



# Apex Police Department General Order



<b>Title</b> Juvenile Operations	<b>Order Number</b> 1309-19
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<b>CALEA Standard:</b> 44.1.1, 44.1.2, 44.1.3, 44.2.1, 44.2.2, 44.2.3, 44.2.4, 44.2.5, 82.1.2	<b>Rescinds:</b>
<b>Reference:</b> NCGS 7B-1900, 7B-2100, 7B-2105, 7B-2108, 7B-3200, 15A-401 (b), 15A-505, 20-16 (c), GO - 401 Records Administration	<b>Pages:</b> 19 + addendums
<b>Forms:</b> F1309 – School Administrator Evaluation of School Resource Officer	

## Juvenile Operations

### Purpose

The purpose of this directive is to establish the juvenile operations component within the department, promote cooperation with other segments of the juvenile justice system and provide for the evaluation of programs designed to prevent and control juvenile delinquency.

### Policy

It is the policy of the Apex Police Department to take the appropriate actions in a manner that ensures the needs of each juvenile are best met in each juvenile case and to protect the public. All officers will work in conjunction with other appropriate agencies, including the Wake County Department of Social Services, the North Carolina Department of Juvenile Justice and Delinquency Prevention and other agencies, as appropriate. The department's juvenile operations are the responsibility of all sworn officers. As a part of this process, the department is committed to the development and continuation of programs designed to prevent and control juvenile delinquency.

## Juvenile Operations

### Definitions

*Delinquent Juvenile* – A juvenile between the ages of 6 and 17 who has committed a crime/infracton under state law or under any ordinance of local government, including violation of motor vehicle laws, if committed by an adult. The exception to this definition is any Chapter 20 violation for juveniles 16 and 17 years of age or a juvenile 16 or 17 years of age who has already been arrested and convicted as an adult.

*Diversion* – Any procedure that substitutes non-entry for official entry into the justice process, such as lesser supervision or referral to a non-justice agency, no/conventional supervision or any kind of non-confinement status.

*Juvenile* – Any person who has not reached the age of 18 and is not married, emancipated or a member of the United States Armed Services.

*Non-Secure Custody* – The physical placement of a juvenile into a licensed foster home, a home authorized to provide such care, a facility operated by the Wake County Department of Social Services or any home or facility approved by the court and designated in the court order. **(SOURCE:** NCGS 7B-505) **(NOTE:** The Juvenile Justice and Delinquency Prevention Act (JJDP) defines this term differently for purposes of the Act. The JJDP definition applies only when determining if it is permissible to hold a juvenile status offender, a non-offender or a civil-type offender in a secure manner or not. (Refer to Section IX A-2, below).)

*Non-Testimonial Identification* – Court ordered procedure that requires the presence of a juvenile for the purpose of establishing questioned identity and/or participation in a criminal act by means of the examination of fingerprints, palm-prints, footprints, measurements, or other reasonable physical examination; handwriting samples; voice samples; photographs; lineups or similar identification procedures. Non-testimonial identification must be requested through the District Attorney's Office and be approved by a District Court Judge. **(NOTE:** For alcohol-related motor vehicle offenses, juveniles are subject to the same DWI statutes that apply to adults and; therefore, in these cases chemical analysis procedures do not require a non-testimonial identification order.)

*Secure Custody* – The physical placement and holding of a juvenile in an approved county detention home or a regional detention facility. For the purposes of the Juvenile Justice and Delinquency Prevention Act (JJDP), secure custody also includes detaining a juvenile in a locked room of a police facility or being restrained to a stationary object (i.e. handcuffed to a bench, etc.).

*Status Offense* – Any violation of any federal/state law or local ordinance by a minor that would not be an offense if committed by an adult. Examples include violation of curfew, truancy, runaways, underage drinking, etc. Status offenders cannot be held securely in a detention home, county jail or municipal lockup.

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*Status Offender* – A juvenile accused or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if it were committed by an adult. For purposes of the Juvenile Justice and Delinquency Act (JJDP) of 2002, this includes Undisciplined-Type Status Offenders, Delinquent-Type Status Offenders, Non-Offenders and Civil-Type Offenders. (Refer to Addendum - Status Offender Fact Sheet.)

*Temporary Custody* – The taking of a person into physical custody by a law enforcement officer to provide for personal care and supervision until a court order for secure or non-secure custody may be obtained. Temporary custody can be secure or non-secure depending on the facts of the case. (**SOURCE:** NCGS Section 7B-500)

*Undisciplined Juvenile* – A juvenile between the age of 6 and 15 who is unlawfully absent from school, or a juvenile age 16 or 17 who has dropped out of school and who is regularly disobedient and beyond the disciplinary control of his/her parent/guardian or custodian, 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.

