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| <b>YORK-POQUOSON SHERIFF'S OFFICE</b>              | <b>GENERAL ORDERS</b>  |
| <b>SUBJECT: Arrests</b>                            | <b>NUMBER: GO 2-4</b>  |
| <b>EFFECTIVE DATE: July 1, 2021</b>                | <b>REVIEW DATE: July 1, 2021</b>   |
| <b>AMENDS/SUPERSEDES: GO 2-4, October 22, 2018</b> | <b>APPROVED:</b> _____<br><br>Sheriff |
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1 **INDEX WORDS**

- 2
- 3 Arrests;
- 4     • Laws of
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- 9 Booking
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- 13 Summons

14

15 **POLICY**

16

17 Short of the application of force, an arrest is the most serious action a deputy undertakes. An

18 arrest can cause repercussions throughout a person's life, even if he or she is eventually found not

19 guilty or never brought to trial. Deputies shall accordingly exercise critical judgment in making

20 arrests. Such judgment includes consideration for bystanders, the time, place, and location of

21 offenses, and the use of force in making the arrests. Deputies shall further consider alternatives

22 to arrest consistent with carrying out their law enforcement mission.

23

24 **PURPOSE**

25

26 To define the authority of deputies to arrest, and the mechanism for making arrests with and

27 without a warrant.

28

29 **PROCEDURE – GENERAL**

- 30
- 31     • Definition of arrest
- 32         ○ An arrest constitutes a seizure of the person for Fourth Amendment purposes.
- 33         Further, the Fourth Amendment requires probable cause to arrest. The test, in
- 34         interviews or stops of persons, for whether an arrest has occurred or a seizure of the
- 35         person is whether a reasonable person under the circumstances would have felt free to
- 36         leave.
- 37
- 38     • Jurisdiction of arrest

- 39           ○ Section [19.2-249](#), Code of Virginia provides that if an offense occurs within 300  
40 yards of a boundary of two counties or a boundary of a county and a city,  
41 deputies/officers in either jurisdiction may take enforcement action.  
42

### 43 **ARRESTS WITH A WARRANT**

44

- 45       • Who may issue
  - 46           ○ An arrest warrant may be issued by any judge, clerk of any circuit court, any general  
47 district court, juvenile court and domestic relations court, or any magistrate as  
48 provided in Section, [19.2-71](#), Code of Virginia.  
49
- 50       • When it may issue; what to recite
  - 51           ○ Section [19.2-72](#), Code of Virginia, provides that the person having authority to issue  
52 an arrest warrant shall first examine on oath any complainant or other witnesses and,  
53 if probable cause exists, issue the warrant.  
54
- 55       • What the warrant contains
  - 56           ○ A warrant commands the accused to appear before a magistrate. The warrant will  
57 give the name of the accused, or a description if his name is not known, describe the  
58 offense, and be signed by the officer authorized to issue warrants.
  - 59           ○ The warrant should have the criminal complaint, and the criminal complaint shall  
60 consist of sworn statements of a person or persons of fact relating to the commission  
61 of an alleged offense.
  - 62           ○ The offender description on warrant must not be too general or leave too much  
63 discretion to the law enforcement officer to decide which suspect to arrest.  
64
- 65       • Issuance of a summons instead of warrant
  - 66           ○ Section [19.2-73](#), Code of Virginia provides for issuance of a summons instead of a  
67 warrant "where there is reason to believe that the person charged will appear in the  
68 courts having jurisdiction over the trial of the offense charged."  
69           ○ Uniform summonses and Magistrate's summonses impose the same requirements to  
70 appear at an appointed place and time as with a warrant.  
71
- 72       • Notice of issuance of warrants or summonses
  - 73           ○ Section [19.2-73.1](#), Code of Virginia provides that the Sheriff or his deputy may notify  
74 citizens of pending warrants (in misdemeanor or class 5 or 6 felonies) or summonses,  
75 and direct their appearance to a time and place for execution of such process.
  - 76           ○ However, the issuing judicial officer may direct the execution of such process prior to  
77 any such notification.  
78
- 79       • Issuance and service of summons in place of warrants in misdemeanor cases
  - 80           ○ Section [19.2-74](#), Code of Virginia provides that whenever any person is detained by,  
81 or is in the custody of, an arresting deputy for any violation committed in an deputy's  
82 presence which violates any county, city, or town ordinance of any provision of this  
83 code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for  
84 which he may receive a jail sentence, except as otherwise provided in Title [46.2](#), or

