August 19, 2024

Dear Community Member:

This handout is provided to answer frequently asked community questions about trespassing laws and the Police Department's response to such crimes.

What is the meaning of trespass?

Trespassing in Virginia means intentionally entering someone else's property without permission or remaining on the property after being told to leave, by the property owner or designee. Notice must be given by someone with authority to prohibit people from entering or remaining on the property. Virginia trespassing laws do not apply to areas used for public access (such as sidewalks or roadways) or publicly owned buildings. Presence on someone else's property is not enough for a trespass conviction in Virginia. It must be proven that the individual intentionally entered without permission after given notice not to be on the property, or the individual remained on the property after notice was given.

In Virginia, trespass can be found under Virginia Code § 18.2-119. The code states the following:

If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian, or the agent of any such person, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted by or at the direction of such persons or the agent of any such person or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at a place or places where it or they may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9 or § 19.2-152.10 or an ex parte order issued pursuant to § 20-103, and after having been served with such order, he shall be guilty of a Class 1 misdemeanor.

What happens when I call the police for trespassers?

When an officer arrives on scene of a trespassing call, they must first determine if a crime has occurred. Officers will attempt to locate and interview the alleged trespasser, the property owner/employee and determine the legality of the trespassing allegation. The officer will typically make contact with the property owner / employee to verify they want the alleged trespasser(s) restricted from the property and that person is willing to come to court for prosecution purposes. The officer will ask if the alleged trespasser(s) has already been trespassed, and will ask for a copy of the Notice Forbidding Trespass paperwork to verify. If there is no paperwork, and barring any safety concerns, the business owner / employee will be expected to verbally ban the trespasser while in the officer's presence. The officer will then identify the trespasser and complete the Notice Forbidding Trespass form. The officer will give one copy of the trespassing form to the business owner / employee and one copy to the person(s) trespassing.

If the business owner already has the appropriate Notice Forbidding Trespass paperwork, which verifies the trespasser has been previously notified, the officer may either issue a summons and ensure the individual(s) leaves the property, or the officer will take the trespasser(s) into physical custody.. Officers can not automatically physically arrest the trespasser, due to the fact that trespassing is a misdemeanor offense. Under Virginia Code 46.2-936, for misdemeanor offenses, officers must release the individual on a summons, except under specific circumstances. If a physical arrest is made, the business owner / employee will be subpoenaed to appear in court. If the business owner / employee does not agree to come to court, the trespasser will be released.

Considerations for Business Owners

- Ensure "No Trespassing" signs are properly posted. According to Virginia Code, signs must be posted in locations where they can be reasonably seen by individuals entering the property.
- Train all employees on trespassing procedures. Ensure all employees understand what the police will do when they respond, and employees verbally agree to come to court, if necessary. In situations where employees convey they are not willing to come to court, the officer will only ensure the trespasser leaves the property.
- Keep "Notice Forbidding Trespass" paperwork on file that is easily accessible. The police department does not maintain certified copies of trespass paperwork that has been issued. If previous notification cannot be verified, the officer will complete another copy of the Notice Forbidding Trespass, and ensure the individuals leave the property.
- Contact the Crime Prevention Unit (CPU) to schedule a workplace safety assessment. Members of the CPU are certified in CPTED and can recommend specific ways businesses can improve safety, such as lighting, signage, cameras etc.

Frequently Asked Questions

Why don't all officers follow the same procedures?

Officers have discretion in the way trespassing violations are handled, and may issue a warning, a summons, or physically arrest. Each situation is unique, involving different individuals and circumstances. Sometimes businesses or individuals only want the individual removed from the property, which is why the officer makes contact with the reporting party.

Can I obtain my own warrant for trespassing?

Yes. If you witness the individual trespassing and know the offender's information. In Virginia, citizens can file a criminal complaint with a magistrate by making sworn statements about an alleged crime. The statements must be made in person to the Magistrate. The Magistrate then decides whether to issue an arrest warrant, which would then be served by the police.

Can the officer arrest an individual for trespassing if the individual is no longer on the property?

In Virginia, a law enforcement officer may not arrest, without a warrant, someone suspected of committing a misdemeanor criminal offense outside the presence of the officer. There are certain exceptions, outlined in Virginia Code 19.2-81. Therefore, if the individual is no longer on the property, the officer may take action on other crimes occurring, but may advise warrants for trespassing to the reporting party who actually witnessed the offense. Per Virginia Code, officers have limited authority if they did not see the individual commit the crime.

Why does it sometimes take a long time for officers to respond?

There is variation in the time it takes for officers to respond, depending on other calls for service in the area. All calls for Police response are carefully reviewed and prioritized to address those incidents where an individual is injured or is in likely jeopardy of personal harm first. All other incidents will be dispatched as soon as possible based on the availability of officers in that particular area.

Resources

Prince William County Police Department (PWCPD)	(703) 792-6500 (non-emergency) 911 (emergency)
PWCPD Community Engagement Section / Crime Prevention Unit	(703) 792-7270
communityengagement@pwcgov.org	
PWCPD Western District Station	(703) 792-5000
PWCPD Central District Station	(703) 792-8500
PWCPD Eastern District Station	(703) 792-7200
Prince William/Manassas Magistrate's Office	(703) 792-6260
9320 Lee Avenue Manassas, VA 20110	