

## LA MESA POLICE DEPARTMENT INSTRUCTION

### **INVESTIGATION: JUVENILE PROCEDURES**

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**No: 301**

Page: 1 of 9

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#### I. BACKGROUND

The "Juvenile Law" section contained in the Welfare and Institutions Code is primarily concerned with the protection of the juvenile offender. However, the law also recognizes the need to protect the public from criminal conduct by minors and to impose upon minors a sense of responsibility for their own acts. In carrying out this intent, the law recognizes that detention is sometimes necessary.

#### II. DEFINITIONS

- A. "Minor" is used as a term meaning the same as "Juvenile" in this instruction.
- B. "Temporary Custody" means that the minor is not at liberty to leave the law enforcement facility.
- C. "Secure Detention" means that a minor being held in temporary custody in a law enforcement facility is locked in a room or enclosure and/or is physically secured to a cuffing rail or other stationary object.
- D. "Non-secure Custody" means that a minor's freedom of movement is controlled by the staff of the facility and all of the following conditions have been met.
  - 1. The minor is under constant personal visual observation and supervision by staff of the law enforcement facility.
  - 2. The minor is not locked in a room or enclosure.
  - 3. The minor is not physically secured to a cuffing rail or other stationary object.
- E. "Law Enforcement Facility" means a police facility or sheriff's station.
- F. "Lockup" means a locked room or secure enclosure under the control of a peace officer or custodial officer which is primarily for the temporary confinement of adults.
- G. "Officer" includes the arresting officer, the watch commander, and other officer's assigned responsibilities related to the custody, welfare or protection of minors held in temporary custody.

### III. ARRESTS AND DISPOSITIONS

In Section 626 of the Welfare and Institutions Code, which describes the ways in which minors may be taken into custody; paragraph "(d)" clearly defines the feeling of the legislature:

"In determining which disposition of the minor they will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided such alternative is compatible with the best interests of the minor and the community."

In most instances, arrested minors do not warrant detention and may be released to their parent, guardian or school. In some cases they may be released outright. Such a release must be made with the approval of the Watch Commander, after considering such factors as the seriousness of the offense, the minor's past record, and circumstances of the release. In cases where the minors are released to other than their parents, the arresting officer should attempt to notify the parents of the circumstances surrounding the arrest. A Juvenile Contact Report should be made for the information of the Department, and whether or not a follow-up investigation is necessary.

Section 625.6 Welfare & Institutions Code requires youth 15 years of age or younger consult with an attorney prior to custodial interrogation by law enforcement. Youth must consult with an attorney prior to a waiver of Miranda rights. The consultation with an attorney cannot be waived by the child or law enforcement. However, Miranda's public safety exception applies when the interrogation's purpose is solely to protect life or property from imminent threat.

Section 625(c) of the Welfare & Institutions Code requires that minors be advised of their constitutional rights in any case where they are taken into custody, regardless of whether they are to be questioned then or at a later time.

#### A. Arrest & Disposition Factors

Officers, when making the decision of whether or not to place a minor in detention, should apply one simple rule: Is the detention an urgent and immediate necessity? Section 625 of the Welfare and Institutions Code states a peace officer may, without a warrant, take into temporary custody a minor:

1. Who is under the age of 18 years when such officer has reasonable cause for believing that such minor is a person described in Section 300, 601 or 602, or
2. Who is a ward of the juvenile court or concerning whom an order has been made under Section 636 or 702, when such officer has reasonable cause for believing that person has violated an order of the juvenile court or has escaped from any commitment ordered by the juvenile court, or

3. Who is under the age of 18 years and who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

## B. Dispositions

Under Section 626 of the Welfare and Institutions Code, if a minor is arrested, the officers may:

1. Release the minor - Officer will complete a Juvenile Contact Report, detailing the offense. The officer may make a recommendation as to what he/she feels the disposition should be.
2. Cite the minor on a Notice to Appear form, giving a copy of the notice to appear at the specific time, place and date to either the minor or his/her parent, either of whom may be required to sign the promise to appear. A copy of the citation is sent as soon as possible to the Probation Department or Juvenile Court-Department A, and a concise statement of the violation and facts' making up the violation of the law is included on the reverse of the citation. Our Department uses this citation procedure only on violations that are accepted by the Juvenile Court-Department A, as provided for in Section 256 W&I. In accordance with Penal Code Section 19.8 and 853.6a, and Welfare & Institutions Code 256, persons under the age of 18 at the time of the offense may be issued a Notice to Appear.
3. Take the minor without unnecessary delay before the Probation Officer of the County and deliver custody of such minor to the Probation Officer at Juvenile Hall.
4. Deliver or refer the minor to a public or private agency with which the city or county has an agreement or plan to provide shelter care, counseling, or diversion services to minors so delivered. A placement of a child in a community care facility as specified in Section 1530.8 of the Health and Safety Code shall be made in accordance with Section 319.2 or 319.3, as applicable, and with paragraph (8) or (9) of subdivision (e) of Section 361.2, as applicable.

Under sections 625.3 and 626.6 of the Welfare and Institutions Code:

Any peace officer who takes a minor who is 14 years of age or older into custody for the personal use of a firearm in the commission or attempted commission of a felony or any offense listed in subdivision (b) of Section 707, shall deliver the custody of the minor to the Probation Officer at Juvenile Hall.

## C. Fingerprinting and Photographing

Photographs and/or fingerprints may be taken for any minor arrestee, for Police Department records, at the discretion of the arresting officer or as directed by supervisory personnel.

#### D. Notification of Parents

Section 627 of the Welfare and Institutions Code provides that when an officer takes a minor before a probation officer at Juvenile Hall or to any other place of confinement, such as another law enforcement agency, etc., they must take immediate steps to notify the minor's parent, guardian or a responsible relative, that such minor is in custody and the place where they are being held. This notification must be recorded in the written report or detention data form. Notification of detention of transients (out of county) will be handled on teletype by the Business Office at the officer's request. This responsibility is the police agency's, not Juvenile Hall's. If the parents cannot be located for notification, the reason for not contacting them should be written in the officer's report.

#### E. Information for Juvenile Hall

A copy of the officer's report should be transported to Juvenile Hall along with an affidavit. If the report is lengthy or the investigation is continuing, the face sheet of the crime report, along with the suspect description and a brief narrative of the offense, will be taken to Juvenile Hall instead of the entire report.

#### F. Diversion

The La Mesa Police Department Juvenile Diversion Program will adhere to the San Diego County Interagency Agreement-Juvenile Diversion Protocol. The Juvenile Services Specialists will be responsible for the status and tracking of all minors diverted, and will serve as the Diversion Counselor. Diversion will be limited to offenders per WIC 626(b), first time felony offenders not included in sections WIC 653.1 and 653.5(c), misdemeanors (excluding DUI) and WIC 256 offenses. In those cases where the minor fails to complete the Diversion Program, the Juvenile will be referred to the appropriate agency, including the Juvenile District Attorney, Juvenile Probation or Juvenile Court-Department A.

#### G. Voluntary DNA Reference Samples

The collection of voluntary DNA reference samples must be done in accordance with 625.4(a) PC

### IV. SEARCHING OF MINORS

All minors, prior to being transported, shall be searched for weapons, narcotics and items of evidentiary value. The responsibility for the minor's search lies with the arresting officer or, in the case where another officer transports, the transporting officer. Body or pat-down searches of male prisoners are to be made by the police officer. Body or pat-down searches of female prisoners should be made by an adult female (if one is available), preferably a matron or female officer of this Department.

## V. TRANSPORTING

### A. Females

If a female minor is arrested, a male transporting officer will give the dispatcher his mileage upon leaving the arrest scene and arrival at the destination. The station will acknowledge the officer with transmission of the time and recording the mileage and time.

### B. Handcuffing Minors

Minors shall be handcuffed in all cases except when otherwise instructed by the Watch Commander. Minors shall be handcuffed in all cases where the allegation of a felony exists or where the protection of the minor is of paramount interest. No minor shall be handcuffed to, or chained to, an adult.

