

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: DECEMBER 23, 2020

NUMBER: 3.08 - INVESTIGATIONS

SUBJECT: JUVENILE PROCEDURES

RELATED POLICY: [3.08](#)

ORIGINATING DIVISION: TRAFFIC, YOUTH & EVENT SERVICES
COMMAND: JUVENILE ADMINISTRATION

NEW PROCEDURE:

PROCEDURAL CHANGE: **MINOR CHANGES**

SUPERCEDES: DP 3.08 – 10/23/2019

I. PURPOSE

This Department procedure establishes guidelines for the custody, care, and disposition of juvenile offenders.

II. SCOPE

This procedure applies to all members of the Department.

III. 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.

- A. Peace officers have the following legal alternative dispositions for juveniles taken into temporary custody, per Welfare and Institutions Code §626:
1. Release the juvenile to a parent, guardian, responsible adult, or on their own recognizance;

2. Refer or deliver the juvenile to an agency for shelter, care, counseling, or diversion (For diversion cases, refer to the JST operations manual);
 3. Complete a Case Report (Arrest/Juvenile Contact Report) with a statement of the reasons the minor was taken into custody and immediately release the juvenile; or,
 4. Deliver the juvenile to a probation officer (Juvenile Hall).
- B. Welfare and Institutions Code §626 specifies that the disposition selected should be the one that least restricts the minor's freedom of movement, provided it is in the best interest of the minor and the community.

IV. **DEFINITIONS**

- A. JCR – Case Report (Arrest/Juvenile Contact Report).
- B. JST – Juvenile Services Team.
- C. Law Enforcement Facility – includes a police facility but does not include a jail.
- D. Minor – a term meaning the same as juvenile; a person under 18 years of age.
- E. Non-secure Detention – the condition in which a juvenile is in temporary custody and the juvenile's freedom of movement is controlled by the staff of the facility, and the juvenile:
1. Is under constant observation and supervision;
 2. Is not locked in a room or enclosure; and,
 3. Is not physically secured to a cuffing rail or other stationary object.
- Example of non-secure detention: The juvenile can free himself of the building in case of fire.
- F. Temporary Custody – the condition in which a juvenile is not at liberty to leave.
- G. Welfare and Institutions Code § 601 – juveniles subject to the jurisdiction of juvenile court and to adjudication as a ward for refusal to obey orders of parents, for violation of curfew, or truancy (Status Offenses).
- H. Welfare and Institutions Code § 602 – juveniles subject to the jurisdiction of the juvenile court and to adjudication as a ward for violation of law or an ordinance defining a crime (Criminal Offenses).

I. WIC – Welfare and Institutions Code.

V. **ARREST**

Effective January 1, 2019, Senate Bill 439 amended Sections 601 and 602 of the California Welfare and Institutions Code and added a new section 602.1. Previous law put all minors under the age of 18 within the jurisdiction of the juvenile court system. SB 439 modified the age a person must be to fall within the jurisdiction of the juvenile court or to be adjudged a ward of the court. A minor between 12 years of age and 17 years of age, inclusive, still falls under the juvenile court's jurisdiction. And any minor who is under 12 years of age when he or she is alleged to have committed murder or rape, sodomy, oral copulation, or sexual penetration by force, violence, or threat of great bodily harm also falls within the jurisdiction of the juvenile court and may be adjudged a ward of the court.

- A. Welfare and Institutions Code § 625 details the circumstances in which an officer can take a juvenile into custody. The laws of arrest for juveniles are essentially the same as for adults, with one major exception, an officer may arrest a juvenile for a misdemeanor not committed in his or her presence, if probable cause exists.
- B. Officers should take photographs suitable for line-up purposes and a full set of fingerprints from all juveniles *detained* for 602 WIC. The officer must complete the "Final Disposition" block on the fingerprint cards, stating the officer's disposition of the juvenile.
- C. Officers must fingerprint juveniles *arrested* on felony charges.
- D. The officer will complete three fingerprint cards and attach them to a copy of the JCR. The officer will forward the fingerprint cards and JCR to the assigned JST detective. The detective will determine the disposition and forward the packet to the Juvenile Records Section at MS 726. Records Division personnel will send fingerprint cards to the Sheriff's Department for entry into the local database and to the Department of Justice, Bureau of Criminal Identification, to be entered into Cal-ID. Copies of fingerprint cards are not acceptable.
- E. The Watch Commander/Field Lieutenant must approve all Juvenile Hall placements.
- F. On weekdays between the hours of 0700 and 1700, when an officer has taken a juvenile into custody and placed him or her in Juvenile Hall, the officer should notify the area JST sergeant of the arrest.

