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Approval: Chief of Police	Manual: Policy and Procedure			

I. PURPOSE

The purpose of this policy is to establish guidelines by which Kinston Police Department personnel shall conduct juvenile investigations. This directive establishes administrative procedures for the Investigations Division of the Department and operational procedures for all components of the Department involved in criminal investigations.

II. DEFINITIONS

- A. Juvenile: Prior to the 2017 session of the N.C. General Assembly, North Carolina was the one remaining state in the United States that automatically charged individuals 16-years-old and above in the adult criminal justice system. During the 2017 legislative session, lawmakers raised the age of juvenile jurisdiction for nonviolent crimes to age 18, effective Dec. 1, 2019.

III. POLICY

- A. The Department shall develop and maintain youthful offender law enforcement operations that will emphasize rehabilitation rather than punishment. Sworn personnel shall discharge their duties in a manner that is consistent with the best interest of the youth involved.
- B. The Department is committed to the development, implementation, and perpetuation of programs designed to prevent and control juvenile delinquency within the community. Officers will use the definitions under North Carolina General Statutes for determining when persons will be classified as juveniles. Officers are encouraged to divert juveniles away from delinquency through referrals, counseling, and education. When formal court referral is indicated, officers shall be fair and impartial while being mindful that their official action will take into account what is in the best interest of the juvenile offender and the community as a whole.
- C. In order to avoid juvenile prosecution and when applicable, officers shall divert first time juvenile offenders who commit divertible offenses. Officers should utilize resources such as the Department's RMS system, DSS and other sources to research prior criminal activity. A juvenile pamphlet is available for distribution for first time juvenile offenders for diversion methods.
- D. Juvenile Officer Function

The Department Juvenile Officer is assigned to the Investigation Section. The Juvenile Officers activities include but are not limited to:

1. Designing and implementing programs intended to prevent and control delinquent and criminal behavior by youth
2. Follow-up processing of youth arrests
3. Coordinating or preparing court cases in which a juvenile offender is involved
4. Diverting juvenile offenders from the juvenile justice system

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5. Maintaining liaison with local school systems and area agencies providing services to youthful community members
 6. Make referrals to juvenile court when indicated
- E. The juvenile operations and delinquency prevention efforts of the Department are not limited to the activities of the Juvenile Officer. The responsibility for participating in and supporting the juvenile operations function is shared by all components and personnel of the Department. All officers should be familiar with methods and procedures for addressing both criminal and noncriminal problems involving juveniles.
- F. The shift supervisor should determine the following prior to contacting a juvenile officer: When the crime took place; Where the crime took place; If an officer can proceed within the scope of their responsibility; And if the supervisor needs assistance from the Juvenile Officer.
- G. The on call investigator shall be called out for the following: Juvenile death investigation; Juvenile rape within 72 hours of occurrence; First or second degree sex offense; Physical abuse or assault resulting in serious bodily injury (whether committed against a juvenile or by a juvenile); Request by the Department of Social Services requiring the assistance of the juvenile officer; and incidents requiring the contacting of the State Bureau of Investigation.
- H. Juvenile Officers
- The officer assigned to the Investigations Division as the Juvenile Investigator shall have the primary responsibility for the juvenile operations of the Department. Responsibilities of the Juvenile officer include: Conducting initial investigations or follow-up investigations involving juvenile offenders; Assisting officers in cases involving juvenile offenders, victims, or suspects; Serving as school liaison officer; And serving as liaison with other agencies and organizations interested in juvenile matters.
- I. Evaluation of Juvenile Programs and Policies
1. The Investigations Section supervisor or a designee shall conduct an annual evaluation of juvenile enforcement and prevention programs. Quantitative and qualitative elements of such plans will be assessed to determine if a particular program be continued, modified or discontinued.
 2. This agency encourages review and comment by other elements of the juvenile justice system. Juvenile Justice System elements shall be given opportunity to review and comment during the development or revision of Department policies and procedures relating to juvenile operations.
- J. Officers dealing with juvenile offenders shall use the least forceful of available alternatives, consistent with preserving public safety, order, and individual liberty. When taking a juvenile into temporary custody, officers should select the least restrictive course of action appropriate to the situation and needs of the juvenile from the following alternatives:
1. Divert the juvenile from the court by release to parent or guardian with no further action
 2. Divert the juvenile from the court by counsel and release to parent or guardian

