

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 7, 2007

GENERAL ORDER J-18

SUBJECT: YOUTH SERVICES DETAIL, JUVENILE PROCEDURES

PURPOSE

- 1 - The purpose of this Order is to define the role and responsibilities of the Youth Services Detail, and to define the policies applicable to the investigation and disposition of juvenile status and criminal offenders.

POLICY

- 2 - The Berkeley Police Department is committed to the development and perpetuation of programs designed to investigate, mitigate, and prevent juvenile delinquency. While all personnel are responsible for participating in and supporting this commitment, the Youth Services Detail is the primary unit responsible for the coordination and disposition of juvenile-related issues.

DEFINITION

- 3 - As used in this Order, the terms "juvenile", "minor", and "youth" define a person under the age of eighteen (18) years old.

YOUTH SERVICES DETAIL

- 4 - The Youth Services Detail, a unit of the Support Services Division Detective Bureau, will be supervised by a Detective Sergeant, who shall report to the Bureau Lieutenant.
- 5 - Civilian attire will normally be worn by sworn personnel assigned to the Detail and regulation uniforms will be worn by School Resource Officers while on school grounds.
- 6 - Any member of the Department who wishes to engage in any community delinquency prevention program in an official capacity shall obtain the approval of the Youth Services Detail Detective Sergeant.
- 7 - The Youth Services Detail shall be responsible for the following general duties/activities:
 - (a) Development of police programs dealing with youth diversion, innovation and prevention.
 - (b) Disposition of youthful offenders who have committed an offense.
 - (c) Maintaining cooperative relationships with other agencies concerned with the instruction, training and general welfare of youth.
 - (d) Providing information to the Juvenile Probation Department and District Attorney's Office for presentation of cases in Juvenile Court.

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- (e) Coordination with other divisions of the Department investigating cases involving youth.
 - (f) Providing individual treatment in the disposition of youthful offenders.
 - (g) Providing for adequate consultation services for all youth.
 - (h) Providing written reports and adequate records of all work performed.
 - (i) Service of juvenile warrants.
- 8 - The Youth Services Detail is responsible for the investigation of the following offenses:
- (a) Child abuse cases (i.e., physical, physical neglect, emotional and sexual);
 - (1) The Youth Services Detail will only investigate cases of sexual abuse when the victim is under 14 years of age.
 - (b) Child abandonment or abduction;
 - (c) Crimes and non-criminal incidents occurring on a school campus where a Youth Services Detail School Resource Officer is assigned.
- 9 - When no Youth Services Detail officer is available, the responsibility for initial investigation of the offenses referenced in paragraph 8 of this Order shall reside with the Patrol Division.
- 10 - The Youth Services Detail is not responsible for the investigation of any criminal case, or interrogation of any person involved in offenses, not specified in paragraph 8, regardless of the age of the victim or responsible.
- (a) Youth Services Detail personnel will assist the handling officer in, or assume follow-up responsibility for, an investigation of an offense not specified in paragraph 8 at the direction of the Youth Services Detail Detective Sergeant, or his/her chain of command.

SCHOOL DISTRICT CONTACT

- 11 - The Youth Services Detail will be responsible for non-emergency contacts with and notifications to schools (e.g., K-12, excluding college-level institutions.)
- (a) If the need arises to make immediate contact at any Berkeley school, the officer shall first make contact with someone from the school administration (i.e., Principal, Vice-Principal, Administrative Assistant, or a Dean.) to notify them of the issue at hand and assess if they can provide support to the investigation.

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- (b) In the event the contact involves notice of a reported missing juvenile enrolled at the school, unless the notification is accomplished in writing and includes a photograph, if available (e.g., a BOLO flier), the Youth Services Detail will be responsible for written notification required in Education Code §49068.6 within ten (10) days of the date of report.
- (c) Requests for Berkeley Unified School District student directory information (e.g., student's name, address, phone, etc.) shall be directed to the Youth Services Detail, who will be responsible for obtaining the necessary information.

