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STATE OF NORTH CAROLINA
GUILFORD COUNTY

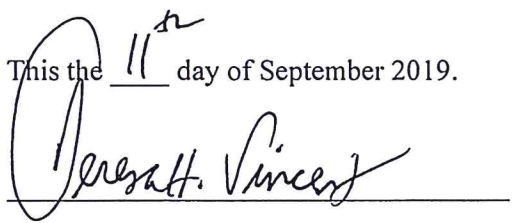
IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

ADMINISTRATIVE ORDER ADOPTING LOCAL RULES GOVERNING
Delinquency and Undisciplined Proceedings

The 18th Judicial District

IT IS HEREBY ORDERED pursuant to the Court's inherent authority and statutory authority to manage the Delinquency and Undisciplined Proceedings, that the prior Local Rules Governing Delinquency and Undisciplined Proceedings for the District Court Division of the Eighteenth Judicial District, Guilford County having a file number 03 R 236 remain in effect until and unless they are rescinded or modified.

This the 11th day of September 2019.



Teresa H. Vincent
Chief District Court Judge
18th District Court Judicial District

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LOCAL RULES GOVERNING DELINQUENCY AND UNDISCIPLINED
PROCEEDINGS
THE EIGHTEENTH DISTRICT COURT JUDICIAL DISTRICT
OF NORTH CAROLINA
12-30-02

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**LOCAL RULES GOVERNING JUVENILE COURT
DELINQUENT AND UNDISCIPLINED PROCEEDINGS
FOR GUILFORD COUNTY**

**18TH JUDICIAL COURT DISTRICT
GREENSBORO / HIGH POINT**

The Juvenile Court is a specialized court with a different focus than other divisions of the district court. The purposes of these rules are intended to aid in implementing and complying with the Juvenile Code in Guilford County.

All rules are to be interpreted:

1. To protect the public from acts of delinquency.
2. To deter delinquency and crime, including patterns of repeat offending:
 - a. by providing swift, effective disposition that emphasize accountability for the juvenile's action.
 - b. by providing appropriate rehabilitative services to the juvenile and their families.
3. To provide an effective system of intake services for screening and evaluating complaints.
4. To divert juveniles to community based resources so court intervention is not necessary.
5. To provide uniform procedure that assure fairness and equity.
6. To protect the constitutional rights of
 - a. juveniles
 - b. juvenile's parents
 - c. victims
7. To aid the study of more effective and efficient ways:
 - a. to coordinate case management.
 - b. to provide services to juveniles
 - c. who are in need of treatment, counseling or rehabilitation,
 - d. and to the families of those juveniles.
8. To share information with agencies that work with juveniles and:
 - a. increase accountability of delinquent and undisciplined juveniles.
 - b. increase accountability of parents of delinquent and undisciplined juveniles.

Rule 1. Filing a complaint against a juvenile

7B-1803 all complaints concerning a juvenile said to be undisciplined or delinquent must be referred to law enforcement agencies or the juvenile court counselor's office.

1.1 all complaints shall be referred to the intake counselor for screening and evaluation.

The intake counselor shall determine if a petition should be filed.

If a determination is made to file a petition the intake counselor or the clerk shall:

- a. prepare the petition.
- b. Have it Signed by the complainant.
- c. Have it verified before an official authorize to administer oaths.

1.2 if the intake counselor is out of county or otherwise unavailable:

a. the clerk of court shall assist the complainant in communicating with the intake counselor by telephone.

b. If the intake counselor approves the filing of a complaint

c. The clerk shall do the following:

- 1). Prepare a petition.
- 2). Have the complainant sign
- 3). Have the complaint verified
- 4). Submit a copy to the intake counselor.

1.3 A magistrate may prepare, verify a petition and accept it for Filing (7B-1804).

a. this power is for emergency situations

b. Requiring a secure or non-secure custody order.

c. The petition must be delivered to the clerk's office for processing as soon as that office is open for business.

d. That a statement describing why the juvenile should be detained shall be prepared and attached to the petition.

Rule 2. Juvenile Court Counselor's Intake Services/ procedures for screening, evaluating and filing complaints.

2.1 The Chief court Counselor shall provide intake services:

a. to determine from available evidence.

b. Whether there are facts establishing delinquent or

undisciplined behavior.

- 1). The court counselor may request assistance from the District Attorney (7B-1701).
- 2). To determine the sufficiency of the evidence as it affects the quantum of proof and the elements of offenses.
 - c. Within the jurisdiction of the court.
 - d. To determine whether the facts alleged are sufficiently serious to justify court action.
 - e. To obtain assistance from community resources when court referral is not necessary (7B-1700).
 - f. To authorize the complaint / petition to be filed if the intake counselor finds reasonable grounds to believe that the juvenile committed the alleged acts.
 - g. To approve and prepare the petition within 15 days and if an extension for approval is granted not more than 15 additional days. The total period of time for approval shall not exceed 30 days.
 - h. If the intake court counselor finds reasonable grounds to believe that a juvenile committed a non-divertible offense the petition must be authorize without further inquiry. The non-divertible offenses are (7B-1701):
 - 1). Murder
 - 2). First degree rape or second degree rape
 - 3). First degree sexual offenses or second degree sexual offenses.
 - 4). Arson
 - 5). Felony drug violations
 - 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.

