



THE DEFENDER



A publication of
Virginia Citizens Defense League
Defending Your Right To Defend Yourself

VCDL.ORG

SPRING 2021

JUDGE v. JURY

Misinformation about jury nullification may threaten Constitutional protections

by Tim Lynch

You've read some columns here about jury nullification and how it might rescue a neighbor from an unjust prosecution. We now have a recent case that demonstrates how determined the courts are to fight this idea.

On January 29, the highest court in Maryland ruled that juries have "no authority to engage in jury nullification." To those of us who have studied this subject, such a statement is not, by itself, any big surprise. In general, the legal trend has been running against the doctrine for quite some time. And yet, the circumstances of this case (*State v. Sayles*) are still shocking when one considers what some American courts are willing to say and do.

First, some quick background on this subject. The phrase "jury nullification" was not in use around the time of the American Revolution. The men who started the Revolution believed that juries could veto unjust prosecutions with their "not guilty" verdicts. Our second president, John Adams, once wrote of any given juror:

"It is not only his right, but his duty...to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the Court."



That was the basic understanding of what a jury trial was all about, at least in criminal cases, when someone's liberty was on the line.

The modern legal trend is very hostile to that idea. Most lawyers I know are ignorant of the history of jury trial. To the extent the topic ever comes up in law school, students are instructed that jury nullification is wrong, inappropriate, and perhaps even unethical. Nowadays you might even get arrested for handing out pamphlets near a courthouse with the idea. (Google "Keith Wood" and "jury").

Let me explain how our criminal system works these days. Most cases do not go to trial. Quite often, the government can pressure people to surrender or "waive" their right to jury trial by threatening additional charges and prison time.

Of the ten percent of cases that do go to trial, judges will typically tell the jurors something like this: "We all have a job to do here. My job is to find the law. Your job is to find the facts. You must put aside your own ideas of fairness and apply the law to the facts. That's your obligation as jurors."

There's usually no dispute over the fairness of the prosecution. The prosecution witness, for example, might be a victim of car theft. Since all agree car theft is wrong, the only question is whether the defendant committed the crime or not. So in the typical case, the jury does focus on fact-finding. Jury nullification arises in about five percent of the cases—situations where jurors perceive some unfairness.

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VCDL Public Meeting Dates Planned

For the foreseeable future, meetings will continue to be held online on the VCDL YouTube channel.

EM and Social Media Director Ed Levine reports
VCDL Live meetings are now broadcast at

[YouTube.com/c/VirginiaCitizensDefenseLeague](https://www.youtube.com/c/VirginiaCitizensDefenseLeague)

at 8:00 PM Eastern Time

on the **third Thursday** of every month.

Meetings held throughout the state are announced in VA-ALERT and posted on the calendar at
www.vcdl.org/calendar.



From the Editor

If you've made it this far, you've noticed The Defender has a new look. Also, if you've made it this far, it means you haven't balled up this edition and chucked it in the Round File. Thank you.

I know change is unsettling. Cosmetic changes aside, rest assured that The Defender will continue to feature the same articles and information you need and expect. I'd like to thank outgoing editor Tess Ailshire for making this transition smooth and easy.

There are times when change is something to be embraced. It wasn't that long ago—1995, to be exact—that Virginia was a may-issue state. And just last year, the number of gun-owning Americans skyrocketed. People realized they are not helpless in times of crisis—the Second Amendment is for all Americans.

2020 also convinced me it was time to get off the sidelines and do more than just enjoy the perks of VCDL membership. Philip's column makes the same salient point. Read it and consider how you can be part of the fight. If every VCDL member makes his or her voice heard, we can make this Commonwealth a safer, freer place to live.

Now that's change we can believe in.

Mark Ching
Editor

The President's Pen

Fighting Back

We are in a war for the soul of our country and our right to keep and bear arms is one of the battle grounds. Those that want to “fundamentally change America” can't achieve their goal with an armed populace and they know it. Disarming us is not proving to be as easy as they had hoped, however. In 2020, gun-prohibitionists made a major push for some extreme gun control here in the Old Dominion once Democrats had control of all branches of state government. The prohibitionists had to greatly scale back their efforts due to massive resistance from gun owners, including an eye-popping turnout (more than 50,000 attendees) for Lobby Day that year, plus over 105,000 gun owners showing up at local government meetings in support of Second Amendment Sanctuaries.