- G. Juvenile Hall cannot accept minors under 12 years of age without a judge's approval and that approval may only be requested for the crimes of murder, rape, sodomy, oral copulation, or sexual penetration by force, violence, or threat of great bodily harm.
- H. Juvenile Hall will accept 18-year old, until their 19th birthday, with "No Bail" warrants originating in Juvenile Court.
- I. Officers should take juveniles with traffic warrants directly to the deputies at Traffic Court. If the arrest occurs after business hours, the juvenile is to be taken to Juvenile Hall. Juvenile Hall will handle the Promise/Order to Appear and will return the juvenile to a parent or guardian.
- J. All Juvenile Hall bookings must be pre-approved by the Probation Department's Detention and Control Unit (DCU). Officers shall contact DCU at (858) 694-4505 **PRIOR** to transporting youth to Juvenile Hall for screening and determination of detention suitability. DCU staff are available by phone 7 days a week, 24 hours a day. During the call to DCU, officers will be asked the following questions:
1. What are the charges?
 2. How have the elements of the crime been met?
 3. How old is the suspect?
 4. Are there any serious injuries to the victim or suspect?
 5. Does the suspect have priors and if so, what are they?
 6. What is the suspect's runaway status?
 7. What is the suspect's drug status?
 8. Has the suspect been arrested in the last 12 months?
 9. What is the suspect's mental health status?

NEW

VI. ADMONISHMENT

Welfare and Institutions Code section 625 authorizes a peace officer to take a minor into temporary custody when that officer has reasonable cause to believe that the minor has committed a crime or violated an order of the juvenile court. In these circumstances, existing law requires the peace officer to advise the minor that anything he or she says can be used against him or her, that he or she has the right to remain silent, that he or she has the right to have counsel present during any interrogation, and that he or she has the right to have counsel appointed if he or she is unable to afford counsel.

- A. In any case where a juvenile, as described in Welfare and Institutions Code § 601 or 602, is taken into temporary custody, the officer shall advise the juvenile of his or her rights, via Miranda warning, whether or not the officer is going to question the juvenile about the crime for which he or she has been taken into custody, as required by Welfare and Institutions Code § 625.

- B. When a juvenile is in police custody (arrest or arrest-like restraint), he/she must be admonished prior to interrogation.
- C. Effective January 1, 2018, and pursuant to Senate Bill 395, juveniles 15 years of age or younger are entitled to pre-Miranda counseling. Welfare and Institutions Code § 625.6(a) states: “Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 15 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived.”
 - 1. For juveniles age 15 and younger (if the Officer intends to question the juvenile):
 - a. Prior to asking admonishment questions #1 and #2, contact the Public Defender’s Office at (619) 681-2923, 24 hours a day, 7 days a week.
 - b. The attorney representative will make the decision on whether to handle the incident by telephone or to respond to a mutually agreed on location to speak with the juvenile.
 - c. Allow the juvenile and attorney to have a private conversation regarding the juvenile’s rights to answer questions about the incident.
 - d. Once this initial conversation between the juvenile and the attorney is complete, officers shall read the Miranda admonishment to the juvenile again and ask the juvenile questions #1 and #2. During this time, the attorney shall be present in person or by telephone. Once the juvenile answers the two questions, the attorney consultation is considered complete and the officer shall proceed based on the answers to the questions.
 - e. Officers shall document the attorney name and bar number in their report.
 - 2. Exceptions to Pre-Miranda Counseling
 - a. Under the public safety exception, Department members may bypass the pre-Miranda counseling only if **BOTH** of the following criteria are met:
 - 1) The officer who questioned the juvenile reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat, and

