

## Legal Issues

### Performance Outcome 2.1

Respond to request for service by determining whether the facts are civil or criminal.

#### Training Objectives Relating to 2.1

1. Given a written exercise, identify actions as civil or criminal matters.

**Criteria:** The trainee student shall be tested on the following:

2.1.1. Define civil matter as an act that neither affects the common interest nor the community, nor does it violate a law or ordinance.

2.1.2. Define criminal matter as a violation of any law or ordinance that subjects the offender to public punishment.

2.1.3. Evaluate facts of a situation to determine if it is a civil or criminal matter by complying with statutory definitions of civil vs. criminal.

2.1.4. Identify the resources for assistance in a civil matter.

2.1.5. Identify parameters for use of discretion by a law enforcement officer relating to a violation of law.

### 2.1.5. Identify court and legal documents as civil in nature.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. the following:

1. Define civil matter as a complaint of a non-criminal nature brought to address a private wrong ~~an act that neither affects the common interest nor the community, nor does it violate a law or ordinance.~~

Case reference: ~~Commonwealth v. Webb, 27 Va. (6 Rand.) 726 (1928).~~

2. Define criminal matter as a violation of any law or ordinance that subjects the offender to imprisonment and/or a fine ~~public punishment.~~

Case reference: ~~Jernigan v. Commonwealth, 104 Va. 850, 52 SE 361 (1905).~~

- ~~3. Evaluate facts of a situation to determine if it is a civil or criminal matter by complying with statutory definitions of civil vs. criminal.~~

- ~~4.~~ 3. Identify the resources for assistance in a civil matter.

- a. The ~~person~~ individual may go to the clerk of the general district court or seek the advice of an attorney for assistance

5. Identify parameters for use of Define discretion by a law enforcement officer relating to a violation of law.

~~**Instructor Note: Advise trainees that they must identify department policy relating to explaining a violation of county or municipal ordinances that is the basis for a summons to the violator. Advise trainees that they must identify department policy relating to use of discretion regarding a violation of law.**~~

## Performance Outcome 2.2

Research and acquire necessary information to determine the appropriate type of criminal charge from relevant legal materials.

### **Training Objectives Related to 2.2**

1. Given a written or practical exercise, identify crimes, and code sections, classes of felonies and classes of misdemeanors.

**Criteria:** The trainee student shall be tested on the following:

2.2.1. ~~Given a written or practical exercise where the trainee is given the facts of a~~  
crime, identify the Identify the crime and code section using the Code of Virginia  
after being given facts or details of a criminal act.

~~2.2.2. Given a written exercise, identify the classes of felonies and their punishments.~~

~~2.2.3. Given a written exercise, identify the classes of misdemeanors and their punishments.~~

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. the following:

1. The types of laws crimes and general subjects their punishments contained within the Code of Virginia:

a. Identify the classes of felonies ~~and their punishments.~~

b. Identify the classes of misdemeanors ~~and their punishments.~~

~~2.~~ 2. Differentiate between actual completed and attempted felonies and misdemeanors (inchoate offenses)

a. Attempt to commit felony/misdemeanor (felony/misdemeanor), § 18.2-25, 18.2-26, 18.2-27:

(i). Intent to commit a crime

(ii). "Overt act" toward commission of the crime

(1). It must be beyond mere preparation

(2). It must be a substantial step toward the completion of the crime, although it need not be the last step necessary to commit the crime

b. Conspiracy to commit felony or other crime (felony/misdemeanor), § 18.2-22,

18.2-23:

(i). Conspiracy is an agreement between two or more persons to use some concerted action to commit an offense

c. Criminal solicitation (felony), § 18.2-29

### 3. Differentiate between principals and accessories

a. Principal in the first degree (felony)

(i). One who, with criminal intent, actually commits an act or omission, which causes the criminal result (or one who uses an innocent agent to commit the act – one who from incapacity or ignorance can't have the requisite mental state but is induced by one who does have it to perform the act)

b. Principal in the second degree (felony), § 18.2-18

(i). One who aids or encourages the principal in the first degree in the commission of a felony and is present at the time of the crime

c. Accessory before the fact (felony), § 18.2-18

(i). One who has instigated procured, or commanded the commission of a crime and is not present at the scene of the crime

d. Accessory after the fact (felony/misdemeanor), § 18.2-19

(i). One who receives, relieves, comforts, or assists another, knowing that he has committed a felony, in order to assist the felon in escaping from arrest, trial, or conviction

2 4. Become familiar with the Index to the Code of Virginia to look up crimes

3 5. The impact of case law on statutory law for guidance and interpretation

4 6. The difference between common law and statutory law-

**Performance Outcome 2.3**

Identify legal documents as civil or criminal in nature to determine the correct law enforcement response.

**Training Objectives Related to 2.3**

1. Given a written or practical exercise, identify court and legal documents as civil or criminal in nature and determine the correct law enforcement response.

**~~Criteria:~~** The trainee shall be tested on the following:

~~2.3.1. Family Abuse Orders:~~

~~2.3.1.1. Emergency Protective Orders (including telephonic orders)~~

~~2.3.1.2. Preliminary Protective Orders~~

~~2.3.1.3. Permanent Protective Orders~~

~~2.3.2. Lease~~

~~2.3.3. Mental Health Involuntary Commitment Orders:~~

~~2.3.3.1. Emergency Commitment Order~~

~~2.3.3.2. Temporary Detention Order~~

**~~Lesson Plan Guide:~~** The lesson plan shall include the following:

~~1. Family Abuse Orders:~~

~~a. Emergency Protective Orders (including telephonic orders)~~

~~b. Preliminary Protective Orders~~

~~c. Permanent Protective Orders~~

~~2. Lease~~

~~3. Mental Health Involuntary Commitment Orders:~~

~~a. Emergency Commitment Order~~

~~b. Temporary Detention Order~~

~~4. Consult with supervisor if uncertain about any court or legal document.~~

~~**Instructor Note: Advise trainees that they must for court and legal documents within their department as part of their department training.**~~

#### **Performance Outcome ~~2.4.~~ 2.3**

Obtain an arrest warrant from proper authority.

#### **Training Objectives Related to ~~2.4.~~ 2.3**

1. Given a written or practical exercise, identify demonstrate the proper authority from whom to obtain an arrest warrant, the information that must be presented to support a warrant, and return requirements. procedure for obtaining and executing an arrest warrant.

**Criteria:** The trainee student shall be tested on the following:



~~2.4.1.~~ 2.3.1. Identify the proper authorities from which an arrest warrant may be obtained according to § 19.2-71 and Rule 3A:3 of the Rules of the Supreme Court of Virginia.

~~2.4.2.~~ 2.3.2. Identify the information that must be provided to support a warrant.

~~2.4.3.~~ 2.3.3. Identify the steps to ~~Return~~ return arrest warrant conforming to statutory requirements.

~~2.4.4.~~ 2.3.4. Circumstances Identify requirements under which a felony warrant may be issued by a magistrate on a citizen complaint, according to § 19.2-72.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. the following:

1. The proper authorities from which an arrest warrant may be obtained according to 19.2-71 and Rule 3A:3 of the Rules of the Supreme Court of Virginia:

a. Judge

b. Clerk of any Circuit, General District, or ~~family~~ Juvenile and Domestic Relations District court

c. Magistrate

2. The information that must be provided to support a warrant:

a. The crime

b. The facts that support probable cause

c. How these facts relate to the suspect(s)

d. Citizens must fill out a criminal complaint form (DC-311); officers fill out complaint form when required by a magistrate

3. Return of arrest warrant conforming to statutory requirements:

a. Officer endorsement of the warrant

b. Return to a judicial officer with authority to grant bail

4. ~~Circumstances~~ Requirements under which a felony warrant may be issued by a magistrate on a citizen complaint

a. Only if given prior authorization by the attorney for the Commonwealth or by a law-enforcement officer

**Performance Outcome ~~2-5.~~ 2.4**

Answer questions regarding the progress of a case according to rules Identify basic laws governing rules of privacy and security controlling access to records.

### Training Objectives Relating to ~~2.5.~~ 2.4

1. Given a written exercise, identify basic laws governing rules of privacy and security to control access to records.

**Criteria:** The trainee student shall be tested on the following:

~~2.5.1.~~ 2.4.1. Identify Freedom of Information Act principles.

~~2.5.2. Privacy Act principles.~~

~~2.5.3.~~ 2.4.2. Identify Statutes statutes relating to criminal history records/juvenile information.

~~2.5.4.~~ 2.4.3. Identify Statutes statutes relating to release of information through NCIC or VCIN.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below: the following:

1. Freedom of Information Act principles, §§ [2.2-3704](#), [2.2-3705.2](#), [2.2-3706](#), [2.2-3706.1](#), and [2.2-3714](#)

a. Notify appropriate personnel to comply with 5 business day response requirement

b. Applies to all forms of communications that deal with government matters (i.e. email, chat room, cell phone pictures and videos, text messages, radio, body camera footage)

~~2. Privacy Act principles (§[2.2-3800](#)).~~

~~3. 2. Statutes relating to criminal history records/juvenile information, §§ [15.2-1722](#), [16.1-300](#), [16.1-301](#), [19.2-389](#), and [19.2-389.1](#)~~

~~4. 3. Statutes relating to release of information through NCIC or VCIN (§§[19.2-389](#) and [19.2-389.1](#))~~

### **Performance Outcome 2.5**

Apply knowledge of the law related to perjury.

### **Training Objectives Relating to 2.5**

1. Given a written exercise, identify elements of perjury committed by giving false testimony or other false verbal statement.

2. Given a written exercise, identify elements of perjury committed by executing a false affidavit.

**Criteria:** The student shall be tested on the following:

2.5.1. Identify how the act of perjury applies to a witness who testifies falsely in a legal proceeding.

2.5.2. Identify the elements of the making of a false verbal sworn statement, other than during testimony.

2.5.3. Identify how the execution of a false affidavit constitutes perjury.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below.

1. Elements of perjury, (felony) § 18.2 – 434:

a. A person makes a sworn statement of fact

b. The statement is made intentionally

c. The statement is material, meaning that it is relevant to a main issue or collateral issue involved in the matter under consideration

d. The person does not believe the statement to be true when made

e. The statement is false

2. Perjury may be committed by:

a. Giving false testimony during a legal proceeding such as a grand jury proceeding, a preliminary hearing or a trial

b. Making a false verbal statement while under oath, other than testimony, an example being an officer providing information verbally to a magistrate to support issuance of an arrest warrant

c. While under oath, signing a written document that contains a false statement, an example being an officer submitting an affidavit to a magistrate to support issuance of a search warrant

3. Proof of perjury:

a. The alleged false statement may be proven to be false by:

(i). The testimony of two witnesses, or the testimony of one witness plus corroborating evidence, or solely by “convincing” evidence such as video evidence

(ii). Conflicting testimony on the same material issue during two separate legal proceedings is not required to prove which of the two testimonial statements is false, § 18.2 – 435

### **Performance Outcome 2.6**

Identify the Constitutional due process requirement that criminal defendants be provided with information known to the authorities that is material to guilt or punishment.

### **Training Objectives Relating to 2.6**

1. Given a written exercise, identify the requirement to document investigative information favorable to a defendant.

2. Given a written exercise, identify that suppression by the prosecution of evidence favorable to a defendant violates due process where the evidence is material either to guilt or punishment.

**Criteria:** The student shall be tested on the following:

2.6.1. Identify the required information relating to the impeachment of a prosecution witness that must be disclosed to a defendant.

2.6.2. Identify the required information relating to punishment that must be disclosed to a defendant.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below.

1. An example of material information affecting guilt or innocence is a plea bargain given to a prosecution witness in return for the witness' testimony against the defendant

2. An example of material information affecting punishment is an investigator's discovery that an assault victim is faking his injuries

3. A violation of this disclosure requirement can result in declaration of a mistrial or reversal of a conviction on appeal

4. The failure to release information favorable to the defendant is commonly referred to as a "Brady violation" with reference to the 1963 U.S. Supreme Court case of *Brady v. Maryland*



## **Performance Outcome ~~2-6~~ 2.7**

Take juvenile offenders into custody.

### **Training Objectives Relating to ~~2-6~~ 2.7**

1. Given a written exercise, identify legal requirements in which law enforcement can take juvenile offenders into custody constitutional and Code of Virginia requirements for taking juvenile offenders into custody.

**Criteria:** The trainee student shall be tested on the following:

~~2-6.1. 2.7.1~~ Define child in need of services and child in need of supervision with Code citations (~~§ 16.1-228~~): Identify the purpose and intent of juvenile law and define the following terms:

~~2-6.1.1. 2.7.1.1.~~ Purpose and intent of juvenile law Child in need of services

~~2-6.1.2. 2.7.1.2.~~ Child in need of supervision or delinquent child

2.7.1.3. Delinquent child

~~2-6.2. 2.7.2.~~ Identify the only instances when a juvenile may be taken into immediate custody according to Code:

~~2.6.2.1.~~ 2.7.2.1. With a written detention order or a warrant issued by a magistrate

~~2.6.2.2.~~ 2.7.2.2. When the juvenile is in need of services and there is a clear danger to the child's life or health or the assumption of custody is necessary to ensure the child's appearance before the court

~~2.6.2.3.~~ 2.7.2.3. For a crime committed in the officer's presence and the officer believes it necessary for the protection of the public-

~~2.6.2.4.~~ 2.7.2.4. For (i) shoplifting, (ii) assault and battery, and (iii) weapon on school property if committed outside officer's presence where an arrest is based on probable cause upon reasonable complaint of eyewitness

~~2.6.2.5.~~ 2.7.2.5. When the juvenile has committed an offense which would be a felony if committed by an adult, whether committed in the officer's presence or not

~~2.6.2.6.~~ 2.7.2.6. Runaway or escape from the Department of Juvenile Justice (DJJ) or a residential child care facility or home where placed by the Courts or other agency-

~~2.6.2.7.~~ 2.7.2.7. When the juvenile is in need of inpatient treatment for mental illness-

~~2.6.2.8.~~ 2.7.2.8. Runaway from home or where there is no adult supervision at such hours and under such circumstances where there is a substantial danger to the child's welfare-

~~2.6.2.9.~~ Curfew violations

~~2.6.3.~~ 2.7.3. Identify the ~~two~~ three instances in which a warrant may be issued for a juvenile by a magistrate:

~~2.6.3.1.~~ 2.7.3.1. On an appeal from a decision of an intake officer if seeking a warrant for an offense that is a Class 1 misdemeanor or a felony

~~2.6.3.2.~~ 2.7.3.2. When a juvenile is in need of services or delinquent and the court is not open or intake officer is not reasonably available, which means neither the judge nor the intake officer could arrive within one hour after contacted-

2.7.3.3. When the accused has previously been convicted as an adult

~~2.6.4.~~ 2.7.4. Identify the procedures to be taken after a juvenile has been placed in custody:

~~2.6.4.1.~~ 2.7.4.1. When in custody by way of written petition, take juvenile before judge or intake officer-

~~2.6.4.2.~~ 2.7.4.2. When in custody by reason of need of services, protection of the public, or shoplifting, take juvenile before intake officer.

~~2.6.4.3.~~ 2.7.4.3. Warrant is to be delivered forthwith to the Juvenile & Domestic Relations Court.

~~2.6.4.4.~~ 2.7.4.4. Summonses to be given to child, and parents, and/or guardians.

~~2.6.5.~~ 2.7.5. Identify the requirements for the separation of juveniles from other prisoners.

~~2.6.5.1.~~ 2.7.5.1. Child must be kept entirely separate and removed from adult jail population.

~~2.6.5.2.~~ Child must be transported separately from adults.

~~2.6.6.~~ 2.7.6. Identify the requirement of advising a juvenile of his/her constitutional rights when conducting a custodial interrogation.

~~2.6.6.1.~~ 2.7.6.1. Juvenile to be advised of right to counsel.

~~2.6.6.2.~~ 2.7.6.2. Same Miranda rights apply as to those of adults, per §16.1-247.1 except it is recommended that parent/guardian be present if possible.