2.2 The court counselor shall deny filing a complaint as a petition if the intake counselor finds that the facts do not state a case within the jurisdiction of the court.

2.3 If the court counselor does not approve a complaint for filing as a petition the court counselor shall: (7B-1703 - 1705)

- a. notify in writing the person making the complaint and the victim.
- b. With reasons for the decision.
- c. With notice that the person making the complaint has a right to request the District Attorney review the decision not to

filed.

- d. The person making the complaint has 5 calendar days, from receipt of notice of the intake counselor's decision to not approve the request for a petition to be filed, to request a review by the District Attorney.
- e. If the person making the complaint communicate to the intake counselor a request for review:
 - 1). The intake counselor shall notify the District Attorney immediately and transmit to the District Attorney a copy of the complaint.
 - 2). The District Attorney shall notify the person making the complaint and the intake counselor of the time and place for the review conference.
- f. The District Attorney has 20 days after the person making the complaint is notified to review the intake counselor's decision not to authorize the filing of a petition (7B-1705).
 - 1). The review shall include a conference with the person making the complaint and the intake counselor.
 - 2). At the conclusion of the review conference the District Attorney shall either;
 - *Affirm the intake counselor's decision.
 - *direct the filing of a petition.And notify the person making the complaint of the decision.

2.4 Unless the allegation is one which require a petition be filed, upon a finding of legal sufficient the intake counselor may divert the juvenile pursuant to a diversion plan (7B-1701).

- a. there maybe a written diversion contract.
- b. No later than 60 days after the juvenile is diverted the intake counselor shall:
 - 1). Determine whether the juvenile has complied.
 - 2). Determine whether the juvenile's parent or legal caretaker has complied.
- c. If the juvenile has not complied:
 - 1). The court counselor shall reconsider the decision to divert.
 - 2). Within 10 days of making a decision not to divert further authorize the filing of a petition.
 - 3). If the intake counselor decides to continue the juvenile on the diversion plan the plan maybe monitored for up to 6 months:
 - *from the date that the diversion plan began, or
 - *at any time during the 6 month period that the intake

counselor

*may reconsider the decision to divert and authorize the filing of a petition.

d. After 6 months the intake counselor shall close the diversion plan (contract).

Rule 3. Where trials and disposition hearings are to be held.

3.1 A juvenile alleged to be delinquent or undisciplined shall have the action commenced and adjudicated in the district where the offense occurred (7B-1800).

- a. The High Point Division of the 18th District Court Judicial District includes the geographical area within the High Point, Jamestown and Deep River Townships.
- b. The Greensboro Division of the 18th District Court Judicial District includes the geographical area within Washington, Rock Creek, Madison, Jefferson, Clay, Monroe, Gilmer, Fentress, Morehead, Center Grove, Sumner, Bruce, Friendship and oak Ridge Townships.

3.2 For actions that occur in the Greensboro Division of Guilford County that action shall be filed and adjudicated in the Greensboro Division. For Actions that occur in the High Point Division of Guilford County that action shall be filed and adjudicated in the High Point Division of Guilford County.

3.3 If the juvenile resides in a district different from where the juvenile is adjudicated:

- a. the court may transfer the disposition hearing.
- b. The court shall immediately notify the Chief District Court Judge in the district in which the juvenile resides:
 - 1). The court must transferred the case for disposition if the chief District Court Judge in that district request a transfer.
 - 2). The transfer request must be made within 5 days after being notified of the adjudication.
- c. The court must advise the juvenile of the right to have the case transferred to the district where the juvenile reside for dispositional hearing. If the juvenile moves to transfer the case for disposition the court must transfer the case to the district where the juvenile reside.

Rule 4. Procedures for Service of the petitions, summons and notice of hearings.

4.1 The Clerk of Court must issue a summons with a petition attached (7B-1805 & 1806):

- a. To the juvenile**
- b. To the parent or legal caretaker**
- c. Noticing them to appear in court for a hearing;**
- d. The summons and petition must be served personally:**
 - 1). Not less than 5 days prior to the date of the scheduled hearing.**
 - 2). The time for service may be waived in the discretion of the court.**
 - 3). The court may authorize service by mail or by publication.**
- e. The court may issue a show cause order for contempt against a parent or legal caretaker who is personally served and fails without reasonably cause to appear and bring the juvenile before the court.**

4.2 The Law Enforcement Agency with the duty to serve Juvenile Legal Processes shall attempt service up to the day before the scheduled hearing and return the appropriate notice of the result of such efforts on the day before the hearing.

