



GENERAL ORDER

DURHAM POLICE DEPARTMENT
DURHAM, NC

NUMBER:

4061 R-4

RECORDING ARREST INFORMATION

Effective Date: 12/15/1995

Revision Dates: R-1 01/10/2005; R-2 01/31/2011; R-3 12/01/2015; **R-4 06/23/2022**

INTRODUCTION

The Durham Police Department (DPD) will comply with all State regulations concerning records kept of arrests. The Department will maintain a disposition file of all cases presented to the District Attorney's Office for prosecution.

ARREST FORMS

All felony and misdemeanor arrests and criminal citations served will be recorded on a DPD arrest report. These reports must be completed via Mobile Field Reporting (MFR), if available to the officer. **The completed arrest form(s) must be submitted before the end of the officer's shift.** A copy of the completed arrest report shall be provided to Durham County Jail intake staff by hand, or emailed to arrestreport@durhamsheriff.org if completed via MFR.

For adults, an Arrest Report is required for all service of *Criminal Process*, as identified in G.O. 4054 *Service of Legal Process*. For juveniles, a Juvenile Contact Report is required when:

1. The juvenile is taken into custody under such circumstances that, if the juvenile were an adult, a *Criminal Process* would have been served; or
2. The juvenile is referred to the juvenile justice system via a petition, regardless of whether the juvenile is in custody at the time it is submitted.

SERVICE OF CRIMINAL PROCESS FLOWCHART

The type of process being served must be recorded for each charge listed on the arrest report. See the attached [Service of Criminal Process Flowchart](#) for a decision-making framework on how to use arrest reports to document service of *Criminal Process*.

New Processes (On-view Arrests/Citations)

If an officer makes a physical arrest, all new charges obtained from a Magistrate's Order go on the same arrest report, along with any related citations. A new incident report number is generated, which is cleared by arrest.

If an arrest is in the form of a written citation, the officer is still required to complete an Arrest Report and Incident Report. The one exception to this rule is when the officer issues a citation for a traffic related misdemeanor, other than DUI and hit and run of a person. The incident report is cleared by arrest.

For an Existing Process (NCAWARE/NCIC)

If it is an Arrest Warrant or Criminal Summons, each *Criminal Process* clearing a DPD case must go on a separate Arrest Report under the original Incident Report number, and a clearance supplement submitted using the *Suggested Status* field to reflect the clearance being sought. The NCAWARE docket number must be recorded in the applicable field.

All Orders for Arrest (OFA's), plus Arrest Warrants from other jurisdictions, can go on the same arrest report, but these must be separate from on-view charges and DPD warrants/summonses; officers need to generate a new Incident Report number.

The Department should only report to the FBI arrests for offenses that occurred in its jurisdiction. Therefore, *Warrant Service for Other NC Jurisdiction (WARR)* shall be used as the charge for all existing warrants not originating from DPD cases. The NCAWARE docket number and the originating agency must be recorded in the applicable fields.

When serving on Order for Arrest, the type of OFA (e.g., failure to appear, probation violation, etc.) must be listed as the charge, not the original offense from which the OFA stems. The NCAWARE docket number and the originating agency must be recorded in the applicable fields.

MULTIPLE ARRESTEE INDICATOR

The *Multiple Arrestee Indicator* field ensures that the agency counts the arrestee only once when the arrest is related to multiple incidents. Valid data values include:

- C = Count Arrestee (1st arrest report that clears a Durham case)
- M = Multiple (any additional arrest report(s) that clear DPD cases)
- N = Not Applicable (does not clear a DPD case, such as an OFA, or warrant for another jurisdiction)

FINGERPRINTS AND PHOTOGRAPHS

In addition to filling out the Arrest Report and Incident Reports, arresting officers in all adult cases must have the arrestee(s) fingerprinted and photographed. Juveniles will be fingerprinted and photographed based on the guidelines of N.C.G.S. § [7B-2102](#).

Fingerprinting and photographing are done by the Detention Officers at the Durham County Jail. The fingerprints are submitted electronically to the North Carolina State Bureau of Investigation (SBI) for maintenance in the Statewide Automated Fingerprint Identification System. The photographs are submitted and stored electronically at the Durham County Jail Records System.

DNA COLLECTION

Certain offenses require the collection of a DNA sample upon arrest in compliance with the DNA Database Act - Article 13 of Chapter 15A of the NC General Statutes and N.C.G.S. § [7B-2201](#). **The following DNA collection procedures are not applicable to other DNA samples collected for evidentiary purposes.**

If a person is arrested without a warrant, the DNA sample will not be taken until a lawful probable cause determination has been made by a judicial official. Also, DNA samples will not be obtained if a DNA sample has previously been obtained by lawful process and the DNA record is stored in the State DNA Database, and that record and sample has not been expunged pursuant to any provision of law.