What gun owners want is simple. We want our right to keep and bear arms uninfringed and we want to be left alone. But neither is going to happen, so we must accept that the battle against tyranny is never going to end. There will always be those miscreants who want to dominate our lives and eliminate our freedom.

Gun control's roots in the U.S. are in the oppression of blacks and other minorities, and that intent is still there today, only now it is being expanded to control all of us. Foreign powers and tyranny-minded billionaires who want to see the last bright light of freedom in the world extinguished have a vested interest in America's civilian disarmament.

Now is NOT the time for passivity. It is the time to fight back. Here's how:

- **VOTE!** Don't fall for the “elections are rigged, no point in voting” baloney. If the elections were truly rigged, the gun-grabbing Democrats would not be scaling back their gun-control efforts this year. Last year, over 60 gun control bills were introduced in the General Assembly, but only 11 gun control bills were introduced this year. Last year, the gun prohibitionists were publicly talking and bragging about confiscation of AR-15s, limiting magazine sizes, and banning suppressors, but this year none of that was even mentioned. Gun owners need to vote in every election, every time. If no one is running that is worth supporting, then write in a name as a protest vote. This year is a major election year in Virginia. We can take back the House of Delegates and the Governor, Lieutenant Governor, and Attorney General positions. Vote like your future depends on it—**because it does!** We can turn this ship around, but gun owners must VOTE!
- **Never let a lie go unchallenged.** If you see an article or commentary in the paper pushing or supporting gun-control, write a Letter to the Editor refuting the claims. Some media outlets allow you to directly comment on items on the internet. If they do, then take advantage of that and push back on the lies there. Better yet, do both! If you see an error in a news story, you can contact the reporter and let them know of the mistake.
- **Be politically active.** Contribute money and/or help with a good candidate's campaign. If there is no one running in your district worthy of support, then find a candidate in another district that is worthy and support them instead. That candidate will help nullify the vote of the bad candidate in your district.
- **Bring new gun owners into the fold.** Do you have a neighbor, friend, coworker, or family member who is “on the fence” or maybe a little anti-gun? Invite them to come to the range with you. Tell them you will start by teaching them gun safety, so they will know how to handle and shoot a gun safely. You provide the gun or guns and the ammunition. DO NOT START THEM OFF BY SHOOTING YOUR

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UPCOMING GUN SHOWS AND EVENTS

If you'd like to work a show, email the coordinator and ask to be put on the mailing list used for volunteers. Volunteers get free admission to the show, and some vendors offer discounts to other vendors, including our volunteers. Verify all schedules; this list is correct as of April 24, 2021.

CHANTILLY, Dulles Expo Center

Apr 23-25 | Jun 18-20 | Jul 23-25 | Oct 1-3

CHESAPEAKE, Chesapeake Conference Center

None scheduled at this time

DALE CITY, VFW Post 1503

None scheduled at this time

DOSWELL, Farm Bureau Center at Meadow Event Park

Nov 6-7

FISHERSVILLE, Augusta Expo

Sep 11-12 | Dec 4-5

FREDERICKSBURG, Fredericksburg Expo & Conference Ctr.

May 1-2 | Oct 23-24 | Dec 11-12

HAMPTON, Hampton Roads Convention Center

Sep 11-12 | Nov 27-28

HARRISONBURG, Rockingham County Fairgrounds

Jul 17-18 | Oct 30-31

LYNCHBURG, Macy's at the River Ridge Mall

None scheduled at this time

RICHMOND, Brook Run Shopping Center, 5620 Brook Road

May 22-23

RICHMOND, Richmond Raceway Complex

Jul 10-11 | Aug 28-29 | Nov 13-14

ROANOKE, Berglund Center

Aug 21-22 | Oct 23-24

SALEM, Salem Civic Center

Jun 5-6 | Jul 17-18 | Oct 9-10 | Dec 18-19

VIRGINIA BEACH, Convention Center

None scheduled at this time

WEYERS CAVE, Weyers Cave Community Center

None scheduled at this time

WINCHESTER, Winchester Sportsplex

None scheduled at this time

WOODSTOCK, Woodstock Moose Lodge

None scheduled at this time

COORDINATORS

Chantilly—Danny Paulson—gunshows.chantilly@vcdl.org

Chesapeake—Frank Stanisz—gunshows.chesapeake@vcdl.org

Dale City—Team Eugene Brodetski, Rebekah Koffler, and

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Doswell — Rowley Molina — gunshows.doswell@vcdl.org

