



# GENERAL ORDER

DURHAM POLICE DEPARTMENT  
DURHAM, NC

NUMBER:

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## JUVENILE HANDLING PROCEDURES

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### INTRODUCTION

It is the policy of the Durham Police Department (DPD) to handle juvenile matters in the most reasonable manner by taking into consideration the needs and best interests of the offender, as well as the need for protecting the community. The responsibility for investigating juvenile incidents and participating in and supporting the Department's juvenile operations function is shared by all department personnel, including district investigators and the Community Services Division. All officers, especially patrol officers, should be familiar with the Juvenile Code found in Chapter 7B of the North Carolina General Statutes as well as the problems of abuse, neglect, delinquency, and undisciplined juveniles.

### DEFINITIONS

**Abused juvenile:** A juvenile less than 18 years of age who is found to be a minor victim of human trafficking under NCGS § [14-43.15](#), or whose parent, guardian, custodian or caretaker engages in or allows the acts or circumstances set forth in G.S. 7B-101(1).

**Dependent juvenile:** A juvenile in need of assistance or placement because the juvenile has no parent, guardian or custodian responsible for the juvenile's care or supervision or whose parent, guardian or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.

**Delinquent juvenile:** A juvenile, less than 16 but at least 6 years of age, who commits a crime or infraction, including violation of the motor vehicle laws, or a juvenile less than 18 but at least 16 years of age, who commits a crime or infraction, excluding violations of the motor vehicle laws under Chapter 20, and any offense punishable as a Class A, B1, B2, C, D, or E felony together with any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that offense, and any greater or lesser included offense of that offense.

**Juvenile:** Except for delinquent and undisciplined juveniles, a person who has not reached their 18th birthday and is not married, emancipated, or a member of the Armed Forces of the United States.

**Juvenile contact report:** a report that documents personal and, if applicable, charging information about a juvenile.

**Juvenile Court Counselor (JCC):** a North Carolina Department of Public Safety employee responsible for intake services and court supervision services to juveniles.

**Juvenile petition:** a formal document filed by a JCC requesting that charges be brought against a juvenile.

**Neglected juvenile:** A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law; or who is a minor victim of human trafficking under NCGS § [14-43.15](#). In determining whether a juvenile is a neglected juvenile it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

***Undisciplined Juvenile:***

- A person under the age of 18 and who is at least 6 years old, and who:
  - Is regularly disobedient to and beyond the control of the juvenile's parent(s), guardian(s), or custodian(s); 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
- A person under the age of 16 but at least 6 years of age who is unlawfully absent from school.

## **GUIDELINES & PROCEDURES FOR JUVENILES OFFENDERS**

The officer initially assigned to a complaint with a juvenile suspect will make a thorough preliminary investigation using the same attention to details that is normally required in cases involving adult offenders, see G.O. [4018 Preliminary/Follow-up Investigations](#). Encounters with juvenile suspects will be documented per G.O. [4028 Report Writing](#).

For minor offenses where there is no victim, or the victim does not want to file charges, members may release the juvenile and take no further action, at their discretion.

If an officer charges a juvenile, but they choose to release the juvenile to a parent/guardian, the officer will explain to the juvenile and their parent/guardian that a juvenile complaint will be filed with the JCC and, once approved, a juvenile petition may be obtained. They should also be notified that someone from the juvenile court will notify them of the next step in the case. In general, juveniles under 14 years of age will not be taken into custody unless they are being charged with a felony or violent offense.

G.O. [4037 Initial Response to Child Abuse/Neglect/Dependency Calls](#), will be followed when an incident or complaint involves an abused juvenile, neglected juvenile, or dependent juvenile. If an officer has reasonable grounds to believe that a juvenile is abused, neglected, or dependent (NCGS § [7B-500](#)), or that they may be injured, the officer may take the juvenile into temporary custody per G.O. [4037 Initial Response to Child Abuse/Neglect/Dependency Calls](#).

## **CUSTODY PROCEDURES FOR JUVENILE OFFENDERS**

Officers may take a juvenile into temporary custody without a court order when:

- Grounds exist for the arrest of an adult in identical circumstances under NCGS § [15A-401\(b\)](#); or
- Reasonable grounds exist to believe the juvenile is undisciplined; or
- Reasonable grounds exist to believe the juvenile is an absconder from any residential facility operated by the Department of Juvenile Justice and Delinquency Prevention or an approved detention facility.