## Procedures

### Juvenile Operations Components and Function (44.1.1)

1. The principle objective of the juvenile operations/function is to prevent delinquent behavior through intervention, counseling, education, social service referrals and enforcement where appropriate. Juvenile operations include, at a minimum, the following:
  - Design and implementation of programs intended to prevent and control delinquent and criminal behavior by juveniles
  - Follow-up processing of investigations involving youth
  - Coordination and preparation of court cases that involve juveniles
  - Diversion of the juvenile out of the juvenile justice system and adjustment of cases when appropriate and coordinated by and accomplished through the North Carolina Department of Juvenile Justice and Delinquency Prevention (DJJDP)
2. All department personnel share the responsibility for participating in and supporting the department's juvenile operations and delinquency prevention efforts, including:
  - Conducting investigations of juveniles involved in criminal activity, as well as, juveniles that are victims of abuse, neglect or other criminal activity
  - Conducting a complete follow-up investigation of juvenile runaway cases
  - Assisting other officers in juvenile cases
  - Follow-up processing of juvenile arrests
  - Coordinating and preparing court cases where juvenile offenders are involved
  - Serving as a liaison with other agencies and organizations involved in juvenile services
  - Developing and implementing delinquency prevention programs

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- Diverting juvenile offenders from the juvenile justice system when appropriate
  - Protecting the constitutional rights of juveniles
  - Maintaining a working knowledge of the North Carolina Statutes and federal regulations as they pertain to juveniles and familiarizing themselves with various support programs utilized by the Wake County Juvenile Courts
  - Maintaining liaison with school, social service agencies and other organizations that provide services for community youth
3. Officers dealing with juveniles will use the least coercive among reasonable alternatives when deciding on the best method to address the incident, address victim needs and concerns, if any, and address the juvenile's actions consistent with preserving public safety, order and individual liberty. If consistent with North Carolina General Statutes (NCGS), options include:
- Outright release with no further action, if a violation of a law or ordinance is not suspected or alleged (44.2.1 (a))
  - Issuing a written citation in lieu of taking the juvenile into custody as outlined in this and other applicable written directives (44.2.1 (b))
    - Per NCGS, citations can be issued only to a person who is 16 years of age or older, who has committed a violation under Chapter 20 of NCGS or has already been arrested and convicted as an adult
  - Referral to a juvenile court or Capital Area Teen Court (44.2.1 (c))
  - Filing of a Juvenile Petition
  - Arrest/secure custody (**Note:** An arrest can only be made if a juvenile 16 or 17 years of age commits a misdemeanor under Chapter 20 of NCGS, has already been arrested and convicted as an adult, or a secure custody order has been issued by the courts)
  - Other options, as outlined in this General Order and other applicable written directives
4. When determining the course of action to be taken with juvenile offenders, officers should consider the following factors:
- Nature of the alleged offense
  - Age and circumstances of the offender
  - Offender's record (including school records)
  - Availability of community-based programs
  - Needs and limitation of the juvenile
  - Strengths and weakness of the family
  - Concerns of any victims or complaints
5. All criminal investigations and requests for petitions relating to juveniles initiated by the Patrol Division will be forwarded to the Criminal Investigation Division for follow up. Personnel assigned as School Resource Officers may conduct investigations and file petitions, and then forward their complete investigative file to the Criminal Investigation Division.

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### **Referrals of Juvenile Offenders for Prosecution (44.2.1 (c))**

1. Juveniles committing offenses in the following categories should be referred to a Juvenile Intake Counselor through the Wake County Juvenile Court:
  - Acts that would be felonies, if committed by an adult
  - Acts that would be a serious misdemeanor, if committed by an adult (i.e. aggravated assault, weapons offenses)
  - All sex-related crimes
  - All gang-affiliated criminal or delinquent acts
  - Acts committed by juveniles who are on probation or parole
  - Acts committed by juveniles who have a case pending
  - Repeated acts that would indicate the person could be considered a Delinquent Juvenile
  - Other situations that would indicate filing a petition is the most appropriate action, the needs of the juvenile and/or the protection of public safety

### **Procedures for Release of Juvenile Cases (44.2.1 (a))**

1. Juveniles in custody of Apex Police Department personnel will only be released to a parent, guardian or other appropriate authority.
2. Juveniles may be released from custody, when appropriate, through one of the following methods:
  - Warnings, either written or verbal
  - Informal referrals to social service or counselling organizations
  - Consulting with parents or guardians

### **Issuing Written Citation or Summonses to Juvenile Offenders (44.2.1 (b))**

1. A person 16 years of age or older who is to be charged with a traffic misdemeanor or infraction may be issued a Uniform Traffic Citation and processed as an adult.
2. A juvenile less than 16 years of age who is to be charged with a traffic misdemeanor or infraction will be charged by the officer utilizing the Wake County Juvenile Court petition process.
  - The officer will present the facts of the violation to the juvenile intake counselor for purposes of obtaining a juvenile petition for the traffic violation(s).

### **Juvenile Justice and Delinquency Prevention (JJDP) Act of 2002**

1. The JJDP Act of 2002 is an Act of Congress that places requirements on law enforcement when a juvenile is taken into custody.

