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**County of Santa Clara**  
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**Santa Clara County Juvenile Commission**  
**Inspection Report**

**Temporary Detention of Minors at Law Enforcement**  
**Agencies (LEAs)**  
**For the Year of 2018**

The Juvenile Justice Commission (JJC) has completed its annual inspection of the Law Enforcement Agencies in Santa Clara County that held any minor in secure custody for the calendar year 2018. As a result of this inspection, which is described in detail below, the JJC makes the following findings:

**Commendations**

The JJC would like to thank all of the LEAs for their cooperation and support in completing these inspections. All of the LEA staff accompanying the JJC Commissioners during the inspection were courteous, helpful, and forthcoming in their responses to Commissioners' questions.

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

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 juvenile 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, the 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 last year and provides additional guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by law enforcement agencies. Policy 324 addresses many of the BSCC concerns for the safety and well-being of the juvenile while being detained, but also details other specific policies and guidelines

that LEAs should follow based on the Welfare and Institutions Code (WIC) of the California Code of Regulations (CCR).

The JJC commends all law enforcement agencies for not having any detentions greater than 6 hours and for, on the whole, doing visual checks on minors in 15-minute intervals, which is more frequent than required.

The JJC further commends the LEAs that had any deficiencies noted during their inspection for their prompt response in correcting those deficiencies and providing proof of correction to the inspection team.

## **Recommendations**

The JJC recommends:

1. Signs be posted in all areas where minors are detained and written in simple language explaining procedures and minors' rights, not only in English, but also in any languages that reflect the demographics of the resident population in the jurisdiction. It also recommends that the signs be posted at eye level and in type large enough to be easily read. While signs are not required, the presence of the signs provides a visual statement of procedures and youth's rights and a reminder to the officers to orient the minor at detention. Having the signs in the minor's primary language assures that all youth understand the procedures and their legal rights.
2. All LEAs document their policies and procedures to show UPLIFT as the first choice for youth with mental health issues as approved by Santa Clara County Mental Health Department on 5-20-14; recognize that UPLIFT can assess and transport these minors; and that each LEA has an appropriate plan in place for the least traumatic transport of these youth.

## **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 (JJC) is required to inspect each law enforcement facility that "contain[s] a lockup for adults, which in the preceding calendar year, was used for the secure detention of any minor." The Superior Court in Santa Clara County adopted Rule 1.P. of the Local Juvenile Rules of Court, which delegates responsibility to the Juvenile Justice Commission for the annual inspection of all LEAs in Santa Clara County that contain a lockup for adults which, in the preceding year, was used for the secure and non-secure detention of any minor. The rule further provides 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 March 25, 2019 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 2018.

**Juveniles Held in Detention 2018: SCC LEAs**

Agency	Secure Detention
Gilroy Police Dept.	7
Los Altos Police Department	4
Los Gatos/ Monte Sereno Police Department*	6
Milpitas Police Department*	1
Morgan Hill Police Dept.	8
Palo Alto Police Dept.*	1
Santa Clara Police Dept.*	7
San Jose State Police Dept.	3
Sunnyvale Department of Public Safety	2
<b>TOTAL</b>	<b>39</b>
<b>*Los Gatos/ Monte Sereno, Palo Alto, Santa Clara and San Jose State University only reported 11 months, Milpitas only reported 3 months and had one secure detention that was not reported to BSCC, Sunnyvale only reported 6 months of data to BSCC. <sup>1</sup></b>	

**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—the 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(d)(1) authorizes law enforcement to hold a youth in temporary custody on the basis that the youth falls 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.

A youth may be held in temporary custody in order to investigate the case or make arrangements for release to a parent or guardian or for transportation to Juvenile Hall (WIC 207.1(d)(1)(A)). However, the youth cannot be detained in an LEA longer than six hours (WIC 207.1(d)(1)(B)). After reviewing the legal exceptions to the six-hour limit, the only extension to the six-hour maximum period of detention applicable to Santa Clara County is the temporary

<sup>1</sup> San Jose Police Department is not listed among the reporting agencies though the JJC confirmed that they did report. The Department asserted that since they have a separate Juvenile Holding area they did not need to be inspected. Of concern is that the JJC inspected the San Jose Police Department Juvenile Holding Facility last year and found a number of areas of concern regarding the facility and their practices. (See Temporary Detention of Minors at Law Enforcement Agencies (LEAs) For the Year of 2017.) [www.sescourt.org/document/jjc/LEA\\_Inspection\\_Report\\_2017.pdf](http://www.sescourt.org/document/jjc/LEA_Inspection_Report_2017.pdf)

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 on an individual, case-by-case basis (WIC 207.1(d)(1)(B) and (f)(1)(A)).