85 [18.2-266](#) of the Code of Virginia, or an arrest on a warrant charging an offense for  
86 which a summons may be issued, and when specifically authorized by the judicial  
87 officer issuing the warrant, the arresting deputy shall:

- 88     ▪ Take the name and address of such person and issue a summons or otherwise  
89     notify him in writing to appear at a time and place to be specified in such  
90     summons or notice.
- 91     ▪ Upon the giving by such person of his written promise to appear at such time and  
92     place, the deputy shall forthwith release him from custody

93 .

- 94     ○ Whenever any person is detained by or is in the custody of an arresting deputy for a  
95     violation of any county, city or town ordinance or of any provision of this code,  
96     punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor in which  
97     he cannot receive a jail sentence, except as otherwise provided in Title [46.2](#), or to the  
98     offense of public drunkenness as defined in Section [18.2-388](#) of the Code of Virginia,  
99     the arresting deputy shall take the name and address of such person and issue a  
100     summons or otherwise notify him in writing to appear at a time and place to be  
101     specified in such summons or notice.
- 102     ○ Upon the giving such person of his written promise to appear at such time and place,  
103     the deputy shall forthwith release him from custody.
- 104     ○ However, if any such person shall refuse to discontinue the unlawful act, the deputy  
105     may proceed according to the provisions of Section [19.2-82](#), Code of Virginia.
- 106     ○ Any person so summoned shall not be held in custody after the issuance of such  
107     summons for the purpose of complying with the requirements of Chapter 23 ([19.2-](#)  
108     [387](#) Code of Virginia.
- 109     ○ Reports to the Central Criminal Records Exchange concerning such persons shall be  
110     made after a disposition of guilt is entered as provided for in Section [19.2-390](#) Code  
111     of Virginia.
- 112     ○ Any person refusing to give such written promise to appear, for a criminal offense  
113     constituting a class 1 or class 2 misdemeanor, under the provisions of this section  
114     shall be taken immediately by the arresting deputy or other law enforcement officer  
115     before a magistrate or other issuing authority having jurisdiction, who shall proceed  
116     according to provisions of Section [19.2-82](#), Code of Virginia.
- 117     ○ Any person refusing to give such written promise to appear, for any traffic infraction,  
118     under the provisions of this section shall be given a copy of the summons with the  
119     date to appear in court and the deputy shall notate on the summons that the person so  
120     summoned refused to sign the summons in accordance with Section [46.2-936](#), Code  
121     of Virginia.
- 122     ○ Any person who willfully violates his written promise to appear given in accordance  
123     with this section, shall be treated in accordance with the provisions of Section [19.2-](#)  
124     [128](#) Code of Virginia, regardless of the disposition of, and in addition to, the charge  
125     upon which he was originally arrested.
- 126     ○ Any person charged with committing any violation of Section [18.2-407](#) Code of  
127     Virginia may be arrested and forthwith brought before a magistrate who shall proceed  
128     as provided in Section [19.2-82](#) Code of Virginia.
- 129     ○ When release on a summons is appropriate, the arrested person shall not be  
130     photographed or fingerprinted before release.