If an officer takes a juvenile into temporary custody, the officer will inform their supervisor and transport the juvenile to headquarters or a substation, per G.O. [4003 Custodial Transports](#). Juveniles shall not be transported to and secured at the magistrate's office without a court order.

The appropriate district investigation unit should be contacted if:

- Officers cannot locate a parent, guardian or appropriate custodian;
- Officers are unable to identify the juvenile;
- Officers determine the juvenile is a runaway from another jurisdiction; or
- Officers intend to contact a JCC to request a custody order.

When an officer takes a juvenile into temporary custody without a court order, the officer should proceed with the reasonably least restrictive option taking into consideration the totality of the circumstances. The officer must:

- Notify the juvenile's parent, guardian, custodian, or caretaker that the juvenile has been taken into temporary custody and advise the parent, guardian, custodian, or caretaker of the right to be present with the juvenile until a determination is made as to the need for non-secure custody. Failure to notify the parent that the juvenile is in custody shall not be grounds for release of the juvenile
- Release the juvenile to the juvenile's parent, guardian, custodian or caretaker if the person having the juvenile in temporary custody decides that continued custody is unnecessary. In determining release, officers should consider whether corrective measures are available from the parent/guardian and/or referral to a counseling agency, and the likelihood of the issuance of a custody order by the court. If the officer releases the juvenile, but proceeds with initiating charges, the officer should explain the juvenile petition process to the parent/guardian.
- If the juvenile is not released, request that a petition be filed by the JCC. The juvenile should not be held more than 12 hours, or more than 24 hours if any of the 12 hours falls on a Saturday, Sunday or legal holiday, unless a petition has been filed and a custody order has been issued. In determining the need for continued custody, the court may consider:
  - Whether the juvenile has been charged with a felony and is a danger to persons or property;
  - Whether the juvenile is a danger to persons and has been charged with a misdemeanor involving an assault, a firearm or other deadly weapon, driving while impaired, or driving after consuming alcohol or drugs.
  - The juvenile has failed to appear, or likely to not appear, on pending charges of delinquency, probation violations, or allegations of being undisciplined.
  - The juvenile is an absconder from a residential or detention facility of the State.
  - The juvenile should be detained for the juvenile's own protection.

If the court enters a custody order, the officer shall assume custody of the juvenile and take the juvenile to the person/place designated in the order without delay, unless emergency medical treatment is needed. A copy of the order shall be given to the juvenile's parent/guardian/custodian. If the order is for nonsecure custody, a copy of the petition and order shall also be given to the person/agency with whom the juvenile is being placed. If the order is for secure custody, copies of the petition and order shall accompany the juvenile to the detention or holding facility.

Regardless of whether a youth is being processed as a juvenile or an adult, the place of confinement will be a juvenile detention facility.

## **CHARGING GUIDELINES**

If charging the juvenile is the appropriate action, the following guidelines will be utilized to determine whether the juvenile is charged through the juvenile court system or the adult court system.

### **Offenses Committed Before December 1, 2019**

Individuals under age 16 should be processed through the juvenile justice system and individuals 16 years of age or older should be processed in the adult court system. It is the date of the offense that is determinative, not the date on which the individual is charged, or a petition is filed.

### **Offenses Committed On or After December 1, 2019**

#### **Motor Vehicle Offenses (Chapter 20)**

Any juvenile between 6 and 15 years of age who is believed to have committed a motor vehicle offense will either be released with no further action taken or released pending the issuance of a juvenile petition. At the discretion of the officers and in consultation with the juvenile's parents/guardian, the juvenile may be turned over to their parents, guardian, or caretaker at the scene of the stop, or they may be transported to the agreed-upon location by an officer.

Any juvenile that is 16 or 17 years of age who is believed to have committed a Chapter 20 motor vehicle offense, may be released with a warning and no further action taken or they may be charged as an adult. The preferred method of charge is the issuance of a traffic citation unless the offense is such that a custodial arrest is appropriate.

#### **Criminal Offenses (Non-Chapter 20)**

Any juvenile between the age of 6 and 15 years of age who is believed to have committed a minor criminal offense will be released with no further action taken or pending the issuance of a juvenile petition. If they committed a serious criminal act and they pose a safety threat to themselves or others, they may be detained, pending the issuance of a juvenile petition and secured custody order.