## VI. TEMPORARY CUSTODY STANDARDS

- A. The following standards must be adhered to whenever a minor is held in temporary custody at the La Mesa Police Station. Temporary custody means that the minor is not at liberty to leave the law enforcement facility and includes both secure detention and non-secure custody. The protection and welfare of minors held in temporary custody is the responsibility of the watch commander, the arresting officer and other officer(s) assigned that responsibility or who observe violations of this policy.
1. The minor may not be held in temporary custody for more than six hours. The minor must be released or transported to Juvenile Hall or the Polinsky Center by the end of this six hour period, which commences at the time the minor enters the police station.
  2. The minor must be given reasonable access to toilets and washing facilities.
  3. The minor must be provided with food if he/she has not eaten within the past four hours, beginning at the time of detention or arrest. Regardless of time in custody, the minor must be provided with food if he/she is otherwise in need of nourishment. This may be due to special diet needs or other health or medical reasons.
  4. The minor must be given reasonable access to drinking water and/or other beverages.
  5. The minor must be given reasonable access to a telephone.
  6. The minor must be afforded privacy during visits with family members, guardian(s) and/or his/her attorney. Family visitations are not mandated by law but may be allowed if approved by the Watch Commander.

- B. In addition to these listed standards, officers must take reasonable precautions to provide for the welfare and protection of minors who are held in temporary custody at the La Mesa Police Station. The following issues should be considered and appropriately addressed for each minor held in temporary custody.
1. Discipline - Officers must maintain effective control of minors in temporary custody. Effective control is intended to prevent the violation of laws, infliction of injuries, destruction of evidence, or the escape of minors held in temporary custody.
  2. Suicide Risk and Prevention - Officers must take reasonable steps to determine if a minor is a suicide risk and to prevent suicide attempts. Suicide risks may be indicated by statements of the minor or other parties, physical evidence of past suicide attempts, or known history of suicide attempts. Minors identified as suicide risks should be kept under constant supervision and transported to a proper medical facility, if appropriate, or provided with referral information to an appropriate mental health agency.
  3. Use of Restraints - Minors should be physically restrained only when reasonably necessary to maintain effective control and in conformance with the provisions of this policy.
  4. Medical Assistance and Services - Officers shall comply with any reasonable request for medical assistance and shall render appropriate first aid when indicated. The watch commander shall be advised of the condition of a sick or injured prisoner, as set forth in Section 2.03 of the Rules & Regulations.
  5. Intoxicated Minors – Minors, who are in Temporary Custody, who show outward signs of being under the influence of alcohol/drugs, are to be monitored according to California Code of Regulations (CCR) 1150 and 1151, which is described in Section VII and VIII. If the minor is intoxicated to the extent that they are unable to care for themselves, they shall be cleared by the Juvenile Hall intake nurse or by medical staff at a local hospital.

## VII. SECURE DETENTION STANDARDS

- A. Secure detention means that a minor being held in temporary custody in a law enforcement facility is locked in a room or enclosure and/or is physically secured to a cuffing rail or other stationary object. Regardless of the offense with which the minor is charged, the following criteria must all be met before a minor can be placed in secure detention.
1. The minor must be charged with a criminal offense under the provisions of Section 602 of the Welfare & Institutions Code.
  2. The minor must be at least 14 years of age.
  3. The detention may not last longer than is reasonably necessary to investigate the case, facilitate the release of the minor to a parent or guardian, or transfer the minor to Juvenile Hall.
  4. The minor must present a serious security risk of harm to

himself/herself or others. Serious security risks may be posed by combative behavior or threats, drug and/or alcohol influence, and escape attempts or threats, including those evidenced by resisting officers or fleeing from officers.

