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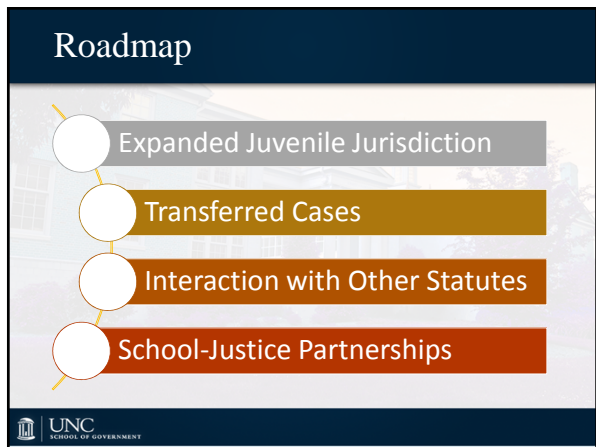
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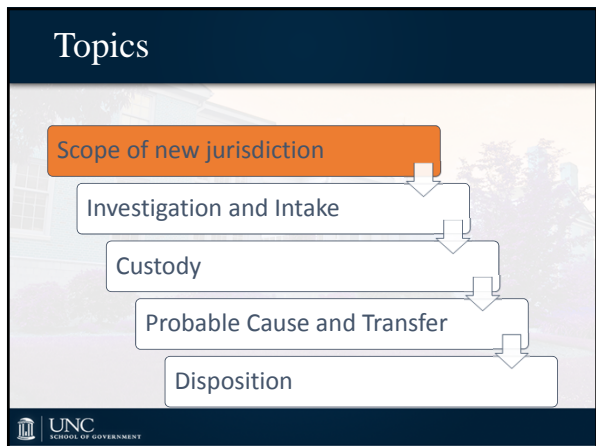
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### Expanded Juvenile Jurisdiction – Case Initiation

**+ All crimes and infractions, and indirect contempt, committed at ages 16 and 17**

Except:

- ✗** Motor vehicle offenses under G.S. Chapter 20
- ✗** Youth falls under once an adult, always an adult

G.S. 7B-1501(7), -1604(b)

UNC SCHOOL OF GOVERNMENT

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### Offense recodification

G.S. 20-106  
Receiving or transferring stolen vehicles

➔

G.S. 14-71.2  
Receiving or transferring stolen vehicles

Which system has jurisdiction?

UNC SCHOOL OF GOVERNMENT

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### Once an Adult, Always an Adult

Prior criminal conviction

+

NOT a Chapter 20, non-impaired driving misdemeanor (or infraction)

→

Never subsequent juvenile jurisdiction

G.S. 7B-1604(b)

UNC SCHOOL OF GOVERNMENT

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### Once an Adult, Always an Adult

Only criminal history: misdemeanor motor vehicle, non-impaired driving, conviction(s)

Or responsible for a motor vehicle infraction(s)

→

Subsequent juvenile jurisdiction allowed

UNC SCHOOL OF GOVERNMENT

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### Jurisdiction – Age Limits

Offense committed under age 16	Offense committed at age 16	Offense committed at age 17
Terminated by order of the court OR	Terminated by order of the court OR	Terminated by order of the court OR
Youth reaches age 18*	Youth reaches age 19	Youth reaches age 20

\* In some limited circumstances, jurisdiction for very serious felonies committed under age 16 and resulting in a commitment to a YDC can extend to age 19 or 21

UNC SCHOOL OF GOVERNMENT

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### Jurisdiction - Outside of Limits

**Proceedings not concluded before jurisdiction runs out?**

- Court retains jurisdiction solely for the purpose of Article 22 proceeding to either transfer case to superior court for trial as an adult or dismissal

**Jurisdiction not obtained before it runs out?**

- For a felony and related misdemeanors only - jurisdiction solely for the purpose of Article 22 proceeding to either transfer case to superior court for trial as an adult or dismissal



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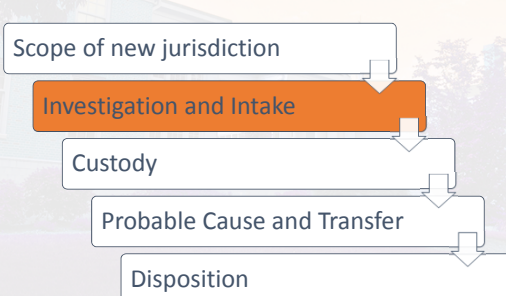

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### Topics

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### Custodial Interrogation Under 18