- 131                   ▪ This processing will be done after appearance in court and only in cases where  
132                   there is a conviction.
- 133                   ▪ The Court will make arrangements to have each person processed upon  
134                   conviction.
- 135
- 136                   • Copy of Process to be Left with the Accused
- 137                   ○ Section [19.2-75](#) Code of Virginia.
- 138                   ○ Except as provided in Section [46.2-936](#), Code of Virginia, any process issued against  
139                   a person charged with a criminal offense shall be in duplicate and the deputy serving  
140                   such process shall leave a copy with the person charged.
- 141
- 142                   • Execution of Arrest Warrants, Section [19.2-76](#), Code of Virginia
- 143                   ○ A law-enforcement officer may execute within his jurisdiction a warrant, capias or  
144                   summons issued anywhere in the Commonwealth.
- 145                   ○ A warrant or capias shall be executed by the arrest of the accused, and a summons  
146                   shall be executed by delivering a copy to the accused personally.
- 147                   ○ If the accused is a corporation, partnership, unincorporated association or legal entity  
148                   other than an individual, a summons may be executed by service on the entity in the  
149                   same manner as provided in Section [8.01-301](#), Code of Virginia, for service of  
150                   process on that entity in a civil proceeding.
- 151                   ○ However, if the summons is served on the entity by delivery to a registered agent or  
152                   to any other agent who is not an officer, director, managing agent or employee of the  
153                   entity, such agent shall not be personally subject to penalty for failure to appear as  
154                   provided in Section [19.2-128](#), Code of Virginia, nor shall the agent be subject to  
155                   punishment for contempt for failure to appear under his summons as provided in S  
156                   [19.2-129](#) Code of Virginia.
- 157                   ○ The law-enforcement officer executing a warrant or capias shall endorse the date of  
158                   execution thereon and make return thereof to a judicial officer.
- 159                   ○ The law-enforcement officer executing a summons shall endorse the date of  
160                   execution thereon and make return thereof to the court to which the summons is  
161                   returnable.
- 162                   ○ Whenever a person is arrested upon a warrant or capias in a county or city other than  
163                   that in which the charge is to be tried, the law-enforcement officer making the arrest  
164                   shall either:
- 165                   ▪ Bring the accused forthwith before a judicial officer in the locality where the  
166                   arrest was made or where the charge is to be tried or;
- 167                   ▪ Commit the accused to the custody of an officer from the county or city where the  
168                   charge is to be tried; who shall bring the accused forthwith before a judicial  
169                   officer in the county or city in which the charge is to be tried.
- 170                   ❖ The judicial officer before whom the accused is brought shall immediately  
171                   conduct a bail hearing and either admit the accused to bail or commit him to  
172                   jail for transfer forthwith to the county or city where the charge is to be tried.
- 173
- 174                   • Escape, Flight and Pursuit; Arrest Anywhere in the State
- 175                   ○ Section [19.2-77](#), Code of Virginia provides that whenever a person in the custody of a  
176                   law enforcement officer shall escape or;

- 177 ○ Whenever a person shall flee from an officer attempting to arrest him, such officer,  
178 with or without a warrant, may pursue such person anywhere in the state and, when  
179 actually in close pursuit, may arrest him wherever he is found.
- 180     ▪ If the arrest is made in a county or corporation adjoining that from which the  
181 accused fled, or within one mile of the boundary of the county or city which the  
182 accused fled, the officer may forthwith return the accused before the proper  
183 official of the county or corporation from which he fled.
- 184     ▪ If the arrest is made beyond the foregoing limits, the deputy shall proceed  
185 according to the provisions of Section [19.2-76](#), Code of Virginia, and if such  
186 arrest is made without a warrant, the deputy shall procure a warrant from the  
187 magistrate of the county or corporation wherein the arrest was made, charging the  
188 accused with the offense committed in the county or corporation from which he  
189 fled.
- 190
- 191 ● Exemption of Such Witnesses from Arrest or Service of Process
- 192 ○ Section [19.2-280](#) Code of Virginia, states if a person comes into this state in  
193 obedience to a summons directing him to attend and testify in this state he shall not  
194 while in this state pursuant to such summons be subject to arrest or the service of  
195 process, civil or criminal in connection with matters which arose before his entrance  
196 into this state under the summons.
- 197 ○ If a person passes through this state while going to another state in obedience to a  
198 summons to attend and testify in that state or while returning therefrom, he shall not  
199 while so passing through this state be subject to arrest or the service of process, civil  
200 or criminal in connection with matters which arose before his entrance into this state  
201 under the summons.
- 202
- 203 ● Arrest of Suspect Inside a Dwelling
- 204 ○ If a deputy wishes to arrest a suspect inside his residence, he must first obtain an  
205 arrest warrant.
- 206 ○ If the residence belongs to the suspect, only an arrest warrant is required.
- 207 ○ If the dwelling belongs to someone else, the deputy must obtain a search warrant as  
208 well, unless permission from the property owner to search is granted.
- 209 ○ A search warrant is not required if the deputy is in close pursuit or the owner of a  
210 residence consents to the deputy's search for the suspect.
- 211
- 212 ● Return of Warrant
- 213 ○ Upon executing the warrant, the arresting deputy shall give the date of execution on it  
214 then return it to the court, less copies given to the arrested person.
- 215
- 216 ● Juveniles
- 217 ○ Refer to [GO 2-29, Juvenile Procedures](#) concerning handling of juveniles.
- 218