The BSCC has specific guidelines to ensure that law enforcement agencies follow “minimum jail standards” to afford minors the same protections as adults.<sup>2</sup> Included in the BSCC guidelines 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.” The BSCC is very clear that juveniles are:

1. Separated from any contact with adult inmates at all times.
2. Under constant supervision.
3. Provided with snacks, water, blankets, toilet facilities, and food.
4. Monitored every 30 minutes, with logs kept to reflect this.
5. Separated from juveniles of the opposite sex, unless under constant visual observation.
6. If intoxicated, handled according to written procedures developed by the detention facility.

The BSCC requires documentation regarding visual checks and the use of secure/non-secure 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. A continuing concern for the Commissioners inspecting Law Enforcement Agencies is that although all inspected agencies understand the protocol regarding the transportation of youth in need of psychiatric care to Uplift, the actual transportation to Uplift and/or the ability of Uplift to come to the jurisdiction to do an assessment, and then if necessary medically transport youth to the Uplift facility or any other psychiatric facility was not consistent. This policy was approved by Santa Clara County Mental Health Department on 5-20-14. Following this policy ensures that each LEA has an appropriate plan in place for the least traumatic transport of these youth.

### **III. Inspection Process**

The Santa Clara County JJC developed an inspection questionnaire form similar to one created by the San Diego JJC, which was used by the Commissioners during the inspections. This form was 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 minimum standards established by Title 15, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations (CCR) for minors who are detained in adult facilities. The focus for 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 BSCC training video, “Detention of Youth, V2,” on YouTube, which illustrated the Title 15 standards for law enforcement agencies.

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<sup>2</sup> BSCC MINORS IN DETENTION, Federal and State Requirements, A Guide for Police and Detention Officers, January 2010. This is the companion to the youth training video.

The JJC sent letters and 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 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 teams of two, the Commissioners conducted the inspection of LEA holding areas during May and June 2019. Prior to the issuance of this report, the LEAs were given an opportunity to review and the report and provide any factual corrections or clarifications. The findings incorporate the LEA responses.

#### **IV. Findings**

The JJC found that all the LEAs were generally following the BSCC Guidelines and had a Policy and Procedures Manual specifically designed for juveniles. The law enforcement agencies were very informative, knowledgeable on policies and procedures, and professional. Depending on the demographics of the various cities, some agencies may have more contact with juveniles, while others may have very little.

Below are specific findings for the individual LEAs inspected:

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##### **○ Gilroy PD**

- Intoxicated youth are taken to the local hospital accompanied by an officer at all times and are not taken to the Gilroy police department.
- Gilroy medically transports youth with psychiatric issues to Valley Medical Center (VMC) if Uplift is unavailable.
- The Fire Inspection was current, and no corrective actions were needed.
- There was signage advising the youth of the procedures in English and Spanish.
- Gilroy complies with Policies 324.
- The non-secure minors are held in a room across the hall while an officer can see them through a glass partition, not with an officer in the same room.
- Gilroy transports youth not charged with a criminal offense to the Bill Wilson Center after they have contacted Juvenile Hall and Child Protective Services to see if they have any reason to do direct the youth elsewhere.
- When a number of youth were securely detained, more than one youth were housed together in a cell. No females are ever placed with males.
- The department was in compliance with all other regulations and statutes.

##### **○ Los Altos PD**

- Intoxicated youth are never brought to the police department.
- Los Altos PD can no longer get Uplift to respond out to evaluate a child if he/she needs emergency psychiatric care. If the officer believes a child needs immediate care, the department contacts Uplift to see if a bed is available. If a bed is available, they transport to Uplift: if a bed is not available, the department transports the youth to VMC/EPH for evaluation.
- The Fire Inspection was current, and no corrective actions were needed.
- There was no signage advising the youth of the procedures. The JJC had made an informal visit to Los Altos PD earlier in the year and they were advised to get signage;

the department is in the process of getting the signage translated to be in all the appropriate languages.

- Los Altos complies with Policies 324.
- The non-secure minor log included a dependent held for 1 hour and 12 minutes before release to Child Protective Services.
- Los Altos officers are always in contact with the detained youth.
- The department was in compliance with all other regulations and statutes.

○ **Los Gatos/Monte Sereno PD**

- Intoxicated youth are released to their parent or taken by medical transport to Valley Medical Center, and the parents are notified. These youth are never brought to the police department.
- The Fire Inspection was current, and no corrective actions were needed.
- There was no signage advising the youth of the procedures. The inspection team provided them with examples from other LEAs and they will have them prepared.
- Los Gatos/Monte Sereno complies with Policies 324.
- Los Gatos/Monte Sereno officers always have sight supervision with the detained youth.
- The department was in compliance with all other regulations and statutes.