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2. For purposes of the act, the following definitions apply:

- *Secure* – The juvenile is physically detained or confined in a locked building, room, cell or is handcuffed to a stationary object. A building or room that can be locked to prevent exit, even if it is not locked at the time a juvenile is placed inside, is considered “secure.” Unlocked areas/rooms inside a secure perimeter are also secure.
- *Non-Secure* – The juvenile is handcuffed to himself/herself, **BUT NOT TO A STATIONARY OBJECT**, or is placed in a room that does not have the capability of locking from the outside, does not have stationary cuffing devices and is not within a secure perimeter. Non-secure custody occurs when all of the following are met:
  - The area where the juvenile is placed is an unlocked, multipurpose location such as a lobby, office or interview room
  - The juvenile is not physically secured to a stationary object
  - The use of the area is limited to providing non-secure custody long enough and for the purposes of identification, investigation, processing, release and/or transfer
  - The area is not designated or intended to be used for residential purposes
  - Continuous visual supervision is provided by an officer or by facility staff
- The provisions of the JJDP Act do not apply under the following circumstances:
  - The juvenile is held in non-secure custody
  - The juvenile is placed in a locked police vehicle
  - The juvenile is handcuffed to himself/herself outside a secure setting
  - The juvenile is in a secure booking area for processing purposes and is removed immediately following booking
  - The juvenile is in an unlocked area

### Juvenile Arrests/Custody

1. NCGS 7B-1701 outlines the **non-divertible** offenses that, if committed by a juvenile, require the issuance of a juvenile petition (the officer must file for a petition, which is issued by juvenile intake).

2. The following are the non-divertible offenses:

- Murder
- First or Second Degree Rape
- First or Second Degree Sexual Offense
- Arson
- Any violation of Article 5, Chapter 90 of the NCGS, that would constitute a felony if committed by an adult
- First Degree Burglary
- Crime Against Nature

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- Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon
3. NCGS 7B-1900 outlines when a law enforcement officer may take a juvenile into temporary custody. A juvenile may be taken into temporary custody (without a court order):
    - If grounds exist for the arrest of an adult in identical circumstances under NCGS 15A-401(b)
    - If there are reasonable grounds to believe that the juvenile is an “undisciplined juvenile”
    - If there are reasonable grounds to believe the juvenile is an absconder from any residential facility operated by the Office of Juvenile Justice or from an approved detention facility
  4. NCGS 7B-2100 outlines the role of law enforcement officers. A police officer who takes a juvenile into temporary custody may:
    - Release the juvenile with or without first counseling the juvenile
    - Release the juvenile to the juvenile’s parent, guardian or custodian
    - Refer the juvenile to community resource
    - Seek a petition
    - Seek a petition and request a custody (court) order
  5. A juvenile may be taken into temporary protective custody without a court order by a law enforcement officer if there are reasonable grounds to believe that the juvenile is abused, neglected and that the juvenile would be injured if not removed from the surroundings (i.e. the juvenile is alleged to be harmed or in danger of harm). (SOURCE: NCGS 7B-500) (44.2.2 (b))
    - The officer will notify the on-duty supervisor and then make contact with the Wake County Department of Social Services.
    - The officer will advise the Department of Social Services of the conditions and allegations.
    - Wake County Department of Social Services will make the decision as to the welfare and placement of the juvenile victim.
    - If the juvenile is a victim of a crime, all attempts will be made to fully investigate the case and charge the suspect(s).
    - All reports of abuse and/or neglect are to be documented by obtaining an OCA number and completing a report.
      - If, after investigation, it is determined that a crime did not occur, the case will be closed as “unfounded.”
  6. Juveniles will be released from secure custody as soon as reasonably possible by an appropriate method (release to parent(s)/guardian(s), DSS, etc.).

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- Secure custody of a juvenile will not exceed six hours.
  - A juvenile taken into temporary custody under NCGS Article 7B (Temporary Protective 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 a petition or motion for review has been filed by the director of the department of social services, and an order for non-secure custody has been entered by the court.
7. Detention and custody of juveniles who are considered Status Offenders is governed by the JJDP Act of 2002. (44.2.2 (a))
- A non-offender or a status offender cannot be held securely for any period of time. (Refer to the Status Offender Fact Sheet (attached) for guidelines.)
8. A juvenile who is in secure custody will be held separately from an adult offender, and juveniles of the opposite sex will not be held in the same room or area. The separation should include “sight and sound” separation.
9. Officers taking a juvenile into custody will:
- Notify the juvenile’s parents, guardians or custodians that the juvenile has been taken into custody in accordance with NCGS 15A-505 (44.2.2 (e))
  - Ensure that the constitutional rights of the juvenile are protected (44.2.2 (c))
10. Juveniles will not be handcuffed to any fixed object while in the custody of the Apex Police Department.
11. A standard RMS Arrest Report will be completed on all juveniles taken into custody.
- **NOTE:** Once juvenile information is entered, the RMS automatically converts the Arrest Report to a Juvenile Contact Report and moves the data to the Juvenile Module.
  - Access to the Juvenile Module is restricted to sworn police officers and authorized civilian staff with a need to access the data.

### **Procedures Following Custody**

1. A juvenile who is taken into custody will be transported to the Apex Police Department or other appropriate juvenile intake facility without delay, unless the juvenile is in need of emergency medical treatment. (44.2.2 (d))
- Emergency medical treatment will be provided when indicated through the Wake County Emergency Medical Services or any other appropriate medical provider.



