessibility. On receipt of a legal document for service within the Town, a communications technician will complete a Leesburg Police Department Warrant Envelope. The communications technician will determine if a case number has been previously assigned to the incident. If so, the original case number will be recorded on the Leesburg Police Department Warrant Envelope. The name of the plaintiff, complainant and respondent, the warrant expiration date, and the date and time of receipt of the warrant will also be recorded on the envelope.
2. Officers who obtain a warrant for a subject who lives outside of the Town or who lives within the Town but cannot be arrested immediately, shall ensure that the warrant is entered into the appropriate computerized wanted files, VCIN/NCIC. The officer shall also submit an Incident or Supplemental Report, whichever is appropriate, at the time of submitting the warrant to their supervisor. The officer's report shall include any specific instructions regarding the service of the warrant.
3. The following information will be recorded on the warrant envelope when applicable:
 - a. Warrant Control number;
 - b. Associated Case Number;
 - c. Type of legal process;
 - d. Originating agency;
 - e. Warrant status;
 - f. Name of defendant/respondent and personal data;
 - g. Charge;
 - h. Date issued and complainant/agency issued by;
 - i. Date and time received;
 - j. Name of complainant;
 - k. Officer assigned for service;
 - l. Date of assignment;
 - m. Date of service and/or return;
 - n. Method of service;
 - o. Location of service or attempt;
 - p. Reason for non-service.
4. The Communications Technician shall enter warrant information into the computerized warrant file according to the directions in the Communications SOP Manual.

Information shall only be entered if it is detailed on the warrant or the officer's Incident or Supplemental Report. When a clerk of any court notifies the Department that a previously issued warrant has been recalled, or that the court authorization for a fail to appear warrant has been withdrawn, the communications technician who receives such notice will note this information on the Leesburg Police Department Warrant Envelope and forward a copy to the appropriate officer who will complete a Supplemental Report. The communications technician will ensure that the warrant is removed from the Department computerized warrant files, and from NCIC/VCIN.

5. A warrant logbook will be maintained in the Communications Center. Officers will record the defendant's name, the current date and the officer's signature when signing out warrants for service. At the end of the shift the officers will sign the warrant back in or record on the warrant log that service was made.
 6. The appropriate court will assign a docket number after the document has been executed and returned to court.
- B. Prioritized Warrant Service/Warrant Service Records/ Warrant Service in Foreign Jurisdictions.
1. The Leesburg Police will serve all outstanding arrests warrants without delay and in accordance with this General Order. Officers shall prioritize warrant services as follows:
 - a. Felony Warrants.
Because of the serious nature of felony offenses, all felony warrants should be served as expeditiously as possible.
 - b. Capias and Fail to Appear Warrants.
Consideration shall be given to the quick service of these warrants due to a greater likelihood that those who willfully fail to appear frequently do not remain in the area;
 - c. Misdemeanor Warrants.
In the absence of felony, capias or F.T.A. warrants, misdemeanor warrants should be served beginning with the most serious misdemeanors;
 - d. Traffic Warrants. Due to these warrants being of a less serious nature, they may be served as time permits. Quick action on the part of all officers in serving outstanding warrants will significantly increase the likelihood of apprehension.
 2. Officers may only be issued warrants from the active warrant file by the communications technician. The Warrant Control envelope will be updated by the officer following the warrant service or attempted service. The Warrant Control envelope tracks the warrant at all times. If the warrant is not served, the respective Leesburg Police Department warrant envelope containing the warrant is placed back into the file. The warrant envelope shall record the following:
 - a. Name of person for who service was attempted;
 - b. Address where service was attempted;
 - c. Date and time of attempted service;
 - d. Person contacted if any;
 - e. Name of officer;
 - f. Results of any other actions taken (Post Office forwarding address, rental office Information, DMV information, neighborhood canvass);
 - g. Explanation of any non-service and any relevant information to assist in future service attempts.
 3. Service of all LPD warrants shall be documented by submitting an Arrest Report or Case Report. All other jurisdictions warrants will be documented by completing a Case Report. Serving officers shall ensure that subjects are removed from computerized warrant files. All documentation shall be submitted prior to the end of the shift. The applicable report shall include the following:
 - a. Name of person for who service was attempted;
 - b. Date and time served;
 - c. Name of arresting officer;

- d. Name of person to who process was served;
 - e. Method of service;
 - f. Location of service;
 - g. Instances where an officer other than the officer who obtained the warrant has served the warrant, the communications technician shall send an e-mail to the officer managing the case.
4. A warrant that must be sent to another agency for service will be appended to the LPD 502, "Request for Service". A copy of the LPD 502 will be retained with the warrant envelope to show the present status and location of the warrant. Upon return of the warrant, the disposition of the document is recorded in the computerized warrant file by a communications technician. The warrant will be placed in the inactive Warrant File pending further information.
- The assigned communications technician will conduct an audit of the inactive Warrant File monthly. The audit will be kept on-file by the Information's System Supervisor. All felony and misdemeanor warrants will be placed in NCIC. The case officer must complete the extradition Form, LPD 517, indicating authorization from a Commonwealth Attorney. The name of the attorney authorizing extradition shall be included on the extradition form.

