ITINERARY FOR THE SEPTEMBER 16, 2009 MEETING OF THE GEORGE MASON AMERICAN INN OF COURT

General District Court:

The Invisible Giant

STUDENT PRESENTERS:

Richard Cheng
Nathan Chubb
Kristen Reeves

MASTERS OF THE INN:

The Honorable Lisa A. Mayne
FAIRFAX COUNTY GENERAL DISTRICT COURT
4110 Chain Bridge Road
Fairfax, Virginia 22030

J. Frederick Sinclair
J. FREDERICK SINCLAIR, P.C.
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i. Introduction
(Judge Lisa Mayne) (7:30 pm - 7:35pm) (.08 hour)

I. An Introduction to the General District Courts of Virginia
(Nathan Chubb) (7:35 pm - 7:50pm) (.25 hour)

II. Constitutional Challenges
(Richard Cheng) (7:50 pm - 8:10pm) (.33 hour)

III. Preliminary Hearings
(Kristen Reeves) (8:10 pm - 8:30pm) (.33 hour)

iv. Conclusion: Panel Discussion
(Judge Lisa Mayne, Fred Sinclair and Darwyn Easley) (8:30 pm - 8:45pm) (.25 hour)

Part I: An Introduction to the General District Courts of Virginia

A. Role of the General District Court in Virginia's judicial system

- **First and primary point of contact for most Virginians**
  - According to the State of Virginia's website, and the websites of several district courts, if a Virginian is likely to have contact with the judicial system, it will more than likely be at the district court level
    - In the GDC, there were **3,393,593 new cases in 2008**. Another 525,029 were brought in the Juvenile and Domestic Relations Courts
    - Compared to about 292,000 new cases in circuit courts in 2008
- **Court of final decision for most litigants**
  - If a decision is rendered, the GDC is likely to be the court of final decision for the litigants in the issue
  - Last year, there were 36,209 appeals from GDC rulings. Considering there were 2,261,432 final judgments entered in 2008, **approximately 1.6% of all final judgments are appealed**
- **Beginning point for some of highest justices**
  - The GDC has also been a fertile starting ground for some of Virginia's highest appointed Justices, as well as justices on all levels
    - **Three of the seven current Justices of the Supreme Court of Virginia** served in the GDC
      - Barbara Milano Keenan (Fairfax) ('80-'82)
      - Leroy F. Millette, Jr. (Prince William) ('90-'93)
      - S. Bernard Goodwyn (Chesapeake) ('95-'97)
    - Another current justice started in the Juvenile and Domestic Relations Court
      - Lawrence L. Koontz, Jr.
- **Largest consumer of judicial budget**
  - In 2008, the combined district courts received **more than 50% of Virginia's judicial budget**
    - The courts spent over $200 million dollars
      - **$93 million spent by the GDC**
      - $77 million spent by the JDR
      - $29 million spent as joint expenditures between the two district courts
    - Significant portion went to pay the salaries of the over 1800 employees of the district court system
      - Includes 127 GDC judges and over 820 GDC clerks
      - Consider these numbers in light of Chief Justice Hassell's remarks that the courts are understaffed by nearly 20

judgeships and 300 other positions, with the primary need in the district courts (2009 Virginia State of the Judiciary Address)

- However significant sums can be recouped through fines and fees. Fairfax General District Court alone recouped over $32 million in 2008, mostly from traffic

B. Jurisdiction

- GDC has jurisdiction over three types of cases as provided in the Virginia Code:
  - Civil
  - Criminal misdemeanors and preliminary hearings
  - Traffic misdemeanors and preliminary hearings
    - Note that the jurisdiction for Criminal and Traffic cases are from the same statute, but because of the volume of traffic cases, it is often thought of separately
- Civil
  - Basic civil jurisdiction for the GDC is provided for in §16.1-77 through §16.1-77.2, and §16.1-122.1 through §16.1-122.7
    - **The basic jurisdiction for most civil cases is in §16.1-77**
    - **§16.1-77** Civil Jurisdiction of GDC
      - **(1)** "Exclusive original jurisdiction of any **claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity**, when the amount of such claim does not exceed $4,500 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds $4,500 but does not exceed $15,000, exclusive of interest and any attorney's fees contracted for in the instrument."
        - Section 1 provides that any civil claim for $4,500 or less must be brought in GDC unless otherwise provided for
        - Section 1 also provides that claims between $4,500 and $15,000 may be brought in the GDC, or alternatively, may be brought in circuit courts
          - This choice may be important because §16.1-77 was amended in 2007 to **eliminate the ability of defendants to remove cases from the GDC to the circuit courts**
          - Meaning that if a case starts in the GDC, it stays there until the right of appeal

- **(2)** "Jurisdiction to try and decide **attachment** cases when the amount of the plaintiff's claim does not exceed $15,000."
- **(3)** "Jurisdiction of actions of **unlawful entry or detainer**… the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an action for damages sustained or rent proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes."
    - Section 3 provides the foundation for landlord-tenant claims in the GDC

▪ **§16.1-77.1** Judgments on Forthcoming Bonds
- "A general district court may, on motion, after 10 days' notice of the time and place thereof, **give judgment on any forthcoming bond taken by a sheriff** or other officer upon a fieri facias issued by such court."

▪ **§16.1-77.2** Partition of Property
- "Every general district court shall have jurisdiction of proceedings for **partition of personal property, within the limits as to value** and in accordance with the provisions hereinafter contained."

o **The GDC also contains the Small Claims Court**
▪ Small Claims division of GDC is unlike any other part of the judicial system, and harkens back to the English roots of the adversarial process
▪ **§16.1-122.1** Designating Small Claims Court
- "On or before July 1, 1999, each general district court shall establish, using existing facilities, a small claims division to be designated a small claims court."
    - This statute creates the Small Claims Court of GDC. It also proceeds to set restrictions on the courts' ability to hear cases where the Commonwealth or an agent thereof is a defendant

▪ **§16.1-122.2** Jurisdiction
- "Notwithstanding any provision of law to the contrary, the small claims court shall have jurisdiction, concurrent with that of the general district court, over the civil action specified in § 16.1-77 (1) **when the amount claimed does not exceed $5,000**, exclusive of interest."
    - Provides for the same jurisdiction as GDC up to $5,000

▪ **§16.1-122.3** Procedure for Commencing Actions
▪ **§16.1-122.4** Representation and Removal
- **(A)** "**All parties shall be represented by themselves** in actions before the small claims court **except** as follows:

        - **(1) A corporate or partnership plaintiff or defendant** may be represented by an owner, a general partner, an officer or an employee of that corporation or partnership who shall have all the rights and privileges given an individual to represent, plead and try a case without an attorney. **An attorney may serve in this capacity if he is appearing pro se, but he may not serve in a representative capacity**.
        - **(2)** A **plaintiff or defendant who, in the judge's opinion, is unable to understand or participate on his own behalf** in the hearing may be represented by a friend or relative if the representative is familiar with the facts of the case and is **not an attorney**.
    - **(B)** A defendant shall have the right to remove the case to the general district court at any point preceding the handing down of the decision by the judge and may be represented by an attorney for that purpose."
        - This statute provides that the Small Claims Court will proceed for all actions without attorneys, unless a defendant wishes to remove to the GDC
- **§16.1-122.5** Informal Hearings, Rules of Evidence Suspended
    - "In trials before the small claims court, witnesses shall be sworn. The **general district court judge shall conduct the trial in an informal manner so as to do substantial justice between the parties**. The judge shall have the discretion to **admit all evidence which may be of probative value although not in accordance with formal rules** of practice, procedure, pleading or evidence, except that privileged communications shall not be admissible. The object of such trials shall be to determine the rights of the litigants on the merits and to dispense expeditious justice between the parties."
        - This statute effectively places the judge in a more active role than would otherwise occur for the purpose of helping the parties litigate the issues in a timely and effective manner
- **§16.1-122.6** Judgment and Collection
    - Effectively states that collection and judgment from this court will proceed in the same manner as collections and judgment from the GDC
- **§16.1-122.7** Appeals
    - Effectively states that appeals from this court will proceed in the same manner as appeals from the GDC

- While the statutes just listed provide the jurisdictional scope of the GDC, it does not give the full breadth of the types of cases and controversies that could be brought to a GDC judge
    - Throughout the Virginia Code there are opportunities for civil adjudication beyond contract cases and personal injury cases that could appear in the GDC
- **Below are just a few samples of types of cases a GDC judge could hear**
    - **Zoning Violations**
        - **§15.2-2209** Zoning violations
            - "Notwithstanding subdivision A 5 of §15.2-2286, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance… If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law."
    - **Animal Control**
        - **§3.2-6500 et. seq.** Animal Control
            - Most of the animal control sections are criminal in nature, but many provide for civil determinations or remedies
                - **6540 (B)** "Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time.**"**
    - **Involuntary Commitment Proceedings**
        - **§16.1-69.28 and §37.2-809(J)** Involuntary Commitment Proceedings
            - "A judge of a district court shall have and may exercise, concurrently with special justices appointed for the purpose, the jurisdiction conferred by general law upon justices, and special justices in all matters in connection with the adjudication and commitment of incapacitated persons, including drug-addicted and inebriate persons, and the institution and conduct of proceedings thereof."
                - Note that in 2008, there are over 24,000 involuntary commitment hearings in the GDC

- 19th District (Fairfax) – 1,616
- 20th District (Loudon) – 730
- 31st District (Prince William) – 688
- 18th District (Alexandria) – 433
- 17th District (Arlington) – 330

- **Isolation Hearings**
  - **§32.1-48.03** and **VA Rule 7A:16** Isolation Hearings
    - "Commissioner or his designee may petition the general district court of the county or city in which such person resides to order the person to appear before the court to determine whether isolation is necessary to protect the public health from the risk of infection with a communicable disease of public health significance."
      - Isolation hearings for infectious diseases have not been frequently needed in Virginia, although fear over Swine Flu may increase the likelihood of needing these hearings in the coming year
- **Protective Orders in cases of stalking, sexual battery and acts of violence**
  - The GDC has authority to extend a protective order in all cases not falling under the jurisdiction of the JDR.
    - **§16.1-241(J)** defines the JDR jurisdiction as cases involving offenses in which one family or household member is charges with an offense in which another is the victim
    - Protective orders in the GDC generally involve parties who were in a dating relationship who did not reside together and do not have children in common
  - **§19.2-152.8** Emergency Protective Orders
    - "Any judge of a circuit court, general district court, juvenile and domestic relations district court or magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in order to protect the health or safety of any person."
      - These protective orders generally last two days
  - **§19.2-152.9** Preliminary Protective Orders
    - "Upon the filing of a petition … the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner."