## 219 **ARREST WITHOUT A WARRANT**

- 220
- 221 ● Authority

- 222 ○ As noted earlier, the search and seizure provision of the Fourth Amendment protects  
 223 citizens from the arbitrary and oppressive interference by law enforcement officials  
 224 with privacy.
- 225 ○ Further, deputies must have probable cause that a crime has been committed, and that  
 226 the person to be arrested has committed the crime.
- 227 ○ See [GO 2-1, Constitutional Safeguards](#) and [GO 2-2, Search Warrants](#) for additional  
 228 information on probable cause.
- 229
- 230 ○ The Code of Virginia permits a warrantless arrest of a person, but the person so  
 231 arrested "shall be brought forthwith before a magistrate or other issuing authority  
 232 having jurisdiction, who shall proceed to examine the deputy making the arrest under  
 233 oath."
- 234
- 235 ● When Warrantless Arrests May Be Made
  - 236 ○ A deputy may make a warrantless arrest:
    - 237 ■ When a person commits a crime in the deputy's presence, Section [19.2-81](#), Code  
 238 of Virginia.
    - 239 ■ When the deputy has "reasonable grounds or probable cause to suspect any person  
 240 of having committed a felony not in his presence" Section [19.2-81](#), Code of  
 241 Virginia.
    - 242 ■ At the scene of any motor vehicle accident on any public roadway when, based  
 243 upon personal investigation, the deputy has reasonable grounds to believe that a  
 244 crime has been committed by any person and there present.
    - 245 ■ Section [19.2-81](#), Code of Virginia provides that a warrantless arrest may be made  
 246 at any hospital or medical facility to which any person involved in a motor vehicle  
 247 accident has been transported, provided the deputy has reasonable grounds to  
 248 believe, based upon personal investigation, including information obtained from  
 249 eyewitnesses, that a crime has been committed by that person" Section [19.2-81](#),  
 250 Code of Virginia.
    - 251 ■ In the apprehension of any person charged with the theft of any motor vehicle on  
 252 any public roadway when the deputy has reasonable grounds to believe that a  
 253 crime has been committed by any person then and there present Section [19.2-81](#)  
 254 Code of Virginia.
    - 255 ■ When any person is charged with a crime in another jurisdiction and the deputy  
 256 has received:
      - 257 ❖ A photocopy of a warrant
      - 258 ❖ A telegram
      - 259 ❖ A computer printout
      - 260 ❖ A facsimile printout; or
      - 261 ❖ A radio, telephone or teletype message which gives:
        - 262 ➤ The name of the wanted person or an accurate description
        - 263 ➤ The crime alleged
    - 264 ■ When the deputy receives a radio message from the Sheriff's Office that a warrant  
 265 for an alleged misdemeanor is on file Section [19.2-81](#), Code of Virginia.
    - 266 ■ When an alleged misdemeanor not committed in the deputy's presence involves:  
 267