4.3 There must be notice of each subsequent hearing (7B-1807).

- a. The clerk of court must give all parties notice of hearings or issue a subpoena:**
 - 1). Including both parents or legal caretaker.**
 - 2). With not less than 5 days written notice.**
 - a). Unless the parties are notified in open court.**
 - b). Or the court orders otherwise.**
 - c). The court may issue a show cause order for contempt against a person so notified if they fail to appear for the hearing.**
 - 3). Including witnesses.**

4.4 The clerk will not notify parties of hearings after the initial hearing unless the court so order.

Rule 5 A juvenile may be taken into temporary secure custody.

5.1 A person may take a juvenile into custody without a court order:

- a. If this temporary custody does not exceed 12 hours.
- b. The temporary custody may extend to 24 hours if the 12 hours end on Saturday, Sunday or a legal holiday.

5.2 This temporary custody ends if:

- a. The juvenile is released to a parent or legal caretaker.
- b. The juvenile is placed in secure custody in a detention center pursuant to legal order of secure custody.

Rule 6. Custody orders may be issued by a judge, Chief court counselor or the court's counselor staff (7B-1902).

6.1 Any juvenile alleged to be within the jurisdiction of the court may be placed in secure or nonsecure custody as allowed in G.S. 7B-1903.

6.2 The Chief District Court Judge may delegate the court's authority to issue secure custody orders:

- a. to the Chief court Counselor
- b. or the Chief court counselor's staff
- c. by Administrative order filed in the office of the clerk of superior court.
- d. Such authorization may be done by telephonic communication (7B-1907) when other means are impractical.

Rule 7. Secure custody hearings must be held for juveniles placed in the detention center (7B-1906).

7.1 No juvenile shall be held in detention more than 5 calendar days without a hearing to determine the need to continue the juvenile in secure custody.

- a. The hearing must be held on the next day of the regularly scheduled session of juvenile district court in the city or county where the order was entered.

Greensboro Juvenile Court – Mon., Thurs. And Friday
High Point Juvenile Court – Tuesday and Wednesday

- b. If there is no regular session of juvenile court scheduled the hearing is to be held at a regular session of district court, or

- in the regular session of juvenile district court in Greensboro for High point cases and in High Point for Greensboro cases .
- c. Such a hearing may not be continued or waived.
 - d. For this initial hearing the juvenile will be transported to court, unless the attorney waives the physical presence of the juvenile.
 - e. The juvenile must be present in person for all Adjudication and Disposition Hearings.
 - f. At a review hearing the court must receive offered testimony and allow the juvenile, the juvenile's parents or legal caretaker to introduce evidence, to be heard in their own behalf, and to examine witnesses (7B-1906(d)).
 - g. The court shall not be bound by the usual rules of evidence at the review of secure custody hearings (7B-1906(d)).

7.2 If the juvenile is continued in secure custody additional hearings must be held at intervals of no more than 10 calendar days, but may be waived with the consent of the juvenile through the juvenile's attorney (7B-1906(b)).

7.3 A juvenile continued in secure custody may have additional hearings to review the decision to continue the juvenile in custody by Audio / video review (7B-1907).

- a. After the initial (5 day) hearing the review of secure custody will be by audio / video review.
- b. In the event of unusual circumstances, the juvenile's attorney may make a motion to have the juvenile transported to court for a review of secure custody hearing.
 - 1). The motion may be written or oral.
 - 2). The District Attorney must be notified of the motion to be made to the court for such an order of transportation.
 - 3). The motion and notification must be completed not later than 2 p.m. on the day prior to the scheduled review hearing.
 - 4). If the court grants the motion, the juvenile will be transported to court for the scheduled review hearing.
- c. At a audio / video review hearing if the court authorizes the release of the juvenile, the court counselor will prepare a release order to be signed by the presiding judge.
 - 1). The original will be filed with the clerk of court and a filed copy will be sent to the detention center.
 - 2). The detention center shall confirm receipt of the order of release by notifying the Chief Court Counselor or the Chief Court Counselor's designee.

- 3). A copy of the release order shall be given to the person to whom release is authorized.
- d. The juvenile detention center shall not release a juvenile without an order signed by the judge.

7.4 All interested parties and all attorneys are expected to be present at the beginning of court, so that all detention matters, whether in person or by video may be disposed of promptly. The video appearances will take priority over other matters scheduled in court.

Rule 8 Procedures for Juveniles alleged to have committed felonies.

8.1 A juvenile alleged to have committed a felony must have a Initial felony hearing within 10 calendar days of the petition being filed.

8.2 A juvenile placed in secure custody with allegations of a felony must have a hearing to review secure custody within 5 calendar days (7B-1906).

a. When the juvenile is in secure custody the review of secure custody hearing and the Initial Felony First Appearance Hearing must be held at the same time (7B-1808). At this hearing the court must:

- 1). Inform the juvenile of the allegations.
- 2). Determine if the juvenile has an attorney.
- 3). If applicable inform the juvenile of the date of the probable cause hearing to be held within 15 calendar days of the first appearance hearing.
- 4). Inform the parent or legal caretaker of the requirement to attend all hearings scheduled and that they may be held in contempt for a failure to do so.

b. The first date for a Probable Cause Hearing must be scheduled within 15 calendar days of the Initial Felony First Appearance Hearing (7B-1808).

c. The District Attorney must notify the juvenile's attorney not later than the probable cause hearing of the state's intent to request a transfer to Superior Court for the juvenile to be tried as an adult. The state should notify the juvenile's attorney at the earliest possible date of the intent to request a transfer hearing.

