

## Guidelines for Juveniles and Crimes.

Life on patrol is difficult enough to not have to guess what to do with juveniles when they have committed crimes. The following is brief overview of the most important issues surrounding dealing with Juveniles. It certainly does not answer all questions you might have and if you cannot find the answer below, you always have the option of calling any of the juvenile investigators.

The main number is 919 560 4440.

The current staff (March of 2009) consists of:

Sgt. David Addison, Cpl. Vince Bynum, MO's: Tammy Tuck and Darrel Brown, Investigators: Jaime Locklear, Verne Harris, Karl Smith, Dominique Musatti, Tad Ochman.

There are 4 sections:

1. Definitions
2. What do I do when???
3. Custody, Interview and Interrogation
4. Reminders you should already know
5. Sexual Assault Cheat Sheet

### A. Definitions.

#### a. **Juvenile:**

Any person who has not reached their eighteenth birthday and is not married, emancipated, a member of the armed forces of the US.

#### b. **Undisciplined:**

- i. Any juvenile 6 – 16 years old,
  - a. unlawfully absent from school
  - b. regularly disobedient to an beyond disciplinary control
  - c. regularly found in unlawful places for a juvenile
  - d. or has run away from home for more than 24 hrs
- ii. Any juvenile 16 – 17 years old,
  - a. regularly disobedient to an beyond disciplinary control
  - b. regularly found in unlawful places for a juvenile
  - c. or has run away from home for more than 24 hrs

#### c. **Neglected:**

A juvenile 6 – 17 years old who does not receive proper care, supervision, or discipline from parent, guardian or caretaker or who has been abandoned, not provided with necessary medical care or lives in an injurious environment or who has been placed for adoption illegally.

d. **Dependent:**

A juvenile in need of assistance or placement because the juvenile has no parent, guardian or custodian responsible for care or supervision. A juvenile whose parent, guardian or custodian are unable to care or supervise and lack the appropriate alternative child care arrangement.

e. **Delinquent:**

Any juvenile 6 – 15 years old, charged with a crime.

## B. What do I do when???

a. I have an **Undisciplined** juvenile?

- i. If it is a runaway: Code 1 and J4.
- ii. Otherwise:  
Code 1 is optional, Petition is optional (is usually issued by DJJDP), forward report to DSS.

Being undisciplined is not a crime.

b. I have a **Neglected** juvenile?

- i. Write code 1 and notify DSS. (Code 1 is optional, DSS is not, we have a duty to report. GS 7B-301)

c. I have a **Dependent** juvenile?

- i. Write code 1 and notify DSS. (Code 1 is optional, DSS is not, we have duty to report. GS 7B-301)

d. I have a **Delinquent** juvenile?

- i. Write Code 1 and J4 in all cases
- ii. Petitions should be issued in all misdemeanor cases and all felony drug cases. Any other felony petition will be handled by CID.
  1. Go to <http://www.nccourts.org/Forms/FormSearch> and type in Juvenile petition to find the appropriate petition to use. You can type all the info

- right on the computer and print it (2 sided if available), the form cannot be saved. (Offense code is not needed, all else should be filled in)
2. Once petition is typed up, have it signed by a notary or a magistrate (you need to sign at the same time they do).
  - iii. Put completed petitions, J4 and Code 1 in envelope and drop off in Juvenile Box on 2<sup>nd</sup> floor of HQ. Also include any other pertinent docs such as Waiver forms, statements, pictures etc. (We will review for errors before submitting to DJJDP).

## C. Custody, Interview and Interrogation.

- a. Temporary Custody.
  - i. Up to 12 hours weekdays or 24 hours if Sat, Sun or Holiday unless a petition for secure or non-secure custody has been filed by an DJJDP Intake Counselor (not by us)
  - ii. As soon as possible notify parent, guardian or custodian
  - iii. No special preparations are required. (Cuffs, shackles if needed)
- b. Non-secure custody
  - i. This is a court order mostly issued in dependent and neglect situations and does not apply to except for a few very isolated cases.
- c. Secure custody
  - i. If a pick up order is in existence and you are not charging the juvenile with a new crime: Broad Street will have it on hand and you call them to verify (580 – 0840). Transport the juvenile. Code 1 optional, J4 required.
  - ii. If a court counselor issued it due to the severity of the crime committed, take the juvenile to the facility the counselor will advise you to together with a copy of the J4 and the Code 1.
  - iii. Follow guidelines under d. I have a **Delinquent** juvenile?

