

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

**Temporary Detention of Minors at Law Enforcement Agencies (LEAs)**  
**For the Year of 2017**

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 2017. As a result of this inspection, which is described in detail below, the JJC makes the following:

**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 inspection Commissioners 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 most 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 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 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) in the California Code of Regulations (CCR).

The JJC commends most 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.

## **Recommendations**

The JJC recommends:

1. That 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 ethnicity of a significant proportion 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. That all LEAs accurately report a full twelve months of their accounting of secure detentions to BSCC.
3. No LEA keep a minor in custody beyond the 6 hour limit.

## **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 April 4, 2018 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 2017.



**Juveniles Held in Detention 2017 per the BSCC: SCC LEAs**

Agency	Secure Detention
Campbell Police Dept.*	3
Gilroy Police Dept.	4
Mountain View.	1
Palo Alto Police Dept.	6
San Jose Police Dept.*	5
Santa Clara Police Dept.*	3
San Jose State Police Dept.*	7
<b>TOTAL</b>	<b>29</b>
<b>San Jose and Morgan Hill Police Departments only reported 9 months, Los Altos, Los Gatos/Monte Serena and San Jose State University Police Departments only reported 10 months, Campbell and Sunnyvale Police Department each reported 11 months of data to BSCC.</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. Non-securely detained juveniles must be under constant supervision and securely detained youth must be under 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 generally cannot be detained in an LEA longer than six hours unless one of the exceptions listed in the statute applies (WIC 207.1(d)(1)(B)). Of these exceptions it appears as though only legal exceptions to the six-hour limit, the only the temporary unavailability of transportation due to inclement weather, acts of God or natural disasters.

The BSCC has specific guidelines to ensure that law enforcement agencies follow “minimum jail standards” to afford minors the same protections as adults.<sup>1</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:

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<sup>1</sup> BCSS. **Minors in Detention Federal and State Requirements, A Guide for Police and Detention Officers.** January 2011. This is the companion to the youth in detention training video, cited below.

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.

### **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.<sup>2</sup>

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 secure temporary detention. In teams of two, the Commissioners conducted the inspection of LEA holding areas during June through August 2018. 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 most of the LEAs were generally following the BSCC Guidelines and had a Policy and Procedures Manual specifically designed for juveniles. Most of the law enforcement agencies were very informative, knowledgeable on policies and procedures, and professional. Depending on the demographics of the various cities, some may have more contact with juveniles, while others may have very little. A continuing concern for the Commissioners inspecting Law Enforcement Agencies is that though all inspected agencies understood the protocol regarding the transportation of youth in need of psychiatric care to UPLIFT, the issue of mode of 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

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<sup>2</sup> Access to the video can be found at <http://www.bscc.ca.gov/sfsoservices.php> by selecting the expand button next to Youth in Adult Detention Facilities and clicking training video. The Commissioners found this video to be an important training tool. The companion workbook to the video is also available on this site.



consistent. This policy was approved by Santa Clara County Mental Health Department on 5-20-14. Following this policy assures that each LEA has an appropriate plan in place for the least traumatic transport of these youth.

Below are specific findings for the individual LEAs inspected:

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○ **Campbell PD**

- The department only reported eleven months to the BSCC but included all secure detentions.
- The signs listing the process of detention the youth's rights are now larger, in three languages and appropriately located outside the detention rooms.
- The department was in compliance with all other regulations and statutes.

○ **Gilroy PD**

- Intoxicated youth are taken to the local hospital accompanied by an officer at all times and not taken to the Gilroy police department.
- The signage advising the youth of their rights is now an appropriate size and at eye level.
- The department is aware of the contract for youth who need psychiatric care to go to UPLIFT, but often take them to Valley Medical Center.
- The departments Fire and Safety Inspections were all up to date.
- The department complies with Policies 324.
- The department successfully reported the correct number of secure detentions for the full 12 months to the BSCC.
- Gilroy held one youth for 6½ hours, apparently violation of WIC 207.1(d)(1)(B)
- The department was in compliance with all other regulations and statutes.

