

Fauquier County Department of Fire Rescue

OPERATING PROCEDURE

No. 803



Authority and Responsibility of Fire Marshal

Effective Date: January 11, 2021
Revision Date:

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Forms:

Approved By: Darren L. Stevens, Fire Rescue Chief

PURPOSE

The purpose of this procedure is to provide fire marshals with guidelines concerning the use of police powers granted to the fire marshal and assistant fire marshals through the Code of Virginia and the Fauquier County Code of Ordinances.

SCOPE

This operating procedure pertains to uniformed fire marshals and assistant fire marshals in the County of Fauquier.

I. REFERENCES

- A. Section 27-34.2:1 of the Code of Virginia allows fire marshals appointed by localities to have full police powers when authorized by the governing body of the locality and when training requirements have been met.
- B. Section 9-28 and 9-29 of the Fauquier County Code of Ordinances contains authorization for properly appointed fire marshals to have full police power in accordance with Section 27-34.2:1 of the Code of Virginia.
- C. When involved in activities in which the fire marshal is exercising police powers, those activities shall conform to the following sections of the Fauquier County Sheriff's Office Directives:

- 1.14 - Rules and Regulations
- 2.01 - Arrest Procedures
- 2.59 - Use of Force
- 6.02 - Firearms
- 6.05 - Oleoresin Capsicum (OC)

A copy of these directives shall be maintained in the Office of the Fauquier County Fire Marshal. The Fire Marshal shall ensure that the directives are updated as updates become available. All fire marshals shall be responsible for having a working knowledge of the referenced directives.

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II. DEFINITIONS

For the purpose of this operating procedure, the following definitions shall be used in conjunction with the referenced Fauquier County Sheriff’s Office Directives.

- A. Deputy or Officer - any reference made to deputy or officer shall include the fire marshal and assistant fire marshals
- B. Supervisor -any reference made to supervisor in this section shall be construed to mean either the Fire Chief or Assistant Fire Chief. The fire chief of the department shall be notified as soon as practical when supervisory notification is required.
- C. Fire marshal shall mean the fire marshal appointed in accordance with Section 9-28 and 9-29 of the Fauquier County Code of Ordinances and assistant fire marshals appointed in accordance with Section 9-28 and 9-29 of the Fauquier County Code of Ordinances, provided that such fire marshals have completed the training required by section [27-34.2:1](#) of the Code of Virginia.

III. POLICE POWERS

- A. Fire marshals shall limit the scope of their police powers to those situations involving the enforcement of the fire prevention code, determination as to the cause and origin of fires, the manufacture and detonation of incendiary devices, malicious false alarms, environmental crimes, and case preparation for prosecution. Under extreme emergency situations where felonies involving physical harm to a person, or threat thereof, are witnessed or that threaten the life of the fire marshal, a police officer or the public, this limit may be exceeded, however strict compliance with The Code of Virginia, this policy and referenced documents is required.

IV. STATEMENT OF POLICY

- A. Firearms

The authorized firearms and ammunition for fire marshals shall be determined by the fire chief of the department and only sworn Fire Marshals that are trained and certified for each individual weapon will be authorized to carry said weapon.

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B. Arrest Procedures

Fire marshals shall, under non-emergency conditions, utilize the Sheriff’s Office to assist in the apprehension of individuals to be taken into custody. Units from the Sheriff’s Office shall be summoned to the scene by the fire marshal as soon as the potential of a custodial arrest is recognized. The fire chief of the department shall be notified within 24 hours of the apprehension of any suspect arrested on a warrant sworn by a fire marshal.

C. Search and Seizure

A Sheriff’s Office Deputy shall be present when search warrants are executed. Seized evidence shall be secured, logged and preserved for prosecution. The Sheriff’s Office evidence locker shall be the initial depository for evidence collected. The fire chief shall be advised prior to the execution of search warrants, if possible.

D. Warrant Control

The service of warrants obtained by fire marshals shall be executed in conjunction with the appropriate law enforcement jurisdiction, when the whereabouts of the person are unknown warrants filed shall remain held by the Fauquier County Sherriff’s Office Communications Division.

E. Prisoner Transport

Prisoners in custody shall not be transported in fire department vehicles (except EMS vehicles when required). Prisoner transportation shall be the responsibility of the Fauquier County Sheriff’s Office or the appropriate law enforcement jurisdiction.

F. Booking Prisoners

The booking of prisoners shall be carried out by the Fauquier County Sheriff’s Office Adult Detention Center Deputy when possible. And the Fauquier County Sheriff’s Office Adult Detention Facility shall facilitate the booking process.

G. Use of Force

1. In July of each year the fire chief of the department shall create a list of fire marshals qualified to carry department issued weapons. The list shall contain

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the most recent range qualification score and date of score. A general order shall then be prepared and distributed authorizing qualified fire marshals to carry department weapons. Range scores must be within six months of the current years posting.

