

NORTH CAROLINA
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
DISTRICT COURT DIVISION

IN THE MATTER OF PROMULGATING }
OR AMENDING A PLAN FOR }
FINGERPRINTING CRIMINAL }
DEFENDANTS AND REPORTING }
DISPOSITION OF CRIMINAL }
CHARGES FOR JUDICIAL DISTRICT 16B }

ORDER

THIS CAUSE, coming on to be heard and being heard before the undersigned Senior Resident Superior Court Judge of Judicial District 16B. After careful consideration of the matter of promulgating or amending a plan or rules for fingerprinting criminal defendants and reporting disposition of criminal charges, the court makes the following Findings and Conclusions:

1. Upon the arrest of a person, law enforcement officers have certain duties while processing such persons, pursuant to Article 23 (Police Processing Duties upon Arrest) of Chapter 15A of the General Statutes.

2. The Senior Resident Superior Court Judge has the duty and authority to adopt or amend a plan to implement the provisions of Article 86 (Reports of Dispositions of Criminal Cases) of Chapter 15A of the General Statutes.

Upon the foregoing Findings and Conclusions, IT IS NOW, THEREFORE, ORDERED:

01. The Local Rules for Fingerprinting Criminal Defendants and Reporting Disposition of Criminal Charges in Judicial District 16B, attached hereto and incorporated herein by reference, are hereby adopted as the official rules or policies relating to fingerprinting criminal defendants and reporting disposition of criminal charges in Judicial District 16B.

02. These rules supersede all prior such rules, policies, plans and customs and shall be effective on 1 January 2000.

03. Within ten (10) days of the entry hereof, the Judicial Assistant shall file this order, including the local rules, with the Clerk of Superior Court, and thereafter shall file the same with the Director of the State Bureau of Investigation.

04. A copy hereof shall be served by the Clerk upon the Sheriff, Judges, Chiefs of Police and Magistrates within Robeson County.

Fingerprinting Order
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ENTERED on this the ____ day of December 1999

THE HONORABLE DEXTER BROOKS
Senior Resident Superior Court Judge

**LOCAL RULES FOR FINGERPRINTING CRIMINAL DEFENDANTS AND
REPORTING DISPOSITION OF CRIMINAL CHARGES IN JUDICIAL
DISTRICT 16B**

Rule 1. Name.

These rules shall be known officially as the “Local Rules for Fingerprinting Criminal Defendants and Reporting Disposition of Criminal Charges in Judicial District 16B.” When clear from the context, the rules may be referred to as the “Local Rules for Fingerprinting and Reporting Criminal Dispositions” or the “Local Rules.”

Rule 2. Authority.

These rules are adopted under the express, implied and inherent authority of the Senior Resident Superior Court Judgeship, including Article 86 of Chapter 15A of the General Statutes.

Rule 3. Definitions.

- a) **Agency Arrest Number (OCA).** The number assigned by a law enforcement agency to each incident reported to the agency.
- b) **Arresting Agency.** The law enforcement agency that arrests a person suspected or accused of committing a criminal offense.
- c) **Check Digit Number (CKN).** The number assigned by the SBI to each set of fingerprint materials which are utilized in the fingerprinting process.
- d) **Computer Criminal History (CCH).** The information compiled by the SBI concerning the criminal record of an individual.
- e) **Court Docket Number.** The file number assigned by the Clerk of Superior Court to each separate criminal prosecution.
- f) **Disposition.** Any action which results in termination or indeterminate suspension of the prosecution of a criminal charge. A disposition may be any one of the actions specified in G.S. §15A-1381.

g) **Hate Crime.** An offense committed because of the victim's race, color, religion, nationality, or country of origin.

h) **Identifiable Misdemeanor Offense.** A misdemeanor, as set forth by the Administrative Office of the Courts (herein "AOC"), for offenses covered by the National Child Protection Act of 1993 (Public Law 103-209), including certain offenses against children, students, the handicapped, patients, and the elderly.

i) **Juvenile.** A person less than sixteen (16) years of age.

j) **Offense Jurisdiction.** The jurisdiction in which the criminal offense was committed.

k) **Originating Routing Identifier Number (ORI Number).** The number assigned by the SBI to each law enforcement agency. The number for the Robeson County Sheriff's Department is NC078000.

l) **State Identification Number.** The number assigned by the SBI to each person whose fingerprints are received by that agency.