- 8.3 The court must conduct a Probable Cause Hearing in all felony cases within 15 calendar days of the felony first appearance hearing.
- a. if the juvenile was 13 or older;
 - c. when the alleged offense was committed.
 - d. The juvenile's attorney may waive in writing the right to a Probable Cause Hearing and stipulate to a finding of probable cause.
 - e. If probable cause is found for a class A felony the court must transfer the case to Superior Court if the juvenile is 13 years old or older.
 - f. If probable cause is found for felonies below the level of class A felony, a transfer hearing (a hearing to decide if a juvenile should be transferred to Superior Court to be tried as an adult) must be held.
 - 1). The juvenile is entitled to a minimum of 5 days notice of intent to request a transfer to Superior Court. The court must grant a motion to continue if requested by the juvenile and the juvenile did not have a minimum of 5 days notice.
 - 2). The juvenile, the District Attorney or the court may make the motion to transfer the case to Superior Court for the juvenile to be tried as an adult.

8.4 A Probable Cause Hearing on a Felony may be continued by a Judge if good cause is established to the judge's satisfaction.

Rule 9 Finger Printing and Photographing Juveniles.

All law enforcement agencies, Juvenile Court Counselors, Clerks of Juvenile Court and District Court Judges will comply with the law And local Administrative Order for Fingerprinting and Photographing Juveniles.

9.1 Juveniles transferred to Superior court must be fingerprinted and those prints sent to the State Bureau of Investigation (7B-2201).

9.2 Juveniles 10 years old or older alleged to have committed a felony, including non-divertible offenses must be fingerprinted and photographed (7B-2201).

The non-divertible offenses are (7B-1701):

- 1). Murder
- 2). First degree rape or second degree rape

- 3). First degree sexual offenses or second degree sexual offenses.
- 4). Arson
- 5). Felony drug violations.
- 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.

The following procedure will be followed:

- a. The law enforcement officer or agency responsible for the felony petition (felony or non-divertible offenses) being filed against the juvenile must be responsible for the fingerprinting and photographing of such juvenile.
- b. The juvenile alleged to have committed a felony offense (felony or non-divertible) shall be fingerprinted and photographed as part of the process of obtaining all felony petitions.
 - 1). The charging officer involved must complete the paperwork that is a part of the fingerprinting and photo process.
 - 2). The fingerprint and photo process must be in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation.
- g. N.C.G.S. 7B-2102(d) requires that fingerprints and photos shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.
- h. Fingerprints and photos taken pursuant to N.C.G.S. 7B-2102 are not public records. Fingerprints and photos shall not be included in the clerk's record and shall be withheld from public inspection or examination.
- i. Fingerprints and photos must be destroyed if:
 - 1). No petition is filed within one year of the taking of the fingerprints and/or photos.
 - 2). The court does not find probable cause in a transfer hearing.
 - 3). The juvenile is not adjudicated delinquent of any offense that would be a felony or misdemeanor.
- j. The fingerprints and photos must be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System if:
 - 1). The juvenile is adjudicated delinquent of a felony offense.
 - 2). The juvenile is adjudicated delinquent of a misdemeanor

resulting from a felony allegation.

3). The juvenile is transferred to Superior Court from District Juvenile Court (7B-2201).

- 9.3 The juvenile Court Counselor assigned to the juvenile's case shall prepare a fingerprint and photo disposition order. This order is to be presented to the Assistant District Attorney and through the Assistant District Attorney, presented to the Presiding Judge. The Judge shall sign the order indicating what must happen to the fingerprints and photos.
- 9.4 The disposition order for fingerprints and photos will be filed with the Clerk of Court. The Chief Court Counselor will obtain from the clerk a copy of the disposition order and provide the local custodian of records with the copy.
- 9.5 The local custodian of records must comply with the order of the court in completing the proper disposition of fingerprints and photos.
- 9.6 If fingerprints or photos were not obtained during the preparation of the petition, the Juvenile Court Counselor's office will be responsible for transporting the juvenile to the proper location to be fingerprinted and photographed. This must be done timely after the event that allows the fingerprint or photo process to occur.
- 9.7 The fingerprints and photographs once transferred may be used for all investigation and comparison purposes.

**Rule 10 Scheduling Matters, Case Processing Standards and Hearings:
Deadlines (continuance policies).**

10.1 The delinquent and undisciplined juvenile court schedule will be as follows:

a. Greensboro

Monday 9 a.m. Trials, detention hearings, video reviews, all matters involving juveniles in detention, probation review hearings, motions for review, dispositions hearings and all other juvenile matters.

