



THE CITY OF
NORFOLK
POLICE DEPARTMENT

Operational General Order – 455: Shoplifting

Office of Preparation: Office of Support Services (mar)

CALEA: None

LEGAL REVIEW DATE:

7-3-2019

PRESCRIBED DATE:

07-17-19

City Attorney:

[Signature]

City Manager/Director of Public Safety:

[Signature]

APPROVED BY THE AUTHORITY OF THE CHIEF OF POLICE:

[Signature]

Purpose:

The purpose of this order is to establish procedures for the handling and transportation of persons arrested or detained for shoplifting-related offenses, in violation of § 18.2-96, State Code (petit larceny), § 18.2-103, State Code (concealment) and the procedures for establishing probable cause in third offense petit larceny or third offense concealment cases.

Policy:

The Norfolk Police Department detains and/or arrests suspected shoplifters in accordance with State Code and departmental directives.

Supersedes:

1. G.O. OPR-455: Shoplifting, dated May 14, 2009
2. Any previously issued directive conflicting with this order

Order Contents:

- I. Adult Suspects
- II. Juvenile Suspects
- III. Third Offense Cases
- IV. Civil Demand

I. Adult Suspects

- A. Persons eighteen years of age or older may be arrested for shoplifting-related offenses committed in an officer's presence or upon a complaint made to an officer by a second party which establishes probable cause for an arrest (§ 19.2-81, State Code).
- B. Should the arrest situation meet the criteria as set forth in Virginia State Code 19.2-74, Police Summonses, then a Virginia Uniform Summons will be issued in lieu of a physical arrest. If the arrest is based on a complaint which demonstrates probable cause, the spaces on the summons pertaining to the complainant will be completed, and the issuing officer will not be required to appear in court unless he/she has relevant testimony concerning the case.
- C. If the arrestee does not meet the requirements for a summons, the arresting officer will take the arrestee before a magistrate in order to secure a warrant.
- D. In the above situations whereby a complainant must accompany the police officer to the magistrate to secure a warrant, the complainant may travel by means other than the police vehicle, but will be instructed to arrive concurrently with the transporting officer. If the complainant elects to ride in the police vehicle, return transportation to the point of pick-up will be provided if requested.

II. Juvenile Suspects

- A. Persons under eighteen years of age who are accused of concealment or petit larceny will not be governed by the previous instructions. Juveniles accused of misdemeanors, except under extenuating circumstances, do not have to be taken into immediate physical custody, nor must petitions be filed immediately with Juvenile Court. Officers will, however, request petitions in a prompt manner.
- B. When cases arise which require a juvenile being taken into immediate custody, or extenuating circumstances exist, officers will be guided by § 16.1-246 and 16.1-247.
- C. All officers responding to calls involving the arrest of juveniles suspected of shoplifting-related offenses are instructed to provide the juveniles' information to the complainant to assist in securing petitions.
- D. If the juvenile is not taken into immediate custody, the officer has not assumed responsibility for the juvenile; in these cases, the complainant is responsible for either turning the juvenile over to a parent or releasing him/her as soon as practicable.
- E. Officers are reminded of General Order OPR-720: Juveniles, for the handling and processing of juveniles, especially in felony cases.

III. Third Offense Cases

- A. Officers will call the Central Records Division (CRD) to conduct an adult criminal history check and determine third offense status. (ID Section: Monday-Friday, 0700-

2000 hours, except holidays, at 664-7024; Central Desk: after hours, at 664-7000/7004).

- B. CRD personnel conducting the third offense criminal history check will verify the caller as a Norfolk law enforcement officer and complete PD 554, Record Information Request (Attachment A), noting the officer as the requester of record.
- C. The arresting officer will contact the Juvenile and Domestic Court, File Room, to determine third offense status of juveniles and to obtain any needed documents for court hearings.
 - 1. The hours of operation of the File Room are 0800-1200 and 1300-1600, Monday-Friday, excluding holidays.
 - 2. Record information will be provided **only** to the officer listed as the arresting officer in the petition.
- D. A charge of third offense petit larceny may be sustained if the suspect has two or more prior convictions for any offense "deemed larceny", e.g., petit larceny or concealment committed after July 1, 1970, or embezzlement, receiving stolen property, false pretenses, worthless check, grand larceny, etc. committed after July 1, 1978.
- E. A charge of third offense concealment may be sustained if the suspect has two or more convictions for either concealment, grand larceny or petit larceny.
- F. The arresting officer is responsible for presenting a copy of the subject's criminal history to the presiding judge.
 - 1. The officer can query and print out adult criminal history record. The Central Records Division can provide a copy of the adult's criminal history if the officer experiences computer problems.
 - 2. The officer will make the request to the Central Records Division, ID Section, by completing a PD 554, Record Information Request. The request should be made at least five working days prior to the trial date.
- G. When arresting a defendant for third offense petit larceny or third offense concealment officers will, with proper Miranda warnings, interview the defendant as to the extent of his/her prior record. Any confessions made may be used in both General District and Circuit Courts.
- H. The Virginia Court of Appeals has ruled in the case of Sargent v. Commonwealth that in order to obtain a conviction of cases involving enhanced punishment on multiple convictions, the prosecution must introduce evidence that the defendant was represented by counsel or waived the right to counsel at the time of the prior conviction(s).
 - 1. The evidence required must be a certified copy of a waiver form, court disposition sheet, docket sheet, or any other document which would show that the defendant had representation by counsel or had waived counsel.

