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**Santa Clara County**  
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## **Inspection Report**

### **2022 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 all Law Enforcement Agencies (LEAs) in Santa Clara County that reported to the California Board of State and Community Corrections (BSCC) the holding of any minor in secure custody during the 2021 calendar year. Following the JJC's 2020 calendar-year report, the JJC returned to the San Jose Police Department to review the department's compliance with BSCC regulations. The Commission additionally inspected the Milpitas Police Department, which had not reported secure detentions, but had detained youth in non-secure detention for longer than six hours. Finally, in accordance with the JJC's mission to ensure the safe detention of all youth, the Commission inspected the Mountain View department, which had not received an inspection in three years. The inspection findings for all seven Law Enforcement Agencies are reflected within this report.

### **Commendations**

As with past years, the JJC would like to thank all LEAs 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.

The JJC found that all LEAs were clean, well-organized, professional, and had policies relating to the detention of juveniles based on the Board of Corrections' Facilities Standards.

As with previous years, the JJC commends agencies for their care of detained youth. Most agencies performed visual checks on minors in 15-minute intervals, which is more frequent than required. Almost all LEAs had an officer present with the minor during the entire detention.

### **Recommendations**

#### **The JJC recommends:**

1. In the 2019 report, the JJC recommended posting signage containing a youth's rights while in detention. The signage should be easily visible, in simple language, and

translated into multiple languages. Select agencies — detailed in the individual findings section of the report — either did not post the signage or posted overly complex, difficult to understand versions of the signs. The JJC recommends that all agencies revisit their signage to produce simple, visible signs that any youth can read and understand.

2. Several agencies had either incomplete or incorrect information in their detention logs. The JJC strongly recommends that agencies keep and enforce accurate logs for each detention. To that end, the JJC additionally recommends that agencies explore methods of electronically storing detention logs.
3. The Milpitas Police Department adhere to 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. The JJC recommends that all Milpitas officers review the video, “Minors in Detention,” which outlines the rules and procedures for youth detention. The JJC additionally recommends that all officers handling youth review the department’s policy regarding the care of intoxicated youth.
4. As with the 2020 report, the JJC recommends that agencies be aware of SB 823, which outlines the closing of youth detention facilities at the state level. Of the seven agencies inspected, five agencies were not aware of the change in correctional focus of keeping youth at a local level.

## **I. Introduction**

Pursuant to Welfare and Institutions 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 or the Supervising Judge of the Juvenile Justice Court during the calendar year.

The Board of State and Community Corrections (BSCC) sent a letter dated August 11, 2022 to the Presiding Juvenile Court Judge and the Juvenile Justice Commission Chair detailing the Welfare and Institutions Code (WIC) annual inspection requirements. Included in this letter was the following list of LEAs in Santa Clara County (SCC) that temporarily detained minors in 2021 in secure detention.

### Calendar Year 2021 – Secure Detention of Minors in Lockup

<b>Agency</b>	<b>Secure Detention</b>
Campbell Police Dept.	0
Gilroy Police Dept.	0

Agency	Secure Detention
Los Altos Police Dept.	0
Los Gatos/Monte Sereno Police Dept.	0
Morgan Hill Police Dept.	4
Palo Alto Police Dept.	3
San Jose Police Dept.	0
Santa Clara Police Dept. (El Camino Real)	2
Santa Clara Police Dept. (Levi's Stadium)	0
Sunnyvale Police Department	0
San Jose State University Police Dept.	1
<b>Total:</b>	<b>10</b>

Three departments — Los Gatos, Morgan Hill, and Santa Clara (El Camino Real) — reported less than 12 months of data according to BSCC. Separately, three departments — San Jose, Sunnyvale, and Santa Clara (Levi's Stadium) — did not report their detention data to BSCC. The Commission reached out to the individual Chiefs of Police for the six agencies that reported incomplete data. Each Chief confirmed the final figures of the agencies, none of which reported holding a youth in secure detention.

## **II. Juvenile Detention – Policy**

When a juvenile falls under the provisions of WIC 602 and is arrested for a simple violation where community safety is not at risk—such as a fight without weapons, public disturbance, or public intoxication—a youth may be detained at the local law enforcement facility, cited, and subsequently released to a parent or guardian with a written promise to appear in court.