2 p.m. Delinquency and undisciplined petitions for juveniles not in secure custody entering juvenile court for the first time.
Felony First Appearance Hearings for juveniles not in custody.
First Probable Cause Hearing

Thursday 9 a.m. same as above

2 p.m. same as above

Friday 9 a.m. Trials and Probable Cause Hearings that require extra time or could not be reached during the regular time period.

b. High Point

Tuesday 9 a.m. Trials, detention hearings, video reviews, all matters involving juveniles in detention, probation review hearings, motions for review, dispositions hearings and all other juvenile matters.

2 p.m. Delinquency and undisciplined petitions for juveniles not in secure custody entering juvenile court for the first time.
Felony First Appearance Hearings for juveniles not in custody.
First Probable Cause Hearing

Wednesday 9 a.m. same as above

2 p.m. same as above

10.2 All juvenile matters must be scheduled and heard as required by the General Statutes of North Carolina. All continuances of cases must be heard in an effort to comply with the following disposition deadlines and case processing standards.

	Deadline	Case processing standards
a. Initial Hearings (review of secure custody)	5 days of filing	100%
b. Felony 1 st Appearance	10 days of filing	98%
c. Probable Cause Hearing	15 days of 1 st App.	90%
d. Adjudicatory Hearings	Misdemeanor charges	2 months of filing 90%
		3 months of filing 100%
- Felony Charges		2 months of filing 70%
		3 months of filing 90%
		4 months of filing 100%
e. Dispositional Hearing	1 month of trial	95%
	2 months of trial	100%
f. Unless otherwise specified, "Days" are calendar days and are counted from the date the petition is filed.		
g. These time frames represent maximum time limits that are "goals". In every case, what is fair and equitable and in the juvenile's best interest is the paramount goal.		

10.3 All orders must be filed within 30 days following the conclusion of a hearing. In no event shall an order not be entered within 60 days of the hearing.

10.4 Once a case is set for trial any party requesting a continuance must do so in writing and state the reasons for such a continuance (7B-2406).

- c. The court may continue hearing for good cause as long as is reasonably required to receive additional evidence, reports, assessments that the court requested, other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery.
- d. Other continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile.
- e. Grounds for a continuance must be fully established

and when the absence of a witness is the bases for such motion, an affidavit indicating the facts to be proved by such witness should be presented with the motion (In re Lail, 55N.C. App. 238 - 1981).

Rule 11. Adjudicatory (Trial) Procedure shall be controlled by statute and the local rules for Juvenile and Undisciplined court.

11.1 The adjudicatory hearing shall be a judicial process designed to determine whether the juvenile is undisciplined or delinquent (7B-2405).

11.2 All hearings must be open to the public unless the court closes the hearing or a part of the hearing for good cause.

a. If a hearing is closed:

b. The court may allow any victim, member of a victim's family, law enforcement officer, witness or any other person directly involved in the hearing to be present (7B-2202).

11.3 The District Attorney must represent the state in all delinquency hearings and will represent the court in "Order to Show Cause Hearings" resulting from a determination of Undisciplined behavior or failing to obey a court order (7B-2404, 7B-2505, 7B-2706).

11.4 All adjudicatory hearings (trials), dispositional hearings, probable cause and transfer hearings must be recorded by stenographic notes or by electronic or mechanical mean (7B-2410).

11.5 All petitions for juveniles in secure custody shall be scheduled by order of the court or for the 9 a.m. calendar on the day the case is scheduled for trial (7B-2403).

11.6 All misdemeanor petitions for juveniles not in secure custody shall be scheduled the first time within 30 calendar days on the 2 p.m. calendar on the day such petitions are scheduled for Pre-trial hearing.

11.7 If the juvenile denies the statements in the petition the court must:

a. schedule the matter for hearing within the statutory time.

period and in compliance with local rules.

Trials – completed within 60 days of filing.

Disposition – completed within 30 days after the trial.

- b. conduct the trial hearings in accordance with the rules of evidence applicable to criminal cases.
- c. Uphold the duty of the state to prove allegations beyond a reasonable doubt.
- d. not use or accept any statement made by the juvenile prior to the dispositional hearing when such statement was made to the intake counselor during the preliminary inquiry and evaluation process (7B-2408).
- e. Not receive any pre-disposition report or allow any such report to be submitted to or considered by the court prior to the completion of the trial.
- f. When juveniles consents to a pre-disposition report or the court continue the case for disposition hearing, the court must permit the juvenile to inspect any pre-disposition report including any attached mental evaluation and/or risk and needs assessment (7B-2413). However, the court may order the juvenile's attorney not to disclose parts of the report:
 - 1). If the court finds that disclosure would seriously harm the treatment or rehabilitation of the juvenile.
 - 2). Or would violate a promise of confidentiality given to a source of information.
 - 3). When a juvenile indicates that there will be an admission the court counselor will share any prepared pre-disposition report with the juvenile and/or his attorney.
 - 4). At a scheduled disposition hearing the court counselor will share any written disposition information intended to aid the court in making a disposition. This shall be done as earlier as possible but no later than prior to the calling of the case for hearing on the scheduled court date.
- g. Protect certain rights of the juvenile, the juvenile's parent or legal caretaker (7B-2405).
 - 1). The right to written notice of the facts alleged.
 - 2). The right to counsel.
 - 3). The right to confront and cross-examine witnesses.
 - 4). The privilege against self-incrimination.
 - 5). The right of discovery.
 - 6). All rights afforded adult offenders except the right to bail, the right of self representation, and the right to

trial by jury.