If a 16 or 17-year-old juvenile commits a minor criminal offense, the officer will first evaluate whether or not they qualify for the misdemeanor diversion program, found in G.O. [1035 Criminal Justice Diversion Programs](#). If the juvenile is referred to the program, they will be released with the necessary paperwork and instructions.

If a 16 or 17-year-old juvenile commits a Class A, B1, B2, C, D or E felony, together with any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that offense, and any greater or lesser included offense of that offense, they will be charged as an adult.

If a 16 or 17-year-old has a previous conviction in adult court for anything other than a Chapter 20 misdemeanor or infraction (not DWI related), they will be charged as an adult. Otherwise, the juvenile will remain in the juvenile system, and a petition will be sought. To determine a 16 or 17-year-old prior conviction history, contact the on-call JCC.

If a 16 or 17-year-old commits both motor vehicle and criminal offenses, they may be charged as both an adult and a juvenile, utilizing guidelines stated above.

## Issuance of Citations

Individuals under the age of 16, and 16 and 17-year-olds who must be processed through the juvenile justice system, shall not be issued citations at any time. If a circumstance exists where an adult would be issued a citation, the juvenile shall be released in a matter stated above and a report of the incident forwarded to the appropriate investigative unit. An investigator will then consult with a JCC as per N.C.G.S. § [7B-1700](#) for court or alternative action.

## JUVENILE PETITIONS AND PACKAGES

The juvenile court process begins when a complaint is filed by an officer alleging that a juvenile is delinquent. The arresting officer or investigator is responsible for submitting juvenile complaints and completing the juvenile screening package. JCCs review the complaint and determine whether the matter will be resolved by either no action taken, diversion, or filing for a petition.

Only forms provided by the [court](#) will be used to file a complaint. Officers and investigators seeking a petition will complete the complaint and get it notarized by either a magistrate or clerk of the court. The juvenile petition form technically constitutes the complaint. If approved for filing by the JCC, the complaint converts into a petition.

Officers must submit the juvenile petition and the juvenile screening package to the officers' district investigative unit within four-eight (48) hours of obtaining the petition. The package will include the following documents:

- Juvenile package checklist;
- A copy of the incident report;
- The notarized original juvenile complaint that has been approved for filing;
- The completed juvenile contact report (a printout of the electronic form is preferred)
- Copy of any victim, witness or suspect statements;
- Copy of completed rights waiver forms;
- Copy of completed principal notification form (for felony charges).

The completed package shall be placed in an envelope with the following information written on the outside:

- The words "juvenile package"
- charge(s);
- IR number(s)
- Charging officer's name and agency; and
- Date of the charge.

The district investigative unit shall deliver the package to the Juvenile Justice Office and meet with a JCC. Patrol Officers shall **NOT** submit juvenile packages directly to the Department of Juvenile Justice.

If the JCC decides that, instead of obtaining a petition, the juvenile should be referred to Teen Court, they will notify the officer of this decision. The officer will complete the [Teen Court referral form](#), attach the incident report and either fax or hand deliver the referral packet to the Durham Teen Court.

## DIVERSION PROGRAMS

When considering whether to take a juvenile into custody and/or initiate charges, officers and investigators should take into consideration the totality of the circumstances. The following guidelines should be considered when deciding whether or not a case should be taken to the juvenile court counselor. These guidelines are:

- The nature of the offense;
- The age of the juvenile;
- The alleged offender's record and the current probation status, if any;
- The juvenile's and their parent's attitude and willingness to cooperate in the investigation;
- The availability of community based alternative programs;
- Recommendations for diversion by the complainant or victim.

Whenever a member interacts with potential juvenile offenders, they should evaluate the need for appropriate referrals to support services, which may include referrals to the Department of Health and Human Services or mental health services through a Crisis Intervention Team referral (G.O. [4007 Response to Individuals with Mental Illness](#)). If a referral is determined to be appropriate, the referral will be made, and the officer will document who was referred and to what resource.

## DISCLOSURE OF INFORMATION

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 those of adults and shall be withheld from public inspection. The following persons may obtain copies of law enforcement records and files concerning a juvenile without an order of the court:

- The juvenile or the juvenile's attorney;
- The juvenile's parent, guardian, custodian or the authorized representative of one of these individuals'
- The prosecutor;
- Juvenile court counselors; and
- Sworn law enforcement officers in this State.

Otherwise, the records and files may be examined or copied by order of the court.

