

Juvenile Justice Commission
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Inspection Report

Temporary Detention of Minors at Law Enforcement Agencies (LEAs) For the Year of 2020

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 2020.

Commendations

The JJC commends all law enforcement agencies for not having any reportable 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 were fewer youth in secure detention from 2019's eighteen youth to 2020's sixteen youth.

These inspections took place during the Covid-19 Pandemic. The JJC noted that all precautions were taken by relevant 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. There were appropriate sanitizing stations in offices allowing for a complete officer decontamination should that be warranted.

Recommendations

The JJC recommends:

1. There remains confusion within and among some police jurisdictions concerning the meaning of secure and non-secure detention. The JJC urges the BSCC to clarify two main issues. The first revolves around a youth being able to leave police detention and walk out freely from police custody. The JJC has never documented a youth who freely left a police department undeterred. The second is perimeter security. San Jose Police Department has a fence surrounding the station that would be difficult to climb, Morgan Hill Police Department has a keypad that looks like one would have to enter a code to leave although it's currently deactivated, and Gilroy has a locked outside door near the Holding cell.

2. All five agencies visited said that they were unaware of SB 823 which outlines the closing of youth facilities at the state level. BSCC needs to provide an educational and training opportunity to explain the movement of youth under age 25 to local jurisdictions rather than at the state 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 (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 or 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, 2021, 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 2020 in secure detention.

Juveniles Held in Detention 2020 SCC LEAs

| Agency | Secure Detention |
|---|-------------------------|
| Gilroy Police Department | 3 |
| Los Altos Police Department | 0 |
| Los Gatos/ Monte Sereno Police Department | 0 |
| Campbell Police Department | 1 |
| Morgan Hill Police Department | 9 |
| Palo Alto Police Department | 3 |
| Santa Clara Police Department | 0 |
| San Jose Police Department | 0 |
| Sunnyvale Department of Public Safety | 0 |
| Total | 16 |

Five LEAs reported less than 12 months of data according to BSCC. All Departments eventually reported all twelve months of detentions to BSCC. The Commission confirmed their final figures with LEA's that had not reported all 12 months of data.

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 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. 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 or make arrangements for release to a parent or guardian or for transportation to Juvenile Hall (WIC 207.1(b)(1)(A)). However, the youth cannot be detained in an LEA longer than six hours (WIC 207.1(b)(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)(A)). The JJC found that no youth was reported to have been in custody over 6 hours.

The BSCC has specific guidelines to ensure that law enforcement agencies follow “minimum jail standards” to afford minors the same protections as adults.¹ 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 must be: (1)

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.

¹15c.c.Rdivl,ch.l,subch.4,art.9

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 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 inspections 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.

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, 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 2019 and provides additional guidelines. The JJC further commends the LEAs that had any deficiencies noted during their inspection for their prompt response in addressing those deficiencies and providing proof of correction to the inspection team.

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. The JJC found that in 2020 most of the police jurisdictions were following these guidelines.

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", which illustrated the Title 15 standards for law enforcement agencies. Commissioners also encouraged LEAs to view the 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 first notice went out on June 7, 2021, and the second notice to non-responding agencies on June 19, 2021. 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-month 2020 period. The Commission also contacted the San Jose Police Department as we had not visited this LEA in over five years. In teams of two or three, the Commissioners conducted the inspection of LEA holding areas during July 2021. 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. SJPD was the exception to guidelines. The law enforcement agencies were very informative, knowledgeable on policies and procedures, and professional. Below are specific findings for the individual LEAs inspected:

Campbell Police Department

- One youth was held in secure detention in Campbell Police Department in 2020.
- Minors in non-secure detention are held in an open booking area.
- Intoxicated minors are taken to Valley Medical Center
- The most recent fire inspection was June 15, 2021.
- Campbell has not seen a decrease in juvenile crime during 2020.
- Still using paper data and not switched to electronic data

Gilroy Police Department

- Gilroy had three secure detentions in 2020
- 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.
- 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 direct the youth elsewhere.
- No females are ever placed with males.
- Officers indicated that there had been an uptick in property crimes at the beginning of 2020.
- The “Temporary Holding Cell” used during the initial fingerprinting process may qualify as secure detention under BSCC guidelines. 31 minors were detained within the THC before being sent upstairs to the non-secure detention area or on to Juvenile Hall. The Gilroy Police Department should consult with BSCC to clarify this situation.

Morgan Hill Police Department

- Morgan Hill held nine minors in secure detention during 2020. That was the most held by any jurisdiction
- 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.
- At the exit there is still a sign marking a locked exit. The lock is actually disabled but the sign should be removed.

Palo Alto Police Department

- Three youth were held in secure detention during 2020, all of brief duration. None was held in non-secure detention. The practice is to release the minor to a parent -- directly from the field whenever possible.
- Minors' rights were prominently displayed in three languages.
- The policy manual has been updated and includes Policy 324. Commissioners noted that, while Policy 324 does not stipulate that attorney calls must be private, the Department adheres to that legal requirement.
- The protocol for youth under the influence is to contact a parent and call Emergency Response.
- No material change in juvenile crime rates during the period were reported by the Department.

San Jose Police Department

It had been over five years since the Juvenile Justice Commission had inspected the San Jose Police Department. The Commission had consulted with the Presiding Juvenile Court Judge and she recommended that the Commission visit police departments with zero secure detentions reported to BSCC at least every few years. San Jose Police Department had reported 0 secure detentions during 2020. The Commission contacted the San Jose Police Department and requested an inspection date and Commissioners visited on July 1, 2021. It was SJPD's position that they did not hold minors in secure detention.

- Minors are not cuffed during detention.
- The path to leave the building for the non-secure youth leads into the parking area surrounded by a high fence and locked gates. A non-secure youth does not have direct access to the street. SJPD indicated that they would remedy this.
- 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.
- Each officer completes a Preprocessing form which details visual checks and follow-up phone calls made by police. This form lists personal and or dependency

information as well as health information. That form then becomes the form documenting time checks, calls made by officers and outcomes information.

- A youth is considered by SJPD to be detained only while being fingerprinted and photographed. If a minor is interviewed in the Detective Bureau on the second floor, the logs do not reflect the time spent with the detectives. The logs indicate only the time spent in the detention i.e., fingerprinting and photographing area of the building.
- In the detention logs there were some entries which did not include the time the youth was brought into the facility.
- The Policies and Procedures Manual covers adults and youths. The Manual does not separate the policies and procedures for youth. It is a loose-leaf manual without dates to confirm currency of policy.
- There was no signage available explaining the minor's rights. The JJC provided samples of appropriate signage and SJPD indicated that they would remedy this.


V. Summary

Based on this inspection, the Santa Clara County Juvenile Justice Commission found that all but SJPD met the BSCC recommendations and guidelines and Title 15 requirements for assuring the safety and good care of juveniles while in their facilities. The JJC will be meeting with the San Jose Police Department to outline our understanding of best practices. However, BSCC needs to return to the field and conduct their own inspections so that all LEA jurisdictions have the same adherence to secure and non-secure detention policies. Covid-19 has prevented state inspections of these facilities for over two years, and some practices may have been misunderstood.

Approved by the Santa Clara County Juvenile Justice Commission on September 14, 2021.



Victoria BurtonBurke, Chairperson



Nora Manchester, Chair, LEA Inspection