Prior to any custodial interrogation of a child by a law enforcement officer

~~who has arrested such child, the child's parent, guardian, or legal custodian shall be notified of his arrest and the child shall have contact with his parent, guardian, or legal custodian. The notification and contact required by this subsection may be in person, electronically, by telephone, or by video conference.~~

~~2.6.6.3.~~ 2.7.6.3. Statements given at intake are NOT admissible.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. the following:

1. Define child in need of services and child in need of supervision with Code citations (~~§ 16.1-228~~): Explain the purpose and intent of juvenile law, § 16.1-227 and define the following terms:

a. Purpose and intent of juvenile law, ~~§ 16.1-227~~ Child in need of services, as defined in § 16.1-228

b. Child in need of supervision or delinquent child, as defined in § 16.1-228

c. Delinquent child, as defined in § 16.1-228

~~2. The only instances when a juvenile may be taken into immediate custody according to Code § 16.1-246:~~

~~a. With a written detention order~~

~~b. When the juvenile is in need of services and there is a clear danger to the child's life or health~~

~~c. For a crime committed in the officer's presence and the officer believes it necessary for the protection of the public~~

~~d. For (i) shoplifting, (ii) assault and battery, and (iii) weapon on school property~~

~~e. When the juvenile has committed an offense that would be a felony if committed by an adult~~

~~f. Runaway or escape from a residential child care facility or home where placed by the Courts or other agency~~

~~g. When the juvenile is in need of inpatient treatment for mental illness~~

~~h. Runaway from home or where there is no adult supervision at such hours and under such circumstances where there is a substantial danger to the child's welfare~~

~~i. Curfew violations~~

~~3. The two instances in which a warrant may be issued for a juvenile by a magistrate (§[16.1-256](#)):~~

~~a. On an appeal from a decision of an intake officer~~

~~b. When a juvenile is in need of services or delinquent and the court is not opened or intake officer is not reasonably available, (meaning neither the judge nor the intake officer could arrive within one hour after contacted)~~

~~4. The procedures to be taken after a juvenile has been placed in custody (§[16.1-260](#) and [16.1-247](#)):~~

~~a. When in custody by way of written petition, take juvenile before judge or intake officer~~

~~b. When in custody by reason of need of services, protection of the public, or shoplifting, take juvenile before intake officer~~

~~c. Warrant is to be delivered forthwith to the J & DR Court~~

~~d. Summonses to be given to child and parents and/or guardians (§[16.1-263](#))~~

~~e. Fingerprinting and photographing juveniles (§[16.1-299](#)).~~

~~5. The requirements for the separation of juveniles from other prisoners (§ [16.1-249\(E\)](#) and [16.1-254](#)):~~

~~a. Child must be kept entirely separate and removed from adult jail population~~

~~b. Child must be transported separately from adults~~

~~6. The requirement of advising a juvenile of his/her constitutional rights when conducting a custodial interrogation (§ [16.1-263](#)):~~

~~a. Juvenile to be advised of right to counsel~~

~~b. Same Miranda rights apply as to those of adults, except it is recommended that parent/guardian be present if possible.~~

~~c. Statements given at intake are NOT admissible (§ [16.1-261](#)).~~

~~**Instructor Note: Advise trainees that they will need to identify department policy and procedure related to handling juvenile complaints and treatment of juvenile offenders as part of department training.**~~

~~**\*Special Note: In 2004, the Code of Virginia was amended to require that all duly constituted police authorities shall take fingerprints and photographs of any juvenile who is taken into custody and charged with a delinquent act for which, if committed**~~



~~by an adult, is required to be reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390.~~

### **Performance Outcome 2.7, 2.8**

Serve mental health commitment papers. Apply knowledge of the law related to the service of mental health commitment paperwork.

### **Training Objectives Relating to 2.7, 2.8**

1. Given a written exercise, identify Code of Virginia requirements for serving mental health commitment papers such as (emergency custody orders ~~or~~ and temporary detention orders ~~only~~).

**Criteria:** The trainee student shall be tested on the following:

2.7.1. ~~Define emergency custody orders and temporary detention orders and situations in which these would be utilized.~~

2.7.2. 2.8.1. Identify persons having authority to issue an emergency custody order orders ~~or~~ and temporary detention order ~~orders~~ orders.

~~2.7.3~~ 2.8.2. Identify procedures for the return of service on emergency custody order or orders and temporary detention order orders return of service.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. the following:

~~1.~~ Definition of emergency custody orders and temporary detention orders and situations in which these would be utilized.

~~2.~~ 1. Identification of persons having authority to issue an emergency custody order orders or and temporary detention order orders (judge or magistrate)

a. Judge

b. Magistrate

~~3.~~ 2. Procedures for the return of service on emergency custody order orders or and temporary detention order orders return of service.

a. Return service promptly to the clerk's office stating the date and manner of service and to whom service was made

~~4.~~ 3. Service of mental health commitment papers is the same as service and return of any other civil judicial process

~~5.~~ 4. Service is not restricted but is applicable statewide to one's locality as orders may be executed/served anywhere in Virginia, § 8.01-292

~~6.~~ 5. Copy of papers must be served to on the person to be committed, ~~or to a person found at the normal place of abode~~ § 37.2-808 and § 37.2-809

~~7.~~ Emergency commitments (involuntary detention), (~~§§ 37.2-808, 37.2-809, 37.2-810~~).

~~***Instructor Note: Advise trainees that they must identify department policy related to administrative handling of cases involving mental illness/abnormal behavior as part of their department training.***~~

### **Performance Outcome ~~2-8.~~ 2.9**

Apply knowledge of law related to a death homicide.

### **Training Objectives Relating to ~~2-8.~~ 2.9**

1. Given a written exercise, identify elements of homicide crimes ~~relating to death~~.

**Criteria:** The trainee student shall be tested on the following:

~~2-8.1.~~ 2.9.1. Define Identify various types of homicide crimes related to death with elements of the crime ~~and Code citations:~~.

~~2.8.1.1.~~ 2.9.1.1. Capital Aggravated murder

~~2.8.1.2.~~ 2.9.1.2. First and second degree murder

~~2.8.1.3.~~ 2.9.1.3. Felony homicide

~~2.8.1.4.~~ 2.9.1.4. Voluntary manslaughter

~~2.8.1.5.~~ 2.9.1.5. Involuntary manslaughter

2.8.2. 2.9.2. Define Understand suicide is not a criminal offense.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. ~~the following:~~

1. ~~Define~~ Identify various types of homicide crimes related to death with elements of the crime and Code citations:

- a. Capital Aggravated murder (felony), § 18.2-31: the willful, deliberate, premeditated killing of a person in specifically defined circumstances
- b. First and second-degree murder (felony), § 18.2-32 ~~(case law definitions)~~
- c. Felony homicide, aka felony murder (felony), § 18.2-33
- d. Voluntary manslaughter (felony), § 18.2-35

(i). Unlawful killing

(ii). Without malice

(iii). With reasonable or adequate provocation

(1). "Provocation" is some action or action combined with words by  
victim to which the defendant acts in response

e. Involuntary manslaughter (felony), § 18.2-36, 18.2-36.1, 18.2-36.2

(i). Accidental killing

(ii). Contrary to intention of the parties

### **Performance Outcome ~~2-9~~ 2.10**

Apply knowledge of law related to a rape or sexual assault offenses.

### **Training Objectives Relating to ~~2-9~~ 2.10**

1. Given a written exercise, identify the elements of and crime classifications for various types of sexual assault offenses.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.9.1.~~ 2.10.1. Define Identify various types of sexual assault offenses and elements of each. ~~investigations and crime classifications of the offenses with Code citations:~~

~~2.9.1.1.~~ 2.10.1.1. Rape

~~2.9.1.2.~~ 2.10.1.2. Carnal knowledge of a child age 13 up to age 15

~~2.9.1.3.~~ 2.10.1.3. Forcible sodomy

~~2.9.1.4.~~ 2.10.1.4. Inanimate Object sexual ~~object~~ penetration

~~2.9.1.5.~~ 2.10.1.5. Aggravated sexual battery

~~2.9.1.6.~~ 2.10.1.6. Sexual battery

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify various types of sexual assault offenses ~~investigations,~~ including elements of the crimes, and crime classifications of the offenses:

a. Rape (felony), § 18.2-61:

(i). Sexual intercourse:

(1). Penetration of the vagina by the penis is required to constitute sexual intercourse (Into the outer lips of the vagina)

(2). Ejaculation is not necessary

(ii). With a person whether or not his or her spouse

(iii). Or causes an unwilling person to engage in sexual intercourse with any other person

(iv). Without consent:

(1). Against the complaining witness' will by:

(2). Force, or

(3). Threats, or

(4). Intimidation of complaining witness or another person, or

(v). Through use of complaining witness':

(1). Mental incapacity (i.e. person with intellectual disability, senile person; any condition that prevents the victim from understanding the nature and consequences of the act), or

(2). Physical helplessness (inability to communicate his/her unwillingness to act; ex: intoxicated person who can't communicate or is passed out), § 18.2-67.10 3 & 4 or

(3). With a child under age 13 (child under 13 cannot consent)

b. Carnal knowledge of a child age 13 up to age 15 (felony), § [18.2-63](#)

(i). Carnal knowledge:

(1). Carnal means pertaining to the body, its passions and its appetites; fleshly; sensual; impure; sexual

c. Forcible sodomy (felony), § 18.2-67.1

(i). Definitions:

(1). Cunnilingus: Oral stimulation of the female sex organ

(2). Fellatio: Oral stimulation of the male sex organ

(3). Anal intercourse: Anal intercourse by a man of a man or a woman

(4). Anilingus: Oral stimulation of the anus

d. Inanimate Object sexual object penetration (felony), § 18.2-67.2

e. Aggravated sexual Sexual battery (misdemeanor), § 18.2-67.3 § 18.2-67.4

(i). Sexual abuse is defined in § 18.2-67.10

f. Aggravated ~~Sexual~~ sexual battery (felony), § 18.2-67.4 § 18.2-67.3



**Performance Outcome ~~2.10.~~ 2.11**

Apply knowledge of the law related to robbery, carjacking, and extortion.

**Training Objectives Relating to ~~2.10.~~ 2.11**

1. Given a written exercise, identify elements and crime classifications of robbery with Code citations.

2. Given a written exercise, identify elements of carjacking and extortion with Code citations.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.10.1. 2.11.1. Define Identify robbery and the elements of the crime.

2.10.2. 2.11.2. Define Identify carjacking and the elements of the crime.

2.11.3 Identify extortion and the elements of the crime.

**Lesson Plan Guide:** The lesson plan guide should shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify robbery, the elements of the crime, and the punishments, § 18.2-58

a. Robbery (felony), § 18.2-58 is the:

- (i). Taking
- (ii). With the intent to steal
- (iii). The personal property of another
- (iv). Against his will
- (v). From his person or his presence
- (vi). By force, threat, or intimidation

2. ~~Define~~ Identify carjacking (felony), the elements of the crime and the punishments, § 18.2-58.1

3. Identify the elements of extortion (felony), § 18.2-59

#### **Performance Outcome ~~2.11~~ 2.12**

Apply knowledge of the law related to felony wounding ~~or~~ and misdemeanor assault and battery.

#### **Training Objectives Relating to ~~2.11~~ 2.12**

1. Given a written exercise, identify elements of ~~and crime classification for~~ felony wounding ~~or~~ and misdemeanor assault and battery with Code citations.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.11.1.~~ 2.12.1. Identify the elements of felony wounding ~~or battery~~.

~~2.11.2.~~ 2.12.2. Identify the elements of ~~misdemeanor~~ assault and battery.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below:

1. Identify the elements of felony wounding ~~or battery~~ with Code citations:

a. Aggravated malicious wounding (felony), § 18.2-51.2

~~a.~~ b. Aggravated Malicious wounding ~~or battery~~ (felony), § 18.2-51

(i). Maliciously

(ii). Shoot, stab, cut, wound, or cause bodily injury by any means

(iii). With the intent to maim (maim means to deprive another of the use of some part of the body) disable, disfigure, or kill

~~b.~~ c. Unlawful wounding (felony), § 18.2-51:

~~1 Shoot, stab, cut, wound or cause bodily injury~~

~~2. With intent to maim, disfigure, disable or kill~~

3. ~~(i).~~ With malice ~~vs.~~ is malicious, without malice is unlawful

2. Identify the elements of misdemeanor assault and battery:

a. Assault (misdemeanor), § 18.2-57:

~~(i).~~ an Any attempted battery, or threat with the present ability to carry out the threat: (Also referred to as simple assault)

b. Battery (misdemeanor/felony), § 18.2-57:

~~(i).~~ any Any rude, angry, or vengeful offensive and non-consensual touching; ~~unlawful touching of persons the age of 13 or over may constitute common law assault and battery (cross-reference sexual battery).~~

### **Performance Outcome 2.12. 2.13**

Apply knowledge of the law related to ~~a residential, commercial, or industrial~~ burglary.

### **Training Objectives Relating to ~~2.12.~~ 2.13**

1. Given a written exercise, identify elements of and general crime classifications for a ~~residential, commercial, or industrial~~ burglary.

**Criteria:** The trainee student shall be tested on the following:

~~2.12.1.~~ 2.13.1. Identify categories related to various burglary-related offenses and the elements of the crimes ~~with Code citations.~~

~~2.12.2.~~ Identify elements of trespassing.

~~2.12.3.~~ 2.13.2. Identify elements of unlawful entry.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Identify categories related to various burglary-related offenses and the elements of the crimes with Code citations:

a. Case Law Definitions:

(i). Breaking may be actual or constructive

(1). Actual:

(A). When suspect uses some force, no matter how slight, to move aside some material (i.e. door, window, etc.) of the structure of a dwelling to gain entrance

(2). Constructive

(A). Where entrance is gained by threat of violence, fraud  
(trick), or conspiracy

(ii). Entering is when any part of the body goes through or past the plane  
of the structure

~~a.~~ b. Burglary Common Law Burglary (felony), § 18.2-89

~~b.~~ c. Entering dwelling house with intent to commit murder, rape, or robbery, or  
arson (felony), § 18.2-90

~~c.~~ d. Entering dwelling house with intent to commit larceny, assault and battery  
or other felony (felony), § 18.2-91

~~d.~~ e. Breaking and entering dwelling house with intent to commit ~~assault~~ or other  
misdemeanor (felony), § 18.2-92

~~e.~~ f. Possession of burglarious tools, etc. (felony), § 18.2-94

~~2.~~ Identify elements of trespassing § 18.2-119 to 18.2-136.1.

~~3.~~ 2. Identify elements of unlawful entry (felony/misdemeanor), § 18.2-121

## **Performance Outcome ~~2.13.~~ 2.14**

Apply knowledge of the law related to a larceny, ~~motor theft, extortion,~~ and embezzlement.

## **Training Objectives for ~~2.13.~~ 2.14**

1. Given a written exercise, identify the elements and general crime classifications of larceny and crime classifications of larceny. , attempted or actual motor vehicle theft, extortion, and embezzlement with Code citations.

2. Given a written exercise, identify elements and general crime classifications of embezzlement.

**Criteria:** The trainee student shall be tested on the following:

~~2.13.1.~~ 2.14.1. Define Identify the elements of various types of larceny and elements of the crimes.

~~2.13.2.~~ 2.14.2. Distinguish between larceny of a vehicle and, unauthorized use of a vehicle and embezzlement of a vehicle.

~~2.13.3.~~ 2.14.3. Define Identify the elements of the crime of receiving, concealing, or buying stolen property.

~~2.13.4. Identify punishments associated with the crime of receiving, concealing or buying stolen property.~~

~~2.13.5. Define extortion and elements of the crime.~~

~~2.13.6. Identify punishments associated with the crime of extortion.~~

~~2.13.7. 2.14.4. Define Identify the elements of embezzlement and elements of the crime.~~

~~2.13.8. Identify punishments associated with the crime of embezzlement.~~

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below. the following:

1. Define Identify the elements of various types of larceny and elements of the crimes, noting applicable with Code citations:

a. Grand larceny (felony), § 18.2-95

(i). Wrongful taking of the personal property of another (Note: Any movement of the property by the thief, however slight, constitutes a taking – it is not necessary for the thief to remove the property from the scene of the crime)



Distinguish between grand larceny of a vehicle, unauthorized use, and embezzlement, § [18.2-102](#), ~~§ [18.2-108](#)~~, ~~§ [18.2-111](#)~~

b. Elements of Unauthorized Use of a Vehicle, § 18.2-102

(i). Failing to return the vehicle to the owner by the time specified by the owner when permission was given, or using the vehicle in a manner not permitted by the permission given

~~b.~~ c. Petit larceny (misdemeanor), § [18.2-96](#)

~~1.~~ Third offense a felony § 18.2-104

~~c.~~ d. Shoplifting and concealing merchandise, § 18.2-103

2. Define Identify the elements of the crime crimes involving stolen property, ~~with~~ noting applicable Code citations

a. Elements of receiving/Concealing concealing stolen property, § [18.2-108](#)

(i). Buying or receiving from another person, or aiding in concealing, any stolen goods

(ii). With knowledge that the goods have been stolen

(iii). With dishonest intent

~~b. Shoplifting, § [18.2-103](#) [18.2-105](#)~~

~~c. Distinguish between the presumption of larceny arising from recent unexplained possession of stolen property and the crime of receiving, buying or concealing stolen property.~~

~~3. Identify punishments associated with the crime of larceny:~~

~~a. Felony if value is equal to or greater than \$500~~

~~b. Misdemeanor if value is less than \$500~~

~~c. Subsequent offenses~~

~~4. Define extortion and elements of the crime, § [18.2-59](#).~~

~~5. Identify punishments associated with the crime of extortion.~~

~~6.3. Define Identify the elements of embezzlement and elements of the crime, § [18.2-111](#)~~

~~7. 4. Identify general punishments associated with the crime of embezzlement~~

~~a. Punished as larceny~~

~~**Instructor Note: Advise trainees that they will need to identify department policy relating to the handling of shoplifting complaints as part of department training.**~~

## **Performance Outcome ~~2.14.~~ 2.15**

Apply knowledge of the law relating to trespassing, ~~destruction of property/vandalism,~~  
or a hate crime.

