

# MINORS IN DETENTION

## Federal and State Requirements

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**A guide for police and detention officers**  
*Companion to Minors in Detention Training Video*



### **BOARD OF STATE AND COMMUNITY CORRECTIONS**

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## INTRODUCTION

This workbook is designed to be used with the “Minors in Detention” training video. It is intended to provide additional information for law enforcement personnel when detaining minors.

The training video is organized in four separate chapters, which may be watched continuously or in sections during briefings or trainings; this workbook follows this structure. The chapters in the video are:

All Detentions  
Secure Detention  
Non Secure Detention  
Summary and Review

This workbook details Federal and State law, regulation and guidance relative to minors in detention and outlines specific requirements that must be met during each type of detention of minors, including:

- Definitions of secure and non secure detention
- What type of detention is appropriate
- Documentation that must be recorded during each detention
- Length of time a minor may be held in detention
- Minors MUST be kept separate from adult arrestees

It is important to remember that each law enforcement agency has individual policies and procedures specific to their own operation. Departmental orders must be referred to when detaining minors.

Downloadable forms and publications related to minors in detention are contained on the training video DVD and are accessible from your computer. Please feel free to print and reproduce as many copies of this material as necessary. Additional information is located at the Board of State and Community Corrections (BSCC) website at:

<http://www.bscc.ca.gov/programs-and-services/fso/services>

Should you have any questions, please contact BSCC staff at 916.445.5073.

## THE BOARD OF STATE AND COMMUNITY CORRECTIONS

The Board of State and Community Corrections (BSCC) is a stand-alone agency, formerly the Corrections Standards Authority (CSA), a division of the California Department of Corrections and Rehabilitation. Among various duties, the Board of State and Community Corrections (BSCC) is the designated state agency for monitoring law enforcement facilities that hold minors in detention pursuant to the Juvenile Justice and Delinquency Prevention Act (JJDP) *Pub. L. No. 93-415 (1974)*. The BSCC is mandated to conduct inspections of such facilities pursuant to the JJDP and Welfare and Institutions Code Section 209 (b). California receives several million dollars in federal Title II grant funds for local juvenile justice and delinquency prevention plans based upon facilities' compliance with the JJDP.

The BSCC is required by federal law to inspect each law enforcement facility in the state for compliance a minimum of once every three years. The BSCC is also required to collect information from law enforcement facilities relative to the detention of minors and submit data to the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

Additional information about the JJDP is located on the OJJDP website:

<http://www.ojjdp.gov/compliance/index.html>

## DEFINITIONS

**Administrative Station.** Administrative Stations are law enforcement facilities that do not have a locked holding room. These may include, but are not limited to: store-fronts, substations, and some police departments where the public is served, law enforcement officers write reports, use the telephone, interview victims and witnesses, and conduct other administrative functions.

**Contact.** Means any physical or sustained sight or sound contact between juveniles in detention and incarcerated adults. Sight contact is clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact is direct oral communication between adult inmates and juvenile offenders.

**Law Enforcement Facility.** Means a building that contains a Type I Jail, Temporary Holding Facility, or Lockup. It does not include a Type II or III jail, which has the purpose of detaining adults, charged with criminal law violations while awaiting trial or sentenced adult criminal offenders.

**Lockup.** Means a locked room or secure enclosure under the control of a peace officer or custodial officer that is primarily used for the temporary confinement of adults who have recently been arrested; sentenced prisoners who are inmate workers may reside in the facility to carry out appropriate work.

**Minor:** A person under 18 years of age.

**Non Secure Detention.** Means that a minor's freedom of movement in a law enforcement facility is controlled by the staff of the facility; and

- (1) the minor is under constant direct visual observation by the staff;
- (2) the minor is not locked in a room or enclosure; and,
- (3) the minor is not physically secured to a cuffing rail or other stationary object.

**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.

**Stationary Object.** Any object to which people are restrained to prevent them from leaving the building or room.

**Status Offender.** A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. (Status offenses include truancy, violations of curfew, runaway).

**Temporary Holding Facility.** Means a local detention facility constructed after January 1, 1978, used for the confinement of persons for 24 hours or less pending release, transfer to another facility, or appearance in court.

