

## ***Juvenile Laws and Procedures***

BLET: 11Y

TITLE: JUVENILE LAWS AND PROCEDURES

Lesson Purpose: To acquaint students with specific responsibilities for line officers in juvenile matters.

Training Objectives: At the end of this block of instruction, the student will be able to achieve the following objectives in accordance with information received during the instructional period:

1. Discuss the roles of the Department of Social Services (DSS) and Juvenile Justice as it relates to law enforcement encounters with juveniles regarding the following circumstances.
  - a) Law enforcement investigations
  - b) Duties and powers of agencies and individuals involved in child neglect, dependency, and abuse cases
2. Correctly identify the laws that apply to the protection of abused, neglected, and dependent juveniles.
3. Verbally explain the role of law enforcement and juvenile justice in handling delinquency proceedings and appropriate actions, to include types of custody as it relates to interacting with juveniles.
4. Identify the three (3) types of juvenile offenders and related offenses for undisciplined juveniles.
  - a) Truancy
  - b) Beyond parental control
  - c) Runaway juvenile
5. Thoroughly discuss the following legal issues and obligations of law enforcement when handling juveniles.
  - a) Role of the officer
  - b) Jurisdiction over delinquent juveniles

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- c) Screening of delinquency and undisciplined complaints by juvenile intake services
- d) Nontestimonial identification order
- e) Juvenile records and confidentiality

Hours: Eight (8)

Instructional Method: Lecture

Testing Requirement(s): End of block test

Training Environment(s): Classroom

Materials Required: Audio-visual classroom equipment  
Handouts  
Current edition of *North Carolina Criminal Law and Procedure* that includes N.C. General Statutes: Chapter 7B, 14, 15A, 90, 110, 143, 160

References: 42 C.F.R. §§ 2.11, *et seq.* (2019).

45 C.F.R. §§ 164.500, *et seq.* (2019).

Child Welfare League of America. "North Carolina's Children 2015." Last modified 2015. Accessed March 2017. <http://www.cwla.org/wp-content/uploads/2015/06/2015-State-Fact-Sheet-North-Carolina.pdf>.

*E.W. v. Dolgos*, 884 F.3d 172 (4th Cir. 2018).

Farb, Robert L. *Arrest, Search, and Investigation in North Carolina*. 4<sup>th</sup> ed. Chapel Hill, NC: School of Government, University of North Carolina at Chapel Hill, 2011.

*In the Matter of D.A.C.*, 225 N.C. App. 547, 552, (2013). See also *J.D.B. v. North Carolina*, 546 U.S. 261 (2011).

Interstate Commission for Juveniles-ICJ Rules. Last modified March 2018. Accessed September 2019. [https://www.juvenilecompact.org/sites/default/files/ICJ%20Rules\\_Final.pdf](https://www.juvenilecompact.org/sites/default/files/ICJ%20Rules_Final.pdf).

*J.D.B. v. North Carolina*, 564 U.S. 261 (2011).

Merriam-Webster.com. "Counseling." Accessed May 2017. <https://www.merriam-webster.com/dictionary/counseling>.

National Center for Missing and Exploited Children. "Child Sex Trafficking." Last modified 2016. Accessed July 2017. <http://www.missingkids.org/1in6>.

National Center on Homelessness and Poverty. "Alone Without A Home: A State-by-State Review of Laws Affecting Unaccompanied Youth." Last modified 2014. Accessed July 2017. [https://www.nlchp.org/Alone\\_Without\\_A\\_Home](https://www.nlchp.org/Alone_Without_A_Home).

*North Carolina Criminal Law and Procedure*. Charlottesville, VA: The LexisNexis Group, 2012.

North Carolina Department of Public Safety. "Missing Person/Runaway Juvenile Report" Last modified February 2015. Accessed March 2017. [https://ncdps.s3.amazonaws.com/s3fs-public/documents/files/Missing-Persons-Report\\_0.pdf](https://ncdps.s3.amazonaws.com/s3fs-public/documents/files/Missing-Persons-Report_0.pdf).

North Carolina Department of Public Safety. "Missing Persons" Last modified March 2017. Accessed March 2017. <https://www.ncdps.gov/Our-Organization/Law-Enforcement/State-Highway-Patrol/Amber-Alert>.

North Carolina Department of Public Safety, Office of Staff Development and Training, "Adolescent Development." January 1, 2018.

North Carolina Department of Public Safety, Office of Staff Development and Training, "Basic Individual Counseling Skills." January 1, 2018.

North Carolina Department of Public Safety, Office of Staff Development and Training, "Verbal De-Escalation for Juvenile Justice." January 1, 2018.

North Carolina, General Statutes. (2019) 7B-101, "Definitions."

North Carolina, General Statutes. (2018) 7B-200, "Jurisdiction."

North Carolina, General Statutes. (2018) 7B-201, "Retention and termination of jurisdiction."

North Carolina, General Statutes. (2019) 7B-301, "Duty to report abuse, neglect, dependency, or death due to maltreatment."

North Carolina, General Statutes. (2018) 7B-302, “Assessment by director; access to confidential information; notification of person making the report.”

North Carolina, General Statutes. (2018) 7B-303, “Interference with assessment.”

North Carolina, General Statutes. (2018) 7B-307, “Duty of director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Health and Human Services.”

North Carolina, General Statutes. (2018) 7B-308, “Authority of medical professional in abuse cases.”

North Carolina, General Statutes. (2018) 7B-309, “Immunity of persons reporting and cooperating in an assessment.”

North Carolina, General Statutes. (2019) 7B-310, “Privileges not grounds for failing to report or for excluding evidence.”

North Carolina, General Statutes. (2019) 7B-400, “Venue.”

North Carolina, General Statutes. (2019) 7B-500, “Taking a juvenile into temporary custody; civil and criminal immunity.”

North Carolina, General Statutes. (2018) 7B-501, “Duties of person taking juvenile into temporary custody.”

North Carolina, General Statutes. (2019) 7B-503, “Criteria for nonsecure custody.”

North Carolina, General Statutes. (2018) 7B-504, “Order for nonsecure custody.”

North Carolina, General Statutes. (2019) 7B-601, “Appointment and duties of guardian ad litem.”

North Carolina, General Statutes. (2019) 7B-1501, “Definitions.”

North Carolina, General Statutes. (2018) 7B-1600, “Jurisdiction over undisciplined juveniles.”

North Carolina, General Statutes. (2019) 7B-1601, “Jurisdiction of delinquent juveniles.”

North Carolina, General Statutes. (2018) 7B-1602, “Extended jurisdiction over a delinquent juvenile under certain circumstances.”

North Carolina, General Statutes. (2018) 7B-1603, “Jurisdiction in certain circumstances.”

North Carolina, General Statutes. (2019) 7B-1604, “Limitations on juvenile court jurisdiction.”

North Carolina, General Statutes. (2019) 7B-1700, “Intake services.”

North Carolina, General Statutes. (2018) 7B-1701, “Preliminary inquiry.”

North Carolina, General Statutes. (2018) 7B-1702, “Evaluation.”

North Carolina, General Statutes. (2018) 7B-1703, “Evaluation decision.”

North Carolina, General Statutes. (2018) 7B-1704, “Request for review by prosecutor.”

North Carolina, General Statutes. (2018) 7B-1705, “Review of determination that petition should not be filed.”

North Carolina, General Statutes. (2018) 7B-1706, “Diversion plans and referral.”

North Carolina, General Statutes. (2019) 7B-1800, “Venue.”

North Carolina, General Statutes. (2019) 7B-1801, “Pleading and process.”

North Carolina, General Statutes. (2019) 7B-1802, “Petition.”

North Carolina, General Statutes. (2019) 7B-1803, “Receipt of complaints; filing of petition.”

North Carolina, General Statutes. (2019) 7B-1804, “Commencement of action.

North Carolina, General Statutes. (2019) 7B-1805, “Issuance of summons.”

North Carolina, General Statutes. (2019) 7B-1900, “Taking a juvenile into temporary custody.”

North Carolina, General Statutes. (2019) 7B-1901, “Duties of person taking juvenile into temporary custody.”

North Carolina, General Statutes. (2019) 7B-1902, “Authority to issue custody orders; delegation.”

North Carolina, General Statutes. (2019) 7B-1903, “Criteria for secure or nonsecure custody.”

North Carolina, General Statutes. (2019) 7B-1904, “Order for secure or nonsecure custody.”

North Carolina, General Statutes. (2019) 7B-1905, “Place of secure or nonsecure custody.”

North Carolina, General Statutes. (2019) 7B-1906, “Secure or nonsecure custody hearings.”

North Carolina, General Statutes. (2019) 7B-2000, “Juvenile’s right to counsel; presumption of indigence.”

North Carolina, General Statutes. (2018) 7B-2100, “Role of the law enforcement officer.”

North Carolina, General Statutes. (2019) 7B-2101, “Interrogation Procedures.”

North Carolina, General Statutes. (2018) 7B-2102, “Fingerprinting and photographing juveniles.”

North Carolina, General Statutes. (2018) 7B-2103, “Authority to issue nontestimonial identification order where juvenile alleged to be delinquent.”

North Carolina, General Statutes. (2018) 7B-2104, “Time of application for nontestimonial identification order.”

North Carolina, General Statutes. (2018) 7B-2105, “Grounds for nontestimonial identification order.”

North Carolina, General Statutes. (2018) 7B-2107, “Nontestimonial identification order at request of juvenile.”

North Carolina, General Statutes. (2018) 7B-2108, “Destruction of records resulting from nontestimonial identification procedures.”

North Carolina, General Statutes. (2018) 7B-2109, “Penalty for willful violation.”

North Carolina, General Statutes. (2019) 7B-2200, “Transfer of jurisdiction of a juvenile under the age of 16 to superior court.”

North Carolina, General Statutes. (2019) 7B-2200.5, “Transfer of jurisdiction of a juvenile at least 16 years of age to superior court.”

North Carolina, General Statutes. (2018) 7B-2201, “Fingerprinting and DNA sample from juvenile transferred to superior court.” See also, N.C.G.S. § 15A-226.3A (2018).

North Carolina, General Statutes. (2018) 7B-2202, “Probable cause hearing.”

North Carolina, General Statutes. (2018) 7B-2203, “Transfer hearing.”

North Carolina, General Statutes. (2019) 7B-2409, “Quantum of proof in adjudicatory hearing.”

North Carolina, General Statutes. (2019) 7B-2501, “Dispositional hearing.”

North Carolina, General Statutes. (2018) 7B-2503, “Dispositional alternatives for undisciplined juveniles.”

North Carolina, General Statutes. (2019) 7B-2506, “Dispositional alternatives for delinquent juveniles.”

North Carolina, General Statutes. (2018) 7B-2901, “Confidentiality of records.”

North Carolina, General Statutes. (2019) 7B-3000, “Juvenile court records.”

North Carolina, General Statutes. (2018) 7B-3001, “Other records relating to juveniles.”

North Carolina, General Statutes. (2018) 7B-3101, “Notification of schools when juveniles are alleged or found to be delinquent.”

North Carolina, General Statutes. (2019) 7B-3500, “Who may petition.”

North Carolina, General Statutes. (2019) 7B-3507, “Legal effect of final decree.”

North Carolina, General Statutes. (2018) 7B-4001, “(For effective date - see note) Governor to execute Compact; form of Compact.”

North Carolina, General Statutes. (2019) 14-27.31, “Sexual activity by a substitute parent or custodian.”

North Carolina, General Statutes. (2019) 14-27.32, “Sexual activity with a student.”

North Carolina, General Statutes. (2018) 14-202.4, “Taking indecent liberties with a student.”

North Carolina, General Statutes. (2018) 14-316.1, “Contributing to delinquency and neglect by parents and others.”

North Carolina, General Statutes. (2018) 14-318.2, “Child abuse a misdemeanor.”

North Carolina, General Statutes. (2018) 14-318.4, “Child abuse a felony.”

North Carolina, General Statutes. (2018) 14-320.1, “Transporting child outside the State with intent to violate custody order.”

North Carolina, General Statutes. (2018) 14-322.3, “Abandonment of an infant under seven days of age.”

North Carolina, General Statutes. (2018) 15A-211, “Electronic recording of interrogations.”

North Carolina, General Statutes. (2018) 15A-279, “Implementation of order.”

North Carolina, General Statutes. (2019) 15A-285, “Non-law-enforcement actions when urgently necessary.”

North Carolina, General Statutes. (2018) 15A-401, “Arrest by law-enforcement officer.”

North Carolina, General Statutes. (2018) 15A-505, “Notification of parent and school.”

North Carolina, General Statutes. (2018) 15C-378, “Children required to attend.”

North Carolina, General Statutes. (2018) 90-21.20, “Reporting by physicians and hospitals of wounds, injuries and illnesses.

North Carolina, General Statutes. (2019) 110-85, “Legislative intent and purpose.”

North Carolina, General Statutes. (2019) 110-105.3, “Child maltreatment.”

North Carolina, General Statutes. (2019) 110-105.4, “Duty to report child maltreatment.”

North Carolina, General Statutes. (2019) 115C-378, “Children required to attend.”

North Carolina, General Statutes. (2019) 115C-380, “Penalty for violation.”

North Carolina, General Statutes. (2019) 143-1015, “Dissemination of missing person data by law-enforcement agencies.”

North Carolina, General Statutes. (2018) 143B-1010 through 143B-1020.

North Carolina, General Statutes. (2018) 153A-142, “Curfews.”

North Carolina, General Statutes. (2018) 160A-198, “Curfews,” and 153A-142, “Curfews.”

North Carolina, General Statutes. (2019) 166A-19.22, “Municipal or county declaration of state of emergency.”

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North Carolina, General Statutes. (2019) 166A-19.31, “Power of municipalities and counties to enact ordinances to deal with states of emergency.”

North Carolina State Bureau of Investigation, Division of Criminal Information Network. *Module 1 – DCIN/NCIC General Inquiries*, Student Outline, and Exercise Workbook. Raleigh, NC: North Carolina State Bureau of Investigation, April 27, 2017.

Session Law 2017-57, 16D.4(b).

Session Law 2019-186.

*State v. Barnes*, 154 N.C. App. 111, 117 (2002).

*State v. Flowers*, 128 N.C. App. 697, (1998).

*State v. Worley*, 13 N.C. App. 198, (1971).

*Tennessee v. Garner*, 471 U.S. 1 (1985);.

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TITLE: JUVENILE LAWS AND PROCEDURES – **Instructor Notes**

1. This lesson plan must be presented by an instructor currently certified by the North Carolina Criminal Justice Education and Training Standards commission as a General Instructor.
2. The instructor must be knowledgeable in juvenile law, procedures, developmental theories, and the dynamics of child abuse and neglect.
3. Instructors are encouraged to invite a Child Protective Service Worker and a Juvenile Court Counselor to explain their specific responsibilities to students. The goal of an integrated juvenile justice system should be promoted throughout the block.
4. AOC juvenile forms can be obtained from the following website: [www.nccourts.org](http://www.nccourts.org).
5. Section III directs instructors to ask the following questions. They are designed for students to solve in small groups.

Note: It is important to emphasize to the class that when there is a suspicion or belief of neglect or abuse, it must be reported to the local county Department of Social Services (DSS). This is required by statute.

Note: Officer discretion is the first link of diverting any juvenile from entering into the juvenile justice system. Discretionary factors that determine whether or not to charge a juvenile with a delinquent or undisciplined offense should be protection of the public's safety, seriousness of the offense, previous history with the juvenile, parental responsibility, and the juvenile's attitude and remorsefulness. These factors also should apply in conjunction with statutory requirements when a request for secure custody is requested. Agencies may also have policies that impact officer discretion.

A. **Neglect**

You respond on a reported case of 2 young children home alone. Upon arrival, you find a 7-year-old child and a 3-year-old child home alone. What do you do?

- (1) Speak with the children. Do not show any disapproval and assess for any need for medical assistance and children's mental capacity.
- (2) Check the house. Make sure there are no other children in danger in the house.
- (3) Be observant to any possible hazards as you check the house.  
Examples: matches, open flames, children were locked in the house, is there a phone, or dangerous chemicals available to children.

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- (4) Ask children who was looking after them. Try to locate responsible guardian.
- (5) Contact DSS and stand by for them. Contact with DSS should be made as soon as the responding officer has made sure that the children are safe, and there are no officer safety concerns.
- (6) Document events in report.
- (7) Work with DSS on investigation and possible criminal charges.

### **B. Abuse**

You respond to a school, and a guidance counselor advises you that an eighth grader, age 13, has told her he/she is afraid of his/her father because he beats him/her. You are told the child has bruising on the back and legs. What do you do?

Remember: When a child is in school, the school must act to protect the safety of the child.

- (1) Ask the counselor about the child; does the child have a behavior problem, are they credible, what do they know about the family. Have they had any contact with the family? Do other children in school have any information?
- (2) Contact DSS. Contacting DSS is mandated by statute.
- (3) Ask to speak to the child. Ask the school personnel whether the parents or other responsible party has been notified and whether they have given consent to have the child interviewed by law enforcement. Keep some school personnel, guidance counselor, assistant principal, or principal with you while speaking with the child. Ask the child what has happened. Ask to see injuries, but do not examine any private areas or areas the child would be uncomfortable showing you. You may want assistance from a school nurse if available. Remember, you are not a doctor.
- (4) Assist DSS upon their arrival.
- (5) Photographs may be required. While photographs of the scene may be taken with consent of a person having the authority to consent or with a search warrant, photographs of a child may be taken by DSS, by other medical experts, or by court order. No photographs of private areas should be taken by law enforcement officers.
- (6) Document investigation in report.

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- (7) Work with DSS on recommendation of possible criminal charges.
- (8) You could be asked to assist with a custody order.

Note: Some departments require this investigation be handled by a juvenile investigator.