### **Training Objectives Relating to ~~2.14.~~ 2.15**

1. Given a written exercise, identify the elements of trespassing/~~destruction of~~  
~~property/vandalism,~~ and hate crimes with Code sections.

2. Given a written exercise, identify hate crimes, as they relate to trespassing offenses.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.14.1. 2.15.1. Define malicious mischief/~~destruction of property and elements of~~  
~~the crime.~~ Identify the elements of trespass for the purpose of destruction of,  
damage to, or tampering with property.

2.14.2. 2.15.2. Identify the elements of two types of trespassing- under § 18.2-119.

2.14.3. ~~Identify enhanced penalties that may accompany certain crimes based on~~  
~~an motives.~~

2.14.4. 2.15.3. Identify ~~other crimes~~ the “hate crime aspect” to which § 18.2-  
121 may apply.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify trespassing and elements of the crime with Code citations:

a. Damaging property, ~~§ 18.2-121~~ and ~~§ 18.2-137~~ Trespass with the purpose to damage or interfere, § 18.2-121

~~(i). Unlawfully destroy, deface, damage, or remove without intent to steal another's property~~

(i). For the purpose of damaging property or interfering with the rights of the owner

(ii). Damaging church or cemetery property, § 18.2-127

~~2. Class I misdemeanor if less than \$1000 value.~~

~~3. Class 6 felony if \$1000 or more.~~

4. 2. Identify enhanced penalties that may accompany associated with certain crimes based on an offender's purpose or motives, ~~§§ 18.2-57, § 18.2-420~~ 18.2-42, 18.2-42.1, 18.2-43, § 18.2-121

~~5.~~ 3. Identify other crimes to which ~~§ 18.2-121~~ may apply. forms of misdemeanor trespass such as:

a. "Spotlighting," § 18.2-121.2

b. Cemetery, § 18.2-125

c. School or Church, at nighttime without purpose to attend activities, § 18.2-128

(Note: trespassing on school property for the purpose of abducting a student is a felony)

d. "Peeping Tom," § 18.2-130 and its electronic equivalent (i.e. with a drone) §

18.2-130.1

e. Tampering with, etc., any vehicle, etc. without the consent of the owner, §

18.2-146

~~6.~~ Identify elements of trespassing ~~§ 18.2-119~~ to ~~§ 18.2-136.1~~ and ~~§ 18.2-160.2~~ related to trespassing on public transportation.

## **Performance Outcome ~~2.15.~~ 2.16**

Apply knowledge of the law related to suspicious criminal conduct involving fires, arson and explosive devices.

### **Training Objectives Relating to ~~2.15.~~ 2.16**

1. Given a written exercise, identify the elements of crimes related to suspicious arson and explosive devices.

**Criteria:** The trainee student shall be tested on the following:

~~2.15.1.~~ 2.16.1 Define Identify the elements of arson and elements of the crime.

~~2.15.2.~~ 2.16.2. Define Identify the elements of the threat or use of illegal explosive devices and elements of the crime.

~~2.15.3.~~ Identify other offenses involving burning or use of explosive devices.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify arson and the elements of the crime arson, with Code citations, §18.2-77 to §18.2-82, 18.2-88

2. Identify the elements of other offenses involving fires

~~2. 3. Define Identify the elements of a threat concerning or use of an illegal explosive devices device and elements of the crime with Code citations, §18.2-83 to §18.2-85.~~

a. Making and communicating to another by any means

b. A threat to bomb, burn, destroy, or damage a place of assembly, building, other structure or means of transportation, or

c. Communicating to another information that any peril of such bombing, burning, destruction or damage exists, while knowing that such information is false, § 18.2-83

4. Identify the elements of burning while in a building with intent to commit a felony

a. The person is in a building or other structure with intent to commit an unrelated felony

b. While in the building, the person causes the building to be burned

c. The act is not otherwise chargeable as arson

~~3. Identify other offenses involving burning or use of explosive devices.~~

## **Performance Outcome ~~2.17.~~ 2.17**

Apply knowledge of the law relating to crimes involving fraud.

### **Training Objectives Relating to ~~2.17.~~ 2.17**

1. Given a written exercise, identify the elements of crimes involving fraud and ~~crime~~  
~~classifications of fraud.~~

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.17.1.~~ 2.17.1. Define fraud and elements of the crime. Identify elements of:

2.17.1.1. Obtaining money by false pretenses

2.17.1.2. Identity theft

2.17.1.3. Credit card fraud

~~2.17.2. Department of Motor Vehicles Fraud § 46.2-105.2~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the  
Criteria section and the additional information below.

1. ~~Define fraud and elements of the crime with Code citations, § 18.2-186.~~ Fraud is not  
itself a specific crime – rather, it is an element of a variety of crimes in which a person  
deceives a victim



a. “Intent to defraud” is defined as a misrepresentation or concealment of a material fact combined with the intent to deceive and induce another person to act to his or her detriment

2. ~~Department of Motor Vehicles Fraud § 46.2-105.2~~ Elements of Obtaining money by false pretenses, § 18.2-186

3. Elements of Identify theft, § 18.2-186.3

4. Elements of Credit card fraud, § 18.2-195

**Performance Outcome ~~2.16,~~ 2.18**

Apply knowledge of the law relating to forgery/ and uttering and counterfeiting, and related offenses.

**Training Objectives Relating to ~~2.16,~~ 2.18**

1. Given a written exercise, identify the elements ~~and crime classifications relating to~~ of forgery/ and uttering and counterfeiting.

2. Given a written exercise, identify elements of passing counterfeit currency.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.16.1.~~ 2.18.1. Define Identify the elements of forgery and uttering and elements of the crime.

~~2.16.2.~~ 2.18.2. Define counterfeiting and elements of the crime. Identify the elements of passing counterfeit currency.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify the elements of forgery and uttering and elements of the crime with Code citations, § 18.2-168 and § 18.2-172

a. Forgery

(i). The perpetrator makes a false writing or materially alters a writing

(ii). Such writing, if genuine, would create a legal liability for another person

(iii). The making or altering is done with the intent to defraud

b. Uttering

(i). The perpetrator asserts or declares, by word or act, that a forgery is genuine

(ii). The perpetrator knows that the forgery is false

(iii). The perpetrator acts with the purpose of obtaining money or legal benefit

2. Define Identify counterfeiting and elements of the crime the elements of passing counterfeit currency with Code citations, § 18.2-170

3. Identify the elements credit card forgery, § 18.2-193

### **Performance Outcome ~~2.18.~~ 2.19**

Apply knowledge of the law relating to a weapons/firearm offenses.

### **Training Objectives Relating to ~~2.18.~~ 2.19**

1. Given a written exercise, identify the elements of weapon/firearm offenses and their general crime classifications ~~relating to weapons/firearms offenses.~~

2. Given a written exercise, identify elements of crimes relating to firearms ~~incidents.~~

**Criteria:** The trainee student shall be tested on the following:

~~2.26.1.~~ 2.19.1. Identify ~~possible~~ the elements of crimes associated with firearms with Code citations.

~~2.26.1.1. Reckless handling of a firearm~~

~~2.26.1.6. Failure to secure weapons resulting in injury to a child~~

~~2.26.1.2. Discharge of a firearm in an occupied dwelling~~

2.19.1.1. Willfully Discharge firearm in public place

~~2.26.1.4. Hunting while under the influence of alcohol~~

~~2.26.1.5. Shooting near a roadway~~

~~2.18.1. Define weapons/firearms offenses and elements of the crimes.~~

~~2.18.1.1.~~ 2.19.1.2 Concealed Carrying concealed weapons

~~2.18.1.2.~~ 2.19.1.3. Sawed-off shotguns Possession of a "sawed off" long gun

~~2.18.1.3.~~ 2.19.1.4. Possession of a firearm or ammunition by a convicted felon or person who committed specified felonious acts while a juvenile

~~2.18.1.4.~~ 2.19.1.5. Possession of a firearm coincident with Schedule I or II drug offense

~~2.18.1.5.~~ 2.19.1.6. Possession Use or display of a firearm during commission of a felony

~~2.18.1.6.~~ 2.19.1.7. Possession of a firearm while under a protective order

~~2.18.1.7.~~ 2.19.1.8. Possession of ammunition by a convicted felon. certain  
firearms by a juvenile

~~2.18.2.~~ 2.19.1.9 Prohibition of purchase of firearm by person adjudicated  
legally incompetent or mentally incompetent (§ [18.2-308.1:2](#)) or  
involuntarily admitted to an inpatient facility or involuntarily ordered to  
outpatient treatment and prohibited from purchasing a firearm pursuant  
to § [18.2-308.1:3](#)

~~2.18.3.~~ Prohibition of possession of firearm by person who committed  
felonies while a juvenile (§ [18.2-308.2](#))

~~2.18.4.~~ 2.19.1.10. Prohibition of possession of a firearm by persons not lawfully in  
United States (§ [18.2-308.2:01](#))

~~2.18.5.~~ 2.19.2. Identify how to determine whether or not a suspect has been  
subject to involuntary commitment, mandatory outpatient treatment, or been  
released from voluntary admission after issuance from a temporary detention  
order and had purchased a weapon, possessed a weapon, or transported a  
weapon and if so, notify the Central Criminal Records Exchange.

~~2.18.6.~~ 2.19.3. Identify how to determine whether or not a suspect is in violation of § 18.2-308.2 (juvenile offender records).

~~2.18.7.~~ 2.19.4. Identify how to determine if the suspect is in violation of § 18.2-308.2:01 (illegal alien restrictions).

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify elements of weapons/firearms offenses and elements of the crimes with Code citations

a. Willful Discharge of Firearm In Public Place, § 18.2-280

b. Carrying Concealed weapons, § 18.2-308 308.1, 308.014 (Reciprocity)

~~b.~~ c. Sawed-off shotguns, § 18.2-299 to 18.2-307 Elements of unlawful use or possession of a “sawed-off” long gun, § 18.2-299 to 18.2-307

~~c.~~ d. Elements of Possession of a firearm, ammunition, etc. by a convicted felon, § 18.2-308.2

(i). The exceptions set forth by statute do not apply

~~d.~~ e. The elements of Possession of a firearm coincident with Schedule I or II drug offense, § 18.2-308.4

(i). A person unlawfully possesses a Schedule I or II controlled substance

(ii). Simultaneously with knowledge and intent, possesses any firearm

~~e.~~ f. The elements of Possession Use or display of a firearm during commission of a felony, § 18.2-53.1

g. The elements of Reckless handling of a firearm, § 18.2-56.1

h. The elements of failure to secure weapons allowing access by a child to a firearm resulting in an injury, § 18.2-56.2(A)

i. The elements of failure to supervise use of a firearm by a child, § 18.2-56.2(B)

j. The elements of discharge of a firearm within or at an occupied dwelling, § 18.2-279

k. Brandishing a firearm, § 18.2-282

l. Carrying a weapon into a courthouse, § 18.2-283.1

m. Hunting while under the influence of alcohol, § 18.2-285

n. Shooting near a roadway, § 18.2-286

- f. o. The elements of Possession possession of a firearm while under a protective order, § 18.2-308.1:4
- p. Possession of a machete (§ 18.2-308) or The elements of brandishing a machete, § 18.2-282.1
- ~~h. Possession of ammunition by a convicted felon (§ 18.2-308.2)~~
- g. Prohibition of The elements of unlawful purchase of a firearm by person in specified mental conditions, § 18.2-308:1:2 and 18.2-308.1:3
- ~~3. Prohibition of possession of firearm by person who committed felonies while a juvenile (§ 18.2-308.2)~~
4. r. Prohibition of The elements of unlawful possession of a firearm by persons not lawfully in United States (§ 18.2-308.2:01)
5. 2. Identify the Law Enforcement Officers Safety Act (LEOSA) as the legal basis that allows retired officers in good standing to carry a weapon anywhere in the United States and the procedure for identifying oneself as a retired officer. authorizes “qualified” officers to carry a concealed firearm in any jurisdiction in the United States, regardless of state or local laws, with certain exceptions, 18 US Code § 926B&C



~~6. 3. Identify how to determine whether or not a suspect has been subject to involuntary commitment, mandatory outpatient treatment, or been released from voluntary admission after issuance from a temporary detention order and had purchased a weapon, possessed a weapon, or transported a weapon and if so, notify the Central Criminal Records Exchange. Determine whether or not a suspect:~~

a. Has been subject to involuntary commitment, mandatory outpatient treatment, or been released from voluntary admission after issuance from a temporary detention order and had purchased a weapon, possessed a weapon, or transported a weapon and if so, notify the Central Criminal Records Exchange

§ 18.2-308.1:2&3

(i). Run purpose code "F" to determine disqualifier for firearms

b. Committed specified felonious acts as a juvenile of § 18.2-308.2

c. Is an illegal alien, § 18.2-308.2:01

d. The foregoing status issues may be determined by a query to NCIC, CCRE and/or VCIN

~~7. Identify how to determine whether or not a suspect is in violation of § 18.2-308.2 (juvenile offender records)~~

~~8. Identify how to determine if the suspect is in violation of § [18.2-308.2:01](#) (illegal alien restrictions)~~

~~1. Identify possible crimes associated with firearms with Code citations~~

~~a. Reckless handling of a firearm, § [18.2-56.1](#)~~

~~F. Failure to secure weapons resulting in an injury to a child §18.2-56.2~~

~~B. Discharge of a firearm in an occupied dwelling, § [18.2-279](#)~~

~~C. Brandishing a firearm, § [18.2-282](#)~~

~~D. Hunting while under the influence of alcohol, § [18.2-285](#)~~

~~E. Shooting near a roadway, § [18.2-286](#)~~

~~f. Failure to secure weapons resulting in an injury to a child, § [18.2-56.2](#)~~

**Performance Outcome ~~2.19.~~ [2.20](#)**

Apply knowledge of the law relating to prostitution and sex offenses.

**Training Objectives Relating to ~~2.19.~~ [2.20](#)**

1. Given a written exercise, identify the elements of ~~and crime classifications relating to~~ prostitution and other ~~sex~~ sex-related offenses, and their general crime classifications.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.19.1.~~ 2.20.1. Define Identify the elements of ~~sex~~ sex-related offenses and ~~elements of the crimes.~~

~~2.19.1.1.~~ Fornication

~~2.19.1.2.~~ Lewd and lascivious cohabitation (Repealed)

~~2.19.1.3.~~ 2.20.1.1. Keeping, residing in or frequenting a bawdy place

~~2.19.1.4.~~ 2.20.1.2. Aiding prostitution or illicit sexual intercourse Prostitution

~~2.19.1.5.~~ 2.20.1.3. Using vehicles to promote prostitution or unlawful sexual intercourse

~~2.19.1.6.~~ Receiving money for procuring person

~~2.19.1.7.~~ 2.20.1.4. Receiving money from earnings of male or female prostitute

~~2.19.1.8.~~ 2.20.1.5. Transporting person for purpose of a sex offense

~~2.19.1.9.~~ 2.20.1.6. Crimes against nature

~~2.19.2.~~ 2.20.2. Define Identify the elements of sex offenses against children and elements of the crime (~~§18.2-370~~ through ~~§18.2-371~~).

~~2.19.3.~~ 2.20.3. Identify components of the elements of unlawful filming, videotaping or photographing of another (~~§18.2-386.1~~).

