



Apex Police Department General Order



Title Rapid Fingerprint Identification Device	Order Number 605-21
Effective Date: April 12, 2021	Amends: 605-13
CALEA Standard:	Rescinds:
Reference: CCBI BlueCheck Rapid ID Manual NCGS 7B-2102 – Fingerprinting and Photographing Juveniles	Pages: 4
Forms:	

Rapid Fingerprint Identification Device

Purpose

The purpose of this directive is to establish the procedure for the use of a Rapid Fingerprint Identification Device in accordance with guidelines established by the City-County Bureau of Identification.

Policy

It is the policy of the Apex Police Department to follow guidelines established for digitally capturing a fingerprint and searching the arrest database of the City-County Bureau of Identification for a positive identification of a person, as allowed by law, using Rapid Fingerprint Identification Devices.

Definitions

Rapid Fingerprint Identification Device (RFID) – a portable device used to digitally capture one or more fingerprints from an individual.

Procedure

1. The RFID is to be used only for law enforcement purposes and in compliance with state and federal laws.

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2. The RFID will be used when an officer has reasonable suspicion as to a person's true identity and limited to one or more of the following circumstances:
 - When an individual is in custody for an offense(s) as defined in NCGS 15A-502
 - When an individual has given his/her consent
 - When the identity of an unconscious or deceased person is unknown
 - When authorized by court order, search warrant, or non-testimonial identification order
3. An officer will not force any individual to submit to the use of the RFID against his/her will, by threat, or attempt to coerce a person into submitting to the use of an RFID.
4. Pursuant to NCGS 7B-2102 *Fingerprinting and Photographing Juveniles*, an officer will not use the RFID on a person who he/she believes to be a juvenile unless each of the following apply. The juvenile:
 - Has been adjudicated delinquent
 - Was ten years of age or older at the time
 - Has committed an offense that would be a felony if committed by an adult
5. Officers will note how consent was given in the narrative of their case report.

North Carolina State Statute

15A-502. Photographs and fingerprints.

(a) A person charged with the commission of a felony or a misdemeanor may be photographed and his fingerprints may be taken for law-enforcement records only when he has been:

- (1) Arrested or committed to a detention facility, or*
- (2) Committed to imprisonment upon conviction of a crime, or*
- (3) Convicted of a felony.*

(a1) It shall be the duty of the arresting law-enforcement agency to cause a person charged with the commission of a felony to be fingerprinted and to forward those fingerprints to the State Bureau of Investigation.

(a2) It shall be the duty of the arresting law enforcement agency to cause a person charged with the commission of any of the following misdemeanors to be fingerprinted and to forward those fingerprints to the State Bureau of Investigation:

- (1) G.S. 14-134.3 (Domestic criminal trespass), G.S. 15A-1382.1 (Offense that involved domestic violence), or G.S. 50B-4.1 (Violation of a valid protective order).*
- (2) G.S. 20-138.1 (Impaired driving), G.S. 20-138.2 (Impaired driving in commercial vehicle), G.S. 20-138.2A (Operating a commercial vehicle after consuming alcohol), and G.S. 20-138.2B (Operating various school, child care, EMS, firefighting, or law enforcement vehicles after consuming alcohol).*
- (3) G.S. 90-95(a)(3) (Possession of a controlled substance).*

(a3) It shall be the duty of the arresting law enforcement agency to cause a person charged with a crime to provide to the magistrate as much of the following information as possible for the person arrested:

- (1) Name including first, last, middle, maiden, and nickname or alias.*

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(2) Address including street, city, and state.

(3) Drivers license number and state of issuance.

(4) Date of birth.

(5) Sex.

(6) Race.

(7) Social Security number.

(8) Relationship to the alleged victim and whether it is a "personal relationship" as defined by G.S. 50B-1(b).

