



CONCORD POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

JUVENILE OPERATIONS

GENERAL ORDER: 05.05

CREATED: December 1, 2003

ISSUE DATE: July 30, 2021

CALEA STANDARD: 44.1.1, 44.2.1, 44.2.2, 44.2.3, 82.1.2

EFFECTIVE DATE: August 6, 2021

ACTION: Re-titles and amends general order dated April 4, 2018.

05.05.0 **PURPOSE**

The purpose of this general order is to provide guidelines for the proper processing of juveniles at department facilities.

05.05.1 **POLICY**

It shall be the policy of the Concord Police Department to be committed to the concept that the juvenile operations and delinquency prevention efforts are not limited to the activities of any one division. All coworkers, especially patrol officers, should be familiar with the Juvenile Code found in Chapter 7B of the North Carolina General Statutes and should be familiar with the problems of abuse, neglect, delinquency, and undisciplined juveniles. All coworkers share the responsibility for participating in and/or supporting the department's juvenile operations function.

05.05.2 **DEFINITIONS**

A. DELINQUENT JUVENILE

1. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under state law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.
2. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a crime or an infraction under state law or under an ordinance of local government, excluding all violations of the motor vehicle laws under Chapter 20 of the General Statutes, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

B. JUVENILE

Except for delinquent and undisciplined cases, a juvenile is any person who has not reached the person's eighteenth birthday and is not married, emancipated or a member of the armed forces of the United States.

C. UNDISCIPLINED JUVENILE

1. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours or;
2. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

05.05.3 CUSTODY ALTERNATIVES

- A. Upon taking a juvenile into temporary custody for a delinquent or undisciplined act, coworkers should select the least restrictive course of action appropriate to the situation and needs of the juvenile. Coworkers have four alternatives:

1. Warning and release the juvenile to a parent/guardian;
2. Divert the juvenile from the Juvenile Court with appropriate counseling or referral to community resources;
3. Seek a juvenile petition, summons or citation and release the juvenile to a parent/guardian;
4. Seek a petition and request a secure custody order.

NOTE: All courses of actions related to criminal charges against a juvenile must be done so in compliance with N.C. Delinquency Law which became effective December 1, 2019.

- B. When deciding which course of action to take with a juvenile, the coworker should consider the following:

1. Cooperation of the juvenile's family;
2. Attitude of juvenile toward the victim;
3. Juvenile's school attendance and performance;
4. Wishes of the victim;
5. Whether committed acts be classified as a felony if committed by an adult;
6. Did the acts have sexual motives;
7. Did the criminal acts involve weapons;
8. Serious gang-related delinquent acts;

9. Delinquent acts involving aggravated assaults and seriousness of injury to victim;
10. Delinquent acts committed by juveniles under probation or parole or by those with a case pending;
11. Repeated delinquent acts within a 12-month period;
12. Other situations as determined necessary by the investigator such as: juveniles who have been selected for a diversion program but have refused to participate and cases in which it has been determined that parental supervision is not effective.

05.05.4 CUSTODY OF JUVENILES

- A. In accordance with NCGS 7B-1900, juveniles may be taken into temporary custody by a coworker without a court order under the following circumstances:
 1. If grounds exist for the arrest of an adult in identical circumstances under NCGS 15A-401 (b);
 2. If there are reasonable grounds to believe that the juvenile is an undisciplined juvenile;
 3. If there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order (NCGS 7B-500);
 4. An officer shall not knowingly and intentionally issue a citation for any person 15 years of age or younger. An officer shall not knowingly and intentionally obtain an arrest warrant for any person 17 years of age or younger unless otherwise authorized by law.
- B. Coworkers shall notify the juvenile's parents, guardian, or custodian when a juvenile has been taken into temporary custody and advise the parent, guardian or custodian of his/her right to be present with the juvenile until a determination is made as to the need for secure or non-secure custody.
 1. Parental notification is not required when one of the following conditions exists:
 - a. The minor is emancipated, or;
 - b. The minor is not taken into custody and has been charged with a non-moving motor vehicle violation or a moving violation for which three or fewer points are assessed, except an offense involving impaired driving;
 - c. The minor is charged with a motor vehicle offense that is not a moving violation.