Rule 4. Fingerprinting Not Permitted.

a) **Summons or Citation.** A person charged with a felony or misdemeanor through the use of a summons or citation shall not be photographed nor fingerprinted for law-enforcement records. See G.S. § 15A-502(a).

b) **Motor Vehicle Offenses.** A person charged with a Class 2 or 3 misdemeanor offense under Chapter 20 of the General Statutes ("Motor Vehicles") shall not be photographed nor fingerprinted for law-enforcement records. See G.S. § 15A-502(b).

c) **Juveniles.** A juvenile alleged to be delinquent shall not be photographed nor fingerprinted for law-enforcement records without first obtaining an appropriate court order. See G.S. § 15a-502(c).

d) **Evidentiary Use Exception.** This rule does not prevent the taking of photographs, moving pictures, video or sound recordings, fingerprints, or the like to show a condition of intoxication or for other legitimate evidentiary use. See G.S. § 15a-502(d).

Rule 5. Fingerprinting Required or Permitted.

a) **General.** A person charged with a felony or misdemeanor may not be photographed or fingerprinted for law-enforcement records unless the accused has been: 1) Arrested or

committed to a detention facility; 2) Convicted of a felony; or 3) Committed to imprisonment upon conviction of a crime. See G.S. § 15A-502(a).

b) **Misdemeanor Arrests.**

- 1) **Identifiable Misdemeanor Offenses.** Pursuant to the National Child Protection Act (NCPA) as amended by the Violent Crime Control and Law Enforcement Act of 1994 (Crime Control Act), the arresting agency shall cause a person 16 years of age or older charged with the commission of an identifiable misdemeanor offense to be fingerprinted. The arresting agency shall also cause a person 16 years of age or older charged with the commission of any misdemeanor hate crime to be fingerprinted.
- 2) **General Misdemeanors.** Except as expressly limited herein, the arresting agency has discretion whether to fingerprint defendants in other misdemeanor cases. Persons charged with DWI, Levels 1 through 5, may be fingerprinted and photographed. If fingerprints are taken and submitted to the SBI, the procedures set forth in these rules shall be followed. See Rule 4 above for limitations on fingerprinting.

c) **Felony Arrests.** The arresting agency shall cause a person 16 years of age or older charged with the commission of a felony to be fingerprinted. G.S. 15A-502. An agency may enter into an arrangement with another agency for the purpose of obtaining such fingerprints on its behalf, however, the procedures specified herein shall be followed.

d) **Felony Convictions.** If a convicted felon was not fingerprinted prior to the disposition of the case, his or her fingerprints shall be taken and submitted to the SBI along with the report of the disposition of the charges using the procedures specified in these rules. G.S. § 15A-1382(b); see also G.S. § 15A-502.

e) **Arrests Upon Grand Jury Indictments.** A defendant charged with a felony by an indictment issued by a grand jury, whose case was not originally initiated by a warrant or the original warrant was disposed of in district court, shall be fingerprinted by the Sheriff upon arrest for such charges. The charges should be recorded within the charge block on each fingerprint card as follows: “Grand Jury Indictment (the offenses).”

f) **Out-of-County Arrest Warrants.**

- 1) **General.** Except as otherwise provided in subsection(2) below, when an agency serves an out-of-county arrest warrant on an individual for a felony or other offense required by the originating county’s fingerprinting plan or rules to be fingerprinted, such agency should:
 - i. Fingerprint the subject on the SBI and FBI fingerprint cards bearing the originating county’s ORI Number and address.
 - ii. Complete the final disposition report bearing the originating county’s ORI Number and address.
 - iii. The charge should be recorded on the fingerprint card and final disposition report with the statement “Out-of-county warrant, the name

of the county issuing the warrant, and the charge.” Example : Out-of-County warrant from Wake County warrant from Wake County for breaking, entering and larceny.

- iv. Submit the fingerprint cards to the SBI as soon as possible.
- v. Attach the final disposition report to the original process charging the individual thereby allowing it to flow back to the originating county and its Clerk.

2) **Duplication.**

i. **Fingerprinting for Local Purposes.** If the originating county is to receive custody of the individual, routine fingerprinting for local purposes is not required or encouraged because it will result in duplication of arrest information in the CCH file. If such fingerprints are taken they should be for local record keeping purposes and not submitted to the SBI when the arresting agency completes the processing.

ii. **Pickup by Originating County’s Sheriff.** If the accused is promptly taken into custody by the originating county’s sheriff, then the accused need not be fingerprinted or photographed pursuant to these rules.

