



Graham Police Department

Standard Operating Policies and Procedures

Policy 51 Juvenile Operations

POLICY

The Graham Police Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. To this end, the Graham Police Department will cooperate with the Chief Court Counselor under the direction of the N. C. Department of Public Safety Juvenile Services Division, Intake Counselors, and the Department of Social Services to any extent in carrying out the duties and responsibilities of an agency, so long as such cooperation remains within the purview of all applicable departmental policies and state statutes.

PURPOSE

To provide members of the Graham Police Department with guidelines and procedures involving the administrative and operational aspects of the Juvenile function.

I. Administration

A. The Graham Police Department hereby establishes its juvenile operations function, to include the following statements:

1. The Graham Police Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency.
2. The Graham Police Department will work to strengthen trust between youth and our department through positive interaction between youth and law enforcement.
3. The responsibility for participating in or supporting the agency's juvenile operations function is shared by all agency components and personnel.

B. Review and comment by other elements

The Graham Police Department encourages review and comment by other elements of the juvenile justice system in the development of the agency's policies and procedures relating to juveniles. Department policies regarding juvenile operations will be provided to local juvenile court personnel or subject matter experts for their review and comments and suggestions for improvement.

C. Review and evaluation of enforcement and prevention programs relating to juveniles.

The agency's Explorer Advisor and School Resource Officers shall submit an annual review and written evaluation of all prevention programs relating to juveniles, and shall consider both the quantitative and qualitative elements of each program, lending itself to decisions regarding whether a specific program should function as is, be modified, or be discontinued. The Support Services Captain or their designee shall submit an annual review and written evaluation of all enforcement programs relating to juveniles shall consider both the quantitative and qualitative elements of each program, lending itself to decisions regarding whether a specific program should function as is, be modified, or be discontinued. This report will be submitted to the Chief of Police through the chain of command for approval.

II. Operations

A. Alternatives when dealing with juvenile offenders refer to [NCGS 7B-2100](#), Role of the law enforcement officer.

Officers dealing with juvenile offenders shall use the least coercive action among reasonable alternatives, which may include:

1. Release of the juvenile, with or without first counseling the juvenile
2. Release the juvenile to the juvenile's parent, guardian, or custodian
3. Refer the juvenile to community resources
4. Seek a petition; or
5. Seek a petition and request a custody order

B. The officer should take into the consideration the nature of the offense, the age and circumstances of the juvenile offender, the juvenile offender's record, and the availability of community based alternative programs.

1. The officer investigating an incident involving a juvenile shall investigate the incident using the same attention and detail that is required in cases involving adult offenders.
2. The officer may request a petition be drawn pursuant to N.C.G.S. [7B-1802](#) and [1803](#). All complaints concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the intake counselor for screening and evaluation. If the juvenile court counselor determines that a petition should be filed, the petition shall be drawn by the juvenile court counselor or the clerk, signed by the complainant, and verified before an official authorized to administer oaths.

3. State law prohibits officers from issuing citations or criminal summons to delinquent juveniles under the age of 18 in N.C. unless specific statutory exceptions exist. Therefore, the above petition procedures will be utilized unless an exception exists as listed below. Refer to N.C.G.S. [7B-1802](#) and [1803](#) regarding the petition process for delinquent juveniles.
4. Delinquent Juveniles, defined
 - a. According to [NCGS 7B-1501 \(7\)](#), a delinquent juvenile is defined as any juvenile who, while less than 16 years of age but at least 10 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 [NCGS 5A-31](#).
 - b. The statute further defines a delinquent juvenile as one 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 the offenses listed below, or who commits indirect contempt by a juvenile as defined in [NCGS 5A-31](#). Offenses excluded from the definition of delinquent juvenile when committed while less than 18 years of age but at least 16 years of age include the following:
 - 1) All violations of the motor vehicle laws under Chapter 20 of the General Statutes.
 - 2) Any offense punishable as a Class A, B1, B2, C, D, or E felony if committed by an adult, 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.
 - 3) Youth arrested under these provisions will be housed in juvenile detention facilities pending trial until their case is heard or they turn 18 years old and are transferred to an adult jail.
 - c. Any juvenile who, while less than 10 years of age but at least 8 years of age, commits a Class A, B1, B2, C, D, E, F, or G felony under State law.
 - d. Any juvenile who, while less than 10 years of age but at least 8 years of age, commits a crime or an infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, and has been previously adjudicated delinquent.
5. The officer should notify the parent, guardian or custodian of the incident involving the juvenile, and the nature of the complaint, and advise the parent, guardian or custodian of the procedures to be used in handling the case.