- 2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.
 3. For juveniles age 16 and 17 (if the Officer intends to question the juvenile):
 - a. Pre-Miranda counseling is not required, and there is no requirement to allow the juvenile to speak with a representative from the Public Defender's Office.
 - b. Ask admonishment questions #1 and #2 and then proceed based on their answers.
 4. Privacy
 - a. Conversations between a juvenile and an attorney from the Public Defender's Office for the purposes of meeting the SB 395 requirements are considered part of attorney-client privilege, and, as such, are considered confidential communication. These conversations, whether in person or by telephone, cannot be audibly monitored or recorded in any manner.
 - b. All efforts should be made to provide the juvenile and his/her attorney as much privacy as possible while still taking into account any potential safety concerns. As such, it is recommended that these conversations take place at a police facility (HQ, substation, etc.) where a detention room provides both privacy and the ability for the officer to visually monitor the juvenile.
- D. The officer must inform the juvenile of the purpose of the arrest, the expected duration, and that it cannot exceed six hours, as required by Welfare and Institutions Code § 207.1 (d)(1) and (2).

VII. INFRACTION OR MISDEMEANOR FIELD RELEASES

- A. Officers may "field release" a juvenile arrested for any infraction or misdemeanor if the juvenile can provide satisfactory evidence of personal identification and the juvenile is a resident of San Diego County.
- B. If the juvenile is not a resident of San Diego County, it is not likely he or she will return for court on an infraction or a misdemeanor; therefore, another disposition is appropriate.
- C. To release a juvenile in the field for a non-traffic related offense, a Case Report (Arrest/Juvenile Contact Report) must be completed. Officers must enter

“Released to Parents/Etc” in the Juvenile Dispo field of the Arrest/Juvenile Contact Report. The officer should contact the juvenile’s parent or guardian, advising them of the arrest before the end of shift. If the officer is unable to make contact, the appropriate area JST will do so later.

- D. When a school official calls an officer to a school campus to handle a juvenile, the officer must determine if the juvenile has violated the law or if the juvenile has violated a school policy. To maintain the credibility of the school officials and the Police Department, the officer should use discretion in determining the disposition of the juvenile.
- E. Officers may not release a juvenile in the field if:
 - 1. The juvenile is under 14 years of age;
 - 2. The juvenile is under the influence of alcohol or drugs;
 - 3. The juvenile requires medical attention or is unable to care for his/her own safety;
 - 4. The crime involves a great deal of criminal sophistication;
 - 5. The immediate release of the juvenile would jeopardize the prosecution of the offense(s); or,
 - 6. There is reasonable likelihood that the offense(s) would continue or resume, or the release of the juvenile would imminently endanger the safety of persons or property.

VIII. DEPENDENT CHILDREN

- A. Dependent children are defined as victims of child abuse, neglect, or molestation, children deserted by their parents, children whose parents have been arrested or hospitalized, or children otherwise in need of immediate protection as detailed in Welfare and Institutions Code § 300.
- B. Peace officers have the authority to remove a child from home and transport to Polinsky if the child is in immediate need of medical care or is in immediate danger of physical or sexual abuse.
- C. The taking of a child into protective custody is a seizure and must comply with Fourth Amendment principles. Therefore, to remove a child from a parent’s custody, officers must have a warrant or other judicial preauthorization. The exception is if the officer has reasonable cause to believe that the child is likely to experience serious bodily harm in the time that would be required to obtain a

warrant. The legal standard requires an officer to have reasonable cause to believe that the child has an immediate need for medical care, or the child's in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety.

- D. If a child's welfare is in immediate danger, the officer will take the child to Polinsky Children's Center and complete the appropriate report. All child abuse incidents will be documented on the Case Report (Crime/Incident Report). Child Abuse incidents will no longer be documented on a stand-alone ARJIS-9.
- E. All Child Abuse reports require a case number and an incident number. Officers will select the Child Abuse field on the first page of the report, which will default the violation section to 934000 ZZ. Reports will be submitted electronically using NetRMS.

