

GETTING THROUGH THE CRIMINAL JUSTICE SYSTEM



1. ARREST

An **ARREST** starts the criminal justice process. It is called an arrest whether the police officer hands you a summons or puts handcuffs on you and takes you before a magistrate.

The **SUMMONS** tells you what you are charged with, the date and time of the incident, and the court date on which you must appear. Signing it does not indicate that you are guilty but that you have seen the summons and been told your court date. You should sign the summons, because if you don't, the police officer will have to take you into custody; you will be handcuffed and taken before a magistrate.



2. THE MAGISTRATE

The **MAGISTRATE** is a State official who can issue warrants for the arrest of persons based on complaints by citizens or observations by police officers. **MAGISTRATES** also make the initial decision about the circumstances under which an arrested person will be released while awaiting trial. Persons who have a stable job, family, or address may be released on their promise to appear for trial. Others may have to post a cash bond or pay a fee to a bondsman for a bail bond in order to ensure their appearance at trial. Some may be held in jail prior to trial if the magistrate and judge think they are dangerous or likely not to appear for trial.



3. PRETRIAL CONCERNS

THE COURT SERVICES OFFICE assists the magistrates and judges by interviewing arrestees to learn about job, family, address, etc., and to determine whether an arrestee can be released on personal recognizance, third party or supervised release.

ADVISEMENTS: If you are not released by the Magistrate and cannot make bail, you will go before a judge in a hearing called an **ADVISEMENT**. The judge will review the magistrate's decision and the information from Court Services and may release you or change the bond amount.



4. GETTING READY FOR COURT

GETTING AN ATTORNEY: You have a right to be represented by an attorney when you have been charged with an offense, whether it is a traffic offense or a serious criminal offense. You should take this right very seriously, because most people do not know how to protect their own interests in a trial and may be frightened or upset when they come before a judge. If you want an attorney, you should contact one immediately. Do not wait until the day before the trial; the attorney needs time to learn about the case and prepare for trial. For assistance, contact the **Lawyer Referral Service at 703-246-3780**.

COURT APPOINTED ATTORNEY: If you cannot afford an attorney, and the offense you are charged with is serious enough that you could receive a jail sentence, Court Services staff will ask for information about your income to determine whether or not you are eligible for a court appointed attorney according to State guidelines. This will require the judge's approval. If you are found guilty, however, the cost of the attorney will be added to any fine and court costs you must pay.

WITNESSES: If you need witnesses to support your side of the case, you must arrange for them to appear in court with you. A written statement by a witness, even a notarized one, is not an acceptable alternative. You can get the court to issue a subpoena to require a person to appear as a witness, even if you do not hire

an attorney, but you must file the request at least ten working days prior to trial to give the witness enough notice.

VISIT THE COURT: It would be wise to come to court ahead of time to see how it works and where you will need to go. The public is permitted to observe trials in both the General District Court and the Circuit Court, located in the Courthouse at 4110 Chain Bridge Road in Fairfax City.



5. THE COURT DATE

PREPAYING A FINE: If you don't want to come to court and your offense is prepayable (the police officer may provide you with a list of the most common pre-payable offenses), you must send in the complete amount for fine and costs at least five days before the trial date. You may call 703-246-2364 or check on-line (www.courts.state.va.us under Case Information) to determine the correct prepayment amount.

MAKING YOUR COURT DATE: Otherwise, it is very important that you appear in court on the date and time you have been given. Failure to appear may mean one or more of the following consequences:

- You will lose any bond money you have posted for your release.
- You may be tried in your absence and found guilty, and may receive the maximum penalty allowed.
- For a traffic or criminal offense, your license may be suspended.
- You can be charged with an additional offense of Failure to Appear and a warrant can be issued for your arrest; if arrested, you may be held in jail without bond.

PARKING: A public parking garage is located near the Courthouse on Page Avenue at a rate of \$2/hour up to a maximum of \$10/day. Allow plenty of time to park. You cannot know whether your case will be the first one called or the last, so come early. (Traffic cases are called grouped by the name of the officer who made the arrest.)