Generally, in Durham, secure custody orders will only be issued for non-divertable offenses and for those CID should be present to handle such.

- d. Interview and Interrogation?
  - i. Always follow regular guidelines used for adults.
    1. Do not ask a juvenile in custody anything about the case unless you read him/her their juvenile rights (special form can be found under GO)

- ii. Do not take fingerprints, photographs, hair samples, swabs or any kind of evidence from their physical body.

#### D. Reminders you should already know!!!

- i. On a code 1 with a juvenile, always include the juveniles' parent/guardian/custodian info.
- ii. On a code 1 with a juvenile, always include the school information
- iii. Always fill in all the correct info on the juveniles' appearance. (especially if they have noticeable differences from others, i.e. tattoos, limp, teeth missing etc)
- iv. Always ask the suspect for the correct address info (OSSI verified is not a guarantee)
- v. If a juvenile returns home, take them out of NCIC.
- vi. Any charge you charge an adult with, you can charge a juvenile.
- vii. You cannot write citations to juveniles, you have to do a Code 1, J4 and a petition (for all traffic offenses).

## E. Sexual Assault Cheat Sheet

### Rape:

- 1<sup>st</sup> degree. (When victim is 12 or under suspect has to be at least 4 years older)  
Vaginal Intercourse / with Person / against their will / Used or displayed weapon  
OR inflicted serious injury OR inflicted serious injury on another person OR was  
aided and abetted. (B1 Felony)
- 2<sup>nd</sup> degree. (When victim is 12 or under suspect has to be at least 4 years older)  
Vaginal Intercourse / with Person / against their will OR with someone who is  
mentally disabled, incapacitated or physically helpless (which should be known  
by defendant) (C felony)
- 1<sup>st</sup> Deg Stat. Vaginal Intercourse / with Child under age 13 / victim at least 4 years younger /  
defendant is at least 12 years old. (B1 Felony)
- 13 – 15 yrs old. Vaginal Intercourse / with Child of 13, 14 or 15 / def. at least 6 years older (B1  
felony)
- 13 – 15 yrs old. Vaginal Intercourse / with child of 13, 14 or 15 / defendant more than 4 years  
but less than 6 years older (C Felony)

### Sexual Offense

- 1<sup>st</sup> Degree (If victim is 12 or under, defendant has to be 12 or over AND at least 4 years  
older)  
Engages in sexual act / by force AND against their will / used or displayed  
weapon OR was aided by person OR inflicted serious injury on victim OR other  
person (B1)
- 2<sup>nd</sup> Degree Engages in sexual act / by force AND against their will / against their will OR  
with someone who is mentally disabled, incapacitated or physically helpless  
(which should be known by defendant (C felony)
- 1<sup>st</sup> Deg Stat. Sexual act other than intercourse / with Child under age 13 / victim at least 4  
years younger / defendant is at least 12 years old. (B1 Felony)
- 13 – 15 yrs old. Sexual act other than intercourse / with Child 13 – 15 / defendant is 6 yrs older.  
(B1 Felony)
- 13 – 15 yrs old. Sexual act other than intercourse / with child of 13, 14 or 15 / defendant more  
than 4 years but less than 6 years older (C Felony)

### Sexual Activity:

- By substitute Parent: Assumes the position of a parent in the home of a person less than 18 years old  
AND has vaginal intercourse or engages in sexual act / with person less than 18  
(Class E felony)
- By custodian: Has custody of the victim or is an agent or employee of a person or institution  
having custody of the victim AND has vaginal intercourse or engages in sexual  
act with the person who is in custody. (Class E felony)