            - These protective orders last until a hearing may occur, which can be no longer than 15 days from when the protective order is issued
        - **§19.2-152.10** Protective Orders
            - "The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner."
                - The GDC can issue a protective order that extends for up to two years time
    - **Consent in Abortion and Pregnancy Termination**
        - **§16.1-77(8)** Abortion and Pregnancy Termination Penalties
            - "Jurisdiction to try and decide cases alleging a civil violation described in §18.2-76."
                - This section provides jurisdiction over §18.2-76, which itself refers to procedures of obtaining consent in abortion or pregnancy termination situations, and the penalty for improperly following these procedures is a civil penalty of $2,500
- **Criminal and Traffic Jurisdiction**
    - **Basic criminal and traffic jurisdiction for the GDC is provided for in §16.1-123.1**
        - **16.1-123.1** Criminal and traffic jurisdiction of general district courts
            - **(1)** "Each general district court shall have… **exclusive original jurisdiction** for the trial of:
                - **(A)** All **offenses against the ordinances, laws and bylaws of such county**, including the towns within such county, or city or of any service district within such county or city, except a city ordinance enacted pursuant to §§ 18.2-372 through 18.2-391.1. All offenses against the ordinances of a service district shall be prosecuted in the name of such service district;
                - **(B) All other misdemeanors and traffic infractions arising in such county**."
                    - This section sets out the basic ability of the GDC to hear misdemeanors and traffic cases in a district
            - **§18.2-9** Codifying classes of felonies and misdemeanors
                - Establishes **four classes of misdemeanors**, ranging from Class 1 misdemeanors to Class 4 misdemeanors
            - **§18.2-11** Codifying penalties for misdemeanors

        - **(A)** "For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than $2,500, either or both."
        - **(B)** "For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than $1,000, either or both."
        - **(C)** "For Class 3 misdemeanors, a fine of not more than $500.
        - **(D)** "For Class 4 misdemeanors, a fine of not more than $250."
    - When taken together, the GDC can handle offenses that carry a maximum sentence of one year in jail and/or a fine of $2,500
        - This section includes offenses of the criminal code and offenses of the traffic code, such that felonious traffic offenses would require adjudication in the circuit court, despite the general preference of having traffic offenses tried in GDC
- **Common Criminal Offenses in the GDC**
    - **§18.2-250.1 Possession of marijuana**
        - **(A)** "It is unlawful for any person **knowingly or intentionally to possess marijuana** … Any person who violates this section shall be **guilty of a misdemeanor**, and be confined in jail not more than thirty days and a fine of not more than $500, either or both."
            - General possession of marijuana is one of the most commonly litigated criminal offenses in the GDC
    - **§4.1-305 Unlawfully purchasing or possessing alcoholic beverages**
        - **(A)** "**No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall consume, purchase or possess**, or attempt to consume, purchase or possess, any alcoholic beverage…"
        - **(B)** "**No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile or simulated license** to operate a motor vehicle, (ii) altered, fictitious, facsimile or simulated document, including, but not limited to a birth certificate or student identification card, or (iii) motor vehicle operator's license, birth certificate or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase or attempt to consume or purchase an alcoholic beverage."
        - **(C)** "Any person found guilty of a violation of this section shall be guilty of a **Class 1 misdemeanor**."

        - Underaged drinking is another of the commonly litigated criminal offenses in the GDC
- **Common Traffic Offenses in the GDC**
    - **§46.2-872 Maximum Speed**
        - "The maximum **speed limit shall be fifty-five miles per hour** on any highway having a posted speed limit of fifty-five miles or more per hour."
    - **§46.2-852 Reckless Driving**
        - "Irrespective of the maximum speeds permitted by law, any person who **drives a vehicle on any highway recklessly** or at a speed or in a manner so as to endanger the life, limb, or property of any person shall be guilty of reckless driving."
            - Reckless driving charges **begin at §46.2-852** and **culminates with penalties for reckless driving at §46.2-868**
            - The most common reckless driving charges relate to speeding (§§ 46.1-861, -62) and overall are among the most litigated traffic offenses in the GDC
    - **§18.2-272 Driving after forfeiture of license (alcohol related offenses)**
        - **(A)** "Any person who drives or operates any motor vehicle, engine or train in the Commonwealth during the time for which he was deprived of the right to do so (i) upon conviction of a violation of § 18.2-268.3 or of an offense set forth in subsection E of § 18.2-270, (ii) by § 18.2-271 or 46.2-391.2, (iii) after his license has been revoked pursuant to § 46.2-389 or 46.2-391, or (iv) in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1, is guilty of a Class 1 misdemeanor except as otherwise provided in § 46.2-391, and is subject to administrative revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391. Any person convicted of three violations of this section committed within a 10-year period is guilty of a Class 6 felony."
            - This section refers to penalties for drivers who continue to drive after having a license suspended or revoked due to alcohol related offenses
    - **§46.2-300 Driving without a license**
        - "**No person**, except those expressly exempted in §§ 46.2-303 through 46.2-308, **shall drive any motor vehicle** on any highway in the Commonwealth **until such person** has… **obtained a driver's license**… A violation of this section is a Class 2 misdemeanor."
    - **§46.2-301 Driving while license, permit, or privilege to drive suspended or revoked**

- **(A)** "In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked for (i) a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266 or § 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or where such person's license has been administratively suspended under the provisions of § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.
- **(B)** "Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the period of such suspension or revocation has terminated or the privilege has been reinstated or a restricted license is issued pursuant to subsection E. A clerk's notice of suspension of license for failure to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for the purpose of maintaining a conviction under this section."
- **(C)** "A violation of subsection B is a Class 1 misdemeanor."

▪ **§18.2-266 Driving a motor vehicle while intoxicated (DWI)**
- "It shall be unlawful for any person to drive or operate any motor vehicle, engine or train (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of

breath as indicated by a chemical test administered as provided in this article, (ii) while such person is under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, or (v) while such person has a blood concentration of any of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood. A charge alleging a violation of this section shall support a conviction under clauses (i), (ii), (iii), (iv), or (v)."

    - First and second offense DWI's are generally determined in the GDC. However a third offense elevates to a felony and is handled in the Circuit Courts
    - Second offense carries a mandatory driver's license suspension of three years

- **§46.2-894 Hit and Run**
    - "The driver of any vehicle involved in an accident in which a person is killed or injured or in which an attended vehicle or other attended property is damaged shall immediately stop as close to the scene of the accident as possible without obstructing traffic, as provided in § 46.2-888, and report his name, address, driver's license number, and vehicle registration number forthwith to the State Police or local law-enforcement agency, to the person struck and injured if such person appears to be capable of understanding and retaining the information, or to the driver or some other occupant of the vehicle collided with or to the custodian of other damaged property. The driver shall also render reasonable assistance to any person injured in such accident, including taking such injured person to a physician, surgeon, or hospital if it is apparent that medical treatment is necessary or is requested by the injured person."
        - This statute creates either a Class 5 felony if there is an injury to a person or damage of over $1,000 or Class 1 misdemeanor if there is no injury to

individuals and damage under $1,000. Either way, hit and runs are likely to be in the GDC, either for trial as a misdemeanor or a preliminary hearing for a felony

- While the statutes just listed provide the jurisdictional scope of the GDC, and its most common cases, **it does not give the full breadth of the situations that could be brought to a GDC judge**
  - In many of the titles in the Virginia code, misdemeanors or felonies exist scattered throughout
- **Below are just a few small samples of types of cases a GDC judge could possibly hear on their criminal docket**
  - **Brandishing a Firearm**
    - **§18.2-282**
      - "It shall be **unlawful for any person to point, hold or brandish any firearm** or any air or gas operated weapon or any object similar in appearance, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another… Persons violating the provisions of this section shall be guilty of a **Class 1 misdemeanor**."
  - **State Revenue and Election Laws**
    - **§16.1-123.1**
      - (2) "Each general district court which is established within a city shall also have:
        - (a) Concurrent jurisdiction with the circuit court of such city for all **violations of state revenue and election laws**."
  - **Animal Care Penalties**
    - **§3.2-6504**
      - Statutes provide that **improper care of animals, or abandonment is a misdemeanor** punishable in the GDC
  - **Violation of Fire Code**
    - **§27-100**
      - "It shall be unlawful for any owner or any other person, firm, or corporation, on or after the effective date of any Code provisions, to **violate any provisions of the Fire Prevention Code**. Any such violation shall be deemed a **Class 1 misdemeanor**."
  - **Discarding Iceboxes**
    - **§18.2-319**
      - "It shall be unlawful for any person, firm or corporation to **discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two**

cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment…. Any violation of the provisions of this section shall be punishable as a **Class 3 misdemeanor**."

- **Illegal Means of Killing Fish**
  - **§28.2-313**
    - (A) "It is unlawful to **capture or kill any fish, shellfish, or marine organisms by means of explosives, drugs, or poisons in any waters of the Commonwealth** or in any waters under its jurisdiction."
    - (B) "It is unlawful to possess, sell, or offer to sell, within the Commonwealth, any fish, shellfish, or marine organisms killed or captured by means of explosives, drugs, or poisons, whether killed or captured within or without the jurisdiction of Virginia."
    - "A violation of this section is a **Class 3 misdemeanor**."

C. A Statistical look at Local GDCs

- It may be apparent that, although the GDC is a court of limited jurisdiction, there are obvious advantages and preferences for litigating many if not most disputes in this court
- It is no surprise then that it has the highest volume of cases of any Virginia court
- For a comparison of local districts, see charts below:

New Case Statistics for 2008								
	Total		Civil		Criminal		Traffic	
District	New Cases	Rank	New Cases	Rank	New Cases	Rank	New Cases	Rank
17th (Arlington)	71,661	22	7,803	29	6,031	29	57,827	16
18th (Alexandria)	37,537	29	9,369	27	6,698	27	21,470	29
19th (Fairfax)	339,981	1	45,157	5	29,657	1	265,147	1
20th (Loudoun)	110,977	13	17,543	23	8,490	21	84,984	7
31st (Prince William)	130,178	8	31,478	12	13,557	11	85,143	6

Workload Measures for 2008			
District	Number of Judges	New Cases/Judge	Rank
17th (Arlington)	4	17,915	29
18th (Alexandria)	2	18,782	28
19th (Fairfax)	11	30,906	6
20th (Loudoun)	4	27,744	13
31st (Prince William)	4	32,545	3

Appeal Rate for GDC in 2008			
District	Appeals	Final Judgments	Appeal Rate
17th (Arlington)	314	39,360	0.80%
18th (Alexandria)	345	20,230	1.70%
19th (Fairfax)	2,247	179,409	1.25%
20th (Loudoun)	513	54,042	0.95%
31st (Prince William)	878	73,335	1.20%

Part II: Constitutional Challenges:
Heard First at the General District Court

A. Introduction

- Not only do the judges of the General District Court deal with a large volume of cases, many of them deal with cutting edge constitutional issues on a daily basis. The following four cases illustrate this point.

B. Fourth Amendment: Right against Unreasonable Search and Seizure

- *Virginia v. Moore*, 128 S. Ct. 1598 (2008) (Scalia, J.).

- Code Sections:
  - Code § 18.2-248. Possession of drugs with intent to distribute.
  - Code § 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case.
  - Code § 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.
  - Code § 46.2-936. Arrest for misdemeanor; release on summons and promise to appear.

- In *Moore*, police officers stopped Defendant for driving a motorcycle with a suspended license. Although the offense is a class 1 misdemeanor, the officers did not issue a summons pursuant to Code § 19.2-74(A)(1), but instead arrested Defendant by handcuffing and placing him in a police car. They gave him *Miranda* warnings and secured his consent to search the room at the hotel where he was staying. *Miranda v. Arizona*, 384 U.S. 436 (1966). A search of the Defendant's person while at the hotel revealed cash and crack cocaine on his person. The Defendant came before the General District Court on a misdemeanor warrant charging Defendant with Driving on a Suspended License and a felony warrant alleging Possession of Cocaine with Intent to Distribute. Code §§ 46.2-301(C) and18.2-248.

- **At the Preliminary Hearing for the felony drug charge**, Defendant moved to suppress the evidence recovered from his person on statutory grounds, arguing that the search of his person was tainted by the illegal arrest that preceded it. Specifically, Defendant argued the arrest was illegal because the police failed to release him on summons as required by state law. The General District Court denied the motion, found sufficient cause to charge the Defendant with the felony and certified the matter to the Circuit Court of the City of Portsmouth (Davis, J.).

- Defendant renewed his motion to suppress in the Circuit Court. The trial court also denied the motion to suppress and the Defendant was ultimately convicted of the drug charge.

- The conviction was reversed by a panel of the Court of Appeals, 45 Va. App. 146 (2005), reinstated by an en banc decision, 47 Va. App. 55 (2005), and finally reversed by the Virginia Supreme Court, 272 Va. 717 (2006), for the reason that Defendant should have been issued a citation under state law and the Fourth Amendment does not permit search incident to citation.

- U.S. Supreme Court reversed the judgment of the Virginia Supreme Court, reasoning that "warrantless arrests for crimes committed in the presence of an arresting officer are reasonable under the Constitution, and **while States are free to regulate such arrests however they desire, state restrictions do not alter the Fourth Amendment's protections**." *Moore*, 128 S. Ct. at 1607. "Linking Fourth Amendment protections to state law would cause them to vary from place to place and from time to time." *Id.* "When officers have probable cause to believe a person has committed a crime in their presence, the Fourth amendment permits them to make an arrest, and to search the suspect in order to safeguard evidence and to ensure their own safety." *Id.* at 1608.