### **C. Nontestimonial Identification Order**

You investigate a housebreaking and larceny. As a result of your investigation, you find the point of entry is a ground floor, back bedroom window, which was broken, and where fingerprints were found. A video game system, gun, and cash were stolen. As you further your investigation, several children in the neighborhood tell you that a 15-year-old boy named John had bragged about doing this. You speak with John and his parents in a noncustodial interview in his house. John denies this crime, but his parents tell you he just came home with a video system just like the one reported stolen. John refuses to tell you where he got it. There is no serial number, so you are not completely sure if it is the same system. You have exhausted all investigative leads except for comparing fingerprints. What do you do?

Remember: John, John's parents, or John's legal counsel cannot permit you to obtain John's fingerprints for comparison.

- (1) You need a nontestimonial identification order (NTO).
- (2) You must consult with the assistant district attorney or the district attorney, who must then make an application for the order to the District or Superior Court. Once the order is approved and issued, it must be served. After the suspect has complied with the order and the prints have been obtained, the comparison can be made to the prints on the window.
- (3) If the prints match, hold as evidence, pending court action.
- (4) If the prints do not match and no court action is pending, destroy the juvenile's prints only.

Remember: You need reasonable grounds to obtain fingerprints, but if you need to obtain a blood sample, you must have probable cause. G.S. 7B-2105(b) provides that blood may be obtained from a juvenile if the court orders it based on an affidavit containing facts that rise to the level of probable cause. The statute requires probable cause for a felony offense, reasonable grounds to suspect the juvenile, and

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material aid in determining whether the juvenile committed the offense as a result of the procedure. All three things are required for the blood specimen as well, but they each must meet a probable cause standard.

### **D. Interview and Interrogation**

You are on routine patrol, and you observe a stolen car occupied by two (2) teenage males. You stop the vehicle, at which point both subjects run from you. After a short foot chase, both subjects are in custody. You would like to interview both subjects, and you learn one is 15 years old and the other is 16 years old. What do you do?

Remember: The rules for custodial interviews of juveniles are different from adults.

- (1) Law enforcement is required to give the *Miranda* warning to all juveniles.
- (2) The 15-year-old juvenile has the right to have his parent, guardian, custodian, or attorney present and **cannot** waive his right to have one or more of those individuals present while speaking to the officer. Do not engage in a custodial interview any person less than 16 years old without a parent, guardian, custodian, or attorney present.
- (3) The 16-year-old juvenile also has the right to have his parent, guardian, or custodian present, in addition to the other *Miranda* rights. A person 16 or 17 years or old **may** waive their right to having a parent, guardian, custodian, or attorney present and choose to speak to the officer without those individuals present. Any waiver must be done knowingly, willingly, and understandingly.

Remember: A parent, guardian, or custodian cannot waive a child's right for them.

### **E. Other Sample Questions**

- (1) **Question:** Officer Smith sees juvenile (age 14) assault another juvenile at a football game. It is 10:30 p.m. on Friday. Juvenile is carrying a concealed knife. What do you do?

**Answer:** See 7B-1900(1)

Taking juvenile into temporary custody - if grounds exist to arrest an adult in identical circumstances under 15A-401(b).

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7B-1901

Duties of person taking juvenile into custody.

7B-1903(b)(2)

Criteria for secure or nonsecure custody when juvenile is charged with misdemeanor at least one (1) element of which is assault on a person and juvenile is a danger to persons.

If you have knowledge of danger - then explain to court counselor.

- (2) **Question:** Officer Jones is called to the drug store where the manager is holding juvenile (age 15) shoplifter (concealment of merchandise) and cannot locate mother. What do you do?

**Answer:** 7B-1900(1)  
See 15A-401(b)  
7B-1901

Taking into temporary custody

Duties of person taking temporary custody

- (3) **Question:** Officer Lane takes larceny report. Suspect believed to be juvenile (age 10) next door. What do you do?

**Answer:** See 7B-2101

Applies only if the juvenile (any person less than 18, who is not emancipated, in the military, or married) is in custody

- (4) **Question:** Officer Johnson discovers runaway juvenile (age 15) from his city/next city/next county/next state. What do you do?

**Answer:** See 7B-1903(a)(1)  
and (b)(7)  
7B-4001

In state (juvenile resides in NC)

Out of state juvenile  
Criteria for secure/non-secure custody

Interstate Commission  
for Juveniles Rules

- (5) **Question:** Officer Bessick discovers 13-year-old, "cutting school." What do you do?

**Answer:** See 7B-1901(a)(2)

Duties - temporary custody

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(6) **Question:** Officer Lyons discovers unattended 7-year-old outside of housing project at 4 a.m. What do you do?

**Answer:** See 7B-301 and 302      Duty to report  
7B-101 (9)                      Definitions  
and (15)

(7) **Question:** Officer Smith responds to domestic disturbance involving juvenile (age 14) and his/her mother. Mother says, “Take him to jail; I can’t do anything with him!” What do you do?

**Answer:** See 7B-1900(2)      Undisciplined  
7B-1901                          Duties of temporary custody

(8) **Question:** Officer Davie responds to home to investigate possible child abuse/neglect. No one will answer the door. Officer hears very young child crying inside. What do you do?

**Answer:** See Statute on      Exposing a child under 8  
Urgent Necess-                  without proper supervision to  
ity (15A-285); also              danger of fire when locked or  
consider                              confined in dwelling, building  
14-318                                  or enclosure.  
Class 1 misdemeanor.

(9) **Question:** Officer Ayers has investigative reports and memoranda concerning juvenile (age 15) as possible sex offender. Detective from neighboring county wishes to obtain copy of those reports for local investigative purposes. What do you do?

**Answer:** See 7B-3001(b)(5)      Release of records. Note: This  
only applies to *law enforcement*  
records, not juvenile court  
records.  
7B-3100(a)                          Disclosure of information about  
juveniles (if a petition related to  
the reports has been filed)

(10) **Question:** Parent requests officers to assist in returning runaway 17-year-old daughter from boyfriend’s home. The daughter has not been home in 30 hours. What do you do?

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**Answer:** See 7B-1501(27)                      Undisciplined  
7B-1901    Duties-temporary custody  
7B-1903    Secure/non-secure custody

- (11) **Question:** Parent reports that 16-year-old daughter did not come home from her after school job. She is four (4) hours overdue. What do you do?

**Answer:** Enter her into the National Crime Information Center (NCIC) or the National Missing and Unidentified Persons System (“NamUs”).

- (12) **Question:** DSS contacts your police department and requests assistance in determining whether a juvenile (age 13) has been neglected or abused. What do you do?

**Answer:** See 7B-302(e)                      Investigation by DSS director

- (13) **Question:** Wife complains to Officer Timmons that husband has snatched child and is planning to leave the state. What do you do?

**Answer:** If no custody order - have equal rights to the child

6. To promote and facilitate law enforcement professionalism, three (3) ethical dilemmas are listed below for classroom discussion. During this course of instruction, instructors must provide students with each ethical dilemma listed below. Sometime during the lecture, instructors should “set the stage” for the dilemma before taking a break. Instructors are encouraged to develop additional dilemmas as needed.
- a) Upon taking a 13-year-old juvenile into custody, your partner advises her of her juvenile rights. After doing so, your partner begins to ask questions of the juvenile without her parents being present. What will you do?
  - b) After taking a juvenile into custody for common law robbery, you snap a photo and take fingerprints as part of the booking process. After finishing the processing, you realize you have turned in cards and photos you obtained without a court order. What will you do?
  - c) While on patrol late at night, you find a teenager sleeping behind a building. After interviewing the individual, you discover that she has run away from home because her stepfather physically abuses her. She begs you not to tell her parents where she is. What will you do?

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TITLE: JUVENILE LAWS AND PROCEDURES

## I. Introduction

**NOTE: Show slide, “Juvenile Laws and Procedures.”**

### A. Opening Statement

Regardless of what type of law enforcement agency employs you after completing BLET, you will probably encounter a matter involving a juvenile. A juvenile’s first delinquent offense may be his/her only crime if we handle the juvenile according to law while using good judgment. You may save the life of a juvenile by your referral or investigation of the abuse or neglect. As in any facet of law enforcement, knowing the law and knowing who to contact will make you more effective with juvenile encounters.

During this class, sections of the juvenile law that pertain to law enforcement officers will be reviewed, such as definitions contained in the law, roles of law enforcement officers, and taking temporary custody of juveniles. Procedures involving delinquent, undisciplined, neglected, and abused children will also be reviewed.

### B. Training Objectives

**NOTE: Show slides, “Training Objectives.”**

1. Discuss the roles of the Department of Social Services (DSS) and Juvenile Justice as it relates to law enforcement encounters with juveniles regarding the following circumstances.
  - a) Law enforcement investigations
  - b) Duties and powers of agencies and individuals involved in child neglect, dependency, and abuse cases
2. Correctly identify the laws that apply to the protection of abused, neglected, and dependent juveniles.
3. Verbally explain the role of law enforcement and juvenile justice in handling delinquency proceedings and appropriate actions, to include types of custody as it relates to interacting with juveniles.
4. Identify the three (3) types of juvenile offenders and related offenses for undisciplined juveniles.

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- a) Truancy
  - b) Beyond parental control
  - c) Runaway juvenile
5. Thoroughly discuss the following legal issues and obligations of law enforcement when handling juveniles.
- a) Role of the officer
  - b) Jurisdiction over delinquent juveniles
  - c) Screening of delinquency and undisciplined complaints by juvenile intake services
  - d) Nontestimonial identification order
  - e) Juvenile records and confidentiality

### C. Reasons

Law enforcement officers may respond to calls in which they find that a juvenile is neglected, dependent, or abused. An understanding of the procedures which must be followed, such as whom to contact, what agencies should be involved, and how to handle the investigation, is vital to the safety and health of juveniles in this state. Juvenile victims, because of their vulnerability, are best served by a team effort involving all agencies charged with their protection. Although in separate agencies, cooperation among knowledgeable and dedicated professionals ensures that children in this state will be protected.

Law enforcement officers may also be responsible for investigating juveniles for the commission of offenses that would be crimes if they were adults. Handling the juvenile offender is different in purpose, philosophy, and procedure. The juvenile justice system is separate from the adult system, requiring officers to know and follow unique rules and procedures applicable to juveniles. It is essential that officers understand and conform to the objectives that the juvenile justice system seeks to achieve. With the knowledge gained through the study of this section, officers should be able to deal legally and effectively with juveniles.

## II. Body

## ***Juvenile Laws and Procedures***

### A. Juvenile Justice Law History and Philosophy

**NOTE: Show slide, “Juvenile Justice Law History and Philosophy.”**

The Division of Social Services (DSS) promotes self-reliance and self-sufficiency and works to prevent abuse, neglect, dependency, and exploitation of vulnerable individuals, children, and their families. Each county has a local office dedicated to meeting several community needs, including child welfare and protective services. In your role as a law enforcement officer, you will often have to work with DSS partners to address the needs of juveniles and families you interact with. We will start today by discussing DSS and your role in this process.

Before we begin, let’s note a clear distinction between DSS and juvenile justice. While we will discuss both today, and both deal with families and youth, DSS generally addresses the behavior of adults that results in the abuse, neglect, or dependency of the children in their care. They focus on cases of neglect and abuse, and they aim to protect children. By contrast, Juvenile Justice focuses on the behavior of juveniles. They also aim to keep juveniles safe, but they also specifically address the inappropriate or delinquent behavior of the juvenile. Therefore, the first part of our discussion today will focus on the role of adults in juveniles’ lives and their behavioral deficiencies. The second part of our discussion will focus on the behavior of and corrective actions for juveniles.

**NOTE: Ask the class to respond to the question, “Why do we treat juveniles differently than adults?” Lead a discussion to include issues of delinquent, undisciplined, abuse, and neglect matters.**

### B. Abused, Neglected and Dependent Juveniles

**NOTE: Show slide, “Abused Juvenile.”**

#### 1. Definitions

##### a) Abused juvenile<sup>1</sup>

Any juvenile less than 18 years of age who is a minor victim of human trafficking under N.C.G.S. § 14-43.15 or 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;

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- (2) Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
- (3) Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
- (4) Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile:
  - (a) First degree rape, as provided in G.S. 14-27.1;
  - (b) Statutory rape of a child by an adult offender, as provided in G.S. 14-27.23;
  - (c) First degree statutory rape, as provided in G.S. 14-24;
  - (d) First degree statutory sexual offense, as provided in G.S. 14-27.29;
  - (e) Second degree rape, as provided in G.S. 14-27.22;
  - (f) First degree sexual offense, as provided in G.S. 14-27.26;
  - (g) Statutory sexual offense with a child by an adult offender, as provided in G.S. 14-28;
  - (h) Second degree sexual offense, as provided in G.S. 14-27.27;
  - (i) Sexual activity with a student, as provided in G.S. 14-27.32;
  - (j) Sexual act by a custodian, as provided in G.S. 14-31;
  - (k) Crime against nature, as provided in G.S. 14-177;

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- (l) Incest, as provided in G.S. 14-178;
  - (m) Preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5;
  - (n) Employing or permitting the juvenile to assist in a violation of the obscenity laws, as provided in G.S. 14-190.6;
  - (o) Dissemination of obscene material to the juvenile, as provided in G.S. 14-190.7 and G.S. 14-190.8;
  - (p) Displaying or disseminating material harmful to the juvenile, as provided in G.S. 14-190.14 and 14-190.15;
  - (q) First and second degree sexual exploitation of the juvenile, as provided in G.S. 14-190.16 and G.S. 14-190.17;
  - (r) Promoting the prostitution, as provided in G.S. 205.3;
  - (s) Taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;
  - (t) Unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14;
- (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;
  - (6) Encourages, directs, or approves of delinquent acts involving moral turpitude (acts which evidence a depraved mind or disregard for acceptable societal standards) committed by the juvenile. Such acts have been held to include fraud, larceny, prostitution, and perjury;

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- (7) Commits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child.

Examples of child abuse: incest, broken bones, burns, bites, bruises, cuts, severe anxiety related to abuse, etc.

b) Caretaker

“Any 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, a potential adoptive parent during a visit or trial placement with the juvenile in the custody of a department, 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, or any employee or volunteer of a division, institution, or school operated by a Department of Health and Human Services.”<sup>2</sup>

Persons who have the responsibility for the care of a juvenile in a child care facility (i.e., “day care centers”) are defined as “caregivers” and regulated under Chapter 110 of the General Statutes.<sup>3</sup> Alleged child maltreatment at these facilities is investigated through a team effort between the North Carolina Department of Health and Human Services, the local Department of Social Services, and local law enforcement.<sup>4</sup>

c) Custodian

“The person or agency that has been awarded legal custody of a juvenile by a court.”<sup>5</sup>

**NOTE: Show slide, “Dependent.”**

d) Dependent juvenile

“A juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile’s care or supervision (ii) or the juvenile’s parent,

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guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement."<sup>6</sup>

e) Director

"The director of the county department of social services in the county where the juvenile resides or is found, or the director's representative as authorized in G.S. 108A-14."<sup>7</sup>

f) Juvenile

"A person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States."<sup>8</sup>

**NOTE: Show slide, "Neglected."**

g) Neglected juvenile

"Any juvenile less than 18 years of age who is found to be a minor victim of human trafficking under G.S. 14-43.15 or whose parent, guardian, custodian, or caretaker does not provide proper care, supervision, or discipline; 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 the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who has been placed for care or adoption in violation of law."<sup>9</sup>

For purposes of determining a juvenile's neglected status, the statute allows for consideration of whether the juvenile lives in a home where another juvenile has died from abuse or neglect or a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

The statute also defines "serious neglect" as that conduct, behavior, or inaction of the juvenile's parents, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger to the juvenile's health, welfare, or safety, but does not constitute abuse.<sup>10</sup>

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h) Reasonable efforts

“The diligent use of preventive or reunification services by a department of social services when a juvenile’s remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then reasonable efforts means the diligent and timely use of permanency planning services by a department of social services to develop and implement a permanent plan for the juvenile.”<sup>11</sup>

i) Safe home

“A home in which the juvenile is not at substantial risk of physical or emotional abuse or neglect.”<sup>12</sup>

2. Juvenile court jurisdiction<sup>13</sup>

**NOTE: Show slide, “Juvenile Court Jurisdiction.”**

- a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent.
- b) Juvenile court has jurisdiction over parent or guardian of a juvenile who has been adjudicated abused, neglected, or dependent, as long as they have been properly served with a summons (N.C.G.S. § 7B-406). Jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

3. Retention of jurisdiction by the juvenile court

**NOTE: Show slide, “Retention of Jurisdiction by the Juvenile Court.”**

Once jurisdiction has been obtained, it will continue until one (1) of the following conditions is met:<sup>14</sup>

- a) Until terminated by the court, or
- b) Until the juvenile reaches 18 years of age, or
- c) Until emancipation.

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### 4. Conducting child abuse and neglect investigations

**NOTE: Show slide, “Conducting Child Abuse and Neglect Investigations.”**

Homes in which abuse allegations are made are potentially dangerous and should be approached with great caution. Depending on the severity of the allegation, a request for law enforcement’s assistance to accompany a DSS worker is often to provide security and protection for the worker conducting an investigation. Should you be called upon to conduct an abuse/neglect investigation, you will find the following on-line resources helpful:

*Law Enforcement Response to Child Abuse*, U.S. Department of Justice, 2014. Available at: <https://www.ojjdp.gov/pubs/243907.pdf>

*North Carolina Protocol for Investigating Sexual Abuse Allegations in Child Care Facilities*, 2007. Available at: <https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-60/man//pdfdocs/CS1420.pdf>

### C. The Roles of the Department of Social Services and Law Enforcement

#### 1. Law enforcement investigations

**NOTE: Show slide, “Law Enforcement Investigations.”**

##### a) Emergency (life-threatening) or non-emergency investigations:

In 2013, 19,873 children were the victims of physical or sexual abuse or neglect in North Carolina.<sup>15</sup> To identify at-risk children, prevent abuse or neglect and further abuse or neglect, and protect all children in North Carolina, officers must take these matters very seriously and thoroughly investigate all claims of abuse or neglect.