SCHOOL RESOURCE OFFICER (SRO)

- 12 - As staffing permits, the Berkeley Police Department will select officers to work with the Berkeley Unified School District as School Resource Officers, who will serve as a public safety liaison between this department and the staff/students of designated schools.
- 13 - Under the supervision of the Youth Services Detail Detective Sergeant, the SRO's responsibilities include: protection of life and property; enforcement of laws and local ordinances; criminal investigation; crime prevention and suppression; report preparation and related testimony; providing information and assistance to the public; and, performing other tasks, as assigned.
 - (a) The primary duty station of an SRO will be the public school campus at which he/she is assigned.
 - (b) The SRO, while present at their assigned campus, will act only in the capacity of a peace officer, and not as a school official.
- 14 - The SRO, when on-duty and present on-site, will investigate all offenses reported and/or occurring at his/her assigned campus.
- 15 - The SRO will handle all youth dispositions that come to their attention as a result of his/her on-site contacts and investigations.
 - (a) The purpose of this function should be as a resource with respect to delinquency prevention.
- 16 - The SRO will collaborate with school staff and make public presentations to students regarding law enforcement and public safety subject matter, and to offer information, perspective and guidance on ethical issues faced by youth.
 - (a) The SRO will, within the scope of authority and training, provide counsel and advice to students on an individual basis.
- 17 - The SRO will provide security for various school activities.

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STATUS OFFENDERS

- 18 - A juvenile in custody for Welfare and Institutions Code (WIC) §601, whether or not he/she is currently a ward of the Juvenile Court, is defined as a status offender.
- (a) Initially the assigned patrol officer has the responsibility of making a computer record check on the juvenile in question to determine any existing wardship with the Alameda County Juvenile Probation Department.
- (1) Should it be determined that the juvenile is a WIC §602 ward or has a §602 investigation pending, the offender may be transported to Juvenile Hall only after getting permission of the assigned probation officer.
- (2) If the juvenile is active to probation, the offender is to be transported to Juvenile Hall only with the permission of the assigned probation officer.
- (3) Should the juvenile be a WIC §300 detainee, he/she is to be transported as directed by Child Emergency Services.
- (4) Should no ward or investigative status be identified, the juvenile shall be released to the appropriate crisis diversion agency.

STOPPING AND QUESTIONING (WIC §§300 or 601)

- 19 - The following shall be the criteria to be followed by Berkeley patrol officers in determining whether or not to stop and question a youth pursuant to WIC §§300 or 601:
- (a) An officer may stop and question a youth who appears to be under the age of 18 and:
- (1) Appears to be in need of emergency medical attention; or
- (2) Answers the description of a reported runaway.

JUVENILE TRAFFIC VIOLATORS

- 20 - Every juvenile issued a traffic citation by an officer of this Department should be advised that he/she will be notified by mail as to the date, time and location when he/she is to appear.
- (a) The issuing officer shall write the juvenile's current home or parent contact telephone number in the specifically provided section on the citation.

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- 21 - The original citation issued to a juvenile operating a motor vehicle or bicycle shall be placed in the Patrol Division citation transfer box after supervisory review.
- (a) Traffic Bureau personnel shall regularly forward original citations issued to juveniles to the Superior Court Traffic Division Clerk's office.

DETENTION AND ARREST OF JUVENILES (WIC §602)

- 22 - As soon as practical, after taking custody of a juvenile, and commensurate with the age and sophistication of the juvenile, the officer shall advise the juvenile of the reason(s) for their detention and what disposition options are being considered.
- 23 - Admonition of Rights: In any case where a minor is taken into temporary custody on the grounds there is reasonable cause for believing that the minor is a person described in WIC §602, or that he/she has violated an Order of the Juvenile Court, he/she shall be immediately admonished of his/her Constitutional *Miranda* rights.
- (a) "Temporary custody," for purposes of *Miranda*, occurs at the point the minor would be considered to be under arrest (i.e., the minor's freedom of movement was restrained to the degree associated with an arrest.)
- (1) Issuance of a *Miranda* admonition is not required in investigative detentions.
- (2) Officers should objectively consider the location, nature and duration of the detention with respect to the minor's freedom of movement in determining when the detention becomes a de facto arrest.
- (b) The *Miranda* admonition should be issued as close to verbatim as possible, in language commensurate with the age and sophistication of the juvenile.
- (c) When possible, initial *Miranda* admonition should be documented on an Admonition and Waiver form (see paragraph 37(a) of this Order for waiver procedure.)
- 24 - Handcuffing: Officers shall follow the policy governing handcuffing of juveniles set forth in General Order H-6.
- 25 - Whenever a juvenile is taken into temporary custody and brought to the Public Safety Building (PSB), the accompanying officer shall immediately complete the Juvenile Log maintained in the Juvenile Booking Area.