IV. CRIMINAL PROCESS

A. Service of the Criminal Process.

- 1. Warrant Service.
 - a. Active warrants (felony and misdemeanor), bench warrants, and detention orders will be maintained in the Warrant File in the Communications Section. Officers may only be issued warrants from the active warrant file by the communications technician.
 - b. Team supervisors shall assign warrants for service on a daily basis to prevent any undue delay in the execution of the legal process.
 - c. Misdemeanor warrants shall be served during daylight hours or before 2200 hours, unless the defendant is evading arrest or delay of service may jeopardize public safety.
 - d. Officers serving a warrant shall not search a third party residence for a defendant unless there is probable cause to believe the defendant is present on the premises. In addition, one of the following conditions must exist:
 - (1) An officer is in hot pursuit;
 - (2) Consent to search has been given by the owner or person occupying the premises, and consent to search form is completed;
 - (3) There exist exigent circumstances that would necessitate an immediate arrest. If one of the aforementioned situations does not exist, a search warrant for the premises shall be obtained.
 - e. Probable cause to believe the person named on the warrant is present on his/her own premises is sufficient reason to search that person's premises.
 - f. It is the responsibility of the officer attempting to serve a warrant to ensure that the warrant is valid and properly executed as set forth under the provisions of the Code of Virginia, §19.2-72.
 - g. Upon the service of a warrant, the arresting officer shall:
 - (1) Check VCIN and NCIC to determine the existence of outstanding warrants;
 - (2) Direct the communications technician as soon as possible to delete the served warrant from NCIC, VCIN, and the Department's Warrant File upon the return of the warrant envelope.
 - (3) Document the service on an Incident or Supplemental Report, whichever is appropriate.
 - h. Certain Facilities.
 - (1) The judicious exercise of discretion is important in all matters of law enforcement, but especially so in cases of arrest where the clientele or

location involved are of a particularly sensitive nature. It is, therefore, the policy of the Department to exercise a greater degree of restraint than is ordinarily applied when seeking the arrest of persons within certain facilities within the Town. Such facilities include but are not limited to:

- (a) Schools;
 - (b) Town and Government offices;
 - (c) Public buildings and community centers;
 - (d) Medical treatment, counseling and rehabilitation facilities;
 - (e) Other facilities designed to promote the welfare of a Town resident.
- (2) In instances where the clientele or location of a warrant service, suspect or witness interview, or other police-initiated contact is determined to be sensitive in nature, officers will make every attempt at meeting the subject at an appropriate location. If this approach is unsuccessful, and it is apparent that it may be necessary to make the contact or the arrest at the facility, telephone contact shall be made with the administrative staff at the facility to make special arrangements. In cases where information suggests that the subject is dangerous or likely to flee, the officer concerned shall consult with the officer's supervisor who will assess the situation and determine a course of action, which presents the least potential risk to the public and the police. This policy does not restrict an officer from entering any such facility when in close pursuit of a person who has committed a crime, and the officer has reason to believe that any delay in the arrest of the suspect will tend to jeopardize the safety of the public.
 - (3) The service of warrants is prohibited inside any courtroom while court is in session.
2. Warrant Service of Leesburg Warrants in Other Virginia Jurisdictions.
 - a. When a subject is detained in a jurisdiction outside of Loudoun County on a Leesburg warrant the warrant will be faxed to and served by the arresting agency.
 - b. The communications technician shall send correspondence detailing the service of the warrant to the officer responsible for the case.
 3. Time Requirements for Execution of Warrants.
 - a. The communications technician shall follow up all legal documents sent to other jurisdictions. If no response has been received in 20 days, the communications technician will contact the jurisdiction to determine the status of the document.
 - b. The communications technician shall follow up all legal documents placed in the Warrant File for service. After 20 days, the communications technician shall review the document to determine whether service can be accomplished. If service cannot be made, the document shall be sent back to the originating agency with an explanation, utilizing LPD form 510.
 4. Misdemeanor Arrests/Summons Release.
 - a. In the case of warrantless arrests for Class I and II misdemeanors and any other misdemeanor punishable by confinement in jail, the subject will be released on a summons unless one of the following exceptions applies:
 - (1) The subject fails or refuses to discontinue the unlawful act
 - (2) The subject is likely to disregard the summons
 - (a) The subject has no community ties such as a transient or homeless person. Military non-residents with local addresses or stationed in the metropolitan area will not be considered transients.
 - (b) The subject has no positive means of identification.
 - (c) The subject attempts to escape or resists arrest
 - (d) The subject cannot understand the conditions of the summons requiring future court appearance
 - (e) The subject makes a statement indicating an intent to disregard the summons
 - (f) The subject refuses to sign the summons
 - (g) Previous failures to appear in court by the subject

