

Chapter: 44	Juvenile Operations
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Chapter 44 Juvenile Operations

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44.1.1 Juvenile Operations Policy

The New Bern Police Department is committed to prevent and control juvenile delinquency and related problems. All divisions and personnel within the department share the responsibility for participating in, and supporting such juvenile programs.

44.1.2 Policy Input, Others

The Department will share policies and procedures with other elements of the juvenile justice system. Critical review and comment from other agencies and organizations involved in juvenile justice will be solicited by direct request and through interaction with the Department of Public Safety, Division of Adult Correction and Juvenile Justice.

44.1.3 Annual Program Review

The Department will conduct an annual evaluation of all departmental enforcement and prevention programs relating to juveniles. All elements of the department's juvenile operations will be assessed to determine the need to continue, modify, or discontinue any or all programs.

44.2.1 Handling Offenders

Officers dealing with juvenile defendants will use the least coercive, most appropriate enforcement alternatives appropriate to the situation and needs of the juvenile.

A. Outright release with no further action

Officers of the New Bern Police Department, upon contacting a juvenile may evaluate the circumstances, conditions, and surroundings involved with the contact and release the juvenile with no further action.

This may be done if the contacting officer is satisfied that release is an acceptable alternative and there is no cause for further action.

B. Criteria and procedures for issuing written citations or summons to juvenile offenders to appear at intake in lieu of taking them into custody

When determining the course of action to be taken, officers should note that secured custody orders are issued only for felonies and serious misdemeanors. Officers should consider the following factors when determining case disposition:

1. Nature of the alleged offense
2. Age and circumstances of the defendant
3. Defendant's juvenile record
4. Availability of community-based programs
5. Needs and limitations of the juvenile
6. Strengths and weaknesses of the family
7. Concerns of the victims or complainants
8. Welfare of the public

When taking a juvenile into temporary custody, after weighing these factors officers should select from the following alternatives the most appropriate course of action dependent upon the situation and needs of the juvenile:

1. Divert the juvenile from the Court by release, counsel and release, release to parents, or referral to community resources.
2. Seek a petition.
3. Seek a petition and request a custody order.

Any arrest of juveniles should conform to current juvenile procedures as established by the North Carolina General Statutes and department policy. Juveniles 16 years or older charged with criminal traffic offenses should be released on a citation unless in the officer's opinion, the juvenile poses further risk to themselves or others if not taken into custody. If the offender is under the age of 18 on the date of offense, the case must be initiated in juvenile court. Exceptions exist for emancipated minors, 16- and 17-year-olds charged with Chapter 20 offenses, and juveniles with prior criminal convictions in district or superior court. Contact with a Juvenile Justice Intake Counselor must be made to confirm prior criminal convictions in district or superior court.

C. Referral to juvenile court

At a minimum, juveniles will be referred to an Intake Counselor after committing delinquent acts that:

1. Would be felonious if committed by an adult.
2. Involve weapons.
3. Are serious gang-related.
4. Involve aggravated assaults.
5. Are committed by juveniles under probation or by those with a criminal case pending.
6. Are repeated within a 12-month period.

Other situations that may require referral are:

1. Juveniles who have been selected for a diversion program but who have refused to participate.
2. Cases in which it has been determined that parental supervision is not effective.
3. Cases in which juveniles are alleged to be undisciplined, such as runaways and truants. In these cases, the officer will instruct the parent, guardian, or social worker to file the undisciplined petition.
4. In situations where a juvenile has a caseworker and it is determined that a new court referral is not necessary, the complaint may be referred to the juvenile's caseworker. A wide variety of agencies and programs may be used for referrals such as Teen Court.
5. Referral to juvenile court should normally be reserved for offenses involving serious felonies, misdemeanor offenses committed by repeat offenders, and circumstances involving a request by a parent or juvenile for court assistance.

44.2.2 Procedures for Custody

Officers of the New Bern Police Department shall abide by the North Carolina General Statutes, Chapter 7B, Article 5, when taking juveniles into custody.

A. Determining whether the juvenile is alleged to have engaged in noncriminal misbehavior (a status offense)

Officers of the New Bern Police Department may take a juvenile into temporary custody if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile. Officers shall follow the definition of undisciplined juvenile as set forth in the North Carolina General Statutes, Chapter 7B, Section 7B-1501 Subsection 27. The North Carolina General Statutes define an undisciplined juvenile as follows:

1. A juvenile who, while less than 16 years of age but at least 10 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.
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.

