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Inspection Report

2023 Inspection of Law Enforcement Agencies Regarding the Temporary Secure Detention of Minors

The Juvenile Justice Commission of Santa Clara County (JJC) has completed its annual inspection of each of the four Law Enforcement Agencies (LEAs) in Santa Clara County (SCC) that reported to the California Board of State and Community Corrections (BSCC) that, at any point during the 2022 calendar year, it had held a minor in secure detention in a facility that contains a lockup for adults. The JJC also investigated whether the San Jose Police Department complies with BSCC regulations regarding the secure detention of minors. This report describes the JJC's inspection findings for these five LEAs.

Commendations

As with past years, the JJC would like to thank all five LEAs that the JJC inspected for their cooperation and support in completing these inspections. All LEA staff accompanying the JJC Commissioners during the inspections were courteous, helpful, and forthcoming in their responses to Commissioners' questions.

Overall, the JJC found that all LEAs were clean, well-organized, professional, and had written policies relating to the detention of juveniles that are consistent with the Facilities Standards issued by the BSCC.

Recommendations

The JJC recommends:

1. As with the 2021 calendar-year-report, the Milpitas Police Department comply with BSCC regulations regarding the detention of a youth greater than six hours. If the Department is faced with the possibility that a youth will be held longer than six hours, the Department must obtain approval from BSCC.
2. As with the 2021 calendar-year-report, the Milpitas Police Department explore alternative methods of restraining youth in case of overflow that satisfy W&I Code § 207.1(b).
3. The San Jose Police Department comply with 15 C.C.R. § 1150 by keeping and enforcing accurate detention logs detailing the time of entry and release for detained

youth.

4. As with the 2021 calendar-year-report, the San Jose Police Department post signage detailing a youth’s rights while detained in language representative of San Jose’s population.

I. Introduction

Pursuant to Welfare and Institutions (W&I) Code 209(b), a judge of the Juvenile Court or a delegated member of the local juvenile justice commission is required to inspect each law enforcement facility that “contains a lockup for adults, which, in the preceding year, was used for the secure detention of any minor.” Rule 3.B. of the Juvenile Rules of the Superior Court in Santa Clara County delegates this responsibility to the JJC and requires that the results of each inspection shall be presented in writing to the Presiding Judge of the Juvenile Court during the calendar year.

The BSCC sent a letter dated August 11, 2023 to the Presiding Juvenile Court Judge and the Chairperson of the JJC detailing the Welfare and Institutions Code’s annual inspection requirements. Included in this letter was the following list of LEAs in Santa Clara County that either: (1) reported securely detained a youth in a facility that contains a lockup for adults; or (2) failed to report detention data to the BSCC in the 2022 calendar year. According to the BSCC, the Bay Area Rapid Transit (BART) Berryessa Station department did not report any detention data, and eight departments — Campbell, Gilroy, Los Altos, Palo Alto, San Jose, Santa Clara, San Jose State University, and Sunnyvale — reported less than 12 months of data.

The Commission contacted the Chief of Police for each of these nine agencies that failed to report monthly detention data. Each Chief then forwarded the missing detention records to the JJC and the BSCC. Based on the JJC’s review of these records, none of the nine agencies reported securely holding a youth during the 2022 calendar year.

Calendar Year 2022 – Secure Detention of Minors in Lockup

Agency	Secure Detention
BART Police Dept. (Berryessa Station)	0*
Campbell Police Dept.	2
Gilroy Police Dept.	0*
Los Altos Police Dept.	0*
Milpitas Police Dept.	3
Milpitas Police Dept. (Great Mall)	2
Morgan Hill Police Dept.	7
Palo Alto Police Dept.	0*

Agency	Secure Detention
San Jose Police Dept.	0*
Santa Clara Police Dept. (El Camino Real)	0*
Santa Clara Police Dept. (Levi's Stadium)	0*
San Jose State University Police Dept.	0*
Sunnyvale Police Dept.	2
Total:	13

*The JJC verified that these agencies did not report a secure detention by reviewing the agencies' detention logs.

II. Legal Requirements for Secure Detention of Youth

Under W&I Code 207.1(b)(1), a peace officer who has taken temporary custody of a youth may hold that youth in secure detention if the youth is at least 14 years old and the peace officer reasonably believes the youth “presents a serious security risk of harm to self or others.” The BSCC has issued regulations that further detail the restrictions that the W&I Code places on LEAs holding youth in secure detention. BSCC regulations list five factors that individual peace officers may consider when determining whether the youth presents such a risk.¹

A youth is considered to be in “secure detention” if locked in a room or other secure enclosure, secured to a cuffing rail or other stationary object, or otherwise restrained to prevent escape and protect the minor and others from harm.² When youth are in secure detention within a locked enclosure, LEAs must provide them with “adequate supervision,” including, at a minimum, constant auditory access to the youth as well as documented safety checks at least once every 30 minutes.³ When youth are in secure detention outside of a locked enclosures, LEAs must lock them to a stationary object and provide constant visual observation of the youth. LEAs may not secure youth to a stationary object for more than an hour unless a supervisor at the LEA makes a documented determination that doing so is in the best interest of the youth.⁴ When an LEA holds a youth in secure detention, the LEA must also maintain a log that lists the offense, the reason for placing the minor in secure detention, and the length of time the youth was detained.⁵

A youth may be held temporarily in secure custody in order to investigate the case, arrange for

¹ See 15 C.C.R. § 1145.