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3. Divert the juvenile from the court by referral to community resources
 4. Release the juvenile to a parent or guardian and later seek a petition
 5. After consideration of the seriousness of the offense, circumstances, and previous history, the officer may refer the juvenile to the Court Intake Counselor, seek a petition for review, and request an order for secure or non-secure custody.
- K. When determining the course of action to be taken with juvenile offenders, officers should consider the following factors: Nature of alleged offense; Age and circumstances of the offender; Offender's record (including school records); Availability of community based programs; Needs and limitations of the juvenile; Strengths and weaknesses of the family; and concerns of any victims or complainants.
- L. Juveniles committing offenses in the following categories should be referred to an Intake Counselor:
1. Delinquent acts that would be felonies if committed by an adult
 2. All offenses with sexual motives
 3. Criminal acts involving weapons
 4. Serious gang-related delinquent acts
 5. Delinquent acts involving aggravated assaults
 6. Delinquent acts committed by juveniles under probation or parole or by those with a case pending
 7. Repeated delinquent acts within a 12 month period
 8. Other situations as determined necessary by the Juvenile Officer conducting the investigation, such as, juveniles who have been selected for a diversion program, but have refused to participate and cases in which it has been determined that parental supervision is not effective.
- M. All juveniles in custody of Department personnel shall only be released to a parent, guardian, or other appropriate authority. Departmental referrals for juvenile cases may include when appropriate: warnings; informal referrals; consulting with parents or guardians; and/or arranging for corrective actions by parents.
- N. When a juvenile commits a misdemeanor or infraction, the officer shall follow all applicable procedures in accordance with North Carolina General Statutes.

Violations constituting a misdemeanor or infraction of the law and committed by juveniles under the age of 16 may be charged on a petition if the Intake Counselor deems there is evidence present. The petition shall serve as a summons citing the juvenile to appear in court. All such summonses or written citations must be issued by the Juvenile Court Intake Counselor. A juvenile taken into temporary custody shall not be held for more than twelve hours unless a

petition for

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review has been filed by an Intake Counselor or an order for secure or non-secure custody has been entered by a judge.

- O. An individual 16-17 years of age, charged with a misdemeanor or infraction, may be issued a Uniform Traffic Citation and processed as an adult.
- P. An officer who charges an individual 16-18 years of age with a criminal offense must meet the school and parental notice requirements established by North Carolina General Statutes. This notice is not required if the individual:
 - 1. Is emancipated
 - 2. Has been charged with a motor vehicle moving violation for which less than three points are assessed under North Carolina General Statutes, except an offense involving impaired driving.
 - 3. Has been charged with a motor vehicle offense that is not a moving violation.
- Q. North Carolina General Statutes provide a juvenile may be taken into temporary custody without a court order if: the juvenile is alleged to have engaged in noncriminal misbehavior (a status offense); The juvenile is alleged to have been harmed or to be in danger of harm; There are reasonable grounds to believe that the juvenile is undisciplined; or there are reasonable grounds to believe the juvenile is an absconder from any state training school or approved detention facility.
- R. Police officers taking a juvenile into custody shall:
 - 1. Ensure that the constitutional rights of the juvenile are protected
 - 2. Transport the juvenile to the Department or appropriate juvenile intake facility without delay (unless the juvenile is in need of emergency medical treatment).
 - 3. Notify the juvenile's parents or guardians that the juvenile has been taken into custody in accordance with N.C.G.S.; prepare a parental notification sheet.
 - 4. Complete a juvenile contact sheet.
 - 5. Complete appropriate form to comply with school notification requirements.
 - 6. When appropriate, conduct an interview with the parents or guardians to seek insight into the juvenile's behavior.
 - 7. Examine all factors to determine the most appropriate solution to the case.
- S. A juvenile shall only be processed pursuant to North Carolina General Statutes.
 - a. A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a non-divertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Department.