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- (a) The assigned officer is responsible for ensuring that the Juvenile Log is completely filled out for the juvenile he/she has arrested. The responsibility for filling out the log can be delegated, however, its proper completion still rests with the handling officer.
 - (b) When a juvenile is transferred to the Probation Department, or is otherwise discharged from custody, the time of his/her release shall be indicated in the Juvenile Log by the officer responsible for the transfer/release.
- 26 - If a juvenile is being detained on one or more of the following offenses or conditions, he/she may be delivered to the Alameda County Juvenile Probation Department.
- (a) Homicide.
 - (b) Forcible rape.
 - (c) Robbery.
 - (d) Aggravated assault.
 - (e) Burglary (non-technical, recent and serious).
 - (f) Grand theft person.
 - (g) Auto theft.
 - (h) Felony narcotics offenses.
 - (i) Escape.
 - (j) Juvenile court warrant.
 - (k) Order of California Youth Authority.
 - (l) Hold for outside department.
 - (m) If further investigation of any of the above cases is necessary and the release would result in warning accomplices or destruction of evidence.
 - (n) Where there is strong evidence of runaway tendencies or serious family conditions and the welfare of the juvenile dictates holding him/her or where he/she should be taken into protective custody as specified in the Welfare and Institutions Code. (See paragraph 18 of this Order for handling procedures for status offenders.)
 - (o) Any offense when the mandatory juvenile system record check indicates that the juvenile in question is a WIC §602 ward of the Juvenile Court.

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- (p) When any provision of WIC §625.1 applies and a member of the Youth Services Detail is not available, upon authorization of a supervisor or commanding officer.

SECURE/NON-SECURE DETENTION PROCEDURES

- 27 - Minors who are taken into temporary custody for WIC §§300 or 601 cannot be held in secure detention.
 - (a) Secure detention: A minor is held in temporary custody at a law enforcement facility within a locked room or enclosure, or secured to a stationary object (e.g., handcuffed to a fixed metal rail or bench.)
 - (1) Minors under the age of 14 years old cannot be held in secure detention for any reason.
 - (b) Non-secure detention: A minor is held in temporary custody at a law enforcement facility, his/her freedom of movement is controlled by, and is under constant personal visual observation and supervision of, facility staff.
 - (1) The minor is neither locked in a room or enclosure, nor secured to a stationary object.
- 28 - In deciding to hold a minor in secure detention, the arresting officer must have reasonable belief that the minor presents a serious security risk or may harm him-/herself or others. In making that determination, the following factors may be considered:
 - (a) Age, maturity, delinquent history of the minor;
 - (b) Severity of the offense;
 - (c) Minor's behavior;
 - (d) Availability of staff to provide adequate supervision or protection of the minor; and,
 - (e) Age, type and number of other individuals detained in the facility.
- 29 - The criteria for secure detention within a locked enclosure is as follows:
 - (a) The juvenile should not be held more than six (6) hours.
 - (b) Minors shall receive adequate supervision, which requires:
 - (1) Constant auditory access to staff by the minor; and

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- (2) Unscheduled personal observation of the minor by staff of the law enforcement agency no less than every 30 minutes.
 - (c) Males and females shall not be placed in the same locked room.
- 30 - Minors held in secure detention outside of a locked enclosure shall not be secured to a stationary object for more than 60 minutes unless no other locked enclosure is available.
 - (a) A department employee shall be present at all times to ensure the minor's safety while secured to a stationary object.
 - (b) Securing a minor to a stationary object for longer than 60 minutes, and every 30 minutes thereafter, shall be done only with a supervisor's approval.
 - (1) The decision for securing a minor to a stationary object for the aforementioned time frame shall be based upon the best interests of the minor and shall be documented in the associated police report.
- 31 - Non-secure detention criteria are as follows:
 - (a) The juvenile should not be held more than six (6) hours.
 - (b) Minors may be held in non-secure custody if a brief period of time is needed to investigate the case, facilitate release of the minor to a parent or guardian, or arrange for transfer of the minor to the appropriate juvenile facility.
 - (c) Minors held in non-secure custody shall receive constant personal visual observation and supervision by staff of the law enforcement agency.
 - (d) Sight and sound separation procedures of juveniles detainees from adult detainees shall be complied with during detention of juveniles at the PSB.
- 32 - Employees shall provide appropriate care to a minor in temporary custody.
 - (a) The following shall be made available to all minors held in temporary custody:
 - (1) Access to a toilet and lavatory facilities;
 - (2) One snack upon request during term of temporary custody if the minor has not eaten within the past four hours or is otherwise in need of nourishment;
 - (3) Access to drinking water; and,