² See 15 C.C.R. § 1146.

³ 15 C.C.R. § 1147.

⁴ 15 C.C.R. § 1148.

⁵ W&I Code § 207.1(b)(1)(F).

release to a parent or guardian, or transport to Juvenile Hall.⁶ No LEA may detain a youth for longer than six hours unless the LEA seeks, and the BSCC itself grants, an extension of that time on an individual, case-by-case basis on grounds of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, in which case the LEA must report the duration and circumstances of the extension.⁷

LEAs must also make sure that juveniles are informed of the purpose of the secure detention, the length of time the detention is expected to last, the six-hour time limit,⁸ along with the services, snacks, and items to which they are entitled.⁹

The BSCC is clear that juveniles in secure detention must be:

1. Always separated from adults confined in the facility.
2. Adequately supervised.
3. Provided with a snack, water, blankets, toilet facilities, language and disabilities services, feminine hygiene products, and privacy for consultation with family, guardians, and lawyers.
4. Subject to visual safety checks every 30 minutes or constant visual inspection, depending on the method of detention.
5. Separated from juveniles of different genders, unless under constant direct visual observation.
6. If intoxicated, subjected to safety checks every 15 minutes until release or resolution of intoxication, and subjected to medical clearance pursuant to written procedures developed by the detention facility.

III. Inspection Process

The JJC developed an inspection questionnaire form that all visiting Commissioners used in the inspection process. This form was originally based on the “Inspection Handbook for Minors Detained in Adult Facilities,” May 2000, published by the Board of Corrections Facilities Standards and Operations Division. The handbook outlined the BSCC’s minimum jail standards described above for minors who are detained in adult facilities. In 2013, the JJC revised and updated its questionnaire form following the publication of a new BSCC handbook titled “Minors in Detention: Federal and State Requirements.”¹⁰

The purpose of Commission’s annual inspections is to determine whether LEAs protected the safety and well-being of the juveniles while in secure custody. Prior to the actual inspections,

⁶ W&I Code § 207.1(b)(1)(A).

⁷ W&I Code § 207.1(b)(1)(B), (d)(1).

⁸ W&I Code § 207.1(b)(1)(C).

⁹ 15 C.C.R. § 1143(b).

¹⁰ BSCC, “Minors in Detention: Federal and State Requirements” (January 2013), https://www.bscc.ca.gov/wp-content/uploads/Minors_in_Detention_Training_Video_Companion_Workbook_2013_01.pdf.

the Commissioners viewed the 2013 BSCC video “Minors in Detention V2,” which describes the Title 15 standards for law enforcement agencies.¹¹ Commissioners also encouraged LEAs to view the video.

In May of 2023, the JJC sent emails to all the Chiefs of the LEAs listed in the BSCC letter that either: (1) held a minor in temporary secure detention in a facility containing an adult lockup in Santa Clara County, or (2) failed to report detention data to the BSCC.

For each of these nine agencies that failed to report monthly detention data, the JJC requested that the Chief of Police forward the missing detention records to the JJC and the BSCC.

In teams of two or three, the Commissioners conducted the inspection of these LEAs’ holding areas during June, July, August, and September of 2023. Prior to the issuance of this report, the LEAs were given an opportunity to review the report and provide any factual corrections or clarifications. The findings incorporate the LEAs’ responses.

IV. Findings

The JJC found that all LEAs, except for the Milpitas and San Jose Police Department, followed state regulations in 2022.

Overall, the Commissioners found that most LEAs efficiently processed juveniles. Depending on the seriousness of the offense, most agencies preferred to either release the juvenile as soon as possible to a parent or responsible adult or transfer the minor to Juvenile Hall for processing. In all the LEAs that were inspected, law enforcement staff assured the Commissioners that precautions are taken to ensure minors are not exposed to adults. Depending on the seriousness of the symptoms of intoxication or being under the influence of a drug or alcohol, law enforcement agencies transferred the youth to a hospital for immediate medical attention.

Based on the JJC’s review of the records submitted by the nine agencies that failed to report monthly detention data, no delinquent agencies reported securely holding a youth during the 2022 calendar year.

