

Procedure in Juvenile Homicide Cases

How does a case proceed when a juvenile is charged with a homicide offense? In classic lawyer fashion, the answer is that it depends. In almost all instances, the case will begin as a juvenile matter. However, the path the case follows once the juvenile case begins, and whether the case is ultimately adjudicated as a juvenile matter or prosecuted as a criminal matter, depends on the age of the juvenile at the time of the offense and the specific offense charged.

Nearly all Cases Begin as Juvenile Matters

The general rule in North Carolina since implementation of the Juvenile Justice Reinvestment Act in 2019 is that all offenses committed under age 18 are under original juvenile jurisdiction. Therefore, in general, most homicide offenses alleged to have been committed under the age of 18 begin as juvenile matters.

There are two exceptions to this general rule.

1. Any case in which a youth is charged with death by vehicle (felony or misdemeanor) at age 16 or 17 is a criminal matter from its inception. This is because death by vehicle is an offense contained in Chapter 20 of the General Statutes and all Chapter 20 offenses alleged to have been committed at ages 16 and 17 begin and end as criminal matters. They are never subject to juvenile jurisdiction. G.S. 7B-1501(7)b.
2. If the juvenile has a previous criminal conviction (for any offense other than a misdemeanor, non-DWI, motor vehicle offense) and is charged with committing a new offense after that conviction occurs, the juvenile is never again given the benefit of juvenile jurisdiction. G.S. 7B-1604(b). The new offense will be a criminal matter from its inception.

These exceptions to original juvenile jurisdiction are not common. Therefore, most cases in which a juvenile is charged with a homicide offense begin as juvenile matters. The rest of this post addresses the law that governs how a homicide case proceeds when it begins as a juvenile matter.

Juvenile Law that Applies to All Petitions Alleging a Homicide Offense

The provisions of the Juvenile Code apply to the case as long as it is under juvenile jurisdiction. This includes how the case is initiated, legal authority and procedure to hold the juvenile in secure custody, and confidentiality of juvenile records.

Case Initiation

Every delinquency matter begins with the filing of a complaint with the juvenile court counselor. G.S. 7B-1803. The court case begins when the juvenile court counselor authorizes filing of the complaint as a petition and the petition is filed. G.S. 7B-1804. The clerk then generates a summons

(G.S. 7B-1805) and the petition and the summons are served on the juvenile and the juvenile's parent, guardian, or custodian. G.S. 7B-1806. All matters in which a felony is alleged then proceed to a first appearance in district court. G.S. 7B-1808. The first appearance must occur within ten days of the filing of the petition unless the juvenile is in secure custody. See below for the timeline when the juvenile is in secure custody.

Secure Custody

When a juvenile is confined in a secure facility while juvenile charges are pending, they are held in a juvenile detention facility pursuant to a secure custody order. Juveniles can be ordered into secure custody when there is a reasonable factual basis to believe that the juvenile committed the offense alleged in the petition and they meet any of the criteria for secure custody delineated in G.S. 7B-1903. One of those criteria is that the juvenile is charged with a felony and has demonstrated that they are a danger to property or persons. G.S. 7B-1903(b)(1). A juvenile charged with a homicide offense is therefore likely to be eligible for secure custody. An initial secure custody order can be issued by a district court judge or, if there is an applicable local administrative order, by the chief court counselor or their staff. G.S. 7B-1902.

The Juvenile Code requires ongoing hearings on the need for continued secure custody according to a specific timeline because there is no bail in the juvenile system. G.S. 7B-1906. A juvenile can only be released from secure custody as a result of a court order. The first secure custody hearing must occur within five calendar days of the initial remand to secure custody or, if the initial remand was issued by a court counselor, on the next regularly scheduled day of district court if that date is sooner than five calendar days. G.S. 7B-1906(a). If the juvenile is remanded to secure custody, the first appearance must occur during their first secure custody hearing.

Confidentiality of Juvenile Records

Every juvenile matter is governed by the confidentiality law contained in the Juvenile Code. There are three specific confidentiality statutes regarding juvenile records. Each of them prohibits public inspection of the covered juvenile records. They each also provide a short list of people, unique to each statute, who can access the relevant records without a court order. Anyone wishing to access the records and who is not delineated in the statute can only access the records via a court order authorizing their access. The statutes are

1. S. 7B-3000, covering juvenile court records, including the summons and petition, any secure or nonsecure custody order, any electronic or mechanical recording of hearings, and any written motions, orders, or papers filed in the proceeding.
2. S. 7B-3001(b), covering all law enforcement records and files concerning a juvenile.
3. S. 7B-3001(c), covering all records and files maintained by the Division of Juvenile Justice pursuant to the Juvenile Code.