IX. POLICE FACILITY DETENTIONS

Secure detention is currently prohibited in all police facilities. Juveniles shall not be locked in a room or enclosure and shall not be secured to a cuffing rail or other stationary object while in custody in a law enforcement facility for any length of time.

- A. Non-secure Detention
 - 1. Juveniles under non-secure detention may be handcuffed. However, they shall not be handcuffed to chairs, benches, handcuffing rails or other stationary objects.
 - 2. Juveniles held under non-secure detention shall be under constant observation and supervision by an officer. Observation by television monitor is not sufficient; constant personal observation is required.
 - 3. Juveniles detained under Welfare and Institutions Code § 300 must be kept under continuous supervision and are not permitted to come into contact with adults in custody within the facility, per § 206 WIC.
 - 4. Juveniles detained at San Diego Police Department facilities shall not be allowed to come into contact or remain in contact with adult arrestees.
 - 5. Juveniles in custody under Welfare and Institutions Code § 602 shall not be allowed to come into contact with juveniles in custody under Welfare and Institutions Code § 300 or 601.
 - 6. A non-secure detention may not exceed six hours. Juveniles may be held in law enforcement facilities only long enough for officers to investigate a

crime, facilitate release of the juvenile to a parent, guardian, responsible relative, or adult designated by the parent. In all cases, within the six-hour limit, officers must use one of the dispositional options available to them. If the juvenile is going to be detained longer than six hours, the officer must transfer the juvenile to Juvenile Hall.

- B. Juveniles under non-secure detention at law enforcement facilities shall have the following amenities available to them:
1. Reasonable access to drinking water and/or other beverage;
 2. Reasonable access to toilets and washing facilities;
 3. Privacy during visits with family, guardian, and/or lawyer;
 4. Provided with something to eat if he or she is in custody for four hours or is otherwise in need of nourishment. This includes any special diet required for the health or medical needs of the minor. If the juvenile has money, he or she should be provided access to facility vending machines. Juvenile Administration provides food items to the area commands for juveniles without money; and,
 5. Provided the opportunity to complete at least two telephone calls no later than one hour after being taken into custody. Officers should use discretion in permitting long distance phone calls. Except as required in section XIV.D.3.b of this procedure, privacy only applies to phone calls to an attorney. Except as required in section XIV.D.3.b of this procedure, the arresting officer should listen in on all other phone conversations.
- C. All officers who detain juveniles in a police facility will record the detention date, time in and time out, name and age of juvenile, offense and subsequent disposition, and the arresting officer's name and I.D. number on the standardized automated Juvenile Detention Log maintained on the I: Drive on the Police Department LAN. The arresting officer is responsible for recording this information on the log at the time of the detention.

X. PROTECTION AND WELFARE OF JUVENILES

- A. Protection – the welfare and protection of all juveniles held in temporary custody is the responsibility of arresting officers and this Department.
- B. Discipline – discipline of any kind, including withholding any of the amenities noted previously, is not permitted. However, officers are to maintain control of juveniles according to accepted Department procedures.

C. Suicide Risk and Prevention

1. If identified as a suicide risk, officers will maintain constant supervision of the juvenile.
2. A juvenile who exhibits excessive agitation, despondency, or other distressed behavior should be under constant direct supervision of an officer. If the juvenile appears to be potentially suicidal, the juvenile should be taken to:

Children's Mental Health Services
Emergency Screening Unit
4309 Third Avenue
San Diego, California
(619) 876-4502

3. Juveniles being transported to Juvenile Hall who claim to be suicidal are still accepted at Juvenile Hall. The medical staff at Juvenile Hall will evaluate the juvenile. Juvenile Hall has procedures in place to conduct a "suicide watch" on juveniles who threaten suicide.