WIC 207.1(b)(1) authorizes law enforcement to hold a youth in temporary custody on the basis that the youth fall under the definition of WIC 602 and may be at risk of “harm to self or others.” Depending on the nature of the crime, juveniles are held in a secure or non-secure area at the LEA. In a non-secure area, the door is not locked, and if unattended, the youth would be able to walk out of the holding facility. Juveniles must be under constant or, in some cases, frequent observation (every 30 minutes) by the arresting officer, the police officer on duty, or a trained Multi-Service Officer. No youth walking out of the Law Enforcement Agency has ever been reported to the JJC.

A youth may be held in temporary custody in order to investigate the case, arrange for release to a parent or guardian, or transport to Juvenile Hall (WIC 207.1(b)(1)(A)). The youth cannot be detained in an LEA longer than six hours (WIC 207.1(b)(1)(B)). The only extension to the six-hour maximum period of detention applicable to Santa Clara County is the temporary unavailability of transportation due to inclement weather, acts of God, or natural disasters. The Board of Corrections alone has the authority to grant this extension and can only do so on an individual, case-by-case basis (WIC 207.1(d)(1)(A)).

The BSCC has specific regulations that require LEAs to follow “minimum jail standards” to afford minors the same protections as adults.<sup>1</sup> Included in the BSCC regulations is the requirement that law enforcement agencies make sure that juveniles understand the purpose of detention and “are provided with an orientation including the purpose of detention, length of stay and the six-hour time limit.”<sup>2</sup>

**The BSCC is clear that juveniles must be:**

1. Always separated from adults confined in the facility.
2. Adequately supervised.
3. Provided with snacks, water, blankets, toilet facilities, and food.
4. Subject to safety checks every 30 minutes, with logs kept reflecting this.
5. Separated from juveniles of the opposite sex, unless under constant visual observation.
6. If intoxicated, cleared medically pursuant to written procedures developed by the detention facility.

The Commissioners found the LEAs efficiently processed juveniles. Depending on the seriousness of the offense, most agencies prefer 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 adult prisoners, whether held in secure or non-secure areas at the facility. Depending on the seriousness of the symptoms of intoxication or being under the influence of a drug or alcohol, most law enforcement agencies transfer the youth to a hospital for immediate medical attention rather than hold them in detention.

The JJC noted that most LEAs have incorporated a 12-page document and policy entitled “Policy 324,” which was updated in August of 2019. Policy 324 standardizes all department procedures for the detention of youth in law enforcement facilities, as required by state law.

The BSCC requires documentation regarding visual checks and the use of secure/non-secure

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<sup>1</sup> 15 C.C.R. div. 1, ch. 1, subch. 4, art. 9.

<sup>2</sup> WIC 207.1(d)1C.

detention logs, which list the offense, the reason for placing the minor in secure/non-secure detention, as well as the length of time the juvenile was detained.

### **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 outlines the BSCC’s minimum jail standards described above for minors who are detained in adult facilities. Subsequent changes to BSCC regulations are reflected in the 2021 questionnaire. The purpose of the inspection is to ensure the safety and well-being of the juveniles while in temporary custody. Prior to the actual inspections, the Commissioners viewed the YouTube video, “Minors in Detention,” which illustrated the Title 15 standards for law enforcement agencies.<sup>3</sup> Commissioners also encouraged LEAs to view the video.

The JJC sent emails to all the respective Chiefs of the Santa Clara County law enforcement agencies listed in the BCSS letter that held a minor in temporary detention. The first notice went out in August of 2022. The Commission also contacted those LEAs that were not listed as having detained any minors in secure custody but had not reported a full 12 months to the BSCC. In each case those LEAs confirmed no secure detentions over the 12 months of calendar year 2021. The Commission also contacted the San Jose Police Department to review changes following the 2020 inspection. The Commission additionally inspected the Milpitas Police Department. In teams of two or three, the Commissioners conducted the inspection of LEA holding areas during September and October 2022. 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 Law Enforcement Agencies’ responses.