3) **Charges in Both Counties.** If an agency arrests a felon for another county, and the arresting agency is also charging this subject with a felony, the arresting agency is responsible for fingerprinting on two (2) separate sets of SBI and FBI fingerprint cards and disposition reports. The steps listed above should be followed on the out-of-county charge. The normal procedures should be followed on the arresting agency’s charge.

g) **Arrests For Another Agency Within The Same County.**

1) **Mandatory Procedure.** If an agency is serving a felony warrant or any warrant which requires fingerprinting under these rules for an offense jurisdiction, the following shall occur:

i. **Offense Jurisdiction Fingerprint Cards.** The subject shall be fingerprinted on the SBI and FBI fingerprint cards bearing the offense jurisdiction’s ORI number and address. This procedure is required regardless which agency does the actual fingerprinting.

ii. **Example.** A fingerprintable offense has been committed in Agency A’s jurisdiction. The suspect is apprehended by Agency B (in the same county) and transported to the county jail for fingerprinting. The suspect will be fingerprinted on fingerprint cards containing Agency A’s ORI number and address.

iii. **Example.** Agency A arrests an individual in their jurisdiction for an offense committed in their jurisdiction. They then transport the individual to the county jail or agency offering the fingerprinting service. Agency A should ensure that the individual is fingerprinted on fingerprint cards with Agency A’s ORI number and address.

iv. **Final Disposition Report.** The final disposition report shall bear the offense jurisdiction’s ORI number and address, and shall be attached to the original process charging the accused.

- 2) **Charges by Multiple Agencies.** If multiple agencies charge a subject, separate sets of fingerprint cards and disposition reports bearing each agency's ORI number and address shall be prepared and submitted.

h) **Inmate Arrests.** If a warrant is served on an inmate or other person in the custody of any penal institution for a felony charge and the arresting agency is unable to take custody of such inmate, then the District Attorney shall request that the Sheriff fingerprint the inmate at the first appearance before the court in this judicial district.

i) **Fugitive or Governor Warrants.** All subjects arrested or served with a Fugitive or Governor Warrant shall be fingerprinted. When such fingerprints are taken, it shall be recorded within the charge block on each fingerprint card as follows: "Fugitive/Governor Warrant and the Name of State".

j) **Juveniles.**

- 1) **Nontestimonial Identification Orders.** A request for a nontestimonial identification order, including fingerprinting, may be made prior to taking a juvenile into custody or after custody and prior to the adjudicatory hearing. G.S. §7A-597.
- 2) **Adjudication as Delinquent.** Upon adjudication of a juvenile as delinquent who was at least 10 years of age at the time the juvenile allegedly committed an offense that would be a Class A, B, C, D or E felony if committed by an adult, the court shall order the juvenile be fingerprinted and photographed using the same procedures as would be used for an adult. See G.S. §7A-603(a).
- 3) **Transfer to Superior Court.** When jurisdiction over a juvenile is transferred to superior court, the juvenile shall be treated as an adult for purposes of fingerprinting and photographing under these rules. See G.S. §7A-608.1.
- 4) **Fingerprint Cards.**
 - i) **Delinquent Juveniles.** The submission to the SBI shall include an SBI arrest fingerprint card without a CKN. The card shall indicate "Delinquent Juvenile" in the "Additional Information" block on the front of the card. A quality photograph of the juvenile and a copy of the court order requiring the fingerprinting and photographing shall also be submitted. The SBI arrest two-part fingerprint card package with the CKN should not be used. Nothing should be submitted to the Clerk of Superior Court.
 - ii) **Transfer to Superior Court.** It shall be plainly noted "Juvenile Bound over to Superior Court" on the fingerprint cards submitted to the SBI and the FBI.

Rule 6. Fingerprinting Procedures.

a) **Magistrate's Duties Upon Issuing Original Process.** Any magistrate issuing the original copy of the criminal process for any felony arrest, an identifiable misdemeanor offense, or hate crime shall clearly mark on the face of the original process that the defendant shall be fingerprinted.

b) **Fingerprint Documents.** When a person is fingerprinted a set of impressions shall be obtained on each of the following forms and the same name and charges shall be listed as on the original criminal process.

- 1) **Aliases.** If the name on the original process is not the true name or additional alias names are known, then these names should also be listed on all fingerprint documents, including the fingerprint cards of the SBI and FBI.
- 2) **Two-Part Fingerprint Card Package.** The two-part fingerprint card package, with the CKN, contains both the SBI Arrest Fingerprint Card and Final Disposition Report bound together.
- 3) **Impressions.** Roll fingerprint impressions as usual on both the SBI and FBI fingerprint cards. Include palm prints on the back of the SBI fingerprint card.
- 4) **Data and Information.** Complete all descriptive data and arrest information on both cards.
- 5) **Errors.** If an error is made on the Check-Digit SBI fingerprint card start over with a new two-part package destroying the set in error.
- 6) **Dates of Arrest.** If there is more than one (1) date of arrest, then the arrested individual must be fingerprinted on all three (3) documents for each separate date of arrest. Multiple charges maybe listed on one (1) card as long as there is only one (1) date of arrest.