**Procedures for Custodial Interviews (44.2.3)**

1. Pursuant to NCGS 7B-2101, prior to questioning a juvenile in custody, officers will follow the below procedures:
  - Inform the juvenile he/she has the right to remain silent
  - Inform the juvenile that any statement made can be and may be used against the juvenile
  - Inform the juvenile that he/she has the right to have a parent, guardian or custodian present during questioning
  - Inform the juvenile that he/she has a right to consult with an attorney and that one may be appointed
  - If the juvenile indicates in any manner and at any stage of questioning that the juvenile does not wish to be questioned further, the officer will cease questioning
  - If the juvenile is less than 16 years of age, the juvenile must have a parent, guardian, custodian or attorney with him/her during questioning
  - Juveniles age 16 and older may waive the right to have a parent, guardian, custodian or attorney present
    - **NOTE:** Only the juvenile may waive his/her rights
2. 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 or custodian, as well as the juvenile, must be advised of the juvenile's rights as set out in NCGS 7B-2101, Subsection (a); however, a parent, guardian or custodian may not waive any right on behalf of the juvenile.
3. Prior to a custodial interview, officers interviewing a juvenile under 18 years of age will ensure that the juvenile is advised of his/her Miranda rights using form F1101a - *Juvenile Rights Form* or F1101c – *Juvenile Rights Form – Spanish*.
4. To protect the custodial rights of the minor and the integrity of the interrogation:
  - Only the minimum number of officers necessary to effectively conduct the interrogation will participate at any given time
    - Unless approved by a Criminal Investigation Division Supervisor, there should be no more than two officers in the designated room at the same time
    - If an exception is approved, the reason and name of the approving supervisor will be documented in the case report.

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- The duration of the interrogation should be limited to only that time period that is reasonable based upon the facts and circumstances of the case to be investigated (i.e. two hours for minor crimes, etc.)
  - If the juvenile or parent(s)/legal guardian(s)/custodian(s) have questions or need clarification, the officer should confer with the juvenile's parent(s)/legal guardian(s)/custodian(s) at the appropriate time (i.e. before, during or after the interview/interrogation) to explain department procedures and the procedures of the juvenile justice system
5. Officers will make an electronic recording of any interrogation of a juvenile who is in the custody of the Apex Police Department. (**SOURCE:** NCGS 15A-211 (b))
- The provisions of NCGS 15A-211 (b) apply to interrogations of juveniles who are in custody "at any place of detention," which would include:
    - A jail, police or sheriff's station, correctional or detention facility, holding facility for prisoners or other facility where persons are held in custody in connection with criminal charges (**SOURCE:** NCGS 15A-211 (c) (3))
    - Any Apex Police Department facility
    - Any Wake County Jail facility
    - Any other police or jail facility or place of detention
  - A "place of detention" does not include:
    - A patrol vehicle
    - The street or other public place
    - Any non-custodial type of facility
  - The term "electronic recording" requires at least an audio recording but requires simultaneous audio and video recording "whenever feasible."
    - When possible, officers will use the Apex Police Department interview rooms, which are equipped with audio and video recording equipment.
    - If not available, officers will use another facility that is equipped with audio and video recording equipment.
    - If no such facility is available, the officer preparing to conduct the interrogation will notify a Criminal Investigation Supervisor or, if not available, the on-duty supervisor or on-call investigator.
    - If video recording is not feasible, the circumstances will be documented in the appropriate case report.

## Parental Notification

1. A law enforcement officer who charges a juvenile (younger than 18 years of age) with a criminal offense will notify the minor's parent or guardian of the charge, as soon as practicable, in person or by telephone. (**SOURCE:** NCGS 15A-505(a))
2. If the juvenile has been taken into custody, the law enforcement officer or the officer's immediate superior will notify a parent, guardian or custodian in writing that the juvenile is

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in custody within 24 hours of the juvenile's arrest. If the parent, guardian or custodian of the juvenile cannot be found, then the officer or the officer's immediate superior will notify the juvenile's next-of-kin of the juvenile's arrest as soon as practicable. (**SOURCE:** NCGS 15A-505 (a))

- Form F401 – *Parent/Guardian Notification Form* will be used for this purpose.
- A copy of the form will be included in the case file.

3. The notification outlined by NCGS 15A-505(a) is not required if the juvenile:

- Is emancipated under the following circumstances:
  - When ordered by a judge following a hearing into a request for emancipation
  - Upon entry into the military service
  - When married(**SOURCE:** NCGS 15A-505(b))
- Is not taken into custody and has been charged with a motor vehicle moving violation for which three or fewer points are assessed under NCGS 20-16(c) except an offense involving impaired driving, as defined in NCGS 20-4.01(24a)
- Has been charged with a motor vehicle offense that is not a moving violation

## School Notification

1. A law enforcement officer who charges a person with a criminal offense that is a felony, except for a criminal offense under Chapter 20 of the NCGS, will notify the principal of any school the person attends of the charge as soon as practicable but at least within five days. (**SOURCE:** NCGS 15A-505 (c))

- The notification may be made in person or by telephone.
- This section applies regardless of age of the defendant.
- Form F401a – *Felony Notification Letter to principal* will be used for this purpose.
- A copy of the form will be included in the case file.

2. If the person is taken into custody, the law enforcement officer or the officer's immediate supervisor will notify the principal of any school the person attends. (**SOURCE:** NCGS 15A-505 (c))

- This notification will be in writing and will be made within five days of the person's arrest.