III. Referral to Juvenile Court

- A. Once a petition has been filed alleging that a juvenile is undisciplined or delinquent, the clerk shall issue a summons to the juvenile and to the parent, guardian, or custodian requiring them to appear for a hearing at the time and place stated in the summons. Refer to [NCGS 7B-1805](#), Issuance of summons.
- B. Any referral of alleged juvenile offenders for juvenile court should be restricted to those cases involving serious criminal conduct or repeated criminal violations. Referral forms are available on the GPD computer server and through the juvenile court counselor's office.

IV. Procedures for taking a juvenile into custody

- A. These custody procedures are for juvenile offenders alleged to be delinquent or undisciplined as defined in [NCGS 7B-1501](#). Officers assigned to an initial criminal complaint will make a thorough investigation to determine whether the juvenile is alleged to have engaged in criminal or non-criminal misbehavior, using the same attention and detail that is required in cases involving adult offenses.
- B. Temporary custody means that an officer may take physical custody of a juvenile and provide personal care and supervision until a court order for secure or non-secure custody can be obtained. A juvenile may be taken into temporary custody without a court order under the following circumstances:
 - 1. A juvenile may be taken into temporary custody under [NCGS 7B-1900](#), without a court order if grounds exist for the arrest of an adult in identical circumstances under [NCGS 15A-401\(b\)](#). A juvenile taken into temporary custody under [NCGS 7B Article 19](#) shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless a petition or motion for review has been filed and an order for secure or nonsecure custody has been entered.
 - 2. An officer may take a juvenile into temporary custody if the officer suspects that the juvenile has been 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 pursuant to [NCGS 7B-500](#). The officer should then contact the Director of the Department of Social Services, who shall consider prehearing diversion. If the decision is made to file a petition, the Director shall contact the judge or person with delegated authority pursuant to [NCGS 7B-502](#) (authority to issue custody orders) for a determination for the need of continued custody. A juvenile taken into temporary custody under NCGS Article 5 shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless:
 - a. A petition or motion for review has been filed by the director of the department of social services, and
 - b. An order for nonsecure custody has been entered by the court.

3. The officer should determine whether the juvenile is alleged to have been harmed or is in danger of harm. Officers should take every opportunity to protect the juvenile from harm or the potential for harm. Officers shall notify the Department of Social Services Child Protective Services if the officer suspects that the juvenile is abused, neglected, or dependent as defined by [NCGS 7B-101](#). The report may be made orally, by telephone, or in writing pursuant to [NCGS 7B-301](#).
- C. To ensure that the constitutional rights of juveniles are protected, officers taking any juvenile into custody or temporary custody, must advise the juvenile prior to questioning, of his constitutional rights pursuant to [NCGS 7B-2101](#). According to General Statute [7B-2101 \(b\)](#), a juvenile less than age 16 must have a parent, guardian, custodian, or attorney present before any questioning. A juvenile rights form is provided for all officers to utilize and should be used when necessary, to ensure the juveniles protection. These custodial interrogation rights can be waived only by juveniles age 16 or 17.