**Type I Facility.** Means a local detention facility used for the detention of persons for not more than 96 hours excluding holidays after booking. Such a Type I facility may also detain persons on court order either for their own safekeeping or sentenced to a city jail as an inmate worker, and may house inmate workers sentenced to the county jail provided such placement in the facility is made on a voluntary basis on the part of the inmate. As used in this section, an inmate worker is defined as a person assigned to perform designated tasks outside of his/her cell or dormitory, pursuant to the written policy of the facility, for a minimum of four hours each day on a five day scheduled work week.

Code References:

*Title 15, CCR, Section 1006, Definitions*

*Federal Consolidated Regulations, 31.304(h)*

*WIC§ 601*



## APPLICABLE LAWS

The requirements for minors in detention are found in Federal Law, State Law and State Regulations (California Code of Regulations).

**Federal Law** outlining requirements for minors in detention is contained in the Juvenile Justice and Delinquency Prevention Act (JJDP).

**State Law** regarding minors in detention can be found in the Welfare and Institutions Code.

**State Regulations** regarding minors in detention are contained in California Code of Regulations (CCR), Title 15, Division 1, Chapter 1, Subchapter 4, Article 9, Minors in Temporary Custody in a Law Enforcement Facility.

**Remember!**  
It is imperative that you follow your department's policy and procedures regarding the detention of minors in your facility in addition to Federal and State Law.

A description of federal and state requirements is provided below.

### Federal Law JJDP

The Juvenile Justice and Delinquency Prevention Act (JJDP) was enacted in 1974 with the explicit goal of protecting minors in the juvenile justice system. The JJDP is the framework for state law and regulations for minors in detention. The JJDP maintains three core requirements relative to minors in detention:

- Deinstitutionalization of Status Offenders (status offenders may not be held in secure detention.)
- Sight and sound separation from adult offenders, and
- Jail removal (removing minors from the facility within 6 hours of detention.)

### State Law Welfare and Institutions Code (WIC)

California responded to the requirements in the JJDP of 1974 by enacting several Welfare and Institutions Code (WIC) sections outlining requirements for minors in detention. In many cases, State law mirrors Federal law. There are instances, however, where State law is more

Federal law. There are instances, however, where State law is more restrictive than Federal law. Following is a summary of California State Law for minors in detention in a law enforcement facility; those requirements in **bold** are more restrictive than federal law.

#### WIC 207

- Status offenders may not be held in secure detention for any length of time

#### WIC 207.1(d)

- **Establishes criteria for secure detention:**
  - **14 years of age and older**
  - **Must be a serious security risk to themselves or others**
- Whether secure or non secure detention, it must be for the purpose of:
  - Investigating the crime
  - Facilitating the release of the minor to a parent or guardianOR
  - Arranging a transfer to a juvenile detention facility
- Minors may not be held in detention longer than six (6) hours
- **Requires the following admonishments for minors in secure detention:**
  - **Purpose of detention**
  - **Expected length of detention**
  - **Six (6) hour limit**
- Requires adequate supervision of minors
- Requires the following documentation for secure detention:
  - Basis of secure detention
  - Reasons and circumstances forming the basis of decision
  - Actual length of detention

#### WIC 208

- Minors in detention must not come into contact with adult prisoners

## State Regulation

### Title 15 California Code of Regulations (CCR)

California Code of Regulations, Title 15, Article 9, Minors in Temporary Detention in Law Enforcement Facilities contains additional requirements beyond those in federal and state law. All of these requirements are more restrictive than federal law and include:

- Access to the bathroom, snacks, drinking water and privacy when talking with family and attorneys

- Blankets, clothing and 30 minute safety checks during secure detention
- Requirements for secure detention outside of a locked room
- Requirements for handling intoxicated minors
- Specific requirements for policy and procedure

# REQUIREMENTS FOR DETENTION



## All Detentions

The following requirements apply to ALL DETENTIONS, whether secure or non secure:

**Remember!**  
Refer to your department's policy for specific operating procedures.

### 1. Six (6) Hour Rule

A minor detained for a WIC 602 violation cannot be held in secure or non secure detention for more than six (6) hours for any reason. The six (6) hour clock starts when the minor enters the facility and stops whenever the minor leaves the facility.