C. Fifth Amendment: *Miranda* Warnings

- *Hasan v. Commonwealth*, 276 Va. 674, 667 S.E.2d 568 (2008) (Lemons, J.).

- Code Sections:
  - Code § 18.2-308. Carrying concealed weapons.
  - Code § 18.2-308.2. Possession of firearm by convicted felon.

- In *Hasan*, Defendant was stopped by police officers who were investigating an armed robbery and had a lookout for a vehicle similar to the vehicle being operated by Mr. Hasan. Initially there were three or four police officers present, then as many as two to four additional officers and a K-9 unit arrived to assist in the investigation. Various officers displayed either handguns or shotguns. Defendant was removed from his car, "patted down" for weapons, and placed in handcuffs. One of the officers asked Defendant whether there were any weapons in the car, and Defendant responded that there was a handgun under the driver's seat.[1] Officers retrieved this handgun. No *Miranda* warning was giving at any time prior to this Q&A. *Miranda*, 384 U.S. 436. Subsequent investigation revealed that Defendant and the passenger were *not* involved in the robbery.

[1] The questioning officer testified at trial that he had asked whether there were any weapons in the car for "officer safety" because "[i]f there's another occupant in that vehicle and we are stopping that vehicle for a violent felony, I'm going to ask that question regardless." *Hasan*, 276 Va. at 677, 667 S.E.2d at 570.

- Defendant came before the General District Court on felony warrants for carrying a concealed weapon, second or subsequent offense, and possession of a firearm by a convicted felon. Following a preliminary hearing, the General District Court certified the case to a Grand Jury in the Circuit Court of the City of Newport News (Tench, J.).

- In the Circuit Court, Defendant filed a motion to suppress all evidence, including his statement that there was a handgun and the handgun itself, arguing that his *Miranda* rights should have been given. The Circuit Court denied the suppression motion and convicted Defendant after he entered a conditional plea of guilty.

- The Court of Appeals affirmed the Circuit Court, reasoning that because Defendant was not taken to a patrol car prior to questioning, a reasonable man would not have understood that he was "in custody" at the moment when Defendant was questioned. Record No. 2435-06-1, slip op. at 2-4 (Dec. 27, 2007).

- Supreme Court of Virginia reversed the Court of Appeals. The Court held that Defendant was "in custody" and therefore Miranda rights should have been given and his statement and the evidence should have been suppressed.

- **Hasan is notable in setting out the test in determining "custody" for purposes of Miranda.** The Court lists "among the circumstances courts consider in determining whether a suspect is in custody are whether police were able to physically seize the suspect, whether the suspect was physically restrained, whether firearms were drawn, whether there was physical contact between police and the suspect, whether the suspect was confined in a police car, whether police told the suspect he or she was free to leave, whether police engaged in other incidents of formal arrest such as booking, whether friends or relatives of the suspect were present, whether more than one officer was present." 276 Va. 679-80, 667 S.E.2d at 571. The Court went on to say "[o]f equal importance are the officers' demeanor during the encounter, the length of the questioning, the nature of the questions asked, the location of the encounter and whether the subject was uniquely susceptible to intimidation." *Id.* at 680, 667 S.E.2d at 571. The court made it clear that this list of circumstances was illustrative and there are other circumstances that might bear on the question of whether or not the suspect's custody is curtailed to the extent that it amounts to a format arrest. *Id.* at 680, 667 S.E.2d at 571.

- Here Hasan was surrounded and confronted by numerous officers with drawn guns and a K-9 unit close by. Hasan would clearly understand that his freedom was restricted to a degree associated with formal arrest.

D. Fourteenth Amendment: Due Process

- *Yap v. Commonwealth*, 49 Va. App. 622, 643 S.E.2d 523 (2007) (Frank, J.)

- Code Sections:
  - Code § 18.2-266. Driving motor vehicle, engine, etc., while intoxicated.
  - Code § 18.2-269. Presumptions from alcohol or drug content of blood.

- In *Yap*, Defendant was involved in a three-car accident and a police officer placed Defendant under arrest after he failed field sobriety tests. Defendant consented to take a breath test that revealed a blood alcohol level of 0.13.

- Commonwealth moved the General District Court Judge (O'Flaherty, J.) to *nolle prosse* Defendant's DWI charge so that Commonwealth could seek a direct indictment against Defendant and try him in the Circuit Court of Fairfax County.

  - Previously, Judge O'Flaherty had made adverse rulings to the Commonwealth pursuant to *Francis v. Franklin*, 471 U.S. 307 (1985), holding that the presumptions from the level of alcohol in an accused's blood pursuant to Code § 18.2-269 created a mandatory presumption and violated the due process clause of the Fourteenth Amendment. *Yap*, 49 Va. App. at 628, 643 S.E.2d at 525.

  - General District Court granted the Commonwealth's motion over Defendant's objection.

- Prior to trial, Defendant filed a motion in limine asking the Circuit Court to preclude the Commonwealth from relying on the presumptions set forth in Code §§ 18.2-266 and 18.2-269. Defendant argued that these statutes impermissibly shifted the burden of proof from the Commonwealth to the accused and violated due process.

  - The Circuit Court (Wooldridge, J.) denied Defendant's motion in limine, heard the case on a plea of not guilty, and convicted Defendant of DWI.

- The Court of Appeals of Virginia affirmed Defendant's conviction, concluding that **Code §§ 18.2-266(i) and 18.2-269 created a permissive inference rather than a mandatory presumption that a fact finder is free to reject, and therefore did not violate the due process clause**.

- Prior to *Yap*, many triers of fact were inclined to convict once the Commonwealth introduced evidence that a Defendant's blood alcohol level was 0.08 or above because of the presumption afforded by Code §§ 18.2-266(i) and 18.2-269. After *Yap*, there appears to be a slight but noticeable shift in the way courts view the blood alcohol level: it is still an important piece of evidence, but since it now only creates a permissive inference, a trier of fact is free to reject such evidence if controverted by other facts.

- Subsequent to *Yap*, the Legislature enacted Code § 16.1-131.1 which addresses the right of the Commonwealth, when a court not of record rules that a statute or ordinance is unconstitutional, to stay the proceedings and transmit the case to the Circuit Court for determination of constitutionality.

E. Sixth Amendment: Right to Confront Witnesses

- The Confrontation clause is a hot topic due to the recent decisions by the U.S. Supreme Court in *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2527 (2009) (Scalia, J.), and by the Virginia Court of Appeals in *Grant v. Commonwealth*, No. 0877-08-4, 2009 Va. App. LEXIS 390 (September 1, 2009) (Petty, J.).

- *Melendez-Diaz* is the latest in the Supreme Court's line of cases regarding the right of a criminal Defendant to confront the witnesses against him as guaranteed by the Sixth and Fourteenth Amendments. The certificates of analysis at issue in *Melendez-Diaz* recited the results of a laboratory analysis of material that the lab concluded was cocaine. Finding the certificates to be "functionally identical to live, in-court testimony, doing precisely what a witness does on cross examination," the Supreme Court held admission of the certificates to be in violation of the confrontation clause for the reason that the Sixth Amendment does not permit the prosecution to prove its case via *ex parte* out-of-court affidavits. *Melendez-Diaz*, 129 S. Ct. at 2532 (internal quotation omitted).

- *Grant v. Commonwealth* is the first Virginia appellate case to apply *Melendez-Diaz* to breath test certificates. In *Grant*, after Defendant was convicted of DWI in the Fairfax General District Court, he appealed that conviction to the Circuit Court. In both courts, he argued that the breath certificate evidencing his blood alcohol level was inadmissible absent the prosecution calling the breath test operator as a witness at trial. In both courts, his motion to exclude the breath certificate was denied.

- The Court of Appeals compared the certificate of blood alcohol analysis to the lab certificates in *Melendez-Diaz*. Specifically, the Court held the attestation clause in the certificate of blood alcohol analysis, (i) confirming the accuracy of the test and (ii) that the test was conducted pursuant to the regulations of the Department of Forensic Science, to be comparable to the lab certificates found to be testimonial, and therefore inadmissible in *Melendez-Diaz.*

- "It is clear from the plain language of the statute that the General Assembly intended that the certificates be self-proving. . . . Thus, the attestation clause on the certificate of analysis in this case was designed to be used exactly like the certificates at issue in *Melendez-Diaz*—to prove facts essential to the prosecution that would otherwise have to be proved by live in-court testimony . . . . However, the U.S. Supreme Court's recent decision in *Melendez-Diaz* invalidates this method of introducing evidence . . . . **Accordingly, we hold that the attestation clause included in the certificate is testimonial in nature and its**

admission . . . constitutes a violation of the Confrontation Clause." *Grant*, 2009 Va. App. LEXIS 390, at *13-15.

F. Upcoming Issues

- The *Melendez-Diaz* case, the General Assembly's recent legislation in response, and the *Grant* case raise additional legal issues soon to be addressed in the General District Courts.
    - What if any effect does the *Grant* case have on other certificates such as radar and lidar calibrations?
    - In an attempt to address the proof problem for the Commonwealth arising out of *Melendez-Diaz* and *Grant*, the General Assembly enacted emergency legislation, effective on its passage August 21, 2009, (i) removing as a predicate for admission of the breath certificate, proof of the fact that the machine had been calibrated within the last six months (Code § 9.1-1101, as amended), and (ii) setting forth a notice and demand mechanism for blood test results (Code § 18.2-268.7, as amended), breath sheets (Code § 18.2-268.9, as amended), and certificates of analysis (Code §§ 19.2-187, as amended), requiring the prosecution to provide notice to the Defendant of its intent to use the certificate/lab sheet as evidence at trial after which the Defendant is given a period of time in which he may object to the admission of the result absent the analyst's appearance (Code § 19.2-187.1, as amended).
        - Can the emergency legislation be applied to someone arrested before its enactment?
- The General District Court will be on the front line litigating these issues.

Part III: Preliminary Hearings

A. Purpose of the Preliminary Hearing

- The preliminary hearing is "a screening process. Its primary purpose is to **determine whether there is 'sufficient cause'** for charging the accused with the crime alleged, that is, whether there is reasonable ground to believe that the crime has been committed and whether the accused is the person who committed it." *Moore v. Commonwealth*, 218 Va. 388, 391, 237 S.E.2d 187, 190 (1977) (citing *Williams v. Commonwealth*, 208 Va. 724, 160 S.E.2d 781 (1968)).
    - The proceeding is meant to protect the accused against the possibility of a long detention pending indictment on potentially groundless charges.
- The hearing is a statutory creation under **§19.2-218**: "No person who is arrested on a charge of felony shall be denied a preliminary hearing upon the question of whether there is reasonable ground to believe that he committed the offense and no indictment shall be returned in a court of record against any such person prior to such hearing unless such hearing is waived in writing by the accused."
    - However, no preliminary hearing is required before direct indictment by a grand jury. *See Webb* v. *Commonwealth*, 204 Va. 24, 31, 129 S.E.2d 22, 28 (1963) ("The grand jury here found that there was reasonable cause to believe that the defendant had committed a felony *before she was arrested* and its action preempted the defendant's right to a preliminary hearing." (emphasis added))
    - In *Webb*, the Virginia Supreme Court found that denial of the *statutory* right to a preliminary hearing does not violate **due process** under either the Constitution of Virginia or the Constitution of the United States.
        - Denial of the statutory right to a preliminary hearing can, however, be a reversible error. *See Triplett v. Commonwealth*, 212 Va. 649, 650, 186 S.E.2d 16, 17 (1972).