## Processing Juveniles for Identification (Fingerprinting and Photographing)

1. Fingerprinting and photographing arrestees, including juveniles, is the responsibility of the City County Bureau of Identification (CCBI).

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2. Pursuant to NCGS 7B-2102 (a), a law enforcement officer or agency will fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a non-divertible 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 Division.
  - Unless already fingerprinted as outlined in NCGS 7B-2102 (a), a law enforcement officer or agency will 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. (**SOURCE:** NCGS 7B-2102 (a)(b))

### **Non-Testimonial Identification Procedures**

1. Non-testimonial identification procedures will not be conducted on any juvenile without a court order unless the juvenile has been transferred to Superior Court for trial as an adult.
2. When a non-testimonial identification order is needed to collect evidence from a juvenile, the officer requesting the order will notify the Criminal Investigation Division Commander.
  - The requesting officer will complete an affidavit listing the probable cause to believe that the juvenile was involved in the criminal activity.
  - The Criminal Investigation Division Commander will review the affidavit to ensure it is sufficient and the non-testimonial identification procedure is necessary.
  - If approved, the Criminal Investigation Division Commander will submit the affidavit to the District Attorney's Office.
3. The District Attorney's Office will present the affidavit to a judge and will seek the non-testimonial identification order.
4. The North Carolina Attorney General has ruled that chemical analysis procedures do not require a non-testimonial identification order.
5. The following are grounds for a non-testimonial identification order (**SOURCE:** NCGS 7B-2105):
  - The offense must be a felony or the officer must have probable cause to believe that an offense has been committed that would be a felony, if committed by an adult
  - The officer must have reasonable grounds to believe that the juvenile committed the offense
  - The results of the procedure will be of material aid in determining whether the juvenile named committed the offense
  - The juvenile requests that non-testimonial procedures be conducted upon himself/herself (a court order is still needed)

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6. The results of any non-testimonial identification procedures will be retained or disposed of as follows:
  - If a petition is not filed against a juvenile who has been the subject of non-testimonial identification procedures, all records of such evidence will be destroyed by the law enforcement agency having possession of the records
    - Following destruction, the law enforcement agency will make written certification to the court of the destruction of the records (Source NCG.S.7B-2108 (6))
    - The Criminal Investigation Division Commander is responsible for ensuring compliance with this statute
  - If a case is in District or Superior Court pursuant to a transfer, and the juvenile is found not guilty, all records resulting from a non-testimonial order will be destroyed by the law enforcement agency having possession of the records
    - Following the destruction, the law enforcement agency will make written certification to the court of the destruction of the records
    - In the case of a juvenile who is under 13 years of age and adjudicated to have committed a delinquent act, which would be less than a felony had the juvenile been an adult, all records will be destroyed as outlined above
  - If a juvenile 13 years of age or older is found to have committed a delinquent act which would be a felony if committed by an adult, all records resulting from a non-testimonial order may be retained in the court file
    - Special precautions will be taken to ensure that these records are maintained separate and apart from all adult files
  - If a juvenile case is transferred to Superior Court, all records resulting from non-testimonial identification procedures will be included in the court files in the same manner as for an adult
  - Any evidence seized pursuant to a non-testimonial order will be entered into the department's evidence system as outlined in General Order 801 - *Evidence and Property Management and Control* and other applicable written directives
  - The destruction of non-testimonial identification records will be performed in accordance with NCGS 7B-2108(b)
    - Destruction of non-testimonial identification records will be performed by the law enforcement agency having possession of the records
    - Following destruction, the law enforcement agency will provide, in writing, certification that the records were destroyed by the agency
    - The written certification will be forwarded to the court of record

## Absconders

1. An officer may take a juvenile into custody if there are reasonable grounds to believe the juvenile is an absconder.
2. The officer will first notify the on-duty supervisor and then contact the Department of Juvenile Justice and Delinquency Prevention (DJJDP) intake counselor.

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3. The intake counselor will contact a judge to request a secure custody order.
4. After receiving an order for secure custody, the officer will transport the juvenile to the nearest approved facility providing secure custody.
5. The officer will then contact the administrator of the training school or detention facility from which the juvenile absconded, who will be responsible for returning the juvenile to that facility. (**SOURCE:** NCGS 7B1901(c)).

## Diversion

1. The Wake County Justice System operates “Capital Area Teen Court” as a method of diverting certain misdemeanor cases from the court system.
2. The Teen Court is a sentencing/diversion option administered by a contract provider. It was established for first-time, misdemeanor offenders, ages 9 to 17, who admit guilt for their offense and are currently enrolled in the Wake County Public School System. The Teen Court Coordinator has the final say on whether or not a case is appropriate for Teen Court. Therefore, it is not appropriate to advise families or offenders they will automatically be accepted. (**SOURCE:** Wake County Justice System)
3. If the officer and/or a supervisor believe that a misdemeanor case involving a juvenile would be better handled through the Teen Court, the investigating officer should complete the *Capital Area Teen Court Referral Form*. This form is available in both English and Spanish from the organization’s website.
  - The form will be completed before the end of the duty day and will be forwarded to the on-duty supervisor for review and approval.
  - If approved, the officer or assigned detective will forward the form to Capital Area Teen Court for processing via fax at (919) 856-5673 or by US Mail to P.O. Box 724 Raleigh, NC 27602.
4. The following alleged offenses are not appropriate for referral to Teen Court:
  - Offenses with serious injury
  - Driving While Impaired under NCGS 20-138.1, 20-138.2, 20-138.3, 20-138.5, or any other motor vehicle violations
  - Class A1 misdemeanors
  - Assaults in which a weapon is used
  - Controlled substance offenses under Article 5 of Chapter 90 of the General Assembly Statutes, other than simple possession of a Schedule VI drug or alcohol
  - Sexual offenses by youth, past or present
  - Offenses involving firearms, box cutters, brass knuckles, etc.