- 268 ❖ Shoplifting, Section [18.2-96](#), Code of Virginia or Section [18.2-103](#), Code of  
269 Virginia.
- 270 ❖ Carrying a weapon on school property, Section [18.2-308.1](#), Code of Virginia  
271 ❖ Assault Battery.
- 272 ❖ Brandishing a Firearm, Section [18.2-282](#), Code of Virginia.
- 273 ❖ Destruction of Commercial Property, Section [18.2-137](#), Code of Virginia.
- 274 ❖ When such deputy has observed the registration of the speed of a motor  
275 vehicle by radar (or other electrical device), or
- 276 ❖ when such deputy has received a radio message from another officer who has  
277 observed the registration of speed by radar; provided that the arresting deputy  
278 is in uniform and displays his badge of authority, and if the arrest is based on  
279 such radio message from another deputy, then:
- 280 ➤ Such radio message must have been dispatched immediately after the  
281 speed of the motor vehicle was registered and
- 282 ➤ Such radio message must have furnished the license number or other  
283 positive identification of the vehicle.
- 284
- 285 ● Actions upon Arrest
  - 286 ○ Upon arrest on a photocopy of the warrant, telegram, computer printout, facsimile  
287 printout or teletype message, the arresting deputy shall serve a copy of the document  
288 on the accused.
  - 289 ○ In any case in which a deputy does not issue a summons pursuant to Section [19.2-74](#),  
290 Code of Virginia or Section [46.2-936](#), Code of Virginia, the arresting deputy shall  
291 bring the accused before the magistrate for bail hearing, Section [19.2-80](#), Code of  
292 Virginia.
  - 293 ○ Section [19.2-76](#) Code of Virginia provides that if a person is arrested upon a warrant  
294 or capias in a county or city other than that in which the charge is to be tried, the law  
295 enforcement officer making the arrest shall either:
    - 296 ■ Bring the accused forthwith before a judicial officer in the locality where the  
297 arrest was made or where the charge is to be tried or,
    - 298 ■ Commit the accused to the custody of an officer from the county or city where the  
299 charge is to be tried who shall bring the accused forthwith before a judicial officer  
300 from the county or city in which the charge is to be tried.
  - 301
  - 302 ○ A magistrate shall exercise the powers conferred by this title only in the magisterial  
303 region or regions for which he is appointed, except that a magistrate may issue search  
304 warrants throughout the Commonwealth in accordance with Section [19.2-44](#), Code of  
305 Virginia.
  - 306 ○ If the person is arrested based on a fugitive from another state, See the Uniform  
307 Extradition Act, Section [19.2-99](#), Code of Virginia.
  - 308 ○ The magistrate should conduct a bail hearing and set bail or secure bond if  
309 appropriate just as if the accused had been arrested on the warrant from another  
310 jurisdiction.
  - 311 ○ Deputies should not request the issuance of any arrest process such as duplicate  
312 warrants or fugitive warrants based on the charge in the other jurisdiction within  
313 Virginia.

- 314           ○ The arresting deputy via the 911 Emergency Communications Center will contact the  
315 law enforcement officials where the charge(s) was made and inform them that the  
316 accused has been arrested on the teletype message (or other arrest document).  
317
- 318       • Juveniles
  - 319           ○ Refer to [GO 2-29, Juvenile Procedures](#) concerning handling of juveniles.

## 320

### 321 **BOOKING PROCEDURES**

- 322
- 323       • Refer to [GO 2-5, Search Incident to Arrest](#) for a discussion of search guidelines, for  
324 searches incident to arrest.
- 325       • Refer to [GO 2-1, Constitutional Safeguards](#) for a discussion of advising arrested persons  
326 of their rights.

### 327

### 328 **SUMMONES and ARREST**

- 329
- 330       • Releases on summonses and mandatory arrest other than summonses issued in the field.
  - 331           ○ After execution of all summonses and arrest warrants, the original summons or  
332 warrant and all accompanying paperwork will be turned-in to the magistrate.
  - 333           ○ A copy of all unserved warrants and warrant tracking sheets if applicable shall be  
334 turned in to the 911 Emergency Communications Center as soon as possible but no  
335 later than at the end of each shift for entry into the Sheriff's Office records  
336 management system.
  - 337           ○ If the arrested person is not released on a summons or is charged with a felony, the  
338 following procedures will be followed:
    - 339               ▪ The person will be transported to the magistrate's office to be formally charged, if  
340 the warrant was not previously obtained.
    - 341               ▪ The obtained warrant will be properly served and executed and a copy of the  
342 served warrant will be turned over to the 911 Emergency Communications Center  
343 after normal business hours or Records Warrant Clerk during normal business  
344 hours.
  - 345
  - 346           ○ If the warrant was obtained before the arrest and is not permitted to be served as a  
347 summons, the warrant will be served and the arrestee will be transported to the  
348 regional jail.
  - 349           ○ The arrestee shall be taken before the magistrate who will consider a bond.
  - 350           ○ If bond is allowed, the magistrate completes a bond certificate, which is attached to  
351 the warrant(s), and the person is allowed to leave after processing is completed.
  - 352           ○ If bond is not allowed or cannot be made, the person is then committed to jail by the  
353 magistrate, and a committal form is completed by the magistrate and attached to the  
354 warrant and the arrested person is placed in jail.
  - 355           ○ Items seized as evidence will be properly tagged and returned to the Sheriff's Office  
356 and placed in an evidence locker. Refer to [GO 2-15, Evidence Procedures](#) for further  
357 guidelines.