B. Procedural Provisions

- The defendant has a **right to be present** and to be **represented by an attorney**, and if he cannot afford an attorney, the court will appoint one before this "critical stage" in the prosecution. § 19.2-183(A). *See Coleman v. Alabama*, 399 U.S. 1, 90 S.Ct. 1999 (1970).
- The defendant must not be called upon to enter a plea, and a guilty plea entered at this hearing is inadmissible against the accused at trial. § 19.2-183(B).
- After he is advised of his right to a hearing and the consequence for waiving the hearing, the **defendant may waive** such right by signing a waiver pre-printed on the back of the warrant. §§ 19.2-183, -218.
- Witnesses for and against the accused are heard under oath in accordance with the **rules of evidence** governing criminal trials. § 19.2-183(A).

- Though the rules of evidence may not be strictly enforced at this stage, tendered evidence could be rejected as irrelevant to a preliminary hearing if it does not address whether the alleged crime was committed or whether the accused is the person who committed it. *See Williams v. Commonwealth*, 208 Va. 724, 728, 160 S.E.2d 781, 784 (1968).

- "In felony cases, the accused…**may cross-examine witnesses, introduce witnesses** in his own behalf, and testify in his own behalf." § 19.2-183(B).
  - Though the defendant is not entitled to use the preliminary hearing for discovery, this is his opportunity to probe the Commonwealth's case by cross-examining the prosecution's witnesses.
    - Discovery in the GDC is otherwise strictly limited by **Rule 7C:5**, which allows the defense to request only (1) "statements or confessions made by the accused," and (2) "any criminal record of the accused," but only where such "information is to be offered in evidence against the accused in a General District Court."
- Once a charge is certified, the GDC retains very limited jurisdiction until the defendant is indicted. A GDC judge may **change or revoke a bond** she has set, though generally once a bond is posted, it may not be increased or bail revoked absent a violation of the terms of release. *See* §§ 19.2-130, -132(B), -135, -186
  - The GDC presumably also retains authority to order mental examination, emergency psychiatric treatment, etc. if needed prior to indictment.

C. The Result

- **Three Possible Outcomes under §19.2-186**
  - Upon finding sufficient cause, the judge "shall" **certify** the felony charge (or a lesser-included felony charge) to the circuit court.
  - Where the judge finds there is not sufficient cause, she must **discharge** the defendant.
    - This dismissal *does not* prevent the Commonwealth from indicting on the charge in circuit, since jeopardy does not attach at the preliminary hearing – the accused has not yet been put on trial. *See Moore v. Commonwealth*, 218 Va. 388, 393, 237 S.E.2d 187, 190 (1977)
  - The judge may find that that there is only sufficient cause to try the defendant for a **lesser-included misdemeanor**, in which case the GDC may retain jurisdiction and try the case.
    - However, before the defendant is arraigned on the reduced charge, the Commonwealth may make a motion to *nolle pros'* the charge and may choose to indict the defendant in circuit.
- **Fourth Possibility: Commonwealth's Motion to *Nolle Prosequi***
  - By entering an order of *nolle prosequi* at the preliminary hearing stage and releasing the defendant, the prosecution may indict in the circuit court for the same charge, essentially bypassing the preliminary hearing.

- **§19.2-265.3** states, "Nolle prosequi shall be entered only in the discretion of the court, upon motion of the Commonwealth with good cause therefor shown."

D. Suppression Motions

- Filing a suppression motion prior to the preliminary hearing can actually mean **expanding discovery possibilities** at this early stage in the prosecution.
  - In addition to addressing whether a crime was committed and whether the accused is the person responsible, for example, a suppression motion might bring to the fore questions about probable cause for an arrest or the validity of a traffic stop.
  - If filed in writing in advance, the Commonwealth may be forced to bring more witnesses and evidence to the preliminary hearing to argue the motion, giving the defense a better look at the prosecution's case.
    - Motions to suppress may be raised orally at hearing, but this entitles the Commonwealth to a continuance to prepare. **§ 19.2-266.2(D)**. A written motion with notice to the Commonwealth is likely to earn more leeway from the judge when it comes to examining witnesses.
  - On the other hand, where the GDC judge grants the motion to suppress, the preliminary hearing may proceed without the introduction of that evidence. In the event the charge is dismissed upon granting of the motion, the Commonwealth still has the option to indict in circuit court, and the defense may have lost the ability to size up the prosecution's case through cross-examination prior to trial.
    - Where the GDC judge grants a motion to suppress at preliminary hearing, the ruling is **expressly non-binding on the circuit court**; the Commonwealth is free to attempt to introduce the same evidence in the circuit court. §19.2-60.
  - Moreover, an aggressive defense early in the prosecution might push the Commonwealth to simply *nolle pros'* the GDC charge and indict the defendant in circuit court, again thwarting the defense's discovery opportunity.

E. What constitutes "good cause" for an order of *nolle prosequi*? *Wright v. Commonwealth,* 52 Va. App. 690, 667 S.E.2d 787 (2008)

- After a bench trial in the circuit court, Wright appealed her conviction for felony assault on a law enforcement officer, arguing that the entry of a *nolle pros'* in the GDC and denial of her right to a preliminary hearing under § 19.2-218 violated her due process rights under Article I, Section 11 of the Virginia Constitution, and that the circuit court erred by not dismissing the charge or remanding the case for a preliminary hearing in the GDC.

- Defense counsel highlighted a prosecution tactic "to *nol pros* cases at preliminary hearing and then to direct indict[,] systematically…depriving folks of their right to a preliminary hearing." *Id*. at 697.
- The Court of Appeals held:
  - upon *nolle prosequi* of the felony charge in the GDC, Wright was no longer "arrested on a charge of felony," and, thus, not entitled to preliminary hearing under § 19.2-218;
  - nor did the GDC's entry of a *nolle prosequi* order and failure to conduct preliminary hearing deprive the defendant of *constitutional* due process rights; and
  - the circuit court lacked subject matter jurisdiction to conduct appellate review of a district court's order granting a *nolle prosequi*; the GDC judge is best situated to find "good cause"
- In a strong dissent, Judge Haley asserts:
  - The majority erroneously assumes that dismissing this indictment would mean exercising impermissible appellate review of the GDC ruling to *nolle pros*', but in fact the circuit court is duty-bound to "determine the implications of the… erroneous *nolle prosequi* ruling upon the validity of the indictment." *Id*. at 715-716.
    - **Rule 3A:9** expressly allows "defenses and objections based on defects in the institution of the prosecution" in circuit court; and § 19.2-239 grants the circuit courts "exclusive original jurisdiction for the trial of all…indictments." So, reviewing the GDC's *nolle prosequi* order is not exercising appellate review, but examining the validity of the institution of an indictment over which circuit has exclusive original jurisdiction.
  - The majority misconstrues § 19.2-218. The legislative history reveals intent to give ***all*** defendants arrested for a felony before indictment the right to a preliminary hearing, whether or not the charge is eventually certified to a grand jury. And, *Triplett* held that the denial of this statutory right was reversible error. 212 Va. 649, 651, 186 S.E.2d 16, 17 (1972). Since GDCs conduct preliminary hearings, the error would always fall with the GDC, so some remedy must lie with circuit courts that try felonies. Otherwise, no violation of § 19.2-218 would ever constitute a reversible error.

F. Strategic Considerations

- **From the Commonwealth**
  - must put on enough evidence to establish sufficient cause, but runs the risk of not making the case if the testimony presented is too sparse
  - may use this opportunity to size up the case and evaluate witnesses on the stand, but in doing so risks giving too much information to the defense

either through direct examination or by opening the scope for defense counsel's cross-examination
    - this is also the opportunity to abandon a prosecution or make a deal when it becomes obvious that the evidence or testimony doesn't suffice
- **From the Defense**
    - The defense should use this opportunity to gather as much information as possible and evaluate the Commonwealth's case by allowing prosecution witnesses to testify uninterrupted by objections and by conducting cross-examination.
        - By preserving testimony for the record, with a court reporter or tape recording, the defense can later use these witnesses statements for impeachment purposes at a circuit court trial.
    - By putting on evidence or witnesses, the defense may also rebut evidence of guilt or demonstrate weaknesses in the prosecution's case to force negotiations with the Commonwealth.
        - Defense counsel must always be wary of the prosecution's option to *nolle pros'* and direct indict, and therefore cannot always take an aggressive course.
        - Where a witness is likely to become unavailable (for good reason) before trial, the defense must consider whether or not to call the witness at preliminary hearing, potentially the only opportunity to examine the witness under oath. Likewise, if the Commonwealth calls a witness who may be unable to testify at trial, the defense may wish to conduct a thorough cross-examine, though this may not help the client at the preliminary hearing stage.
            - Under *Crawford v. Washington*, if a witness is unavailable to testify at trial, his testimony is only admissible if the defendant had a prior opportunity to cross-examine. 541 U.S. 36, 54 (2004). *See* *Fisher v. Commonwealth*, 217 Va. 808, 232 S.E.2d 798 (1977) (Where, at preliminary hearing on murder charge, the defense conducted a vigorous cross-examination of witness, there was no constitutional error in admitting that testimony at trial, since the witness was deceased; the defendant's right to confront the witness was violated.).
    - In some cases, waiving the preliminary hearing might be advantageous to the client.
        - The possibility of negotiating a plea most often dictates this decision. In drug cases, for example, the Commonwealth may threaten to charge a defendant with additional counts unless he waives preliminary hearing on existing counts and pleads in circuit.
            - Unlike in the federal system, sentencing guidelines in Virginia increase with the number of counts for which a defendant is convicted.

- In highly visible cases, waiving preliminary hearing can help contain information adverse to the client or the case, which, if reported by the press, could even contaminate the local jury pool.

Appendix of Statutes

A. Constitution of Virginia

Article I, Section 8. Criminal prosecutions.

That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, and to call for evidence in his favor, and he shall enjoy the right to a speedy and public trial, by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his peers, nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offense.

Laws may be enacted providing for the trial of offenses not felonious by a court not of record without a jury, preserving the right of the accused to an appeal to and a trial by jury in some court of record having original criminal jurisdiction. Laws may also provide for juries consisting of less than twelve, but not less than five, for the trial of offenses not felonious, and may classify such cases, and prescribe the number of jurors for each class. In criminal cases, the accused may plead guilty. If the accused plead not guilty, he may, with his consent and the concurrence of the Commonwealth's Attorney and of the court entered of record, be tried by a smaller number of jurors, or waive a jury. In case of such waiver or plea of guilty, the court shall try the case.

The provisions of this section shall be self-executing.

Article I, Section 11. Due process of law; obligation of contracts; taking of private property; prohibited discrimination; jury trial in civil cases.

That no person shall be deprived of his life, liberty, or property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts, nor any law whereby private property shall be taken or damaged for public uses, without just compensation, the term "public uses" to be defined by the General Assembly; and that the right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be abridged, except that the mere separation of the sexes shall not be considered discrimination.

That in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred. The General Assembly may limit the number of jurors for civil cases in courts of record to not less than five.

B. Code of Virginia

Code § 3.2-6504. Abandonment of animal; penalty

No person shall abandon or dump any animal. Violation of this section is a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a pound, animal shelter, or other releasing agency.

Code § 3.2-6540. Control of dangerous or vicious dogs; penalties.

A. As used in this section:
"Dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous: (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.
"Vicious dog" means a canine or canine crossbreed that has: (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

Code § 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; venue; exceptions; penalty; forfeiture; deferred proceedings; treatment and education programs and services.

A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in

which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § 4.1-200.

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile or simulated license to operate a motor vehicle, (ii) altered, fictitious, facsimile or simulated document, including, but not limited to a birth certificate or student identification card, or (iii) motor vehicle operator's license, birth certificate or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase or attempt to consume or purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor; and upon conviction, (i) such person shall be ordered to pay a mandatory minimum fine of $500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted permit under the provisions of this subsection to be (a) monitored by an alcohol safety action program, or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted permit, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

D. Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

E. Any retail licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-304.

F. When any adult who has not previously been convicted of underaged consumption, purchase or possession of alcoholic beverages in Virginia or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a treatment or education program or both, if available, that in

the opinion of the court best suits the needs of the accused. If the accused is placed on local community-based probation, the program or services shall be located in any of the judicial districts served by the local community-based probation services agency or in any judicial district ordered by the court when the placement is with an alcohol safety action program. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, (ii) certified by the Commission on VASAP, or (iii) by a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services rather than the alcohol safety action program, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

Code § 9.1-1101. Powers and duties of the Department

A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department; or any state agency in any criminal matter. The Department shall provide such services to any federal investigatory agency within available resources.