- h. Recognize that jeopardy attaches during trials when the witness is sworn and the court begins to hear evidence.
- i. Find that the allegations have or have not been proved. If the court finds that the allegations have been proved the court must hold a dispositional hearing. If the court finds that the allegations have not been proved the court must dismiss the petition with prejudice (7B-2411).

11.8 A finding that a juvenile is delinquent or a commitment of a juvenile to the Department of Juvenile Justice for placement in a Youth Development Center shall neither be considered a conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights (7B-2412).

Rule 12 Purpose of and Procedure for Dispositional Hearings:

Whenever the court adjudicates a juvenile to be delinquent (finds juvenile to be guilty), undisciplined, to be in violation of probation or to be in violation of post release supervision the court must hold a disposition hearing.

12.1 The purpose of disposition is to (7B-2500):

- a. Design an appropriate plan to meet the needs and best interest of the juvenile (7B-2501(c)).
- b. Design an appropriate plan to achieve the objectives of the state in exercising jurisdiction.
- c. Design an appropriate plan to protect the public.

12.2 The court should develop a disposition plan that:

- a. Promotes public safety.
- b. Emphasizes accountability and responsibility of both the juvenile and the juvenile's parent or legal caretaker for the juvenile's conduct.
- c. Provide the appropriate consequences, treatment, training and rehabilitation to assist the juvenile toward becoming a non-offending, responsible, and productive member of the community.
- d. Follows the statutory guidelines as established by law and set out in the Juvenile Code.
- e. Is the most appropriate disposition both in terms of kind and duration for delinquent juveniles.
- f. Is the most appropriate disposition both in terms of kind and duration for undisciplined juveniles within limits set by

statutes 7B-2502, 2503, 2504 and 2505.

- 12.3 The disposition hearing may be informal and the court may consider any information presented and determined by the judge to be reliable, accurate and competently obtained (In re Bullabough, 89 N.C. App. 171 – 1988). Such information may include:
- All written reports and materials submitted to the court.
 - Written Psychological reports.
 - Unadjudicated acts if the court finds the information to be reliable, accurate and competently obtained.
 - Post petition occurrences that the court finds to be reliable, accurate and competently obtained.
- 12.4 The court must give all parties an opportunity to be heard in the dispositional hearing before entering the appropriate plan and/or probation (the disposition plan).
- 12.5 The disposition order must be in writing and must contain appropriate findings of facts and conclusions of law.
- The court must state in detail in the order the precise terms of the disposition including the kind and duration.
 - The court must state the person or agency who is responsible for carrying out the disposition (7B-2512).
 - The court must state the person or agency in who's custody the juvenile is in or is placed in.
- 12.6 If the court as part of the disposition order pursuant to 7B-2506 (19 & 20) impose stayed commitments to detention the following Protocol must be followed:
- As part of the Protocol for Stayed Commitment the court has the authority to execute the full period of commitment or may stay any portion of or all of the commitment with the consent of the juvenile.
 - If the juvenile violates the conditions of his stayed commitment the court counselor will file a motion for review for a violation of probation stating what acts the juvenile committed to violate probation (stayed commitment).
 - If the juvenile is found to be in violation of probation the court may provide a disposition as allowed in 7B-2508.
- 12.7 A juvenile placed on probation after notice and a hearing may

be found to be in violation of the juvenile's probation by the greater weight of the evidence. The court may as part of a new disposition:

- a. Continue the juvenile on probation as previously ordered.
- b. Modify the conditions of probation except the court may not order commitment to the Office of Juvenile Justice for placement in a Youth Development Center if the juvenile was placed on probation for a minor offense.
- c. The court may enter a level 3 disposition (commitment to a Youth Development Center) if the juvenile has been adjudicated delinquent on 4 or more prior minor offenses (7B-2510(f) & 7B-2508(g)).
- d. order that the juvenile be confined in a detention center for up to twice the term as authorized by 7B-2508.
- e. Activate any stayed commitment period to the detention center.

12.8 If a Juvenile Court Counselor wishes to extend probation, modify the conditions of probation, or alter the court's supervision over the juvenile in any way except to terminate probation, the court counselor must file a motion for review requesting such modification. The motion should contain the reason for such modification.