2. The following procedures will be followed by departmental personnel when handling third or subsequent petit larceny and/or concealment offenses:
 - a. Arresting officer - If the arrestee's record indicates previous Virginia convictions outside the City of Norfolk, the officer will request that the CRD obtain certified copies of the appropriate documentation. CRD will provide the necessary forms for this type of request. Previous out-of-state convictions will not be pursued. Officers will complete a Record Information Request, PD Form 554 for a defendant's record check.
 - b. Central Records Division - Upon written request from the arresting officer, CRD personnel will check the defendant's record and ascertain the court(s) for all previous Virginia convictions. CRD will then request from each such court outside the City of Norfolk the appropriate documentation for each conviction. Upon receipt of the requested documentation, CRD will forward it to the arresting officer.
 - c. If the requested documentation is not received by the scheduled court date the officer will request that the responsible representative of the Commonwealth's Attorney's Office continue the case to the officer's next regularly scheduled court date.
 - d. If the requested documentation does not contain identifying information, or, if the identifying information contained therein does not match the identifying information for the present offense, then the officer will:
 - (1) Request that the responsible representative from the Commonwealth's Attorney's Office seek, from the other jurisdictions in which the defendant has been convicted of petit larceny or concealment, the information described above in Section III.D.2., and
 - (2) Request the case be continued for an appropriate period of time.
- I. Complete case folders will be prepared in accordance with procedures prescribed in G.O. OPR-430: Case Reports.

IV. Civil Demand

- A. The process known as civil demand is described as the apprehension of a shoplifter by a merchant or agent for the merchant, and giving the shoplifter a choice:
 1. Sign an agreement promising to pay as much as three times the value of the stolen property (even if said property is recovered) plus pay a processing fee, or,
 2. Be prosecuted for shoplifting.

- B. Refusal to sign an agreement results in arrest or the issuance of a summons.
- C. Pursuant to State Code § 18.2-462, Concealing or compounding offenses; penalties. (Attachment B), the practice of civil demand is prohibited. Officers will not participate or assist in any way with these acts, and must take the necessary action if aware that civil demand recoveries are taking place.

Related Documents:

- 1. G.O. OPR-425: Interviews
- 2. G.O. OPR-430: Case Reports
- 3. Virginia State Code 19.2-74, Police Summonses

Attachment:

- A. PD Form 554, Record Information Request
- B. State Code § 18.2-462, Concealing or compounding offenses; penalties.

NAME to be searched: _____
LAST FIRST MIDDLE

TRN# _____ SID# _____ ID# _____

SS# _____ DOB# _____ SEX _____ RACE _____

Reason for request: _____

PHOTO REQUEST NOTE: ALL EVIDENCE PHOTOS - 5 X 7, SUSPECT PHOTOS - 4 X 5

QUANTITY _____ MUG# _____ EVIDENCE# _____ YEAR _____

REASON _____ : PICKUP _____ : MAIL _____
PHONE LOCATION

SIGNATURE AND SQUAD TO BE ENTERED ON OPPOSITE SIDE

OFFICE USE ONLY

How request received: Mail Computer Telephone Across Counter

Was record found? YES _____ NO _____ Other _____
Criminal Record FBI Record CCRE Record Suspect Photos Finger-prints Offense Record

Record Viewed
Copies Made

Record Searched By: _____ Date _____ Time _____

PD 554

RECORD INFORMATION REQUEST

Read and Sign Before Submitting This Form

Use the reverse side of this form to furnish sufficient descriptive information to positively identify the subject whose name is to be searched.

In accordance with the Department of Justice Privacy and Security Rules and Regulations you are forewarned that THE USE OF CRIMINAL HISTORY RECORD INFORMATION DISSEMINATED TO NONCRIMINAL JUSTICE AGENCIES UNDER THESE REGULATIONS IS LIMITED TO THE PURPOSES FOR WHICH IT WAS GIVEN AND MAY NOT BE DISSEMINATED FURTHER.

Any agency or individual violating these regulations will be subject to a fine not to exceed \$10,000.00.

DATE _____

SIGNATURE OF PERSON REQUESTING RECORD

ADDRESS/AGENCY/DIVISION or SQUAD

State Code § 18.2-462, Concealing or compounding offenses; penalties.

“A. Except as provided in subsection B, if any person knowing of the commission of an offense takes any money or reward, or an engagement therefor, upon an agreement or understanding, expressed or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, he shall, if such offense is a felony, be guilty of a Class 2 misdemeanor; and if such offense is not a felony, unless it is punishable merely by forfeiture to him, he shall be guilty of a Class 4 misdemeanor.

“B. Any person, other than the victim of the crime or the husband, wife, parent, grandparent, child, grandchild, brother, or sister, by consanguinity or affinity of the offender, who with actual knowledge of the commission by another of any felony offense under Chapter 4 (§ [18.2-30](#) et seq.) of this title, willfully conceals, alters, dismembers, or destroys any item of physical evidence with the intent to delay, impede, obstruct, prevent, or hinder the investigation, apprehension, prosecution, conviction, or punishment of any person regarding such offense is guilty of a Class 6 felony.”

NOTE: This State Code was amended effective July 1, 2018. Officers must reference the most current version of this and other state codes.