

SUBJECT:	JUVENILE PROCEDURES
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JUVENILE PROCEDURES

- A. Bureau investigations on occasion bring Agents in contact with juveniles, creating situations requiring Bureau Agents to follow procedure as stated in the North Carolina Juvenile Codes (General Statute 7B-100 et al.). (*revised 07/11/03*)
- B. It is necessary for all Agents to be knowledgeable of juvenile procedures when juvenile(s) are subjects of investigations.

DEFINITIONS:

- A. **Juvenile** - Any person who has not reached his/her eighteenth birthday and is not married, emancipated, or a member of the armed services of the United States.
- B. **Delinquent Juvenile** - Any juvenile less than 16 years of age who has committed a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
- C. **Undisciplined Juvenile** - A juvenile less than 16 years of age who is unlawfully absent from school; or who is regularly disobedient to his parent, guardian, or custodian and beyond their disciplinary control, or who is regularly found in places where it is unlawful for a juvenile to be, or who has run away from home.
- D. **Neglected Juvenile** - A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law.
- E. **Abused Juvenile** - Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
 - 1. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means; or
 - 2. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means; or
 - 3. Uses or allows to be used upon the juvenile cruel or grossly inappropriate

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procedures or cruel or grossly inappropriate devices to modify behavior; or

4. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon a juvenile: first degree rape, as provided in G.S.14-27.2; second degree rape as provided in G.S.14-27.3; first degree sexual offense, as provided in G.S.14-27.4; second degree sexual offense, as provided in G.S.14-27.5; sexual act by a custodian, as provided in G.S.14-27.7; crime against nature, as provided in G.S.14-177; incest, as provided in G.S.14-178 and 14-179; preparation of obscene photographs, slides or motion pictures of the juvenile, as provided in G.S.14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S.14-190.6; dissemination of obscene material to the juvenile as provided in G.S.14-190.7 and G.S.14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S.14-190.14 and G.S.14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S.14-190.16 and G.S.14-190.17; promoting the prostitution of the juvenile as provided in G.S.14-190.18; and taking indecent liberties with the juvenile, as provided in G.S.14-202.1, regardless of the age of the parties; or
 5. Creates or allows to be created serious emotional damage to the juvenile. Serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal or aggressive behavior toward himself or others; or
 6. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.
- F. **Intake Counselor** - A person who screens a petition alleging a juvenile is delinquent or undisciplined to determine whether the petition should be filed.
- G. **Custodian** - The person or agency that has been awarded legal custody of a juvenile by a court.
- H. **Guardian** - A person appointed and supervised by the court, empowered with custody, control, and care of the juvenile.
- I. **Temporary Custody** - The physical taking and holding of a juvenile under personal supervision.
- J. **Detention** - The confinement of a juvenile pursuant to an order for secure custody pending an adjudicator or dispositional hearing or admission to a placement with

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the Division of Youth Services.

- K. **Dependent Juvenile** - A juvenile in need of assistance or placement because he/she has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian, due to physical or mental incapacity and the absence of an appropriate alternative child care arrangement, is unable to provide for the care or supervision.
- L. **Caretaker** - A person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility. Caretaker also means any person who has the responsibility for the care of a juvenile in a child day care home or child day care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juvenile under the care of the care provider.

TEMPORARY CUSTODY WITHOUT A COURT ORDER

- A. An Agent may take a juvenile into temporary custody without a court order under the following circumstances:
 - 1. If grounds exist for the arrest of an adult in identical circumstances;
 - 2. If there are reasonable grounds to believe the juvenile is an undisciplined juvenile;
 - 3. If there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that he/she would be injured or could not be taken into custody if it were first necessary to obtain a court order; or
 - 4. If there are reasonable grounds to believe that the juvenile is an absconder from any state training school or approved detention facility;
- B. When an Agent takes a juvenile into custody without a court order, he/she should select the least restrictive course of action that is appropriate to the situation and needs of the juvenile from the following.

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1. To divert the juvenile from the court by:
 - a. Release;
 - b. Counsel and release;
 - c. Release to parents; or
 - d. Referral to community resources.
 2. To seek a petition; or
 3. To seek a petition and request a custody order.
- C. An Agent who has taken a juvenile into temporary custody pursuant to Section A., 1., 2., or 3., above, may not hold the juvenile longer than 12 hours unless a secure custody order has been issued by a judge or a petition or motion for review has been filed by an intake counselor or Director of the Department of Social Services.