12.9 At the end of or at any time during probation, the court may terminate probation by written order upon finding that there is no further need for supervision. The order may be entered in chambers in the absence of the juvenile or at the election of the court with the juvenile present after notice and a hearing.

12.10 If no motion for violation of probation, motion to extend probation or a new petition is filed before the period of probation ends (one year initially and a one year extension), the period of probation ends one year or no more than two years from the entry of the order authorizing probation. A motion for violation of probation, and a motion to extend probation must be filed five days before expiration of probation except where good cause is shown for delay.

Rule 13 Procedure for Modifying Disposition.

The court has jurisdiction to modify its disposition order pursuant to 7B-2600.

13.1 Upon a motion in the cause or a petition, and after notice, the court may conduct a review hearing to determine whether the disposition order entered is in the best interests of the juvenile, and the court may modify or vacate the prior order in light of changes in circumstances or the needs of the juvenile.

13.2 A modification of a disposition order for a juvenile committed to the Office of Juvenile Justice for placement in a Youth Development Center is allowable under 7B-2601 if the juvenile is not suitable for their program.

Rule 14 Judicial Case Assignment for delinquency and undisciplined cases.

14.1 Judicial Case Assignment will occur at adjudication. Cases may be scheduled before any judge for preliminary hearings. At a review of secure custody hearing, if the juvenile has been assigned to a judge, the judge presiding may decide to continue the juvenile's secure custody to be reviewed by the assigned judge.

14.2 When the juvenile comes before the court for an initial hearing and:

- a. The juvenile is not assigned to a particular judge
 - 1). The presiding judge should schedule the matter within the statutory time deadline.
 - 2). Before the presiding judge or any other judge.
 - 3). That complies with statutory deadlines and local rules.
- b. The juvenile is assigned to a particular judge
 - 1). The presiding judge must complete the initial review of secure custody hearing.
 - 2). Schedule the matter for further hearings before the assigned judge, when no statutory deadline is being contravened.
- c. The juvenile is not in secure custody
 - 1). hearings are to be set before any presiding judge if the case is not assigned.
 - 2). Before the assigned judge if assigned to a particular juvenile court judge.
 - 3). In all cases the matter is to be scheduled within the

statutory time deadlines and in compliance with the local rules.

14.3 Once adjudication has occurred, any new petitions or motions filed, especially for violations of probation or protective supervision, should be scheduled in front of the assigned judge. The court counselor, the clerk of court and when appropriate the assistant district attorney must make every effort to coordinate the setting of cases before the proper judge.

14.4 If a subsequent petition is filed and a secure custody order results in the juvenile being placed in detention, the judge regularly scheduled in Juvenile court may hear the initial secure custody hearing. For all subsequent hearings, an effort should be made to have the case come as soon as possible before the assigned judge. The court counselor, the clerk of court and when appropriate the assistant district attorney must make every effort to coordinate the setting of cases before the proper judge.

14.5 If a juvenile is alleged to be in violation of House Arrest or ATD (alternatives to detention) and the juvenile is placed in secure custody.

a. The juvenile should have a video hearing to review secure custody in accordance with the Protocol For Video hearings.

b. In the city where the matter would be properly heard at the next available court date without regards to judicial assignment.

c. If the juvenile would be held beyond the statutory deadline for a review of secure custody the hearing may be held in either location within the 18th District Court Division.

Rule 15 Procedure for Providing Court Appointed Attorneys.

Court appointed attorneys for juveniles alleged to be delinquent or undisciplined shall be done pursuant to G.S. 7A-451 and 451.1.

15.1 When a new petition alleging delinquent behavior or a motion to an undisciplined juvenile to show cause why that juvenile should not be held in contempt is filed, the clerk of court will assign all such cases to the Guilford County Public Defender's office.

15.2 When more than one juvenile is alleged to be delinquent and the offense is part of a single or the same transaction the clerk of court shall prepare appointment orders for the Public Defender on one case and the remaining cases shall have orders of appointment prepared for private attorneys on the appointment list.

- a. The clerk of court will prepare appointment orders for the Juvenile Judge to sign. The juvenile judge shall sign all appointment orders at the next session of juvenile court.
- b. The clerk will notify the Public Defender or Private Attorney of the appointment and the need to be in court for the appropriate session of juvenile court.

15.3 Duties of an appointed attorney.

- a. An attorney is required to:
 - 1). represent the client through disposition.
 - 2). To discuss with the client the right to appeal, the entry of notice of appeal and the expiration of time for giving notice of appeal.
- b. Any attorney upon becoming aware of a conflict that would prevent that attorney from being able to represent the juvenile
 - 1). Must submit an application to the court to withdraw.
 - 2). The application must state the basis for withdrawal.
 - 3). The court may permit the attorney's withdrawal from the case upon a finding of good cause.
- c. The attorney shall represent the juvenile in all matters pending against the juvenile or in new matters filed against the juvenile before disposition is entered.
- d. Once disposition is entered, the attorney is relieved from representation. If new matters are filed after disposition the clerk of court will treat such new matters for appointment purposes as if no other attorney had been appointed previously.
- e. The court may appoint an attorney who is not next on the list for appointment purposes to represent a juvenile:
 - 1). If an attorney is unavailable, the attorney has a conflict or another attorney already represents the juvenile.
 - 2). If the interests of justice require that a specific attorney be appointed rather than the next available attorney.