B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath.

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter including, but not limited to, contracts with the United States, units of general local government or combinations thereof in Virginia or other states, and with agencies and departments of the Commonwealth; and

3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

Code § 15.2-2209. Civil penalties for violations of zoning ordinance

Notwithstanding subdivision A 5 of § 15.2-2286, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance. The schedule of offenses shall not include any zoning violation resulting in injury to any persons, and the existence of a civil penalty shall not preclude action by the zoning administrator under subdivision A 4 of § 15.2-2286 or action by the governing body under § 15.2-2208.
This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than $ 200 for the initial summons and not more than $ 500 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $ 5,000. Designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total $ 5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
The zoning administrator or his deputy may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a

judgment of court.
If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.
No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development or (ii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.

Code § 16.1-69.28. Commitment of insane, etc., persons

A judge of a district court shall have and may exercise, concurrently with special justices appointed for the purpose, the jurisdiction conferred by general law upon justices, and special justices in all matters in connection with the adjudication and commitment of incapacitated persons, including drug-addicted and inebriate persons, and the institution and conduct of proceedings thereof. Such proceedings may be had at any place within the jurisdiction of the court over which such judge presides.

Code § 16.1-77. (Effective until July 1, 2010) Civil jurisdiction of general district courts.

Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:
(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed $4,500 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds $4,500 but does not exceed $15,000, exclusive of interest and any attorney's fees contracted for in the instrument. However, this $15,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed $15,000 exclusive of interest and any attorney's fees contracted for in the instrument.
(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an action for damages sustained or rent proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes. Any counter-claim or cross-claim shall arise out of the same use of the property for business, commercial or agricultural purposes.
(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code of Virginia.
(5) Jurisdiction to try and decide suits in interpleader involving personal property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment or by warrant in debt. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.
(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act, for writs of mandamus or for injunctions.
(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.
(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

Code § 16.1-77. (Effective July 1, 2010) Civil jurisdiction of general district courts.

Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:
(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed $4,500 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds $4,500 but does not exceed $15,000, exclusive of interest and any attorney's fees contracted for in the instrument. However, this $15,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed $15,000 exclusive of interest and any attorney's fees contracted for in the instrument.
(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes. Any counter-claim or cross-claim shall arise out of the same use of the property for business, commercial or agricultural purposes.
(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code of Virginia.
(5) Jurisdiction to try and decide suits in interpleader involving personal property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment or by warrant in debt. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.
(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act, for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.
(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

Code §16.1-77.1. When general district court may give judgment on forthcoming bond.

A general district court may, on motion, after 10 days' notice of the time and place thereof, give judgment on any forthcoming bond taken by a sheriff or other officer upon a fieri facias issued by such court.

Code § 16.1-77.2. Jurisdiction of partition of personal property and proceedings therefor.

Every general district court shall have jurisdiction of proceedings for partition of personal property, within the limits as to value and in accordance with the provisions hereinafter contained.
When joint owners of personal property of the value of more than $20 but not more than maximum jurisdictional limits of the court as provided in § 16.1-77 (1) cannot agree upon a partition thereof, any party in interest may compel partition, the proceeding for which shall be commenced by a petition presented to a general district court as prescribed in subsection 5 of § 8.01-262. A copy of the petition, together with a notice of the time and place the petitioner will ask for a hearing thereon, shall be served on each of the defendants at least 10 days prior to the day of hearing. The court shall hear and decide the matter without the appointment or use of commissioners.
Any party aggrieved by a final judgment rendered by the general district court in any such proceeding shall have an appeal of right to any circuit court of the county or city having jurisdiction of appeals from such general district court, to be perfected within the time, and in all other respects in accordance with the provisions of law concerning appeals from general district courts in other civil cases.

Code § 16.1-122.1. Small claims court; designated.

On or before July 1, 1999, each general district court shall establish, using existing facilities, a small claims division to be designated a small claims court.
Such courts shall not have jurisdiction over suits against the Commonwealth under the Virginia Tort Claims Act (§ 8.01-195.1 et seq.) or suits against any officer or employee of the Commonwealth for claims arising out of the performance of their official duties or responsibilities.

Code § 16.1-122.2. Jurisdiction.

Notwithstanding any provision of law to the contrary, the small claims court shall have jurisdiction, concurrent with that of the general district court, over the civil action specified in § 16.1-77 (1) when the amount claimed does not exceed $5,000, exclusive of interest.

Code § 16.1-122.3. Actions; how commenced; notice; continuances; pleadings.

A. Actions in the small claims court shall be commenced by the filing of a small claims civil warrant by a plaintiff.
B. At the time of filing a small claims civil warrant, the plaintiff shall pay to the clerk a required fee, which will be taxed as costs in the case. The plaintiff may be afforded the opportunity to receive preprinted information promulgated by the Committee on District Courts explaining the small claims court, including but not limited to information on case preparation, courtroom procedures, methods of collection, removal rights and appeals. The plaintiff shall select a time for the hearing which shall be held at least five days after

service of the warrant. Such time shall be subject to concurrence by the clerk's office. The chief judge may limit the number of cases any one person may set for trial on any one date.
C. Upon the filing of the small claims civil warrant in small claims court, the court shall cause notice of process to be served upon the defendant. Notice of process shall consist of a copy of the warrant and shall be served by the method used in general district court. If applicable, the defendant shall be served with a copy of the preprinted information identified in subsection B of this section attached to the copy of the civil warrant.
D. All forms required by this article shall be prescribed by the Supreme Court of Virginia.
E. The trial shall be conducted on the first return date. However, by consent of all parties or upon order of the court, the time for trial may be changed from the time set for the first return. A continuance shall be granted to either the plaintiff or defendant only upon good cause shown.
F. There shall be no pleadings in small claims court actions other than the warrant and answer, grounds of defense and counterclaims not to exceed $5,000.

Code § 16.1-122.4. Representation and removal; rights of parties.

A. All parties shall be represented by themselves in actions before the small claims court except as follows:
1. A corporate or partnership plaintiff or defendant may be represented by an owner, a general partner, an officer or an employee of that corporation or partnership who shall have all the rights and privileges given an individual to represent, plead and try a case without an attorney. An attorney may serve in this capacity if he is appearing pro se, but he may not serve in a representative capacity.
2. A plaintiff or defendant who, in the judge's opinion, is unable to understand or participate on his own behalf in the hearing may be represented by a friend or relative if the representative is familiar with the facts of the case and is not an attorney.
B. A defendant shall have the right to remove the case to the general district court at any point preceding the handing down of the decision by the judge and may be represented by an attorney for that purpose.

Code § 16.1-122.5. Informal hearings; rules of evidence suspended.

In trials before the small claims court, witnesses shall be sworn. The general district court judge shall conduct the trial in an informal manner so as to do substantial justice between the parties. The judge shall have the discretion to admit all evidence which may be of probative value although not in accordance with formal rules of practice, procedure, pleading or evidence, except that privileged communications shall not be admissible. The object of such trials shall be to determine the rights of the litigants on the merits and to dispense expeditious justice between the parties.

Code § 16.1-122.6. Judgment and collection.

The small claims court shall follow the procedures of the general district court in judgment and collection.

Code § 16.1-122.7. Appeals.

Appeals from the small claims court shall be as in other cases from the general district court.

Code § 16.1-123.1. Criminal and traffic jurisdiction of general district courts.

1. Each general district court shall have, within the county, including the towns within such county, or city for which it is established, exclusive original jurisdiction for the trial of:
a. All offenses against the ordinances, laws and bylaws of such county, including the towns within such county, or city or of any service district within such county or city, except a city ordinance enacted pursuant to §§ 18.2-372 through 18.2-391.1. All offenses against the ordinances of a service district shall be prosecuted in the name of such service district;
b. All other misdemeanors and traffic infractions arising in such county, including the towns in such county, or city.
2. Each general district court which is established within a city shall also have:
a. Concurrent jurisdiction with the circuit court of such city for all violations of state revenue and election laws; and
b. Exclusive original jurisdiction, except as otherwise provided by general law or the city charter, within the area extending for one mile beyond the corporate limits thereof, for the trial of all offenses against the ordinances, laws and bylaws of the city.
3. If a city lying within a county has no general district court provided by city charter or under general law, then the general district court of the county within which such city lies shall have the same jurisdiction in such city as a general district court established for a city would have.
4. Each general district court shall have such other jurisdiction, exclusive or concurrent, as may be conferred on such court by general law or by provisions of the charter of the city for which the court was established.
5. Nothing herein shall affect the jurisdiction conferred on the juvenile and domestic relations district court by Chapter 11 (§ 16.1-226 et seq.) of this title.

Code § 16.1-131.1. Procedure when constitutionality of a statute is challenged in a court not of record

In any criminal or traffic case in a court not of record, if the court rules that a statute or local ordinance is unconstitutional, it shall upon motion of the Commonwealth, stay the

proceedings and issue a written statement of its findings of law and relevant facts, if any, in support of its ruling and shall transmit the case, together with all papers, documents, and evidence connected therewith, to the circuit court for a determination of constitutionality. Either party may file a brief with the circuit court. Either party may request oral argument before the circuit court. The circuit court shall give the issue priority on its docket. If the circuit court rules that the statute or local ordinance is unconstitutional, the Commonwealth may appeal such interlocutory order to the Court of Appeals and thereafter to the Supreme Court; however, if the circuit court rules that the statute or local ordinance is constitutional, the circuit court shall remand the case to the court not of record for trial consistent with the ruling of the circuit court.

Code § 18.2-9. Classification of criminal offenses

(1) Felonies are classified, for the purposes of punishment and sentencing, into six classes:
(a) Class 1 felony
(b) Class 2 felony
(c) Class 3 felony
(d) Class 4 felony
(e) Class 5 felony
(f) Class 6 felony.
(2) Misdemeanors are classified, for the purposes of punishment and sentencing, into four classes:
(a) Class 1 misdemeanor
(b) Class 2 misdemeanor
(c) Class 3 misdemeanor
(d) Class 4 misdemeanor.

Code § 18.2-11. Punishment for conviction of misdemeanor

The authorized punishments for conviction of a misdemeanor are:
(a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than $ 2,500, either or both.
(b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than $ 1,000, either or both.
(c) For Class 3 misdemeanors, a fine of not more than $ 500.
(d) For Class 4 misdemeanors, a fine of not more than $ 250.
For a misdemeanor offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

Code § 18.2-266. Driving motor vehicle, engine, etc., while intoxicated, etc

It shall be unlawful for any person to drive or operate any motor vehicle, engine or train (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath as indicated by a chemical test administered as provided in this article, (ii) while such person is under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, or (v) while such person has a blood concentration of any of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood. A charge alleging a violation of this section shall support a conviction under clauses (i), (ii), (iii), (iv), or (v).
For the purposes of this article, the term *"motor vehicle"* includes mopeds, while operated on the public highways of this Commonwealth.

Code § 18.2-268.7. Transmission of blood test samples; use as evidence

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § 18.2-268.6, the Department shall have it examined for its alcohol or drug or both alcohol and drug content and the Director shall execute a certificate of analysis indicating the name of the accused; the date, time and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug or both alcohol and drug content. The Director shall remove the withdrawal certificate from the vial, attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached. The certificate of analysis with the withdrawal certificate shall be returned to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until 90 days have lapsed from the date the blood was drawn. During this 90-day period, the accused may, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. The Department shall destroy the remainder of the blood sample if no notice of a motion to transmit the remaining blood sample is received during the 90-day period.

C. When a blood sample taken in accordance with the provisions of §§ 18.2-268.2 through 18.2-268.6 is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal,

the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).