Taking a Juvenile into Temporary Custody: In accordance with North Carolina General Statute Section 7B-1900, a juvenile may be taken into temporary custody without a court order in the following circumstances:

1. If grounds exist for the arrest of an adult in identical circumstances under North Carolina General Statute 15A-401 (b).
2. If there are reasonable grounds to believe that the juvenile is undisciplined.
3. If there are reasonable grounds to believe that the juvenile is an absconder from any state training school or approved detention facility.

Duration: A juvenile taken into temporary custody will not be held for more than 12 hours unless:

1. A petition or motion for review has been filed by an Intake Counselor or by Craven County Child Protective Services, and
2. An order for secure or non-secure custody has been entered by a judge.

B. Determining whether the juvenile is alleged to have been harmed or to be in danger of harm

If the juvenile is alleged to be abused, neglected, or dependent:

1. Contact the Craven County Department of Social Services, Child Protective Services, and report the details of the incident so that Child Protective Services can decide the exigency of their response.
2. While the investigation is being conducted, it may be necessary to remove the juvenile from the incident for safety reasons. If this is determined to be necessary, when possible, coordinate this relocation with Craven County Child Protective Services.
3. If probable cause is established that the child is a victim of a criminal act, take appropriate enforcement action.

C. Ensuring that the constitutional rights of juveniles are protected

If a custodial interview is conducted, advise the juvenile of their constitutional rights using the Juvenile Rights Form. **Juveniles under 16 must have a parent, guardian, or custodian, present before any questions or interview can be conducted.**

D. Bringing the juveniles to the intake facility or the juvenile component without delay (unless a juvenile is in need of emergency medical treatment)

Once the charging officer has determined that the juvenile will not be released to a parent, guardian, or custodian but must be taken to an Intake Counselor or other juvenile facility, the officer will transport the juvenile without delay, unless the juvenile is in need of emergency medical treatment. A juvenile will not be placed or transported in any police or other vehicle which, at the same time, contains an adult under arrest, unless the adult is involved in the same offense or transaction with the juvenile and then only when absolutely necessary.

E. Notifying parents or guardians of juveniles that the latter have been taken into custody

Officers of the New Bern Police Department shall adhere to the North Carolina General Statutes, Chapter 7B, Article 5, Section 7B-501, when taking a juvenile into custody. If a juvenile has been taken into temporary custody, the officer or the officer's Team Supervisor 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. Notification of the juvenile's parent, guardian, or custodian should be made as soon as practical, in person or by telephone.

44.2.3 Juvenile Interrogations

A. Custodial Interrogation

Any custodial interrogation of a juvenile will follow the guidelines set forth by the Department and General Statute Section 7B-2101 and New Bern Police Department Directive 42.2.11.

Any juvenile in custody must be advised prior to questioning that:

1. The juvenile has the right to remain silent.
2. Any statement the juvenile does make can be and may be used against the juvenile.
3. The juvenile has the right to have a parent, guardian, or custodian present during questioning. **(If juvenile is under the age of 16, this right cannot be waived)**
4. 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.

No more than two officers should normally engage in the interview of a juvenile. The duration should normally be limited to no more than two hours at any one session. The officer(s) conducting the interview will explain departmental and juvenile justice system procedures to juveniles being interviewed.

If a juvenile indicates in any manner or at any point during an interview that he/she does not wish to be questioned further, the interviewing officer will cease questioning immediately.

When possible, a juvenile's interrogation should be electronically recorded in its entirety and all recordings should be kept in accordance with North Carolina General Statute 15A-211. All custodial interrogations of juveniles conducted at a place of detention **MUST** be electronically recorded in their entirety.

B. Non-Custodial Interrogation of Juveniles

- 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 or detention.
 - 2. The juvenile has been instructed that he is free to leave.
 - 3. A statement made by the juvenile was not made under coercion and was voluntary.

- B. An officer interviewing a juvenile not in custody should consider the following before conducting an interview:
 - 1. The juvenile's age.
 - 2. Experience and background of the juvenile.
 - 3. Education and intelligence of the juvenile.
 - 4. Juvenile's capacity to understand their rights and consequences.
 - 5. Location

- C. An interview of a juvenile during a routine traffic stop is considered "presumptively temporary and brief" and questions asked are not considered to be a custodial interview or interrogation

44.2.5 Community Recreation Programs

The members of the New Bern Police Department are encouraged to take an active role in our community as an extension of our department-wide philosophy of Community Policing. The Department supports a philosophy of youth interaction and encourages all employees to volunteer their time and become active in community recreational youth programs sponsored by the New Bern Parks and Recreation Department and other organizations.