2. Fire marshals authorized to carry firearms shall qualify at a minimum of annually with a certified range officer. Documentation of all range qualifications shall be placed in the fire marshal's personnel file.
3. Fire marshals are fully responsible for the security of firearms that are assigned to them. If an issued weapon is lost or stolen, an inquiry shall be conducted to determine appropriate action. If the loss is due to the fire marshal's negligence, the fire marshal shall be subject to disciplinary action depending on the degree of negligence involved and may be required to pay for the weapon.
4. Appropriate secured storage locations for firearms shall include:
 - a. Weapons locker located at the Fire Marshal's Office.
 - b. Weapon locker in trunk of vehicle
 - c. Weapon locker at government buildings such as courthouses and Sheriff's Office.
 - d. Approved and provided by Fauquier County weapons locker for home use.
 - e. Firearms shall be secured in one of the above listed methods when not carried on the fire marshal's person.
 - f. When authorized in Section 1 above, fire marshals may wear the issued firearm and other authorized less-lethal weapons. Fire marshals shall use discretion when carrying issued firearms. Fire marshals must be aware that when conducting routine fire inspections, the wearing of a firearm may appear intimidating or threatening to business owners or others responsible for the premises being inspected. The fire marshal must be aware of this perception and should work to mitigate it. The wearing of the firearm is intended to provide a level of safety for the fire marshal and the public.
 - g. Only the following non-deadly force weapons are approved for the fire marshal once proper training has been received:
 - i. Hands and defensive tactic skills
 - ii. Department issued chemical agents
 - iii. Department issued ASP collapsible baton

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- h. The fire chief, or in his absence the assistant fire chief, shall be notified immediately of any “use of force” by a fire marshal. This notification shall include any occurrence where a weapon is drawn.
- i. The department fire chief, or in his absence the assistant fire chief, shall coordinate with other appropriate law enforcement agencies during the administrative review of the “use of force” incidents involving fire marshals.

H. Firearms Discharge

- 1. Any time a firearm is un-holstered in the course of duty, a written notification shall be made to the fire chief, or in his absence the assistant fire chief, within 24 hours.
- 2. The fire chief, or in his absence, the assistant fire chief, shall be notified immediately any time a firearm is discharged by a fire marshal other than during approved training or legitimate off-duty activity.
- 3. If any firearm is discharged as a use of force, as soon as possible but certainly within one hour of being involved in any of the circumstances, an employee will verbally notify the Fire Chief and submit a written or oral statement documenting the use of force and strictly follow the entire use of force policy.

I. Field Interrogations

Documentation of field contacts shall be maintained in the appropriate case file which will help ensure the proper exercise of law enforcement authority and enhances the fire marshal's ability to reconstruct, at a later time, events surrounding the field contact.

J. Bomb Threats

The fire marshal shall establish contact with the Sheriff’s Office incident commander on scene and coordinate on scene operations. Investigation of these incidents shall be coordinated with the Sheriff’s Office and appropriate federal agencies.

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K. Mental Petitions

The fire marshal must be aware that some suspects may require special processing depending on their mental status.

L. Hot Pursuits

Fauquier County Fire Marshal’s vehicles are not equipped to engage in pursuits and therefore fire marshals shall not initiate or participate in any pursuit. This does not preclude the fire marshal from following a vehicle and requesting police assistance.

M. Traffic Law Enforcement

The enforcement of laws pertaining to the safe operation of hazardous materials hauling vehicles shall be in accordance with this section. The fire marshal shall be in uniform when attempting to stop any vehicle. When an attempt to stop a violator fails, section L of this procedure shall be followed.

IV. PERSONAL SAFETY AND DUE REGARD FOR OTHERS

A. General

The fire marshal must be aware that there are certain violations and conditions which do not require or demand immediate enforcement. The consideration of public safety and the safety of the fire marshal may override the necessity for immediate action.

B. Incident Scenes

The fire marshal should avoid working alone in any environment which is potentially dangerous or unstable. It shall be standard practice to utilize the Sheriff’s Office, another fire marshal, or fire suppression personnel to increase security at incident scenes. The dispatcher shall be notified via radio when a fire marshal is out of the vehicle conducting potentially hazardous investigative activities.

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C. Personal Protective Equipment

The fire marshal shall utilize the proper level of department issued personal protective equipment when involved in investigative activities. Department issued equipment includes, but may not be limited to:

1. Firefighting turnout clothing or coveralls
2. Self-contained breathing apparatus or other appropriate respiratory protection
3. Bodily substance isolation equipment
4. Bullet resistive clothing (worn at the fire marshal's discretion)