

# THE RALEIGH POLICE DEPARTMENT

**1109-13**

## RESPONSE TO JUVENILE INCIDENTS

### PURPOSE

Due to the unique legal status of juveniles, special procedures are needed for incidents involving juveniles who are delinquent, undisciplined, or who may be the victims of abuse, neglect, or exploitation. The purpose of this directive is to establish guidelines and procedures for police contacts with juveniles.

### VALUES REFLECTED

This directive reflects our values of *Service and Compassion*. We are committed to the protection of juveniles who are victims of abuse, neglect or exploitation and to the prevention of delinquency. We will act with a sensitive and caring attitude in all juvenile proceedings and in a manner that both accomplishes our law enforcement goals and safeguards the welfare of juveniles.

### UNITS AFFECTED

All Divisions/Sworn Officers

### REFERENCES/FORMS

G.S. 7B-1700 to G.S. 7B-1808 "Delinquency and Undisciplined Petitions"  
G.S. 7B-300 to G.S. 7B-407 "Abuse and Neglect Complaints"  
G.S. 7B-500 to G.S. 7B-508 "Non-Secure Custody"  
G.S. 7B-1701 "Preliminary inquiry"  
G.S. 7B-1900 to G.S. 7B-1907 "Secure and Non-Secure Custody"  
G.S. 7B-2100 to G.S. 7B-2109 "Law Enforcement Role in Delinquency Proceedings"  
G.S. 7B-2900 to G.S. 7B-3001 "Juvenile Records"  
G.S. 7B-2800 to G.S. 7B-2827 "Interstate Compact on Juveniles"  
G.S. 15A-505 "Notification of Parent and School"

May be Released to Public

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## **GENERAL POLICIES**

The responsibility for participating in or supporting the agency's juvenile operations function is shared by all agency components and personnel. The goal of all officers should be to prevent juvenile delinquency, rather than rely on corrective sanctions. Officers should attempt to detect and remedy conditions that lead to delinquency or victimization. Several alternatives are available to officers in dealing with delinquent or undisciplined juveniles, including:

- Releasing the juvenile to a parent or guardian with no further action;
- Releasing the juvenile to a parent or guardian and seeking juvenile petitions at a later time; and,
- Taking the juvenile into temporary custody for protective purposes or while seeking non-secure or secure custody orders

The alternative selected should be the most appropriate course of action to the situation, the needs of the juvenile, and the protection of public safety.

A number of factors must be considered in diversion decisions relating to juvenile offenders including but not limited to, the nature of the alleged offense, the age and circumstances of the alleged offender, the alleged offender's past record, if any, and the availability of community-based rehabilitation programs. Officers should also consider whether a recommendation for diversion was made by the complainant or victim.

## **CLASSIFICATION OF JUVENILES**

There are several classes of juveniles under State law.

### **Delinquent Juveniles**

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 G.S. 5A-31.

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 violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

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.

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 previously adjudicated delinquent.

### **Undisciplined Juvenile**

An undisciplined juvenile is any person 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 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

An undisciplined juvenile is any person 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.

#### Vulnerable Juvenile

A vulnerable juvenile is a person who, while less than 10 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, and is not a delinquent juvenile.

#### Neglected Juvenile

A neglected juvenile is a person under 18 years of age who has been abandoned; or who does not receive proper care, supervision or discipline from the juvenile's parents; or who does not receive proper medical or other remedial care; or who lives in an environment injurious to the juvenile's welfare; or placed for adoption in violation of law.

#### Abused Juvenile

An abused juvenile is a person under 18 years of age whose parents, guardian, caretaker or other responsible person inflicts or allows sexual acts or injury to be inflicted, creates the risk of injury or emotional damage, or encourages delinquent acts involving moral turpitude by the juvenile; uses or allows grossly inappropriate or cruel procedures to modify behavior.

#### Dependent Juvenile

A dependent juvenile is a person under 18 years of age who is in need of assistance or placement because the juvenile has no parent or guardian responsible for the juvenile's care or supervision, or whose parents are unable to provide such care or supervision and lacks an appropriate alternative child care arrangement.

#### Emancipated Juvenile

An emancipated juvenile is a juvenile at least 16 years of age but under 18 years of age who is either married, serving as a member of the armed forces, or has been legally emancipated by court order.