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Woodstock/Winchester— Mark Lintz—

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PROMOTERS

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SGK Gun Shows www.sgkshows.com

Showmasters www.showmastersgunshows.com

Sporting Shows Unlimited sportingshowsunlimited.com

THANK YOU

Doswell Feb 20-21 Bob Charlton, Greg Hairston, Vincent Ikley, Dan Liberty, Tim Miller, Rowley Molina, Richard Roberts

Roanoke Mar 20 (one-day show) Don Beheler, Nicole Butterworth, Walter Drew, Sam Hollingsworth, Mattie May, Stephen Meikle, Ken Modica, David Ninaltowski, Kenneth Plybon, Rick Pollock, Steven Rosenthal, Dave Smith, Brandon Vanallman, and Russell (no last name recorded!)

Manassas Mar 27-28 Eugene Brodetski, Richard Kroh, Damian Ljungquist, Ron Owen, Tom Pietras, Terrell Prude

Fishersville Apr 20-21 Rick Bayless, Kurt Darr, Jim Kiser, Twy Manandes, Megan McAuliffe*, David Melewski*, TR Proven, Bob Quinn, Gaert Sime, Thom Verga, Charles Winkler

Doswell Apr 10-11 Bob Charlton, Dave Cline, Dave Eckart, Greg Hairston, Vincent Ikley, Dan Liberty, Tim Miller, Rowley Molina, Dave Morgerson*, Kyle Remppies*, Steve Rochkind, Dana Smith

Fredericksburg May 1-2 and 8-9 VERY SPECIAL THANKS!

Coordinator Jennifer Stover was recovering from a serious illness, but soldiered on. Doswell Coordinator Rowley Molina and Richmond Coordinators Dave Eckart and John Gosney jumped in to assist with two consecutive weekend events. This kind of dedication is what makes VCDL amazing!

RANGE TIME

By EM Kenneth Van Wyk

This series began in the Fall 2018 issue. Back issues are found at VCDL.org/page/defender-newsletter

PART VIII

Welcome back to our series on getting the most out of our range time. I wish I could be more optimistic about ammunition availability and pricing, but there doesn't yet seem to be cause for optimism. As such, I'll continue to focus here on drills that can easily and effectively be done at home using safe dry fire methods like we discussed in Part III, Part VII, and elsewhere.

Of course, always take extra precautions when dry firing: make absolutely sure your firearm is cleared, for starters. It's also a good idea to ensure there is no live ammunition in the room where you dry fire. Even with your firearm unloaded, be sure to designate a safe direction in your home where you can safely aim your firearm without fear of injuring anyone. Safety first, always.

With that out of the way, let's consider a couple of defensive shooting circumstances: Shooting in low light and shooting after being wounded. Of course, let's also hope none of us are ever in either circumstance, but neither of these seem like circumstances we get to choose. As such, it's best to be prepared, and some dry fire drills at home can help us get there.

The Blind Fire Drill

Let's discuss a great dry fire drill you can use for various purposes, including low light situations. I'll call it a "blind fire drill". Here are the basics:

- In your designated and prepared dry fire area, select your target. It's good to start with an object that is roughly the size of a person's "center mass". I like using something the size of a paper plate. For now, keep things simple and select that target at about eye level in your designated safe direction.
- Go through your draw process, from concealment or otherwise, and dry fire at that target. Repeat this several times. NOTE: Too much repetitive motion training can do you a disservice in an armed conflict if there is no deviation at all. More on this in a future column.
- Now, do the same with your eyes closed. Seriously. Draw your firearm, aim towards where you believe the target to be, and pull your trigger. Now, STOP!
- Open your eyes and take stock of where you're aiming. Would you have hit your target? Would you have been close?