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify the elements of the following sex offenses and ~~elements of the crimes.~~ their general crime classifications:

~~a.~~ Fornication, §18.2-344

~~b.~~ Lewd and lascivious cohabitation, §18.2-345 (Repealed)

~~c.~~ a. The elements of keeping, residing in or frequenting a bawdy place, § 18.2-347

~~d.~~ Aiding prostitution or illicit sexual intercourse, §18.2-346 — §18.2-348

b. The elements of Prostitution, § 18.2-346

~~e.~~ c. The elements of using vehicles to promote prostitution or unlawful sexual intercourse, §18.2-349

~~f.~~ Receiving money for procuring person, § [18.2-356](#)

~~g.~~ Receiving money from earnings of male or female prostitute, § [18.2-357](#)

~~h.~~ Transporting person for purpose of a sex offense, § [18.2-348](#)

~~i.~~ d. The elements of crimes against nature, § [18.2-361](#)

2. Define Identify the elements of sex offenses against or by children and elements of the crime (~~§ [18.2-370](#) through § [18.2-371](#)~~) (Indecent Liberties)

a. Elements of indecent liberties committed by adults, § 18.2-370

b. Elements of indecent liberties committed by a juvenile, § 18.2-370.01

c. Elements of contributing to the delinquency of a minor, § 18.2-371

d. Elements of felony human trafficking, § 18.2-355

e. Elements of production of child pornography, § 18.2-374.1

f. The elements of possession, reproduction and distribution of child pornography, § 18.2-374.1:1

~~3.~~ g. Identify components the elements of unlawful filming, videotaping or photographing of another, § [18.2-386.1](#)

h. The elements of unlawful dissemination of image(s), § 18.2–386.2

**Performance Outcome ~~2.20.~~ 2.21**

Apply knowledge of the law relating to gambling.

**Training Objectives Relating to ~~2.20.~~ 2.21**

1. Given a written exercise, identify the elements of and general crime classifications relating to of gambling offenses.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.20.1. 2.21.1. Define gambling and elements of the crime.~~ Identify the elements of illicit gambling.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify the elements of illicit gambling and elements of the its general crime classifications, §§ 18.2-325, 326, 328, & 334

**Performance Outcome ~~2.21.~~ 2.22**

Apply knowledge of the law relating to crimes involving controlled substances.

### **Training Objectives Relating to ~~2.21~~ 2.22**

1. Given a written exercise, identify the elements of crimes related to and crime classifications relating to controlled substances and illegal drugs.

**Criteria:** The trainee student shall be tested on the following:

~~2.21.1.~~ 2.22.1 Define controlled substances and elements of the crimes. Identify general criteria applicable to the designation of various substances as controlled substances and related paraphernalia.

2.22.2. Identify elements of unlawful possession of a controlled substance.

2.22.3 Identify elements of possession with intent to distribute illegal drugs.

2.22.4. Identify elements of the manufacture and sale of illegal drugs.

**Lesson Plan Guide:** The lesson plan guide should shall include the following all items listed in the Criteria section and the additional information below.

1. ~~Define controlled substances and elements of the crimes, §18.2-248 to §18.2-265.~~  
Identify the criteria by which various substances and related paraphernalia are

designated under the statutory schedules of controlled substances § 18.2-248 to § 18.2-265.5

## 2. Elements of crimes involving controlled substances or other illegal drugs

### a. Possession

#### (i). Forms of unlawful drug possession are:

(1). Actual – Present on one's person or in a hand-carried item

(2). Constructive – in a nearby or remote location over which the offender has dominion and control (the ability to exclude access by others)

(3). Joint – more than one person may share possession of the same item

### b. Drug Trafficking

#### (i). Elements are:

(1). Manufacturing, selling, giving, distributing or possessing with intent to manufacture, sell, give or distribute

(2). A controlled substance or

(3). An imitation controlled substance



(ii). Evidence establishing intent to distribute include:

(1). Possession of a quantity of drugs greater than that ordinarily possessed for one's personal use

(2). The method of packaging

(3). The quantity and denomination of the cash possessed,

(4). The absence of any paraphernalia indicative of personal use,

(5). The presence of equipment related to drug distribution, and

(6). The presence of firearms

(iii). Trafficking offenses cited above are felonies with varying penalties and mandatory minimum sentences, depending on the quantity of drugs involved and the offender's relative level of involvement in a continuing criminal enterprise or criminal street gang

(iv). "Accommodation" sales are transactions involving a "middle man" who does not profit from the transaction, and which have lesser penalties

(v). Possession of listed methamphetamine precursor drugs, with intent to manufacture methamphetamine is also a felony, § 18.2-248

3. Identify the elements of crimes involving drugs not listed in schedules of controlled substances in:

a. § 4.1-1100 and subsequent code sections under this chapter

b. Possession of cannabidiol oil or THC-A oil, § 54.1-3408.3

(i). A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use

c. Manufacture, sale, distribution or possession with intent to manufacture, sell or distribute any anabolic steroid, § 18.2-248.5

#### **Performance Outcomes ~~2.22.~~ 2.23**

Apply knowledge of the law relating to disorderly conduct.

#### **Training Objectives Relating to ~~2.22.~~ 2.23**

1. Given a written exercise, identify the elements ~~relating to~~ of disorderly conduct.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.22.1. 2.23.1 Define Identify the elements of disorderly conduct and identify elements of the crime.~~

~~2.22.2. Distinguish between disorderly conduct and breach of the peace.~~

~~2.22.3. Distinguish between Code of Virginia and local ordinances.~~

~~2.22.4. 2.23.2. Identify offenses related to use of profane, threatening or indecent language over public airways or by computer or text.~~

~~2.22.5. Describe the relationship between disorderly conduct and all other provisions of Title 18.2 as set out in Battle v. Commonwealth, 50 Va. App. 135 (2007).~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify the elements of disorderly conduct and identify elements of the crime with Code citations, § 18.2-415

2. Distinguish between disorderly conduct and breach of the peace. Breach of the peace is a more general phrase and referenced in the Code in a variety of places: § 8.01-45, § 18.2-416, § 18.2-417, § 18.2-464, § 18.2-463. Identify the elements of abusive language and distinguish that offense from disorderly conduct, § 18.2-416

a. Such conduct occurs in a face-to-face encounter

(i). Such conduct may occur in a private encounter where no third party is present

(ii). Such conduct alone is not unlawful when directed toward a law enforcement officer unless other threatening, assaultive, or obstructive conduct is also involved

(iii). Conduct consisting only of words may be punishable as abusive language whereas conduct is not punishable as disorderly conduct if it consists only of words

b. Abusive language may be charged if it occurs in a private, face-to-face encounter

~~3. Distinguish between Code of Virginia and local ordinances as appropriate.~~

~~4. Identify offenses related to use of profane, threatening or indecent language over public airways or by computer or text.~~

~~5. Describe the relationship between disorderly conduct and all other provisions of [Title 18.2](#) as set out in *Battle v. Commonwealth*, 50 Va. App. 135 (2007).~~

~~Performance Outcome 2.23 is retired.~~

## Performance Outcome 2.24

Apply knowledge of the law relating to stalking.

### **Training Objectives Relating to 2.24**

1. Given a written exercise, identify the elements of stalking.

**Criteria:** The trainee student shall be tested on the following:

~~2.24.1. 2.24.1. Define stalking and identify elements of the crime with Code citations.~~ Identify the elements of stalking.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify elements of stalking and identify elements of the crime with Code citations, § 18.2-60.3

2. Identify the elements of violation of protective orders, 18.2-60.4

3. Elements of unlawful use of a drone, § 18.2-324.2

## **Performance Outcome 2.25**

Apply knowledge of the law relating to establishing local ordinances.

### **Training Objectives Relating to 2.25**

1. Given a written exercise, identify the Code related to establishing local ordinances.
- ~~2. Given a written exercise, identify the Code providing localities the authority to establish local ordinances relating to loitering and curfews.~~

**Criteria:** The trainee student shall be tested on the following:

2.25.1. Identify the Code citation enabling local counties, cities, and towns to establish local ordinances.

~~2.25.2. Identify the Code citation enabling local counties, cities, and towns to establish local ordinances that affect loitering and curfew violations.~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Identify the Code ~~citation~~ citations enabling local counties, cities, and towns to establish local ordinances, § 15.2-1425 and § 15.2-1429

2. Identify the Code ~~citation~~ citations enabling local counties, cities, and towns to establish local ordinances that affect loitering/curfew violations, § [15.2-926](#)

3. Identify the Code citation prohibiting local counties, cities and towns to establish local ordinances relating to unmanned aircraft system, § 15.2-926.3

**Performance Outcome 2.26.**

~~Apply knowledge of the law relating to firearm related incidents.~~

**Training Objectives Relating to 2.26.**

~~1. Given a written exercise, identify elements of crimes relating to firearms incidents.~~

**Criteria:** ~~The trainee shall be tested on the following:~~

~~2.26.1. Identify possible crimes associated with firearms with Code citations~~

~~2.26.1.1. Reckless handling of a firearm~~

~~2.26.1.6. Failure to secure weapons resulting in injury to a child~~

~~2.26.1.2. Discharge of a firearm in an occupied dwelling~~

~~2.26.1.3. Brandishing a firearm~~

~~2.26.1.4. Hunting while under the influence of alcohol~~

~~2.26.1.5. Shooting near a roadway~~

**~~Lesson Plan Guide:~~** The lesson plan shall include the following:

**~~1. Identify possible crimes associated with firearms with Code citations~~**

~~a. Reckless handling of a firearm, §[18.2-56.1](#)~~

~~F. Failure to secure weapons resulting in an injury to a child §[18.2-56.2](#)~~

~~b. Discharge of a firearm in an occupied dwelling, §[18.2-279](#)~~

~~c. Brandishing a firearm, §[18.2-282](#)~~

~~D. Hunting while under the influence of alcohol, §[18.2-285](#)~~

~~E. Shooting near a roadway, §[18.2-286](#)~~

~~f. Failure to secure weapons resulting in an injury to a child, §[18.2-56.2](#)~~

**Performance Outcome ~~2.27~~ [2.26](#)**

Apply knowledge of the law relating to a public drinking ~~violation~~ [violations](#).



## Training Objectives Relating to ~~2.27~~ 2.26

1. Given a written exercise, identify the elements of criminal violations relating to public drinking in public violations.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.26.1. Identify the elements of criminal violations relating to public consumption of alcohol.

~~2.27.1.~~ 2.26.1.1. Open container of alcoholic beverage in motor vehicles

2.26.1.2. Intoxicated in public

~~2.27.2.~~ 2.26.1.3. Drinking in a public place

~~2.27.3.~~ 2.26.1.4. Possession of alcohol by minors

~~2.27.4. Sale of alcohol to minors~~

~~2.27.5. Public intoxication~~

~~2.27.6. Possession of alcohol on school grounds~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Identify the elements of Open container of alcoholic beverage in motor vehicles  
(misdemeanor) elements, § [18.2-323.1](#)

2. Intoxicated in Public (misdemeanor) elements, § 18.2-388

~~2~~ 3. Drinking in a public place (misdemeanor) elements, § 4.1-308

~~3~~ 4. Possession of alcohol by minors (Class 1 misdemeanor) elements, § 4.1-305

~~4. Sale of alcohol to minors, § 4.1-304~~

~~5. Public intoxication, § 4.1-308~~

~~6. Possession of alcohol on school grounds § 4.1-309~~

### **Performance Outcome ~~2.28~~, 2.27**

Apply knowledge of the law relating to an abducted person.

### **Training Objectives Relating to ~~2.28~~, 2.27**

1. Given a written exercise, identify elements of the crimes relating to abducted persons.

**Criteria:** The trainee student shall be tested on the following:

~~2.28.1.~~ 2.27.1. Define Identify the various types of criminal violations related to abduction.

~~2.28.1.1.~~ 2.27.1.1. Abduction as an element of Capital Aggravated Murder

~~2.28.1.2.~~ 2.27.1.2. Imprisonment as an element of first-degree murder

~~2.28.1.3.~~ 2.27.1.3. Defining abduction/kidnapping Abduction in general/kidnapping

~~2.28.1.10.~~ 2.27.1.4. Abduction with intent to subject a person to forced labor or services

~~2.28.1.4.~~ 2.27.1.5. Abduction with intent to extort money or for immoral purposes

~~2.28.1.5.~~ Abduction by a prisoner.

~~2.28.1.6.~~ Threatening, attempting, or assisting in such abduction.

~~2.28.1.7.~~ 2.27.1.6. Parental abduction

~~2.28.1.8.~~ Requirement to disclose information and assist law enforcement.

~~2.28.1.9.~~ Emergency control of telephone in hostage situation.

~~2.28.1.10. Abduction with intent to subject a person to forced labor or services~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Define Identify the various types of criminal violations related to abduction:

~~a. Abduction as an element of Capital Murder, § 18.2-31~~

~~b. Imprisonment as an element of first degree murder, § 18.2-32~~

~~c. a. Defining abduction/kidnapping Abduction/kidnapping (felony) elements, § 18.2-47(A)~~

~~b. Abduction with intent to subject a person to forced labor or services (felony) elements, § 18.2-47(B)~~

~~d. c. Abduction with intent to extort money or for immoral purposes (felony) elements, § 18.2-48~~

~~E. Abduction by a prisoner, § 18.2-48.1~~

~~F. Threatening, attempting, or assisting in such abduction, § 18.2-49~~

~~g. d. Parental abduction (misdemeanor) elements, § 18.2-49.1 § 18.2-47(D)~~

e. Parental abduction (felony), elements § 18.2-49.1 (A)

f. Violation of a Court Order- Custody/Visitation (misdemeanor), § 18.2-49.1(B)

~~h. Requirement to disclose information and assist law enforcement, § 18.2-50~~

~~i. Emergency control of telephone in hostage situation, § 18.2-50.2~~

~~j. Abduction with intent to subject a person to forced labor or services, § 18.2-47~~

**Performance Outcome ~~2.29~~ 2.28**

Apply knowledge of the law related to protective orders and crimes ~~related to~~ of family abuse ~~or family offenses~~.

**Training Objectives Related to ~~2.29~~ 2.28**

1. Given a written exercise, identify elements of the crimes related to family abuse ~~or family offenses~~.

2. Given a written exercise, identify the legal requirements for the issuance of protective orders.

3. Given a written exercise, identify when a criminal violation of a protective order has occurred.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.29.1.~~ 2.28.1. Define the following: Identify a family or household member, per the Code of Virginia.

~~2.29.1.1.~~ Family abuse

~~2.29.1.2.~~ Family offenses

~~2.29.1.3.~~ Family or household member

~~2.29.2.~~ Identify the elements of the statutes that provide relevant law ~~2.29.2.1.~~

Definitions

~~2.29.2.2.~~ Jurisdiction

~~2.29.2.3.~~ Venue

~~2.29.2.4.~~ 2.28.2. Preliminary protective order Identify procedures for the initiation of Emergency Protective Orders.

~~2.29.2.5.~~ 2.28.3. Identify the difference between an emergency protective order, a Preliminary preliminary protective orders order, and a permanent protective order. ~~in cases of family abuse~~

~~2.29.2.6.~~ 2.28.4. Identify the circumstances that constitute a violation

Violations of provisions of a protective orders order.

~~2.29.2.7. Emergency protective orders authorized in cases of family abuse~~

~~2.29.2.8. Criminal jurisdiction; protective orders; family offenses~~

~~2.29.2.9. Protective order in cases of family abuse~~

~~2.29.2.10.~~ 2.28.4.1. Purchase or transportation of firearms by person subject to protective orders Identify how possession, purchase, and transportation of a firearm can constitute a violation of a protective order.

~~2.29.2.11.~~ 2.28.5. Identify elements of Assault assault and battery against a family or household member, § 18.2-57.2.

~~2.29.2.12. Stalking~~

~~2.29.2.13.~~ 2.28.6. Arrest without warrant authorized in certain cases Identify the statutory requirement for arrest of the predominant physical aggressor, absent special circumstances.

~~2.29.2.14. Arrest without a warrant authorized in cases of assault and battery against a family member and for violations of protective orders~~

~~2.29.2.15. Court orders pending suit for divorce, custody, visitation; entry into VCIN~~

~~2.29.2.16. Emergency protective order authorized in cases of stalking~~

~~2.29.2.17. Preliminary protective order authorized in cases of stalking~~

~~2.29.2.18. Protective order authorized in cases of stalking~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Definitions for Define the following:

a. Family Family abuse (§ 16.1-228)

~~b. Family offenses~~

~~c. b. Household or family member~~ A family or household member (§ 16.1-228)

2. Statutes that provide relevant law

~~a. Definitions, § 16.1-228~~

~~b. Jurisdiction, § 16.1-241~~

~~c. Venue, § 16.1-243~~



~~A. Original venue:~~

2. Identify procedures for the initiation of emergency protective orders

~~g. a.~~ Emergency protective orders (EPO) are authorized in cases of family abuse, ?

