

Juvenile Detention Reform
Law Enforcement Policy Regarding Detention of Juveniles¹
Revised by Santa Clara County Police Chiefs' Association, October 2019

Purpose:

The purpose of this protocol is to provide guidance to Santa Clara County Law Enforcement agencies in 1) making informed decisions regarding incarceration of youthful offenders; and 2) interacting with children age 11 and under who engage in truant or delinquent behavior but do not fall within juvenile justice court jurisdiction.

Juvenile justice court has jurisdiction over:

1. Minors 12 years of age and older; or
2. Minors age 11 and under who are alleged to have committed: (1) murder; (2) rape by force, violence, duress, menace or fear; (3) sodomy by force, violence, duress, menace or fear; (4) oral copulation by force, violence, duress, menace or fear; or (5) sexual penetration by force, violence, duress, menace, or fear.

Goal:

The goal of Santa Clara County law enforcement agencies shall be to 1) minimize unnecessary incarceration of youthful offenders by seeking alternatives to custodial confinement; and 2) comply with the requirements of Welfare and Institutions Code §§ 601, 602 and 602.1 as enacted by Senate Bill 439.

Policy:

In determining disposition of youthful offenders, it shall be the policy of Santa Clara County Law Enforcement agencies to balance legal mandates, community safety, and the best interests of the juvenile. The alternative that is least restrictive to the juvenile is preferred. Whenever appropriate, community resources will be utilized as an alternative to incarceration.

Santa Clara County Law Enforcement agencies are committed to working with community partners to create viable alternatives to the unnecessary incarceration of juveniles who fall within juvenile justice court jurisdiction.

When interacting with children age 11 and under who are engaged in truant or delinquent behavior but do not fall within juvenile justice court jurisdiction, Santa Clara County Law Enforcement agencies will respond with the least restrictive appropriate measures available.

¹ This policy replaces and supersedes the Law Enforcement Policy for the Incarceration of Juveniles Adopted by the Santa Clara Police Chiefs' Association, August 2009.

Procedures:

When contacting juvenile offender, officers shall ascertain the age of the youth using department protocols.

1. If the youth falls within juvenile court jurisdiction, officers shall release juvenile offenders, including release to parents, release with a written promise to appear, release to a diversion program, or release to alternative community resources, unless one or more of the following circumstances exist:
 - The juvenile is 14 years old, or older, and commits a violation specified under section 707(b) W&I.
 - An outstanding arrest warrant exists for the juvenile, or a probation officer directs incarceration.
 - The release of the juvenile would create a continuing threat to public safety and/or an individual.
 - The crime is violent, serious, or involves a firearm.
 - Any crime involving domestic violence.
 - When satisfactory evidence of identity cannot be established.
 - When a parent or guardian cannot be located.
 - Release of the juvenile would compromise an investigation.
 - The juvenile demands to be taken before a magistrate.

Exceptions to this Section shall be reviewed and approved by a supervisor and documented on the JCR and incident report.

2. If the juvenile offender is age 11 and under and is not within juvenile justice court jurisdiction, officers shall release the child to a parent, guardian, family member or caregiver, unless:
 - The child is a victim of abuse or neglect, there is an immediate danger of physical or sexual abuse, the child cannot be safely returned to the parent or guardian, or the physical environment in which the child is found poses an immediate threat to the child's health or safety. In these situations, the officer should call the DFCS 24/7 hotline for Joint Response: (833) SCC-KIDS (722-5437).
 - The child has an immediate need of medical care. The officer should take the child to the closest hospital or trauma center.
 - The child is reported missing from another jurisdiction. The officer should call the National Crime Information Center 24/7 hotline: (304) 625-2000.
 - There is an active protective custody warrant for the child from another jurisdiction. The officer should call Santa Clara County Juvenile Probation Dept.: (408) 278-5818.
 - The child presents a harm to themselves or others. The officer should follow the policies for temporary involuntary commitment of a minor (WIC §5585) (§5150 for minors) on a 72-hour hold.

Unless necessary for officer or public safety, officers should not securely detain or handcuff children age 11 and under.

Youth who do not fall within juvenile court jurisdiction shall not be fingerprinted for purposes of entry into the Criminal Justice Information Control database.

Children age 11 and under should only be transported in a police vehicle

- to protect the safety of the child;
- when no alternative transportation is available; or
- to carry out the least restrictive alternative (for example, if no parent, guardian, family member or caregiver is available or willing to accept the child, police may transport the child to a facility or service provider, such as Bill Wilson Center or Community Solutions as listed below).

Victims of crimes committed by youth age 11 and under should be provided a case number and referred to the Victim Services Unit of the District Attorney's Office (408) 295-2656.

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Community Alternatives to Incarceration:

Santa Clara County Law Enforcement agencies can refer juvenile offenders who are not eligible to be admitted to Juvenile Hall and when parents, guardians, family members or caregivers are unavailable or unwilling to accept the youth, to the following resources on a 24-hour basis. The resource agencies are:

- **Bill Wilson Center**
SOS Crisis Hotline (24/7) (408) 278-2585
Area served: San Jose, Santa Clara, Milpitas, Campbell, Los Gatos, Monte Sereno, Sunnyvale, Saratoga, Cupertino, Los Altos, Los Altos Hill, Mountain View, and unincorporated areas North, East and West of San Jose City limits.