This is a great dry fire drill to practice and train your "muscle memory". You're not trying for a bullseye on target, but ending up pointing at the target's center mass would be great.



Low Light Drill

Now, let's consider the same drill for a low light circumstance. Ideally, you'll do this drill with a willing training partner who can control the lights for you. (Make sure the configuration you've chosen doesn't put the light switch operator anywhere near down range, even though we're only doing dry fire drills.)

Here is how you can practice for low light shooting:

- In your low light dry fire area, select your target. Your dry fire firearm should be equipped as it would be for an actual defensive situation, but loaded only with snap caps, of course. However, if you use night sights or other low light optical aids, use those for this drill.
- Practicing first in normal lighting, draw and fire at your target. Again, repeat this several times.
- Now, in a low light situation, draw and fire at your target and then STOP and remain in place.
- Have your drill partner turn the lights on and then critically assess your situation. Would you have hit the target?

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Range Time (continued from page 4)

Consider upping your low light drill game with other complexities such as shooting from behind/around cover or concealment. Use the cover and concealment that is available to you in your practice room, such as kneeling behind a sofa. (Perhaps you'll also want to re-think your in-home security planning if your only option is to shoot from behind the scant concealment of a sofa!)



One-Handed Dry Fire Drill

Ready to take your drilling a step further? What about if you're injured during a defensive situation? What if your strong hand/arm is injured or otherwise unusable? What if your weak hand/arm is injured and you're forced to reload during a defensive situation?

All of these circumstances should scream "dry fire drilling" to you by now.

Try dry fire drilling, to include our blind fire method above, with your strong hand tied behind your back. Try reloading with a fresh magazine (or speed loader for you revolver fans) with one hand being out of action.

Try this first by simply not using one of your hands, and then move on to the "tied behind your back" method. A piece of twine, a bungee, or even something like a sock can be used to tie your hand to (say) your belt. Tie a sock to your wrist and put the other end of it in your back pocket or tucked into your belt. If that sock comes out, you fail the drill. Start over.

Every one of the drills I've described here can be accomplished from home using a safe dry firing technique. In fact, I really cannot imagine any commercial range allowing you to do these drills with live ammunition. Perhaps you have enough property to run through these drills there. If that's the case, I would simply caution you by saying be sure you've practiced these dry fire drills to the point of being supremely confident before trying them with live ammunition.

Way back in Part I of this series, I said, "It's not enough to merely practice until you get it right. You should instead practice until you cannot get it wrong." If you decide to try any of these drills with live ammunition, I hope you will take those words quite seriously.

In our next article, we'll focus on some tools you can use to further improve your concealed carry skills.

If you missed any of our earlier articles in this series, you can get them from VCDL by visiting vcdl.org/page/defender-newsletter.

Lastly, I'd like to call out to those of you who have followed this series. I invite your feedback and would like to hear from you about topics we still have not covered and would like to see us cover. Please contact me by email and let me know. My email address is ken.vanwyk@vcdl.org.

President's Pen (continued from page 2)

SNUB-NOSE .454 CASULL! Teach them to shoot initially with a .22, then, based on their progress, move up to a 9mm, .38 Special, or a .380. You might also let them shoot your AR-15. I love watching people's eyes light up when they score that first bullseye or when they realize how much fun shooting can be. A great day at the range and they will be hooked!