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(SOURCE: NCGS 7B – 1706 (c) and organization website)

### Records

1. Juvenile records are not public records, and will not be disclosed without a valid court order, except as outlined in NCGS 7B-3001 (b).
2. All law enforcement records and files concerning a juvenile will be kept separate from the records and files of adults and will be withheld from public inspection. (SOURCE: NCGS 7B-3001 (b))
3. The following persons may examine and obtain copies of law enforcement records and files concerning juveniles without an order of the court:
  - The juvenile
  - The juvenile’s parent, guardian, custodian or authorized representative of the juvenile’s parent, guardian or custodian
  - The District Attorney or prosecutor
  - Court counselors
  - Law enforcement officers sworn in North Carolina who have an official need for the record/file
4. All juvenile case files will be forwarded to the Criminal Investigation Division.
  - Each case file will be labeled with the word “JUVENILE” or the Letter “J” on the outside of the case folder. (82.1.2 (a))
  - Juvenile files will be maintained in a locked storage location/cabinet and access will be limited as outlined in applicable laws, regulations, this General Order and/or any other applicable departmental written directive. (82.1.2 (c))
5. The expungement, of juvenile records can be accomplished only by a valid court order. (82.1.2 (e))
  - Any person who has attained the age of 18 may file a petition in court where the person was adjudicated undisciplined for expunction of all records of that adjudication. (SOURCE: NCGS 7B-3200) (82.1.2 (d))
  - Juvenile referral files may be destroyed when the juvenile reaches the age of 18. (82.1.2 (d))
  - Other juvenile records will be destroyed and/or purged upon the order of a court or based upon the North Carolina Municipal Records Retention and Disposition Schedule.
  - The Records/IT Manager is responsible for all expungements, destruction and purging of juvenile records, which will be conducted in accordance with applicable NCGS and other written directives.

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6. To guard against indirectly identifying a juvenile through parent, legal guardian or custodian information, the officer documenting a case involving a juvenile as a suspect or victim will capture this information only within the narrative section of the report.
  - The Records Management System (RMS) automatically restricts information from public view when juvenile information is entered.

### **Community-Based Youth Programs (44.2.5) / School Liaison Program (44.2.4)**

1. The School Liaison Program is primarily carried out through the department's Community Policing Officers (CPO) and School Resource Officers (SRO). However, all employees have the responsibility to work with the schools, both public and private, to achieve the department's objectives.
  - The Apex Police Department supports a philosophy of youth interaction and encourages all employees to become active in youth programs sanctioned by the department.
2. The program has been developed to establish positive working relationships between police, school administration, educators, service agencies, parents and students. The goal of this program is to maintain a safe, secure environment, free of violence and fear, which will allow the educational process to occur in a natural and uninhibited manner.
  - Officers and other employees are encouraged to, when workload permits, attend and make themselves accessible to the public (if only for a brief period of time) during events taking place in schools located within the department's jurisdiction.
  - Events may include football games, theater presentations, open school nights, etc.
  - As approved by the school principal or other appropriate authority, officers may patrol/walk through schools and campus facilities; attend other events; interact with faculty, staff and students during school lunch times; etc. in schools either with or without a SRO assigned. If a SRO is assigned, the officer will coordinate with that SRO.
  - Response to school-based incidents and complaints handled by SROs or other officers will be conducted as a general call for service, following established protocols.
3. Direct program activities include:
  - Internship Program
  - Explorer Post Program
  - Youth Enrichment Program
  - Other presentations, demonstrations and outreach activities
4. SROs, CPOs and other staff may be involved in the implementation of prevention programs that deter youth from involvement in criminal acts, alcohol use, drug use and/or gang activity.



## Juvenile Operations

5. SROs and CPOs may assist in the preparation of educational programs concerning legal and ethical issues that can be delivered in a classroom setting.
6. SROs may offer individual counseling to students who are in need and may assist students with personal problems, with the goal of assisting the student/family and deterring delinquent behavior.
7. As with all officers, SROs and CPOs will model the law enforcement role in society by fostering relationships with students and school personnel based on mutual respect and trust. All officers are ambassadors of the Apex Police Department and will serve as a resource to students, their families, school staff and the community at large.