- 358           ○ Regional jail personnel will handle all processing including fingerprinting,  
359           photographing, and automated CCRE form for each adult arrested on a misdemeanor  
360           (not summonsed) or felony charge as required by law.  
361
- 362           ● Injury before or during arrest  
363           ○ If a person receives an injury before or during an arrest and either requests medical  
364           attention, or in the patrol supervisor's judgment such attention is needed, it will be  
365           offered or obtained before beginning the booking procedure or transporting the  
366           person to the regional jail.  
367
- 368           ● Processing and forwarding of paperwork  
369           ○ All paperwork must be filled out, forwarded to either the 911 Emergency  
370           Communications Center after normal business hours, or Warrant Records Clerk  
371           during normal business hours prior to the end of each shift.  
372           ○ On certain misdemeanor and all felony arrests, as required by law, the following  
373           forms will be completed and maintained by the regional jail or forwarded to the  
374           district court:
- 375                   ■ Automated CCRE forms  
376                   ■ Live Scan fingerprinting information  
377                   ■ Photographic imaging  
378                   ■ Served warrant, original copy  
379                   ■ CCRE form  
380                   ■ Bond papers  
381                   ■ Jail committal card  
382
- 383           ○ On a Class I or II misdemeanor arrest if the arrestee is released on a summons or  
384           released following court conviction, the forms listed below will be completed and  
385           maintained by the Regional jail and submitted to the appropriate Court as required:
- 386                   ■ Automated CCRE forms  
387                   ■ Live Scan fingerprinting information  
388                   ■ Photographic imaging  
389                   ■ Served warrant, original copy  
390                   ■ CCRE form  
391                   ■ Bond papers  
392                   ■ Jail committal card  
393                   ■ Administrative driving license suspension forms  
394                   ■ Criminal Complaint forms  
395                   ■ State impoundment forms (30 day)  
396
- 397           ● Juvenile Procedures  
398           ○ A Juvenile Intake Form will be filled out and submitted to juvenile intake (Court  
399           Services Unit) to obtain juvenile petitions.  
400           ○ Once a petition is issued, it will be forwarded to the Warrants Clerk for entry into the  
401           Sheriff's Records Management System unless the petition is forwarded by the  
402           Juvenile and Domestic Relations Court Clerk to another jurisdiction for service.

- 403           ○ The Merrimac Detention Center or other applicable juvenile detention center shall  
404           conduct processing including:  
405           ▪ All forms,  
406           ▪ Photos, and  
407           ▪ Fingerprinting.  
408  
409           ○ See [GO 2-29, Juvenile Procedures](#).