DNA collection will be obtained by the arresting officer from persons arrested who violate the following offenses, in accordance with N.C.G.S. § [15A-266.3A](#):

- N.C.G.S. § [14-16.6\(b\)](#), Assault with a deadly weapon on executive, legislative, or court officer
- N.C.G.S. § [14-16.6\(c\)](#) Assault inflicting serious bodily injury on executive, legislative, or court officer
- N.C.G.S. § [14-17](#), First and second-degree murder
- N.C.G.S. § [14-18](#), Manslaughter
- Any felony offense in [Article 6A](#), Unborn Victims
- Any offense in [Article 7B](#), Rape and Other Sex Offenses
- N.C.G.S. § [14-28](#) Malicious castration
- N.C.G.S. § [14-29](#) Castration or other maiming without malice aforethought
- N.C.G.S. § [14-30](#) Malicious maiming
- N.C.G.S. § [14-30.1](#) Malicious throwing of corrosive acid or alkali
- N.C.G.S. § [14-31](#) Maliciously assaulting in a secret manner
- N.C.G.S. § [14-32](#), Felonious assault with a deadly weapon with intent to kill or inflicting serious injury
- N.C.G.S. § [14-32.1\(e\)](#) Aggravated assault or assault and battery on an individual with a disability
- N.C.G.S. § [14-32.2\(a\)](#) when punishable pursuant to N.C.G.S. § 14-32.2(b)(1) Patient abuse and neglect, intentional conduct proximately causes death
- N.C.G.S. § [14-32.3\(a\)](#) Domestic abuse of disabled or elder adults resulting in injury
- N.C.G.S. § [14-32.4](#) Assault inflicting serious bodily injury or injury by strangulation
- N.C.G.S. § [14-33.2](#) Habitual misdemeanor assault
- N.C.G.S. § [14-34.1](#) Discharging certain barreled weapons or a firearm into occupied property
- N.C.G.S. § [14-34.2](#), Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers or campus police officers
- N.C.G.S. § [14-34.4](#) Adulterated or misbranded food, drugs, etc. with intent to cause serious injury or death or extort
- N.C.G.S. § [14-34.5](#), Assault with a firearm on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility
- N.C.G.S. § [14-34.6](#), Assault or affray on a firefighter, an emergency medical technician, medical responder, emergency department nurse, or emergency department physician
- N.C.G.S. § [14-34.7](#), Assault inflicting serious injury on a law enforcement, probation or parole officer or on a person employed at a state or local detention facility
- N.C.G.S. § [14-34.9](#) Discharging a firearm from within an enclosure
- N.C.G.S. § [14-34.10](#) Discharging firearm within enclosure to incite fear
- Any offense in [Article 10](#), Kidnapping and Abduction
- Any offense in [Article 10A](#), Human Trafficking

- Any offense in [Article 13](#), Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material
- N.C.G.S. § [14-51](#), First and second-degree burglary
- N.C.G.S. § [14-53](#), Breaking out of dwelling house burglary
- N.C.G.S. § [14-54\(a1\)](#) Breaking or entering building with intent to terrorize or injure
- N.C.G.S. § [14-54.1](#), Breaking or entering a place of religious worship
- N.C.G.S. § [14-57](#), Burglary with explosives
- Any offense in [Article 15.](#), Arson
- N.C.G.S. § [14-87](#), Armed robbery
- Common law robbery punishable pursuant to N.C.G.S. § [14-87.1](#)
- N.C.G.S. § [14-88](#) Train robbery
- Any offense that would require the person to register under the provisions of [Article 27A](#), Sex Offender and Public Protection Registration Programs
- N.C.G.S. § [14-163.1\(a1\)](#) Assaulting a law enforcement agency animal, assistance animal, or a search and rescue animal willfully killing the animal
- N.C.G.S. § [14-196.3](#), Cyberstalking
- N.C.G.S. § [14-202](#) Secretly peeping into room occupied by another person
- N.C.G.S. § [14-258.2](#) Possession of dangerous weapon in prison resulting in bodily injury or escape
- N.C.G.S. § [14-258.3](#) Taking of hostage, etc. by prisoner
- N.C.G.S. § [14-258.4](#) Malicious conduct by prisoner
- N.C.G.S. § [14-277.3A](#), Stalking
- N.C.G.S. § [14-288.9](#) Assault on emergency personnel with dangerous weapon or substance
- N.C.G.S. § [288.21](#) Unlawful manufacture, assembly, possession, storage, transportation, sale purchase, delivery, or acquisition of nuclear, biological or chemical weapon of mass destruction
- N.C.G.S. § [14-288.22](#) Unlawful use of a nuclear, biological or chemical weapon of mass destruction
- N.C.G.S. § [14-318.4\(a\)](#) Child abuse inflicting serious injury
- N.C.G.S. § [14-318.4\(a3\)](#) Child abuse inflicting serious bodily injury
- N.C.G.S. § [14-360\(a1\)](#) Cruelty to animals, deprivation of necessary sustenance
- N.C.G.S. § [14-360\(b\)](#) Cruelty to animals, maliciously torture, mutilate, maim, cruelly beat, disfigure, poison or kill
- N.C.G.S. § [14-401.22\(e\)](#) Attempt to conceal evidence of non-natural death by dismembering or destroying remains
- Any arrest for attempting, solicitation of another to commit, conspiracy to commit, or aiding and abetting another to commit, any of the above-listed offenses.