All agencies had a Policy and Procedures Manual specifically designed for juveniles. The law enforcement agencies were informative, professional, and generally knowledgeable on policies and procedures. Below are specific findings for the individual LEAs inspected:

i. Campbell Police Department:

Two youth were held in secure detention by the Campbell Police Department in 2022. Neither youth was detained for greater than six hours. Both detentions were recorded on paper.

Intoxicated youth are taken to the local hospital to be medically cleared. If not taken home from the hospital by their guardians or sent to Juvenile Hall, they are returned to the Campbell facility until picked up by their guardians. The youth’s rights, as detailed by W&I Code 207.1(b)(1)(c), are

¹¹ BSCC, (@BSCCofCalifornia), YouTube, *Minors in Detention V2* (Mar. 26, 2013), https://youtu.be/8_-_dvolzuw.

posted in English and Spanish.

ii. Milpitas Police Department:

The inspection of the Milpitas department was split between two facilities: the main Milpitas department headquarters, and the satellite office in the Great Mall.

Over the course of the 2022 calendar year, the Milpitas Policy Department held five youth in secure detention: three at Headquarters and two youth in the Great Mall office. One youth was held for more than six hours while in non-secure detention at the main Milpitas office.¹² No youth were held in non-secure detention for greater than six hours in the Great Mall Annex. Both the Headquarter detentions and Great Mall detentions were recorded on paper.

In the 2021 calendar year report, the Commission recommended that the Milpitas Police Department post signage detailing the rights of youth in custody. Based on the 2022 calendar year inspection, the JJC commends MPD for posting signs outlining “Minor’s Rights” in easily visible and simple language, with translations in English, Spanish, and Vietnamese.

When youth are brought to the Department headquarters for secure detention, they are photographed and fingerprinted in the reception area located next to the Department’s public lobby on the first floor and then transported to detention cells located in the basement garage.

In February 2022, a youth was detained to allow for SJPD detectives to travel to the Headquarters facility. This resulted in a detention greater than six hours. During the detention, parents were contacted, and a meal was provided. The parents refused to pick-up the minor, and the youth was transported to Juvenile Hall eight hours after the initial arrest.

As discussed in section II of this report, state law enumerates the specific exceptions that allow for LEAs to detain a youth for greater than six hours.¹³ Regardless of circumstance, agencies must contact the Board of State and Community Corrections and receive approval to hold a youth for greater than six hours. The Commission found no evidence that the BSCC approved an extension for the youth to be detained for greater than six hours, and it does not appear to the JJC that the BSCC would have had any grounds to do so.

The Commission recognizes, however, that the detention occurred after the JJC’s 2021 calendar year inspection. Due to the staggered nature of the Commission’s inspections and the release of the report, departments are unable to implement detention recommendations until the following calendar year. Commissioners spoke with the Sergeant in charge of the inspection. Based on the 2021 calendar year report, and the expected duration of detention and the six-hour limit are now included in the orientation given to youth. Additionally, officers assigned to general duties are now required to review the Corrections Standard Authority’s video every six months to account for changes in roles and personnel. The JJC commends the detention Sergeant for incorporating this requirement in officer training.

¹² The original scope of the Commission’s inspection was to determine whether the Milpitas Police Department adhered to applicable regulations governing the secure detention of minors. Nevertheless, under W&I Code § 229, the Commission has the authority to inquire into the administration of all institutions located within Santa Clara County, which the Commission exercises when determining that the department violated the BSCC’s non-secure detention regulations.

¹³ W&I Code § 207.1(b)(1)(B), (d)(1).

The JJC continues to recommend that the Milpitas Police Department adheres to state law regarding the detention of youth over six hours. If the Department is faced with the possibility that a youth will be held longer than six hours, the Department must obtain approval from BSCC.

Youth are detained in holding cells in the basement garage. In case of overflow, the department places youth on a moveable chair. Handcuffs were attached to the arm of the chair. In the case of secure detention, the Milpitas police department should place the youth in a locked detention room or handcuffed to a secure, non-moveable object. In its report last year, the JJC recommended that the department considers alternative methods of restraining youth in lieu of the moveable chair, as it does not fulfill the requirements of secure detention. The JJC's inspection in June of 2023 indicates that the Milpitas department may nonetheless still be securing youth to the moveable chair. Since the moveable chair is not a stationary object, the Commission again recommends that the department identify and employ alternative methods to restraining youth that satisfy W&I Code § 207.1(b).

iii. Morgan Hill Police Department:

Seven youth were held in secure detention by the Morgan Hill Police Department in 2022. Detentions were recorded on paper.

Youth in secure detention are constantly monitored, with documented checks every 30 minutes.