- (3) The subject is likely to harm self or others
 - (a) The subject appears to be under the influence of drugs or alcohol
 - (b) The subject exhibits violent or irrational behavior before, during, or after the arrest.
 - (c) The subject makes statements or exhibits behavior indicating an intent to continue the offense or commit another offense after being released on a summons.
- 5. In the case of warrantless arrests for Class III and IV misdemeanors, the subject will be released on a summons unless one of the following exceptions applies:
 - a. The subject refuses to furnish correct name and address
 - b. The subject refuses to sign summons
 - c. Violation of VA- 18.2-407 (Remain at the scene of a riot after being told to disperse)
 - d. Violation of VA 18.2-388 (Public intoxication)
 - e. The subject refuses to discontinue the unlawful act
- 6. When the misdemeanor arrestee is released on a summons, a search incident to arrest is not authorized.
- 7. Immunity from Arrest
 - a. In accordance with the Constitution of the United States, Article 1- Section 6, "They (Senators and Representatives) shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place."
 - b. In accordance with the Constitution of Virginia, Article IV - Section 9, "Members of the General Assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the sessions of their respective Houses; and for an speech or debate in either House shall not be questioned in any other place. They shall not be subject to arrest under any civil process during the sessions of the General Assembly, or during the fifteen days before the beginning or after the ending of any session."
 - c. Witnesses entering Virginia or traveling through Virginia en-route to another state, in response to a summons, are immune from arrest for matters, which occurred before their entrance into Virginia. Violations that occur after their entrance into Virginia are enforceable.
 - d. The service of warrants is prohibited inside any courtroom while court is in session.
 - e. Foreign diplomats and consular officers, and their family members, their servants and their staff members, are afforded various levels of immunity from arrest, detention, prosecution, search and seizure. See General Order 218 Diplomatic Immunity and Foreign Nationals.
- 8. Arrests of Foreign Nationals. See General Order 218 Diplomatic Immunity and Foreign Nationals.
- 9. Arrests of Military Personnel.

When a person on active duty status with the armed forces is arrested, the appropriate liaison officer shall be notified regardless of hour of the day. The current operational numbers will be maintained in the Communications Section for the following offices:

 - a. U.S. Army Provost Marshal;
 - b. U.S. Air Force Security Police;
 - c. U.S. Marine Provost Marshal;
 - d. U.S. Navy/Coast Guard Master At Arms
- 10. Arrests of School Employees.
 - a. In compliance with the Code of Virginia, §19.2-83.1(A), the Chief of Police shall file a report with the local school division superintendent upon the arrest of a teacher or employee in any public school division of the Commonwealth for any felony or Class 1 misdemeanor.

- b. In compliance with the Code of Virginia, §19.2-83.1(B), the Chief of Police shall file a report with the local school division superintendent in which the student is enrolled upon the arrest of that student age 18 or older for:
 - (1) A firearm offense
 - (2) Homicide
 - (3) Felonious assault and bodily wounding
 - (4) Criminal sexual assault
 - (5) Manufacture, sale, gift, distribution, or possession of Schedule I or II controlled substances
 - (6) Manufacture, sale or distribution of marijuana
 - (7) Arson and related crimes
 - (8) Burglary and related crimes
 - (9) Robbery
 - (10) Prohibited criminal street gang activity
 - (11) Recruitment of juveniles for criminal street gang
 - (12) An act of violence by a mob; or
 - (13) Abduction of any person.
 - c. The arrest of such a person as described in “a” or “b” shall be brought to the attention of the Chief of Police through the chain of command.
11. Officers that affect an arrest of any Town employee shall notify their immediate supervisor. The supervisor shall send correspondence, to include a copy of the report, to the Chief of Police. The Chief of Police will make necessary notifications.

V. CIVIL PROCESS

- A. In accordance with the Code of Virginia §15.2-1704-B, “A police officer has no authority in civil matters, except (i) to execute and serve temporary detention and emergency custody orders and any other powers granted to law-enforcement officers in §37.2-808 or §37.2-809, (ii) to serve an order of protection pursuant to §16.1-253.1, 16.1-253.4 and 16.1-279.1, or (iii) to execute all warrants or summons as may be placed in his hands by any magistrate for the locality and to make due return thereof. A town police officer, after receiving training under subdivision 8 of §9.1-102, may, with the concurrence of the local sheriff, also serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town.”
- B. Leesburg Police Officers shall not serve/execute civil papers with the exception of TDO’s (Temporary Detention Orders), ECO’s (Emergency Custody Orders), PPO’s (Preliminary Protective Orders), or EPO’s (Emergency Protective Orders).

Civil process service are to be maintained and recorded in the same manner as a criminal process service.

VI. PROPERTY

- A. Acquisition Records of Property/Property Disposal.
 - 1. All property obtained by the Department through the execution of the legal process will be documented pursuant to General Order 213 Collection and Preservation of Evidence. The property officer is responsible for maintenance of the property record keeping system as outlined in General Order 114 Property and Evidence Control.
 - 2. All property acquired by the Department through the execution of the legal process is disposed of pursuant to the Code of Virginia, §15.2-1719. The procedures to be followed in the disposition of property acquired through the legal process are provided in General Order 114 Property and Evidence Control.