### *SRO Duties and Responsibilities*

1. The Apex Police Department and the Wake County Public School System (WCPSS) have entered into a multi-year Memorandum of Understanding (MOU) and an annual contract for the School Resource Officer program. The MOU and contract outline the general goals, duties and responsibilities for SROs.
2. In addition, SROs will assist in protecting the school community from violations of the law including, but not limited to, theft, vandalism, loitering, trespassing, assault, drug and alcohol offenses and gang activities. This will be accomplished by:
  - Initiating police reports and investigating all criminal matters reported to them during their tour of duty
  - Documenting and investigating all other matters that is of importance to the safety of the school and community (e.g., potential violence, gang and drug activity, etc.)
  - Reporting truancy problems to school officials and remaining aware of patterns of delinquency, abuse, neglect and other areas of concern
  - Assisting the departmental staff, school officials, and parents in cases involving juvenile offenders, victim or suspects with locating missing and/or runaway youths
  - Meeting regularly with the school principal/staff, social workers and psychologists to identify individuals or conditions that could result in delinquent behavior
  - Maintaining an active involvement in the student assistance program and related prevention activities
  - Attending large school functions that require police presence (e.g., sporting events, dances, etc.) as authorized by their supervisor
  - Daily monitoring of problem areas within the school building and grounds
  - Serving as liaison with other agencies and organizations interested in juvenile matters

## Juvenile Operations

### *SRO Job Functions*

1. SROs are employees of the Apex Police Department on assignment to the school district for the school year.
  - Normal work hours are Monday through Friday, in conjunction with the school schedule. SROs should be at their assigned school prior to and after the scheduled school day to ensure a safe environment and maintain a police presence for the entire school day. **The School Resource Unit (SRU) Supervisor is responsible for setting the schedule in conjunction with the appropriate Division Commander.**
  - **In the event SROs need to be absent from their assigned school duties for court or other reasons, SROs will notify the school administrator and the SRU Supervisor.**
    - The SRU Corporal is responsible to cover the school and provide SRO services to the extent possible during these absences.
  - **During the summer months, SROs may be assigned to other law enforcement functions as directed by the SRU Supervisor with approval from the Patrol Division Commander.**
  - The SRO position is a specialized assignment; continuation in the assignment is based upon review of performance by the school administration where the SRO is assigned, the annual Apex Police Department Performance Management and Evaluation Program and other factors as determined by the Chief of Police.
    - Form F1309 – *School Administrator Evaluation of School Resource Officer* will be used for this purpose.
  - SROs must adhere to all department written directives and all applicable policies of the Wake County Public School System (WCPSS). If WCPSS policies conflict with department written directives, the written directives of the department will take precedence.
    - **Any conflict will be reported to the SRU Supervisor.**

### **Policy Development**

1. The department encourages review and comment by other elements of the juvenile justice system, juvenile social service programs and public school system in the development of agency policies and procedures relating to juveniles. (44.1.2)
2. **The Administrative Division Commander, through the Professional Standards Supervisor will seek this input from enforcement, prevention and social service agencies that have an expertise or responsibility relating to juveniles prior to policy enactment or revision, and as needed. (44.1.2)**
  - This input will be reviewed by the Administrative Division Commander and a summary will be provided to the Chief of Police for consideration of policy revisions, etc.

Juvenile Operations

**Evaluation (44.1.3)**

1. All enforcement and prevention programs relating to juveniles will be reviewed and evaluated annually.
  - The Criminal Investigation Division Commander will review and submit a written evaluation of all enforcement programs.
  - The Administrative Division Commander will review and submit a written evaluation of all prevention programs and the School Liaison Program.
2. Written evaluations are due to the Chief of Police by January 31<sup>st</sup> of the year following the period being reviewed.
  - **NOTE:** Exceptions to this schedule may be approved by the Chief of Police.

Text in "Green" denotes a significant change in policy

**BY ORDER OF:**



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**John W. Letteney**  
**Chief of Police**