§ 16.1-253.4

~~d.~~ Preliminary protective order, § 16.1-253

~~e.~~ Preliminary protective orders in cases of family abuse, § 16.1-253.1

3. Identify the difference between an emergency protective order, a preliminary protective order, and a permanent protective order

~~f.~~ 4. Identify the circumstances that constitute a violation of a ~~Violations of provisions of~~  
protective orders order, § 16.1-253.2

~~h.~~ Criminal jurisdiction; protective orders; family offenses, § 16.1-278.14

~~i.~~ Protective order in cases of family abuse, § 16.1-279.1

~~j.~~ 5. Identify how possession, purchase, and transportation of a firearm can constitute a  
violation of a protective order, ~~Purchase or transportation of firearms by person subject~~  
~~to protective orders,~~ § 18.2-308.1:4

**k** 6. Identify elements of Assault assault and battery against a family or household member, § 18.2-57.2

~~l. Stalking, § 18.2-60.3~~

**m** 7. Arrest without warrant authorized in certain cases, Identify the statutory requirement for arrest of the predominant physical aggressor, absent special circumstances, § 19.2-81.3

**N** 8. Arrest without a warrant authorized in cases of assault and battery against a family member, and for violations of protective orders, § 19.2-81.3

~~a. Family member and for violations of protective orders, § 19.2-81.3~~

~~o. Court orders pending suit for divorce, custody, visitation; entry into VCIN, § 20-103~~

~~p. Emergency protective order authorized in cases of stalking, § 19.2-152.8~~

~~q. Preliminary protective order authorized in cases of stalking, § 19.2-152.9~~

~~r. Protective order authorized in cases of stalking, § 19.2-152.10~~

**Performance Outcome ~~2.30~~ 2.29**

Apply knowledge of law to obtain information from a suspect conforming to constitutional requirements.

**Training Objectives Related to ~~2.30.~~ 2.29**

1. Given a written or practical exercise, identify constitutional requirements to obtain information from a suspect.

**Criteria:** The trainee student shall be tested on the following:

~~2.30.1.~~ 2.29.1. Identify constitutional issues related to detention and questioning of a suspect vs. a non-suspect.

~~2.30.2.~~ 2.29.2. Identify the relevant cases principles regarding suspect interrogation:

~~2.30.2.1.~~ Malloy v. Hogan, 378 U.S. 1 (1964)

~~2.30.2.2.~~ 2.29.2.1. The US Supreme Court requires measures to protect a suspect's 5<sup>th</sup> Amendment rights, by advising a suspect of four basic rights before being questioned, Miranda v. Arizona, 384 U.S. 436 (1966)

~~2.30.2.3.~~ 2.29.2.2. Massiah v. United States, 377 U.S. 201 (1964) The 6<sup>th</sup> Amendment requires that once a suspect has an attorney, law enforcement

and/or their agents, must go through the attorney before questioning a suspect or making statements meant to illicit an answer

2.29.2.3. The 6<sup>th</sup> Amendment right to counsel is triggered at or after the time that judicial proceedings have been initiated whether by way of formal charge, preliminary hearing, indictment, information, or arraignment

~~2.30.3.~~ 2.29.3. Identify the two conditions, which together, trigger the necessity for Miranda warnings.

2.29.4. Identify the difference between custody and formal custody associated with an arrest.

2.29.5. Identify the difference between questioning and statements meant to illicit a response.

~~2.30.4.~~ 2.29.6. Explain the difference between an exculpatory and inculpatory statement and the necessity for documenting both.

~~2.30.5.~~ 2.29.7. Identify the conditions by which a confession will be judged to be admissible.

2.29.8. Identify the three exceptions to Miranda.

2.29.9 Identify issues arising from questions asked prior to Miranda warning.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below.

1. Identify ~~The~~ the rights of an ~~a~~ arrested person who is subjected to custodial questioning, as guaranteed by the U.S. Constitution

a. The 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Amendment rights guarantee a person be afforded certain rights of protection

b. A violation of those rights may exclude evidence being admitted at trial and further subject an officer to potential civil liability

2. ~~Identify constitutional issues related to detention and questioning of a suspect vs. a non-suspect.~~ Identify the difference between questioning during investigative detention and custodial interrogation

3. Identify the relevant cases principles regarding suspect interrogation:

~~a. Malloy v. Hogan, 378 U.S. 1 (1964)~~

a. The US Supreme Court requires a prophylactic measure to protect a suspect's 5th Amendment rights, by advising a suspect of four basic rights before being questioned. - Miranda v. Arizona, 384 U.S. 436 (1966):

(i). "You have the right to remain silent"

(ii). “Anything you say can and will be used against you in Court”

(iii). “You have the right to consult with an attorney before questioning and to have your attorney present during questioning”

(iv). “If you cannot afford an attorney, one will be appointed for you without cost”

b. Three exceptions to Miranda:

(i). Imminent threat to public safety

(ii). During roadside or on-scene questioning

(iii). Booking questions

c. ~~Massiah v. United States, 377 U.S. 201 (1964)~~ The 6th Amendment requires that once a suspect has an attorney, law enforcement and/or their agents, must go through the attorney before questioning a suspect or making statements meant to illicit an answer

d. ~~Ford v. Commonwealth, 503 S.E.2d 803, 28 Va. App 249, (1998)~~ Courts objectively consider the following factors in determining whether a person is in custody for Miranda purposes:

(i). Whether person has been advised that he or she is free to go

(ii). Whether the person has been physically restrained and/or handcuffed

(iii). Whether the person has been informed that he or she is a suspect or will be arrested

(iv). Whether the person is voluntarily present for questioning

(v). The location and familiarity of the place of questioning

(1). Questioning at a law enforcement facility does not necessarily dictate whether a person is in a custodial setting

(2). Questioning in a person's home does not necessarily dictate that is not in a custodial setting

(vi). The number of officers and/or whether surrounded

(vii). The duration and character of questioning or demeanor of the law enforcement officer

e. ~~Novak v. Commonwealth, 457 S.E. 2d 402, 20 Va. App. 373, (1995)~~ Even if

Miranda warnings have been properly given and a waiver obtained, a statement must be knowing, intelligently and voluntarily given in order to be admissible

(i). Statements are not voluntary if the suspect's will is overborne

f. ~~Wass v. Commonwealth, 359 S.E. 2d 836, 5 Va. App. 27, (1987)~~ While parental presence is favored in juvenile interrogations, the absence itself does not render a waiver involuntarily, § 16.1-247.1 requirements

g. ~~Lanier v. Commonwealth, 394 S.E. 2d 495, 10 Va. App. 541, (1990)~~

~~4. Identify the two conditions which together trigger the necessity for Miranda warnings:~~

~~a. In custody AND~~

~~b. Police interrogation.~~

~~5.~~ 4. Identify use of consent forms and waiver forms

a. Written consent is not mandated by law, however, it is best practice if/when possible

b. Custodial interrogation requirements, § 19.2-390.04

~~6.~~ 5. Explain the difference between an exculpatory and inculpatory statement and the necessity for documenting both

a. Inculpatory statements tend to incriminate a person



b. Exculpatory statements tend to prove innocence

c. All statements made by a defendant to law enforcement are required to be given to defense pursuant to Virginia Supreme Court Rule 3:A11

6. Explain the difference between an admission, where a suspect admits a fact and a confession, where a suspect admits guilt of a crime

7. Identify the conditions by which a confession will be judged to be admissible

a. A confession must be made voluntarily, freely, and intelligently

b. A confession must be corroborated before a conviction can be upheld

8. ~~Identify the constitutional basis for the Miranda warning and read the warning~~ Fifth Amendment rights apply only to testimonial statements made by a person; non-testimonial information derived from a person is not protected by the Fifth Amendment

a. The following evidence obtained from a person do not require Miranda warnings:

(i). Fingerprinting

(ii). DNA testing or withdrawal of blood

(iii). Voice exemplars

(iv). Handwriting exemplars

(v). Photographs or lineups of persons

(vi). Measurements

(vii). Hair samples

(viii). Fingernail scrapings

(ix). To appear or stand in Court

(x). To walk or assume a stance/make a gesture

~~a. Identify the point at which the suspect should be advised of constitutional rights.~~

~~b. Read the complete Miranda warning.~~

9. Identify the consequences for a person who gives a false identity to a law enforcement officer after having been lawfully detained and requested to identify himself, § [19.2-82.1](#)

**Performance Outcomes 2.31. 2.30**

Conduct lawful searches and seizures without a search warrant, under the following conditions: ~~with and without a warrant, incident to hot pursuit, with or without consent, incident to arrest, confer with the local Commonwealth's Attorney under unusual search and seizure circumstances, identify procedures for obtaining records from an electronic communication service or remote computing service (including foreign corporations) pursuant to a search warrant.~~

### **Training Objectives Relating to ~~2.31.~~ 2.30**

**Given a written or practical exercise on Fourth Amendment principles:**

1. Identify those search and seizure situations in which a person has a reasonable expectation of privacy and invokes the Fourth Amendment's limitations on law enforcement activities. ~~the 4th Amendment mandates a warrant,~~
2. Identify situations where a person does not have a reasonable expectation of privacy.
- ~~2.~~ 3. Identify search and seizure situations in which a warrantless search may be legally conducted.
- ~~3.~~ Identify situations that warrant conferring with the local Commonwealth's Attorney for guidance.
- ~~4.~~ Complete an affidavit for a search warrant.

~~5. Identify proper authority for obtaining the warrant.~~

4. Identify general categories of what can be seized.

~~6. Identify return requirements.~~

~~7. Identify the circumstances under which an out-of-state warrant may be served by electronic means.~~

~~8. Identify procedures for obtaining records from an electronic communication service or remote computing service (including foreign corporations) pursuant to a search warrant.~~

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.31.1.~~ 2.30.1. Identify the Fourth Amendment as the basis for the requirement ~~reason~~ that searches generally require a warrant.

~~2.31.2.~~ 2.30.2. Identify the reason that search warrants must still be obtained for crime scenes except in emergency circumstances after exigency subsides or crime scene is secured.

~~2.31.3.~~ Identify the proper authorities from which a search warrant may be obtained:

~~2.31.3.1.~~ Judge

~~2.31.3.2. Magistrate~~

~~2.31.3.3. Other person with authority to issue criminal warrants in the jurisdiction of the place to be searched~~

~~2.31.4. Complete a sample affidavit:~~

~~2.31.4.1 Description of place, thing, or person to be searched~~

~~2.31.4.2. Description of things or persons to be searched for~~

~~2.31.4.3. The offense causing the search~~

~~2.31.4.4. Thing(s) being searched for is/are evidence of the offense~~

~~2.31.4.5. Any other material facts that show probable cause to issue search warrant~~

~~2.31.5. State facts and circumstances that would lead a reasonable person to believe the seizable items are located in the area to be searched.~~

~~2.31.6 Identify Code of Virginia requirements for return of search warrant:~~

~~2.31.6.1. Date of execution of warrant, signature, and time noted on warrant~~

~~2.31.6.2. Under oath, inventory all property seized~~

~~2.31.6.3. File in circuit court clerk's office of the jurisdiction where the search warrant was served within three days the search warrant, inventory, and affidavit.~~

~~2.31.6.4. The officer who seized the property or executed the search warrant, or his designee or agent, may file the warrant, inventory, and accompanying affidavit by delivering them in person, or by mailing them certified mail, return receipt requested, or delivering them by electronically transmitted facsimile.~~

~~2.31.6.5. Identify requirements for a return in accordance with § [19.2-56](#) and § [19.2-57](#).~~

~~2.31.6.5.1. location for filing the return: executed and issued~~

~~2.31.6.5.2. timeline for filing and computation exceptions~~

~~2.31.7. Identify requirements for warrantless search of premises or property for suspect incident to hot pursuit conforming to constitutional requirements and Code of Virginia:~~

~~2.31.7.1.~~

2.30.3. Define **Identify** the hot pursuit **as an** exception to **search** warrant requirements.

~~2.31.7.2. Identify the circumstances that justify hot pursuit.~~

~~2.31.7.3. Define the scope of a search incident to hot pursuit.~~

2.30.4. Identify the Community Caretaker Doctrine and the standard required.

2.30.5. Identify the requirements and limitations related to searches incident to arrest.

~~2.31.8. Identify the circumstances under which an out-of-state warrant may be served by electronic means.~~

~~2.31.9. Identify procedures for obtaining records from an electronic communication service or remote computing service (including foreign corporations) pursuant to a search warrant.~~

2.30.6. Identify and distinguish between legal aspects related to open fields vs. curtilage.

2.30.7. Identify and distinguish between legal aspects relating to dog sniffs in public places vs. homes or protected places.

2.30.8. Identify the plain-view basis for lawful seizures.

2.30.9. Identify the principles relating to lawful consent searches.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below.

1. Unless an exception is identified, searches require a warrant if a reasonable expectation of privacy exists

a. Examples of items/people/locations having a reasonable expectation of privacy:

(i). Homes and businesses

(ii). Curtilages

(iii). Overnight guests, tenants, and hotel guests

(iv). Thermal imaging,

(v). Vehicles

(vi). GPS on vehicles

(vii). Cell Phones and cell site location information



b. There is no reasonable expectation of privacy in situations involving open fields and dog sniffs in public places (i.e. do not require a search warrant, as they are not considered to be searches)

2. Search warrants must be obtained for homes and businesses and other protected places, including, but not limited to curtilages, crime scenes except in emergency circumstances (i.e. suspect is possibly on premises), on public property, or when consent is given ~~Searches require a warrant if a reasonable expectation of privacy exists.~~

a. Searches require a warrant if a reasonable expectation of privacy exists, unless the circumstances establish a judicially recognized exception to the warrant requirement

~~3. Identify the proper authorities from which a search warrant may be obtained according to §19.2-52:~~

~~a. Judge~~

~~b. Magistrate~~

~~c. Other person with authority to issue criminal warrants in the jurisdiction of the place to be searched~~

~~4. Complete a sample affidavit according to §19.2-54 covering:~~

- ~~a. Description of place, thing, or person to be searched~~
  - ~~b. Description of things or persons to be searched for~~
  - ~~c. The offense causing the search~~
  - ~~d. Thing(s) being searched for is/are evidence of the offense~~
  - ~~e. Any other material facts that show probable cause to issue search warrant~~
- ~~5. State facts and circumstances that would lead a reasonable person to believe the seizable items are located in the area to be searched.~~
- ~~6. Return search warrant conforming to Code of Virginia § [19.2-57](#) requirements:~~
- ~~a. Date of execution of warrant, signature and time noted on warrant~~
  - ~~b. Under oath, inventory all property seized~~
  - ~~c. Requirements for a return in accordance with § [19.2-56](#) and § [19.2-57](#). The location for filing the return both where executed and issued, the timeline for filing and the computations for exceptions.~~
  - ~~d. The officer who seized the property or executed the search warrant, or his designee or agent, may file the warrant, inventory, and accompanying affidavit by~~

~~delivering them in person, or by mailing them certified mail, return receipt requested, or delivering them by electronically transmitted facsimile.~~

~~7. Identify requirements for warrantless search of premises or property for suspect incident to hot pursuit conforming to constitutional requirements and Code of Virginia §19.2-59.~~

~~a. Define the hot pursuit exception to warrant requirements.~~

~~b. Identify the circumstances that justify hot pursuit.~~

~~c. Define the scope of a search incident to hot pursuit~~

~~a. U.S. v. Santana 427 US 38 (1976)~~

~~b. Warden v. Hayden 387 US 294 (1967)~~

~~c. Terry v. Ohio 392 US 1 (1968)~~

~~d. California v. Hodari D. 499 US 621 (1991)~~

~~e. Michigan v. Chesternut 486 US 567 (1988)~~

~~f. Carroll v. United States 267 US 132 (1925)~~

~~g. California v. Acevedo 111 S.Ct. 1982 (1991)~~

~~h. Maryland v. Buie 58 LW 4281 (1990)~~

~~i. New York v. Belton 453 US 454 (1981)~~

Case references related to consent searches:

~~a. Florida v. Royer 460 US 491 (1983)~~

~~b. Illinois v. Rodriguez 497 US 177 (1990)~~

~~c. Florida v. Jimeno 500 US 248 (1991)~~

### 3. Categories of items that may be lawfully seized:

a. Instrumentalities of crime (weapons and other items used in the commission of a criminal offense)

b. Fruits (proceeds) of a crime

c. Contraband (i.e. items that are generally unlawful to possess)

d. Any object, thing, or person, including without limitation:

(i). Documents

(ii). Books, papers, or records

(iii). Bodily fluids constituting evidence of the commission of a crime

e. A person that a search warrant authorizes to be seized pursuant to an arrest warrant

#### 4. Exceptions to the requirement for a search warrant

##### a. Consent

(i). Voluntary- may withdraw or limit the consent at any time

(ii). No legal requirement that consent must be given in writing (although this may be addressed in agency policy)

(iii). A subject in custody and handcuffed may give consent, but strong factors of coercion (i.e. a felony stop) may cause consent to be involuntary in nature

(iv). Repeated requests for consent following refusals may create an issue of involuntariness if consent is finally given by the individual

##### b. Apparent authority

(i). Visitor to premises lacks authority to consent for entry to premises

(ii). Joint occupant may consent to common areas in premises; present joint occupant may veto consent by another occupant

(iii). Landlord and/or employer generally cannot give lawful consent to search

c. Frisk

(i). Review legal basis for investigative detention (Terry stop)

(ii). If reasonable suspicion exists to believe a subject is armed or dangerous, a reasonably limited search for weapons, such as a frisk, may be conducted

(iii). Ability to retrieve any item that could be a weapon

(iv). "Plain feel" can also retrieve any item that without manipulation and with probable cause is determined to be contraband

(v). If lawful detention and reasonable suspicion exists that a vehicle contains weapon(s), can look into areas that could contain a weapon.

d. Search incident to arrest

(i). Requires a lawful arrest

(ii). Body search plus area within which subject could lunge to obtain a weapon or destroy evidence of the crime

(iii). May take possession of cell phone along with arrestee's other personal items, but searching contents of phone requires a search warrant

(iv). If circumstances require release on summons, search of subject is not permitted unless there is independent probable cause

(v). Passenger compartment of vehicle may be searched if occupant arrested but not if arrestee has been removed from proximity of the vehicle unless there is reason to believe the vehicle contains evidence of the offense for which the arrest was made or other probable cause exists

(vi). Strip and cavity searches, § 19.2-59.1

(vii). When an arrest is made inside a residence, officers may conduct a protective sweep of immediately adjacent areas for other persons or, if there is reason to believe other persons are present, a sweep of the entire residence where persons could be found

e. Emergency/Exigent Circumstances may permit entry into a residence without a warrant or consent to apprehend subjects or prevent destruction of evidence if justified by factors such as:

(i). Officers reasonably believe suspect(s) are armed

(ii). At the time of entry, a clear showing of probable cause

(iii). Officer(s) have probable cause to believe the suspects are actually present on the premises

(iv). Likelihood of escape if the suspects are not swiftly apprehended

(v). Suspects' recent entry into the premises after hot pursuit

(vi). A crime is in progress endangering the safety of persons who may be inside the residence

f. Community Caretaker Doctrine

(i). Officers may also enter residence without a warrant or consent if there is reasonable suspicion of a serious, genuine concern that a citizen's health, well-being, or safety is at risk for reasons other than criminal activity (i.e. fire scene, unattended child, welfare of person out-of-contact)

(ii). Privacy areas other than homes may be searched on this basis for other reasons (i.e. unaccounted for firearm in accident scene, etc.)

g. Vehicle Inventory

(i). Applies to a lawfully impounded vehicle



(ii). Requires agency written policy or practice that restricts officers' decisions whether and how to conduct the inventory

(iii). Search is limited to areas that could contain valuable items

(iv.) Unlocked containers may be searched; opening locked containers is not permitted (unless permitted by written policy)

#### h. Abandoned property

(i). No expectation of privacy, therefore search does not invoke Fourth Amendment considerations

(ii). Abandonment must not be caused by unlawful actions of an officer

(i.e. officer lacking reasonable suspicion detains a subject who then throw contraband to the ground; seizure of contraband would not be considered lawful)

#### i. Plain View Doctrine

(i). Technically a seizure issue rather than a search

(ii). Requires that items seized have been initially discovered in lawful circumstances (i.e. officer was located either in public or had legal basis to be present if in a privacy area)

(iii). Requires the item have been in plain (open) view, without intrusion into a privacy area for which there was no legal basis

(iv). Requires probable cause to believe that the item was seizable as contraband, evidence, etc.

(v). Plain view seizure of an item does not alone authorize further searching in a privacy area

(vi). If an emergency entry into a residence has been made on the basis of a crime scene, once a sweep has secured the premises, a warrant should be obtained before proceeding with crime scene search (forensic) procedures

j. Probable cause vehicle search (i.e. Carroll Doctrine)

(i). Warrant is not required to search an operable motor vehicle located in a non-privacy area if probable cause exists to believe it contains seizable items

(ii). The entire vehicle may be searched in the areas that could contain seizable items believed to be present, including the engine compartment and locked or unlocked containers, baggage, etc.

## **Performance Outcome 2.31**

**Conduct lawful searches and seizures with a search warrant.**

### **Training Objectives Relating to 2.31**

#### **Given a practical exercise:**

**1. Given a hypothetical scenario, complete an affidavit for a search warrant.**

#### **Given a written exercise on Fourth Amendment principles:**

**2. Identify proper authority for issuing a search warrant.**

**3. Identify essential contents of a search warrant affidavit.**

**4. Identify the required legal basis for conducting a search of “all persons present” when a search warrant is executed.**

**5. Identify the Knock and Announce process for executing a search warrant.**

**6. Identify who may be present during execution of a search warrant.**

**7. Identify the standard required in order to detain a person lawfully present while a search warrant is executed.**

8. Identify general categories of what items can be lawfully seized during execution of a search warrant.

9. Identify return requirements for returning a search warrant.

**Criteria:** The student shall be tested on the following:

**Practical exercise:**

2.31.1. Complete an affidavit for a search warrant.

**Written exercise:**

2.31.2. Identify the proper authority from whom to obtain a search warrant.

2.31.3. Identify essential contents of a search warrant affidavit.

2.31.4. Identify the necessary legal basis for searching “all persons present.”

2.31.5. Identify the Knock and Announce process when executing a search warrant.

2.31.6. Identify who may be present during a search.

2.31.7. Identify the standard required to detain a person present during the execution of a search warrant.

2.31.8. Identify instances when a second search warrant should be obtained.

2.31.8.1. Identify if items related to another offense that are observed in plain view during the execution of the authorized search warrant.

2.31.9. Identify requirements for the return of a search warrant.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below.

1. Search warrants must be obtained for homes and businesses and other protected places and whenever consent is not given or a reasonable expectation of privacy exists

2. Identify the proper authorities from which a search warrant may be obtained according to § 19.2-52

3. § 19.2-54 and case law interpreting the Fourth Amendment require that a search warrant affidavit contains the following information:

a. The criminal offense causing related to the search, specifically listing applicable code section

b. A particularized description of the place, thing, or person to be searched

c. A description of things or persons to be searched for and seized, in terms of and falling within the following categories:

(i). Instrumentalities of crime (i.e. weapons and other items used in the commission of crime)

(ii). Fruits (proceeds) of crime

(iii). Contraband (i.e. items that are generally unlawful to possess)

(iv). Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of a crime, or

(iv). A person that a search warrant authorizes to be seized pursuant to an arrest warrant

(v). A recitation that the thing(s) being searched for is/are evidence of the offense

(vi). Material facts establishing probable cause to issue a search warrant (i.e. facts and circumstances that would lead a reasonable person to believe the seizable items are located in the area to be searched)

(1). The statement of probable cause must not be “conclusory,” and must contain enough detail so that the issuing official may make an independent determination that probable cause to support the search in fact exists

(2). Information establishing probable cause is not “stale” (i.e. Is it reasonable that the items to be seized will still be located in the place?)

(3). In evaluating probable cause, it is improper for an issuing official to consider information provided verbally and not included in the affidavit (referred to as the “four corners rule-” if it becomes necessary to provide additional information, the requesting officer should revise and resubmit the affidavit)

(4). Note: Courts have disapproved generalized seizure of computers and related digital storage devices as items containing evidence unless the statement of probable cause establishes a connection between such items and the crime involved (i.e. where an affidavit recites facts relating to the presence of only user amounts of drugs in a residence, a reviewing court would likely disapprove a search warrant authorizing seizure of computers, on

grounds of a lack of probable cause to believe that computers would contain evidence of the simple possession of drugs, as contrasted with crimes involving drug trafficking)

4. The authority to search all persons present on the premises when a search warrant is executed must be stated in the warrant (unless independent grounds besides the search warrant exist for conducting a search of such persons)

a. For example, an affidavit that includes probable cause factors establishing a location as a substantial ongoing illegal drug manufacturing/distribution operation, and not a bona fide residence, could be a basis for requesting that a warrant authorize the search of all persons present upon execution

5. Ensuring that a search warrant is valid on its face

a. During preparation to serve a search warrant, the following items should be checked to ensure that the warrant is valid on its face:

(i). All affidavit items listed are correctly stated in the search warrant

(ii). The correct time and date of issuance and issuing official's signature are present



b. A search conducted by an officer acting in good faith reliance on a warrant will be upheld, however, a reviewing court is unlikely to find good faith where:

(i). The affidavit supporting a warrant is so lacking in the substance of probable cause that it is entirely unreasonable to believe that probable cause exists

(ii). The requesting officer knew, or should have known, that material facts in the affidavit were false

(iii). The issuing official abandoned his/her role as a neutral judicial officer, or

(iv). A warrant is so facially deficient such that it cannot reasonably be presumed to be valid (however, technical or clerical errors are deemed not to invalidate good faith)

6. Issuance and Execution of a Search Warrant; No-Knock Search Warrant, § 19.2-56:

7. Persons permitted to be present during execution of a search warrant, §19.2-56

a. Officers are prohibited from allowing third parties to proceed into a privacy area during execution (of search warrant or arrest warrant) unless in the aid of execution of a warrant

(i). Prohibited examples are citizen “ride-alongs” and media representatives

(ii). Permitted examples are HAZMAT and electronic/computer specialists

8. Identify standard required to detain a person while search warrant is executed

a. Officer executing a search warrant may lawfully:

(i). Conduct an initial sweep of the premises to locate, gather, and detain occupants

(ii). Use handcuffs or other force reasonable under the circumstances to control occupants and preserve officer safety

(iii). Detain persons attempting to enter the premises during the search

b. Persons leaving the premises before the execution of a warrant has been initiated may not be detained in another location unless an independent basis for reasonable suspicion of criminal activity exists

9. During execution of a search warrant, the following items may be seized:

a. Items authorized by the warrant to be searched for and seized as evidence of the crime stated on the warrant

b. Items encountered during the search that are not listed as items to be searched for and seized, but probable cause exists that the items are evidence of the crime listed on the warrant

c. Items encountered during the search that are not listed as items to be searched for and seized, nor does probable cause exist that the item(s) are evidence of the crime stated in the warrant, however, probable cause exists that the items are evidence of a different crime

d. NOTE: The justification for seizure of items under the above is the plain view doctrine, which requires that the items to be seized are discovered only while searching in areas which logically could contain items authorized by the warrant to be searched for, and that their seizeable nature is supported by probable cause

e. NOTE: A second search warrant is necessary to extend a search after encountering an unanticipated item seized pursuant to plain view

#### 10. Process for return of the warrant

a. Endorse the warrant, to include:

(i). Note the time and date of execution of the warrant (must be within 15 days of issuance)

(ii). Signature of officer executing the warrant

(iii). Complete a sworn inventory of items seized or document that nothing was seized

b. Within three days of execution of the warrant, file the warrant including the affidavit and inventory in the Circuit Court Clerk's office in the jurisdiction where the warrant was executed

c. The officer executing the warrant or designee may file the warrant by in-person delivery, postal certified mail with return receipt requested, or via electronic facsimile (fax)

(i). Filing via email is not permitted

## 11. Special Situations

a. § 19.56.1 requires that a warrant authorizing the search of an attorney's office for evidence of a crime involving the attorney's client shall be issued only by a circuit court judge

b. § 19.2-56.2 requires a search warrant for use of tracking device to remotely monitor the movement of an object or person

c. Pursuant to § 19.2-70.3, a citizen's subscriber account information may be obtained from an electronic communication or remote computing service provider by means of a grand jury subpoena, a circuit court order, a search warrant, or the citizen's consent

d. Virginia service providers are required to comply with a search warrant issued in another state as if it had been issued by a Virginia court, provided that the warrant relates to the specified violent crime(s) or other specified crime(s)

e. In any of the forgoing situations where a service provider has been required to provide subscriber information, and upon certification by a Commonwealth's Attorney that disclosure of a process under this statute would endanger a person, lead to flight from prosecution, destruction of evidence, intimidation of witnesses or jeopardize an investigation, the court may order the provider not to disclose the matter to another person (which included the account subscriber)

### **Performance Outcome 2.32**

Use probable cause to search a vehicle.

## Training Objectives Relating to 2.32

1. Given a written exercise, identify factors to consider to legally search a vehicle.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.32.1. Identify the legal criteria for a vehicle search.

2.32.1.1. Reasonable suspicion to conduct a sweep of vehicle

2.32.1.2. Probable cause "Carroll Doctrine"

2.32.1.3. Inventory

2.32.1.4. Community Caretaker

~~2.32.1.4. Carroll doctrine~~

~~2.32.1.5.~~ 2.32.1.5. Consent

2.32.1.6. Search incident to arrest

2.32.1.7. Plain view or abandoned

~~2.32.2.~~ 2.32.2. Identify the parameters for the scope of a vehicle search.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the

Criteria section and the additional information below.

1. Identify legal criteria for a vehicle search ~~under probable cause~~ their parameters for the scope of each type of vehicle search

a. Reasonable suspicion to sweep if officer believes weapons are within the vehicle

(i).The scope includes the areas within the control of the occupants and is typically limited to the passenger compartment of the vehicle unless the occupants have ready access to other areas

b. Probable cause ("Carroll Doctrine") permits a search of anywhere in the vehicle that evidence can be located, including locked containers and does not require exigent circumstances

(i). The courts have recognized that vehicles have a diminished expectation of privacy, are readily movable and the government has an interest in regulating vehicles as it is a privilege and not a right to drive

c. Inventory is an administrative search for the protection of officers (and others) against false claims; to protect the public from dangerous instrumentalities and cannot be used as a ruse to search

(i). Officer can search anywhere items of value may be found and can include locked containers, as long as law enforcement agency has a written policy permitting it

~~d. Carroll doctrine~~

~~e~~ d. Consent The courts have looked at the totality of the circumstances to determine if a reasonable person feels free to object or to leave

(i). Burden to prove consent lies with the officer

e. Search incident to arrest is permitted to prevent destruction of evidence, prevent a means of escape and for officer safety

(i). Limited to areas within the control of the suspect

f. Looking for a VIN is an exception and does not require a search warrant

g. A person does not have an expectation of privacy in a stolen vehicle

~~2. Identify the parameters for the scope of a vehicle search.~~

### **Performance Outcome 2.33**

Pat down a suspect or search an arrested person.

### **Training Objectives Relating to 2.33**



**Given a written exercise:**

1. Identify the parameters under which a pat down of a suspect may be conducted.
2. Identify the parameters under which the search of an arrested person may be conducted.

**Criteria:** The trainee student shall be tested on the following:

2.33.1. The Identify the elements of a seizure and the difference between detention and arrest.

2.33.2. The Identify the scope of the search of the arrested person and the circumstances when the search may be extended beyond the person which includes the area within their control.

2.33.3. The Identify the relevant legal principles of Terry v. Ohio.

2.33.3.1. Terry v. Ohio

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. The elements of a seizure and difference between detention and arrest

a. A seizure occurs when a reasonable person would not feel free to leave

(i). Law enforcement officers must have reasonable suspicion to detain someone for an investigative purpose; it is usually brief and the investigative means should be the least intrusive

(ii). Usually not custodial in nature

2. The scope of the search of the arrested person ~~and the circumstances when the search may be extended beyond the person.~~ includes the area within the control of the arrestee

3. The relevant legal principles:

a. Terry v. Ohio states that a law enforcement officer may detain a suspect briefly based upon reasonable suspicion and, if there is reasonable suspicion that the person is armed, they may be patted down for weapons, but not searched for evidence

b. While a stop alone does not, without more, justify a frisk of the automobile's occupants, when a law enforcement officer reasonably suspects that a person (whether in a street encounter or traffic stop and whether the driver or the passenger) he has stopped is armed, the officer is warranted in that his safety is in danger, thus justifying a frisk (pat down)

(i). Courts have recognized that the danger was found in the presence of a weapon during a forced law enforcement encounter and thus presented a threat to the officer's safety, even if stopped for a minor violation

(ii). The legality of the frisk does not depend on the legality of the weapon's possession

~~b. Relevant Code section~~

### **Performance Outcome 2.34**

Seize contraband, weapons, or stolen property from a suspect.