-  **Right to remain silent**
-  **Any statement can and may be used against the juvenile**
-  **Right to have a parent, guardian, or custodian present during questioning**
-  **Right to consult an attorney and that one will be appointed if want and do not have representation**

These rights can be waived only by juveniles age 16 or 17. (G.S. 7B-2101(b))



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### Law Enforcement Access to Information


Court counselor record must include delinquency record and past LE consultation that did not result in complaint

LE sworn in NC can request information during an investigation that could result in filing a complaint

On request, information must be shared

LE may **NOT** obtain copies of any part of the record; all information shared must be withheld from public inspection

G.S. 7B-3001



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### Nontestimonial Identification Procedures – Juvenile Restrictions

Fingerprints	Palm prints	Footprints	Measurements
Blood specimens	Urine specimens	Saliva samples	Hair samples
Other reasonable physical examination	Handwriting exemplars	Voice samples	photographs
Lineups or similar identification procedures			



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### Nontestimonial Identification Procedures – Juvenile Restrictions

A court order is required for almost all nontestimonial identification procedures conducted in relation to an offense under juvenile jurisdiction

G.S. 7B-2103



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## Nontestimonial Identification Procedures – Juvenile Restrictions

**Fingerprints and photograph required (no court order) G.S. 7B-2102**

- 10+
- Alleged to have committed murder, rape in the first or second degree, sexual offense in the first or second degree, arson, any felony drug offense, first degree burglary, crime against nature, or any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon
- In physical custody of law enforcement or DACJ
- Complaint is prepared for filing

**Photograph required (no court order) G.S. 15A-284.52(c1)**

- 10+
- Alleged to have committed murder, rape in the first or second degree, sexual offense in the first or second degree, arson, any felony drug offense, first degree burglary, crime against nature, and any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon, or common law robbery
- Attendant to show-up

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## Intake – Victim Rights

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## Intake – Gang Assessment

18

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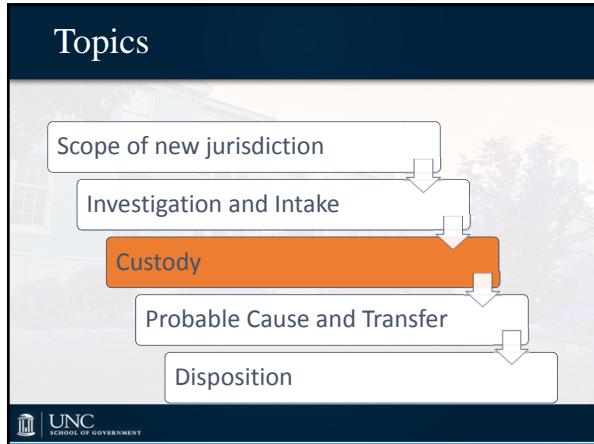
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### Place of Secure Custody

Any youth under juvenile jurisdiction must be housed in a juvenile detention facility\*

\*limited exceptions for use of holdover facilities if charged with Class A – E felonies, for up to 72 hours, and for people for whom a petition is not filed until after they have aged out of juvenile jurisdiction. G.S. 7B-1905.

UNC SCHOOL OF GOVERNMENT

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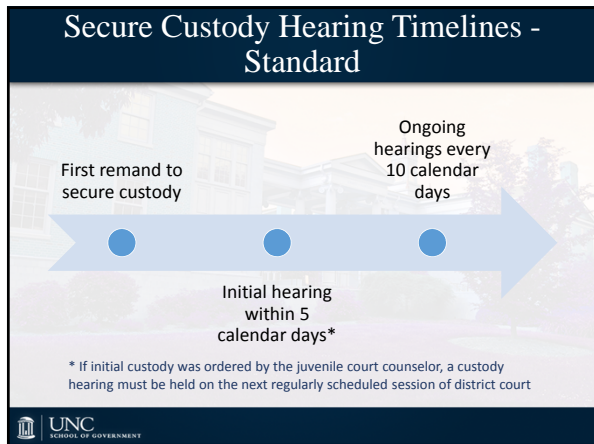
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### Secure Custody Hearing Timelines – JJRA Exception


**If alleged to have committed a Class A – Class G felony at age 16 or 17**

First remand to secure custody

Ongoing hearings every 30 calendar days; court can order every 10 days on good cause shown

Initial hearing within 5 calendar days\*

\* If initial custody was ordered by the juvenile court counselor, a custody hearing must be held on the next regularly scheduled session of district court



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### Topics


Scope of new jurisdiction

Investigation and Intake

Custody

Probable Cause and Transfer

Disposition



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### Probable Cause Timeline

Felony allegation → Committed at age 13+ → 15 days from first appearance for PC hearing

