

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

### **Temporary Detention of Minors at Law Enforcement Agencies (LEAs)**

### **2019**

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 2019. As a result of this inspection, which is described in detail below, the JJC provides the following report.

#### **Comments**

The JJC thanks 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 properly 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 alcohol or drug intoxication, 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 by Lexipol<sup>1</sup> in August of last year and provides additional guidelines consistent with the federal Juvenile Justice and Delinquency Prevention Act.

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<sup>1</sup> Lexipol LLC is a private company based in California that provides policy manuals, training bulletins, and consulting services to law enforcement agencies.

## **Commendations**

The JJC 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.

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. Most LEAs had an officer present with the minor during the entire detention. There was an overall reduction of youth in secure detention from 2018's 39 youth to 2019's 18 youth.

The inspections took place during the Covid -19 Pandemic. The JJC noted that all due precautions were taken by police jurisdictions. This included visual signs limiting entrance to police facilities, sometimes temperature checks, gloves, sanitizing lotions and masks worn by Commissioners and Police officers. When asked, no jurisdiction indicated that their officers had been infected with Covid-19. There were appropriately sanitizing stations and offices allowing for a complete officer decontamination should that be warranted. The inspections were all conducted in person.

## **Recommendations**

While the JJC found that most jurisdictions were aware of SB 439 regarding the detention of minors ages 11 and under, they often didn't have the policy statement approved by the Santa Clara County Police Chiefs Association in the Policies and Procedures Manual. The JJC provided the policy and asks that it be placed in the Manual. Officers seemed very aware of not bringing youth under 14 to Juvenile Hall.

### **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, were 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 May 11, 2020 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 2019.

## Juveniles Held in Detention 2019: SCC LEAs

Agency	Secure Detention
Gilroy Police Dept.	1
Los Altos Police Department	1
Los Gatos/ Monte Sereno Police Department*	0
Campbell Police Department*	1
Morgan Hill Police Dept.	3
Palo Alto Police Dept.*	6
Santa Clara Police Dept.*	5
San Jose City	0
Sunnyvale Department of Public Safety	2
Total	19

\*Los Gatos/ Monte Sereno reported 1 month, Palo Alto reported 9 months, Sunnyvale reported 2 months, San Jose City reported 11 months<sup>2</sup> and Sunnyvale reported 6 months of data to BSCC. All jurisdictions eventually reported all their detentions to the state. Los Gatos reported one secure detention that was later reclassified to non-secure.

## 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.

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<sup>2</sup> San Jose Police Department was listed among the reporting agencies though the JJC confirmed at BSCC that they did report all twelve months with no secure detentions.

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 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)).

Law enforcement agencies follow 3 “minimum jail standards” to afford minors the same protections as adults. 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 clear that juveniles must be:

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 reflecting 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 prior years that all visiting Commissioners used in the inspection process. 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 YouTube video, “Minors in

Detention,”<sup>3</sup> which illustrates the Title 15 standards for law enforcement agencies.

The JJC sent letters and emails to 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 on May 13, 2020, and the second notice to non-responding agencies on June 19, 2020. 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 July and August 2020. 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 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 highly 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 little.

Below are specific findings for the individual LEAs inspected:

##### Campbell Police Department

- Campbell had only one secure detention.
- Campbell Police never cuff youth to a cuffing rail either in secure or non-secure detention.
- Minors in non-secure detention are kept under supervision in a briefing room.
- Rights of minors signage is in English and Spanish.
- Property crimes have increased.
- Generally aware of SB 439 and would take younger children to the RAIC or their home.
- Use Uplift services “frequently.”

##### Gilroy PD

- Gilroy had only one secure detention in 2019.
- Intoxicated youth are taken to Saint Louise 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 although incomplete because of a stoppage of inspections due to Covid-19.
- There was signage advising the youth of the procedures in English and Spanish.

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<sup>3</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.

- Gilroy complies with Policy 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 direct the youth elsewhere.
- No females are ever placed with males.
- The department was in compliance with all other regulations and statutes. Officers indicated that while there had been an uptick in juvenile crime at the beginning of 2019 there was no unusual increase during the remainder of 2019.

#### Los Altos PD

- Los Altos Police Department had only one secure detention in 2019.
- Intoxicated youth are never brought to the police department.
- Los Altos PD finds Uplift slow to respond to evaluate a child if he/she needs (5150) 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/EPS for evaluation.
- The Department would not be averse to considering pooling Mental Health resources with nearby jurisdictions for quicker and more appropriate mental health response.
- The Fire Inspection was current, and no corrective actions were needed.
- There was signage advising the youth of the detention procedures.
- Los Altos complies with Policy 324. Los Altos officers are always in visual 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 parents or guardian or taken by medical transport to Good Samaritan Hospital or Valley Medical Center, and the parents are notified.
- The Fire Inspection was current, and no corrective actions were needed.
- Los Gatos/Monte Sereno complies with Policy 324.
- Los Gatos/Monte Sereno officers always have sight and video supervision with the detained youth.
- The department was in compliance with all other regulations and statutes. There was one secure detention noted for 2019 but it was redetermined to be non-secure.

#### Morgan Hill PD

- 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 and Spanish.
- Morgan Hill complies with Policy 324.
- The department was in compliance with all other regulations and statutes.

#### Palo Alto PD

- Minors' rights were available In English, Spanish, and Chinese
- The Department uses Policy 324, and the policy manual has been updated.
- The protocol for youth under the influence is to be transported to Stanford Hospital, which is the nearest hospital.
- The Fire Inspection has been completed and the light bulbs noted in last year's inspection were replaced.
- Initially, the department only reported nine months data to the BSCC but later completed the logs for all twelve months with six minors in secure detention.
- There was an increase in Robbery cases from 0 in 2018 to 9 in 2019. 51 minors were arrested in 2019.
- Uses Uplift appropriately.
- The department was in compliance with all regulations and statutes.

#### Santa Clara PD

- Santa Clara PD had only five secure detentions during 2019.
- The Fire Inspection is conducted monthly according to officers interviewed. No deficiencies are noted.
- There was signage advising the youth of the procedures in English and Spanish.
- Santa Clara PD was using Policy 324.
- The JJC Team noted that the phone used by minors to talk with attorneys is located in a corridor/work area and may not be confidential.
- The department was in compliance with all regulations and statutes.
- Santa Clara may be the only jurisdiction that has gone to electronic records, although the logs are not electronic.

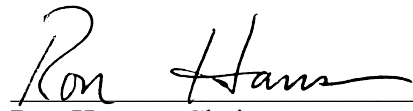
#### Sunnyvale Department of Public Safety

- The department only reported 2 months to the BSCC but say that they are now up to date. They reported two secure detentions over a 12-month period.
- The posted sign explaining procedures and minors' rights is in English.
- Sunnyvale PD did have a copy of Policy 324.
- Sunnyvale did have an up to date Fire Inspection available. The department was in compliance with all other regulations.
- The Commission provided the department with updated policies on children ages 11 and under.

## **V. Summary**


Based on this inspection, the Santa Clara County Juvenile Justice Commission finds that all the LEAs meet 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 October 6, 2020.



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Ron Hansen, Chair



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Nora Manchester, Chair, LEA Inspection