In addition, the Division of Juvenile Justice periodically adopts rules authorizing certain local agencies to share information concerning juveniles. These agencies may include local mental health facilities, health departments, departments of social services, law enforcement agencies, school administrative units, the district attorney's office, and Guardian ad Litem. Agencies so designated shall share with one another information that is relevant to any assessment of a report of abuse, neglect or dependency or the provision or arrangement of protective services in a child abuse, neglect or dependency case, or to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined or delinquent.

Publication of pictures of runaways is permitted with the permission of the parents.



## **RUNAWAYS**

Reports of missing juveniles will be handled in accordance with G.O. [4056 Missing & Found Persons](#), including NCIC/DCI entry and removal procedures. When officers encounter a juvenile, who has been positively identified as a runaway, the officer will take the juvenile into temporary custody. Once the juvenile has been taken into custody, the officer will notify their supervisor and the investigative supervisor of the district where the report was filed.

Runaways shall be handled in the following manner:

- Runaways whose residence is within DPD jurisdiction) may be taken into temporary custody and returned to their home; if no one is at home, the officer shall contact a watch commander for direction;
- Runaways whose residence is outside of DPD jurisdiction may be taken into temporary custody. The agency that made the NCIC entry will be notified. The officer shall contact the parents, guardian, or custodian of the child and request that they come to DPD to obtain the child. If more than three hours will be required for the parent, guardian or caretaker to respond or they are unable to respond, then the watch commander may authorize the officer to transport the juvenile home, depending on staffing levels and the driving distance. Under the following circumstances a runaway juvenile will be transferred to a district investigator:
  - The juvenile does not reside locally, and the watch commander does not approve the officer to bring the juvenile home, and a response from a parent/guardian or caretaker will take more than three hours.
  - Officers are unable to contact a parent, guardian, or caretaker.
  - The officer is unable to identify the juvenile.
  - The runaway has been identified as a suspect in a criminal investigation.

If a juvenile cannot be turned over to a parent, guardian or caretaker, DSS should be contacted to assist with placement.

## **INTERVIEW PROCEDURES FOR JUVENILES**

If a member does not have reasonable articulable suspicion to detain a juvenile, any field interviews conducted at that time are considered consensual, non-custodial contacts. Consensual, non-custodial interviews with juveniles will last only as long as it is necessary to obtain the needed information, or until the juvenile expresses a wish to discontinue the interview or leave. If a juvenile asks to leave, the interview will end.

All interviews with juveniles will be consistent with all applicable procedures in G.O. [4005 Advice and Waiver of Rights](#).

## **SCHOOL PROCEDURES**

The school administrator is solely responsible for implementing student codes of conduct and discipline policies. Officers or investigators are only responsible for responding to and investigating criminal activity and will not investigate or enforce school discipline policies.

When an officer or investigator needs to interview or take law enforcement action against a juvenile student on school grounds, appropriate school authorities will be notified before making contact with the juvenile, unless such notification would pose a danger to others or compromise an ongoing investigation.


Investigative contacts with the student on school grounds should be conducted in a way that minimizes disruptions to school functions with a primary consideration given to the safety of bystanders. Reasonable efforts will be made to remove a juvenile from the presence of other students and bystanders or take other appropriate action to avoid bringing undue attention to the student. Imminent threats of serious injury will be handled appropriately, with the need for safety outweighing minimizing disruptions.

### **School Principal Notification**

In accordance with NCGS § [15A-505 \(c\)](#), if a juvenile has been charged with a felony (except for Chapter 20 violations), the arresting officer or investigator is responsible for notifying the principal of the school where the juvenile is currently enrolled as soon as practically possible. The notification must be made in writing, using the [school principal notification form](#), and sent to the school principal within five (5) days of obtaining charges.

### **Truancy Guidelines**

If officers encounter a juvenile under 16 years of age outside of school grounds, they must determine if the juvenile is lawfully absent from school. A statement from the juvenile's parent, guardian, or caretaker, that the absence is permitted is sufficient to establish legal absence. If the officer cannot make contact with a parent, guardian, or caretaker or contact is made, and they state that the juvenile is supposed to be in school, the juvenile will be transported to the school they attend. The officer should escort the juvenile to the main office in the school. A field contact report will be completed, and include information on the juvenile, their parent/guardian, the school, and the name of the administrator the student was released to.

  
PATRICE V. ANDREWS  
CHIEF OF POLICE