Class A – G felony allegation → Committed at age 16 or 17 → 90 days from first appearance for PC hearing

G.S. 7B-2202(a), -2200.5(c)



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### Transfer – Offenses at 16&17


#### Mandatory

- **A-G** felonies
- Upon notice to juvenile and finding that **bill of indictment** returned OR
- Notice, hearing, and finding of **probable cause**

#### Discretionary

- **H&I** felonies
- Notice, hearing, and finding of **probable cause**
- May transfer pursuant to **transfer hearing** statute (7B-2203)

G.S. 7B-2200.5



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### Topics



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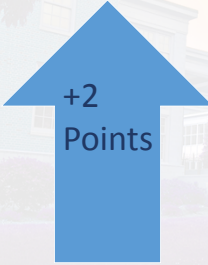
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### Disposition – Delinquency History Points



+2  
Points

Previous misdemeanor conviction for death by vehicle



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### Disposition - Options

Can order these dispositions only for juveniles under 18

1. Supervision in own home by DSS, JCC, or other
2. Placement in custody of parent, guardian, custodian, relative, private agency, or other suitable person
3. Placement in DSS custody



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### Disposition - Options

Can dispositions ordered under age 18 continue after the juvenile's 18<sup>th</sup> birthday?



*Delinquency and DSS Custody – Take Two*  
<https://civil.sog.unc.edu/delinquency-and-dss-custody-take-two/>  
*Delinquency and DSS Custody without Abuse, Neglect, or Dependency: How Does That Work?*  
[https://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/2019-07-19%2020190464\\_JLB\\_201902.pdf](https://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/2019-07-19%2020190464_JLB_201902.pdf)



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### Disposition – YDC commitments

**Maximum Commitment Period by Age**

Offense at age <u>16</u> Commitment term cannot exceed juvenile's <u>19<sup>th</sup> birthday</u>	Offense at age <u>17</u> Commitment term cannot exceed juvenile's <u>20<sup>th</sup> birthday</u>
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### Disposition – YDC Commitments

#### Maximum Commitment Period by Adult Penalty

Maximum term of imprisonment for an adult in prior record level VI for felonies or prior conviction level III for misdemeanors



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### Disposition – YDC Commitments

Written notice to juvenile and parent required if


- Not releasing before birthday of maximum age limit
- Extending commitment beyond allowable adult penalty period

at least 30 days in advance of

- Birthday
- End of adult penalty period

Must include

- Proposed additional commitment period
- Basis for extension
- Plan for future care or treatment



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### Disposition – Criminal Gang Activity

Offense class + delinquency history level = Level X

 **Criminal gang activity finding**  **Beyond a Reasonable Doubt**

Level X + 1 for disposition



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### Disposition – Criminal Gang Activity

Mirrors definitions in criminal law  
14-50.16A  
(NC Criminal Gang Suppression Act)

Commission, attempted commission, solicitation, coercion, or intimidation of another person to commit:

(1) Any offense under the controlled substances act; OR  
(2) Any criminal offense (per Chapter 14), with some listed exceptions

(1) Committed with intent to benefit, promote, or further the interests of a criminal gang or to increase a person's standing or position within a criminal gang; OR  
(2) Participants in offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang

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### Disposition – Criminal Gang Member

**Meets 3 or more of these criteria - the person:**

- Admits to being a member of a criminal gang
- Is identified as a criminal gang member by a reliable source, including a parent or guardian
- Has been previously involved in criminal gang activity
- Has adopted symbols, hand signs, or graffiti associated with a criminal gang
- Has adopted the display of colors or the styles of dress associated with a criminal gang
- Is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents
- Has tattoos or markings associated with a criminal gang
- Has adopted language or terminology associated with a criminal gang
- Appears in any form of social media to promote a criminal gang

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## Transferred Cases

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### If Transfer Ordered

Must set conditions for pretrial release G.S. 7B-2204

Immediate appeal to Superior Court G.S. 7B-2603

Fingerprinting Required G.S. 7B-2201



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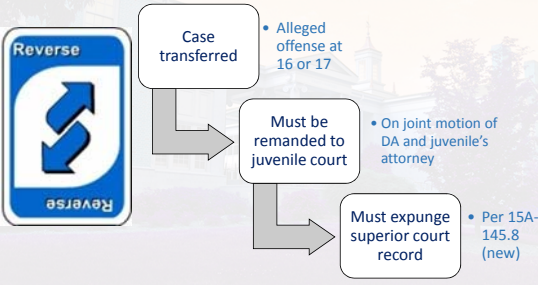
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### Reverse Waiver