Countywide shelter services provided.
- **Community Solutions**
SOS Crisis Hotline (24/7) (408) 683-4118
Area Served: Morgan Hill, San Martin, Gilroy and unincorporated areas South of San Jose City limits.

Officers should provide responding case managers with a completed green copy of the JCR and ensure that the JCR contains a case number.

Training:

Santa Clara County Law Enforcement agencies shall provide regular training on this policy.

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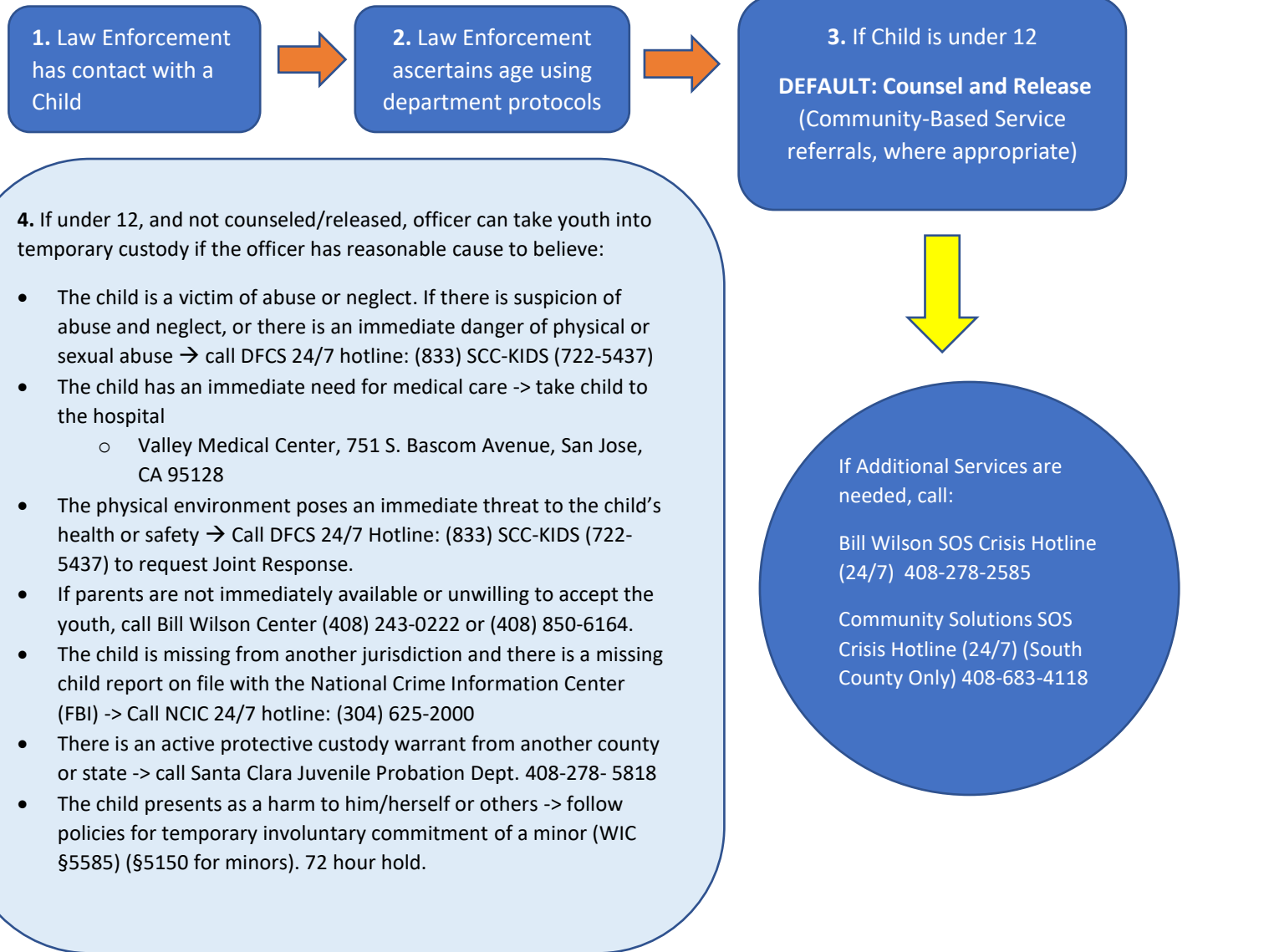
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SANTA CLARA COUNTY JUVENILE PROTOCOL FOR YOUTH UNDER AGE 12 **

Guiding Principles for SB 439 Implementation:

- End arrest, detention and prosecution of children under 12, except in murder and forcible rape cases. ***
- Avoid interventions whenever possible, counsel and release to family should be the default in most cases.
- Responses should be the least restrictive alternatives through available school-, health-, & community-based services.
- While dependency courts have broad discretion to take jurisdiction over a child, best practices research advises that dependency system intervention should also be sparing, and a last resort.



** This document serves as an interim protocol to implement SB439, (amending WIC §601, §602, and §602.1) as the county develops a long-term protocol by January 1, 2020 as mandated by WIC §602.1(c).

*** If the child is under 12, and accused of murder, forcible rape, forcible sodomy, forcible sexual penetration or forcible oral copulation, law enforcement may take a child into custody pursuant to WIC §625.

**** CANC: Child Abuse and Neglect Center