### **IV. Findings**

The JJC found that most of the LEAs, save for the San Jose and Milpitas Police Departments, were following the BSCC regulations. All agencies had a Policy and Procedures Manual specifically designed for juveniles. The law enforcement agencies were very informative, generally knowledgeable on policies and procedures, and professional. Below are specific findings for the individual LEAs inspected:

#### **i. Morgan Hill Police Department:**

Four youth were held in secure detention by the Morgan Hill Police Department in 2021. All detentions were recorded on paper.

Youth in non-secure detention are held near an office where officers file their reports. Youth may readily exit at any time.

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 Morgan Hill

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<sup>3</sup> BSCC, Minors in Detention V2, [https://youtu.be/8\\_-dvolzuw](https://youtu.be/8_-dvolzuw) (uploaded Mar. 26, 2013).

facility until picked up by their guardians. The youth's rights are posted in English and Spanish.

Morgan Hill's policy manual included Policy 324.

**ii. Palo Alto Police Department:**

Three youth were held in secure detention by the Palo Alto Police Department in 2021. Detentions were recorded on paper.

Youth's rights were prominently displayed in three languages.

Intoxicated youth are referred to the Emergency Response team. A parent or guardian is then contacted.

Palo Alto's policy manual includes Policy 324. The manual, however, requires updating to reference the Welcoming Center, rather than the Receiving, Assessment, and Intake Center (RAIC). Additionally, mental health services should be updated to Pacific Care, rather than Uplift.

The JJC commends Palo Alto for having social workers, rather school resource officers, on campuses.

Additionally, the JJC commends the department for having a Psychiatric Emergency Response Team.

**iii. San Jose Police Department:**

In 2021, the JJC inspected the San Jose Police Department's facilities after nearly five years. The JJC found that SJPD's facilities and procedures did not adhere to BSCC regulations. During follow-up meetings with SJPD, the Commission recommended a series of changes to the department's facilities and policies to bring the agency in line with state regulations. For the calendar year 2022 inspection, the Commission returned and found the agency largely followed the Commission's recommendations. As such, the JJC commends SJPD for their diligence in beginning to follow the JJC's recommendations, but notes that further work is still to be done for SJPD to come into compliance with applicable BSCC regulations.

No youth were held in secure detention by the San Jose Police Department in 2021.

In 2021, the Commission recommended that signage detailing a youth's rights while detained be posted. In 2022 the Commission found that the signage was now posted, in accordance with the commission's recommendations, but only in English.

In 2021, 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. In 2022, the department reported that they have since unlocked the gates. The department's facilities now meet the standard for non-secure detention.

In 2021 the Commission noted that a youth was considered by SJPD to be detained only while being fingerprinted and photographed and the time was reported as such. If a minor was interviewed in the Detective Bureau on the second floor, the logs did not reflect the time spent with detectives. Some log times were not completed. This did not reflect BSCC's definition of detention. This year, the Commission noted that the department now logs the amount of time a

youth is detained — which includes the time interviewed by a detective. This meets the BSCC’s definition of time spent in detention.

If intoxicated, youth may be brought to Valley Medical Center. If only slightly intoxicated, they may be brought to the San Jose Police Department’s Alcohol Investigation Bureau. The JJC recommends that the department ensures the separation of adults from youth while a youth is detained in the AIB.

Each officer completed a pre-processing form, which details visual checks and follow-up phone calls made by police. The paper logs serve as records of the time the youth was in detention. In comparing the pre-processing forms and the logs, in some instances, not all detained youth were reported in the logs. The logs also did not record the release time, the reason for the release, a record direct observation of youth, and to whom the youth was released. The JJC recommends that SJPD update their logbooks to reflect these requirements. To that end, the JJC recommends that SJPD consider replacing their logs with the standard BSCC form used by other agencies, as it collects all information required by regulation.

Finally, the JJC recommends that SJPD submit monthly reports to BSCC, as required by regulation. This includes months when no youth has been detained.

**iv. Santa Clara Police Department:**

Two youth were held in secure detention by the Santa Clara Police Department in 2021. Detentions were recorded on paper.

Medical staff are on site to provide clearance for intoxicated youth.

Youth’s rights were displayed in English and Spanish.

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

Santa Clara’s policy manual includes Policy 324.