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- (4) Privacy during visits with family, guardian or lawyer.
 - (b) Minors placed in locked enclosures shall be:
 - (1) Provided blankets and clothing, as necessary, to assure the comfort of the minor; and,
 - (2) Permitted to retain and wear his or her personal clothing unless the clothing is inadequate, presents a health or safety problem, or is required to be seized as evidence of an offense.
- 33 - The employee responsible for a juvenile in temporary custody will provide the minor the opportunity to make authorized telephone calls.
- (a) Immediately after a juvenile is taken into custody, when possible, and in any event no later than 30 minutes after arrival at the PSB, the juvenile has the right to make at least two telephone calls: one call completed to a parent or guardian, a responsible relative or any employer, and another call completed to an attorney.
 - (b) The telephone calls will be made in the presence of a police officer, and all numbers called shall be recorded in the appropriate space on the Juvenile Responsibility Report with completed calls noted.

NOTIFICATION OF PARENT OR GUARDIAN

- 34 - Whenever a juvenile is taken into custody, the assigned officer shall ensure efforts are made to contact a parent, guardian or responsible adult relative.
- (a) An attempt to contact the juvenile's parent, guardian or other responsible adult relative shall be made no later than fifteen (15) minutes after post-transport arrival at the PSB.
 - (b) Should an initial attempt to contact a parent, guardian or adult relative fail, renewed attempts shall be made by telephone every 30 minutes until processing and investigation have been completed. The time of all calls shall be logged on the Juvenile Responsibility Report.
 - (c) If a parent, guardian or adult relative has not been contacted at the conclusion of the investigation and processing, the assigned officer shall ensure written notification is delivered to the parent's/guardians known address, giving notice of the juvenile's detention, his/her present whereabouts, the name of the assigned officer, and relevant report number.
- 35 - An officer who detains and does not take into custody a juvenile may notify a parent, guardian or responsible adult relative of the purpose and disposition of the detention, if in the interest of the minor and/or public/parental relations.

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- 36 - Whenever a child is taken into protective custody pursuant to WIC §300, the handling officer shall accomplish parent/guardian notifications required by WIC §307.4.
- (a) WIC §307.4 requires a peace officer immediately inform, through the most efficient means available, the parent, guardian, or responsible relative, that the minor has been taken into protective custody and that a written statement is available from the Juvenile Probation Department which explains: 1) the parent's or guardian's procedural rights; and, 2) the preliminary stages of the dependency investigation and hearing.

INTERROGATION

- 37 - Immediately prior to interrogation, a juvenile shall again be advised of his/her Constitutional *Miranda* rights in language commensurate with their age and sophistication.
- (a) Reasonable effort should be made to obtain a written waiver of Constitutional rights from the juvenile. The Admonition and Waiver form shall be used.
- (1) In the event the juvenile agrees to participate in an interrogation but refuses to sign the Admonition and Waiver form, his/her verbal waiver shall be witnessed by two officers and indicated on the waiver form.
- 38 - A request from a juvenile to speak with their parent or guardian prior to, or have that person present during, interrogation shall be explored to determine whether or not it constitutes an invocation of *Miranda* (e.g., the right to counsel, or a conditional invocation of the right to silence.)
- (a) Officers are under no obligation to advise a minor that he/she has a right to contact parent or guardian, or have that person present during questioning, as no such right exists.
- 39 - The number of officers interrogating a juvenile should not exceed two officers, unless authorized by a supervisor.
- 40 - The duration of the interrogation should be limited to only that time necessary to ascertain the necessary investigative information.
- (a) Should the interrogation need to proceed over a long period of time, consideration should be given to the child's age and his/her needs for appropriate breaks and necessary refreshment.

WHEN JUVENILE SUSPECTED OF BEING RUNAWAY

- 41 - When a juvenile is a suspected runaway the officer shall:

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- (a) Contact the parent, guardian or a responsible adult;
 - (1) Allow the youth to speak with parent, guardian or responsible adult;
- (b) Allow youth to make two completed telephone calls;
- (c) Immediately release if parents say youth is not a runaway;
- (d) Proceed with standard documentation and reporting procedures if parents say youth is a runaway;
- (e) Provide food, water, and access to lavatory facilities, as necessary; and,
- (f) If unable to contact a parent, guardian or responsible adult, or they do not cooperate with police and/or refuse take custody of their runaway juvenile, procedures described in paragraph 45 of this Order shall be followed.