DISPOSITION AFTER CUSTODY

- A. The Agent should 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 his/her right to be present with the juvenile until a determination has been made as to the need for secure or non-secure custody.
- B. The Agent can release the juvenile to a parent, guardian, or custodian if continued custody is unnecessary.
- C. If the juvenile is alleged to be delinquent or undisciplined, the Agent can request a petition be drafted and submitted to the juvenile intake counselor for a hearing.
- D. If the juvenile is alleged to be abused, neglected, or dependent, the Agent will communicate this information to the Department of Social Services (Juvenile Protective Services Division) who shall consider prehearing diversion.
- E. If an Agent takes a juvenile into custody who is an absconder from a state detention facility, the Agent must contact the administration of the detention facility. That facility is responsible for the return of the juvenile to the facility.

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- F. When an Agent takes a juvenile into custody for a crime serious enough for a secure custody order to be issued, he/she should advise his/her Special Agent in Charge or contact the District Attorney's office for assistance. If necessary, the Agent may request the assistance of a juvenile officer assigned to the jurisdiction. If the investigation is a joint investigation involving a local agency, the juvenile procedures should be handled by the local agency's juvenile officer.
- G. When an Agent receives a secure custody order, he/she may then, accompanied by another Agent or local officer, transport the juvenile to the nearest approved detention facility.
- H. When an Agent is transporting a juvenile under arrest by a secure custody order, the procedure described in the Policy and Procedure Manual, Procedure 12, Arrest and Custody will be followed. A juvenile is not to be transported in the same vehicle with an adult under arrest, unless the adult is involved in the same offense with the juvenile.

INTERROGATION OF JUVENILES

- A. The Agent must explain to the juvenile the applicable juvenile procedure.
- B. The atmosphere of a custodial juvenile interrogation should be as nonthreatening as possible. It is recommended that no weapons be visible, the number of officers involved be limited to as few as necessary, and the duration of the interview should be as brief as possible.
- C. Any juvenile in custody must be advised of his/her constitutional rights and his/her rights pursuant to N.C.G.S. 7B-2101. (*revised 07/11/03*)
- D. When the juvenile is less than 14 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; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.
- E. The interrogation of a juvenile suspect will be for a reasonable length of time to include breaks if necessary.

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- F. In order to polygraph a juvenile, the Agent must follow the procedure as set out in the Policy and Procedure Manual, Procedure 18, Polygraph Use, Limitations, E, F, and G.

INTERVIEW OF A JUVENILE

- A. A juvenile can be interviewed (no Miranda/non-custodial) without a parent, guardian, or custodian present; however, the parent, guardian, or custodian should be notified, if practical, that an interview is necessary or is being conducted. If a juvenile requests that his/her parent be present, this should be allowed or if a parent requests to be present, this also should be allowed.
- B. If an Agent needs to interview a juvenile at a school, he/she should observe the following guidelines:
1. The Agent should advise the Special Agent in Charge or designee.
 2. The Agent should adhere to all school board policies concerning law enforcement interviews of students in school.

NONTESTIMONIAL IDENTIFICATION

Nontestimonial identification procedures shall not be conducted with any juvenile without a court order, except as provided in N.C. General Statute 7B-2103 unless the juvenile has been transferred to superior court for trial as an adult (General Statute 7B-2103). The one exception to the aforementioned rule is a one on one show-up conducted within a reasonably short period of time after the crime. (*revised 07/11/03*)

FINGERPRINTING AND PHOTOGRAPHS OF JUVENILES

An Agent may cause a juvenile to be fingerprinted or photographed if the Agent follows the procedure as set out in the Policy and Procedure Manual, Procedure 12, Arrest Procedures, Fingerprints and Photographs of Juveniles.

JUVENILE RECORDS

The procedures for juvenile records followed by this agency are in accordance with the provisions of Article 30 of Chapter 7B, North Carolina General Statutes. See Section 1, paragraph "D" reference investigative files. (*revised 07/11/03*)

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CONSIDERATIONS IN DIVERTING JUVENILES FROM THE JUVENILE JUSTICE SYSTEM

Several factors should be considered before making a decision to divert a juvenile offender from the juvenile justice system: the nature of the offense, the age and circumstance of the alleged offender, the alleged offender's record, if any, and the availability of community based rehabilitation programs.

JUVENILE JUSTICE TRAINING

All agents must attend the NC Legislative mandated annual training on Juvenile Justice Issues. This training will be coordinated through the training section and must be completed by June 30th of each year.