05.05.5 **TRANSPORTATION OF JUVENILES**

- A. Juveniles shall not be transported with adult prisoners unless the juvenile and adult have been arrested in connection with the same offense, or unless the adult is the parent or guardian of the juvenile.
- B. Prior to transportation, regardless if the juvenile has been taken into custody, the coworker transporting the juvenile shall advise the communications center of:
 - 1. Location from where the juvenile is being transported from;
 - 2. Location where the juvenile is being transported to;
 - 3. Beginning mileage;
 - 4. Vehicle number.
- C. Upon arriving at the final location, the coworker shall advise the communications center and provide ending mileage.
- D. Juveniles that are in custody shall be searched prior to transport or transfer to another officer as outlined in GO 05.01 Arrest Authority and Procedures.

05.05.6 **JUVENILE PETITIONS**

- A. Coworkers shall release a juvenile to the parents, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is not necessary. If the juvenile is not released, the coworker shall follow the listed procedures:
- B. The following factors should be considered before filing a petition:
 - 1. The seriousness of the offense;
 - 2. Past involvement in delinquent acts;
 - 3. The presence of alcohol or drugs;
 - 4. Cooperation of family members;
 - 5. The offender's school attendance and performance;
 - 6. Admission or denial of committing the offense;
 - 7. Availability of a community-based rehabilitation program;
 - 8. The age of the juvenile, background investigation, and recommendations for a diversion program;
 - 9. The attitude of juvenile toward the victim.

- C. Once the petition has been drawn up and sworn to before a magistrate, the coworker shall communicate with the intake counselor who will consider prehearing diversion. If the decision is made to file a petition, the counselor will contact the judge for a determination of the need for continued custody.
- D. The coworker who takes a juvenile into custody shall, after contacting a judge and/or court counselor and receiving an order for secure custody, transport the juvenile to a local juvenile detention facility without delay unless emergency medical treatment is needed.

05.05.7 INTERVIEWS / CUSTODIAL INTERROGATIONS

A. CUSTODIAL INTERROGATIONS

- 1. The parents shall be notified that the juvenile has been taken into custody, and their presence may be required at the location of the incident.
- 2. In accordance with NCGS 7B-2101, all juveniles who are in custody and are going to be interrogated shall be advised of their constitutional rights prior to any interrogation. If a juvenile is under the age of 18 and is charged as an adult, they shall still be given their juvenile rights until his/her first appearance and/or be formally charged, and jurisdiction transferred to Superior Court. If you have a juvenile in a custodial setting, they are to be electronically recorded (audio only is fine). The recording should begin when the subject is placed into the room and end when they are removed from the room. If there is a break in the interrogation, the record must reflect that break.
- 3. A coworker shall advise the juvenile of the following rights prior to questioning:
 - a. That the juvenile has the right to remain silent;
 - b. That any statement the juvenile does make can be, and may be, used against the juvenile;
 - c. That the juvenile has a right to have a parent, guardian, or custodian present during questioning;
 - d. That the juvenile has the right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.
- 4. When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney in accordance with NCGS 7B-2101.
- 5. Coworkers may obtain pertinent information concerning the juvenile's name, parent's names, and means of contacting parents prior to advising the juvenile of his/her rights but cannot ask questions about the incident being investigated.
- 6. Interrogation shall cease upon request from the juvenile, the parents or his/her attorney, or if a reasonable person would believe that the setting or circumstances have become coercive.

B. NON-CUSTODIAL INTERVIEWS

1. A juvenile can be interviewed (No Miranda/non-custodial) without a parent, guardian, or custodian present; however, the parent, guardian, or custodian should be notified, if practical, that an interview is necessary or is being conducted. If a juvenile request that his/her parent be present, this should be allowed or if a parent requests to be present, this also should be allowed.
2. If a coworker needs to interview a juvenile at school, he/she should adhere to all school board policies concerning law enforcement interview of students in school.
3. If a coworker needs to interview a juvenile who is in secure custody (in a youth development center, detention center, or community commitment placement), the coworker shall contact the Facility Director with the purpose of the interview to arrange a time.