### **Training Objectives Relating to 2.34**

**Given a written exercise:**

1. Identify the legal requirements relating to seizure of contraband, weapons, or stolen property from suspects.

2. Identify items subject to asset forfeiture laws.

3. Identify the time requirements for filing civil forfeitures.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.34.1. Elements Identify elements of authorizing the seizure of property.

2.34.2. ~~Items~~ Identify items subject to asset forfeiture laws.

2.34.3. ~~Legal~~ Identify the legal basis for seizing personal property related to illegal drug dealing or manufacture for forfeiture.

2.34.4. Identify the need to document items seized related to illegal drug dealing or manufacture as evidence for prosecution prior to forfeiture.

~~2.34.4.1.~~ 2.34.5. Identify the need to connect cash or other property seized with the illegal drug dealing or manufacture.

~~2.34.4.2.~~ 2.34.6. Identify the need to establish the connection, as quickly as possible as the Commonwealth must file with the Court within 21 days for Notice of Forfeiture and 90 days for Information.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below.

1. ~~Identifying~~ Identify the elements of the seizure of property: (Code of Virginia § 19.2-53)

~~a. Probable cause to believe the property is fruits of a crime, contraband, or evidence~~

~~b. Instrumentality (weapons, other items)~~

a. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device

b. Any search, including the search of the contents of any computer, computer network, or other device conducted, may be conducted in any location and is not limited to the location where the evidence was seized

2. Identify items subject to asset forfeiture laws

a. Situations where assets may be seized: § 19.2-386.15 - § 19.2-386.35

~~Autos used to transport more than \$500. of stolen goods~~

~~§19.2-386.16~~

~~Autos used to transport illegal alcohol~~

~~3. Identify the legal basis for seizing personal property related to illegal drug dealing or manufacture for forfeiture (Code of Virginia, §19.2-386.22)~~

~~a. The property was used in substantial connection with the manufacture, sale, or distribution of illegal drugs.~~

~~4. Identify what property may be forfeited if the legal basis can be proven.~~

~~a. Money, medical equipment, laboratory equipment, motor vehicles and  
all other property of any kind or character.~~

~~5. Identify the need to document items seized related to illegal drug dealing or  
manufacture as evidence for prosecution prior to forfeiture:~~

~~a. Identify the need to connect cash or other property seized with the  
illegal drug dealing or manufacture.~~

~~b. Identify the need to establish the connection as quickly as possible.~~

~~**Instructor Note: Advise trainees that they will need to identify the department  
procedure to contact Commonwealth's Attorney so that necessary paperwork related  
to seizing assets may be initiated. (Department training)**~~

### **Performance Outcome 2.35**

Identify, establish custody of, and record a chain of custody for evidence, seized or  
detained property, or recovered property.

### **Training Objectives Related to 2.35**

1. Given a written exercise, identify legal requirements to identify, establish custody of, and document a chain of custody for evidence, seized or detained property, or recovered property.

2. Given a written exercise, identify the legal requirements for proper disposition of unclaimed personal property in possession of law enforcement that is neither needed for evidence ~~not~~ nor is subject to forfeiture.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.35.1. Define evidence.

2.35.2. ~~Define~~ Identify the types of evidence.

2.35.3. Define ~~the~~ chain of custody.

2.35.4. Identify the minimum tests that an item of evidence must successfully pass before admission to any criminal court.

~~2.35.5. Identify methods used for initially considering that an item may be evidence~~

~~2.35.6.~~ 2.35.5. Identify procedure to establish and track chain of custody of evidence:.

~~2.35.6.1. Establish custody by marking with proper tags and securing or protecting.~~

~~2.35.6.2. Document all persons handling the evidence or property.~~

~~2.35.6.3. Document all persons handling the evidence or property during recovery, removal, transport, storage, and release.~~

~~2.35.7.~~ 2.35.6 Identify the reason to document return of property when lawfully released for later recovery.

~~2.35.8.~~ 2.35.7. Identify the lawful disposition of ordinary unclaimed personal property.

~~2.35.9.~~ 2.35.8. Identify the lawful disposition of unclaimed firearms.

2.35.9 Identify the difference between ownership and lawful possession of a firearm.

~~2.35.10.~~ 2.35.10. Identify the lawful disposition of drugs and drug paraphernalia not needed as evidence.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below.



## 1. Define evidence

a. Any material that serves as the basis of proving the truth or falsity of a fact in issue; each piece of evidence should tend to prove a material fact; some of which may be direct or circumstantial

## 2. Define Identify the types of evidence:

- a. Documentary (written items)
- b. Trace
- c. Real
- d. Circumstantial
- e. Physical
- f. Confessions
- g. Photographic

## 3. Define the chain of custody

a. As a document, which lists which persons had control of evidence so a defendant will have the Sixth Amendment right of confrontation by having the ability to cross-examine these witnesses

b. Commonwealth must prove substance introduced in evidence is the same that was seized from the defendant and that it has not been tampered with

(i). If this can't be proven, a fatal break in the chain of custody exists

(ii). Must be proven to a reasonable certainty

4. Identify the minimum tests that an item of evidence must successfully pass before admission to any criminal court (Rules of Evidence)

a. Legal relevance

b. Logical relevance

5. ~~Methods~~ Identify methods used to initially identify evidence through:

a. Personal observation

b. Discovery through a valid search warrant

c. Investigation or other witnesses

~~6. Identify methods used for initially considering that an item may be evidence.~~

~~7~~ 6. Identify procedure to establish and track chain of custody of evidence:

a. Establish custody by marking with proper tags and securing or protecting

b. Document all persons handling the evidence or property

(i). Records/notes should be maintained indicating all persons who handle, recover, remove transport, store or release evidence or property

(ii). When evidence needs to go to lab and process

c. Document all persons handling the evidence or property during recovery, removal, transport, storage, and release

d. Determine when appropriate to turn over for expert recovery and examination

(i). When evidence needs to go to be processed and forensically examined

e. Document by signed receipt, the return of evidence or property including the reason

(i). This will show who accepted the responsibility for the item as well as where to begin looking in the event it is necessary to acquire again

8. 7. Identify reason to document return of property when lawfully released for later recovery.

a. Must maintain chain of custody to show not tampered with

9. 8. Distinguish between property in possession of law enforcement and property in possession of the court

a. Evidence will remain within the custody of law enforcement until entered into evidence at trial

11. 9. Identify the role of the Commonwealth's Attorney in the destruction or disposal of unclaimed personal property

12. 10. Identify the role of the court in the following:

a. Disposition of unclaimed property (§ 15.2-1719 (local officers), § 52-11.4 (State Police))

b. Disposition of unclaimed firearms (~~§ 19.2-386.29~~) (§ 15.2-1721 and § 52-11.4 § 52-11.5 (State Police))

c. Disposition of drugs and drug paraphernalia not needed as evidence (§ 19.2-386.23)

11. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have

been seized in connection with violations of Chapter 7 (§ 18.2-247 et seq.) shall be forfeited and disposed of

~~13. Identify the role of the State Treasurer in the destruction or other disposition of personal property other than drugs or drug paraphernalia.~~

### **Performance Outcome 2.36**

Identify the legal basis for use of force by a law enforcement officer.

### **Training Objective Related to 2.36**

1. Given a written exercise, identify elements of case law and statutory law pertaining to use of force by law enforcement officers in the performance of duty.

**Criteria:** The trainee student shall be tested on the following:

2.36.1. Identify that an officer may use force against a citizen only when objectively reasonable to effect a lawful detention or arrest or in defense of the officer or another person.

~~2.36.1. Preservation of life~~

~~2.36.1.1. Case law~~

~~2.36.1.2. Statutory law~~

~~2.36.2. Preservation of property~~

2.36.2. Identify the factors that determine whether an officer's use of force is excessive.

2.36.2.1. Force that is objectively unreasonable under the totality of circumstances, to include:

2.36.2.1.1. Severity of the crime

2.36.2.1.2. Whether the suspect poses an immediate threat to the officer or others

2.36.2.1.3. Actively resisting arrest or flight

2.36.3. Identify that a deadly weapon is any object, other than a body part or stationary object that in the manner of its actual, attempted, or threatened use is likely to cause serious bodily injury or death.

2.36.4. Identify that deadly force is any force that is likely or intended to cause death or serious bodily harm.

2.36.5. Identify that deadly force may not be used by an officer unless:

2.36.5.1. The officer reasonably believes that deadly force is immediately necessary to protect the officer or another person, other than the subject of the use of deadly force, from the threat of serious bodily injury or death;

2.36.5.2. If feasible, the officer warns the subject of the deadly force that the officer will use deadly force;

2.36.5.3. The law enforcement officer's actions are reasonable, given the totality of the circumstances; and

2.36.5.4. All other options have been exhausted or do not reasonably lend themselves to the circumstances

2.36.6. Identify that unless the circumstances justify the use of deadly force, neck restraints, shooting at or into a moving vehicle and use of kinetic impact weapons are prohibited.

2.36.7. Identify that an officer, while in performance of their official duties, who witnesses another officer attempting to use or using excessive force, shall intervene to end such attempt or use of force.

2.36.7.1. An officer who intervenes or witnesses excessive force shall report the event in accordance with agency policies and procedures.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below.

1. Additional factors determining whether an officer's use of deadly force are proper are:

a. The reasonableness of the officer's belief and actions from the perspective of a reasonable officer on the scene at the time of the incident; and

b. The totality of the circumstances, including:

(i). The amount of time available to the law enforcement officer to make a decision;

(ii). Whether the subject of the use of deadly force possessed or appeared to possess a deadly weapon and refused to comply with the officer's lawful order to surrender an object believed to be a deadly weapon prior to the officer using deadly force;

(iii). Whether the officer engaged in de-escalation measures prior to the use of deadly force, including taking cover, waiting for backup, trying to calm the subject prior to the use of force, or using non-deadly force prior to the use of deadly force;



(iv). Whether any conduct by the law enforcement officer prior to the use of deadly force intentionally increased the risk of a confrontation resulting in deadly force being used; and

(v). The seriousness of the suspected crime

Case law and statutory law pertaining to use of force by law enforcement officers in the performance of duty.

~~1.~~ Preservation of life:

a. Case law:

~~1. Graham v. Connor~~

~~2. Tennessee v. Garner~~

~~3. Objective reasonableness~~

~~4. Deliberate indifference (Canton v. Harris)~~

~~b. 2.~~ Statutory law An officer may not use deadly force to prevent a felon from fleeing unless the subject is an immediate threat to an officer or other person

~~2.~~ 3. Preservation of property

a. Law enforcement officers cannot use deadly force solely to protect property

## **Performance Outcome 2.37**

~~Identify the circumstances under which a suspect is fingerprinted.~~ Identify the legal requirements related to fingerprinting.

### **Training Objectives Relating to 2.37**

**Given a written exercise:**

1. ~~Identify the circumstances under which a suspect shall be fingerprinted~~ Code of Virginia requirements related to the fingerprinting of an adult offender.
2. Identify the Code of Virginia requirements ~~related~~ relating to the fingerprinting ~~juveniles~~ of a juvenile offender.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.37.1. ~~The~~ Identify the circumstances under which a an adult suspect should be fingerprinted:

2.37.1.1. Charged with a treason or any felony

2.37.1.2. Charged with ~~a class I or class II misdemeanor~~ any misdemeanor under Title 54.1

2.37.1.3. Convicted of the above

2.37.2. ~~Identify~~ ~~The~~ ~~the~~ statutory requirements related to fingerprinting juveniles.

2.37.2.1. Age Requirement to fingerprint a juvenile who is taken into custody and charged with a delinquent act, for which an adult would be fingerprinted

~~2.37.2.2. Type of crime~~

2.37.2.3. 2.37.2.2. Charged with certain types of crimes Requirement to fingerprint a juvenile of any age who is convicted as an adult

~~2.37.2.4. 2.37.2.3. Maintain juvenile fingerprint records separately from adult records~~

~~2.37.2.5. 2.37.2.4. Destruction of juvenile fingerprint records~~

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. The circumstances under which a suspect shall be fingerprinted: ~~z~~ § 19.2-390

~~a. Charged with a felony~~

~~b. Charged with a class I or class II misdemeanor—release on summons after arrest unless charged with 18.2-266 Driving Under the Influence~~

~~c. Convicted of a class I or class II misdemeanor (§ [19.2-74](#))~~

~~d. Effective January 1, 2006, a photograph of the arrestee must accompany fingerprints submitted to the Central Criminal Records Exchange.~~

2. The requirements related to fingerprinting juveniles: § [16.1-299](#)

~~a. Age~~

~~b. Type of crime~~

~~c. Charged with certain types of crimes~~

~~d. Maintain juvenile fingerprint records separately from adult records~~

~~e. Destruction of juvenile fingerprint records~~

### **Performance Outcome 2.38**

~~Take into custody a person who has been detained by a citizen.~~ Identify the legal basis for a citizen (or non-law enforcement) arrest or detention.

### **Training Objectives Relating to 2.38**

**Given a written exercise:**

1. Identify the legal authority under which a citizen can detain or arrest another person.

2. Identify the legal authority for private security personnel to arrest.
3. Identify the legal authority for a bail bondsman or his or her agent to arrest.

4. Identify the legal authority for a shopkeeper or merchant to detain a shoplifter.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

- 2.38.1. Identify ~~The~~ the legal authority under which a citizen can detain another person.
- 2.38.2. Identify ~~The~~ the legal authority for private security personnel to arrest.
- 2.38.3. Identify ~~The~~ the legal authority for a bail bondsman or his or her agent to arrest.
- 2.38.4. Identify the legal authority for a shopkeeper or merchant to detain a shoplifter.
- 2.38.5. Identify the point at which reason ~~the suspect must be~~ does not need to be advised of constitutional rights under these circumstances (which only apply to law enforcement officers and not citizens, security, or bail bondsmen).

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below.

1. Identify the legal authority under which a citizen can detain or arrest another person

a. A citizen can arrest when a felony has been committed in their presence and there are reasonable grounds for believing the person arrested has committed the crime

b. A citizen can arrest for a breach of the peace committed in his or her presence

2. Identify the legal authority for private registered, armed security personnel to arrest,

§ 9.1-146

3. Identify the legal authority for a bail bondsman or his or her agent to arrest, § 9.1-

186.12 and § 9.1-185.15

4. Identify the legal authority for a shopkeeper or merchant to detain a shoplifter §18.2-

105.1 and § 8.01-226.9

~~4. Identify the point at which the suspect must be advised of constitutional rights under these circumstances.~~

### **Performance Outcome 2.39**

~~Arrest~~ Identify the legal authority to arrest persons with a warrant.

## Training Objectives Relating to 2.39

1. Given a written exercise, identify constitutional and statutory requirements to arrest a person with a warrant.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.39.1. Define arrest.

2.39.2. Identify the mandatory contents of a valid warrant.

2.39.3. Identify the territorial limitations of an officer's power to arrest.

2.39.4. Identify the consequences of an illegal arrest.

2.39.5. Identify the process of executing an arrest warrant.

2.39.6. Identify the limits of an arrest warrant in searching residence listed on the warrant and residences of third parties.

2.39.7 Identify the misdemeanor summons requirement, § 19.2-74.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below.

