

**SAN DIEGO POLICE DEPARTMENT  
PROCEDURE**

**DATE:** December 19, 2016

**NUMBER:** 3.12 - INVESTIGATIONS

**SUBJECT:** CURFEW ORDINANCE ENFORCEMENT

**RELATED POLICY:** [3.08](#)

**ORIGINATING DIVISION:** JUVENILE ADMINISTRATION

**NEW PROCEDURE:**

**PROCEDURAL CHANGE:**

**SUPERSEDES:** DP 3.12 – 02/07/14

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**I. PURPOSE**

This Department procedure establishes guidelines for the enforcement of the Juvenile Curfew Ordinance.

**II. SCOPE**

This procedure applies to all sworn members of the Department.

**III. BACKGROUND**

- A. The Juvenile Curfew Ordinance, 58.0101 SDMC, and 58.0102 SDMC, is of great value if enforced in a fair and proper manner.
- B. It provides officers a valuable tool to control the activities of minors and groups of minors loitering around street corners, businesses, or other places where their purpose or intention is questionable or a source of annoyance to other citizens. It is intended to reduce the potential for criminal acts by juveniles and involve parents in prevention efforts. The Ordinance also reduces the opportunity for juveniles to become victims.
- C. All officers should have a thorough understanding of this Ordinance and are expected to use good judgment and common sense in applying it.

- D. Before taking any enforcement action under this section, a police officer shall ask the alleged offender's age and reason for being in the public place. An officer must reasonably believe an offense has occurred to make an arrest under this section. An officer shall not make an arrest under this section when circumstances detailed in the "Exceptions" section of this procedure are present.

#### IV. **DEFINITIONS**

- A. Book – signifies the recording of an arrest in official police records, the taking of fingerprints and photographs of the person arrested or any of these acts following an arrest.
- B. Emergency – an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- C. Establishment – any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- D. Guardian – a person who, under court order, has the responsibility for the care of the minor; or a public or private agency with whom a minor has been placed by the court.
- E. Hours – curfew is in effect every day of the week (including school vacation periods and holidays) between the hours of 10:00 p.m. and 6:00 a.m. the following day.
- F. Minor/Juvenile – an individual under 18 years of age.
- G. Public place – any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- H. Responsible Adult – other than legal parents or guardians, a responsible adult is a person at least 18 years of age authorized by a parent or guardian to have the care and custody of the minor.

**V. VIOLATIONS**

- A. The curfew ordinance, 58.0102(a) SDMC makes it unlawful for any minor to be present in any public place or establishment during curfew hours.
- B. The curfew ordinance, 58.0102(b) SDMC makes it unlawful for the parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate curfew.

**VI. EXCEPTIONS**

Juveniles are not subject to curfew enforcement when they are:

- A. Accompanied by the minor's parent, guardian, or responsible adult as defined above;
- B. On an errand at the direction of the minor's parent or guardian, or responsible adult without any detour or stop;
- C. In a motor vehicle involved in interstate travel;
- D. Engaged in an employment activity or going to or returning home from an employment activity without any detour or stop;
- E. Involved in an emergency;
- F. On the sidewalk abutting the minor's residence;
- G. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of San Diego, a civic organization, or another similar entity that takes responsibility for the *minor*, or going to or returning home from, without any detour or stop.
- H. Exercising First Amendment rights protected by the United States Constitution, or going to or returning home from, without any detour or stop, the exercising of those First Amendment rights.
- I. Travelling from an activity listed in section 58.0102(c) to another activity listed in section 58.0102(c), without any detour or stop; or
- J. Emancipated pursuant to law.

## **VII. PROCEDURE**

### **A. Guidelines for Officers**

1. Complete a Juvenile Contact Report (JCR/ARJIS-8) charging 58.0102(a) SDMC.
2. Juveniles 14 years of age and older:
  - a. Call the parent or guardian to pick-up the juvenile and sign the appropriate forms.
  - b. If a parent, guardian, or responsible adult cannot be contacted, the juvenile will be transported home and released.
  - c. Complete the Parent Notification form (PD-1064) and advise the juvenile and the person to whom the juvenile was released, that if the juvenile does not meet the requirements for diversion, the juvenile and parents/guardian will be notified via mail when to appear in Juvenile Department 11 Court or contact Juvenile Probation.
3. Juveniles under 14 years of age:
  - a. Officers should call the parent or guardian to pick up the juvenile and sign the appropriate forms.
  - b. If a parent, guardian, or responsible adult cannot be contacted, the juvenile shall be transported to the Polinsky Center for placement.
  - c. Officers should complete the Parent Notification form (PD-1064).
4. If further investigation is required, or the officer chooses to have the juvenile picked up at the area command, the officer will ensure that the curfew violator(s):
  - a. Are detained in non-secure status;
  - b. Are not detained at an area station in excess of six hours;
  - c. Are not within sight or sound of arrested adults or juveniles who are arrested for 602 Welfare and Institutions Code;