D. Use of Restraints

1. Officers are to use discretion and good judgment in the use of physical restraints consistent with procedures outlined in Department Procedure 6.01, Handcuffing, Searching, and Transporting Procedures.
2. A juvenile who exhibits behavior necessitating the use of alternative restraints should be kept under continuous in-person observation for evidence of breathing difficulty or other symptoms of physical distress. A juvenile displaying such symptoms should receive immediate medical treatment.

E. Medical Assistance and Services

1. Officers should comply with any reasonable request for medical assistance.
2. Officers will render necessary medical assistance and/or services.
3. Officers will obtain appropriate medical care for any juvenile who is known to have ingested one or more intoxicating substances or appears to be under the influence of one or more intoxicating substance which could result in a medical emergency.

XI. REQUIRED REPORTS

- A. Officers must complete a Juvenile Contact Report (JCR) after taking a juvenile into custody for a criminal offense.
1. If the juvenile is to be detained at Juvenile Hall, it is important that the JCR, the Declaration and Determination form, Affidavit and Application for Filing of Juvenile Court Petition, and the Crime Case be completed immediately, and one copy left with the Juvenile Hall Intake Officer. The Declaration must include a description of the offense and the juvenile's involvement. If the officer does not include the elements of the offense in the reports, Juvenile Hall will immediately release the minor from custody.
 2. The only time a Declaration and Determination form, Affidavit and Application for Filing of Juvenile Court Petition, and Crime Case are **not** required is when the juvenile has been arrested for a Juvenile Detention Order or warrant. Officers must explain in the JCR how they initially came into contact with the juvenile.
 3. If the juvenile is detained at Juvenile Hall and it is not immediately possible to complete the Case Report (Crime/Incident Report), the Crime Case must be taken the next day to the District Attorney's Juvenile Division. All other reports are required before the Intake Officer will accept the juvenile. If the officer is going to submit the Crime Case the following day, the officer must advise the JST detective handling the case.
 4. On weekdays, between the hours of 0730 and 1600, the Intake Officer will direct the transporting officer to the District Attorney's Juvenile Division for a review of the reports before booking.
- B. Officers may request that the juvenile not be released, but a factual description of the situation must support the request. The request must fall within the provisions of Welfare and Institutions Code § 628 that include situations where:
1. The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative; has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or, has no parent, guardian, or responsible relative exercising such care or control;
 2. Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or a reasonable necessity for the protection of the person or property of another;
 3. The minor is likely to flee the jurisdiction of the court;

4. The minor has violated an order of the juvenile court; or,
 5. The minor is physically dangerous to the public.
- C. If a juvenile has committed multiple traffic or criminal offenses, include all violations on a Juvenile Contact Report.
- D. Department personnel should not tell citizens victimized by juveniles to contact the Juvenile Administration Unit to sign a complaint. When a juvenile has broken the law and it is reported to the police, police can take action despite the wishes of the complainant.
- E. Parent Notification Letter
1. When an officer determines a juvenile meets the criteria below for a Parent Notification Letter, he or she will forward a copy of the contact (Field Interview, Traffic Cite, Crime Case, or JCR information where the juvenile is listed as a companion only) to the Juvenile Services Team in the area in which the juvenile lives. The Parent Notification Letter will assist the parent in seeking help and allow for community-neighborhood intervention and assistance.
 2. The juvenile meets the criteria when he or she is:
 - a. A companion of a person interviewed, cited, or arrested for a narcotics violation (possession, under the influence, sales, transportation);
 - b. A companion of a person interviewed, cited or arrested for an alcohol violation (open container, DUI, drunk in public, furnishing alcohol to a minor, minor in possession of alcohol);
 - c. A companion of a person involved in criminal activity where that person is listed as a suspect, cited, or arrested for a crime. (Do not send a letter if doing so will jeopardize an ongoing investigation);
or,
 - d. A companion of a person known to be a member of a street gang.
 3. The Juvenile Services Team Sergeant will evaluate the contact and make the decision whether or not to send a "Parent Notification Letter" to the juvenile's parent/legal guardian. A tracking system is used to evaluate the effectiveness of the notification letter. Tracking will consist of the date the letter was sent, date the parent or guardian contacted Juvenile Services

at the command, the outcome of the parent/guardian contact, and any future contacts with law enforcement.