**NOTE: Show slide, “Emergency or Non-Emergency Investigations.”**

If a law enforcement officer receives and responds to a call regarding an alleged abused, neglected, or dependent juvenile, the following are steps that should be taken to address the situation.

- (1) Provide necessary medical assistance.

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- (2) Notify the Department of Social Services immediately if there is cause to believe the juvenile is abused, neglected, or dependent. This should become a team effort when the social worker arrives.
- (3) If applicable, notify the juvenile investigator(s) as directed by agency policy.
- (4) Take child into temporary custody if necessary and applicable.<sup>16</sup>
- (5) Crime scenes should be handled the same as any other—protect and/or gather evidence, photograph injuries, and so forth. However, consent of a party with authority to give consent, or a search warrant, may be required to conduct a crime scene search.
- (6) Conduct interviews. Additional training may be needed to conduct a child interview to protect the statement as evidence in court. If your agency works with a Child Advocacy Center, contact should be made with the center to conduct a forensic interview in instances of alleged sexual abuse.
- (7) Answering complaints.
  - (a) The initial approach should be made in an objective and professional manner.
  - (b) Explain to complainant that the health and safety of the child is being considered.
  - (c) Show concern and sympathy.
  - (d) When there is refusal by a parent to enter, probable cause is needed that there is a crime being committed unless entry is warranted to save life or prevent serious bodily harm. If at any time cooperation is denied by a parent, caretaker, or custodian, you may NOT enter the home unless you have:
    - i) An arrest warrant if the subject resides in the home, or

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- ii) A search warrant covering the home,
- iii) Reasonable belief exists that you need to make a warrantless entry to save a life or prevent serious bodily harm.<sup>17</sup>

Neighbors and others may have to be interviewed to establish this probable cause. Many times there is not a complainant to interview. Once probable cause is established, then the Department of Social Services should obtain a nonsecure custody order and take custody of the child.

### (8) Interference with assessment<sup>18</sup>

If a person obstructs or interferes with an assessment required by 7B-302, following a report of abuse, neglect, or dependence, the Director is authorized to file a petition to request an order from the Court directing a named person to cease the obstruction or interference. The petition must specify the conduct which is alleged to constitute the obstruction and must be verified.

Acts which constitute obstruction of or interference with an investigation include refusal to do any of the following:

- (a) Disclose whereabouts of the juvenile;
- (b) Allow the Director access to the juvenile or information and records upon request;
- (c) Or allow the Director to arrange for medical or other evaluation of the juvenile by an expert.
- (d) Any other conduct which makes it impossible for DSS to carry out its duty to investigate is also deemed to constitute obstruction or interference.
  - i) The Court has the power to order a person named in such a petition to cease

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the acts which are found to constitute obstruction (which may consist of an order to perform by the Court's directives).

- ii) Except in cases wherein it is alleged that a juvenile needs immediate protection or assistance, a respondent (the person named in the petition) is given notice of a hearing, which is to be held within five (5) working days from the date of service of the petition. At such a hearing, the Court determines whether the obstruction or interference indeed exists and enters its orders accordingly.
- iii) In cases wherein it is alleged that a juvenile needs immediate protection or assistance, the Director may seek an ex parte order from the Court. An ex parte order is one which is entered without first allowing the respondent an opportunity to be heard or to hear the evidence which supports the allegations against them. The Court must find (1) probable cause to believe that the juvenile is at risk of immediate harm and (2) that the respondent is interfering with or obstructing the Director's ability to investigate and determine the juvenile's condition, in order to issue an ex parte order. If the Court so finds, then an ex parte order directing the respondent to comply accordingly may be entered. In such a case, a hearing must be scheduled within ten (10) days after the entry of the order to determine whether the order should remain in effect (or to enter a new order, depending on any change in circumstances).
- iv) A person who fails to comply with any orders of the Court issued under this

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section may be subject to civil or criminal contempt proceedings.

- (e) Upon completing the investigation, facts should be discussed with the case worker keeping in mind what is best for the child.

If the decision is to remove the child, the social worker will obtain the petition and nonsecure order, and the officer will serve those along with a civil summons. If an arrest of the perpetrator(s) is warranted, the officer should decide whether a warrantless arrest under G.S. 15A-401(b) is permitted or whether an arrest warrant will need to be obtained.

- (f) To have a complete picture about a child and/or family, it is essential that agencies share their expertise, knowledge, and information. North Carolina General Statute § 7B-3100 permits designated agencies to share relevant information about juveniles who are abused, delinquent, neglected, dependent, and/or undisciplined. The information which is shared is confidential in that it should be withheld from public inspection. Disclosure of protected or confidential information about juveniles may violate state or federal law, so officers must be careful to secure this information and retain it in a place where the public, or any unauthorized person, cannot inspect it.

Almost all information can be shared except mental health information or substance abuse treatment information.<sup>19</sup> The information which is shared is to be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile.

- 2. Duties and powers of agencies and individuals involved in child neglect, dependency, and abuse cases

**NOTE: Show slide, “Duties and Powers of Agencies and Individuals Involved in Child Neglect, Dependency, and Abuse Cases.”**

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- a) Each county has established protective services for juveniles alleged to be abused, neglected, or dependent, and each has specific procedures for handling complaints during and after business hours.
- b) Duty to report

**NOTE: Show slide, “Duty to Report.”**

There are several statutes that create a duty to report condition involving juveniles: G.S. 7B-301, G.S. 110-105.4, G.S. 90-21.20, and G.S. 14-318.6.

- (1) Duty to report under G.S. 7B-301

Every person has a legal duty to report facts which lead the person to suspect that a juvenile is abused, neglected, or dependent, or has died as the result of maltreatment. Any person or institution who has cause to suspect any of these circumstances to exist must report the case to the Director of the Department of Social Services (DSS), intake services of DSS, in the county where the juvenile resides or is found.<sup>20</sup>

The general rule is that such a report may be made orally, by telephone, or in writing. In your role as a law enforcement officer, you should provide your address and telephone number to DSS and complete any departmentally required reports. Your report shall include (where known) information regarding the juvenile’s name, age, address, and current whereabouts; his or her parents’ (or guardian’s or caretaker’s) name and address; the names and ages of other juveniles in the home; the nature and extent of the suspected injury or condition; and any other relevant information which would facilitate DSS response.<sup>21</sup>

The duty to report under G.S. 7B-301 applies to all persons. With one (1) exception, no privileged relationship, such as a physician/patient or attorney/client, excuses a failure to report suspected abuse, neglect, or dependency, even if the knowledge is acquired in an official professional capacity. It is only in a case wherein an attorney acquires such knowledge

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from their client during representation in the abuse, neglect, or dependency case that grounds exist not to report the suspected condition.<sup>22</sup>

Because the way G.S. 7B-301 is written, the duty to report under this statute has been interpreted to only apply if the person has reason to suspect:

- (a) A juvenile is a minor victim of human trafficking under G.S. 14-43.15;
- (b) A juvenile is dependent as defined in the juvenile code;
- (c) A juvenile has died as the result of maltreatment; **or**
- (d) A juvenile is abused or neglected (as those terms are defined in G.S. 7B-101) by their **parent, guardian, custodian, or caretaker.**<sup>23</sup>

In other words, if a person had reason to suspect a juvenile was abused or neglected by someone *other than* their parent, guardian, custodian, or caretaker, G.S. 7B-301 did not require the person to report it. Because of this gap in reporting, the North Carolina General Assembly enacted G.S. 14-318.6 to expand the duty to report.

### (2) Duty to report under G.S. 14-318.6

Under G.S. 14-318.6, any person 18 years of age or older who knows or should reasonably know that a juvenile is or has been the victim of a violent offense, sexual offense, or misdemeanor child abuse under 14-318.2 must immediately report the case to the appropriate law enforcement agency in the county where the juvenile resides or is found.<sup>24</sup>

The report may be made orally or by telephone. The report must contain the following information, if known: the name, address, and age of the juvenile; the name and address of the juvenile's parent, guardian, custodian, or caretaker; the name, address, and age of the person who committed the offense against the

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juvenile, the location where the offense was committed; the names and ages of other juveniles present or in danger; the present whereabouts of the juvenile, if not at the home address; the nature and extent of any injury or condition resulting from the offense or abuse; and any other information which the person believes might be helpful in establishing the need for law enforcement involvement. The person making the report must give their name, address and telephone number.<sup>25</sup>

In addition, if any law enforcement officer, as a result of this report, finds evidence that a juvenile may be abused, neglected, or dependent as defined in G.S. 7B-101, the law enforcement officer must make an oral report as soon as practicable to the director of DSS and then make a subsequent written report of the findings to the director of DSS within 48 hours after discovery of the evidence.<sup>26</sup>

Violent offense is defined in the statute as “[a]ny offense that inflicts upon the juvenile serious bodily injury or serious physical injury by other than accidental means.”

**Under the statute, if *any person 18 year of age or older knows or reasonably should know that any person has committed a sexual offense or violent offense against a juvenile, there is a duty to report it to law enforcement.*** Misdemeanor child abuse under G.S. 14-318.2 only applies to parents of a child less than 16 years of age or a person providing care to or supervision of a child less than 16 years of age.

The statute does not require a report if the attorney-client privilege or any of the privileges contained in G.S. §§ 8-53.3, 8-53.7, 8-53.8, or 8-53.12 would prevent it.

### (3) Duty to report under G.S. 110-105.4

Where a report is received of child sexual abuse in a day care facility or home, DSS must notify the State Bureau of Investigation (SBI) within twenty-four (24) hours or on the next work day. If, during any other investigation of alleged abuse as cited above, it is

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discovered that child sexual abuse may have occurred in a day care facility, then DSS must immediately notify the SBI, which may then form a task force to investigate the case.<sup>27</sup>

(4) Duty to report under G.S. 90-20.21

Additionally, physicians and hospitals must report to the appropriate law enforcement agency recurrent illness or serious physical injury to any child under the age of eighteen (18) where the illness or injury appears to be the result of non-accidental trauma.<sup>28</sup>

c) Assessment by Department of Social Services<sup>29</sup>

**NOTE: Show slide, “Assessment by Department of Social Services.”**

When a report is received, DSS must make a prompt and thorough investigation to ascertain the facts, the extent of abuse or neglect, and the risk of harm to the juvenile, to determine whether to provide protective services or file a petition. DSS has several options, which include immediate removal of the juvenile from the home, arrangement for protective services in the home, and filing of a petition in District Court. Protective services workers are authorized to assume temporary custody of an abused or neglected juvenile where warranted.

d) Law enforcement assistance

**NOTE: Show slide, “Law Enforcement Assistance.”**

In conducting investigations, DSS may consult with state or local law enforcement officers. Officers are required to assist in the investigation and evaluation of the seriousness of any report upon request of DSS.

DSS is authorized to make written demand for any information or reports, whether or not confidential, which may be relevant to the protective services case.<sup>30</sup> Any public or private agency or individual must provide access to such information and reports upon their request unless the information is protected by attorney-client privilege or otherwise exempt from disclosure by federal law.<sup>31</sup>

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If a law enforcement agency believes that release of the information will jeopardize the state's right to prosecute or a defendant's right to a fair trial or will undermine an ongoing or future investigation, the agency may seek an order from the court to prevent disclosure of the information.<sup>32</sup> Such actions are to be given immediate priority on the trial and appellate court dockets. Most communities use the multi-disciplinary team approach in dealing with abuse, neglect, dependent cases as well as cases involving the death of a child.

Special circumstances – infant abandonment:<sup>33</sup> When a parent abandons an infant less than seven days of age by voluntarily delivering the infant to, a law enforcement officer who is on duty or at a police station or sheriff's department or an emergency medical service worker who is on duty or at a fire or emergency medical services station without expressing an intent to return for the infant, that parent cannot be prosecuted for abandonment of the child or for unlawful surrender of the child.

When an infant is taken into temporary custody under 7B-500(b) or (d), that individual shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. Anyone who takes an infant into temporary custody under section 7B-500(b) or (d) may ask about the parents' identities and any relevant medical history but must also tell the parent that there is no requirement to provide information.<sup>34</sup>

- e) Duty of DSS investigation by local law enforcement/district attorney<sup>35</sup>

**NOTE: Show slide, "DSS Investigation by Local Law Enforcement/District Attorney."**

The Department of Social Services (Director) is required to make an immediate oral report and a subsequent written report to the District Attorney and the appropriate local law enforcement agency if he (the Director) finds evidence that a juvenile may have been abused (according to the Juvenile Code definition) within forty-eight (48) hours of receiving the report of abuse.

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The law enforcement agency must immediately initiate and coordinate a criminal investigation with the DSS investigation. This investigation must be initiated no later than 48 hours after receipt of the information from DSS.

The District Attorney shall decide whether to prosecute after completion of the investigation.

In cases wherein DSS receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the procedure to be followed is the same as in cases of alleged abuse described above.

If DSS receives a report that a juvenile has been abused or neglected in a day care facility or home, the Director must notify the Department of Health and Human Resources (DHR), the Division of Child Development, within twenty-four (24) hours or on the next working day of receipt of the report.

- f) Authority of medical professional<sup>36</sup>

**NOTE: Show slide, "Authority of Medical Professional."**

Any physician or administrator of a hospital, clinic, or other medical facility to which a juvenile is brought for medical attention as a result of suspected abuse, shall have the right, when authorized by the chief district judge, to retain physical custody of the juvenile for medical treatment. DSS must be notified in these instances, and they are required to immediately begin an assessment. The time limit is twelve (12) hours, which gives the Department of Social Services' social worker time to obtain a nonsecure order.

- g) Immunity for reporting and cooperating persons<sup>37</sup>

**NOTE: Show slide, "Immunity for Reporting and Cooperating Persons."**

Any person who makes a report pursuant to the statute cooperates with DSS in a protective services inquiry or investigation, or testifies in any judicial proceeding resulting from such investigation is immune from civil or criminal liability that might otherwise be imposed, provided that the person was acting in good faith.

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### 3. Criminal statutes

**NOTE: Show slide, “Criminal Statutes.”**

#### a) Felony child abuse

A parent or any other person providing care to or supervision of a child less than sixteen (16) years of age who:

- (1) Intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child;<sup>38</sup> (Class B2 felony)
- (2) Intentionally inflicts any serious physical injury to the child or who intentionally commits an assault upon the child which results in any serious physical injury;<sup>39</sup> (Class D felony)
- (3) Commits, permits, or encourages any act of prostitution with or by the juvenile;<sup>40</sup> (Class D felony)
- (4) Commits or allows the commission of any sexual act upon a juvenile;<sup>41</sup> (Class D felony)
- (5) Willfully acts or whose grossly negligent omission in the care of the child shows a reckless disregard for human life and results in serious bodily injury to the child;<sup>42</sup> (Class E felony)
- (6) Willfully acts or whose grossly negligent omission in the care of the child shows a reckless disregard for human life and results in serious physical injury to the child;<sup>43</sup> (Class G felony)

Note: “**Serious bodily injury**” is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.<sup>44</sup>

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Note: “**Serious physical injury**” means physical injury that causes great pain and suffering and includes serious mental injury.<sup>45</sup>

- b) Misdemeanor child abuse

**NOTE: Show slide, “Misdemeanor Child Abuse.”**

“Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means”<sup>46</sup> is guilty of a Class A1 misdemeanor.

- c) Contributing to delinquency and neglect by parents and others<sup>47</sup>

**NOTE: Show slide, “Contributing to Delinquency and Neglect by Parents and Others.”**

Any person who is at least 18 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected is guilty of a Class 1 misdemeanor.

The purpose of this statute is to “protect children from wrongful influence of adults,” and it is not necessary to prove that the child was delinquent.<sup>48</sup> The evidence must support a finding that the juvenile could have been adjudicated delinquent for a conviction to stand, but it is not a requirement that the child be found delinquent by a court. The age of the juvenile either at the time of the alleged offense or when the condition causing the juvenile to be delinquent, neglected, abused, or undisciplined governs and must be considered when making charging decisions.

Juveniles alleged to be abused or neglected must be less than eighteen years of age for this statute to apply. Juveniles alleged to be delinquent must be less than eighteen years of age and at least six (6) years old for this statute to apply. Jurisdiction for juveniles alleged to be undisciplined extends to include sixteen

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through seventeen-year-olds in all undisciplined matters except mandatory school attendance.<sup>49</sup>

- d) Taking indecent liberties with a student<sup>50</sup>

**NOTE: Show slide, “Taking Indecent Liberties with a Student.”**

“Indecent liberties” means willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual desire OR willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student. This does not include vaginal intercourse or a sexual act, as defined in N.C.G.S. § 27.20.

If the defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel and is at least four (4) years older than the victim, takes indecent liberties with a victim who is a student, at any time during or after the time the victim and defendant were present together in the same school (a school at which the student is enrolled and the school personnel is employed or volunteers) but before the victim ceases to be a student, the defendant is guilty of a Class I felony.

If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, or coach, and who is less than four (4) years older than the victim, takes indecent liberties with a student, the defendant is guilty of a Class I felony.