c) **Submission of Fingerprint Cards.** The arresting agency or the agency fingerprinting the defendant shall complete the FBI and SBI fingerprint cards and forward them by First Class Mail or State Courier Service immediately to:

State Bureau of Investigation
Division of Criminal Information
3320 Old Garner Road
Raleigh, NC 27626-0500
Attention: Identification Section

d) **SBI Final Disposition Report:** The arresting agency or agency fingerprinting the defendant shall complete a Disposition Report Form for each arrest card. If an error is made on the Final Disposition Report, generally the error can be corrected on the form, however, if not use a blank form transposing the CKN from the SBI card to the upper right corner of the form. The information listed below shall correspond with both the SBI and FBI cards. Fingerprints are not required on this form.

- 1) Name of arresting agency and ORI Number;
- 2) Date of arrest;
- 3) Offenses charged (as listed on criminal process);

- 4) Defendant's full name (as listed on criminal process and alias names);
- 5) Defendant's date of birth;
- 6) Defendant's sex and race;
- 7) Defendant's social security number;
- 8) Agency arrest number (OCA);
- 9) Signature, title and date.

e) **Delivery of Report to Magistrate.** The arresting agency shall cause the Final Disposition Report to be stapled to the original copy of the criminal process charging the defendant. The booking officer shall transpose the unique CKN and Date of Arrest from the two-part fingerprint card onto each original copy of the criminal process charging the defendant and then deliver the process to the magistrate or Clerk.

f) **Rejected Felony Arrest Fingerprint Card.** If a fingerprint card for a felony charge is rejected by the SBI as illegible and returned, the arresting agency shall notify the District Attorney who should seek an appropriate court order to re-fingerprint the defendant. The original CKN and Date of Arrest should be used for this re-fingerprinting.

Rule 7. Magistrates to Confirm Compliance with Fingerprinting Requirements and Procedure.

a) **Felony Arrests.** Any magistrates receiving the original copy of the criminal arrest process for a felony charge shall confirm the defendant has been fingerprinted in accordance with the procedures in these rules. The magistrate shall confirm the CKN has been transposed to each original criminal process.

b) **Misdemeanor Arrests.** Any magistrate receiving the original copy of the criminal process for an identifiable misdemeanor offense shall confirm the defendant has been fingerprinted. Any magistrate receiving the original copy of the criminal process for other misdemeanor offenses shall ascertain from the arresting agency whether the defendant was fingerprinted. If the defendant was fingerprinted, the magistrate shall confirm the fingerprinting procedures in these rules were followed. The magistrate shall confirm the CKN and Date of Arrest have been transposed to each original process.

c) **Condition of Pretrial Release.** If fingerprint impressions have not been obtained prior to the arrestee being taken before a magistrate for a charge which requires fingerprinting, the magistrate is authorized to require the arrestee to submit to fingerprinting as a condition of pretrial release.

d) **Arrests Without Warrant.** If an arrest is made without a warrant and the magistrate finds probable cause, the normal fingerprinting procedure shall be followed. If an arrest is made without a warrant and the magistrate finds no probable cause, the arrestee shall be released without being fingerprinted. If fingerprint impressions have been taken, the prints shall not be forwarded to the SBI and the Final Disposition shall not be sent to the Clerk.

e) **Noncompliance.** If the magistrate determines the arresting agency has not complied with the fingerprint procedures of these rules, the magistrate shall immediately notify the Senior Resident Superior Court Judge who may issue a Show Cause Order against the arresting agency.

Rule 8. Reporting Disposition of Criminal Cases.

a) **Requirements of Disposition Reporting:** Dispositions of criminal cases, as defined in G.S. 15A-1381, for all felony charges, identifiable misdemeanor offenses, hate crimes, or other misdemeanor charges fingerprinted by the arresting agency, shall promptly be reported to the SBI by the Clerk, but in no event later than thirty (30) days after the date of disposition.

b) **Submission of Final Disposition Data.** The Clerk shall be responsible for entering the CKN and Date of Arrest into the AOC computer file when receiving the original process charging the defendant requiring reporting of the final disposition to the SBI as fingerprints were taken. The appropriate information regarding the final disposition of the case shall be reported to the SBI through the AOC computer file or in a manner approved by the SBI.