### **PRELIMINARY INVESTIGATION OF JUVENILE COMPLAINTS**

Field Operations Division officers will respond to and conduct preliminary investigations involving juveniles.

#### Notifying the Detective Division

The Detective Division should be notified immediately when juveniles are implicated in the following non-divertible offenses:

- Any felony which involves the willful infliction of serious bodily injury, or which was committed by use of a deadly weapon.
- The felonies of murder, rape, arson, robbery, first degree burglary, or crime against nature.
- Any drug violation that would constitute a felony if committed by an adult.

The Detective Division should also be notified in cases of incest or sexual assault against a juvenile.

#### Parental Notification and Notification of School Principal

The parent or guardian of an un-emancipated minor (16 or 17) must be notified if the minor is taken into custody as an adult for a criminal offense or charged on a citation as required in G.S. 15A-505 and set forth in DOI 1108-02.

If an officer takes a juvenile (under 18) into temporary custody because the juvenile has committed an offense that would be a crime if committed by an adult, or because there are grounds to believe the juvenile is undisciplined, or because the juvenile is an absconder from a residential facility or from an approved detention facility, then the officer must notify the juvenile's parent, guardian or custodian that the juvenile is in custody and that they have a right to be present with the juvenile until the determination is made as to the need for secure or non-secure custody.

If an officer charges a juvenile 16 years of age or older with a felony as an adult, except for felony offenses under motor vehicle laws, then the principal of any school that the student attends will be notified. The term school means any public or private school. When the student, who is age 16 or older, is charged with a felony, whether or not there is custody, the officer shall notify the principal in writing, using a form letter approved by the Department within five days of the felony charge. Officers will need to ask students, ages 16 or older and charged with a felony, where they attend school. Officers should document their efforts to determine what school the student attends. A copy of the written principal notification is to be sent to the Field Operations Division Administrative Assistant.

#### Interviewing Juveniles

Questioning of juveniles must be consistent with Departmental Operating Instructions 1110-10 "Interviews and Interrogations" as follows:

- If a juvenile is not in custody, then an interview may be conducted without providing any juvenile Miranda warnings. An interview may be conducted without the presence of a parent or guardian.
- If a juvenile under 18 years of age is in custody, then juvenile Miranda warnings must be provided. A juvenile under 16, who is in custody, may not waive the right to have a parent, guardian or attorney present during an interview. An admission from a juvenile under 16 years of age is not admissible unless the child has waived their right indicating a willingness to talk and the juvenile's parents, guardian or attorney are present.
- A juvenile under 18 years of age, who is in custody, will be provided with the juvenile Miranda warnings. Juveniles who are between 16 and 17 may waive their right to have a parent, guardian or attorney present.

## Identification Procedures

Juveniles may be placed in a show-up if the show-up is conducted close in time and proximity to the crime and the juvenile is suspected of committed common law robbery or a non-divertible offense as defined by N.C.G.S. 7B-1701. (See DOI 1110-09 "Non-Testimonial Identification, Line-Ups").

Juveniles under the age of 18, who are taken into custody, are to be photographed and fingerprinted, under the direction of a Juvenile Detective, as set forth in G.S. 7B-1701, which requires that officers shall fingerprint and photograph a juvenile who is ten years of age or older at the time the juvenile allegedly committed a non-divertible offense when a complaint has been prepared for filing as a petition and the juvenile is in the physical custody of an officer.

A 16 or 17-year-old who is arrested and charged with a Chapter 20 offense is to be fingerprinted and photographed as an adult would be for the Chapter 20 offense.

A 16 or 17-year-old who is arrested and charged with a non-Chapter 20 offense based on a previous qualifying conviction is to be fingerprinted and photographed as an adult would be.

If an officer did not fingerprint or photograph the juvenile while in custody, then the officer shall fingerprint and photograph the juvenile, under the direction of a Juvenile Detective, when the juvenile has been adjudicated delinquent if the juvenile was ten years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.

When the juvenile is bound over for prosecution as an adult in Superior court, the juvenile shall be fingerprinted and photographed as an adult.

Unless transferred to Superior Court to be prosecuted as an adult, a juvenile under the age of 18 cannot consent to provide non-testimonial evidence. Therefore, a non-testimonial identification order must be obtained as required under G.S. 7B-2103 - 7B-2109 and described in DOI 1110-9 "Non-Testimonial Identification, Line-Ups."