(a4) It shall be the duty of the arresting law enforcement agency to cause a person who has been charged with a misdemeanor offense of assault, stalking, or communicating a threat and held under G.S. 15A-534.1 to be fingerprinted and to forward those fingerprints to the State Bureau of Investigation.

(a5) It shall be the duty of the magistrate to enter into the court information system all information provided by the arresting law enforcement agency on the person arrested.

(a6) If the person cannot be identified by a valid form of identification, it shall be the duty of the arresting law-enforcement agency to cause a person charged with the commission of:

(1) Any offense involving impaired driving, as defined in G.S. 20-4.01(24a), or

(2) Driving while license revoked if the revocation is for an Impaired Driving License Revocation as defined in G.S. 20-28.2 to be fingerprinted and photographed.

(b) This section does not authorize the taking of photographs or fingerprints when the offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes, "Motor Vehicles." Notwithstanding the prohibition in this subsection, a photograph may be taken of a person who operates a motor vehicle on a street or highway if:

(1) The person is cited by a law enforcement officer for a motor vehicle moving violation, and

(2) The person does not produce a valid drivers license upon the request of a law enforcement officer, and

(3) The law enforcement officer has a reasonable suspicion concerning the true identity of the person.

As used in this subsection, the phrase "motor vehicle moving violation" does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of Chapter 20 of the General Statutes.

(b1) Any photograph authorized by subsection (b) of this section and taken by a law enforcement officer or agency:

(1) Shall only be taken of the operator of the motor vehicle, and only from the neck up.

(2) Shall be taken at either the location where the citation is issued, or at the jail if an arrest is made.

(3) Shall be retained by the law enforcement officer or agency until the final disposition of the case.

(4) Shall not be used for any purpose other than to confirm the identity of the alleged offender.

(5) Shall be destroyed by the law enforcement officer or agency upon a final disposition of the charge.

(c) This section does not authorize the taking of photographs or fingerprints of a juvenile alleged to be delinquent except under Article 21 of Chapter 7B of the General Statutes.

(d) This section does not prevent the taking of photographs, moving pictures, video or sound recordings, fingerprints, or the like to show a condition of intoxication or for other evidentiary use.

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(e) Fingerprints or photographs taken pursuant to subsection (a), (a1), or (a2) of this section may be forwarded to the State Bureau of Investigation, the Federal Bureau of Investigation, or other law-enforcement agencies.

(f) If a person is charged with an offense for which fingerprints are required pursuant to this section but the person is not arrested for that offense, the court before which the charge is pending shall order the defendant to submit to fingerprinting by the Sheriff or other appropriate law enforcement agency at the earliest practical opportunity. If the person fails to appear for fingerprinting as ordered by the court, the Sheriff or other designated agency shall so inform the court, and the court may initiate proceedings for criminal contempt against the person pursuant to G.S. 5A-15, including issue of an order for arrest pursuant to G.S. 5A-16, if necessary. The defendant shall continue to be subject to the court's order to provide fingerprints until submitted. (1973, c. 1286, s. 1; 1977, c. 711, s. 22; 1979, c. 850; 1981, c. 862, s. 3; 1993, c. 539, s. 298; 1994, Ex. Sess., c. 24, s. 14(c); 1996, 2nd Ex. Sess., c. 18, s. 23.2(b); 1998-202, s. 13(f); 2007-370, s. 1; 2007-534, s. 1; 2015-195, s. 11(h); 2015-267, s. 2(a), (b); 2017-176, s. 4(a); 2019-243, s. 6.)

User Access

1. All sworn employees will be provided with a user name and password and will not loan out these credentials.
2. The RFIDs will be placed at Public Safety Station # 5 and in the Criminal Investigations Division. The devices are to remain in these locations unless extenuating circumstances arise. The on-duty supervisor may bring the RFID into the field for use and return the RFID to storage when the officer is finished with the device.

Text in “Green” denotes a significant change in policy

BY ORDER OF:



Anthony L. Godwin
Chief of Police