4. When a parent/guardian contacts the area command Juvenile Services Team, the parent/guardian will be provided necessary intervention referrals for the identified high-risk behaviors. Information regarding the nature of the contact will be provided to the parent/guardian. The names of the other individuals involved with the juvenile during the contact will not be shared to preserve their privacy. The focus will be only the behaviors of that particular child and possible ways to help prevent future contacts with law enforcement. The number of notifications to a parent/guardian regarding the high-risk behaviors of their child will be at the discretion of the Juvenile Services Team Sergeant. After the first notification without contact from the parent/guardian, subsequent contacts will be evaluated by the Juvenile Services Team Sergeant to determine an appropriate course of action that could include sending an additional letter or initiating personal contact.

XII. ASSEMBLY BILL 953

Assembly Bill 953 (AB 953), also known as the Racial and Identity Profiling Act (RIPA) of 2015, requires law enforcement agencies to collect data on all stops, detentions, and searches. This includes consensual searches and instances where force was utilized. In order to capture this data, a new application is available for every event generated through the Department's MPS and Intranet systems beginning July 1, 2018. There is a template to collect the required data in the [F: Drive under Templates/Patrol Based Forms/PD-953](#), if the database application is temporarily unavailable. The data documented on this form shall be entered into the electronic application prior to the end of officer's shift unless exigent circumstances exist.

Under this mandate, the data collected will include the date, time, and duration of the stop, the location, perceived race or ethnicity, perceived gender, perceived LGBT, perceived or known disability, English fluency, perceived age, and the reason for the stop, detention, or search. The reason for the stop may be generated from a call for service, a traffic violation, reasonable suspicion or knowledge that the person was engaged, or about to engage in criminal activity and conclude with the actions taken by the officer. These actions will describe the basis of the search, whether or not contraband or other evidence is discovered, the reason for and type of property seized and the results of the stop or detention. The data collected under RIPA replaces the data previously collected from vehicle stop data cards.

XIII. PHOTOGRAPHING JUVENILES

- A. The policy of the San Diego Police Department for taking photographs of individuals is the same for juveniles and adults. An officer may photograph a person either in the field or at a police station under the following conditions:
 - 1. The person is under arrest for a crime;
 - 2. The person is being detained as a suspect in a particular crime;
 - 3. The person is being legally detained for a criminal investigation; or,
 - 4. The person consents to being photographed.
- B. An officer who photographs a juvenile will notify the parent or guardian that photos were obtained. If photographs are obtained subsequent to a custodial arrest, the officer will include notification information in the JCR. If photographs are taken during an FI, the officer will include notification information in the “Comments” section of the FI form. Notification information includes the date and time of notification, as well as the name and telephone number of the person notified.
- C. If officers are unable to make parental notification, officers will include this in the JCR or FI. Notification then becomes the responsibility of the area JST detective. If the detective is unable to make contact by telephone, he or she will complete and mail a copy of the “Parental Notification, Photographing of Juvenile” form to the juvenile's home address of record.
- D. The “Parental Notification, Photographing of Juvenile” form can be located on the LAN system at F:\Templates\Investigative Reports\Parental Notification. Print a copy of this form and fill in the necessary information.

XIV. COLLECTION OF DNA MOUTH SWABS FROM JUVENILES

- A. Deoxyribonucleic acid (DNA) collection is a useful law enforcement tool for identifying and prosecuting criminal offenders and exonerating the innocent. The collection of DNA evidence plays an important role in solving a wide variety of crimes.
- B. Only under specific circumstances can a juvenile’s DNA be taken and submitted to the state’s DNA and forensic identification database and data bank. This procedure will generally be performed by a probation officer within Juvenile Hall in conjunction with a court order. Refer to Penal Code section 296 (a) (1) and (3) for further details.