If the minor leaves the facility during the six (6) hours for any reason, the six (6) hour clock stops when the minor leaves. The six (6) hour clock will resume whenever the minor re-enters the facility and cannot be re-set when the minor re-enters. A minor cannot remain in detention for more than six (6) combined hours.

There may be times when a detention exceeds six (6) hours due to the investigative process or inability to locate a parent. This situation is a violation of state and federal law and must be reported to the BSCC. Please indicate the reason for violation on the completed documentation.

*Required by: JJDPA, WIC 207.1(d) 1&2*

### 2. Separation

Contact between minors in detention and adult offenders **MUST** be prevented while in the facility. The minor must be kept separate from adult prisoners; this means that they cannot be in sustained visual or auditory contact with one another, this includes those adults arrested with the minor.

Trained staff shall accompany the minor while moving within the facility to ensure that even brief and inadvertent or accidental contact is avoided whenever possible.

*Required by: JJDPA, WIC 208, Title 15 § 1144*

### **3. Reasons for Detention**

The reason for the detention of the minor must be for one of the following purposes:

- Investigating the crime
- Facilitating the release of the minor to a parent or guardian  
OR
- Arranging a transfer to a juvenile detention facility

*Required by: WIC 207.1(d)1(A) & 2*

### **4. Access to toilets and sinks**

Minors in secure and non secure detention must have access to both a toilet and sink.

*Required by: Title 15 § 1143*

### **5. Snacks upon request**

Minors in secure and non secure detention must be given a snack upon request if they haven't eaten in four (4) hours, or if they are otherwise in need of nourishment.

*Required by: Title 15 § 1143*

### **6. Access to drinking water**

Minors in secure and non secure detention must have access to drinking water.

*Required by: Title 15 § 1143*

### **7. Privacy when talking with family, guardian or attorney**

Minors in secure and non secure detention must be given privacy when talking with family, guardian or attorney.

*Required by: Title 15 § 1143*

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## Secure Detention

Secure detention occurs when a minor is:

- locked in a cell, room or other secure enclosure, or
- handcuffed to a stationary object.

*Reference: Title 15 § 1146*

**Remember!**  
**Status Offenders must not  
be held in secure  
detention.**

*Required by: JJDP, WIC 207*

In addition to the requirements outlined above in "All Detentions" minors in secure detention require the following:

### 1. Blankets and Clothing

If it is necessary to assure their comfort, minors in secure detention must be provided with blankets and clothing.

*Required by: Title 15 § 1143*

### 2. Personal Clothing

Unless the clothing is inadequate, presents a health or safety risk, or is required for evidence, minors may be allowed to retain their own clothing while in secure detention.

*Required by: Title 15 § 1143*

### 3. 14 Years of Age or Older AND Security Risk

State law prohibits minors under the age of 14 from being held in secure detention. Moreover, minors 14 and over must pose a serious security risk of harm to self or others in the reasonable belief of a peace officer to be securely detained.

**Age and crime alone cannot be the only reasons for the decision to place a minor in secure detention.**

There are certain factors that may be considered when determining a minor's risk:

- age
- maturity and delinquent history
- severity of offense
- behavior
- appropriate staff coverage
  - would the minor be safer in a secure setting due to lack of adequate staff supervision?
- other individuals at the facility
  - are there adults located in the non secure areas?

Required by: WIC 207.1(d)1, Title 15 § 1145

Only after considering these and any other appropriate risk factors, can a minor 14 years or older be placed in secure detention.

**These risk factors must be documented!**

***The detaining officer should consider the following factors when making the decision to place the minor in secure detention:***

- *Is the minor 14 years of age or older?*
- *Does the minor pose a serious security risk of harm to himself or others?*
- *Has the minor committed a Welfare and Institutions Code 602 Offense? If the minor has been detained for a probation violation, the underlying offense must be a Welfare and Institutions Code 602 offense; a status offender who violates probation cannot be placed in secure detention.*
- *Is the minor sophisticated and is there a history of delinquent behavior?*
- *What type of offense is the minor being detained for?*
- *Is the minor being uncooperative?*
- *Are there sufficient personnel available to adequately supervise the minor?*
- *Are there other detainees in the law enforcement facility? And is there potential for contact with adult prisoners in secure detention?*

#### 4. Admonishments

Minors in secure detention MUST be advised of the following:

- Purpose of the detention;
- The length of time the detention is expected to last; AND
- The maximum six (6) hour length of detention.