○ **Milpitas PD**

- Intoxicated youth are under constant supervision until released to their parent or taken to Regional Medical Center.
- Milpitas has two facilities where juveniles might be detained, and both were inspected. The detention facility at The Great Mall relies on fast food service if food or snacks are needed.
- There was no signage advising the youth of the procedures in either facility. The inspection team provided them with examples from other LEAs and they will have them prepared.
- Milpitas complies with Policies 324 and trains their officers on it every six months.
- Milpitas knows to use Uplift for transportation of youth in need of psychiatric care but was unaware of the Uplift Crisis Team.
- Milpitas knows to have the Department of Family and Children's Services take custody of dependent youth.
- Milpitas officers are always in contact with the detained youth.
- The only secure detention by Milpitas PD was for a misdemeanor delaying or resisting a police officer.
- Milpitas PD uses the standard secure detention form but not the standard non-secure detention form. Their non-secure form did not list the specific offenses for which a youth was detained. They are now in receipt of the standard form.
- Milpitas had not been reporting monthly to BSCC regarding their detentions but is now doing so.
- The department was in compliance with all other regulations and statutes.

- **Morgan Hill PD**

- The Commissioners noticed a strong sewer smell in the cell area. The officer indicated that this was a normal smell and stated that the cells were cleaned daily. The JJC believed that this posed a health hazard for anyone who is held in the cells or those officers who constantly observe the youth outside the cells. In response, Morgan Hill contacted a plumber who provided a resolution for this problem.
- Youth in non-secure detention are held in an area near where officers write their reports and it is readily exited in case of an emergency.
- Intoxicated youth are taken to the local hospital to be medically cleared. If not taken home from the hospital by their parents or are not sent to Juvenile Hall, then they are returned to the Morgan Hill police facility where they are under constant supervision until they are picked up by their parents.
- Minors' rights are posted in English, but not in Spanish, and are in small print in an area that does not allow the minor to spend enough time to read them.
- Morgan Hill complies with Policy 324.
- The department was in compliance with all other regulations and statutes.

- **Palo Alto PD**

- It is recommended that the 6-hour maximum time limit for detention be added to the present signage for youth in the holding area.
- The Department uses Policy 324 and the policy manual update has been updated since the inspection.
- The protocol for youth under the influence to be transported to Stanford which is the nearest hospital and the decision to transport is made by the paramedics and not the PD.
- The documentation of a youth's release should show that the youth was released to the Receiving, Assessment and Intake Center (RAIC) and not the "Children's Shelter."
- The department only reported 11 months to the BSCC.
- The department was in compliance with all regulations and statutes.

- **Santa Clara PD**

- Santa Clara PD only reported 11 months to BSCC.
- The Fire Inspection was current, and no corrective actions were needed.
- There was signage advising the youth of the procedures in English only, but signage was subsequently prepared in Spanish and a photo was sent to the inspection team for confirmation.
- Santa Clara PD was not using Policy 324, but received a copy, amended their policies and sent proof of this to the inspection team.
- There were 2 dependents from out of county listed in Santa Clara's non-secure detention logs.
- The department was in compliance with all regulations and statutes.

- **San Jose State University PD**

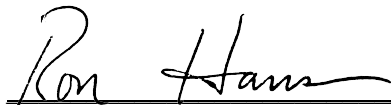
- San Jose State University PD only reported 11 months of the year 2018 and included only 3 of their 4 secure detentions.

- The policies and procedures manual available in secure and non-secure areas have been updated to reflect the changes recommended from the 2017 report as to care for youth intoxicated or under the influence of drugs to be transported to Uplift. Alum Rock Counseling Center (ARCC) and Uplift are their alternatives.
  - Youth not charged with a criminal offense whose parents or guardians are not available are referred to Bill Wilson or ARCC.
  - Two of their secure detentions were for misdemeanor violations of delaying or resisting a police officer.
  - The Fire Inspection was current and no corrective actions.
  - The signage to inform minors of their rights is in English, Spanish and Vietnamese.
  - San Jose State University PD complies with Policies 324.
  - The department was in compliance with all other regulations and statutes.
- **Sunnyvale Department of Public Safety**
    - The department only reported 6 months to the BSCC.
    - The posted sign explaining procedures and minors' rights is in English and Spanish.
    - Logs documenting detention were incomplete and did not show length of detention and to whom or where some youth were released.
    - Sunnyvale did not have a copy of Policy 324 but received and amended their policies with it.
    - Sunnyvale did not have an up to date Fire Inspection available when inspected but immediately commissioned one and provided it to the inspection team.
    - The department was in compliance with all other regulations.

**V. Summary**

Based on this inspection, the Santa Clara County Juvenile Justice Commission believes that overall, all the LEAs meet or exceed 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 July 9, 2019.**




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**Ron Hansen, Chairperson**




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**Victoria BurtonBurke, Chair, LEA Inspection**