**ADDENDUM**

**JJDP Act Rules and Regulations  
FOR NORTH CAROLINA SHERIFF OFFICES, POLICE DEPARTMENTS, AND JAILS**

Type of Juvenile	JJDP Act Requirements (these apply to “secure” facilities)
<b>Non-offender</b> - Juvenile <b>under age 18</b> who is subject to juvenile court jurisdiction for reasons of dependency, neglect, or abuse.	<b>Must <u>not</u> be held securely</b> for any period of time. See “secure” definition.
<b>Civil-Type Juvenile Offender</b> - Juvenile <b>under age 18</b> who has been charged with or adjudicated delinquent for an offense/infracton that is civil in nature (e.g., non-criminal traffic and fish & game violations).	<b>Must <u>not</u> be held securely</b> for any period of time. See “secure” definition.
<b>Undisciplined-Type Status Offender</b> - Juvenile <b>under age 18</b> who is subject to juvenile court jurisdiction for being runaway, truant, or ungovernable.	<b>Must <u>not</u> be held securely</b> for any period of time. Juvenile should be sight- and sound-separated from adult offenders at all times.
<b>Delinquent-Type Status Offender</b> - Juvenile <b>under age 18</b> who has committed an offense that would not be a crime if committed by an adult (e.g., underage alcohol purchase/possession, driving after consuming <21, receipt of tobacco products).	<b>Must <u>not</u> be held securely</b> for any period of time. Juvenile should be sight- and sound-separated from adult offenders at all times.
<b>Accused Delinquent</b> - Juvenile <b>under age 18</b> who is accused of committing an offense that would be a crime if committed by an adult.	<b>May be held securely</b> for up to 6 hours for processing, questioning, and/or release to parents/other authorities <b>OR</b> may be held for up to 6 hours prior to a court appearance and for an additional 6 hours following a court appearance. Juvenile should be sight- and sound-separated from adult offenders at all times.
<b>Adjudicated Delinquent</b> - Juvenile <b>under age 18</b> who has been adjudicated for an offense that would be a crime if committed by an adult.	<b>May be held securely</b> for up to 6 hours prior to a court appearance and for an additional 6 hours following a court appearance. Juvenile should be sight- and sound-separated from adult offenders at all times.
<b>Criminal Offender</b> - Person <b>age 18 or older</b> who is subject to adult criminal court jurisdiction. Juvenile over the age of 16 that has previously been charged as an adult or charged with a chapter 20 violation.	<b>The JJDP Act and requirements do not apply – this is true, <u>even if the person is detained for an alcohol or tobacco offense.</u></b>
<b>Juvenile who has been direct-filed, waived, or transferred to Adult Court</b> - Juvenile <b>under age 18</b> who has been “bound over” to be tried as an adult in Superior Court.	<b>The JJDP Act and requirements do not apply.</b> If the juvenile is held prior to being “bound over” to Superior Court, treat as an accused delinquent and follow ‘6 Hour Rule’ which allows for up to 6 hours for processing, questioning, and/or release to parents/other authorities.

**STATUS OFFENDER FACT SHEET**

**The Deinstitutionalization of Status Offenders (DSO) Core Requirement**

The JJDP Act (Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. §§ 5601, *et seq.*) provides that status offenders, non-offenders, and civil-type offenders must not be detained or confined in secure detention or correctional facilities. These individuals should not be detained for any period of time in the secure area of an adult jail or lockup. This includes temporary secure holds in police departments or sheriff offices – (e.g., being cuffed to a stationary object, placed in a cell, or locked in an interview room). Accused status offenders can be detained **in a juvenile facility** for 24 hours before and 24 hours immediately following an initial court appearance (excluding weekends and legal holidays). Adjudicated status offenders must not be held for any period of time in a jail or lockup. Such offenders are not to be held in a juvenile facility, either, unless they are held for violating a court order and the JJDP Act process is followed. As of October 1, 2003, nonoffenders must not be held for any period of time in a juvenile facility.

**Types of Juvenile Offenders for Purposes of Following the DSO Core Requirement in North Carolina**

1. Undisciplined-Type Status offender: a juvenile **under age 18** subject to juvenile court jurisdiction for being runaway, truant, or ungovernable.
2. Delinquent-Type Status Offender: a juvenile **under age 18** subject to delinquency jurisdiction for committing an offense that would not be a crime if committed by an adult (e.g., underage alcohol purchase/possession, driving after consuming <21, receipt of tobacco products).
3. Nonoffender: a juvenile **under age 18** subject to juvenile court jurisdiction for reasons of dependency, neglect, or abuse.
4. Civil-type offender: a juvenile **under age 18** subject to delinquency jurisdiction for committing an offense/infraction that is civil in nature (e.g., non-criminal traffic and fish & game violations).

**Undisciplined-Type Status Offenses (for these offenses the JJDP Act applies as to persons under 18 years of age)**

Below is a list of status offenses with corresponding North Carolina General Statute citations. Any juvenile **under age 18** charged with one of these offenses is protected under the DSO requirement of the JJDP Act.

OFFENSE	STATUTE
Runaway	§7B-1501
Truancy (unlawfully absent from school)	§7B 1501
Ungovernable (also referred to as “disobedience”)	§7B-1501
Undisciplined (encompasses the above three offenses)	§7B-1501

**Delinquent-Type Status Offenses (for any of these offenses the JJDP Act applies if the offense was committed prior to 16 years of age)**

Below is a list of status offenses with corresponding North Carolina General Statute citations. Any juvenile **under age 18** charged with committing one of these offenses **while under the age of 16 years** is protected under the DSO requirement of the JJDP Act.

OFFENSE	STATUTE
<b>Underage Drinking Offenses</b> <ul style="list-style-type: none"> <li>• Possession, purchase or attempted purchase of malt beverages, or unfortified wine - under 21</li> <li>• Possession, purchase or attempted purchase of fortified wine, liquor, spirituous liquor, or mixed beverages</li> </ul>	§18B-302(b)

## Juvenile Operations

<ul style="list-style-type: none"> <li>• Underage consumption of alcohol products</li> <li>• Possession of alcohol products by a minor</li> </ul>	
<b>Motor Vehicle Offenses</b> <ul style="list-style-type: none"> <li>• Driving after Consuming - Under 21</li> <li>• Provisional License violation</li> </ul>	§ 20-138.3; § 20-11
<b>Underage Tobacco Offenses</b> <ul style="list-style-type: none"> <li>• Purchasing or attempting to purchase tobacco products or cigarette wrapping papers by a minor</li> <li>• Accepting receipt or attempting to accept receipt of tobacco products by a minor</li> </ul>	§14-313(c)
<b>Curfew Violation</b> - related to being a minor – this may be an offense under local municipal code	See local law