It is advisable to document that these admonishments have been given.

*Required by: WIC 207.1(d)1C*

#### 5. Supervision

Minors in secure detention must be adequately supervised.

*Required by: WIC 207.1(d)1E*

##### a. Locked Room

In a locked room, cell, or other enclosure, minors in secure detention must be able to be heard by staff at all times. In addition, documented safety checks must be conducted every thirty (30) minutes.

It is recommended that safety checks be conducted randomly so that a pattern may not be detected by the minor.

*Required by: Title 15 § 1147*

##### b. Stationary Object

A minor may be secured to a stationary object for a maximum of sixty (60) minutes, unless no other enclosure is available. After 60 minutes, and every thirty (30) minutes thereafter, a supervisor must document his approval for continued detention. Staff must remain in the presence of the minor at all times.

*Required by: Title 15 § 1148*

#### 6. Documentation

The following items MUST be documented for each minor in secure detention:



- The offense that is the basis for secure detention;
- The reason for decision to place in secure detention (see item 3 above); AND,
- The actual length of detention.

*Required by: WIC 207.1(d)1F*

There is no prescribed format for documentation; however, sample logs are available from the BSCC website at:

<http://www.bscc.ca.gov/programs-and-services/fso/services>

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## Non Secure Detention

In addition to the requirements outlined above in "All Detentions," minors in non secure detention require the following:

### 1. Unlocked Room

Minors in non secure detention must not be securely detained and must not be placed in a locked room or area. In the event of an emergency, the minor must be able to access the outside of the building.

*Required by: JJDPA, WIC 207.1(d)2*

### 2. Constant Direct Visual Supervision

Minors in non secure detention must remain in the constant presence of staff. This presence must not be replaced by video or audio surveillance.

*Required by: Title 15 § 1150*

### 3. Documentation

The time of entry to, and release from, non secure detention must be documented.

*Required by: Title 15 § 1150*

There is no prescribed format for documentation; however, sample logs are available from the BSCC website at:

<http://www.bscc.ca.gov/programs-and-services/fso/services>



## Additional State Regulatory Requirements

California Code of Regulations, Title 15, Article 9, Minors in Temporary Custody in a Law Enforcement Facility contains requirements in addition to those contained in federal and state law. These requirements are as follows:

### 1. Intoxicated Minors

Title 15, Section 1151, Intoxicated and Substance Abusing Minors in a Lockup. Facility administrators shall develop policies and procedures providing that a medical clearance shall be obtained for minors who are intoxicated by any substance, to the extent that they are unable to care for themselves.

Supervision of minors in secure detention who display outward signs of intoxication shall include safety checks no less than once every 15 minutes until resolution of the intoxicated state or release. These safety checks shall be documented, with actual time of occurrence recorded.

Supervision of minors in non secure detention who display outward signs of intoxication shall be supervised in accordance with Section 1150.

### 2. Death of a Minor

Title 15, Section 1046, Death in Custody.

(a) Death in Custody Reviews for Adults and Minors. The facility administrator, in cooperation with the health administrator, shall develop written policy and procedures to assure that there is a review of every in-custody death. The review team shall include the facility administrator and/or the facility manager, the health administrator, the responsible physician and other health care and supervision staff who are relevant to the incident.

(b) Death of a Minor

In any case in which a minor dies while detained in a jail, lockup, or court holding facility:

(1) The administrator of the facility shall provide to the Board of State and Community Corrections a copy of the report submitted to the Attorney General under Government Code Section 12525. A copy of the report shall be submitted to the Board within 10 calendar days after the death.

(2) Upon receipt of a report of death of a minor from the administrator, the BSCC Board may within 30 calendar days inspect and evaluate the jail, lockup, or court holding facility pursuant to the provisions of this subchapter. Any inquiry made by the Board shall be limited to the standards and requirements set forth in these regulations.