- e) Intercourse and sexual offenses with certain victims (including sexual activity with a student and sexual activity by a substitute teacher or custodian)

**NOTE: Show slides, “Intercourse and Sexual Offenses with Certain Victims.”**

- (1) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four (4) years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same

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school, but before victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student.<sup>51</sup>

- (2) A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four (4) years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class I felony.<sup>52</sup>
- (3) A defendant who has assumed a position as a parent or guardian of a minor, or who is an employee of any institution having custody of a minor, engages in vaginal intercourse or commits a sex act with the minor, they are guilty of a Class E felony.<sup>53</sup>

#### 4. Venue, pleadings, petitions

**NOTE: Show slide, “Venue, Pleadings, and Petitions.”**

While law enforcement may be involved in investigating criminal conduct involving juveniles, including neglect or abuse, all proceedings to protect the juvenile alleged to be abused, neglected, or dependent are brought by DSS by a petition and summons filed in the clerk’s office in the district where a juvenile resides or is present.<sup>54</sup>

#### 5. Temporary custody

**NOTE: Show slide, “Temporary Custody.”**

If necessary, a juvenile may be taken into temporary custody by law enforcement or a social services worker if there are grounds to believe the juvenile is being abused, neglected or is dependent and the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order.<sup>55</sup> Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for nonsecure custody can be obtained. **Personal care and supervision means close, constant supervision by the law enforcement officer who took the child into temporary custody. It does not mean that the juvenile can be placed in a room alone or given to someone else to care for and watch.** Law enforcement and the Department of Social Services should operate as a team under these circumstances.

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A person who takes a juvenile into custody without a court order must:<sup>56</sup>

- a) Notify the juvenile's parent, guardian, custodian or caretaker that juvenile has been taken into temporary custody.
- b) Advise the parent, guardian, custodian, or caretaker of the right to be present with the juvenile until a determination is made as to the need for nonsecure custody.
- c) Release the juvenile to the parent, guardian, custodian, or caretaker if the person having the juvenile in temporary custody decides that continued custody is unnecessary.
- d) The person having temporary custody shall communicate with the Department of Social Services. If the decision is made to file a petition, the Director of Social Services must contact a district court judge or a person who has been delegated authority by the chief district court judge for a determination of the need for continued custody. It is important that the law enforcement officer know local custom and policy of the jurisdiction he is serving to obtain a petition and nonsecure custody order. Each judicial district may vary procedurally in this process.
- e) A juvenile cannot be held in temporary custody more than twelve (12) hours (or more than twenty-four (24) hours if any of the twelve (12) hours falls on a Saturday, Sunday or legal holiday) unless:
  - (1) A petition or motion for review has been filed by DSS, and
  - (2) An order for nonsecure custody has been entered by the court.

### 6. Nonsecure custody

**NOTE: Show slide, "Nonsecure Custody."**

As we begin this discussion, keep in mind that this section is referring to DSS custody, not the custody of the Department of Public Safety – Juvenile Justice. In this section, we discuss actions taken to keep a juvenile safe from harm. These are generally actions taken by DSS

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under their authority and that of the court. Custodial actions as a result of a juvenile being adjudicated delinquent or undisciplined actions, akin to adult detention, will be discussed later.

When there is a nonsecure custody order, the court must first consider the release of the juvenile to the parent, relative, guardian, custodian, or other responsible adult.<sup>57</sup> If the court issues a nonsecure custody order, law enforcement serves the order and the person designated in the nonsecure custody order to take custody of the child takes custody of the child. A copy of the order must be given to the juvenile's parent, guardian, custodian, or caretaker.<sup>58</sup> An order for nonsecure custody is made only when there is a reasonable factual basis to believe the matters alleged in the petition are true, and:<sup>59</sup>

- a) The juvenile has been abandoned, or
- b) The juvenile has suffered physical injury or sexual abuse, or
- c) The juvenile is exposed to substantial risk of physical injury or sexual abuse because the caretaker, parent, guardian, or custodian
  - (1) Has created conditions likely to cause injury or abuse, or
  - (2) Has failed to provide, or is unable to provide adequate supervision or protection, or
- d) The juvenile needs medical treatment to cure or to alleviate or to prevent suffering serious physical harm, which may result in death or disfigurement or substantial impairment of bodily functions **and** the juvenile's parent, guardian, custodian or caretaker is unwilling or unable to provide or consent to the medical treatment.
- e) The juvenile's parent, guardian, custodian, or caretaker consents to the nonsecure custody order, or
- f) The juvenile is a runaway and consents to nonsecure custody.

In North Carolina, when a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem (GAL), or special representative, to specifically represent the interests of the juvenile.<sup>60</sup> In cases of dependency, the court can choose to appoint a

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GAL, but it is not required.<sup>61</sup> A GAL is tasked with assessing the facts of the case and determining the needs of the juvenile.<sup>62</sup> The guardian is also responsible for finding resources for the juvenile and assisting with court proceedings.<sup>63</sup> The GAL has the authority to obtain information and reports that are necessary to their representation, and law enforcement must assist in supplying requesting information.<sup>64</sup> Law enforcement officers who are investigating these types of cases may need to consult with the GAL.<sup>65</sup>

### 7. Kidnapping by a parent

**NOTE: Show slide, “Kidnapping By a Parent.”**

- a) For any type of action (civil or criminal) to be brought in cases wherein it is alleged that one (1) parent has “snatched” or kidnapped his or her child, there must first be an enforceable and valid court order in place governing custody of the child. Until such an order is entered, either parent may take the child to any geographical location of the parent’s choosing.
- b) Law enforcement officers who respond to complaints from aggrieved parents should always determine whether any court orders exist which establish custody rights of the parents. This is easily accomplished by asking the complaining parent what, if any, court action has taken place before the immediate incident of alleged child snatching. If no valid court orders exist, then the officer has no authority to force either spouse to comply with the wishes of the other in these situations. Officers should explain to the complaining parent that it will be necessary for the parent to seek the advice of a family law attorney. Resolution of these issues cannot be handled by law enforcement officers but must take place under the statutes and procedures governing domestic relations and child custody.
- c) In cases where a complaining parent alleges that the snatching parent has violated an existing custody order, officers should not attempt to enforce such orders without further direction from the issuing court. The custody statutes provide a remedy and specify the process whereby the aggrieved parent can seek redress. An officer should never take a child away from one (1) parent and give it to the other parent without explicit authority from the court.

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- d) When any federal or state court has awarded custody of a child under the age of sixteen (16) years, then it shall be a felony for any person to take or transport (or cause to be taken or transported) the child from any point within the State to any point outside the limits of the State or to keep the child outside the limits of the State.<sup>66</sup> Keeping a child outside the State limits in violation of a court order for a period over seventy-two (72) hours is prima facie evidence of the offender's intent to violate the custody order at the time he took the child from the State.<sup>67</sup>

Persons convicted of a violation of this statute shall be punished as Class I felons.<sup>68</sup>

### 8. Missing children

**NOTE: Show slide, "Missing Children."**

North Carolina law requires a local law enforcement agency receiving a missing person report from a parent, spouse, guardian, or legal custodian to immediately enter this report in the federal NCIC national missing persons file.<sup>69</sup> The local law enforcement agency must also immediately notify all of its on-duty officers and initiate a statewide broadcast to other agencies to be on the lookout for the missing person. A copy of the missing person report must also be sent to the North Carolina Center for Missing Persons.<sup>70</sup>

The North Carolina Center for Missing Persons recommends the following procedure upon receipt of a missing child report:

- a) Complete the missing person report form (PIN IR-209)<sup>71</sup> and advise parents to contact the N.C. Center for Missing Persons on the toll-free line, 1-800-522-KIDS (5437).
- b) Determine if emergency measures are necessary if the missing child appears in danger or under a disability.<sup>72</sup>
- c) Make an immediate entry into the Division of Criminal Information Network (DCIN)/NCIC files of missing persons, with a notation for disabled persons - EMD;<sup>73</sup> on those disappearing involuntarily - EMI;<sup>74</sup> on those disappearing under threatening circumstances - EME;<sup>75</sup> all others under 18 years old should be entered as juveniles - EMJ.<sup>76</sup>

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- d) A copy of the message should be directed to the N.C. Center for Missing Persons.<sup>77</sup>
- e) Missing persons who are located should be cleared out of DCIN/NCIC and the N.C. Center for Missing Persons.<sup>78</sup>

### D. Undisciplined and Delinquent Juveniles

**NOTE: Show slide, “Undisciplined and Delinquent Juveniles.”**

While the treatment of juveniles in the criminal justice system has changed and evolved, the role of the State in the protection of children has become fundamental. In the 1800s, children were often viewed as property, and discipline was not regulated. If children broke the law, they were jailed with adult prisoners. Over time, society found that children required different treatment and protections, and the duties of the government were expanded. Several reform movements have transformed the roles and duties of the states in the area of juvenile justice.

These changes were brought about largely due to advances in developmental psychology and improvements in our understanding of adolescent brain development. Juveniles are not “little adults” – they are distinctly different in terms of their ability to control impulses, think long-term, and understand consequences. They also possess tremendous potential for change. For these reasons, a separate justice system has been developed.

Juvenile justice services have become centralized and standardized. At the same time, there has been a continuing emphasis on community decision-making in the area of delinquency prevention.

As we advance through this section, keep in mind our earlier discussion on DSS and Juvenile Justice. DSS largely focuses on the behavior of adults, while this section, Juvenile Justice, will focus on the behavior of juveniles.

In North Carolina, juveniles who are proven to be undisciplined or delinquent are not found guilty but instead adjudicated delinquent or undisciplined. The standard of proof in cases involving delinquency is the same as that for other criminal charges beyond a reasonable doubt. In cases where a juvenile is alleged to be undisciplined, the court must find the allegations proven by clear and convincing evidence.<sup>79</sup> The juvenile court then has discretion to fashion a judgment for the juvenile that can include treatment, supervision, and in some cases, detention. This is called the disposition. Juvenile court records are not a public record.<sup>80</sup>

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**NOTE: Show slides, “Delinquency Prevention and Understanding Juveniles.”**

1. Delinquency prevention and understanding juveniles
  - a) Adolescence is a particularly challenging and turbulent developmental stage, even under the best of circumstances. The youth you may encounter often have mental health and substance use disorders, and adolescence can be a period where poor decisions and choices can have life-changing consequences.<sup>81</sup>
  - b) One of the reasons that adolescents can be frustrating is that they often are impulsive or fail to plan. Brain research, brain scans (e.g., MRI), and other developmental science research offer this explanation: The area of the brain that coordinates impulse control is the last part of the brain to develop, so teens are less well-equipped to engage in planning ahead.<sup>82</sup>
  - c) One interpretation of these findings is that in teens, the parts of the brain involved in emotional responses are mature, or even more active than in adults, while the parts of the brain involved in keeping emotional, impulsive responses in check are still reaching maturity. This changing balance might provide an explanation for the youthful appetite for new experiences, and the tendency to act on impulse—without regard for risk.<sup>83</sup>
  - d) Much of the behavior exhibited by delinquents is behavior that is not abnormal for adolescence.<sup>84</sup>
  - e) Without minimizing the fact that criminal behavior is unacceptable, we can recognize the processes that lead up to it, and use that knowledge to seek program alternatives that help adolescents identify errors in their thought processes and see other options to their behavior.<sup>85</sup>
  - f) A key cognitive development during adolescence is relativity<sup>86</sup> - the ability to see things in relative terms, as opposed to absolute, black-or-white terms. Adolescents are more likely to question others’ assertions and less likely to accept facts as absolute truths. Adolescents’ belief that everything is relative can become so overwhelming that they become extremely skeptical. The very same teenager who can compose a mature and thoughtful answer to a philosophical question posed in social studies class might respond impulsively when he is with

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his friends or in the heat of the moment. If a juvenile offender has a mental health or substance abuse problem, this may make them all the more vulnerable to poor decision-making.

- g) The bottom line is normal adolescence can be a time of risk-taking, poor decision-making, and lack of attention to long-term consequences. Since the adolescent brain is not fully developed, we should expect that they will behave “immaturely.”<sup>87</sup>
- h) During adolescence, an individual is transitioning to independent thinking and living. This is a critical task as adolescents are gearing up for adult responsibilities. They are on their way, but are not there yet and need structure, safety, support, and guidance to achieve a healthy, successful transition to adulthood.<sup>88</sup>

**NOTE: Show slides, “Establishing Rapport with Juveniles.”**

- 2. Establishing a rapport with juveniles
  - a) It is important for officers to establish rapport with juveniles. First, rapport can help ease or prevent community tensions by allowing juveniles to see officers as people rather than cogs in a machine. This rapport can also encourage communication between juveniles and officers, and this can be effective in crime prevention and crime solving. Finally, you want to encourage the community to report crime and see law enforcement as allies. Establishing good relationships with youth is a key step in this process.
  - b) Establishing rapport with juveniles starts by developing a helping relationship versus an adversarial relationship. This helping relationship begins with the building of a strong alliance. This alliance allows both the officer and the juvenile to believe that they are on the same side (as opposed to being “out to get him” or “trying to catch him messing up”).<sup>89</sup>
  - c) Most of you already know how to develop relationships with other people; you have been developing relationships with others all your lives and new relationships with other trainees since your basic training class began.<sup>90</sup> However, developing a working alliance with court-involved youth can be more challenging.<sup>91</sup> Some youth may see you as enforcing rules or

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laws that they deem unfair.<sup>92</sup> Also, many of the juveniles have been exposed to years of abuse at the hands of those (parents or guardians) who were supposed to love and, at the least, protect them from harm, and so they may be wary of adults and reluctant to drop their guard.<sup>93</sup> As a law enforcement officer, you have an additional obstacle; your uniform. Your uniform is often the first thing people will notice about you, and, for youth, in particular, it can be very intimidating and serve to remind them of your powerful role and their relative lack of power and control.

- d) This can cause otherwise cooperative youth to close down when faced with a uniformed officer. Keeping this in mind, and going out of your way to otherwise convey your desire to form a relationship and to be approachable, can help mitigate this effect. Be aware of your surroundings, as well. A juvenile who is at home, and thus feels more comfortable and in control, may have less of a reaction to your uniform and presence than a youth who is at school and therefore already sensitive to a power imbalance.
- e) Keep in mind that a relationship requires both parties to feel comfortable and equal. While it is true that you will always hold the power in any interaction with a youth because of your status as an officer, it is also true that the youth knows this. As a result, engaging in a power struggles only serves to undermine your role. Make sure to allow a juvenile to feel respected and valued, and thus allow them a sense of control, and you will be far more effective.<sup>94</sup>
- f) Despite the obstacles, developing a healthy alliance with court-involved youth is almost always possible.
- g) Many of the communication skills you have learned or will learn are designed to promote a good rapport between you and juveniles. These skills are very helpful, but only if they are used with an attitude toward the youth that reflects the following key elements: empathy, genuineness, and positive regard.<sup>95</sup>
  - (1) **Empathy** refers to our ability (and willingness) to understand another person's thoughts, feelings, and struggles from their point of view. Simply put, it involves "taking a walk in another

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person's shoes." This can be hardest to do when a youth is frustrated and angry, and especially when their anger and frustration is directed at **you**. However, a bond (an alliance) will be strengthened if you are mature enough to remain calm and non-defensive at such moments and remain able to focus your energies on putting yourselves in their shoes and communicating that, instead of reacting defensively to their insults or verbal attacks.<sup>96</sup>

(2) **Genuineness** means keeping it real. Genuineness requires that you are comfortable enough in your skin (that is, that you have both self-awareness and self-acceptance) to avoid hiding behind a professional role. It means that in your work with youth, you can express healthily obvious feelings and thoughts with the youth. However, genuineness requires not only that we are honest and authentic around people; it also means that we are willing to engage and share how we honestly see things.<sup>97</sup>

(3) **Positive regard** flows from the first two (2) attitudes. It is an attitude of concern that is embodied by the following two (2) questions posed by Carl Rogers, the psychologist credited with first recognizing the significance of the therapeutic alliance. The first is, "Do we tend to treat individuals as persons of worth, or do we subtly devalue them by our attitudes and behavior?" The second asks, "Is our philosophy one in which respect for the individual is uppermost?" Rogers argued, and research has maintained, that an attitude of caring and acceptance of the juvenile results in greater change in their attitudes and behavior. Adopting an attitude of caring and acceptance, then, is in everybody's best interests.<sup>98</sup>

h) Several other strategies can be useful as you seek to form a working alliance with youth. These are finding common ground, identifying strengths, and establishing trust.<sup>99</sup>

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- (1) **Finding common ground:**<sup>100</sup> Ask questions about the juvenile’s home, school, friends, likes and dislikes, or recent public events to find something that you have in common. You may not like to feel that you have a lot in common with most juvenile delinquents, but all human beings have experiences in common. It can be helpful to identify this common ground to develop the kind of relationship that is most likely to set the conditions for change. It does not have to be a deep or profound shared experience or interest: you may both be Carolina fans, for example. Perhaps you both hate broccoli, and neither of you knows how to swim. The object here is to begin to build a bridge between you and the juvenile.
- (2) **Looking for Signs of Strength:**<sup>101</sup> Especially with juveniles, we spend a lot of time concentrating on the deficiencies that these young people bring with them. Most of them are behind in school; some are violent; many have substance abuse problems, etc. But to build a helping relationship, it is important for you to be able to see the juvenile as a person who has assets, and value and worth as a person.
- (3) **Identify Strengths:**<sup>102</sup> In addition to helping you become aware of the juvenile’s assets, identifying strengths allows you to build a relationship by pointing out to the juvenile that you are aware of their positive qualities or behaviors, and that you have noticed signs of strength. Paying attention to positive behavior increases the incidence of positive behavior. One (1) cautionary note: it is not helpful, and can be very destructive, to “make up” or pretend to see strengths that are not there. Always be truthful.
- (4) **Trust:**<sup>103</sup>
  - (a) This brings us to the last component of building the helping relationship: trust. According to the American Heritage College Dictionary, trust is “a firm

reliance on the integrity, ability or character of a person; one in which confidence is placed.”