Transfer of Cases to Superior Court for Criminal Prosecution

While all juvenile homicide cases begin under juvenile jurisdiction (unless they meet one of the narrow exceptions outlined at the beginning of this post), they often end as criminal prosecutions. The Juvenile Code has different provisions for the movement of cases from juvenile jurisdiction to criminal jurisdiction. This process is known as transfer. Transfer is required in some juvenile homicide cases and it is discretionary in others. As described in detail below, the transfer procedure that applies in a juvenile homicide case depends on the age of the youth at the time of the offense and the specific homicide offense that is charged.

No Transfer for Offenses Under the Age of 13

There is no statutory authority to transfer any juvenile case to superior court for criminal prosecution when the juvenile was under the age of 13 at the time of the alleged offense. Any such case must be handled as a juvenile matter. The provisions of the Juvenile Code will therefore apply throughout the life of the case.

First-Degree Murder at Ages 13, 14, or 15

When a juvenile is charged with committing first-degree murder at age 13, 14, or 15, the juvenile is entitled to a probable cause hearing in juvenile court. G.S. 7B-2202. That hearing must occur within fifteen days of the first appearance in the case, unless the court finds good cause to continue the hearing. If the juvenile court finds probable cause that the juvenile committed first-degree murder (a Class A felony), the case must then be transferred to superior court for criminal prosecution. G.S. 7B-2200. Once the case is transferred, it is a criminal matter and the Juvenile Code no longer applies.

Other Felony Homicide Offenses at Ages 13, 14, and 15

There are several different felony charges for homicide offenses other than first-degree murder. They include second-degree murder, voluntary manslaughter, involuntary manslaughter, and felony death by vehicle. The felony classification for these offenses ranges from a B1 felony to an F felony. All felony offenses committed at age 13, 14, or 15, other than Class A felonies, can be transferred to superior court for criminal processing under a discretionary transfer process. Therefore, cases in which these other homicide offenses are charged can be transferred for criminal prosecution, but their transfer is not mandatory.

The discretionary transfer process begins with a probable cause hearing in juvenile court. G.S. 7B-2202. If the court finds probable cause for the homicide offense, the question of transfer is only considered if there is a motion to transfer the case. That motion can be made by the prosecutor, the juvenile's attorney, or the court itself. G.S. 7B-2202(e).

If a motion to transfer the case is made, then the court must hold a transfer hearing. G.S. 7B-2203. The prosecutor and the juvenile's attorney can be heard and offer evidence at the transfer hearing. The court must decide whether the protection of the public and the needs of the juvenile will be served by transfer of the case to superior court. The court is required to consider each of the following factors in making that determination:

1. the age of the juvenile;
2. the maturity of the juvenile;
3. the intellectual functioning of the juvenile;
4. the prior record of the juvenile;
5. prior attempts to rehabilitate the juvenile;
6. facilities or programs available to the court prior to the expiration of the court's juvenile jurisdiction and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts;
7. whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; and
8. the seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult. G.S. 7B-2203(b).

If the court determines that the case should be transferred, then it orders transfer and the case becomes a criminal matter under the jurisdiction of the superior court. If the court determines that the case should not be transferred, the case proceeds to adjudication as a juvenile matter.

First- and Second-Degree Murder at Ages 16 and 17

Cases that allege first- or second-degree murder committed when the juvenile was age 16 or 17 are mandatory transfer cases. The mandatory transfer of these cases can be triggered either by

1. a finding of probable cause on the homicide offense or
2. the return of an indictment alleging the homicide offense. G.S. 7B-2200.5(a).

The prosecutor can choose which method to use to trigger the transfer. A probable cause hearing in these cases is required to occur within 90 days of the first appearance and can be continued for good cause. G.S. 7B-2200.5(c). If the prosecutor chooses to trigger the transfer through the return of an indictment, that must occur before any probable cause hearing is held. Once there is either a finding of probable cause on the homicide offense or an indictment alleging the homicide offense is returned, the juvenile court must order the case transferred to superior court for criminal prosecution. The case then becomes a criminal matter.

Manslaughter at ages 16 and 17

Charges of voluntary manslaughter (a Class D felony) and involuntary manslaughter (a Class F

felony) alleged to have occurred at ages 16 or 17 are subject to the same mandatory transfer structure described immediately above for first- and second-degree murder charges at those same ages. However, the prosecutor has the discretion not to trigger the mandatory transfer in these cases. G.S. 7B-2200.5(a1). If the prosecutor declines to transfer the case, then it proceeds to adjudication as a juvenile matter. If the prosecutor does not decline to transfer the case, then the case must be transferred following either a finding of probable cause on the manslaughter charge or when an indictment is returned alleging the manslaughter charge, as described above. Once transfer is ordered the case becomes a criminal matter.

So, it Depends

Two key takeaways are:

1. the critical questions to ask when thinking about how a homicide case involving a juvenile will proceed are 1) how old was the juvenile at the time of the offense and 2) what specific homicide offense is charged; and
2. the Juvenile Code applies as long as the case is under the jurisdiction of the juvenile court.

Feel free to reach out to me at greenes@sog.unc.edu with any comments or questions.