- **Educate existing gun owners.** You'd be surprised how many gun owners don't know about VCDL or how many don't vote. Or how many are not paying attention to what is going on around them politically.
- **Non-compliance.** What if they passed an unconstitutional and/or unjust law, such as a gun confiscation or a forced gun buy-up, and everyone ignored it? The possibility of exercising this option, while not without some risk of arrest, is why VCDL has changed its terminology from law-abiding gun owners to peaceful gun owners. We would not ignore such laws with any intention of harming an innocent person.
- **Jury nullification.** If you are on a jury and someone is on trial for inadvertently breaking a gun law—or did so knowingly, but with no intent to harm an innocent—then vote to acquit. If you can convince fellow jurors to go along with you, all the better.
- **Lawsuits.** The courts can be used to overturn or to restrict gun control, as VCDL is currently doing in our lawsuit against the City of Winchester and their bans on carry in parks and at events requiring permits. Another lawsuit that is in progress now has led to a temporary stay until December on the requirement for a mandatory background check on private handgun sales to those between the ages of 18 and 21. I expect more lawsuits to be coming as the year goes on. You can help support these lawsuits with donations to VCDL.
- **Reach out to minorities.** The purpose of gun control in the United States from the beginning was to deny minorities, especially black slaves or black free men, their right to self-defense. Minorities need to reject gun control, not embrace it. Encourage them to research the history of the Black Codes in the South after the civil war and the history of the Ku Klux Klan. The gun controllers in the Democrat Party are not their friends.
- **Advertise!** Guns Save Lives bumper stickers, shirts, and hats, all broadcast an important message to those around you. They can also be a conversation starter.
- **Be an ambassador.** Whether you are visibly carrying a gun, wearing clothing with a pro-gun message, or driving a vehicle that has gun rights messages on it (such as a GSL bumper sticker), be a gun rights ambassador. Be extra polite, courteous, and peaceful. Doing so will help dispel the lies told about gun owners and will put people at ease.

With power in the hands of those who support our right to keep and bear arms, we can begin to repeal the gun-control laws and get Virginia back onto a solid, Constitutional footing.



Judge v. Jury (continued from page 1)

Let's return now to the Maryland case. The trial was over and the jury retired to deliberate. After a short while, the jury sent a note to the judge asking about jury nullification. The judge wrote back that the verdict ought to be based upon the evidence presented in court. He also told the jurors to reread his instructions about the job of the judge and the job of jurors.

Later, the judge received another note. This note was from Juror #112 (actual name not published to respect his/her privacy), and it was surprisingly assertive. This note asked the judge to identify the rule in Maryland law that prohibited jury nullification. Great question! This juror was more informed than your average lawyer and, just as important, was confident enough to stand his ground in the jury room (not easy) and to respectfully challenge the judge's earlier response (I know of cases where such persons are replaced with alternate jurors).

In response to the note, the judge told the jurors that jury nullification was improper and illegal and would violate the oath that they took at the start of the case. The next day, the jury found the defendants guilty of numerous crimes.

On appeal, the defendants argued that the trial judge's handling of the notes was improper because he misled the jurors and pressured them in the direction of guilty verdicts. The common view among judges these days is that jury nullification is wrong and regrettable when it happens. Nearly all agree that jury nullification must be discouraged, and they accomplish that by keeping jurors uninformed. However, some judges will say that if the jury happens to bring up the subject on its own, then the "cat is out of the bag," so to speak, and the judge should not now misinform the jurors.

Since we still live in a country where judges cannot command a guilty verdict or imprison jurors, juries can still, despite the pressure, render a not guilty verdict based on conscience or perceived unfairness. Since a verdict requires a unanimous vote, even a single juror can rescue a defendant by standing firm with a not guilty vote, in which case the court will declare a mistrial.

The high court of Maryland ruled that the trial judge handled the notes properly and so the defendants were not unfairly prejudiced by his actions. In other words, it is perfectly fine to misinform jurors about their options.

Let's now summarize the situation in Maryland. There are thousands and thousands of criminal prosecutions each year, but few go to trial. When there is a trial, the judge will tell jurors that their job is to apply the law as he explains it to them and that they should leave their own views of fairness at home. The defense attorney has been taught that jury nullification is unethical, and he'll be punished if he gets the idea of mentioning it during the trial. And trial judges now have permission from the high court to mislead jurors who ask about jury nullification or excuse them from service if they appear stubborn or "uncooperative" with the court. In other words, John Adams' likeness might be okay for a postage stamp, but his jury ideas should be squashed and forgotten!

Later, the judge received another note. This note asked the judge to identify the rule in Maryland law that prohibited jury nullification. This juror was more informed than your average lawyer and, just as important, was confident enough to stand his ground in the jury room and to respectfully challenge the judge's earlier response.

There are two lessons to take from this case. First, do spread the word that the authorities are trying to hide the idea that jurors can conscientiously acquit a person on trial with a "not guilty" vote.