### **3. Serious Illness or Injury**

Title 15, Section 1047, Serious Illness or Injury of a Minor in an Adult Detention Facility. The facility administrator shall develop policy and procedures for notification of the court of jurisdiction and the parent, guardian, or person standing in loco parentis, in the event of a suicide attempt, serious illness, injury or death of a minor in custody.

### **4. Policy and Procedures**

Title 15, Section 1142, Written Policies and Procedures. The facility administrator shall develop written policies and procedures concerning minors being held in temporary custody which shall address:

- (a) suicide risk and prevention;
- (b) use of restraints;
- (c) emergency medical assistance and services; and,
- (d) prohibiting use of discipline.



## Reporting Requirements and Facility Documentation

### **Annual**

Each year, the BSCC is required to survey each law enforcement facility in the state to determine which facilities will be holding minors. This form is distributed at the beginning of each year, but can also be downloaded at:

<http://www.bscc.ca.gov/programs-and-services/fso/services>

### **Monthly**

If your facility detains a minor, your department must submit the number of minors held and for how long, each month. This form must be submitted by the 10<sup>th</sup> day of each month and can be downloaded at:

<http://www.bscc.ca.gov/programs-and-services/fso/services>

This monthly documentation becomes the basis for which BSCC will determine compliance with Federal and State Law and is submitted to the Federal Office of Juvenile Justice and Delinquency Prevention each year.

### **Facility Documentation**

When the BSCC conducts its regular inspection of law enforcement facilities, staff will be reviewing documentation to ensure, at a minimum, that:

- Status offenders are not held in secure detention
- Minors charged with WIC 602 offenses are not held longer than six (6) hours
- Minors in secure detention are at least 14 years of age
- There is a justification for each secure detention
- Safety checks are being conducted on minors in secure detention
- Minors in non secure detention are in the continuous presence of staff
- Separation between adults and minors is prohibited
- Admonishments per WIC 207.1 (d) 1 are given

#### **Remember!**

**Your department may have additional requirements for minors in detention. Be sure to refer to your department's policy and procedures when detaining minors.**

There is no prescribed format for the documentation of minors in detention. The BSCC provides a sample form for documenting minors in both secure and non secure detention on its website at:

<http://www.bscc.ca.gov/programs-and-services/fso/services>

***This documentation DOES NOT need to be submitted to the BSCC. Please submit only the information required by the annual and monthly forms described above.***

## SUMMARY

### Applicable Laws

1. **Juvenile Justice and Delinquency Prevention Act (JJDP)**  
*Federal Law*
2. **Welfare and Institutions Code (WIC)**  
*State Law*
3. **Title 15, Article 9, Minors in Temporary Custody in a Law Enforcement Facility**  
*State Regulation*

### Requirements for All Detentions

1. **Six (6) Hour Rule**
2. **Separation Between Adults and Minors**
3. **Reasons for Detention**
  - o Investigating the crime
  - o Facilitating the release of the minor to a parent or guardian
  - OR
  - o Arranging a transfer to a juvenile detention facility
4. **Access to toilets and sinks**
5. **Snacks upon request**
6. **Access to drinking water**
7. **Privacy when talking with family, guardian or attorney**

## Requirements for Secure Detentions

*Status Offenders must NEVER be held in Secure Detention*

1. **Blankets and Clothing**
2. **Personal Clothing**
3. **14 Years of Age or Older AND Security Risk**
  - age
  - maturity
  - delinquent history
  - severity of offense
  - behavior
  - staff coverage
  - other detainees
4. **Admonishments**
  - Purpose of the detention;
  - The length of time the detention is expected to last; AND
  - The maximum six (6) hour length of detention.
5. **Supervision**
  - a. **Locked Room**
    - must be able to be heard by staff at all times
    - documented safety checks every thirty (30) minutes
  - b. **Stationary Object**
    - maximum of sixty (60) minutes, unless in the best interests of the minor
    - after 60 minutes, and every thirty (30) minutes documented approval for continued detention
    - constant staff presence
6. **Documentation**
  - The offense that is the basis for secure detention;
  - The reason for decision to place in secure detention (see item 3 above); AND,
  - The actual length of detention.

## Requirements for Non Secure Detentions

1. **Unlocked Room or Area**
2. **Constant Direct Visual Supervision**
3. **Documentation of entry and release times**