## Juvenile Petitions

Field Operations Division officers should conclude juvenile investigations, including obtaining juvenile petitions within (30) thirty days, whenever possible.

The issuance of a citation by a law enforcement officer to a juvenile less than 16 years of age is not allowed by law. Officers may issue a citation to a 16 or 17-year-old for any offense found in Chapter 20 of the North Carolina General Statutes. Officers may NOT issue a citation for a non-Chapter 20 violation to a 16 or 17-year-old unless the officer has confirmed with the Department of Juvenile Justice that the juvenile has a prior conviction which would exclude him from the jurisdiction of the juvenile court.

Where secure or non-secure custody is not necessary, the officer should release the juvenile to a parent or guardian, and file a petition with the Juvenile Court Intake Counselor during business hours. Once a summons is obtained from the Juvenile Court Intake Counselor, this process should be personally served upon the parent, the guardian, custodian, or caretaker, and the juvenile or counsel, no less than 5 days prior to the date of the scheduled hearing.

The juvenile should be presented to the Juvenile Court Intake Counsel if secure custody is required. If secure custody is required at night, the Magistrate's office will contact the Juvenile Court Counselor on call.

If a juvenile under the age of 18 is charged with a felony, then the case will be handled similarly to adult felony cases. A probable cause hearing will be scheduled within fifteen (15) working days of the juvenile's first appearance. A felony investigative report will have to be completed and filed with the District Attorney's office at the same time a juvenile summons is issued. It is important to note on the report that it is for a juvenile case, and it should be forwarded to the Juvenile Court Intake Counselor.

### Case Reports

Case reports are to be made on all offenses and missing person complaints involving juveniles.

For reasons of confidentiality, the identity of juveniles will not be disclosed on the public copy of the report.

Juvenile suspects should be completely described in a supplement. This description should include the parent or guardian's home and business address as well as the school attended by the juvenile.

### **TAKING JUVENILES INTO TEMPORARY CUSTODY**

Once a juvenile under the age of 18 is taken into temporary custody, the juvenile's parent or guardian should be notified as soon as possible. A juvenile taken into temporary custody 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 an order for secure or non-secure custody has been issued.

### Secure Custody

The following are grounds for requesting a petition for secure custody:

- The juvenile is charged with a felony and has demonstrated a danger to property or persons.
- The juvenile is charged with a misdemeanor and at least one element is assault on a person and the juvenile is a danger to persons.
- The juvenile has willfully failed to appear on pending charges or has a record of failures to appear at court proceedings.
- There is reasonable cause to believe the juvenile should be detained for the juvenile's own protection because the juvenile has recently suffered or attempted self-inflicted physical injury. In such cases, the juvenile must have been refused admission by one appropriate hospital and the period for secure custody is limited to 24 hours to determine the need for inpatient hospitalization. If the juvenile is placed in secure custody, the juvenile shall receive continuous supervision and a physician shall be notified immediately.
- The juvenile is alleged to be undisciplined by virtue of the juvenile being a runaway and is inappropriate for non-secure custody placement or refuses non-secure custody, and the court finds that the juvenile needs secure custody.

- The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; the juvenile shall be brought to court as soon as possible and in no event should be held more than 24 hours, excluding Saturdays, Sundays, and State holidays or where circumstances require for a period not to exceed 72 hours.
- When a juvenile has been adjudicated delinquent, the court may order secure custody pending placement.

### Non-Secure Custody

A juvenile may be taken into temporary custody without a court order when the juvenile's health or welfare is in jeopardy. A juvenile may also be taken into temporary custody without a court order, by a law enforcement officer, if there are reasonable grounds to believe that the juvenile is delinquent or undisciplined.

Delinquent or undisciplined juveniles should be referred to the Intake Counselor. Abused or neglected juveniles should be taken into custody and the Wake County Department of Human Services contacted. After normal business hours, the on-call social worker will be notified. A copy of this on-call list is available at the Wake County Magistrate's office. A social worker will make a determination on placement of the juvenile in these cases.

Non-secure custody is appropriate when one or more of the following conditions exists:

- The juvenile is a runaway and consents to non-secure custody.
- The parents or guardian are unable to provide adequate supervision or protection, and consent to non-secure custody.
- The juvenile is in need of medical treatment to prevent serious physical harm and their parents are unwilling or unable to provide the proper aid.
- The juvenile has been abandoned, abused, or is dependent; and placement with a parent or guardian is inadvisable.