15.4 Once disposition is entered, the case is close for appointment

purposes and for purpose of requesting payment.

- a. Continued Adjudication for more than 3 months is considered closed for appointment purposes and a fee sheet may be submitted.
- b. The clerk of court will re-appoint the same attorney for new matters filed until the case is no longer an active (open) case.
- c. The court may re-appoint the same attorney to represent the juvenile in new matters if the court determines that having the same attorney is in the juvenile's best interest.

15.5 Once a juvenile has been released from probation or the protective supervision of the court the case is closed. If new matters are filed then the clerk of court will treat such new matters for appointment purposes as if no other attorney had been appointed previously.

Rule 16 Procedures For Appeals and Appointment of Appellate Defenders.

16.1 Appeal may be made by the juvenile, the juvenile's parent, guardian, custodian or the state (7B-2604).

16.2 Notice of appeal shall be given in open court at the time of the hearing or in writing within 10 days after entry of the order.

16.3 When appeal is made the procedure shall be:

- a. the court shall appoint the Office of Appellate Defender to represent the person in the Appellate Division.
- b. the clerk of court shall immediately send to the Office of Appellate Defender;

- 1). A cope of the Judgment or Decree appealed from.
- 2). Any written appellate entries or rulings made by the court with respect to the appeal.

c. the Indigent Defender Service Office has the duty:

- 1). To assign an attorney to represent the person appealing.
- 2). To notify the attorney of the appointment.
- 3). To notify the person who their attorney is.
- 4). To notify the clerk of superior court of the appointment.
- 5). To request that the clerk of superior court transmit a copy of the complete file maintained by the clerk.

Rule 17 Fee Applications.

When to submit fee application forms in cases where an attorney is

appointed to represent a juvenile by the court.

17.1 The general rule in delinquency and undisciplined cases is to submit your application for payment after disposition is completed. Except under the following circumstances:

- 1). If the case is a continued adjudication for more than 3 months (91 days) submit your application for payment at the time the order for continued adjudication is entered.
- 2). If the case is continued with conditions for 3 months (90 days) or less, submit your application for payment at the time of the continued with conditions order is entered.
- 3). The number of hours worked to completely dispose of the case must be set out on the application for payment.

17.2 The general rule for multiple offenses adjudicate on the same day or filed within a reasonable time period of each other, is that the attorney submit the application as if for one offense.

- 1). If the fee paid for one of the offense is higher than others or multiple types of hearings are held you are to request the higher fee.
- 2). After a hearing is held and the court order a Continued adjudication review hearing or continue the review hearing with conditions this should be treated the same as a regular probation review hearing.

17.3 The general rule is that the hourly rate as established by the IDS Program should apply in all cases. If an attorney has had an unusually difficult time or it is a very serious case that involves spending an inordinate amount of time, the attorney should submit a fee application based upon your time and submit written justification for full payment. The Judge Presiding over the case may consider the request and may pay the hourly rate for the total hours submitted.

17.4 The general rule is that fee application should be turned in shortly after the event that justify the submission of the application. In no event should a fee application be submitted after six months of the event justifying the payment of the fee.

- a. In submitting an application for payment use AOC-CR-225, Revised 7/01. The proper version of the form only will be accepted for payment purposes.
- b. Type the appropriate fee according to hourly rate.
- c. Type the judge's name on the form.
- d. If the judge orders the parent to pay attorney's fee check

box "B" on the back of the form. Also fill in the names and address of the responsible persons and their Social Security numbers.

Rule 18 Enforcing Local Rules and Violations of Local Rules.

All parties should Comply with local rules and are subject to sanctions for violations.

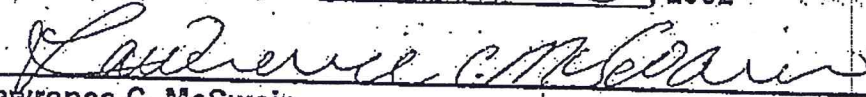
18.1 Rule 22 of the Superior and District Court Rules require all trial judges to observe and enforce the local rules of court in effect.

18.2 The court may through its contempt powers find anyone in contempt for willful or grossly negligently failing to comply with schedules and practices of the court resulting in substantial interference with the business of the court.

Rule 19 Effective Date

These Revised Local Rules supersede all previous Local Rules Governing Juvenile Court For Delinquent and Undisciplined Proceedings in the 18th District Court Judicial District. These Local Rules shall become effective as of their entry and shall apply to the processing and disposition of all new and pending cases on and after January 1, 2003.

This the 30th Day of December, 2002



Lawrence C. McSwain

Chief District Court Judge
18th District Court Judicial District