- (b) Trust develops as the cumulative effect of one-on-one day-to-day relationships. Trust is won or lost by how well you know yourself, how open you are to letting others see your real self, how consistent you are, and how well you show your interest in others. Trust builds over time because it must be earned; it cannot be assumed or mandated. Few people will risk exposing their problems until a trusting relationship is created. Common attributes that build trust are being committed to a goal, caring deeply about those you serve, being competent, having honesty and integrity, and acknowledging your own mistakes.
- (c) To build trust, you must show consistency in decision making, listen in a way that shows respect for the other person, listen in a way that shows you value the other person, behave so that the other person knows that you are working for their best interest. Building trust involves a level of practical openness and sharing.
- (d) Sadly, while it takes some time to build trust, it takes only a moment or two to lose it. It is important to avoid saying anything to a juvenile that you do not mean. The worst thing you can do in a helping relationship is to be untrustworthy. It is better to say that you do not agree with what the juvenile says than to pretend that you do.
- (e) Remember: delinquent juveniles are not trusting of adults, especially adults in positions of authority. Conversely, they may be all too trusting of peers or those adults that

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they perceive as anti-authority or rebellious in some way. If you lie to them, you reconfirm the stereotype they already have, of someone who is trying to trick them or “con” them or let them down in some way. You might also strengthen in them the anti-social view that “everybody does what’s convenient instead of what’s right if they can get away with it.”

### 3. Definitions

**NOTE: Show slides, “Definitions.”**

#### a) Community-based program<sup>104</sup>

A program providing non-residential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile’s family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

#### b) Delinquent juvenile

(1) Any juvenile who, while less than eighteen (18) years of age but at least sixteen (16) years of age, commits indirect contempt by a juvenile as defined by N.C.G.S. § 5A-31 or a crime or infraction under State law or an ordinance of local government, excluding all violations of the motor vehicle laws under Chapter 20 of the General Statutes.<sup>105</sup> Juveniles who are emancipated before age eighteen (18) are tried as an adult, and juveniles may still be transferred, and sometimes must be transferred, from district court to superior court to be tried as an adult for certain felonies.<sup>106</sup>

(2) Any juvenile, while less than sixteen (16) years of age but at least six (6) years of age, commits indirect contempt by a juvenile as defined by N.C.G.S. § 5A-31 or a crime or infraction under State law or an ordinance of local government, including violation of the motor vehicle laws.<sup>107</sup> Juveniles who are emancipated between the ages of six (6) and sixteen (16) are tried as an adult, and juveniles may still be transferred, and sometimes must be transferred, from district court to

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superior court to be tried as an adult for certain felonies.<sup>108</sup>

c) Detention<sup>109</sup>

The secure confinement of a juvenile pursuant to a court order.

d) Detention facility<sup>110</sup>

A facility approved to provide secure confinement and care for juveniles. Detention facilities include both state and county administered detention homes, centers, and facilities.

e) Emancipated minor<sup>111</sup>

A juvenile who is sixteen (16) or seventeen (17) years of age, who has been a resident of the same county or federal territory in North Carolina for six (6) months, may petition the court in that county for a judicial decree of emancipation. A married juvenile is also emancipated.<sup>112</sup> Emancipation has the legal effect of allowing the juvenile to make contracts and conveyances, to sue and be sued, and to transact business as if an adult. The juvenile's parent, guardian, or custodian is relieved of all legal duties and obligations to the juvenile. The decree is irrevocable.

f) Judge<sup>113</sup>

Any district court judge.

g) Juvenile court<sup>114</sup>

Any district court exercising jurisdiction.

h) Juvenile court counselor

“A person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.”<sup>115</sup>

i) Post-release supervision<sup>116</sup>

The supervision of a juvenile who has been returned to the community after having been committed to the Division of

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Adult Correction and Juvenile Justice (“DACJJ”) for placement in a youth development center.

j) Probation<sup>117</sup>

The status of a juvenile who has been adjudicated delinquent is subject to specified conditions under the supervision of a juvenile court counselor and may be returned to the court for violation of those conditions during the period of probation.

k) Protective supervision<sup>118</sup>

The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a juvenile court counselor.

l) Teen court program<sup>119</sup>

A community resource for the diversion of cases in which a juvenile has allegedly committed certain offenses for hearing by a jury of the juvenile’s peers, which may assign the juvenile to counseling, restitution, curfews, community service, or other rehabilitative measures. In communities that have teen courts, the law enforcement officer may make a referral directly to this resource without making a complaint to Court Services.

m) Undisciplined juvenile<sup>120</sup>

**NOTE: Show slide, “Undisciplined Juvenile.”**

- (1) A juvenile who, while less than sixteen (16) years of age but at least six (6) years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile’s parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than twenty-four (24) hours; or
- (2) A juvenile who is sixteen (16) or seventeen (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

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away from home for a period of more than twenty-four (24) hours.

- n) Youth development center<sup>121</sup>

A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Division of Adult Correction and Juvenile Justice.

4. Jurisdiction over undisciplined juveniles

**NOTE: Show slide, “Jurisdiction over Undisciplined Juveniles.”**

- a) Juvenile court has exclusive original jurisdiction over any case involving a juvenile who is alleged to be undisciplined. The age at the time of the offense governs.

Jurisdiction continues until:<sup>122</sup>

- (1) Terminated by order of the court.
- (2) The juvenile reaches eighteen (18) years of age, or
- (3) The juvenile is emancipated.

The court has jurisdiction over the parent, guardian, or custodian of a juvenile if they have properly served with a proper summons.<sup>123</sup>

- b) Dispositional alternatives for undisciplined juveniles

Officers should be aware of alternatives for undisciplined juveniles. The court will assess the juvenile’s best interest in these situations, how much care and supervision the juvenile needs, and what kind of programs or resources are available.

**NOTE: Show slide, “Dispositional Alternatives for Undisciplined Juveniles.”**

- (1) Require that the juvenile be supervised in the juvenile’s own home;
- (2) Place the juvenile in the custody of a parent, guardian, relative, private agency, or some other suitable person;

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- (3) Place the juvenile in the custody of the county department of social services;
- (4) Place the juvenile under the protective supervision of a juvenile court counselor for a period of up to three months.<sup>124</sup>

The court may also excuse the juvenile from compliance with compulsory school attendance if the court finds “suitable alternative plans,” such as vocational or special education, special placement, or some other terms.

**NOTE: Show slide and refer students to handout, “Conditions of Protective Supervision for Undisciplined Juveniles.”**

5. Conducting investigations involving juveniles
  - a) Undisciplined offenses

**NOTE: Show slide, “Undisciplined Offenses.”**

- (1) Truancy

In North Carolina, every parent, guardian, or custodian of a child between the ages of seven (7) and sixteen (16) years shall require that child to attend school continuously when the school is in session. After three (3) unexcused absences, the principal shall notify the parent, guardian, or custodian that the child has excessive absences. After six (6) unexcused absences, the principal shall notify the parents by mail that they may be in violation of the “compulsory Attendance Law.” After ten (10) unexcused absences in a school year, the principal shall confer with the student and parent to determine whether the parent has made a good faith effort to comply with the law. If determined that the parent has not made a good faith effort to comply with the law, the local district attorney and department of social services will be notified.<sup>125</sup>

Note: Truancy under N.C.G.S. § 115C-378 is a Class 1 misdemeanor charge levied against the parent, guardian, or custodian of the juvenile, not the juvenile themselves.<sup>126</sup>

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### (2) Beyond parental control

**NOTE: Show slide, “Beyond Parental Control.”**

When a juvenile is beyond parental control, the parent is unable or unwilling to maintain discipline and control over their child. It may be necessary to take custody of the juvenile under these conditions, but he or she cannot be detained in a secure custody facility. Under such circumstances, taking the juvenile into temporary custody may be appropriate to facilitate resources for the juvenile, including emergency counseling services, emergency mental health services, referral to a shelter care facility, etc. Communicating with DSS or Court Services to assist with finding resources is appropriate. However, when taking a juvenile into temporary custody, a decision must be made within twelve (12) hours as to whether a nonsecure custody order is needed or whether the juvenile can be returned to their parents once all parties have calmed down.<sup>127</sup>

### (3) Curfews

**NOTE: Show slide, “Curfews.”**

North Carolina law allows cities and counties to impose curfews on persons of any age less than eighteen (18).<sup>128</sup> The cities or counties have the authority to pass local ordinances, dictating when and how a curfew is enforced. Law enforcement officers in those jurisdictions have the authority to enforce these local ordinances. It should be noted that secure detention is NOT an option for a juvenile merely in violation of a city or county juvenile curfew. You should check to see if the municipalities or the county/counties in your jurisdiction have curfew ordinances.

Note: Municipalities and counties also have the ability to impose curfews in connection with a declared state of emergency.<sup>129</sup> Violations of emergency curfews are treated differently than noted above.

### (4) Runaway juveniles

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**NOTE: Show slide, “Runaway Juveniles.”**

“Each year, an estimated 1.6 million children and youth (ages 12-17) experience homelessness without a parent or guardian.”<sup>130</sup> Juveniles have many reasons for leaving home, including abuse, neglect, family conflict, and mental health or substance abuse issues.<sup>131</sup> Juveniles who run away or are forced out of their homes are at special risk for dangerous circumstances. The National Center for Missing and Exploited Children estimates that nearly one (1) in seven (7) runaways in 2018 were likely sex trafficking victims.<sup>132</sup> Runaways may experience violence; many turn to drugs or alcohol and they may become involved with criminal activity. Therefore, it is important for law enforcement to take cases of runaway youth seriously. Below are the steps to take for a proper investigation into a runaway juvenile.

- (a) Information should be taken and an investigation report made without any delay in cases involving juveniles.
- (b) Gather the facts as in any investigation.
- (c) Inform the complainant of the procedure to be followed in trying to locate their child.<sup>133</sup>
  - i) There is a twenty-four (24) hour wait on runaways to place them in the National Crime Information Center (NCIC). However, they can be entered as a missing person upon notification. If the juvenile has not been placed in custody after twenty-four (24) hours, their designation may be changed from a missing person to a runaway if appropriate.
  - ii) Check any possible locations, as suggested by the complainants.
  - iii) Advise the complainant that a message (DCIN) will be sent to out-of-town

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locations to which they believe the child is headed.

- iv) Advise them the child will be placed in the NCIC files.
- v) Advise the complainants that they can contact the National Center for Missing and Exploited Children for further information or assistance.

Note: Explicit promises should NOT be made to the complainants about whether the NCIC entry will be successful in locating the child.

- (5) Advise complainant of the law on runaway juveniles<sup>134</sup>
  - (a) If located in jurisdiction, he or she will be returned to them.
  - (b) If the child refuses to return home, he or she could be placed in a group or runaway home or confined in a juvenile detention facility.
  - (c) Sometimes, parents may refuse to take child. However, parents must provide food, clothing, and shelter until age 18 under the neglect statute.<sup>135</sup> They cannot refuse to provide for the child. Under such circumstances, a referral to DSS is appropriate if the parent continues to refuse to take their child.
  - (d) For runaways that make their way out-of-state, they will fall under the Interstate Compact on Juveniles (“ICJ”). Any officer in the country may take custody of a juvenile subject to an ICJ warrant. Any warrants under the ICJ must be entered into NCIC per the ICJ Rules.<sup>136</sup> Also, an officer in this State may take temporary custody of a juvenile if there are reasonable ground to believe the juvenile has runaway from home for a period of 24 hours or more (and therefore is undisciplined as devined in our statutes). An

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officer may be able to confirm this by checking in NCIC to see if the juvenile has been entered as a runaway. Out-of-state juveniles may be placed in a secure juvenile facility, if required by the compact or ordered by the court, until their return.<sup>137</sup> In the event an officer takes custody of an out-of-state juvenile pursuant to an ICJ warrant or otherwise, Court Services should be contacted to assist in arranging for secure custody and eventual return to the state of origin.

### E. Law Enforcement Procedures in Delinquency Proceedings

#### 1. Role of the law enforcement officer

**NOTE: Show slide, “Role of the Officer.”**

- a) “A law enforcement officer who takes a juvenile into temporary custody should select the appropriate course of action to the situation.”<sup>138</sup> That ensures the protection of public safety and meets the needs of the juvenile.

The officer may:

- (1) Release the juvenile, with or without first counseling the juvenile;
- (2) Release the juvenile to the juvenile’s parents, guardian, or custodian;
- (3) Refer the juvenile to community resources;
- (4) Seek a petition; or
- (5) Seek a petition and request a custody order.

- b) Release the juvenile with or without first counseling the juvenile;

Conducting parent-juvenile conferences

**NOTE: Show slide, “Conducting Parent-Juvenile Conferences.”**

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### (1) Counseling

While counseling between parents, guardians, custodians, and delinquent or undisciplined juveniles is best left to professionals, such as social workers or psychologists, there may be times when law enforcement officers will need to facilitate discussions between the parties. “Counseling” is defined as guidance using psychological methods and various techniques of personal interview.<sup>139</sup> While officers are not trained in these techniques, and should never attempt to utilize professional methods, officers can interact with the parties in a way to establish and enable open dialog. Officers can listen, reflect, clarify issues, ask questions, and help the parent and juvenile better understand each other. This communication can be an important step in working towards a resolution.

### (2) Preparation for the initial non-custodial conference

(a) Most children who are taken into custody are released to their parent, guardian, or custodian. Prior to releasing the juvenile back to the parent, it is important to ensure that the parties are communicating effectively.

(b) Officers should be careful to pick a comfortable location for a meeting between the juvenile and the parent, guardian, or custodian. A private, safe location such as an office at the police station may be an ideal meeting place. If the juvenile has been arrested, it may be best to meet in the location of the arrest.

Under ideal conditions, an office is the best place. The atmosphere is controlled. It is more secure and less dangerous than the home. There is more privacy and fewer distractions such as TV, other children, animals, or neighbors that could be in the home.

(c) Suggested procedure for the initial meeting

i) Insist on privacy.

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- ii) Sit down, be relaxed, do not be in a hurry, explain the reason for having their child in custody, and the purpose of the meeting.
- iii) Law enforcement need to be careful that they are not in a situation that would qualify as a custodial interrogation. This is more challenging with youth because age is a factor. If the juvenile makes statements in this setting that can be used against them, they will be suppressed if the juvenile is not read his or her rights.

Alternately, law enforcement can tell the parent what they believed happened without eliciting a statement from the juvenile.

- iv) Confirm the information that the juvenile has given.
- v) Ask the parents if they are experiencing any problems with the child or if they have any information that would be helpful such as any previous arrests, his or her emotional health, his or her school work, or any other information that helps you make your disposition.
- vi) If appropriate, discuss criteria for diverting the child from court. Officers should explain that in appropriate situations, they may have the authority to divert the case and require other remedial measures. Officers should also discuss the possibility that a victim or the State may wish to seek a petition instead of diversion. Officers should discuss the role of the court counselor and that the family may be contacted by one to discuss the case.

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- vii) To determine whether diversion is appropriate, officers should consider the nature of the offense, the age of the juvenile, the history or previous record, if any, of the juvenile, the willingness of the juvenile and parents to participate in alternative programs and the availability of resources for the family.
  - viii) Officers should also explain that if the juvenile refuses to participate in the diversion requirements, or fails to complete any requirements, a petition may still be sought and the case may be sent to court. Whenever the facts confirm that the juvenile has violated the law—whatever the disposition—an arrest record and juvenile contact report should be made and maintained in the proper place in the department’s records according to departmental rules.
  - ix) The officer should notify the juvenile/family that they intend to file a complaint and should expect to be contacted by Juvenile Justice.
- c) Release the juvenile to the juvenile’s parent, guardian or custodian;

**NOTE: Show slide, “Release to Parent, Guardian, or Custodian.”**

Provide parents’/guardians’/custodians’ contact information for appropriate resources, including community mental health agencies, DSS, or the local Juvenile Court Counselor’s Office.

- d) Refer the juvenile to community resources;
- Dispositional alternatives for delinquent juveniles

**NOTE: Show slides, “Dispositional Alternatives for Delinquent Juveniles.”**

Note: If an officer refers a juvenile to appropriate community resources, he or she should notify the local Juvenile Court

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Counselor's office so that a consultation note can be made in the event the juvenile returns to the system in a more formal manner.

- (1) Officers should also be aware of alternatives for juveniles adjudicated delinquent. The courts must select a disposition designed to meet the needs and best interests of the juvenile, and to protect the public, based on the following:<sup>140</sup>
  - (a) The seriousness of the offense;
  - (b) The need to hold the juvenile accountable;
  - (c) The importance of protecting the public safety;
  - (d) The degree of culpability indicated by the circumstances of the case;
  - (e) The rehabilitative and treatment needs of the juvenile, as indicated by a needs assessment.
- (2) Depending on the court's determination of the above factors, they may fashion a disposition that best suits the needs of the juvenile and the public. Depending on the severity of the offense, the nature of the adjudication, and the history of the juvenile, the court may order various requirements. These include, but are not limited to:
  - (a) Require the juvenile to be supervised in their own home by the department of social services, a juvenile court counselor, or another person; be placed in the custody of a parent, guardian, custodian, relative, or private agency; or be placed in the custody of the department of social services.
  - (b) Order the juvenile to cooperate in a community-based program, including treatment programs or residential treatment programs;
  - (c) Order the juvenile to perform community service;

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- (d) Order the juvenile to pay restitution;
  - (e) Regular or intensive probation;
  - (f) Order the juvenile to participate in the victim-offender reconciliation program;
  - (g) Order the juvenile to submit to house arrest;
  - (h) Order the juvenile to cooperate with a wilderness program;
  - (i) Order the juvenile to be confined to a juvenile detention facility or group home or placement in a youth development center.<sup>141</sup>
- e) Seek a petition; or
  - f) Seek a petition and request a custody order.
- (1) Non-custodial interview guidelines

**NOTE: Show slides, “Non-Custodial Interview Guidelines.”**

Officers must recall that when they interrogate an individual in a custodial setting, *Miranda* warnings are required to be given. When a juvenile is interrogated in custody, Juvenile *Miranda* warnings must be given, which include additional rights. When an interrogation occurs in a non-custodial setting, *Miranda* warnings are not required.