Upon request of the person whose blood was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

Code § 18.2-268.9. Assurance of breath-test validity; use of breath-test results as evidence

A. To be capable of being considered valid as evidence in a prosecution under § 18.2-266, 18.2-266.1, or subsection B of § 18.2-272, or a similar ordinance, chemical analysis of a person's breath shall be performed by an individual possessing a valid license to conduct such tests, with a type of equipment and in accordance with methods approved by the Department.

B. The Department shall establish a training program for all individuals who are to administer the breath tests. Upon a person's successful completion of the training program, the Department may license him to conduct breath-test analyses. Such license shall identify the specific types of breath test equipment upon which the individual has successfully completed training. Any individual conducting a breath test under the provisions of § 18.2-268.2 shall issue a certificate which will indicate that the test was conducted in accordance with the Department's specifications, the name of the accused, that prior to administration of the test the accused was advised of his right to observe the process and see the blood alcohol reading on the equipment used to perform the breath test, the date and time the sample was taken from the accused, the sample's alcohol content, and the name of the person who examined the sample. This certificate, when attested by the individual conducting the breath test on equipment maintained by the Department, shall be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any

civil proceeding. Any such certificate of analysis purporting to be signed by a person authorized by the Department shall be admissible in evidence without proof of seal or signature of the person whose name is signed to it. A copy of the certificate shall be promptly delivered to the accused. Copies of Department records relating to any breath test conducted pursuant to this section shall be admissible provided such copies are authenticated as true copies either by the custodian thereof or by the person to whom the custodian reports.

The officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in the arrest of the accused, if otherwise qualified to conduct such test as provided by this section, may administer the breath test and analyze the results.

Code § 18.2-269. Presumptions from alcohol or drug content of blood

A. In any prosecution for a violation of § 18.2-36.1 or clause (ii), (iii) or (iv) of § 18.2-266, or any similar ordinance, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol or drug content of his blood in accordance with the provisions of §§ 18.2-268.1 through 18.2-268.12 shall give rise to the following rebuttable presumptions:
(1) If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's blood or 0.05 grams or less per 210 liters of the accused's breath, it shall be presumed that the accused was not under the influence of alcohol intoxicants at the time of the alleged offense;
(2) If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight by volume of alcohol in the accused's blood or 0.05 grams but less than 0.08 grams per 210 liters of the accused's breath, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcohol intoxicants at the time of the alleged offense, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;
(3) If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused was under the influence of alcohol intoxicants at the time of the alleged offense; or
(4) If there was at that time an amount of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood, it shall be presumed that the accused was under the influence of drugs at the time of the alleged offense to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely.
B. The provisions of this section shall not apply to and shall not affect any prosecution for a violation of § 46.2-341.24.

Code § 18.2-282. Pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance; penalty.

A. It shall be unlawful for any person to point, hold or brandish any firearm or any air or gas operated weapon or any object similar in appearance, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another or hold a firearm or any air or gas operated weapon in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self-defense. Persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor or, if the violation occurs upon any public, private or religious elementary, middle or high school, including buildings and grounds or upon public property within 1,000 feet of such school property, he shall be guilty of a Class 6 felony.

B. Any police officer in the performance of his duty, in making an arrest under the provisions of this section, shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, holding, or brandishing such firearm or air or gas operated weapon, or object that was similar in appearance, with intent to induce fear in the mind of another.

C. For purposes of this section, the word "firearm" means any weapon that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material. The word "ammunition," as used herein, shall mean a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

Code § 18.2-319. Discarding or abandoning iceboxes, etc.; precautions required.

It shall be unlawful for any person, firm or corporation to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment.

This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

Any violation of the provisions of this section shall be punishable as a Class 3 misdemeanor.

Code § 19.2-60. Motion for return of seized property and to suppress.

A person aggrieved by an allegedly unlawful search or seizure may move the court to return any seized property and to suppress it for use as evidence. The court shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is

granted by a court of record, any seized property shall be restored as soon as practicable unless otherwise subject to lawful detention, and such property shall not be admissible in evidence at any hearing or trial. If the motion is granted by a court not of record, such property shall not be admissible in evidence at any hearing or trial before that court, but the ruling shall have no effect on any hearing or trial in a court of record.

Code § 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance of summons by special policemen and conservators of the peace

A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence which offense is a violation of any county, city or town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or § 18.2-266, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of § 19.2-82.

2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

3. Any person so summoned shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Chapter 23 (§ 19.2-387 et seq.) of this title. Reports to the Central Criminal Records Exchange concerning such persons shall be made after a disposition of guilt is entered as provided for in § 19.2-390. Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a

magistrate or other issuing authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.
Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.
Any person charged with committing any violation of § 18.2-407 may be arrested and immediately brought before a magistrate who shall proceed as provided in § 19.2-82.
B. Special policemen of the counties as provided in § 15.2-1737, special policemen or conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of this title and special policemen appointed by authority of a city's charter may issue summonses pursuant to this section, if such officers are in uniform, or displaying a badge of office. On application, the chief law-enforcement officer of the county or city shall supply each officer with a supply of summons forms, for which such officer shall account pursuant to regulation of such chief law-enforcement officer.
C. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388.

Code § 19.2-130. Bail in subsequent proceeding arising out of initial arrest.

Any person admitted to bail by a judge or clerk of a district court or by a magistrate shall not be required to be admitted to bail in any subsequent proceeding arising out of the initial arrest unless the court having jurisdiction of such subsequent proceeding deems the initial amount of bond or security taken inadequate. When the court having jurisdiction of the proceeding believes the amount of bond or security inadequate or excessive, it may change the amount of such bond or security, require new and additional sureties, or set other terms of bail as are appropriate to the case, including, but not limited to, drug and alcohol monitoring. The court may, after notice to the parties, initiate a proceeding to alter the terms and conditions of bail on its own motion.

Code § 19.2-132. Motion to increase amount of bond fixed by magistrate or clerk; when bond may be increased.

A. Although a person has been admitted to bail, if the amount of any bond is subsequently deemed insufficient, or the security taken inadequate, or if it appears that bail should have been denied, the attorney for the Commonwealth of the county or city in which the person is held for trial may, on reasonable notice to the person and to any surety on the bond of such person, move the court, or the appropriate judicial officer to increase the amount of such bond or to revoke bail. The court may, in accordance with subsection B, grant such motion and may require new or additional sureties therefor, or both or revoke bail. Any surety in a bond for the appearance of such person may take from his principal collateral or other security to indemnify such surety against liability.

The failure to notify the surety will not prohibit the court from proceeding with the bond hearing.

B. Subsequent to an initial appearance before any judicial officer where the conditions of bail have been determined, no person, after having been released on a bond, shall be subject to a motion to increase such bond or revoke bail unless (i) the person has violated a term or condition of his release, or is convicted of or arrested for a felony or misdemeanor, or (ii) the attorney for the Commonwealth presents evidence that incorrect or incomplete information regarding the person's family ties; employment; financial resources; length of residence in the community; record of convictions; record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, or victim; or other information relevant to the bond determination was relied upon by the court or magistrate establishing initial bond.

Code § 19.2-135. Commitment for trial; recognizance; notice to attorney for Commonwealth; remand on violation of condition.

When a judicial officer considers that there is sufficient cause for charging the accused or juvenile taken into custody pursuant to § 16.1-246 with a felony, unless it be a case wherein it is otherwise specially provided, the commitment shall be for trial or hearing. Any recognizance taken of the accused or juvenile shall be upon the following conditions: (1) that he appear to answer for the offense with which he is charged before the court or judge before whom the case will be tried at such time as may be stated in the recognizance and at any time or times to which the proceedings may be continued and before any court or judge thereafter in which proceedings on the charge are held; (2) that he shall not depart from the Commonwealth unless the judicial officer taking recognizance or a court in a subsequent proceeding specifically waives such requirement; and (3) that he shall keep the peace and be of good behavior until the case is finally disposed of. Every such recognizance shall also include a waiver such as is required by § 49-12 in relation to the bonds therein mentioned and though such waiver be not expressed in the recognizance it shall be deemed to be included therein in like manner and with the same effect as if it was so expressed. The judge shall return to the clerk of the court wherein the accused or juvenile is to be tried, or the case be heard as soon as may be, a certificate of the nature of the offense, showing whether the accused or juvenile was committed to jail or recognized for his appearance; and the clerk, as soon as may be, shall inform the attorney for the Commonwealth of such certificate.

The court may, in its discretion, in the event of a violation of any condition of a recognizance taken pursuant to this section, remand the principal to jail until the case is finally disposed of, and if the principal is remanded to jail, the surety is discharged from liability.

When a recognizance is taken of a witness in a case against an accused or juvenile, the condition thereof shall be that he appear to give evidence in such case and that he shall not depart from the Commonwealth without the leave of such court or judge.

Code § 19.2-152.8. Emergency protective orders authorized in cases of stalking, sexual battery, and acts of violence

A. Any judge of a circuit court, general district court, juvenile and domestic relations district court or magistrate may issue a written or oral ex parte emergency protective order pursuant to this section in order to protect the health or safety of any person.
B. When a law-enforcement officer, an allegedly stalked person or an alleged victim of sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3 or a criminal offense resulting in a serious bodily injury to the alleged victim asserts under oath to a judge or magistrate that such person is being or has been subjected to stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting in a serious bodily injury to the alleged victim and on that assertion or other evidence the judge or magistrate finds that (i) there is probable danger of a further such offense being committed by the respondent against the alleged victim and (ii) a warrant for the arrest of the respondent has been issued, the judge or magistrate shall issue an ex parte emergency protective order imposing one or more of the following conditions on the respondent:
1. Prohibiting acts of violence, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3;
2. Prohibiting such contacts by the respondent with the alleged victim of such crime or such person's family or household members as the judge or magistrate deems necessary to protect the safety of such persons; and
3. Such other conditions as the judge or magistrate deems necessary to prevent acts of stalking, acts of sexual battery, or criminal offenses resulting in injury to person or property, or communication or other contact of any kind by the respondent.
C. An emergency protective order issued pursuant to this section shall expire at 11:59 p.m. on the third day following issuance. If the expiration occurs on a day that the court is not in session, the emergency protective order shall be extended until 11:59 p.m. on the next day that the court which issued the order is in session. The respondent may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.
D. A law-enforcement officer may request an emergency protective order pursuant to this section orally, in person or by electronic means, and the judge of a circuit court, general district court, or juvenile and domestic relations district court or a magistrate may issue an oral emergency protective order. An oral emergency protective order issued pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the order or the magistrate, on a preprinted form approved and provided by the Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order asserted by the officer or the alleged victim of such crime.
E. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court or magistrate. A copy of an emergency protective order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary

law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. One copy of the order shall be given to the alleged victim of such crime. The judge or magistrate who issues an oral order pursuant to an electronic request by a law-enforcement officer shall verify the written order to determine whether the officer who reduced it to writing accurately transcribed the contents of the oral order. The original copy shall be filed with the clerk of the appropriate district court within five business days of the issuance of the order. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court. Upon request, the clerk shall provide the alleged victim of such crime with information regarding the date and time of service.

F. The issuance of an emergency protective order shall not be considered evidence of any wrongdoing by the respondent.

G. As used in this section, a "law-enforcement officer" means any (i) person who is a full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth and (ii) member of an auxiliary police force established pursuant to subsection B of § 15.2-1731. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

H. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i)

required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.
I. As used in this section, "copy" includes a facsimile copy.
J. No fee shall be charged for filing or serving any petition pursuant to this section.