- B. The following standards must be adhered to whenever a minor is placed in secure detention at the La Mesa Police Station.
1. At the time the minor is placed in secure detention, he/she must be advised of:
    - a. The purpose for being placed in secure detention.
    - b. The anticipated duration of secure detention.
    - c. The time at which the 6 hour maximum for temporary custody will expire.
  2. At the time the minor is placed in secure detention, the officer must make the required entries in the juvenile detention/booking log, completing the entry with the time secure detention ended when the minor is removed from secure detention.
  3. If the minor is secured to a stationary object outside of a locked enclosure, an officer must be present at all times and the minor cannot be secured in such a manner for more than 60 minutes at a time. The Watch Commander shall approve securing minors to a stationary object for longer than 60 minutes and for every 30 minutes thereafter and the reasons for the continued secure detention shall be documented. The decision for securing a minor to a stationary object for longer than 60 minutes, and every 30 minutes thereafter shall be based upon the best interests of the minor and shall be documented. Minors who are secured to a stationary object shall be moved to a locked enclosure when one becomes available. There is a six (6) hour maximum for secure and non-secure detention.
  4. If the minor is placed in a locked enclosure, such as the Juvenile Booking Room, he/she must have constant auditory access to an officer and there must be random, unscheduled personal observations of the minor at intervals not to exceed 30 minutes.
  5. Male and female minors cannot be placed in the same locked enclosure unless they are under constant visual observation by an officer.
  6. Minors placed in locked enclosures must be permitted to retain or wear their personal clothing unless it is inadequate, presents a health problem, or is required as evidence, and must be provided with a blanket or clothing to assure their comfort. Clothing or personal items which may pose a security problem should not be retained by a minor placed in a locked enclosure.
  7. Minors held in secure detention and adult prisoners may be in the same room or passageway where they have sight or sound contact only when necessary for booking or movement from one place to another within the police station. An officer must be present and

maintain side-by-side contact with either the minor or adult prisoner to insure there is no communication between them.

8. Minors who are visibly intoxicated / under the influence shall be visibly checked every 15 minutes. The safety check will then be documented on the Juvenile Booking Log.

#### VIII. NON-SECURE CUSTODY STANDARDS

- A. The following standards must be adhered to whenever a minor (or intoxicated / under the influence minor) is held in non-secure custody at the La Mesa Police Station. Non-secure custody means that a minor's freedom of movement is controlled by the staff of the facility and all of the following conditions have been met.
  1. The minor is under constant personal visual observation and supervision by staff of the law enforcement facility.
  2. The minor is not locked in a room or enclosure.
  3. The minor is not physically secured to a cuffing rail or other stationary object.
  4. The custody may not last longer than is reasonably necessary to investigate the case, facilitate the release of the minor to a parent or guardian, or transfer the minor to Juvenile Hall.
  5. The minor shall not have any contact with an adult prisoner.
  6. The minor may not be held in non-secure custody, including time held in secure detention, for more than 6 hours.

#### IX. ADMISSIONS

- A. A minor taken to the A.B. & Jessie Polinsky Children's Center (9400 Ruffin Court, SD) will need a report accompanying the child before he/she will be admitted. If the report cannot be made in full due to a continuing investigation, the face sheet and brief narrative should be filled out in order for the child to be admitted.
- B. Any minor described above may be transported to UCSD Medical Center or Rady's Children's Hospital for emergency treatment. If hospitalization is required, the Watch Commander shall be notified immediately. Procedures of the Department for handling mentally ill minors are the same as for adults.

#### X. INTERVIEWS OF MINORS AT SCHOOL

When an interview or arrest is to be made at school during school hours, the investigating officer shall first contact the Vice Principal, Dean of Students, or Student Counselor, and inform him/her of the officer's intended action. The authority to interview or arrest is found in the State Attorney General's ruling on this matter. In most cases, the school personnel will be present during the interview, but their presence is not required. As in all custodial interviews of juveniles, the provisions of 625.6 Welfare & Institution Code as stated above still

apply.

XI. MINOR OFFENDERS HELD IN SECURE FACILITIES

- A. A monthly log for the confinement of minors shall be maintained in the Booking Room and an entry will be completed for each minor held in temporary custody.
  - 1. Officers should indicate why the minor posed a serious security risk in the "Basis For Secure Detention:" box. The "Time & Initials" boxes should be used to document the 30 minute interval requirements under Sections VII.B. 3 and 4.
- B. By the tenth day of each month, a "Monthly Report on the Secure Confinement of Minors in Jail/Lockups" shall be forwarded to the California Board of State and Community Corrections
- C. If we hold no minors in a secure facility during the month, the form must be sent indicating this fact.