- C. A juvenile's DNA may not be taken except by mouth swab pursuant to the procedures described in this section. If a juvenile's DNA is taken without adhering to subsection D below, the DNA sample shall be destroyed, and any profiles uploaded to the local database will be removed.
- D. An officer may take mouth swab samples from a juvenile only in the following circumstances:
1. Authorized by Law: If specifically authorized by law in cases of sexual assault or in the investigation or identification of a missing or abducted minor (refer to Welfare and Institutions Code section 625.4(i)); or
 2. Court Order or Warrant: The officer has a court order or a search warrant to take mouth swab samples from the juvenile. This includes juveniles who are 4th waivers (officers shall confirm the 4th waiver status of juveniles through DCU at Juvenile Hall); or
 3. Consent: The juvenile and parent, guardian, or attorney voluntarily consent, and all the following conditions are met:
 - a. The juvenile consents in writing, after being orally advised of the purpose and manner of the collection, the right to refuse consent, the right to sample expungement, and the right to consult with an attorney, parent, or legal guardian prior to providing consent.
 - b. A parent or legal guardian of the juvenile, or an attorney representing the juvenile, is contacted, is provided the admonition specified in paragraph a. above, is allowed to privately consult with the juvenile, and, after that consultation, concurs with the juvenile's decision to consent. The parent, legal guardian or attorney will also, if present, need to sign the consent form.
 - 1) If the parent, legal guardian, or attorney is not present, consent to the DNA collection may be obtained via telephone or other means. Such consent must be either audibly recorded on an officer's Body Worn Camera or obtained in the presence of a witness. The parent, legal guardian or attorney consent shall be documented in the report and noted on the consent form.
 - 2) The detention of a juvenile shall not be unreasonably extended solely for contacting a parent, legal guardian, or attorney pursuant to paragraph b. above, if a parent, legal

guardian, or attorney cannot be reached after reasonable attempts have been made.

- c. The juvenile is provided with a form for requesting expungement of the voluntary DNA sample. The expungement form will be inside the DNA collection kit or it can be located on the LAN system at <F:\Templates\Juvenile procedures\LAB\DNA Expungement Application>.
- E. Prior to collecting a mouth swab sample:
1. The juvenile must be identified and how he/she was identified (i.e., school identification card, passport, California I.D. card, etc.) must be documented.
 2. A supervisor or field lieutenant must approve of the collection of DNA.
 - a. During normal business hours, the officer will contact the detective sergeant assigned to the unit affected (i.e., Sex Crimes, Child Abuse, or Juvenile Services Team).
 - b. After business hours, officers must notify and obtain approval from their immediate supervisor. Officers must document the approving supervisor's name in the report.
 3. If the sample is consensual, officers must read the "Advisal and Consent to Collect Saliva Sample" form to the juvenile and the juvenile's attorney, parent, or legal guardian, fill out the form in entirety, and obtain the signature of the juvenile and the parent, legal guardian or attorney in accordance with paragraph D, 3 above.
 - a. This form must be included with the police report.
 - b. The consent form will be inside the DNA collection kit or it can be located on the LAN system at <F:\Templates\Juvenile procedures\LAB\Advisal and Consent to Collect Saliva Sample> and printed.
 4. If the sample is consensual, the officer must provide the juvenile with a form for requesting expungement of the voluntary DNA sample in accordance with paragraph D above, and must fill in the case number at the top of the form.

- F. Checklist for collecting mouth swab samples:
1. Confirm that consent was properly obtained in accordance with paragraph D above.
 2. Confirm that approval was obtained from a supervisor in accordance with paragraph E above.
 3. Collect the mouth sample in a controlled environment, outside of public view.
 4. Have another officer present to witness the collection and document the witness officer's information in the report.
 5. Follow the procedures described on the "SDPD Reference Mouth Swab Collection Kit" envelope.
 6. Collect one mouth swab at a time, completing the entire process prior to beginning the collection of an additional mouth swab sample.