With a Student: Is a teacher, school administrator, student teacher, coach or school safety officer AND engages in vaginal intercourse or a sexual act / with a student / at any time during or after the time the student and the defendant were present together in the same school but before the victim stops being a student. (class G felony)

With a Student: Is school personnel **other than** teacher, school administrator, student teacher, coach or school safety officer AND engages in vaginal intercourse or a sexual act / with a student AND the person is at least 4 years older than the student / any time during or after the time the student and the defendant were present together in the same school but before the victim stops being a student. (class G felony)

With a Student: Is school personnel **other than** teacher, school administrator, student teacher, coach or school safety officer AND engages in vaginal intercourse or a sexual act / with a student AND the person is at less than 4 years older than the student / any time during or after the time the student and the defendant were present together in the same school but before the victim stops being a student. (class A1 Misdemeanor)

### **Indecent Liberties:**

With children: Person is at least 16 yrs of age AND for the purpose of arousing or gratifying sexual desire willfully takes or attempts to take and indecent liberty with OR willfully commits or attempts to commit a lewd or lascivious act upon the body of / a child under 16 AND the child is 5 years younger than the defendant. (Class F felony)

Between Children: Person is at less than 16 yrs of age AND for the purpose of arousing or gratifying sexual desire willfully takes or attempts to take and indecent liberty with OR willfully commits or attempts to commit a lewd or lascivious act upon the body of / a child under who is at least 3 years younger than the defendant. (Class 1 misdemeanor)

With a Student: Is a teacher, school administrator, student teacher, coach or school safety officer AND takes indecent liberties / with a student / at any time during or after the time the student and the defendant were present together in the same school but before the victim stops being a student. (class I felony)

With a Student: Is school personnel **other than** teacher, school administrator, student teacher, coach or school safety officer AND Takes indecent liberties / with a student AND the person is at least 4 years older than the student / any time during or after the time the student and the defendant were present together in the same school but before the victim stops being a student. (class I felony)

With a Student: Is school personnel **other than** teacher, school administrator, student teacher, coach or school safety officer AND takes indecent liberties / with a student AND the person is less than 4 years older than the student / any time during or after

the time the student and the defendant were present together in the same school but before the victim stops being a student. (class A1 Misdemeanor)

**Sexual Battery:** A person is guilty of this offense;  
For the purpose of sexual arousal, sexual gratification, or sexual abuse / engages in sexual contact with another person / by force and against the will of the other person OR who is mentally disabled, mentally incapacitated, or physically helpless, and the other person knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless. (A1 misdemeanor)

**Crimes Against Nature:**

A person is guilty of this offense:  
If he commits a crime against nature.

Notes:

This includes: cunnilingus, anilingus, fellatio, objects into genital opening, sexual acts with animals/penetration has to take place. (Class I felony)

**Incest Offenses:**

- Incest: Has sexual intercourse with his or her / grandparent or grandchild OR parent, child, stepchild, OR brother, sister of the half or whole blood OR uncle, aunt, nephew of niece AND the person knows that relationship. (Class F felony)
- Incest with under 13 Has sexual intercourse with his or her/grandparent or grandchild OR parent, child, stepchild, OR brother, sister of the half or whole blood OR uncle, aunt, nephew of niece AND the person knows that relationship / the person is at least 12 years of age AND 4 years older / victim is under 13 (Class B1 felony)
- Incest with under 13 Has sexual intercourse with his or her/grandparent or grandchild OR parent, child, stepchild, OR brother, sister of the half or whole blood OR uncle, aunt, nephew of niece AND the person knows that relationship / the person is at least 6 years older / victim is 13, 14 or 15 (Class B1 felony)
- Incest with under 13 Has sexual intercourse with his or her/grandparent or grandchild OR parent, child, stepchild, OR brother, sister of the half or whole blood OR uncle, aunt, nephew of niece AND the person knows that relationship / the person is at least 4 but less than 6 years older / victim is 13, 14 or 15 (Class C felony)