JUVENILE RESPONSIBILITY AND DISPOSITION FORMS

- 42- A Juvenile Responsibility Form shall be completed by the assigned officer whenever a juvenile is taken into custody pursuant to WIC §§300, 601 or 602.
- 43 - The assigned officer shall prepare and submit the indicated additional administrative processing forms in the following situations:
 - (a) Juvenile is released to parent or responsible adult:
 - (1) A Notice to Parent or Guardian form.
 - (b) Juvenile is transported to Juvenile Hall:
 - (1) A standard Consolidated Arrest Report (CAR) form.
 - (2) An Alameda County Juvenile Intake Disposition Report ("Blue Sheet").
 - (i) A two-part form, both parts go with the juvenile to Juvenile Hall; no copies are needed by the Berkeley Police Department.
 - (3) A Juvenile Detention Disposition Report ("Purple Form").
- 44 - The transporting officer shall deliver two (2) complete copies of the arrest report to Juvenile Hall for each juvenile transported.
- 45 - When a juvenile in custody meets the criteria for release to a parent, guardian or adult relative as established by this Order and no such person can be located, the juvenile shall be transported to an appropriate facility (e.g., Juvenile Hall or a crisis receiving home.)

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- (a) The transporting officer will request the signature of the facility intake person on the original copy of the Notice to Parent Form.
 - (b) The transporting officer will issue a duplicate of the completed Notice to Parent Form to the facility intake person and request it be issued to the parent or guardian who ultimately accepts custody of the juvenile.
- 46 - All reports which involve a juvenile taken into custody and either released to a parent, transported to Juvenile Hall, or placed in a crisis receiving home (e.g., Malabar House) shall be placed by a supervisor in the 'in-custody' report transfer box after review.
- (a) It shall be the responsibility of the Support Services Division Records Bureau to forward a copy of juvenile in-custody, or otherwise indicated, reports to the Youth Services Detail.

OTHER DISPOSITIONS

- 47 - Juveniles may be released without preparing a Juvenile Responsibility Report or an Arrest Record when:
- (a) Involved in a traffic violation and a citation or bicycle citation is issued.
 - (b) Responsible for minor malicious mischief, pranks, or disturbing the peace under conditions similar to Fourth of July or Halloween celebrations.
 - (c) Brought to the PSB and found not to be responsible for an offense.
 - (d) Reported missing and voluntarily returned home without suspicious circumstances and without being missing overnight.

DETENTION-RELATED DEATH OR SERIOUS INJURY

- 48 - In the event a minor is seriously injured or dies while in detention, employees shall follow procedures detailed in General Order P-12.

JUVENILE ESCAPEES

- 49 - When a report is received that a juvenile has escaped from a county facility or out-agency personnel, the Communications Center shall initiate a numbered report and assign a Patrol Division officer to investigate the incident.
- (a) Reports involving juveniles who have escaped or run away from a County institution or out-agency personnel shall be classified as "Out Aid" to the reporting agency and investigated as a missing person/runaway, as described in General Order M-1.

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- (b) If the subject juvenile resides outside of Berkeley, the investigating officer will ensure the police department having jurisdiction over the juvenile's permanent residence is notified of the minor's escape/absence.

JUVENILE RECORDS

- 50 - The Support Services Division shall have responsibility for management and dissemination of juvenile-related records, such as police reports and criminal history information.
 - (a) Public record application for and release of juvenile record information shall be coordinated by the Support Services Division Records Bureau.
 - (1) The release of criminal history information shall conform with *T.N.G. v. SUPERIOR COURT* (4 CA, 3rd 767 (1971)) and the related Special Matter Order, signed by the Presiding Judge, Alameda County Juvenile Court, dated August 12, 1982.
 - (b) Expunging or sealing juvenile records shall be the responsibility of the Support Service Division Commander.

References: California Code of Regulations, Titles 15 and 21
California Education Code §49068.6
California Welfare and Institutions Code, §§300, 305, 307, 307.4, 307.5,
308, 601, 602, 626, 626(d), 626.5, 627(a), and 627(b)
T.N.G. v. Superior Court ((1971) 4 CA, 3rd 767)
Special Matter Order, signed by the Presiding Judge of Alameda County
(8/12/82)
General Orders D-2, E-8, H-2, I-3, J-1, M-1, P-12 and R-31
Police Regulations 313 and 408
Special Order #03-00026, "Change in Procedures – Juvenile Handcuffing
and Juvenile Miranda Rights", issued September 11, 2003