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- b. A county juvenile detention facility shall photograph a juvenile who has been committed to that facility. The county detention facility shall release any photograph it makes or receives pursuant to this section to the Department, upon the Department's request. The duty of confidentiality in subsection (d) of this section applies to the Department, except as provided in G.S. 7B-3102.
- c. If a law enforcement officer or agency does not take the fingerprints or a photograph of the juvenile pursuant to section (a) of this section or the fingerprints or photograph have been destroyed pursuant to subsection (e) of this section, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.
- d. A law enforcement officer, facility, or agency that fingerprints or photographs a juvenile pursuant to this section shall do so in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation. After the juvenile, who was 10 years of age or older at the time of the offense, is adjudicated delinquent of an offense that would be a felony if committed by an adult, fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs obtained pursuant to this section shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes. The State Bureau of Investigation shall release any photograph it receives pursuant to this section to the Department, upon the Department's request. The duty of confidentiality in subsection (d) of this section applies to the Department, except as provided in G.S. 7B-3102.
- e. Fingerprints and photographs taken pursuant to this section are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, shall be withheld from public inspection or examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200. Fingerprints and photographs taken pursuant to this section shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.
- f. If a juvenile is fingerprinted and photographed pursuant to subsection (a) of this section, the custodian of records shall destroy all fingerprints and photographs at the earlier of the following:
 - 1. The juvenile court counselor or prosecutor does not file a petition against the juvenile within one year of fingerprinting and photographing the juvenile pursuant to subsection (a) of this section;
 - 2. The court does not find probable cause pursuant to N.C.G.S.; or
 - 3. The juvenile is not adjudicated delinquent of any offense that would be a felony or a misdemeanor if committed by an adult.

The chief court counselor shall notify the local custodian of records, and the local custodian of records shall notify any other record-holding agencies, when a decision is made not to file a petition, the court does not find probable cause, or the court does not adjudicate the juvenile.

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- T. Criteria for the destruction or retention of records resulting from non-testimonial identification orders include:
1. If a petition is not filed, all evidence obtained must be destroyed.
 2. If the juvenile is found guilty, or is under the age of 14, and found not guilty of a non-felony, all evidence must be destroyed.
 3. If the juvenile is 14 and found guilty of a felony, all records may be retained in the court file and may be used by the law enforcement officer in the investigation of a crime.
 4. If transferred to Superior Court, all records from non-testimonial orders shall be processed as in the case of an adult.
 5. Any evidence seized pursuant to a non-testimonial order shall be retained by the police officer until a subsequent order is entered by the court.
 6. Destruction of non-testimonial order records shall be performed by the law enforcement agency. Following destruction, written certification will be sent to the court.
 7. Fingerprints and photographs of individuals 16-18 years of age are to be forwarded to the State Bureau of Investigations.
- U. Records pertaining to arrest and identification of juveniles shall be maintained separate from those of adults. Disposition and expungement of juvenile records will be in accordance with the North Carolina General Statutes. The Investigations Section supervisor shall oversee the expungement of juvenile records.
1. Juvenile records may be viewed by law enforcement officers on an authorized need-to-know basis only after approval has been given by the Investigation Section supervisor. An individual juvenile's record will be open only to inspection by prosecutors, court counselors, the juvenile, parent, guardian or custodian. When a juvenile offender reaches the age of 16, the juvenile can petition the court to purge the juvenile's records.
 2. Pursuant to North Carolina General Statutes, a standing order provides for the sharing of information with regard to abused, neglected, and dependent children in certain situations. Any information shared pursuant to this statute shall remain confidential and shall only be shared and used as provided for in the statute. Agencies names for Lenoir County designated as authorized to share information are as follows:

District 8A Division of Juvenile Services of the Administrative Office of the Courts; Office of the District Attorney; Office of Guardian ad Litem Services of the Administrative Office of the Court; Lenoir County Department of Social Services; Lenoir County Mental Health Developmental Disabilities and Substance Abuse Center; Lenoir County Board of Education; Lenoir County Health Department; Lenoir County Sheriff's Department; North Carolina Highway Patrol; Kinston Police Department and Pink Hill Police Department.

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- V. Officers interrogating a juvenile shall ensure that the parents or guardians of the juvenile are notified of the reason for the interrogation. Prior to questioning, officers interrogating a juvenile up to age 18 shall ensure that the juvenile is advised of his/her Miranda rights. When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from an interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney (GS 7B-2101).
1. Interrogations and interviews of juveniles:
 - a. Are limited in duration to no more than two hours at any one session.
 - b. Involve no more than two officers, at a time, in the actual interrogation of a juvenile, one of whom will be a juvenile officer, when available.
 - c. Shall be conducted in a reasonable manner and not cause undue stress for the juvenile.
 - d. When in custody, record in compliance with G.S. 15A-211.
- W. The Kinston Police Department will establish and maintain a school liaison program through the use of the School Resource Officer and the Community Services Unit. Responsibilities within the school program include: Acting as resources with respect to delinquency prevention; providing guidance on ethical issues in a classroom setting; and explaining the law enforcement role in society.