Officers should be cognizant of the factors a court may use to determine whether an individual is in custody for the purpose of *Miranda* warnings. The courts will assess whether a reasonable person in the “position of the questioned individual would believe himself to be in custody or that he had been deprived of his freedom of action in some significant way.”<sup>142</sup> When it comes to juveniles, since age is a factor in the custody analysis, this changes to a reasonable child standard – would a reasonable child of that age believe he or she is under arrest or restrained from movement to the degree of arrest?<sup>143</sup>

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Some factors the court may consider include, but are not limited to:<sup>144</sup>

- (a) Language used by the officer, including advising the juvenile that they are not under arrest or are free to leave;
  - (b) How many officers participate in the interrogation;
  - (c) The age of the juvenile;
  - (d) The time, place and nature of the interrogation;
  - (e) The extent to which the defendant was restrained or free to leave;
  - (f) The presence of weapons;
  - (g) The use of locked doors;
  - (h) Whether handcuffs were applied;
  - (i) The use of posted guards.
- (2) Interrogation procedures

**NOTE: Show slide, “Interrogation Procedures.”**

A law enforcement officer who wishes to conduct a custodial interrogation of a juvenile must follow the governing statutory procedures. Officers must be cognizant that juvenile *Miranda* warnings contain extra elements not contained in adult warning, and juveniles have different rights depending on their ages.

- (a) As with any case wherein an officer conducts a custodial interrogation, the officer must properly advise the juvenile of his or her constitutional rights, as required by the United States Constitution, by giving *Miranda* warnings. In addition to the usual *Miranda* warnings, the interrogating officer must advise the juvenile of the additional statutory right to have a parent,

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guardian, or custodian present during questioning.

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

- i) That the juvenile has the right to remain silent;
- ii) That any statement the juvenile does make can be and may be used against the juvenile;
- iii) That the juvenile has a right to have a parent, guardian, or custodian present during questioning; and
- iv) That the juvenile has the right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.”<sup>145</sup>
- v) There is no requirement that a juvenile show financial need before counsel is appointed. Juveniles are presumed indigent, and counsel must be provided if requested.<sup>146</sup>

**NOTE: Distribute juvenile rights warning cards. Show slide and refer students to “Juvenile *Miranda* Warning” handout.”**

- (b) Officers must be very careful to check the age of any juvenile before a custodial interrogation, as the rights of the juvenile are specific to age. The required warnings must be given whenever officers arrest (or otherwise taken into custody) and wish to question a person who is less than 18, who is not a member of the armed forces or emancipated by marriage or court order. If the juvenile is sixteen (16) or older, the juvenile may waive his or her rights (i.e., choose not to invoke the protections guaranteed him or her via his or her rights) and make a statement without

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a parent, guardian, custodian, or attorney present.<sup>147</sup>

- (c) When a juvenile is under the age of sixteen (16), the juvenile must have a parent, guardian, custodian, or attorney present for any admission or confession to be admissible.
- (d) To obtain a valid waiver of a juvenile's rights, an interrogating officer must not only advise the juvenile of those rights, the officer must also be able to show that the juvenile understood his or her rights and voluntarily, knowingly, and understandingly waived his or her rights. Officers are not required to explain the juvenile's rights in any greater detail than *Miranda* requires, even in cases involving juveniles.<sup>148</sup> Officers should be careful to document why they believe a waiver is knowingly, voluntarily, and understandingly made.

If a court finds that a waiver was not made knowingly, voluntarily, and understandingly, then any statement made by the juvenile under the custodial interrogation may not be admitted in evidence. The court will consider all of the circumstances surrounding the statement when making its determination, including the interrogating officers' conduct before and during the interview, the juvenile's age and physical and mental condition (including any intoxication or influence of alcohol/drugs), the length of the interview, and the environment in which the interview took place (e.g., closed, locked door in small room in the police department).

- (e) If the juvenile indicates in any manner and at any stage of the questioning that the juvenile does not wish to be questioned further, the officer shall cease questioning.<sup>149</sup>

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- (f) An officer who wishes to conduct a custodial interrogation of a juvenile should consider the following suggestions:
  - i) Always use the printed card to advise *Miranda* to ensure the rights are read accurately.
  - ii) Use a written waiver of rights form. Read everything to the juvenile and have him or her follow along with you and initial each section so that you will later be able to show that the juvenile understood and acknowledged his or her understanding of his or her rights.
  - iii) All custodial interrogations of a juvenile in criminal investigations conducted in a place of detention must be electronically recorded in its entirety, from the time when the juvenile is advised of the *Miranda* rights until completion of the interview.<sup>150</sup> The electronic record may be an audio recording or a visual recording. Whenever feasible, an audio and visual recording should be “simultaneously produced.” A place of detention is 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.”<sup>151</sup>
  - iv) Keep meticulous notes regarding the interview. Note beginning and end times, the interview environment, the juvenile’s physical and apparent mental/emotional condition, the juvenile’s answers to all of your questions (including questions regarding his or her background, date of birth, family, address, and so on – the juvenile’s ability to respond correctly

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and recognition of his or her circumstances will help to show his or her understanding), your conduct (including what you said), and the like.

### (3) Notification of parent and school

**NOTE: Show slide, “Notification of Parent and School.”**

**NOTE: The language of N.C.G.S. § 15A-505 implies that it is only applicable in the event the minor is charged as an adult and processed like an adult.<sup>152</sup> After December 1, 2019, this will be a very rare occurrence. If a minor/juvenile is being processed through the juvenile justice system, the officer should only make the notifications required by N.C.G.S. § 7B-1901 upon taking temporary custody of the juvenile, if that is warranted. The juvenile court counselor will be responsible for any additional notifications.**

A law enforcement officer who *charges* a minor with a criminal offense must notify the minor’s parent or guardian of the charge, as soon as practicable, in person or by telephone. In cases where a juvenile is *charged* with a felony, except in cases for charges falling under Chapter 20 of the General Statutes, the officer must also notify the principal of any school the charged juvenile attends. The notification must be made as soon as practicable, but within five (5) days either by telephone or in person.

If the minor is taken into custody, the law enforcement officer or his or her immediate superior (according to departmental policy) must notify a parent or guardian in writing that the minor is in custody within twenty-four (24) hours of the minor’s *arrest*. The officer or his or her immediate supervisor must also notify any school the person attends. The notification must be in writing and must be made within five (5) days of the person’s arrest.

If the parent or guardian of the minor cannot be found, then the officer or his or her immediate superior must notify the minor’s next of kin of the minor’s arrest as soon as practicable.

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No notification to the parent or guardian by the officer is required for a minor who is either charged or in custody if:<sup>153</sup>

- (a) The minor is emancipated.
- (b) The minor is not taken into custody and has been charged with a motor vehicle moving violation for which three (3) or fewer points are assessed, except offenses involving impaired driving, or
- (c) The minor has been charged with a motor offense that is not a moving violation.

**NOTE: The language of the above-notification provision implies that it is only applicable in the event the minor is charged as an adult and processed like an adult.<sup>154</sup> After December 1, 2019, this will be a very rare occurrence. If a minor/juvenile is being processed through the juvenile justice system, the officer should only make the notifications required by N.C.G.S. § 7B-1901 upon taking temporary custody of the juvenile, if that is warranted. The juvenile court counselor will be responsible for any additional notifications.**

In cases where a juvenile is alleged to be delinquent for an offense that would be a felony if committed by an adult, has a case transferred to superior court, or the court issues an order requiring a condition of school attendance, a juvenile court counselor is responsible of notifying the principal of the school the juvenile attends.<sup>155</sup>

- (4) Fingerprints and photographs

**NOTE: Show slide, “Fingerprints and Photographs.”**

- (a) A law enforcement officer or agency shall fingerprint and photograph a juvenile:<sup>156</sup>
  - i) Who was ten (10) years old or older;
  - ii) At the time of allegedly committing a nondivertible offense;

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- iii) A complaint has been prepared for filing as a petition, and
- iv) The juvenile is in the physical custody of law enforcement or DACJJ.

In the very limited circumstances described above, the North Carolina General Statutes mandate the fingerprinting and photographing of juveniles. If law enforcement wishes to fingerprint or photograph a juvenile when statutes do not mandate, then law enforcement must seek a nontestimonial identification order from the court. Nontestimonial identification orders, as well as the consequences of failing to secure a nontestimonial identification order for these procedures, will be covered later in this lesson plan.

- (b) If a law enforcement agency does not take fingerprints of a juvenile under the above section or the prints have been destroyed, the officer must fingerprint and photograph a juvenile:<sup>157</sup>
  - i) Who has been adjudicated delinquent;
  - ii) Who was ten (10) years old or older at the time the offense was committed; and
  - iii) The offense would be a felony if committed by an adult.
- (c) All fingerprints and photographs must be made in proper format for transfer to the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI). After a juvenile who is ten (10) years or older has been adjudicated delinquent of a felony, the fingerprints must be sent to the SBI and placed in the Automated Fingerprinting Identification System (AFIS) to be used for all investigative and comparison

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purposes.<sup>158</sup> Other than this electronic file, fingerprints and photographs must be maintained separately from any juvenile record. They are not public record, must be withheld from inspection and are not eligible for expunction.<sup>159</sup>

- (d) If a juvenile is fingerprinted and photographed, the custodian of records must destroy them at the earlier of the following:<sup>160</sup>
  - i) A petition is not filed within one (1) year of the photographing or fingerprinting.
  - ii) The court does not find probable cause.
  - iii) Juvenile is not adjudicated delinquent of a felony or misdemeanor.
  - iv) Consult your departmental policy and refer to the “Fingerprinting and Photographing Arrestee” block of instruction for further information.
- (e) When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted, and the juvenile’s fingerprints shall be sent to the SBI. A DNA sample shall be taken from the juvenile if any of the offenses for which the juvenile is transferred include murder, rape and other sex offenses, assault with a deadly weapon inflicting serious bodily injury, kidnapping, armed robbery, and various other offenses.<sup>161</sup>
- (f) An officer also must photograph certain juveniles during a “show-up.” If the juvenile is ten (10) years of age or older at the time of the show-up and is alleged to have committed a nondivertible offense or common-law robbery the investigating officer must photograph the juvenile.<sup>162</sup> A photograph is required at these show-ups.

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### 2. Nontestimonial identification order

**NOTE: Show slides, “Nontestimonial Identification Order.”**

Except for the exceptions for fingerprinting and photographing of juveniles mentioned above, nontestimonial identification procedures shall not be conducted on a juvenile without a court order unless the juvenile has been charged as an adult or transferred to superior court for trial as an adult. A nontestimonial identification order (NTO) may be issued by any judge of district or superior court on request of a prosecutor. Any law enforcement officer who wishes to conduct nontestimonial identification must first consult with the district attorney or assistant district attorney, who must then make application for the order to a District or Superior Court Judge.<sup>163</sup>

The request for a nontestimonial identification order can be made before taking the juvenile into custody or before an adjudicatory hearing.<sup>164</sup> A juvenile may also request a nontestimonial identification order if they are alleged to have committed an offense that would be a felony if committed by an adult.<sup>165</sup> Nontestimonial evidence includes fingerprints, hair samples, blood or urine specimens, saliva, photographs or lineups, or other physical evidence.

- a) To secure a nontestimonial identification order from the court for anything but a blood specimen, an officer must establish:<sup>166</sup>
  - (1) That there is probable cause to believe that an offense has been committed that would be a felony if committed by an adult;
  - (2) That there are reasonable grounds to suspect that the juvenile named or described in the affidavit committed the offense; and
  - (3) That the results of specific nontestimonial identification procedures will be of material aid in determining whether the juvenile named in the affidavit committed the offense.
- b) A nontestimonial identification order to obtain a blood specimen from a juvenile may be issued only on the following grounds:<sup>167</sup>
  - (1) That there is probable cause to believe that an offense

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has been committed that would be a felony if committed by an adult;

- (2) That there is probable cause to believe that the juvenile named or described in the affidavit committed the offense, and
  - (3) That there is probable cause to believe that obtaining a blood specimen from the juvenile will be of material aid in determining whether the juvenile named in the affidavit committed the offense.
- c) No statement may be taken from the juvenile during a nontestimonial identification procedure unless the juvenile has counsel present.<sup>168</sup>
  - d) Officers must be careful not to willfully violate any of the provisions involving nontestimonial identification orders of juveniles, as a violation is a Class 1 misdemeanor.<sup>169</sup>
  - e) Destruction of NTO records

**NOTE: Show slide and distribute handout, “Destruction of NTO Records.”**

While law enforcement must maintain evidence in criminal cases, there are instances where results of nontestimonial identification orders must be destroyed. These include:

- (1) If no petition is filed against the juvenile;
- (2) If the juvenile is not adjudicated delinquent or convicted following a transfer to superior court;
- (3) If a juvenile under the age of thirteen (13) is adjudicated delinquent for an offense that would be less than a felony if committed by an adult.

In cases where a juvenile thirteen (13) years of age or older is adjudicated delinquent for an offense that would be a felony if committed by an adult, or a case is transferred to and results in conviction in superior court, all results of nontestimonial identification orders must be retained.<sup>170</sup>

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### 3. Petition and summons by Juvenile Court Services

**NOTE: Show slide, “Petition and Summons by Juvenile Court Services.”**

- a) All petitions must contain the name, date of birth, physical address of the juvenile, and the name and physical address of the juvenile’s parent, guardian, or custodian. It should contain facts which invoke jurisdiction as well as a statement asserting the facts which support every element of the offense.<sup>171</sup> The petition cannot contain information on more than one (1) juvenile, so separate petitions must be done for each juvenile involved in an incident. The petition and juvenile summons alleges an offense committed by a juvenile and a time to appear in court for hearing.
- b) Your local juvenile court counselor can provide additional information on how to file a petition. Some districts permit officers to drop off reports and later return to sign a completed complaint. Others require the officer to complete the complaint. A good working relationship with your local office will help you best proceed with complaint filing.

**The petition does not authorize taking physical custody of the juvenile.<sup>172</sup>**

**NOTE: Show slide and distribute handouts, “Juvenile Petition,” “Juvenile Contact Report and “N.C. Juvenile Delinquency Process.” Copies of petitions can be obtained from the following website: [www.nccourts.org](http://www.nccourts.org)**

- c) Filing the petition

**NOTE: Show slide, “Filing the Petition.”**

The juvenile court counselor draws the petition, and if a counselor is not available, a clerk of court may assist. The action against the juvenile is commenced after the petition is filed in the clerk’s office or verified and accepted by a magistrate if the clerk’s office is not open and the situation is an emergency requiring a custody order.<sup>173</sup>

- d) Summons

**NOTE: Show slide, “Summons.”**

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Immediately after a petition has been filed alleging that a juvenile is undisciplined or delinquent, the clerk must issue a summons. The summons and petition must be personally served on the parent, guardian, or custodian and juvenile not less than five (5) days before the hearing. The summons must give the juvenile and his or her parent, guardian, or custodian notice of the nature and purpose of the proceeding, notice of the right to counsel, and how to seek the appointment of counsel and information concerning the possible outcomes of an adjudicatory hearing. The parent, guardian, or custodian must also be advised that they must attend the scheduled hearings and bring the juvenile to each hearing, and that failure to do so may result in proceedings for contempt of court.<sup>174</sup>

Even though a person may know about the petition, a proper summons must be served for the court to retain jurisdiction over the person. The summons is directed to the person who is being ordered to appear and must be properly delivered under statute, by a person authorized to serve it.<sup>175</sup>

4. Seek a petition and request custody order
  - a) Temporary custody

As is the case with abused, neglected, or dependent juveniles, juveniles who are undisciplined or delinquent can also be taken into temporary, secure, or nonsecure custody in certain circumstances.

**NOTE: Show slide, “Temporary Custody.”**

- (1) Officers are authorized to take juveniles into temporary custody without court orders in certain circumstances. Temporary custody is the taking of physical custody and providing personal care and supervision until a decision is reached regarding the disposition of the incident, which may include obtaining a court order for secure or nonsecure custody.<sup>176</sup> Law enforcement officers are permitted to take the following types of juveniles into temporary custody:
  - (a) Delinquent

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If grounds exist for the arrest of an adult under identical circumstances<sup>177</sup> under G.S. 15A-401(b), the statute which governs arrests.

(b) Undisciplined juvenile

If there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.

(c) Absconder

If there are reasonable grounds to believe that the juvenile is an absconder (one who has escaped custody) from a residential facility operated by the Division or from another approved detention facility. This is usually confirmed through an NCIC report. Not only can law enforcement officers detain these juveniles, but juvenile court counselors, personnel of the Division, and members of various facilities can also detain these individuals.

**NOTE: Show slide, “Amount of Force.”**

- (2) An officer who attempts to take a juvenile into temporary custody is bound by the same restrictions as one who attempts to take an adult into custody under similar circumstances. An officer may use only that amount of force which is reasonably necessary to accomplish the intended purpose (i.e., to take temporary custody where authorized).<sup>178</sup>

Merely handcuffing, at school, a very young (10 yrs.) unarmed and compliant juvenile suspected of a misdemeanor simple assault, who poses no threat to the officer or others has been held to be excessive force.<sup>179</sup>

Deadly force cannot be used to prevent escape or effect custody of a juvenile when the juvenile presents no imminent threat of death or serious injury to officers or third person.<sup>180</sup>

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- (3) Duties of officers taking juveniles into temporary custody without court order<sup>181</sup>

**NOTE: Show slides, “Duties of Officers Taking Juveniles into Temporary Custody without Court Order.”**

A juvenile who is taken into temporary custody without a court order shall not be held for more than twelve (12) hours, or for more than twenty-four (24) hours if any of the twelve (12) hours falls on a Saturday, Sunday, or local holiday, unless a petition has been filed by an intake counselor and an order for secure or nonsecure custody has been entered.