Code § 19.2-152.9. Preliminary protective orders in cases of stalking, sexual battery and acts of violence.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting in a serious bodily injury to the petitioner, and (ii) a warrant has been issued for the arrest of the alleged perpetrator of such act or acts, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of stalking or another criminal offense that may result in a serious bodily injury to the petitioner or evidence sufficient to establish probable cause that stalking, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or a criminal offense resulting in a serious bodily injury to the petitioner has recently occurred shall constitute good cause.
A preliminary protective order may include any one or more of the following conditions to be imposed on the respondent:
1. Prohibiting criminal offenses that may result in injury to person or property, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3;
2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or household members as the court deems necessary for the health and safety of such persons; and
3. Such other conditions as the court deems necessary to prevent acts of stalking, acts of sexual battery, criminal offenses that may result in injury to person or property, or communication or other contact of any kind by the respondent.
B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the clerk

of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation of a criminal offense resulting in a serious bodily injury to the petitioner, sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, or stalking by a preponderance of the evidence.

E. No fees shall be charged for filing or serving petitions pursuant to this section.

F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the

residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.
G. As used in this section, "copy" includes a facsimile copy.

Code § 19.2-152.10. Protective order in cases of stalking, sexual battery and acts of violence.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a warrant for sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3, (ii) a hearing held pursuant to subsection D of § 19.2-152.9, or (iii) a conviction for sexual battery in violation of § 18.2-67.4, aggravated sexual battery in violation of § 18.2-67.3, a criminal offense resulting in a serious bodily injury to the petitioner, or a violation of § 18.2-60.3. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:
1. Prohibiting criminal offenses that may result in injury to person or property, acts of sexual battery, or acts of stalking in violation of § 18.2-60.3;
2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons; and
3. Any other relief necessary to prevent criminal offenses that may result in injury to person or property, acts of sexual battery, or acts of stalking, communication or other contact of any kind by the respondent.
B. The protective order may be issued for a specified period; however, unless otherwise authorized by law, a protective order may not be issued under this section for a period longer than two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith

forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the respondent. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

D. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

E. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network. Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

F. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on the docket of the court.
G. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.
H. No fees shall be charged for filing or serving petitions pursuant to this section.
I. As used in this section, "copy" includes a facsimile copy.

Code § 19.2-183. Examination of witnesses; assistance of counsel; evidentiary matters and remedies; power to adjourn case.

A. The judge before whom any person is brought for an offense shall, as soon as may be practical, in the presence of such person, examine on oath the witnesses for and against him. Before conducting the hearing or accepting a waiver of the hearing, the judge shall advise the accused of his right to counsel and, if the accused is indigent and the offense charged be punishable by confinement in jail or the state correctional facility, the judge shall appoint counsel as provided by law.
B. At the hearing the judge shall, in the presence of the accused, hear testimony presented for and against the accused in accordance with the rules of evidence applicable to criminal trials in this Commonwealth. In felony cases, the accused shall not be called upon to plead, but he may cross-examine witnesses, introduce witnesses in his own behalf, and testify in his own behalf.
C. A judge may adjourn a trial, pending before him, not exceeding ten days at one time, without the consent of the accused.

Code § 19.2-186. When accused to be discharged, tried, committed or bailed by judge.

The judge shall discharge the accused if he considers that there is not sufficient cause for charging him with the offense.
If a judge considers that there is sufficient cause only to charge the accused with an offense which the judge has jurisdiction to try, then he shall try the accused for such offense and convict him if he deems him guilty and pass judgment upon him in accordance with law just as if the accused had first been brought before him on a warrant charging him with such offense.
If a judge considers that there is sufficient cause to charge the accused with an offense that he does not have jurisdiction to try then he shall certify the case to the appropriate court having jurisdiction and shall commit the accused to jail or let him to bail pursuant to the provisions of Article 1 (§ 19.2-119 et seq.) of Chapter 9 of this title.

Code § 19.2-187. Admission into evidence of certain certificates of analysis

In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) of this title, a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § 18.2-268.9 or 46.2-341.26:9 to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the federal Postal Inspection Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, or the United States Secret Service Laboratory.

In a hearing or trial in which the provisions of subsection A of § 19.2-187.1 do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.

The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance or marijuana shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed by any such person shall be

admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it.

Code § 19.2-187.1. Procedures for notifying accused of certificate of analysis; waiver; continuances

A. In any trial and in any hearing other than a preliminary hearing, in which the attorney for the Commonwealth intends to offer a certificate of analysis into evidence pursuant to § 19.2-187, the attorney for the Commonwealth shall:
1. Provide by mail, delivery, or otherwise, a copy of the certificate to counsel of record for the accused, or to the accused if he is proceeding pro se, at no charge, no later than 28 days prior to the hearing or trial;
2. Attach to the copy of the certificate so provided under subdivision 1 a notice to the accused of his right to object to having the certificate admitted without the person who performed the analysis or examination being present and testifying; and
3. File a copy of the certificate and notice with the clerk of the court hearing the matter on the day that the certificate and notice are provided to the accused.
B. The accused may object in writing to admission of the certificate of analysis, in lieu of testimony, as evidence of the facts stated therein and of the results of the analysis or examination. Such objection shall be filed with the court hearing the matter, with a copy to the attorney for the Commonwealth, no more than 14 days after the certificate and notice were filed with the clerk by the attorney for the Commonwealth or the objection shall be deemed waived. If timely objection is made, the certificate shall not be admissible into evidence unless (i) the testimony of the person who performed the analysis or examination is admitted into evidence describing the facts and results of the analysis or examination during the Commonwealth's case-in-chief at the hearing or trial and that person is present and subject to cross-examination by the accused, (ii) the objection is waived by the accused or his counsel in writing or before the court, or (iii) the parties stipulate before the court to the admissibility of the certificate.
C. Where the person who performed the analysis and examination is not available for hearing or trial and the attorney for the Commonwealth has used due diligence to secure the presence of the person, the court shall order a continuance. Any continuances ordered pursuant to this subsection shall total not more than 90 days if the accused has been held continuously in custody and not more than 180 days if the accused has not been held continuously in custody.
D. Any objection by counsel for the accused, or the accused if he is proceeding pro se, to timeliness of the receipt of notice required by subsection A shall be made before hearing or trial upon his receipt of actual notice unless the accused did not receive actual notice prior to hearing or trial. A showing by the Commonwealth that the notice was mailed, delivered, or otherwise provided in compliance with the time requirements of this section shall constitute prima facie evidence that the notice was timely received by the accused. If the court finds upon the accused's objection made pursuant to this subsection, that he did not receive timely notice pursuant to subsection A, the accused's objection shall not be deemed waived and if the objection is made prior to hearing or trial, a continuance shall be ordered if requested by either party. Any continuance ordered pursuant to this

subsection shall be subject to the time limitations set forth in subsection C.
E. The accused in any hearing or trial in which a certificate of analysis is offered into evidence shall have the right to call the person performing such analysis or examination or involved in the chain of custody as a witness therein, and examine him in the same manner as if he had been called as an adverse witness. Such witness shall be summoned and appear at the cost of the Commonwealth.

Code § 19.2-218. Preliminary hearing required for person arrested on charge of felony; waiver

No person who is arrested on a charge of felony shall be denied a preliminary hearing upon the question of whether there is reasonable ground to believe that he committed the offense and no indictment shall be returned in a court of record against any such person prior to such hearing unless such hearing is waived in writing by the accused.

Code § 19.2-239. Jurisdiction in criminal cases.

The circuit courts, except where otherwise provided, shall have exclusive original jurisdiction for the trial of all presentments, indictments and informations for offenses committed within their respective circuits.

Code § 19.2-265.3. Nolle prosequi; discretion of court upon good cause shown.

Nolle prosequi shall be entered only in the discretion of the court, upon motion of the Commonwealth with good cause therefor shown.

Code § 19.2-266.2. Defense objections to be raised before trial; hearing; bill of particulars.

A. Defense motions or objections seeking (i) suppression of evidence on the grounds such evidence was obtained in violation of the provisions of the Fourth, Fifth or Sixth Amendments to the Constitution of the United States or Article I, Section 8, 10 or 11 of the Constitution of Virginia proscribing illegal searches and seizures and protecting rights against self-incrimination; (ii) dismissal of a warrant, information, or indictment or any count or charge thereof on the ground that: (a) the defendant would be deprived of a speedy trial in violation of the provisions of the Sixth Amendment to the Constitution of the United States, Article I, Section 8 of the Constitution of Virginia, or § 19.2-243; or (b) the defendant would be twice placed in jeopardy in violation of the provisions of the Fifth Amendment to the Constitution of the United States or Article I, Section 8 of the Constitution of Virginia; or (iii) dismissal of a warrant, information, or indictment or any count or charge thereof on the ground that a statute upon which it was based is unconstitutional shall be raised by motion or objection.

B. Such a motion or objection in a proceeding in circuit court shall be raised in writing, before trial. The motions or objections shall be filed and notice given to opposing counsel not later than seven days before trial in circuit court or, if made under clause (ii) of subsection A, at such time prior to trial in circuit court as the grounds for the motion or objection shall arise, whichever occurs last. A hearing on all such motions or objections shall be held not later than three days prior to trial in circuit court, unless such period is waived by the accused, as set by the trial judge. The circuit court may, however, for good cause shown and in the interest of justice, permit the motions or objections to be raised at a later time.
C. To assist the defense in filing such motions or objections in a timely manner, the circuit court shall, upon motion of the defendant, direct the Commonwealth to file a bill of particulars pursuant to § 19.2-230. The circuit court shall fix the time within which such bill of particulars is to be filed. Upon further motion of the defendant, the circuit court may, upon a showing of good cause, direct the Commonwealth to supplement its bill of particulars. The attorney for the Commonwealth shall certify that the matters stated in the bill of particulars are true and accurate to the best of his knowledge and belief.
D. In a criminal proceeding in district court, any motion or objection as described in subsection A may be raised prior to or at such proceeding. In the event such a motion or objection is raised, the district court shall, upon motion of the Commonwealth grant a continuance for good cause shown.

Code § 27-100. Violation a misdemeanor

It shall be unlawful for any owner or any other person, firm, or corporation, on or after the effective date of any Code provisions, to violate any provisions of the Fire Prevention Code. Any such violation shall be deemed a Class 1 misdemeanor, and any owner, or any other person, firm, or corporation convicted of such violation shall be punished in accordance with the provisions of § 18.2-11.

Code § 28.2-313. Killing fish by means of explosives, drugs, or poisons; possession; penalty

A. It is unlawful to capture or kill any fish, shellfish, or marine organisms by means of explosives, drugs, or poisons in any waters of the Commonwealth or in any waters under its jurisdiction.
B. It is unlawful to possess, sell, or offer to sell, within the Commonwealth, any fish, shellfish, or marine organisms killed or captured by means of explosives, drugs, or poisons, whether killed or captured within or without the jurisdiction of Virginia.
A violation of this section is a Class 3 misdemeanor.

Code § 32.1-48.03. Petition for hearing; temporary detention

A. Upon receiving a verified report or upon receiving medical evidence that any person

who has been counseled pursuant to § 32.1-48.02 has continued to engage in at-risk behavior, the Commissioner or his designee may petition the general district court of the county or city in which such person resides to order the person to appear before the court to determine whether isolation is necessary to protect the public health from the risk of infection with a communicable disease of public health significance.

B. If such person cannot be conveniently brought before the court, the court may issue an order of temporary detention. The officer executing the order of temporary detention shall order such person to remain confined in his home or another's residence or in some convenient and willing institution or other willing place for a period not to exceed 48 hours prior to a hearing. An electronic device may be used to enforce such detention in the person's home or another's residence. The institution or other place of temporary detention shall not include a jail or other place of confinement for persons charged with criminal offenses.

If the specified 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, such person may be detained until the next day which is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

C. Any person ordered to appear before the court pursuant to this section shall be informed of his right to be represented by counsel. The court shall provide the person with reasonable opportunity to employ counsel at his own expense, if so requested. If the person is not represented by counsel, the court shall appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of $ 75 and his necessary expenses.

Code § 37.2-809. Involuntary temporary detention; issuance and execution of order

J. The chief judge of each general district court shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

Code § 46.2-300. Driving without license prohibited; penalties.

No person, except those expressly exempted in §§ 46.2-303 through 46.2-308, shall drive any motor vehicle on any highway in the Commonwealth until such person has applied for a driver's license, as provided in this article, satisfactorily passed the examination required by § 46.2-325, and obtained a driver's license, nor unless the license is valid.