SECURITY: Plan on 30 minutes to pass through the security stations before entering the courthouse.

No weapons, cameras, or cell phones with cameras are allowed. If cell phones or beepers are heard in the courtroom, they will be confiscated.



6. IN THE COURTHOUSE

INFORMATION DESK: Staff at an information desk just inside the main door will be able to help you find your way around the courthouse.

COURTROOM: Courtroom assignments scroll on monitor screens located near the Clerks' Offices (and near some courtrooms) on each floor and list the cases, in alphabetical order by defendant's last name. Check carefully to determine the courtroom where your case is scheduled. Do not assume that your case will always be heard in the same courtroom as assignments change frequently.

INTERPRETERS: Interpreters can be provided to assist persons who do not speak English. Spanish interpreters are usually readily available. Contact Court Services before your court date to arrange an interpreter for other languages. (Tel.: 703-246-7530)



7. IN THE COURTROOM

THE PEOPLE IN THE COURTROOM:

- **JUDGE:** The judge is the most important person in the courtroom and has a great deal of power to determine what will happen. You should be respectful and pay attention to what the judge says. You can ask reasonable questions and get clarification if you do not understand something in your case.
- **COURT SECURITY OFFICER:** One or more Deputy Sheriffs will be in the courtroom to ensure the safety of all persons present and to keep order.
- **CLERK:** A court clerk will be present to assist the judge by handling paperwork and noting the outcomes of each case.
- **POLICE OFFICER:** In traffic and criminal cases, the arresting officer will be present to describe the offense and circumstances of the arrest.
- **COMMONWEALTH'S ATTORNEY:** In serious cases, or cases where the defendant with retained counsel is contesting the charge, the State's case

will be presented to the judge by the Commonwealth's Attorney (prosecutor).

- **DEFENSE ATTORNEY**: If you have hired an attorney or had one appointed, that person will present your side of the case.

IN A CIRCUIT COURT COURTROOM: For serious criminal cases tried in Circuit Court, or for cases appealed from the District Court, the following people may also be present:

- **COURT REPORTER**: The Circuit Court is a court of record, and verbatim records are kept by a Court Reporter of everything that happens during a felony trial. If you want a record of a misdemeanor trial, you must provide your own Reporter.
- **JURY**: In Circuit Court, cases may be decided by a jury instead of a judge.

YOUR BEHAVIOR IN COURT: A trial in any of the courts is a serious affair, and you should take it seriously. Since you want to be listened to and treated with respect, you should dress in a neat, clean, and dignified way and behave with respect and dignity. You may not carry on conversations with other spectators during a trial, read books or newspapers, or behave disruptively.



8. THREE COURTS

THE DISTRICT COURT LEVEL is the entry level for courts in Virginia. These courts do not routinely use court reporters to make a verbatim transcript of a trial (they are not courts of record) and they do not use juries. The District Court level includes two kinds of court:

- **GENERAL DISTRICT COURT**: This court handles advisements, traffic infractions and criminal misdemeanor cases, and preliminary hearings in felony cases, for adult defendants.
- **JUVENILE & DOMESTIC RELATIONS DISTRICT COURT**: This court, often called just Juvenile or Family Court, handles cases where the defendant or the victim is a juvenile, or where families are involved.

THE CIRCUIT COURT is a court of record and handles felony cases and misdemeanor appeals. Most citizens should not undertake any trial in Circuit Court without an attorney's help.



9. TRIAL OUTCOMES

When you go to trial in any of the three courts, the following are some of the possible outcomes of trial:

DISMISSAL OR *NOLLE PROSEQUI*: For various reasons, the judge may dismiss the charges against you or the Commonwealth's Attorney may decide not to prosecute; for instance, the evidence may be inadequate or the police officer may not have appeared to testify against you.