- d. Are **NOT** booked, fingerprinted or photographed for City Curfew Ordinance unless they have been arrested for a crime, per 602 Welfare and Institutions Code;
  - e. Are separated from the opposite sex;
  - f. Complete all portions of the juvenile detention log; and,
  - g. Attempt to notify parent(s) of the juvenile's arrest.
5. Officers will have one or both parents sign the Parental Notification form (PD-1064) advising them of Section 58.0102 SDMC. Officers shall advise the juvenile and the person to whom the juvenile was released, that if the juvenile does not meet the requirements for diversion, the juvenile and parents/guardian will be notified via mail when to appear in Juvenile Court or contact Juvenile Probation.
  6. Officers shall note in the body of the Juvenile Contact Report whether or not the parents were notified of the juvenile's arrest.
  7. Arrested juveniles must be provided the opportunity to make and complete up to three telephone calls while detained. Telephone calls do not have to be in private and the arresting officer should listen in on the conversations. Privacy applies only to calls placed to an attorney.
  8. If the juvenile's parent(s) do not have a telephone, the arresting officer or a beat officer in the area where the juvenile lives must attempt to make personal contact with the parent(s).
  9. If a juvenile is apprehended twice in the same night for curfew violation, that juvenile may be transported to Juvenile Hall with Watch Commander approval.
  10. If a juvenile is found to be in violation of probation and/or other offenses, that juvenile may be transported to Juvenile Hall with Watch Commander approval.

**B. Juvenile Services Team Responsibilities**

1. The Juvenile Services Team (JST) at each of the area commands will be responsible for providing "Curfew Enforcement Program" training to the officers at their commands.
2. If attempts to contact the parents prove to be unsuccessful, the Juvenile Services detective from the area command will conduct a follow-up. At that time, the parent(s) are to be advised of the juvenile's arrest and, if the

juvenile does not meet the requirements for diversion that the juvenile and parents/guardian will be notified via mail when to appear in Juvenile Court or contact Juvenile Probation.

C. Juveniles Who are Undocumented Persons

1. Under 13 years of age:
  - a. If the juvenile's parents or guardians are in the United States and can be located, the juvenile will be released to them regardless of the family's immigration status.
  - b. If the parents reside in a foreign country, the juvenile will be transported to the Polinsky Center.
2. Thirteen years of age and older:
  - a. It is incumbent upon the Police Department to return juveniles without parental supervision to their parents, guardians, or school officials. If the parents or guardians are in the United States and can be contacted, the juvenile will be released to them regardless of the family's immigration status.
  - b. If the juvenile's parent or guardian cannot be located, the juvenile will be released to Border Patrol. Officers are authorized to transport the juvenile when Border Patrol is unable to respond or when there would be an excessive time delay.
3. A Juvenile Contact Report (JCR/ARJIS-8) will be completed detailing the circumstances of the detention.
4. Refer to Department Procedure 3.08, Juvenile Procedures, for additional information.

D. San Diego Municipal Code Section 58.01.02(b)

1. Municipal Code Section 58.01.02(b) prohibits a parent or guardian from permitting a minor to violate curfew.
2. When a juvenile is released to any parent or guardian, that person will be required to read, sign and receive a copy of the Curfew Violation Notification form.
3. This form explains the curfew ordinance (58.01.02(a) SDMC) and advises the parent/guardian that they may be cited if their minor child is arrested again for violating the curfew ordinance.

## **VIII. INVESTIGATIVE FOLLOW-UP PROCEDURE**

Reports are to be forwarded to the area Juvenile Services Team. The assigned detective or designated officer will then do the following:

- A. Perform a criminal history search of the juvenile in ARJIS and/or CRMS for juvenile criminal history and juvenile jacket number.
- B. If the juvenile qualifies for the Department's informal diversion program, a Juvenile Diversion Contract form (PD-335) will be completed and submitted to an approved diversion program provider.
- C. If the juvenile fails to qualify for the informal diversion program, complete the Affidavit and Application for Filing of Juvenile Court Petition form (Prob-419) and send a copy of the Juvenile Contact Report and the Affidavit form to Juvenile Court at MS P-100.
- D. If the juvenile does not qualify for both informal and formal diversion, complete the Affidavit and Application for Filing of Juvenile Court Petition form (Prob-419) and send a copy of the Juvenile Contact Report and the Affidavit form to Juvenile Probation at MS P-32.