A violation of this section is a Class 2 misdemeanor. A second or subsequent violation of this section is a Class 1 misdemeanor.

Upon conviction under this section, the court may suspend the person's privilege to drive for a period not to exceed 90 days.

Code § 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked

A. In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked for (i) a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266 or § 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or where such person's license has been administratively suspended under the provisions of § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.

B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the period of such suspension or revocation has terminated or the privilege has been reinstated or a restricted license is issued pursuant to subsection E. A clerk's notice of suspension of license for failure to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for the purpose of maintaining a conviction under this section. For the purposes of this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

C. A violation of subsection B is a Class 1 misdemeanor. A third or subsequent offense occurring within a 10-year period shall include a mandatory minimum term of confinement in jail of 10 days. However, the court shall not be required to impose a mandatory minimum term of confinement in any case where a motor vehicle is operated in violation of this section in a situation of apparent extreme emergency which requires such operation to save life or limb.

D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive a motor vehicle for the same period for which it had been previously suspended or revoked. In the event the person violated subsection B by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension or revocation or to commence immediately if the previous suspension or revocation has expired.

E. Any person who is otherwise eligible for a restricted license may petition each court that suspended his license pursuant to subsection D for authorization for a restricted license, provided that the period of time for which the license was suspended by the court pursuant to subsection D, if measured from the date of conviction, has expired, even though the suspension itself has not expired. A court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be issued unless each court that issued a suspension of the person's license pursuant to subsection D authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or revocation of the person's license or privilege to drive for any other cause. No restricted license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a license is issued as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license issued by the Commissioner shall be carried at all times while operating a motor vehicle.
F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty of a violation of this section but is guilty of a violation of § 18.2-272.

Code § 46.2-852. Reckless driving; general rule.

Irrespective of the maximum speeds permitted by law, any person who drives a vehicle on any highway recklessly or at a speed or in a manner so as to endanger the life, limb, or property of any person shall be guilty of reckless driving.

Reckless Driving Codes

46.2-853. Driving vehicle which is not under control; faulty brakes
46.2-854. Passing on or at the crest of a grade or on a curve
46.2-855. Driving with driver's view obstructed or control impaired
46.2-856. Passing two vehicles abreast
46.2-857. Driving two abreast in a single lane
46.2-858. Passing at a railroad grade crossing
46.2-859. Passing a stopped school bus; prima facie evidence
46.2-860. Failing to give proper signals
46.2-861. Driving too fast for highway and traffic conditions

46.2-862. Exceeding speed limit
46.2-863. Failure to yield right-of-way
46.2-864. Reckless driving on parking lots, etc
46.2-865. Racing; penalty
46.2-865.1. Injuring another or causing the death of another while engaging in a race; penalties
46.2-866. Racing; aiders or abettors
46.2-867. Racing; seizure of motor vehicle

Code § 46.2-868. Reckless driving; penalties.

A. Every person convicted of reckless driving under the provisions of this article shall be guilty of a Class 1 misdemeanor.
B. Every person convicted of reckless driving under the provisions of this article who, when he committed the offense, (i) was driving without a valid operator's license due to a suspension or revocation for a moving violation and, (ii) as the sole and proximate result of his reckless driving, caused the death of another, is guilty of a Class 6 felony.

Code § 46.2-872. Maximum speed limits for vehicles operating under special permits.

The maximum speed limit shall be fifty-five miles per hour on any highway having a posted speed limit of fifty-five miles or more per hour if the vehicle or combination of vehicles is operating under a special permit issued by the Commissioner in accordance with § 46.2-1139 or § 46.2-1149.2. The Commissioner may, however, further reduce the speed limit on any permit issued in accordance with § 46.2-1139.

Code § 46.2-894. Duty of driver to stop, etc., in event of accident involving injury or death or damage to attended property; penalty.

The driver of any vehicle involved in an accident in which a person is killed or injured or in which an attended vehicle or other attended property is damaged shall immediately stop as close to the scene of the accident as possible without obstructing traffic, as provided in § 46.2-888, and report his name, address, driver's license number, and vehicle registration number forthwith to the State Police or local law-enforcement agency, to the person struck and injured if such person appears to be capable of understanding and retaining the information, or to the driver or some other occupant of the vehicle collided with or to the custodian of other damaged property. The driver shall also render reasonable assistance to any person injured in such accident, including taking such injured person to a physician, surgeon, or hospital if it is apparent that medical treatment is necessary or is requested by the injured person.
Where, because of injuries sustained in the accident, the driver is prevented from complying with the foregoing provisions of this section, the driver shall, as soon as

reasonably possible, make the required report to the State Police or local law-enforcement agency and make a reasonable effort to locate the person struck, or the driver or some other occupant of the vehicle collided with, or the custodian of the damaged property, and report to such person or persons his name, address, driver's license number, and vehicle registration number.
Any person convicted of a violation of this section is guilty of (i) a Class 5 felony if the accident results in injury to or the death of any person, or if the accident results in more than $1000 of damage to property or (ii) a Class 1 misdemeanor if the accident results in damage of $1000 or less to property.

Code § 46.2-936. Arrest for misdemeanor; release on summons and promise to appear; right to demand hearing immediately or within twenty-four hours; issuance of warrant on request of officer for violations of §§ 46.2-301 and 46.2-302; refusal to promise to appear; violations

Whenever any person is detained by or in the custody of an arresting officer, including an arrest on a warrant, for a violation of any provision of this title punishable as a misdemeanor, the arresting officer shall, except as otherwise provided in § 46.2-940, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Such time shall be at least five days after such arrest unless the person arrested demands an earlier hearing. Such person shall, if he so desires, have a right to an immediate hearing, or a hearing within twenty-four hours at a convenient hour, before a court having jurisdiction under this title within the county, city, or town wherein such offense was committed. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

Notwithstanding the foregoing provisions of this section, if prior general approval has been granted by order of the general district court for the use of this section in cases involving violations of §§ 46.2-301 and 46.2-302, the arresting officer may take the person before the appropriate judicial officer of the county or city in which the violation occurred and make oath as to the offense and request issuance of a warrant. If a warrant is issued, the judicial officer shall proceed in accordance with the provisions of Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2.

Notwithstanding any other provision of this section, in cases involving a violation of § 46.2-341.24 or § 46.2-341.31, the arresting officer shall take the person before a magistrate as provided in §§ 46.2-341.26:2 and 46.2-341.26:3. The magistrate may issue either a summons or a warrant as he shall deem proper.

Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction who shall proceed according to the provisions of § 46.2-940.

Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of § 46.2-938.

Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a law-enforcement officer for other misconduct in office.

C. Supreme Court of Virginia Rules

Virginia Supreme Court Rule 3A:9
Pleadings and Motions for Trial; Defenses and Objections.
(a) Pleadings and Motions. Pleadings in a criminal proceeding shall be the indictment, information, warrant or summons on which the accused is to be tried and the plea of not guilty, guilty or nolo contendere. Defenses and objections made before trial that heretofore could have been made by other pleas or by demurrers and motions to quash shall be made only by motion to dismiss or to grant appropriate relief, as provided in these Rules.
(b) The Motion Raising Defenses and Objections.
(1) Defenses and Objections That Must Be Raised Before Trial. Defenses and objections based on defects in the institution of the prosecution or in the written charge upon which the accused is to be tried, other than that it fails to show jurisdiction in the court or to charge an offense, must be raised by motion made within the time prescribed by paragraph (c) of this Rule. The motion shall include all such defenses and objections then available to the accused. Failure to present any such defense or objection as herein provided shall constitute a waiver thereof. Lack of jurisdiction or the failure of the written charge upon which the accused is to be tried to state an offense shall be noticed by the court at any time during the pendency of the proceeding.
(2) Defenses and Objections That May Be Raised Before Trial. In addition to the defenses and objections specified in subparagraph (b) (1) of this Rule, any defense or objection that is capable of determination without the trial of the general issue may be raised by motion before trial. Failure to present any such defense or objection before the jury returns a verdict or the court finds the defendant guilty shall constitute a waiver thereof.
(3) Form of Motion. Any motion made before trial shall be in writing if made in a circuit court, unless the court for good cause shown permits an oral motion. A motion shall state with particularity the grounds or grounds on which it is based.
(4) Hearing on Motion. A motion before trial raising defenses or objections shall be determined before the trial unless the court orders that it be deferred for determination at the trial of the general issue. An issue of fact shall be heard and determined by the court, unless a jury trial is required by constitution or statute.
(5) Effect of Determination. If a motion is determined adversely to the accused, his plea shall stand or he may plead over or, if the accused has not previously pleaded, he shall be

permitted to plead. The motion need not be renewed if the accused properly saves the point for the purpose of appeal when the court first determines the motion.
(c) Time of Filing Notice or Making Motion. A motion referred to in subparagraph (b) (1) shall be filed or made before a plea is entered and, in a circuit court, at least 7 days before the day fixed for trial, or, if the motion raises speedy trial or Double Jeopardy grounds as specified in Code § 19.2-266.2 A (ii), at such time prior to trial as the grounds for the motion or objection shall arise, whichever occurs last. A copy of such motion shall, at the time of filing, be mailed to the judge of the circuit court who will hear the case, if known.
(d) Relief From Waiver. For good cause shown the court may grant relief from any waiver provided for in this Rule.

Rule 7A:16. Isolation Proceedings under Article 3.01 of Title 32.1 of the Code of Virginia; Communicable Diseases of Public Health Significance.

A. Upon any petition by the State Health Commissioner, or that official's designee, for an order that a person or persons appear before the court to determine whether isolation is necessary to protect the public health from the risk of infection with a communicable disease of public health significance, the provisions of §§ 32.1-48.03, 32.1-48.04, and related sections of Article 3.01 of Title 32.1 of the Code of Virginia shall be followed.
B. The court shall hold hearings under this rule in a manner to protect the health and safety of individuals subject to any such order or quarantine or isolation, court personnel, counsel, witnesses, and the general public. To this end, the court may take measures including, but not limited to, ordering the hearing to be held by telephone or video conference or ordering those present to take appropriate precautions, including wearing personal protective equipment.

Rule 7C:5. Discovery.

(a) Application of Rule. This Rule applies only to the prosecution for a misdemeanor which may be punished by confinement in jail and to a preliminary hearing for a felony.
(b) Definitions. For purposes of discovery under this Rule 1) the prosecuting attorney is the attorney for the Commonwealth or the city attorney, county attorney, or town attorney, who is responsible for prosecuting the case; 2) if no prosecuting attorney prosecutes the case, the representative of the Commonwealth shall be the law enforcement officer, or, if none, such person who appears on behalf of the Commonwealth, county, city or town in the case.
(c) Discovery by the Accused. Upon motion of an accused, the court shall order the prosecuting attorney or representative of the Commonwealth to permit the accused to hear, inspect and copy or photograph the following information or material when the existence of such is known or becomes known to the prosecuting attorney or representative of the Commonwealth and such material or information is to be offered in evidence against the accused in a General District Court:

(1) any relevant written or recorded statements or confessions made by the accused, or copies thereof and the substance of any oral statements and confessions made by the accused to any law enforcement officer; and
(2) any criminal record of the accused.
(d) Time of Motion. A motion by the accused under this Rule shall be made in writing and filed with the Court and a copy thereof mailed, faxed, or otherwise delivered to the prosecuting attorney and, if applicable, to the representative of the Commonwealth at least 10 days before the day fixed for trial or preliminary hearing. The motion shall include the specific information or material sought under this Rule.
(e) Time, Place and Manner of Discovery and Inspection. An order granting relief under this Rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.
(f) Failure to Comply. If at any time during the course of the proceedings, it is brought to the attention of the court that the prosecuting attorney or representative of the Commonwealth has failed to comply with this Rule or with an order issued pursuant to this Rule, the court shall order the prosecuting attorney or representative of the Commonwealth to permit the discovery or inspection of the material not previously disclosed, and may grant such continuance to the accused as it deems appropriate.