c) **Confirming Receipt and Submission of Disposition Reporting.**

- 1) **Duty of Clerk.** The Clerk receiving the original copy of the criminal process for a felony charge, an identifiable misdemeanor offense, hate crime, or misdemeanor charges fingerprinted by the arresting agency shall confirm the defendant has been fingerprinted and the SBI Disposition Report Form is attached and/or the CKN and Date of Arrest appears on the criminal process.
 - i. If the CKN does not appear on the criminal process, the Clerk shall transpose the CKN and Date of Arrest to the original process.
 - ii. The Clerk may make a notation on the court jacket that Disposition Report Form was received and it was completed and submitted to the SBI.
- 2) **Duty of District Attorney.** If the defendant has not been fingerprinted, or the SBI Disposition Report Form is not attached, or the CKN and Date of Arrest does not appear on the original process, the Clerk shall notify the District Attorney who shall:
 - i. Seek a court order requiring the defendants to be fingerprinted, or ask the arresting agency to provide the SBI Disposition Form or the CKN and Date of Arrest.
 - ii. Enter the code for the subject not fingerprinted into the AOC computer so a message will be printed on the court calendar that the subject needs to be fingerprinted when they appear in court.

d) **Appealed Cases.**

- 1) **Appeal to Superior Court.** If a defendant appeals his conviction in District Court to Superior Court, the final disposition shall not be reported until the case is disposed of in Superior Court or the defendant withdraws the appeal.

- 2) **Appeal to Appellate Division.** If a case is appealed to the Appellate Division it shall be reported to the SBI "Case Appealed to Appellate Division". When the opinion is received from Appellate Court the date of opinion and decision shall be reported.
 - 3) **Relief Granted Upon Appeal.** If judgment is modified or a new trial granted by Appellate Court it shall be reported to the SBI. After further proceedings in accordance with the mandate of the Appellate Court, the final disposition shall be reported to the SBI.
- e) **Consolidated Cases.**
- 1) **Same Date of Arrest.** When a Court Docket Number has been consolidated with another Court Docket Number with the same Date of Arrest.
 - i. Each charge and Docket Number should be listed.
 - ii. Specify that all charges were consolidated for one judgment.
 - iii. Record the final disposition (judgment) on one of the dispositions.
 - 2) **Different Date of Arrest.** If a Court Docket Number has been consolidated with a different Date of Arrest it should be handled the same as above, except a copy of the judgment of the consolidated cases should be attached to each final disposition report.

Rule 9. Reporting of Incarceration Information.

a) **Requirements of Incarceration Reporting.** The Department of Correction (herein "DOC") shall be responsible for furnishing the SBI with information concerning the receipt, escape, execution, death, release, pardon, parole, or discharge of individuals who have been sentenced to the DOC's custody for any offenses which are mandated by statute to be collected and maintained by the SBI.

- b) **Submission of Incarceration Data.**
- 1) **General.** The DOC shall provide all incarceration record information to the SBI on the forms provided by the SBI or any other method agreed to by the two agencies. Information on new admissions to prison shall be furnished along with fingerprints taken of the prisoner during his or her processing as a new inmate. Upon receipt of fingerprints the SBI shall transmit to the DOC the State Identification Number for that prisoner. All subsequent records forwarded to the SBI for the offender will include the State Identification Number.
 - 2) **Submission.** The DOC shall promptly submit all incarceration record information but in no event later than thirty (30) days after the date action was taken. When the required forms are completed, the DOC shall send them by First Class Mail, or State Courier, or in a manner approved by the SBI, to:

State Bureau of Investigation
Division of Criminal Information

3320 Old Garner Road
Raleigh, NC 27626-0500
Attention: Identification Section

Rule 10. Local Records.

These rules do not prohibit a law enforcement agency from lawfully procuring fingerprint impressions for its files or for investigation and evidentiary purposes. Nothing in these rules shall prohibit any municipal or county law enforcement agency or Clerk from compiling case disposition information for any lawful purpose and their own use.

Rule 11. Approved Forms.

a) **General.** The forms identified below and attached hereto are approved for use in this judicial district. The forms, or a substantial equivalent, shall be used in the particular circumstances addressed by the form.

- b) **Forms.**
- 1) Order Requiring Fingerprinting.

Rule 12. Failure to Comply With These Rules.

Any person failing to comply with these rules, or failing to carry out a duty or responsibility under these rules shall be punishable under the contempt power of the court.

Rule 13. Amendments.

These rules may be modified, altered or otherwise amended by the Senior Resident Superior Court Judge, by filing a copy of the amendment with the Clerk, and then with the Director of the SBI, within ten (10) days following its entry.

Rule 14. Effective Date.

These rules shall be effective on 1 January 2000.