V. Secure Custody Orders ([NCGS 7B-1904](#))

- A. The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and make due return on the order. A copy of the order shall be given to the juvenile's parent, guardian, or custodian, by the officer executing the order. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility.
- B. A DCI message, which is a message of the Division of Criminal Information, State Bureau of Investigation, stating that the juvenile petition and secure custody order relating to a specified juvenile is on file in a particular county, shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility. In such case, however, the copies of the juvenile petition and secure custody order shall be transmitted to the juvenile detention facility no later than 72 hours after the initial detention of the juvenile.
- C. An officer receiving an order for custody which appears valid on its face, may execute it in accordance with its terms and need not inquire into its regularity or validity, nor does the officer incur criminal or civil liability for its execution.
- D. If a juvenile is in need of emergency medical treatment, the officer having control of the juvenile shall immediately notify Emergency Medical Service, or transport the juvenile to the nearest medical facility for treatment, and shall remain with the juvenile until the juvenile has been released by the attending physician. If the juvenile is refused treatment by one appropriate hospital, and the period of secure custody is limited to 24 hours, the transporting officer shall take the juvenile to the juvenile detention facility without delay, where the facility will provide continuous supervision and notify a physician to determine the need for inpatient hospitalization or treatment.
- E. If an officer of the Graham Police Department serves a secure custody order on a

juvenile, the officer must make an attempt to contact the parent, guardian, or custodian, to inform them of this action. The parent, guardian, or custodian, does not have to be present when a secure custody order is served, but a copy of the order shall be given to the parent, guardian, or custodian.

VI. Taking Juveniles into Custody without a Court Order

Upon taking a juvenile into custody without a court order, the officer shall notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of the right to be present with the juvenile until a determination is made as to the need for secure or non-secure custody. Failure to notify the parent, guardian or custodian that the juvenile is in custody shall not be grounds for release of the juvenile. ([NCGS 7B-1901](#))

VII. Custodial Interrogation of Juveniles

- A. Any officer who takes a juvenile into custody for interrogation must first notify a parent, guardian, or custodian of the right to be present and the reason for the temporary custody.
- B. A juvenile taken into temporary custody under this section shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless;
 - 1. A petition or motion for review has been filed by an intake counselor or the Director of the Department of Social Services, and;
 - 2. An order for secure or non-secure custody has been entered by a judge.
- C. Any officer who takes a juvenile into temporary custody for interrogation shall provide a place to be interrogated that does not intimidate the juvenile in any way. At no time will there be more than two officers present while interrogating a juvenile. If at any time a third officer enters the interrogation room, the questioning will cease so as not to intimidate the juvenile. After the officer leaves the room the interrogation may proceed. Interrogations shall not proceed longer than one hour without a break for food, water, toilet facilities etc.
- D. Any officer taking a juvenile into custody must explain the agency and juvenile justice system to the juvenile, and advise them prior to questioning pursuant to [NCGS 7B-2101](#):
 - 1. That the juvenile has a right to remain silent
 - 2. That any statement the juvenile does make can be and may be used against the juvenile
 - 3. That the juvenile has a right to have a parent, guardian or custodian present during questioning; and

4. That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.
 - a. 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. If an attorney is not present, the parent, guardian, custodian as well as the juvenile, must be advised of the juveniles rights as set out in section (D.) above; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.
 - b. If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that he does not wish to be questioned further, the officer shall cease questioning.
 - c. Before admitting any statement resulting from custodial interrogation into evidence, the court shall find that the juvenile knowingly, willingly, and understandingly, waived the juvenile's rights.

VIII. Non-custodial interviews

- A. A non-custodial interview of a juvenile may be conducted when a juvenile is not in custody and the following conditions exist:
 1. Freedom of movement was not restrained to the degree of formal custody.
 2. The officer has informed the juvenile that he/she is free to leave, terminate the encounter, or terminate the questioning.
 3. A statement made by the juvenile was voluntary and free from duress or coercion.
- B. The admissibility of a juvenile's statement in court depends largely on the court's determination that the statement was made voluntarily and that the juvenile was free from duress or coercion regarding the statement. These factors depend on the totality of the circumstances. To show that a statement was voluntary and not made under duress or coercion, the officer should consider the following before proceeding with a non-custodial interview:
 1. The juvenile's age.
 2. Experience and background of the juvenile.
 3. Education, mental condition and intelligence of the juvenile.
 4. Juvenile's capacity to understand their rights and the consequences of making a statement.
 5. The length of the interview and the juvenile's familiarity with the criminal justice system
- C. Officers are prohibited from doing the following:

1. Making promises to obtain a confession.
2. Physical threats/show of violence.
3. Trickery.
4. Restricting the juvenile from communicating with parent, guardian, or their attorney.