An officer who takes a juvenile into temporary custody without a court order, under one (1) of the circumstances enumerated above, must proceed as follows:

- (a) Notify the juvenile’s parent, guardian, caretaker, or custodian that the juvenile has been taken into custody and advise the person of his or her right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent shall not be grounds to release the juvenile.
- (b) Release the juvenile to his or her parent, guardian, or custodian if the officer decides that continued custody is unnecessary.
- (c) If the juvenile is not released (as provided for in (2) above), the officer should communicate with a juvenile court counselor, who shall decide for filing the petition and the need for continued custody.
- (d) An officer who takes a juvenile into temporary custody after the juvenile has absconded from a youth development center or juvenile detention facility (as described above) must contact Court Services to arrange for an order for secure custody and transportation of the juvenile to the

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nearest juvenile detention facility. The officer must also contact the administrator of the facility from which the juvenile absconded. That administrator will be responsible for returning the juvenile to that facility.

### b) Secure and nonsecure custody orders

**NOTE: Show slide, “Nonsecure and Secure Custody Orders.”**

#### (1) Authority to issue custody orders

Any district court judge may issue secure and nonsecure custody orders. The chief district court judge may also delegate the court’s authority to the chief court counselor or their staff by administrative order filed in the office of the clerk of superior court.<sup>182</sup> Officers should be aware of local procedures.

#### (2) Criteria for nonsecure custody<sup>183</sup>

When there is a request for nonsecure custody, the court must first consider release of the juvenile to the juvenile’s parent, guardian, custodian, or other responsible adult. An order for nonsecure custody must only be made when there is a reasonable factual basis to believe the matters alleged in the petition are true and that:

- (a) The juvenile is a runaway and consents to nonsecure custody, or
- (b) The juvenile meets one (1) or more of the criteria for secure custody, but the court finds it in the best interest of the juvenile that the juvenile be placed in a nonsecure placement.

#### (3) Criteria for secure custody

**NOTE: Show slides, “Criteria for Secure Custody.”**

When a secure custody order is requested, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the

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juvenile committed the offense alleged in the petition and one (1) of the following circumstances exists:<sup>184</sup>

- (a) The juvenile is charged with a felony, and it is demonstrated that the juvenile is a danger to property or persons.
- (b) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with either (i) a misdemeanor at least one (1) element of which is assault on a person, (ii) a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon, or (iii) is charged with impaired driving or driving by a person less than twenty-one (21) years old after consuming alcohol or drugs.
- (c) The juvenile who has been properly notified has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or post release supervision.
- (d) A delinquency charge is pending against the juvenile, and there is reasonable cause to believe the juvenile will not appear in court.
- (e) There is reasonable cause to believe the juvenile should be detained for the juvenile's protection because the juvenile has recently suffered or attempted self-inflicted physical injury. The period of custody in these instances is limited to twenty-four (24) hours to determine the need for inpatient hospitalization.
- (f) The juvenile is alleged to be undisciplined because he or she is a runaway and is inappropriate for nonsecure custody placement or refuses nonsecure custody, and the court finds that secure custody for up to twenty-four (24) hours (excluding weekends and holidays) is necessary to evaluate the juvenile's medical or psychiatric needs and determine possible treatment, or to facilitate a reunion with the parents, guardian, or custodian. The court

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counselor/law enforcement officer will work to provide all medical/mental health history that can be obtained to the secure custody facility.

- (g) The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice. In these cases, the juvenile must be brought to court as soon as possible and not held more than twenty-four (24) hours, excluding weekends and holidays.
- (h) The juvenile is an absconder from any residential facility operated by DACJJ or any detention facility in this State or any comparable facility in another state.

When a juvenile has been adjudicated delinquent, the court can order secure custody pending a dispositional hearing or pending placement.

The court may order secure custody for a juvenile who's alleged to have violated the conditions of probation or post-release supervision, but only if the juvenile is alleged to have committed acts that damage property or injure persons.

If criteria is met for secure custody, the court can enter an order directing an officer or other authorized person to assume custody of the juvenile and take him or her to the place designated in the order.

If the court finds there is a need for a medical or psychiatric evaluation of the juvenile, the juvenile is under 10 years of age and does not have a pending delinquency charge, a law enforcement officer or other person assuming custody under the custody order cannot use physical restraints during transport unless the officer or other person assuming custody determines the restraints are necessary for the

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safety of the officer, the person assuming custody or the juvenile.<sup>185</sup>

- (4) The Division of Adult Correction and Juvenile Justice has incorporated the use of the Detention Assessment Tool (DAT) for every request for secure custody to ensure uniformity of the decision-making process for placing juveniles in detention and that appropriate conditions of confinement are being used.

**NOTE: Show slide, “Factors Used to Determine Need for Secure Custody.”**

Factors used to determine the need for secure custody include:<sup>186</sup>

- (a) Seriousness of the crime
  - (b) That the offense meets the criteria as set out in 7B-1903
  - (c) Supervision history with the Division
  - (d) Aggravating circumstances such as the use of a weapon, injury to the victim, number of offenses at the time of the incident, gang membership, prior referrals to detention, etc.
  - (e) Mitigating circumstances such as available alternatives to detention, parent or other responsible adult available and willing to provide appropriate supervision, or no prior delinquent offenses.
5. Order for secure and nonsecure custody

**NOTE: Show slide, “Order for Secure and Nonsecure Custody.”**

A custody order must be in writing and direct a law enforcement officer or other authorized person to assume custody. The parent and child must be given a copy. Copies of the order and petition should be given to the person, agency, or detention facility where the juvenile is to be placed.<sup>187</sup>

A juvenile can be taken into secure custody based on a Division of

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Criminal Information Network (DCIN) message that a juvenile petition and a secure custody order related to the juvenile are on file in a particular county. Copies of the petition and order must be sent to the detention facility within seventy-two (72) hours.<sup>188</sup> Best practice would be to contact your local juvenile court counselor before taking a juvenile into custody. The North Carolina Department of Public Safety (NCDPS) would prefer to have copies of all petitions and orders before, or immediately upon, intake. Your local court counselor will assist you in coordinating this communication.

- a) Place of secure or nonsecure custody

**NOTE: Show slides, “Place of Secure and Nonsecure Custody.”**

- (1) Nonsecure custody<sup>189</sup>

If a relative of the juvenile is not willing or able to provide care/supervision of the juvenile, the court may place the juvenile in a licensed foster home or other authorized home; a facility operated by a department of social services; or any other home/facility approved by the court. Officers should become familiar with what nonsecure resources are available in their jurisdiction.

- (2) Secure custody<sup>190</sup>

A juvenile may be temporarily detained in a juvenile detention facility approved by the Juvenile Justice Section of DACJJ.<sup>191</sup> In such cases, keep the following in mind:

- (a) Juveniles often have extreme reactions to secure custody that differ from adults. Juveniles have less impulse control and understanding of consequences and less control over their emotions. They may have an emotional outburst or completely withdraw. While these behaviors can be normal reactions to trauma, officers should not hesitate to consult for medical treatment if the circumstances warrant. Additionally, officers should keep in mind the principles of establishing rapport and verbal de-escalation when the juvenile begins to demonstrate a strong reaction.

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- (b) Officers should not make promises they cannot keep. Once a juvenile is in custody, the court will determine future actions. Juveniles often hold on to the promises officers make, and this can further their trauma later on when their expectations are not met. Additionally, this can undermine the juvenile's trust in law enforcement during future interactions.
- (c) When delivering a juvenile to a detention center, expect to be required to surrender your weapon. No weapons are allowed in any NCDPS facility.
- (d) When a juvenile is transported, all medication, medical equipment, and/or components of health care needed to maintain the health and safety of the juvenile should be obtained. If, upon arrival at a detention center, the facility staff accepting the juvenile observe health concerns requiring evaluation, a request for law enforcement to transport the juvenile to a medical facility for medical clearance will be required.
- (e) Remain at the facility until the juvenile's initial search has been completed, in case contraband is found in his or her possession.

**NOTE: Show slide and distribute handout, "Juvenile Detention Centers," and review with students. Also, advise students that DACJJ policy is that when a law enforcement officer transports a juvenile, they may take the juvenile to the closest state-operated facility or their county's assigned detention center if those facilities are designated in the secure custody order. However, if a specific facility is designated in the secure custody order, the law enforcement officer or other person with custody must transport the juvenile to that specific facility.**

- b) Secure or nonsecure custody hearings<sup>192</sup>

**NOTE: Show slide, "Secure or Nonsecure Custody Hearings."**

No later than five (5) calendar days after placing a juvenile in secure custody or seven (7) calendar days in nonsecure custody, a hearing must be held either on the merits or to

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determine the need for further custody. If the initial custody order was entered by a juvenile court counselor under delegated authority, the juvenile must have a hearing on the need for continued custody on the next regularly scheduled session of district court in the city or county where the custody order was entered.

Once a juvenile is placed in secure custody, the earliest he or she will be released is after he or she has had a secure custody hearing in front of a judge. Juveniles will not be released to his or her parent/guardian without a custody hearing.

### 6. Jurisdiction over delinquent juveniles

**NOTE: Show slide, “Jurisdiction Over Delinquent Juveniles.”**

- a) The court has exclusive original jurisdiction over any case involving a juvenile who is alleged to be delinquent. Jurisdiction continues until terminated by order of the court, or:<sup>193</sup>
  - (1) The juvenile reaches eighteen (18) years of age if the offense occurred before the juvenile reached age sixteen (16); or
  - (2) The juvenile reaches nineteen (19) years of age if the offense occurred at age of sixteen (16); or
  - (3) The juvenile reaches twenty (20) years of age if the offense occurred while the juvenile was seventeen (17) years old.

Special conditions for expanded jurisdiction for Class A – Class E felony offenses committed at ages 13, 14, and 15 may apply, in addition to the above rules.

- b) Transfer of jurisdiction to superior court<sup>194</sup>

The vast majority of cases involving a juvenile originate in juvenile court. While most cases will be retained in juvenile district court, some more serious cases can, and some must be transferred to superior court where a juvenile will be treated as an adult for prosecutorial purposes. If a juvenile was at least thirteen (13) years of age but less than sixteen (16) at the time

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the juvenile committed an offense that would have been any felony other than a Class A felony if committed by an adult, the juvenile may be transferred to superior court for trial as an adult.<sup>195</sup> All Class A felony offenses committed at age 13, 14, and 15 must be transferred to superior court following a finding of probable cause in juvenile court.

If a juvenile is sixteen (16) or older at the time of committing an offense that would be a Class A, B1, B2, C, D, E, F, or G felony, the juvenile must be transferred to superior court for trial as an adult following a finding of probable cause or a finding of the return of an indictment in the juvenile proceeding. If the offense committed is a Class H or I felony, the court has discretion to transfer the matter to superior court following a finding of probable cause in the juvenile proceeding.<sup>196</sup>

**NOTE: Show slide, “Probable Cause and Transfer Hearings.”**

For matters in which the court has discretion to transfer a case to superior court (all felonies other than Class A felonies committed at ages 13, 14, and 15 and H and I felony offenses committed at ages 16 and 17), the court of original jurisdiction must have a probable cause hearing and transfer hearing to determine whether the transfer is proper.<sup>197</sup>

(1) Probable cause hearings<sup>198</sup>

In all felony cases where a juvenile is thirteen (13), fourteen (14), or fifteen (15) years of age when the offense is committed and in all felony cases where a juvenile is alleged to have committed a Class H or Class I felony at age 16 or 17, the court shall conduct a probable cause hearing. The hearing must be conducted within fifteen (15) days of the date of the juvenile’s first appearance but may be continued for good cause, and the juvenile shall be represented by counsel. The purpose of the hearing is to determine whether there is probable cause to believe an offense was committed and that the juvenile committed it. If probable cause is found, the court can proceed to an adjudication if a transfer to superior court is not requested. If a motion for transfer is made, then the court must proceed to a transfer hearing. If probable cause is not found for any

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offense, the court must dismiss the proceeding. If probable cause is found only for a lesser included offense that would constitute a misdemeanor if committed by an adult, the court must proceed to an adjudicatory hearing.

A probable cause hearing may also be held in matters that allege Class A – Class G felony offenses committed at ages 16 and 17. In these matters only, a probable cause hearing must be held within ninety (90) days of the juvenile’s first appearance. Transfer is required on a finding of probable cause in any of these matters. Alternatively, the prosecutor can choose to seek an indictment in these matters. If the juvenile receives notice and the court finds that an indictment has been returned prior to the ninety (90)-day deadline for a probable cause hearing, then the case must be transferred to superior court, and a probable cause hearing is not required.

### (2) Transfer hearings<sup>199</sup>

The purpose of a transfer hearing is for the court to determine whether “the protection of the public and the needs of the juvenile” will be best served by having the case heard in superior court.<sup>200</sup>

### 7. Screening of delinquency and undisciplined complaints by juvenile intake services

**NOTE: Show slide, “Screening of Delinquency and Undisciplined Complaints by Juvenile Intake Services.”**

#### a) Primary inquiry

The purpose of juvenile intake services is to determine from available evidence whether there are reasonable grounds to believe the facts alleged are true, whether or not it’s within the jurisdiction of the juvenile court (meets proper age requirements), whether or not the facts warrant court action, and to obtain assistance from community resources when court referral is not necessary. The juvenile court counselor does not engage in investigation but can refer the complaint to law enforcement.<sup>201</sup>

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b) Nondivertible offenses

The juvenile court counselor must authorize the complaint to be filed as a petition if there are reasonable grounds to believe that the juvenile has committed one (1) of the following nondivertible offenses.<sup>202</sup>

**NOTE: Show slide, “Nondivertible Offenses.”**

- (1) Murder
- (2) First or second degree rape
- (3) First or second degree sexual offense
- (4) Arson
- (5) Felony violations of Article 5, Chapter 90
- (6) First-degree burglary
- (7) Crime against nature
- (8) Any felony involving the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon.

c) Evaluation of complaint<sup>203</sup>

Intake counselors conduct several assessments to survey the needs of the juvenile, the present issues, and to determine the best course of action, including any needed referrals.

d) Complaint evaluation decision

If the complaint is approved for filing as a juvenile petition, it is transmitted to the clerk of superior court.<sup>204</sup>

If the intake counselor decides not to file a petition, the complainant and victim must be notified immediately in writing with reasons for the decision as well as notice of the complainant’s and victim’s right to have the decision reviewed by the prosecutor.

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e) Diversion plan/referral<sup>205</sup>

Unless the offense is nondivertible, the juvenile court counselor, after finding legal sufficiency, may divert the juvenile to:

- (1) An appropriate public/private resource
- (2) A restitution program
- (3) Community service
- (4) Victim/offender mediation
- (5) Counseling
- (6) A teen court program

**NOTE: Show slide and refer students to handout, “Teen Court Program and Diversion Plans.”**

As part of the diversion plan, the juvenile court counselor may enter into a contract which explains the role of Court Services, the parents, and the juvenile as well as the conditions required of the juvenile. The contract cannot exceed six (6) months. If at any time during the six months, the counselor feels that the juvenile has failed to comply with the terms of the contract, a petition/complaint may be filed.

In any case, in which a juvenile has allegedly committed an offense that would be an infraction or misdemeanor if committed by an adult, the juvenile may also be referred to teen court. Cases cannot be referred to teen court if the juvenile is alleged to have committed an offense involving driving while impaired, a Class A1 misdemeanor, an assault in which a weapon was used, or a controlled substance offense other than simple possession of a Schedule IV drug or alcohol.<sup>206</sup>

8. Juvenile records and confidentiality

**NOTE: Show slide, “Juvenile Records.”**

There has been an effort to balance appropriate confidentiality and appropriate disclosure in cases involving juveniles. All records of

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juvenile cases involving abuse, neglect or dependency will be maintained by the clerk of court and can be inspected by the person named in the petition as the juvenile, the guardian ad litem, the county department of social services, the juvenile's parent, guardian, custodian, or an attorney for the juvenile or the juvenile's parent, guardian, or custodian.

When a juvenile is in protective custody with the department of social services, those records are maintained at the department and may be inspected only by the juvenile's guardian ad litem; the juvenile; a district or superior court judge presiding over a civil matter involving the juvenile; a district or superior court judge presiding over a criminal or delinquency matter; or the parent, guardian, custodian, or caretaker.<sup>207</sup>

Juvenile court records are also maintained by the clerk of court and can only be inspected by the juvenile or their attorney, the juvenile's parent, guardian, custodian, or authorized representative of those persons, the prosecutor, court counselors, probation officers, or anyone with a valid court order.<sup>208</sup> A prosecutor may share information with magistrates and sworn law enforcement officers but cannot allow them to make any copies of the records.<sup>209</sup>

Effective October 1, 2017, amended 7B-3001(a) and 7B-3001(a1) permit law enforcement consultations before filing a complaint. Juvenile court counselors shall share, upon request, information from the court counselor's record related to the juvenile's delinquency record or prior consultations with law enforcement. This information can only be shared under the condition that the law enforcement officer making the request is an officer sworn in North Carolina and is conducting an investigation that could lead to the filing of a juvenile complaint. Law enforcement officers are not permitted to receive copies of the record, and any information the officer obtains must be kept confidential and separate from other records.

**NOTE: Show slide, "Law Enforcement Records."**

The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without a court order:

- a) The juvenile or the juvenile's attorney;

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- b) The juvenile's parent, guardian, or custodian, or that person's authorized representative;
- c) The district attorney or prosecutor;
- d) Court counselors;
- e) Law enforcement officers sworn in this state.<sup>210</sup>

### III. Discussion Questions

**NOTE: Refer to the "Instructor Notes" section for hypothetical questions and have students formulate answers in groups of 2-4.**

**NOTE: Show slide, "Hypothetical Questions," and discuss the hypothetical questions with the students.**

### IV. Conclusion

#### A. Summary

During this block we have defined terms used in juvenile law; covered procedures utilized by law enforcement officers in dealing with juveniles including temporary custody, obtaining secure and non-secure custody orders, interrogation, and obtaining nontestimonial identification orders; covered the function of the juvenile court and court counselors; covered the officer's role and protective services' role in handling abused and neglected juveniles; covered dealing with complaints of missing juveniles; and covered procedures for holding conferences with the juvenile and his or her parents.