**v. San Jose State University (SJSU) Police Department:**

One youth was held in secure detention by the SJSU Police Department in 2021. Detentions were recorded on paper.

Intoxicated youth are transported to the nearest hospital for clearance. In most cases, guardians are contacted to pick up youth after medical assistance is received.

The JJC recommends that signage detailing the youth’s rights be edited. The postings should be easily visible, in simple language, and translated in multiple languages. The current signage was complex and difficult to understand.

The JJC recommends that the detention logs be accurately and fully completed. Some logs contained gaps or incorrect information. BSCC requires that accurate detention logs should be enforced.

Finally, the JJC recommends that SJSU officers review the video by the Board of State and Community Corrections, “Minors in Detention,” which outlines the rules and procedures for youth detention. The Commission forwarded the video to the officers following the inspection.

**vi. 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.

No youth were held in secure detention by the Milpitas Police Department in 2021. Headquarter detentions and Great Mall detentions were recorded on paper.

Signs outlining “Minor’s Rights” are not posted in either location. The JJC recommends that in both holding areas, signage detailing a youth’s rights be posted. The signs should be easily visible, in simple language, and translated in multiple languages.

When youth are brought to the Department headquarters, 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 both facilities, youth were held in non-secure detention for greater than six hours. Three youth were held in non-secure detention for greater than six hours in the main department headquarters. One youth was held in non-secure detention for greater than six hours in the Great Mall Annex.

In December 2021, three youth were held in non-secure detention at Milpitas Headquarters to allow for out-of-county detectives to travel to reach the facility, which resulted in the detention exceeding six hours.

In November 2021, a youth was held in non-secure detention in the Great Mall annex for more than six hours. The youth was detained for four-and-a-half hours before being transported to Juvenile Hall. The Hall rejected the youth at intake and directed that the youth be transported to the hospital. The youth was not cleared by the hospital until an hour later. The youth was ultimately booked in Juvenile Hall after being detained for close to seven hours. Also concerning was the fact that Juvenile Hall directed the officer to transport the youth to the hospital. If the youth was in need of medical attention, the youth should have been transported to the hospital directly when detained, as the department’s policy requires.

As mentioned in section II, state law enumerates the specific exceptions that allow for detentions greater than six hours which would apply to Santa Clara County. The Board of State and Community Corrections did not approve any extension of the six hours, and it does not appear to the JJC that the BSCC would have had any grounds to do so.

The JJC recommends 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. The JJC recommends that all Milpitas officers review the video, “Minors in Detention,” which outlines the rules and procedures for youth detention.

The JJC also recommends that the Milpitas department review and follow their policy relating to medical services. Milpitas’ current policy dictates that youth must be transported to the nearest hospital prior to being sent to Juvenile Hall for booking if the youth is in need of medical attention.

The JJC recommends that Milpitas Headquarters officers should minimize youth movement by having a booking area close to the detention cells.

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 the case of non-secure detention, the youth can only be handcuffed to themselves. The JJC recommends that the department considers alternative methods of restraining youth in lieu of the moveable chair, as it does not fulfill the requirements of secure or non-secure detention.

Finally, the JJC commends the officers at Milpitas Police Department for implementing changes to their policy following their notification of the relevant violations of BSCC regulations. Of note, 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 recommends that the officers assigned to the Great Mall also should be included in this requirement.

**vii. Mountain View Police Department:**

The Juvenile Court Presiding Judge has requested that the JJC inspect departments that had not been reviewed in recent years, regardless of whether the agency reported a secure detention. This year, the JJC inspected the Mountain View Police Department; the last inspection of the Mountain View Police Department was held in 2018.

No youth were held in secure detention by the Mountain View Police Department in 2021. Detentions were recorded electronically.

Intoxicated youth are transported to the El Camino Hospital to obtain medical clearance.

The JJC recommends that signage detailing a youth's rights be posted. The signs should be easily visible, in simple language, and translated in multiple languages.

The policy manual includes Policy 324.

**V. Summary**

Based on this inspection, the Santa Clara County Juvenile Justice Commission found that most 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.

**Approved by the Santa Clara County Juvenile Justice Commission on December 22, 2022.**



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**Victoria BurtonBurke, Chairperson**



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**Darius Parakh, Chair, LEA Inspection**