IX. Agency Participation in Community Youth Programs

- A. The Graham Police Department encourages the involvement of all its members in the community. Understanding that the youth of today are the basis of our future, there is particular interest in community programs for our youth.
- B. In the event that officers and/or civilian members of the Graham Police Department plan to participate in any program as a representative of the Graham Police Department, prior approval must be received from the Chief of Police.
- C. Once participating, documentation regarding this participation shall be forwarded to the Chief of Police. Validation and documentation of participation shall be kept on file.

X. School Liaison Program

The Graham Police Department's School Resource Officers shall be liaisons with local schools. All officers should make an attempt to go to the schools in our jurisdiction to assist in this endeavor. The liaison program shall incorporate the following:

- A. Acting as a resource with respect to delinquency prevention.
- B. Providing guidance on ethical issues in a classroom setting.
- C. Providing individual counseling to students.
- D. Explaining the law enforcement role in society.

XI. Non-Testimonial Identification Orders

Except as provided in [NCGS 7B-2102](#), nontestimonial identification procedures shall not be conducted on any juvenile without a court order issued pursuant to [NCGS 7B Article 21](#) unless the juvenile has been charged as an adult or transferred to superior court for trial as an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order authorized by [NCGS 7B-2100](#) may be issued by any judge of the district court or of the superior court upon request of a prosecutor. "Nontestimonial identification" means identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, or other reasonable physical examination, handwriting exemplars, voice samples, photographs, and lineups or similar identification procedures requiring the presence of a juvenile. Any evidence seized pursuant to a

nontestimonial order shall be retained by law enforcement officers until further order is entered by the court.

XII. Fingerprints and Photographs ([NCGS 7B-2102](#))

- A. A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in [NCGS 7B-1701](#), when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the N. C. Department of Public Safety Juvenile Services Division.
- B. If a law enforcement officer or agency did not take the fingerprints or a photograph of the juvenile or the fingerprints or photograph have been destroyed, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.
- C. A law enforcement officer who fingerprints or photographs a juvenile shall do so in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation. After the juvenile, who was 10 years of age or older at the time of the offense, is adjudicated delinquent of an offense that would be a felony if committed by an adult, fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs obtained pursuant to this section shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes.
- D. Fingerprints and photographs taken pursuant to [NCGS 7B-2102](#) are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to [NCGS 7B-3000](#), shall be withheld from public inspection or examination, and shall not be eligible for expunction pursuant to [NCGS 7B-3200](#). Fingerprints and photographs taken pursuant to this section shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.
- E. If a juvenile is fingerprinted and photographed pursuant to subsection (A) of this section, the custodian of records shall destroy all fingerprints and photographs at the earlier of the following:
 - 1. The juvenile court counselor or prosecutor does not file a petition against the juvenile within one year of fingerprinting and photographing the juvenile pursuant to subsection (A) of this section;
 - 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 a misdemeanor if committed by an adult.

The chief court counselor shall notify the local custodian of records, and the local custodian of records shall notify any other record-holding agencies, when a decision is made not to file a petition, the court does not find probable cause, or the court does not adjudicate the juvenile delinquent.

XIII. Driving While Impaired

Any officer who takes a juvenile into custody for the offense of Driving While Impaired, the procedures for testing the alcohol content of his blood or breath, shall be the same as used with adults, except that juveniles under the age of 16 shall be charged on a referral form in lieu of a citation and juveniles ages 16-17 will receive a citation.

XIV. Reporting Juvenile Contacts

Any time a juvenile is taken into custody by an officer, an Incident Report must be completed. Any officer having a non-custody contact with a juvenile should complete a Field Interview/Information-Intelligence Report to be submitted to the Criminal Investigations Division for intelligence gathering.