○ **Mountain View PD**

- The Department's only secure detention was held in the facility for only 5 minutes before being transported to Juvenile Hall.
- All youth under the age of 14 were held in non-secure detention.
- A youth brought in for a protective custody warrant was listed in the logs as a non-secure detention though the release was to the Department of Family and Children's Services and the youth was not charged with any 602 violation.
- The department has moved to all electronic storage of reports though the logs were available and kept in the appropriate manner.
- The department was in compliance with all other regulations and statutes.

○ **Palo Alto PD**

- The fire inspection was up to date from December 2017.
- The sign explaining procedures and minors' rights was not only in English and Spanish, but as recommended last year's report, is also now displayed in Mandarin.
- There were no blankets readily available if a youth needed one.
- Intoxicated minors are taken directly to the hospital by the arresting officer.
- The department only reported 11 months to the BSCC.

- The department was in compliance with all other regulations and statutes.

- **San Jose PD**

- The department has not recorded a secure detention since the Inspection in 2009.
- Though the “Juvenile Preprocessing Facility” is labeled as a “non-secure” facility in their paper work, the youth first enter through a sally port which is locked, and cannot leave the facility through any unlocked doors. When a youth is put in a holding cell, even though it is listed as “non-secured detention,” the holding cell is locked even though the officer stays with them. However, a non-secure area is defined as an area where the doors are not locked, and if unattended, the youth would be able to walk out of the holding facility.
- This failure to comply with the requirements of non-secure detention by SJPD causes concerns as to whether SJPD’s reporting no secure detentions for the past 8 years of detentions required by BSCC was accurate.
- The department has completely separate juvenile preprocessing facilities from their adult facilities, however some youth are considered “logged out” to the Investigations Bureau and JJC has no documentation of their separation from adult prisoners under these circumstances. The written policy is that “the officer will maintain constant, side-by side presence with either the minor or adult arrestee to assure that there is no communication between them.” This is contrary to the requirement that youth in an LEA be separated from any contact with adult inmates at all times.
- The department only reported 9 months to BSCC.
- The department had four secure detentions that were longer than six hours in apparent violation of WIC 207.1(d)(1)(B) Two detentions separate from those four listed, had no time entered when the youth was logged out of the facility.
- The department had no signage advising the minor with an orientation including the purpose of detention, length of stay and the six-hour time limit. The signage should be in also be in languages of the residents of the city.
- The department does not have or use Policy 324.
- The department does have appropriate policies for treatment of youth suspected of being a danger to himself or others, they are to be transported to UPLIFT handcuffed in the patrol cars.
- Detention officers should receive training in Title 15 California Code of Regulations and all applicable state and federal statutes for the temporary detention of youth in law enforcement facilities. The training video identified earlier in the report is recommended as a training tool.
- The fire inspection was up to date from December of 2017.
- The department was in compliance with all other regulations and statutes.

### **San Jose State University PD**

- There is no signage of a minor’s rights and the limit to the length of stay in the non-secure detention area as was the signage found in the secure detention area in more than one language.
- The Department uses Policy 324.
- The on-line policy manual has been updated to incorporate last year’s recommendations, but not in the printed manual. It is recommended that an up to date copy of the policies be available near the secure and non-secure detention areas.



- The most recent fire inspection was March 2017 with corrective actions completed in May 2017.
- The protocol for youth under the influence to be transported to UPLIFT should be added to the policy manual.
- The department only reported 10 months to the BSCC.
- The department was in compliance with all regulations and statutes.


○ **Santa Clara PD**

- The department reported the full 12 months to the BSCC for the 2017 calendar year.
- The department does not use Policy 324, but the rest of their Policies and Procedures Manual was reviewed and was last updated in August 2017.
- The posted signage explaining the minor's rights is still only in English. The department uses AT&T translation services if another language is required.
- The department was in compliance with all other regulations.

**V. Summary**

Based on this inspection, the Santa Clara County Juvenile Justice Commission believes that on the whole 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 9/4/18

  
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**Jean Pennypacker, Chairperson**

9/4/18  
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**Date**

  
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**Victoria BurtonBurke, Chair, LEA Inspection**

9/4/18  
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**Date**