### Parental Care

When the conditions for secure or non-secure custody are not met, officers should consider releasing the juvenile to a parent, guardian, or relative. Referral will then be made to the Juvenile Court Intake Counselor or the Department of Social Services during business hours.

## **RUNAWAYS**

Classifications for juveniles vary among states. When locating juveniles, it is necessary to differentiate between those reported missing in this state and those missing from other states.

### In-State Runaways

A runaway, who resides in this state, can be detained if they are neglected, dependent or undisciplined, or subject to a court order. Any juvenile at least six years of age but less than 18, who runs away from home for a period of more than 24 hours, is considered to be undisciplined.

Officers locating a runaway should attempt to return the runaway to their parent or guardian.

In no event, will officers detain juveniles in excess of 12 hours. If reunion with parents cannot be arranged within that time, officers are to seek either secure or non-secure custody.

### Out-of-State Runaways

North Carolina is a member of the Interstate Compact on Juveniles and is obligated to abide by juvenile classifications used by other states when locating out-of-state runaways. In most states, 16- and 17-year-old runaways can be detained as undisciplined juveniles. A requisition for return will usually be made on the NCIC/DCI entry. Upon locating an out-of-state runaway, the following procedure should be followed.

- Officers should notify the reporting agency and attempt to establish contact with the parents.
- If both parents and the juvenile consent to voluntary return, the officer should provide whatever assistance possible. The interstate bus company may be contacted regarding their "home free" program.
- If the parents or juvenile refuse voluntary return, the Juvenile Court Intake Counselor should be notified.
- If reunion cannot be facilitated within 12 hours, secure or non-secure custody must be sought.

### Reported Runaways

Juveniles who are reported to our Department as runaways will be investigated in the same manner as any missing person (DOI 1109-15 "Response to Missing Persons").

## **JUVENILE FOLLOW-UPS AND REFERRALS**

Any case needing follow-up will be assigned to a detective who will be responsible for conducting the appropriate investigation into the incident and making supplemental reports as required.

- Detectives will coordinate with the appropriate juvenile court personnel in all cases requiring their attention.
- Detectives will abide by procedures and laws regarding the detention and interrogation of juveniles. They will endeavor to inform parents or guardians of procedures and stages in the juvenile justice system.

## **MISSING JUVENILES**

Missing juveniles or runaways may be or may soon become victims of serious crimes. Every effort should be utilized in locating these juveniles as rapidly as possible.

### Assignment of Cases

Cases involving missing juveniles will be assigned to follow-up investigation, regardless of the degree-of-seriousness or solvability factors present.



### Tracking Missing Juveniles

Detectives must verify that the missing juvenile has been entered in N.C.I.C. The detective will update the alert indicators as required (refer to DOI 1109-15 "Response to Missing Persons").

Detectives will conduct a background investigation on the juvenile and determine whether the juvenile is missing, or is a willful runaway. All cases involving missing or runaway juveniles should be brought to the immediate attention of a supervisor.

### Locating Missing Juveniles

A detective locating or being notified of the return of a missing juvenile should first verify the information. The detective will then notify Emergency Communications to have the subject removed from DCI/NCIC. Emergency Communications will notify the N.C. Center for Missing Persons.

## **DETECTIVE DIVISION JUVENILE RECORDS**

Detective Sergeants will be responsible for maintaining the confidentiality of juvenile records held by the division.

### Records Separated from Adult Cases

All records related to juveniles, and investigations conducted that involve juvenile victims or suspects, will be filed separately from other cases.

### Expunging Records

Detective Sergeants will be responsible for purging records of juveniles held in the Division upon notification of court orders.

## **ANNUAL REVIEW OF PROGRAMS**

The Youth and Family Services Detective Lieutenant will be responsible for conducting an annual review and evaluation of enforcement and deterrent programs relating to juveniles. The review will include background information on the programs, an evaluation of each program's effectiveness, address improvements in the working relationships with other agencies involved in the protection and diversion processes, and seek input and comment by those agencies in the development of the agency's policies and procedures. The annual review will be sent to the Chief of Police for final review and approval.