## 410 **RELEASE FROM ARREST**

- 411
- 412           • In some instances, deputies may encounter a circumstance where probable cause  
413           develops to arrest a person for an offense only to find out shortly thereafter that the  
414           person under arrest did not commit a crime, or that further investigation reveals the event  
415           does not constitute a crime.  
416           ○ It is imperative, then, that the deputy ends the arrest process immediately to avoid  
417           becoming liable for false imprisonment.  
418           ○ False imprisonment, as defined in [Montgomery Ward V. Freeman](#), 199 F 2D 720  
419           (1953), "is the restraint of one's liberty without any sufficient legal excuse."  
420           ○ The Attorney General of Virginia has issued an opinion - Report of the Attorney  
421           General (1971), Page 102, which states the following:  
422           ▪ "It is my opinion, therefore, that an arresting officer, who may have had probable  
423           cause to initially make the arrest without a warrant, may thereafter conclude that  
424           further prosecution of the arrestee would be improper or fruitless and may,  
425           subsequently, discharge him from custody without the necessity of taking him  
426           before a magistrate."  
427  
428           ○ As stated by the Attorney General, a deputy is required to formally charge only those  
429           persons who have been placed under arrest, if the deputy concludes that further  
430           prosecution would be proper and fruitful.  
431  
432           • Procedure for release without charges  
433           ○ The arresting deputy shall not formally charge those under arrest when it is proven to  
434           his satisfaction that either the person under arrest did not commit a crime or that an  
435           event investigated is found not to constitute a crime.  
436           ○ When a deputy releases a subject from arrest, he should take care to return the person  
437           to the same location occupied before the arrest.  
438           ▪ For example, a deputy arrests a subject, then transports him to the magistrate  
439           when the deputy learns that the probable cause he used to make the arrest no  
440           longer exists. Instead of releasing the subject along the roadside, the deputy  
441           should return to the location of arrest and release the person.  
442           ▪ If a vehicle has been towed, the vehicle shall be returned to the operator/registered  
443           owner.  
444  
445           ○ Upon releasing a person in this manner, the deputy shall immediately contact his  
446           supervisor and advise him of the incident.  
447

- 448           ○ To protect himself and the Sheriff’s Office, deputies shall document in an incident  
449 report:  
450           ▪ Date and time of arrest.  
451           ▪ Person arrested (name, address, date of birth, race).  
452           ▪ Location of arrest and probable cause for the arrest.  
453           ▪ Location and time of release from arrest and whether the person was transported.  
454           ▪ Reasons or discovery of information which led the officer to release from arrest.  
455           ▪ Witnesses to the alleged crime, or to the fact the person arrested was allegedly  
456 involved.  
457  
458           ○ If the deputy makes an arrest based on probable cause, the arrest is lawful.  
459           ○ Probable cause must continue to exist through the appearance of the deputy and  
460 arrested person before the magistrate.  
461

## 462 **IMMUNITY FROM ARREST**

- 463
- 464           • Diplomatic immunity: Refer to [GO 2-40, Diplomatic Immunity](#).
  - 465           • Legislative immunity:
    - 466           ○ Members of the United States Congress are exempt from arrest when Congress is in  
467 session, or when they are traveling to or from congressional business, except for  
468 traffic summonses. (Article I, Section 6, U.S. Constitution)
    - 469           ○ Members of the Virginia General Assembly are exempt from arrest during a  
470 legislative session (or for fifteen days before the beginning or after the ending of any  
471 session, except in cases of treason, a felony, or a breach of the peace. (Article IV  
472 Section 9, Constitution of Virginia).
    - 473           ○ No member or clerk of the General Assembly or the lieutenant governor is exempt  
474 from arrest or imprisonment for treason, a felony, or a breach of the peace.  
475

## 476 **RECORDING INCIDENTS INVOLVING ARRESTS, AND CRIMINAL SUMMONS**

- 477
- 478           • Incident Reports
    - 479           ○ In all incidents involving arrests, and issuance of criminal summonses, the arresting  
480 deputy shall complete an incident report. See [GO 2-50 Field Reporting](#).
    - 481           ○ The deputy will turn-in all copies of warrants to the 911 center after normal business  
482 hours or Warrants Clerk during normal business hours prior to the end of each shift.
    - 483           ○ The 911 Emergency Communications Center will generate an agency case/incident  
484 number.
      - 485           ▪ The agency case/incident number will serve as a tracking number for the arrest  
486 and subsequent offense/incident tracking.
    - 487           ○ A supervisor shall review the incident report and arrest report module for correctness.  
488
    - 489           ○ The arrest information will capture all data and be identified by the agency  
490 case/incident number.
    - 491           ○ In addition to the agency case/incident number, a CAD incident number will also be  
492 generated by the Emergency Communication Center.  
493

- 494           ▪ The CAD number can additionally track an incident by:
- 495            ❖ Time,
- 496            ❖ Date,
- 497            ❖ Location,
- 498            ❖ Deputy(s), or deputy(s) on the scene, and
- 499            ❖ Complainant, etc.