Note that misdemeanor assault on a law enforcement officer [N.C.G.S. § [14-33\(c\)\(4\)](#)] is NOT included. A complete list of all qualifying charges is available online on the Employees website under the officer's supplemental page.

Juvenile Offenders Subject to DNA Collection (N.C.G.S. § [7b-2201](#))

When jurisdiction over a juvenile is transferred to the superior court, a DNA sample will be taken from the juvenile if any of the offenses for which the juvenile is transferred are included in the list of offenses in N.C.G.S. § [15A-266.3A](#). It is the responsibility of the lead detective or assigned officer to ensure that a DNA sample is obtained in accordance with this policy.

COLLECTION PROCEDURES

Only the SBI provided kits are to be used for the DNA samples collected under the DNA Database Act of 2010. The kits for use by DPD are stored at the Durham County Jail and can be obtained from a Detention Officer. Proper DNA collection procedures are included with each of the kits and must be followed exactly. The arresting officer is responsible for collection and submission of the DNA sample kit.

The following items must be completed with the kit:

- DNA sample
- SBI DNA Database Collection Card - The information on the SBI DNA Collection Card is to be completed by the arresting officer or printed from the Live Scan. The thumbprints will be completed via Live Scan or manually by the jail Detention Officer. Once the arresting officer obtains the DNA sample using the SBI kit, the sample and the SBI DNA Database Collection Card are placed inside the provided envelope and sealed.
- DNA Collection Form - The DNA Collection Form is to be completed by the arresting officer, attached to the corresponding arrest report, and submitted to the DPD Records Unit.
- NC Department of Justice Expunction Procedures Notice - **The Expunction Notice form must be given to the arrestee at the time of the DNA collection.**

DNA KIT SUBMISSION PROCEDURES

The sealed kit, DNA Collection Form, and DPD arrest report are immediately brought to DPD Headquarters (HQ) by the arresting officer.

The DNA Collection Form and arrest report will be placed together in the appropriate Records drop box on the first floor of HQ. The DPD Records Unit will place the information in the case file.

The DNA sample envelope will be placed in the designated DNA kit mailbox in the first-floor mail area of HQ. The DNA kits will be forwarded to the SBI by the DPD Property and Evidence Unit via US Mail or hand delivery within seven days of collection.

Correcting Information Submitted to the SBI

If the arrestee's name, date of birth, or other information was submitted to the SBI incorrectly, then the arresting officer or lead investigator must immediately contact the SBI DNA Database unit at 919-662-4509 x2272 or x2275 and give the correct information.

Refusal or Inability to Complete the DNA Sample Collection

If an arrestee refuses to provide a required DNA sample, officers will not use force to complete the collection. Rather, the magistrate or judicial official is required to make the collection of the DNA sample a condition of pretrial release. In the instance where the arresting officer is no longer present or available when an arrestee is

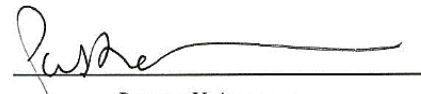
ready to give the DNA sample, the Durham County Sheriff's Office Detention Officers will perform the required DNA collection and notify the DPD Forensic Services Unit (FSU) that a kit was collected. FSU will collect the kit and paperwork from the jail and submit it to HQ according to submission procedures.

CONFIDENTIALITY OF RECORDS

DNA samples and records submitted to the SBI shall be treated as confidential information and are not public records. DNA records and samples submitted to the SBI may only be released for the purposes authorized in N.C.G.S. § [15A-266.12](#) which are generally:

- For law enforcement identification
- For criminal defense and appeal
- For forensic validation studies, protocol development or quality control, and for use with a population database if personally identifiable information is removed.

Any person who, without authorization, willfully obtains information from the State DNA Databank or Database, or who has possession of or access to said information and willfully discloses it to any person or agency not entitled to receive it is guilty of a Class H felony.


PATRICE V. ANDREWS
CHIEF OF POLICE