Reverse

Reverse

Case transferred


- Alleged offense at 16 or 17

Must be remanded to juvenile court

- On joint motion of DA and juvenile's attorney

Must expunge superior court record

- Per 15A-145.8 (new)



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### Pre-Trial Confinement – Transferred Youth


Case transferred to superior court

Youth not released pretrial

Held in juvenile detention under age 18

Turns 18 in detention

Transported to sheriff where alleged offense took place and held in jail for remainder of court proceeding



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## Transportation





Juvenile Justice transports any person under juvenile jurisdiction to/from any state or local juvenile facility

Juvenile Justice, or personnel approved by Juvenile Justice, transport transferred youth who are in juvenile detention between court, holdover facilities, if used, and detention

Juvenile Justice, or personnel approved by Juvenile Justice, transport transferred youth to sheriff when juvenile reaches age 18



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## JJRA and Other Statutes



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## New Delinquent Acts at 16/17

<p>§ 14-12.7. Wearing of masks, hoods, etc., on public ways.</p> <p>§ 14-12.9. Entry, etc., upon premises of another while wearing mask, hood or other disguise.</p> <p>§ 14-12.10. Holding meetings or demonstrations while wearing masks, hoods, etc.</p> <p>§ 14-74. Larceny by servants and other employees.</p> <p>§ 14-90. Embezzlement of property received by virtue of office or employment.</p> <p>§ 14-178. Incest.</p> <p>§ 14-202.1. Taking indecent liberties with children.</p> <p>§ 14-202.3. Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act.</p>	<p>The following provisions of the North Carolina Criminal Gang Suppression Act:</p> <ul style="list-style-type: none"> <li>• § 14-50.17. Soliciting; encouraging participation.</li> <li>• § 14-50.18. Soliciting; encouraging participation; minor.</li> <li>• § 14-50.19. Intimidation to deter from gang withdrawal.</li> <li>• § 14-50.20. Punishment or retaliation for gang withdrawal.</li> </ul>
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### JJRA and Related Statutes

Crime and Contempt Changes

Age threshold for contributing to the delinquency of a minor raised to 18 (G.S. 14-316.1)

Contempt by a minor will include those under 18 (G.S. 5A-31(a))



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### JJRA and Related Statutes

Existing law extended to incorporate new transfer statute

School notification

Sex offender registration



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### JJRA and Related Statutes

Compulsory school attendance (7-16)

Emancipation (no juvenile jurisdiction)

Unchanged



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### Consent to Medical Care – Under 18


Generally, consent of parent, guardian, custodian, or person in loco parentis is required

Minors who have decisional capacity can consent for prevention, diagnosis, and treatment of:

- venereal disease and any other reportable communicable disease
- pregnancy
- abuse of controlled substances or alcohol
- emotional disturbance

**Emergency exception**  
G.S. 90-21.1

**Judicial waiver process for abortion**  
G.S. 90-21.7



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### Consent to Medical Care – 18+

Adolescents can consent for all of their own medical care at age 18



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### School-Justice Partnerships



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## School-Justice Partnerships

**Why?**

- 40% of current juvenile justice system referrals come from schools
- SJP's focus on timely and constructive responses to low level student misbehavior without the need for justice system referral

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## School-Justice Partnerships

“Judicial leadership is a key component of the successful implementation of an SJP. Therefore, it is the policy of the NCAOC that chief district court judges will use their authority as “conveners” to bring key stakeholders together within their local communities to develop and implement an SJP Memorandum of Understanding”

NCAOC Policy on School Justice Partnerships and the Role of Chief District Court Judges as Conveners  
August 1, 2019



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## School-Justice Partnerships

Resources

- SJPs in North Carolina**  
North Carolina is working to implement School Justice Partnerships in all 100 counties. Find more information about existing SJPs.
- School Justice Partnership Fact Sheet**  
The SJ Fact Sheet provides a brief overview of School Justice Partnerships in North Carolina.
- School Justice Partnership Toolkit**  
The Toolkit provides resources to help chief district court judges and community partners develop and implement the SJP, including action lists, timelines, a model agreement, and templates for other necessary documents.
- SJP Resources**  
Resources for chief district court judges to convene meetings with local community partners and collaborators.
- What Research Shows**  
Current exclusionary discipline practices push students out of school and into court for minor misconduct.

<https://www.nccourts.gov/programs/school-justice-partnership>



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(919) 966-4327



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