During this year's inspection the JJC learned that the department reported having subjected a youth to secure detention for just one minute shy of the 6-hour time limit. Though a 5-hour-and-59-minute secure detention satisfies the statutory length limitation, it indicates to the Commission the concerning potential that Morgan Hill is securely detaining youth for more than six hours. If the Department is faced with the possibility that a youth will be held longer than six hours, the Department must obtain approval from BSCC. The JJC recommends that all Morgan Hill officers review the BSCC video "Minors in Detention V2," which outlines the rules and procedures for youth detention.

During the inspection, the Commission noted that it is possible for adults and youth to interact while transporting youth throughout the station. The Commission recommends that the Department develops procedures to prevent any contact between detained adults and youth, including the times in which a youth is being transported in the station.

Intoxicated youth are taken to the local hospital to be medically cleared. The youth's rights are posted in English and Spanish.

iv. San Jose Police Department:

In 2022, the Commission determined that the San Jose Police Department (SJPD) was not in compliance with state law, and it issued a series of recommendations to help SJPD align with applicable law. Even though SJPD did not hold any youth in secure detention in 2022, the Commission returned to inspect the SJPD department in August 2023.

In its report last year, the Commission recommended that SJPD post signage detailing a youth's rights while securely detained, and that it do so in language representative of San Jose's population. This year, the Commission found that SJPD had posted a sign, but only in English. Accordingly, the Commission finds that SJPD has not followed the Commission's recommendation.

Last year, the Commission noted that the path to leave the building for the non-secure youth led into the parking area surrounded by a high fence and locked gates. A non-secure youth did not have direct access to the street. As such, the facility did not meet the standard for non-secure detention. This year, the department reported that they have since unlocked the gates. The department's facilities, therefore, met the standard for non-secure detention. After the BSCC conducted an inspection at SJPD's request, the BSCC designated SJPD a non-secure detention facility.

In the Commission's last two inspections, SJPD reported that if a youth was "slightly intoxicated," they may be transported to the "Alcohol Investigation Bureau." This year the JJC learned that the Bureau is not affiliated with SJPD and is, instead, run by the Santa Clara County Sheriff's Office. Before this year, the Commission had understood the Bureau to be a part of SJPD, and the Commission's reports stated as much. The SJPD did not correct this error. The Commission expects SJPD — and all LEAs — to review the Commission's draft reports more carefully in the future.

The Commission further finds that the San Jose Police Department is not compliant with state documentation requirements for both secure and non-secure detentions.¹⁴ As with other agencies, when an officer returns to the Department with a detained juvenile, the officer completes a pre-processing form, which details visual checks and follow-up phone calls made by police. SJPD further keeps paper detention logs that serve as records of the time the youth was in detention. In comparing the pre-processing forms and the logs, the Commission found that not all pre-processed youth were reported in the department detention logs. At the time of the inspection, three months of logs were missing and were later located in another area of the Department. The logs also did not record the release time, the reason for the release, a record of direct observation of youth, and to whom the youth was released.¹⁵

15 C.C.R. § 1150 requires that departments record the exact time of entry and release for all non-secured youth. Accordingly, the Commission finds that SJPD's failure to record the release time of non-secured youth violates state law. As stated above, W&I Code § 207.1(b)(1)(B) and (d)(1) require that no youth be detained for greater than six hours, unless otherwise approved by the BSCC. Without properly maintained detention logs, the Commission is unable to confirm that the department did not detain a youth for greater than six hours.

In 2022, the JJC recommend that SJPD update their logbooks to reflect state documentation requirements. The Commission found no evidence that SJPD completed these recommendations. The JJC additionally recommended that SJPD consider replacing their logs with the standard BSCC form used by other agencies, as it collects all information required by state regulations.

The JJC continues to recommend that the Department adhere to state documentation requirements. Upon discovering that the Department did not comply with its 15 C.C.R. § 1150 documentation obligations, the inspecting Commissioners promptly informed the touring officer of the Department's violation, as required by W&I Code § 209(b)(1) and (b)(2).

v. Sunnyvale:

Two youth were held in secure detention by the Sunnyvale Department in 2022. Detentions were

¹⁴ 15 C.C.R. § 1150

¹⁵ While departments are not required to record the reason for the release, record of direct observation of youth, and to whom the youth was released for non-secure detentions, the BSCC's standard detention form includes these fields.

recorded on paper.

Youth's rights were displayed in English and Spanish.

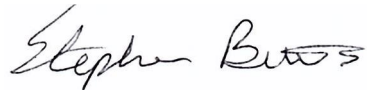
No material change in juvenile crime rates during the period were reported by the department.

V. Summary

The Santa Clara County Juvenile Justice Commission found that all agencies, save for the San Jose and Milpitas Police Departments, met the BSCC recommendations and guidelines and Title 15 requirements for assuring the safety and good care of juveniles while in their facilities in the 2022 calendar year.

Approved by the Santa Clara County Juvenile Justice Commission on December 5, 2023.

Stephen Betts, Chairperson

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Darius Parakh, Chair, LEA Inspection

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