DEFERRED DISPOSITION: For certain minor criminal charges, such as first-time shoplifting, you may be offered the opportunity to participate in a program involving community service, possibly along with some counseling or special education. The charge against you will be deferred, and if you pay court costs, complete the program satisfactorily, and are not rearrested, it may be dismissed.

NOT GUILTY: You may be tried and found 'Not Guilty' of the offense charged. If so, you will be free to go and will have no further responsibility under that charge.

GUILTY: You may be tried and found guilty. If so, you will be required to reimburse the court for some of the costs of trying your case. In addition, any of the following elements may be included in your sentence:

- **FINE:** You may be required to pay a fine. You will be expected to pay this fine and court costs immediately upon completion of your case. If the judge suspends your fine, you are still required to pay court costs upon leaving the courtroom.
- **JAIL SENTENCE:** You may be sentenced up to a year in the local jail. If you spent any time in jail before trial, that time may be credited against your sentence. The Sheriff's Office may help you get into an alternative program such as electronic incarceration or the work release program.

(NOTE: You will be taken directly to the jail from the courtroom. If there is any possibility of a jail sentence in your case, do not bring children; do get someone to drive you to court so that your car will not be abandoned while you are in jail.)

- **SUSPENDED SENTENCE**: You may have a fine or a jail term imposed on you, but all or part of the sentence may be suspended (delayed) for a period of time. At the end of that time (usually a year), if you have committed no other crimes, the sentence may be dropped. Court costs are still due.
- **PROBATION**: You may be placed on probation as an alternative to some or all of a sentence of incarceration. This means that a probation officer will be assigned to supervise aspects of your life for a period of time, including such things as periodic drug testing, counseling, monitoring, required substance abuse treatment, restitution, and getting or keeping a job.
- **PRISON SENTENCE**: If you are charged with a felony and tried in Circuit Court, you may be sentenced to serve a period of time in a State correctional institution. You will stay in the local jail until you are transferred to the State Department of Corrections.
- **ASAP**: For the offense of Driving while Intoxicated, and some other substance abuse offenses, you may be assigned to the **ALCOHOL SAFETY ACTION PROGRAM** for probation supervision, assessment, education, and possible referral for treatment.
- **SUBSTANCE ABUSE TREATMENT**: For offenses involving drugs and/or alcohol, you may be required to be evaluated by the County's Alcohol and Drug Services, and to participate in an inpatient or outpatient treatment program.

APPEAL: If you are convicted in one of the District Courts, you can **APPEAL** the case and it will be tried all over again (Trial *De Novo*) in Circuit Court, where you can have a jury trial if you want one. It is probably best to work with an attorney if you plan to appeal your case. The **APPEAL** must be filed within 10 calendar days of your conviction.

If you are convicted of any crime in the Circuit Court, you can appeal your case to the **STATE COURT OF APPEALS**. In this instance, the case will not be tried again; the court will only review the conduct of the first trial to determine whether the law and proper procedures were carried out.



10. VICTIMS AND WITNESSES

You may become involved with the criminal justice system because you have been victimized by crime or have observed a crime taking place. Coming to court to testify in such a case may be a frightening or frustrating experience for you. However, if you receive a subpoena as a witness, you must come to court to testify. For some victims of serious felony crimes including sexual assault, the **VICTIM WITNESS UNIT**, a part of the **POLICE DEPARTMENT**, may be able to help by:

- Providing crisis intervention and short-term counseling;
- Preparing you for your role in a trial;
- Notifying you of the status of your case, and of schedule changes;
- Providing transportation to and from court, and a court escort to all court proceedings;
- Assisting you to write a **Victim Impact Statement**, and to apply for **Victim Compensation**;
- Offering Victim and Survivor Support Groups.

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This information was prepared by the
**COMMUNITY CRIMINAL JUSTICE BOARD OF
FAIRFAX COUNTY**
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For more information, please call:

Fairfax County Court Information Line	(703) 691-7320
Magistrates	(703) 246-2178
General District Court Traffic	(703) 246-3764
General District Court Criminal	(703) 246-3305
TTY for Hearing Impaired Only:	711