**NOTE: Show slides, "Training Objectives."**

1. Discuss the roles of the Department of Social Services (DSS) and Juvenile Justice as it relates to law enforcement encounters with juveniles regarding the following circumstances.
  - a) Law enforcement investigations
  - b) Duties and powers of agencies and individuals involved in child neglect, dependency, and abuse cases
2. Correctly identify the laws that apply to the protection of abused, neglected, and dependent juveniles.

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3. Verbally explain the role of law enforcement and juvenile justice in handling delinquency proceedings and appropriate actions, to include types of custody as it relates to interacting with juveniles.
4. Identify the three (3) types of juvenile offenders and related offenses for undisciplined juveniles.
  - a) Truancy
  - b) Beyond parental control
  - c) Runaway juvenile
5. Thoroughly discuss the following legal issues and obligations of law enforcement when handling juveniles.
  - a) Role of the officer
  - b) Jurisdiction over delinquent juveniles
  - c) Screening of delinquency and undisciplined complaints by juvenile intake services
  - d) Nontestimonial identification order
  - e) Juvenile records and confidentiality

### B. Questions from Class

**NOTE: Show slide, "Questions."**

### C. Closing Statement

All officers should be competent in effectively dealing with juveniles. We cannot just pass all situations to a juvenile officer or unit. The officer that fully understands juvenile law and procedures is more valuable to his/her agency, community, and profession.

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### **NOTES**

<sup>1</sup> N.C.G.S. § 7B-101(1) (2019).

<sup>2</sup> N.C.G.S. § 7B-101(3) (2019).

<sup>3</sup> N.C.G.S. §§ 110-85, *et seq.* (2019).

<sup>4</sup> N.C.G.S. § 110-105.3(c) (2019).

<sup>5</sup> N.C.G.S. § 7B-101(8) (2018).

<sup>6</sup> N.C.G.S. § 7B-101(9) (2018).

<sup>7</sup> N.C.G.S. § 7B-101(10) (2018).

<sup>8</sup> N.C.G.S. § 7B-101(14) (2018).

<sup>9</sup> N.C.G.S. § 7B-101(15) (2018).

<sup>10</sup> N.C.G.S. § 7B-101(19a) (2018).

<sup>11</sup> N.C.G.S. § 7B-101(18) (2018).

<sup>12</sup> N.C.G.S. § 7B-101(19) (2018).

<sup>13</sup> N.C.G.S. § 7B-200 (2018).

<sup>14</sup> N.C.G.S. § 7B-201 (2018).

<sup>15</sup> Child Welfare League of America.

<sup>16</sup> N.C.G.S. § 7B-500 (2018).

<sup>17</sup> N.C.G.S. § 15A-285 (2019).

<sup>18</sup> N.C.G.S. § 7B-303 (2018).

<sup>19</sup> *See* 45 C.F.R. §§ 164.500, *et seq.*; 42 C.F.R. §§ 2.11, *et seq.* (2019).

<sup>20</sup> N.C.G.S. § 7B-301 (2019).

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- <sup>21</sup> N.C.G.S. § 7B-301 (2019).
- <sup>22</sup> N.C.G.S. § 7B-301 (2019).
- <sup>23</sup> N.C.G.S. § 7B-301 (2019).
- <sup>24</sup> N.C. Session Law 2019-245.
- <sup>25</sup> N.C. Session Law 2019-245.
- <sup>26</sup> N.C. Session Law 2019-245.
- <sup>27</sup> N.C.G.S. § 110-105.4 (2019).
- <sup>28</sup> N.C.G.S. § 90-21.20 (2018).
- <sup>29</sup> N.C.G.S. § 7B-302 (2018).
- <sup>30</sup> N.C.G.S. § 7B-302(e) (2018).
- <sup>31</sup> N.C.G.S. § 7B-302(e) (2018).
- <sup>32</sup> N.C.G.S. § 7B-302(e) (2018).
- <sup>33</sup> N.C.G.S. §§ 14-322.3, 7B-500 (2018).
- <sup>34</sup> N.C.G.S. § 7B-500 (2019).
- <sup>35</sup> N.C.G.S. § 7B-307 (2018).
- <sup>36</sup> N.C.G.S. § 7B-308 (2018).
- <sup>37</sup> N.C.G.S. § 7B-309 (2018).
- <sup>38</sup> N.C.G.S. § 14-318.4(a3) (2018).
- <sup>39</sup> N.C.G.S. § 14-318.4(a) (2018).
- <sup>40</sup> N.C.G.S. § 14-318.4(a1) (2018).
- <sup>41</sup> N.C.G.S. § 14-318.4(a2) (2018).
- <sup>42</sup> N.C.G.S. § 14-318.4(a4) (2018).

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- <sup>43</sup> N.C.G.S. § 14-318.4(a5) (2018).
- <sup>44</sup> N.C.G.S. § 14-318.4(d)(1) (2018).
- <sup>45</sup> N.C.G.S. § 14-318.4(d)(2) (2018).
- <sup>46</sup> N.C.G.S. § 14-318.2 (2018).
- <sup>47</sup> N.C.G.S. § 14-316.1 (2018).
- <sup>48</sup> *State v. Worley*, 13 N.C. App. 198 (1971).
- <sup>49</sup> N.C.G.S. §§ 7B-101, 7B-1501 (2019).
- <sup>50</sup> N.C.G.S. § 14-202.4 (2018).
- <sup>51</sup> N.C.G.S. § 14-27.32 (2019).
- <sup>52</sup> N.C.G.S. § 14-27.32 (2019).
- <sup>53</sup> N.C.G.S. § 14-27.31 (2018).
- <sup>54</sup> N.C.G.S. § 7B-400, *et seq.* (2019).
- <sup>55</sup> N.C.G.S. § 7B-500 (2018).
- <sup>56</sup> N.C.G.S. § 7B-501 (2018).
- <sup>57</sup> N.C.G.S. § 7B-503 (2019).
- <sup>58</sup> N.C.G.S. § 7B-504 (2018).
- <sup>59</sup> N.C.G.S. § 7B-503 (2019).
- <sup>60</sup> N.C.G.S. § 7B-601 (2019).
- <sup>61</sup> N.C.G.S. § 7B-601 (2018).
- <sup>62</sup> N.C.G.S. § 7B-601 (2018).
- <sup>63</sup> N.C.G.S. § 7B-601 (2018).
- <sup>64</sup> N.C.G.S. § 7B-601 (2018).

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- <sup>65</sup> N.C.G.S. § 7B-601 (2018).
- <sup>66</sup> N.C.G.S. § 14-320.1 (2018).
- <sup>67</sup> N.C.G.S. § 14-320.1 (2018).
- <sup>68</sup> N.C.G.S. § 14-320.1 (2018).
- <sup>69</sup> N.C.G.S. § 143B-1010 through 143B-1020.
- <sup>70</sup> N.C.G.S. § 143-1015 (2019).
- <sup>71</sup> North Carolina Department of Public Safety, “Missing Person/Runaway Juvenile Report.”
- <sup>72</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>73</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>74</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>75</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>76</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>77</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>78</sup> North Carolina Department of Public Safety, “Missing Persons.”
- <sup>79</sup> N.C.G.S. § 7B-2409 (2019).
- <sup>80</sup> N.C.G.S. § 7B-3000 (2019).
- <sup>81</sup> North Carolina Department of Public Safety, “Adolescent Development,” 5.
- <sup>82</sup> North Carolina Department of Public Safety, “Adolescent Development,” 5-8.
- <sup>83</sup> North Carolina Department of Public Safety, “Adolescent Development,” 5-8.
- <sup>84</sup> North Carolina Department of Public Safety, “Adolescent Development,” 5-8.
- <sup>85</sup> North Carolina Department of Public Safety, “Adolescent Development,” 5-8.
- <sup>86</sup> North Carolina Department of Public Safety, “Adolescent Development,” 10-11.

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- <sup>87</sup> North Carolina Department of Public Safety, “Adolescent Development,” 10-11.
- <sup>88</sup> North Carolina Department of Public Safety, “Adolescent Development,” 5.
- <sup>89</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills,” 10.
- <sup>90</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills,” 10.
- <sup>91</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills,” 10.
- <sup>92</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills,” 10.
- <sup>93</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills,” 10.
- <sup>94</sup> North Carolina Department of Public Safety, “Verbal De-escalation for Juvenile Justice,” 13.
- <sup>95</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 11-12.
- <sup>96</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 11-12.
- <sup>97</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 11-12.
- <sup>98</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 11-12.
- <sup>99</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 12-13.
- <sup>100</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 12-13.
- <sup>101</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 12-13.

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<sup>102</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 12-13.

<sup>103</sup> North Carolina Department of Public Safety, “Basic Individual Counseling Skills, 12-13.

<sup>104</sup> N.C.G.S. § 7B-1501(3) (2018).

<sup>105</sup> Session Law 2019-186.

<sup>106</sup> N.C.G.S. § 7B-1604 (2019).

<sup>107</sup> N.C.G.S. § 7B-1501(7) (2019).

<sup>108</sup> N.C.G.S. § 7B-1604 (2019).

<sup>109</sup> N.C.G.S. § 7B-1501(8) (2018).

<sup>110</sup> N.C.G.S. § 7B-1501(9) (2018).

<sup>111</sup> N.C.G.S. § 7B-3500, 7B-3507 (2019).

<sup>112</sup> N.C.G.S. § 7B-3509 (2019).

<sup>113</sup> N.C.G.S. § 7B-1501(15) (2018).

<sup>114</sup> N.C.G.S. § 7B-1501(18) (2018).

<sup>115</sup> N.C.G.S. § 7B-1501(18a) (2018).

<sup>116</sup> N.C.G.S. § 7B-1501(21) (2018).

<sup>117</sup> N.C.G.S. § 7B-1501(22) (2018).

<sup>118</sup> N.C.G.S. § 7B-1501(24) (2018).

<sup>119</sup> N.C.G.S. § 7B-1501(25) (2018).

<sup>120</sup> N.C.G.S. § 7B-1501(27) (2018).

<sup>121</sup> N.C.G.S. § 7B-1501(29) (2018).

<sup>122</sup> N.C.G.S. § 7B-1600 (2018).

<sup>123</sup> N.C.G.S. § 7B-1805 (2018).

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<sup>124</sup> N.C.G.S. § 7B-2503 (2018).

<sup>125</sup> N.C.G.S. § 15C-378 (2018).

<sup>126</sup> N.C.G.S. § 115C-380 (2019).

<sup>127</sup> N.C.G.S. §§ 7B-1900, 7B-1901 (2019).

<sup>128</sup> N.C.G.S. § 160A-198 (2018) and 153A-142 (2018).

<sup>129</sup> N.C.G.S. §§ 166A-19.22, 166A-19.31 (2019).

<sup>130</sup> National Center on Homelessness and Poverty.

<sup>131</sup> National Center on Homelessness and Poverty.

<sup>132</sup> National Center for Missing and Exploited Children.

<sup>133</sup> North Carolina State Bureau of Investigation, Division of Criminal Information Network, *Module 1- DCIN/NCIC General Inquiries*, 20.

<sup>134</sup> N.C.G.S. § 7B-4001 (2018), “(For effective date - see note) Governor to execute Compact; form of Compact;” N.C.G.S. § 7B-1903 (2019); Interstate Commission for Juveniles-ICJ Rules.

<sup>135</sup> N.C.G.S. § 7B-101(15) (2019).

<sup>136</sup> Interstate Commission for Juveniles-ICJ Rules, Rule 7-104.

<sup>137</sup> Interstate Commission for Juveniles-ICJ Rules.

<sup>138</sup> N.C.G.S. § 7B-2100 (2018).

<sup>139</sup> Merriam-Webster.com.

<sup>140</sup> N.C.G.S. § 7B-2501 (2019).

<sup>141</sup> N.C.G.S. § 7B-2506 (2019).

<sup>142</sup> *In the Matter of, D.A.C.*, 225 N.C. App. 547, 552 (2013).

<sup>143</sup> *J.D.B. v. North Carolina*, 564 U.S. 261 (2011).

<sup>144</sup> *In the Matter of, D.A.C.* See also *J.D.B. v. North Carolina*, 546 U.S. 261 (2011); *State v. Barnes*, 154 N.C. App 111, 117 (2002).

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<sup>145</sup> N.C.G.S. § 7B-2101 (2018).

<sup>146</sup> N.C.G.S. § 7B-2000 (2019).

<sup>147</sup> N.C.G.S. § 7B-2101 (2019).

<sup>148</sup> *State v. Flowers*, 128 N.C. App. 697 (1998).

<sup>149</sup> N.C.G.S. § 7B-2101 (2019).

<sup>150</sup> N.C.G.S. § 15A-211(b) (2018).

<sup>151</sup> N.C.G.S. § 15A-211 (2019).

<sup>152</sup> N.C.G.S. §§ 7B-3000, 7B-3101 (2019).

<sup>153</sup> N.C.G.S. § 15A-505 (2018).

<sup>154</sup> N.C.G.S. §§ 7B-3000, 7B-3101 (2019).

<sup>155</sup> N.C.G.S. § 7B-3101 (2019).

<sup>156</sup> N.C.G.S. § 7B-2102(a) (2018).

<sup>157</sup> N.C.G.S. § 7B-2102(b) (2018).

<sup>158</sup> N.C.G.S. § 7B-2102(c) (2018).

<sup>159</sup> N.C.G.S. § 7B-2102(d) (2018).

<sup>160</sup> N.C.G.S. § 7B-2102(e) (2018).

<sup>161</sup> N.C.G.S. § 7B-2201 (2018). *See also*, N.C.G.S. § 15A-226.3A (2018).

<sup>162</sup> N.C.G.S. § 15A-284.52 (2019).

<sup>163</sup> N.C.G.S. § 7B-2103 (2018).

<sup>164</sup> N.C.G.S. § 7B-2104 (2018).

<sup>165</sup> N.C.G.S. § 7B-2107 (2018).

<sup>166</sup> N.C.G.S. § 7B-2105 (2018).

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<sup>167</sup> N.C.G.S. § 7B-2105 (2018).

<sup>168</sup> N.C.G.S. § 15A-279(d) (2018).

<sup>169</sup> N.C.G.S. § 7B-2109 (2018).

<sup>170</sup> N.C.G.S. § 7B-2108 (2018).

<sup>171</sup> N.C.G.S. § 7B-1802 (2019).

<sup>172</sup> N.C.G.S. § 7B-1800 through 1803 (2018).

<sup>173</sup> N.C.G.S. § 7B-1804 (2019).

<sup>174</sup> N.C.G.S. § 7B-1805 (2019).

<sup>175</sup> N.C.G.S. § 7B-1805(d) (2018). See also, *In the Matter of Jessica Mitchell*, 126 N.C. App. 432 (1997).

<sup>176</sup> N.C.G.S. § 7B-1900 (2018).

<sup>177</sup> N.C.G.S. § 15A-401(b) (2018).

<sup>178</sup> *E.W. v. Dolgos*, 884 F.3d 172 (4<sup>th</sup> Cir. 2018).

<sup>179</sup> *E.W. v. Dolgos*.

<sup>180</sup> See *Tennessee v. Garner*, 471 U.S. 1 (1985);

<sup>181</sup> N.C.G.S. § 7B-1901 (2019).

<sup>182</sup> N.C.G.S. § 7B-1902 (2019).

<sup>183</sup> N.C.G.S. § 7B-1903 (2019).

<sup>184</sup> N.C.G.S. § 7B-1903 (2019).

<sup>185</sup> N.C.G.S. § 7B-1903 (2019)

<sup>186</sup> N.C.G.S. § 7B-1805(b)(1-6) (2018).

<sup>187</sup> N.C.G.S. § 7B-1904 (2019).

<sup>188</sup> N.C.G.S. § 7B-1904 (2018).

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<sup>189</sup> N.C.G.S. § 7B-1905 (2019).

<sup>190</sup> N.C.G.S. § 7B-1905 (2018).

<sup>191</sup> Session Law 2019-186.

<sup>192</sup> N.C.G.S. § 7B-1906 (2019).

<sup>193</sup> Session Law 2017-57, 16D.4(b), N.C.G.S. § 7B-1601 (2019).

<sup>194</sup> N.C.G.S. § 7B-1601 (2018).

<sup>195</sup> N.C.G.S. § 7B-2200 (2019).

<sup>196</sup> N.C.G.S. § 7B-2200.5 (2019).

<sup>197</sup> N.C.G.S. § 7B-2203 (2018).

<sup>198</sup> N.C.G.S. § 7B-2202 (2018).

<sup>199</sup> N.C.G.S. § 7B-2203 (2018).

<sup>200</sup> N.C.G.S. § 7B-2203(b) (2018).

<sup>201</sup> N.C.G.S. § 7B-1700 (2019).

<sup>202</sup> N.C.G.S. § 7B-1701 (2018).

<sup>203</sup> N.C.G.S. § 7B-1702 (2018).

<sup>204</sup> N.C.G.S. § 7B-1703 (2018).

<sup>205</sup> N.C.G.S. § 7B-1706 (2018).

<sup>206</sup> N.C.G.S. § 7B-1706(c) (2018).

<sup>207</sup> N.C.G.S. § 7B-2901 (2018).

<sup>208</sup> N.C.G.S. § 7B-3000 (2018).

<sup>209</sup> N.C.G.S. § 7B-3000 (2018).

<sup>210</sup> N.C.G.S. § 7B-3001(b) (2018).