05.05.8 FINGERPRINTING AND PHOTOGRAPHING DELIQUENT JUVENILES

- A. NCGS 7b-2102 requires a law enforcement officer or agency to fingerprint and photograph a juvenile when all of the following circumstances exist:
 1. The juvenile was 10 years of age or older when he or she allegedly committed a noninvertible offense as set forth in NCGS 7B-1701;
 2. A complaint has been prepared for filing as a petition; and
 3. The juvenile is in the physical custody of law enforcement or of the Office of Juvenile Justice.
- B. Fingerprints and photographs of juveniles taken pursuant to NCGS 7B-2102 shall be prepared in the proper format for submission to the State Bureau of Investigation (SBI) and Federal Bureau of Investigation (FBI).
- C. If a juvenile's fingerprints and photograph are taken before adjudication, they must be destroyed at the earliest of the following events:
 1. Neither the intake counselor nor the prosecutor files a petition against the juvenile within one year after the fingerprints and photograph were taken; or
 2. The court does not find probable cause pursuant to NCGS 7B-2202; or
 3. The juvenile is not adjudicated delinquent of any offense that would be a felony or misdemeanor if committed by an adult.
- D. If the juvenile is adjudicated delinquent for a felony, the fingerprints shall be transferred to the SBI and placed in the AFIS system. The fingerprints and photograph may be used for all investigative and comparison purposes but are not considered public record and may not be expunged.

- E. Fingerprints and photographs of juveniles taken pursuant to NCGS 7B-210 are NOT public records, and not open to public inspection or examination, and are not eligible for expunction under NCGS 7B-3200. Juvenile fingerprints and photographs shall be maintained separately from any juvenile record, other than the electronic file maintained by the SBI.

05.05.9 IDENTIFICATION PROCEDURES

- A. Non-testimonial Identification Orders shall be carried out in accordance with NCGS 7B-2103 through 7B-2109.
- B. Coworkers may conduct a "show up" involving a juvenile suspect shortly after the commission of a crime. Coworkers shall follow procedures as set forth in NCGS 15A-284.52(c1).

05.05.10 JUVENILE RECORDS

- A. Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of the juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parent.
- B. Unless jurisdiction of the juvenile has been transferred to superior court, all law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults and shall be withheld from public inspection. The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without an order of the court:
 - 1. the juvenile;
 - 2. the juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
 - 3. the district attorney or prosecutor;
 - 4. Court counselors; and
 - 5. Law enforcement officers that are sworn in this State.

Otherwise, the records and files may be examined or copied only by order of the court. (N.C.G.S. 7B-3001)

- C. All juvenile arrest and criminal history records shall be maintained within the Records Division in a secure location separate and apart from adult offender files. Juvenile fingerprint cards, photographs, and arrest records authorized for retention shall be maintained separate from adult criminal information and shall be secured within the Records Division. All electronic juvenile information shall be password protected.
- D. The publication of pictures of runaways is permitted with the permission of the parent/guardian.

- E. Access to juvenile information within RMS shall be limited to the appropriate personnel by the user rights assigned by the Support Services Division commander or designee.
- F. Disposition and expungement of juvenile records will be in accordance with the prevailing requirements of the North Carolina Juvenile Code.

05.05.11 TRUANTS

- A. Juveniles under age 16 are required to attend school unless permission to be absent is given by an authorized person.
- B. When a coworker has probable cause to believe a juvenile is truant, the child may be taken into temporary custody. When a juvenile is taken into temporary custody, the coworker must release the child to his/her parent, guardian, custodian, or to the juvenile's school.

05.05.12 JUVENILE TRAFFIC ENFORCEMENT AND VEHICLE STOPS

- A. A person sixteen (16) years of age or older who is to be charged with a traffic misdemeanor or infraction may be issued a Uniform Traffic Citation and processed as an adult.
- B. A person less than sixteen (16) years of age who is to be charged with a traffic misdemeanor or infraction shall be charged by the officer utilizing the Department of Juvenile Justice petition process.

05.05.13 JUVENILE OPERATIONS

- A. The department's juvenile operations function shall include, at a minimum, the following activities:
 - 1. Designing and implementing programs intended to prevent and control delinquent and criminal behavior by juveniles;
 - 2. Follow-up processing of juvenile arrests;
 - 3. Coordination and preparing court cases in which a juvenile offender is involved;
 - 4. Diverting juvenile offenders out of the juvenile justice system when deemed appropriate.



GARY J. GACEK
CHIEF OF POLICE