XV. INTERVIEWS OF JUVENILE SUSPECTS, VICTIMS OR WITNESSES AT PUBLIC SCHOOLS

- A. In December 2009, the Ninth Circuit Court of Appeals ruled that removing a minor from a classroom for the purposes of conducting an investigative interview was a "seizure" under the Fourth Amendment (*Greene v. Camreta*). The court ruled that barring exigent circumstances, parental consent or a court order, the interview was unconstitutional. However, in May 2011, the Supreme Court vacated the search and seizure portion of the Ninth Circuit Court's decision, leaving open the question of the requirements for a law enforcement interview of a child at school.

In 2014, in the case of *C.B. v. City of Sonora*, the Ninth Circuit Court of Appeals reaffirmed lack of clarity in the laws governing searches and seizures in school settings. The court in *C.B. v. Sonora* acknowledged disagreement among federal district and circuit courts on whether student interviews in the context of a child abuse investigation requires applying traditional Fourth Amendment requirements of reasonableness, or whether to apply the lower "special needs" standard articulated in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985). Given that the applicable standard remains unsettled, the right (to be free from unreasonable search and seizure in a school setting) is not clearly established, and officers are entitled to qualified immunity.

- B. A court order is not required before conducting interviews of minors at school. However, officers should take all necessary steps to ensure the reasonableness of

the interview. Officers should be mindful of the time, place, duration, and scope of the interview. Investigators in plain clothes should consider concealing their firearms during the interview. The interview should take place in a location where the juvenile would be comfortable and not in a place associated with wrongdoing (e.g., principal's office). The number of persons present during the interview should be minimal. The interview should also be as brief as possible, minimizing the intrusion into the child's privacy interests, and limited to questions relevant to the allegations under investigation. It is still recommended that officers document the time the minor was removed from the classroom, the length of the interview, the time the minor was released from the interview, and whether the interview was recorded. Penal Code section 11174.3 authorizes a court order to interview a suspected victim of child abuse during school hours, on school premises. A court order is not required for every interview but should still be considered for prolonged or intrusive activities.

See [SDPD Training Bulletin 16-06](#) for further details.

XVI. NOTIFICATION OF PARENT OR GUARDIAN

- A. Welfare and Institutions Code § 627 states that when an officer takes a minor to a place of confinement, he will take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and the location in which the minor is being held. The means of notification should be noted in the JCR. When a parent or guardian cannot be notified, an explanation must be included on the JCR (i.e., "Unable to locate or identify parents on basis of information furnished by the subject").
- B. When notifying parents or guardians of minors residing within the City of San Diego, the arresting officer should make the notification by telephone when possible or leave a brief, written explanation of the circumstances at the residence.
- C. When notifying parents or guardians residing within the County of San Diego, the arresting officer should make the notification by telephone when possible or make a request to the juvenile's local police or Sheriff's Department to make the notification.
- D. When notifying parents or guardians residing outside the County of San Diego, the arresting officer will notify the parent or guardian by telephone or use the assistance of Teletype.

XVII. UNDOCUMENTED JUVENILES

- A. Undocumented juveniles will be processed in the same manner and according to the same Department Procedures as juveniles who are United States citizens

XVIII. JUVENILE FOREIGN NATIONALS

- A. When an officer arrests or otherwise detains a foreign national, international treaty obligations require notification of foreign authorities.
 - 1. Officers should attempt to release juveniles to a parent or guardian.
 - 2. Officers should take juvenile foreign nationals to Juvenile Hall when they are involved in the commission of serious/violent crimes or they cannot be released to a parent or guardian.
- B. When juvenile foreign nationals are placed in Juvenile Hall, Juvenile Hall staff members will make the notification.

XIX. ADDITIONAL DEPARTMENT PROCEDURES RELATED TO JUVENILES

- A. For information related to missing and/or runaway juveniles, refer to Department Procedure 3.09 - "At- Risk" Missing/Runaway Juveniles, and Department Procedure 3.10 - Not "At- Risk" Missing/Runaway Juveniles.
- B. For information related to daytime loitering and truancy enforcement, refer to Department Procedure 3.11- Daytime Loitering Ordinance/Truancy.
- C. For information related to curfew violations, refer to Department Procedure 3.12 - Curfew Ordinance Enforcement.