Second, do remember that if the government can chip away at our constitutional right to trial by jury, it can do the same to our right to keep and bear arms, our right to freedom of speech, and all of our other constitutional safeguards.

Tim Lynch is a constitutional attorney residing in Fairfax County. This article is an opinion piece and does not constitute legal advice.

VCDL Membership Application

RECRUITER MEMBER # _____	Method of payment	
<input type="checkbox"/> New <input type="checkbox"/> Renewal (Member # _____)	<input type="checkbox"/> Cash (Do not send cash through the mail.)	
Name _____	<input type="checkbox"/> Check (Make checks payable to VCDL)	
Address _____	<input type="checkbox"/> Charge	
City _____	Credit Card Number: _____	
State _____ ZIP _____	Expiration Date: _____ CVV _____	
Phone (_____) _____	Name as it appears on the card	
Email _____	Signature of Card Holder _____ Billing Zip Code _____	
<input type="checkbox"/> 1 VCDL membership: \$ 25.00	Mail to: VCDL Membership Processing Center P.O. Box 5752 Fredericksburg VA 22403	
<input type="checkbox"/> Family members @\$15/each: \$ _____	Save time and postage by using a credit card or eCheck at vcdl.org/join	
<input type="checkbox"/> Donation to VCDL: \$ _____		
<input type="checkbox"/> Donation to PAC: \$ _____		
VCDL-PAC donations require the following information:		
Occupation: _____		
Employer: _____		
Employer's principle city/state: _____		
<i>This information is not made public unless your annual contributions total more than \$100.00.</i>		
Total Enclosed: \$ _____		
<i>(Note: Membership processing can take 4-6 weeks)</i>		

VCDL and VCDL PAC contributions, gifts, or membership dues are not deductible for Federal income tax purposes.

The VCDL-PAC hosted forums for all statewide candidates in April: Governor, Lieutenant Governor and Attorney General. Each 90-minute forum has been viewed thousands of times and has provided information that gun owners and 2A activists across the state have asked for. To view the forums please go to the VCDL YouTube channel at: [YouTube.com/c/VirginiaCitizensDefenseLeague](https://www.youtube.com/c/VirginiaCitizensDefenseLeague). We thank the candidates who participated; their time was valued. We also want to thank the VCDL members and gun owners who logged in to watch and that sent in questions. Stay tuned for additional forums this summer! Please take time to review the VCDL survey results here: vcdl.org/mpage/VCDLSurveyRepConv2021.

As a reminder, the entire House of Delegates is up for election in November 2021 as well. While much attention had been paid to the statewide races, your local delegate seat is extremely important. Just look at what the anti-gun legislators have pushed through the legislature the past 3 sessions – one handgun a month, universal background checks, state government building gun ban and the weakening of Virginia's pre-emption statute. This must not just end, but we must elect candidates who will roll back these unsafe and ridiculous restrictions! Research your local representatives and if they are solid on our 2A rights – support them! Candidates want three things: your vote, a donation, and your time. Support the ladies and gentlemen who have stepped up and are going to fight for our 2A individual right.

Last, but certainly not least, we must compete with all the out-of-state money that is going to flood the Commonwealth again, just like in 2017 and 2019. The anti-2A and anti-Liberty PACs are now a staple in our elections, so as always, I must ask for a donation to the VCDL-PAC at <https://vcdl.org/page/vcdl-pac>. Every dollar we raise goes straight to the candidates. Thank you for your consideration.

Yours in Liberty,

Cathy McNickle
VCDL-PAC Chair

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Our moderators keep that document updated to show changing circumstances.



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CHP RENEWALS

Virginia law provides that you can get the full five years of your Concealed Handgun Permit if you apply for renewal at least 90, but no more than 180, days prior to expiration of your current permit. (Section 18.2-308.010)

	EXPIRES	RENEW IN
January	August-October	
February	September-November	
March	October-December	
April	November-January	
May	December-February	
June	January-March	
July	February-April	
August	March-May	
September	April-June	
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Please feel free to contact any of the Officers or Directors should you have any questions or if you would like to volunteer your services in VCDL.