1. Code of Virginia, § [19.2-71](#) to § [19.2-83.1](#)

1 2. Define arrest

a. An “arrest” occurs when an officer physically restrains the freedom of movement of another or when suspect submits to the officer's assertion of authority and purpose to arrest 2.3. Identify who may issue a warrant for the arrest of a person charged with a criminal offense, § 19.2-71

3. Identify the process for seeking an arrest warrant, § 19.2-72

3. 4. Identify the mandatory contents of a valid warrant § 19.2-72:

- ~~a. It shall be directed to an appropriate officer~~
- ~~b. It shall name the accused or set forth a description by which he/she can be identified~~
- ~~c. It shall describe the offense charged with reasonable certainty~~
- ~~d. It shall command that the accused be arrested and brought before a court of appropriate jurisdiction~~
- ~~e. It shall be signed by the issuing officer~~

4. 5. Identify the territorial limitations of an officer's power to arrest



a. A sheriff or his deputy may execute an arrest warrant throughout the county in which he serves and in any city or town surrounded thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act committed during the execution of such warrant, § 19.2-71

b. § 19.2-76: A law-enforcement officer may execute within his jurisdiction a warrant, capias or summons issued anywhere in the Commonwealth

c. 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

d. § 19.2-77: 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

e. 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

f. If the arrest is made beyond the foregoing limits, the officer shall proceed according to 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

g. § 19.2-249: An offense committed on the boundary of two counties, or on the boundary of two cities, or on the boundary of a county and city, or within 300 yards thereof, may be alleged to have been committed, and may be prosecuted and punished, in either county, in either city, or the county or city, and any sheriff, deputy sheriff, or other law enforcement officer shall have jurisdiction to make arrests and preserve the peace for a like distance on either side of the boundary line between such counties, such cities, or such county and city

h. § 19.2-250: How far jurisdiction of corporate authorities extends

(i). Jurisdiction of the corporate authorities of each town or city, in criminal cases involving offenses against the Commonwealth, shall extend within the Commonwealth within one mile beyond the corporate limits of such town or city, except that such jurisdiction of the corporate authorities of town situated in counties having a density of population in excess of 300 inhabitants per square mile, or in counties adjacent to cities having a population of 170,000 or more, shall extend for 300 yards beyond the

corporate limits of such town, or in the case of the criminal jurisdiction of an adjacent county, for 300 yards within such town

i. Agency-specific mutual aid agreements may extend an officer's jurisdiction pursuant to § 15.2-1726, § 15.2-1736

j. § 15.2-1724 Public safety issues such as:

(i). Drug enforcement

(ii). Immediate threat to life or public safety

(iii). Temporary Detention or Emergency Custody orders

(iv). Disaster response

**5.** 6. Identify the consequences of an illegal arrest-

a. Can subject the arresting person to criminal and civil penalties

b. Can result in the suppression of evidence or statements

c. Can result in administrative disciplinary action

**6.** 7. Identify the process of executing an arrest warrant:

a. Duty of arresting officer for bail hearing purposes, § 19.2-80

b. Duty of arresting officer to obtain and provide a criminal history of the arrestee to the magistrate or court in order for bail hearing to be conducted, § 19.2-80.2

~~7.~~ 8. Identify the limits of an arrest warrant in searching residence listed on the warrant and residences of third parties:-

a. Officers may execute an arrest warrant and enter a dwelling in which a suspect lives when there is probable cause to believe the suspect is within

b. Unless officers have the consent of the resident or exigent circumstances are present, they must obtain a search warrant to enter a third party's residence to search for a wanted person

9. Identify the misdemeanor summons requirement, § 19.2-74

#### **Performance Outcome 2.40**

Arrest Identify the legal authority to arrest persons without a warrant.

#### **Training Objectives Relating to 2.40**

1. Given a written exercise, identify constitutional and statutory requirements to arrest a person without a warrant.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

2.40.1. Identify the requirement for warrantless felony arrest under § [19.2-81](#).

2.40.2. Identify the general requirement for a warrantless misdemeanor arrest.

~~2.40.3. Given narrative examples of arrest situations, determine if the warrantless arrest is legal (include as one situation an officer observing a crime while off duty and in plain clothes).~~

2.40.4. ~~2.40.3.~~ Identify three situations whereby in which an officer may make a warrantless arrest according to the Code of Virginia.

2.40.5. ~~2.40.4.~~ Identify when a police law enforcement officer may enter a private dwelling in order to make a warrantless arrest.

2.40.6. ~~2.40.5.~~ Identify the requirement of an officer to show his badge when not in uniform and attempting to make an arrest. Identify the uniform requirement for an officer making an arrest on a public road or highway.

**Lesson Plan Guide:** The lesson plan shall include all items listed in the Criteria section and the additional information below.

Code of Virginia, § [19.2-81](#) to [19.2-83.1](#)

1. Identify the requirement for warrantless felony arrest under § [19.2-81](#)

2. Identify the general requirement for a warrantless misdemeanor arrest, § 19.2-81

3. Define probable cause for arrest

a. Probable cause exists when the facts and circumstances within the officer's knowledge, and of which he has reasonably trustworthy information, alone are sufficient to warrant a person of reasonable caution to believe that an offense has been or is being committed by a specific person

~~4. Given narrative examples of arrest situations, determine if the warrantless arrest is legal (include as one situation an officer observing a crime while off duty and in plain clothes).~~

~~5.~~ 4. Identify the additional situations whereby an officer may make a warrantless arrest according to the Code of Virginia:

~~a. Crime committed in presence (§19.2-81)~~

~~b. At the scene of an accident~~

~~c. Upon information that the individual is wanted in another jurisdiction through electronic messages (fax, teletype and radio messages)~~

~~d. A shoplifting offense~~

- ~~e. Assault and battery~~
- ~~h. Concealed weapon in school~~
- ~~i. Vandalism to commercial property~~
- ~~g. a. A probation or parole violation, etc.~~
- ~~f. b. Escapee from a mental institution~~
- ~~j. c. Taking into custody a person detained by a citizen~~
- ~~k. d. Traffic misdemeanor arrest, § [19.2-82](#)~~
- ~~l. e. Failure to surrender, § [19.2-298](#)~~
- ~~f. Stalking, § 19.2-81.3~~
- ~~g. Assault and battery of a family or household member, § 19.2-81.3~~
- ~~h. Violation of a protective order, § 19.2-81.3~~

6. 5. Identify when a police law enforcement officer may enter a private dwelling in order to make a warrantless arrest:

- ~~a. Exigent circumstances~~
- ~~b. a. Consent~~

b. Exceptions to the search warrant requirement (i.e. exigent circumstances, hot pursuit)

~~c. Hot pursuit~~

~~7. 6.~~ Identify the Virginia State Code sections pertaining to warrantless arrests: other warrantless arrest situations.

~~a. Escape, flight and pursuit, arrest anywhere in Commonwealth (§ 19.2-77)~~

a. Arrest by officers of other states in close pursuit (§ 19.2-79)

~~c. Arrest without warrant authorized in certain cases (§ 19.2-81)~~

~~d. b.~~ Arrest of an illegal alien without alien without a warrant, § 19.2-81.6

~~e. Procedure for arrest without warrant (§ 19.2-82)~~

~~8. 7.~~ Identify the requirement for an officer to show his badge when not in uniform and attempting to make an arrest the uniform requirement for an officer making an arrest on a public road or highway, (§ 19.2-81) § 19.2-78

**~~Instructor Note: Advise trainees that they will need to identify department policy for self-identification as a law enforcement officer.~~**



### **Performance Outcome 2.41**

~~Demonstrate knowledge of general liability attached to performance of law enforcement duties related to privacy and security of person(s) and information.~~

### **Training Objective Related to 2.41**

~~1. Given a written exam, identify general liability attached to performance of enforcement duties related to privacy and security of person(s) and information.~~

**Criteria:** ~~The trainee shall be tested on the following:~~

~~2.41.1. General liability related to privacy and security of person(s).~~

~~2.41.2. General liability related to privacy and security of information.~~

**Lesson Plan Guide:** ~~The lesson plan shall include the following:~~

~~1. General liability attached to performance of law enforcement duties related to privacy and security of person(s) and information.~~

### **Performance Outcome 2.42**

~~Demonstrate knowledge of general liability attached to performance of law enforcement duties related to use of force (physical restraint, weapons, and emergency vehicle operation).~~

## **~~Training Objective Related to 2.42~~**

~~1. Given a written exam, identify general liability attached to performance of law enforcement duties related to use of force (physical restraint, weapons, and emergency vehicle operation).~~

**~~Criteria:~~** The trainee shall be tested on the following:

~~2.42.1. General liability related to use of force regarding physical restraint.~~

~~2.42.2. General liability related to use of force regarding weapons.~~

~~2.42.3. General liability related to use of force regarding emergency vehicle operation.~~

**~~Lesson Plan Guide:~~** The lesson plan shall include the following:

~~1. General liability attached to performance of law enforcement duties related to use of force (p~~

~~hysical restraint, weapons, and emergency vehicle operation).~~

## **Performance Outcome ~~2.43~~ 2.41**

Demonstrate Apply knowledge of general liability attached to performance of law enforcement duties related to false arrest, false imprisonment, and use of warnings vs. arrest.

### Training Objectives Related to ~~2.43.~~ 2.41

1. Given a written ~~exam~~ exercise, identify general liability attached to performance of law enforcement duties related to false arrest/false imprisonment.

2. Given a written exercise, identify general liability attached to the use of warnings vs. arrest ~~(discretionary arrest authority).~~

**Criteria:** The trainee student shall be tested on the following:

~~2.43.1.~~ 2.41.1. Definition of Define false arrest.

~~2.43.2.~~ 2.41.2. Definition of Define false imprisonment.

~~2.43.3.~~ Definition of discretionary arrest.

2.41.3. Identify the general liability attached to the performance of law enforcement duties related to false arrest.

2.41.4. Identify the general liability attached to the performance of law enforcement duties related to false imprisonment.

2.41.5. Identify the general liability attached to the use of warnings vs. arrest.

**Lesson Plan Guide:** The lesson plan shall include ~~the following~~ all items listed in the Criteria section and the additional information below.

1. ~~Definition~~ Define of false arrest

a. The illegal detention of the person, without lawful process or the unlawful execution of lawful process

2. The duty to release person arrested in error as promptly as possible and place in a position as good as or better than prior to arrest

a. On a warrantless arrest, if at any point probable cause dissipates, the officer must release the subject (this is an exception to the statutory requirement to bring all arrested subjects to the magistrate forthwith)

3. ~~Definition~~ Define of false imprisonment (not limited to a jail setting)

a. False imprisonment is the restraint of one's liberty without any sufficient legal excuse therefor by word or acts

~~4. Definition of discretionary arrest (using a warning instead of making an arrest) and the limitations inherent to this~~

5. ~~4.~~ Documentation of Identify the need to document circumstances related to a false arrest

~~6.~~ Documentation of circumstances related to discretionary arrest (using a warning instead of making an arrest)

~~**Instructor Note: Advise trainees that they will need to identify their department policy related to the use of discretionary arrest (giving a warning instead of making an arrest) during field training.**~~

#### **Performance Outcome 2.44. 2.42**

Demonstrate Apply knowledge of general liability attached to performance of law enforcement duties related to treatment of suspects and arrestees.

#### **Training Objective Related to ~~2.44.~~ 2.42**

1. Given a written exam exercise, identify general liability attached to performance of law enforcement duties related to the treatment of suspects and arrestees.

**Criteria:** The trainee student shall be tested on the following:

2.44.1. 2.42.1. Assessment Identify the legal requirement to assess for and provide medical treatment.

2.44.2. 2.42.2. Assessment Identify the legal requirement to assess for psychiatric treatment.

2.44.3. 2.42.3. Assessment Identify the legal requirement to assess of treatment after chemical or pepper spray.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below. ÷

1. ~~Assessment for medical treatment~~ Identify the legal requirement to assess for and provide medical treatment

a. ~~Observe and identify any injuries:~~ Deliberate indifference standard:

(i). Occurs when an officer is aware of an objectively serious medical condition, and such condition is met with subjective 'deliberate indifference' by the officer

~~1. Top down review~~

~~2. Front and back review~~

~~3. Photograph if possible~~

~~4. Transport to hospital~~

~~5. Identify source of injury (weapons, etc.)~~

~~6. Extent/seriousness of injury~~

~~7. Location on body~~

~~8. Identify all parties involved~~

~~9. If and how the arrestee was treated~~

~~10. Inquire about non-visible injuries (eyes, ears, elsewhere)~~

~~11. O.C. spray use~~

~~b. Document circumstances surrounding the injuries and indicate if a justifiable use of force was necessary.~~

~~2. Assessment for psychiatric treatment~~

~~3. Assessment of treatment after chemical or pepper spray~~

**Performance Outcome 2.45. 2.43**

Demonstrate Apply knowledge of general liability attached to performance of law enforcement duties related to law enforcement vehicle operations.

**Training Objective Related to ~~2.45.~~ 2.43**

1. Given a written exam exercise, identify general liability attached to performance of law enforcement duties related to law enforcement vehicle operations.

**Criteria:** The trainee student shall be tested on the following:

~~2.45.1.~~ 2.43.1. Identify General liability issues related to law enforcement vehicle operations.

2.43.2. Identify the importance of knowledge related to § 46.2-920 (Emergency Vehicle Exemptions).

2.43.3. Identify when the use of force, including the use of deadly force, may be appropriate in vehicle operation.

**Lesson Plan Guide:** The lesson plan shall include the following all items listed in the Criteria section and the additional information below:

1. General liability related to law enforcement vehicle operations, § 46.2-920(B)



2. Outrageously reckless conduct that poses a grave risk to public safety, can justify the use of force including deadly force to end the threat

3. The use of force, including deadly force, may be justified to end a pursuit, if there exists an actual and imminent threat to the lives of any pedestrians, civilian motorists or the officers involved in a chase

**Performance Outcome ~~2.46.~~ 2.44**

~~Demonstrate~~ Apply knowledge of general liability issues attached to performance of law enforcement duties.

**Training Objective Related to ~~2.46.~~ 2.44**

1. Given a written ~~exam~~ exercise, identify Virginia Sovereign Immunity and relevant federal civil rights law.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~2.46.1.~~ 2.44.1. Identify the Virginia Doctrine of Sovereign Immunity.

2.44.2. Identify related parts of § 8.01-195 through § 8.01-195.9.

~~2.46.2.~~ 2.44.3. Identify Federal civil rights law as follows:

~~2.46.2.1.~~ 2.44.3.1. 18 U.S.C. §241

~~2.46.2.2.~~ 2.44.3.2. 18 U.S.C. §242

~~2.46.2.3.~~ 2.44.3.3. 42 U.S.C. §1983

2.44.4. Identify the qualified immunity standard.

**Lesson Plan Guide:** The lesson plan shall cover include the following all items listed in the Criteria section and the additional information below.

~~1. Identification of Virginia Doctrine of Sovereign Immunity, relevant parts of § 8.01-195 through 8.01-195.9.~~

~~2. Identification of Federal civil rights law as follows:~~

~~a.~~ 1. 18 U.S.C. § 241

~~b.~~ 2. 18 U.S.C. § 242

~~c.~~ 3. 42 U.S.C. §1983

4. Qualified immunity standard

a. Violation of a Constitutional or statutory right

b. The right is clearly established at the time

(i). A clearly established right is one that is sufficiently clear that every reasonable official would have understood that what he is doing violates that right

(ii). Does not require a case directly on point, but existing precedent must have placed the statutory or Constitutional question beyond debate

**5. Other areas as may be identified by the instructor as liable law enforcement actions.**

a. First Amendment rights as they relate to filming law enforcement activity

(i). Recording public officials including law enforcement is protected by the First Amendment

(ii). The ability to observe and, if desired, to photograph, video record, or audio record agents of the government is guarded by the Constitution

(iii). Individuals have a First Amendment right to record law enforcement when they are conducting business in a public place and where the individual making the recording has a legal right to be present

(iv). In effect, the public has the same rights to record law enforcement as the media

(v). Like most constitutional rights, freedom to record is not absolute and is governed by reasonable time, place, and manner restrictions

b. Individuals cannot:

- (i). Place themselves or others in danger
- (ii). Trespass on private property
- (iii). Cross an established law enforcement line
- (iv). Materially interfere with law enforcement activity
- (v). Otherwise violate the law

c. Seizure of recording devices

- (i). Seizure of recording device is presumed to be a violation of the Fourth Amendment
- (ii). A search warrant is always the preferred method for viewing or examining a recording device (even with a warrant, one cannot delete, destroy, or alter contents)
- (iii). Three-pronged test to justify warrantless seizure of device:
  - (1). Officers must have probable cause to believe a serious crime has been committed plus
  - (2). a good-faith belief that there is evidence of the crime within the device, and

(3). a good-faith belief that the evidence will be lost or destroyed

## 6. First Amendment Rights- Freedom of Speech

a. Citizens have the right to freedom of speech and freedom of expression

(i). This right is subject to reasonable time, place, and manner restrictions

## 7. Second Amendment– Open carry

a. The Second Amendment protects an individual right to keep and bear arms

b. Openly carrying a firearm is generally legal in the Commonwealth of Virginia

c. Where a state permits individuals to openly carry firearms, the exercise of this right, without more, cannot alone justify an investigatory detention

## Performance Outcome 2.45

Apply knowledge of the law related to the statute of limitations.

## Training Objective 2.45

1. Given a written exercise, identify the statute of limitations for misdemeanor and felonies.

**Criteria:** The student shall be tested on the following:

2.45.1. Identify the statute of limitations for misdemeanors.

2.45.2. Identify the statute of limitations for felonies.

**Lesson Plan Guide:** The lesson plan guide shall include all items in the Criteria section and the additional information below.

1. Statute of limitations for misdemeanors

a. 12 months

2. Statute of limitations for felonies

a. No time limit

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