

**SAN MARCOS POLICE DEPARTMENT
POLICIES AND PROCEDURES MANUAL**

Section Title: Juvenile Investigations

General Order: 302

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Issuing Authority: *Howard E. Williams*

Howard E. Williams, Chief of Police

I. POLICY

All employees share in the responsibilities inherent in the Department's commitment to the development and perpetuation of programs designed to prevent and control juvenile delinquency and to foster maturity and responsibility in the juveniles we encounter. In dealing with juvenile offenders, the least coercive among reasonable alternatives will be utilized while keeping foremost the public safety, order, and liberties of all persons. When making decisions relative to the diversion of juvenile offenders, employees should take into consideration the nature of the alleged offense, the age and circumstances of the child, the child's offender record, if any, and the availability of community based rehabilitation or referral agencies. Whenever possible, juvenile offenders will be released to their parents or guardians, who will be reminded that they, and not the Department, remain primarily responsible for the child's welfare and rehabilitation.

II. PURPOSE

The purpose of General Order 302 is to establish responsibilities and guidelines for the investigation of incidents involving juvenile offenders.

III. REASONABLE DISCRETION

- A. Officers investigating juvenile related incidents should exercise reasonable discretion in deciding on appropriate action.
1. If the totality of the circumstances indicates that the situation can be successfully resolved informally, the officer should attempt to divert the child from formal court proceedings and adjudication as a delinquent child.
 2. Enforcement alternatives available include:
 - a. Release without further action,
 - b. Informal counseling to inform the child and his parents or guardians of the child's actions,
 - c. Informal referral to the Juvenile Probation Department,
 - d. Formal referral to the Juvenile Probation Department,

- e. Detention and release to parents or guardian with a formal referral to the Juvenile Court (form CR-43J), and
 - f. Detention and temporary placement of the child in custody of Juvenile Detention with a formal referral to the Juvenile Court (form CR-43J).
- B. The officer may elect to cite or release the child without further action. Examples of these may include, but are not limited to:
 - 1. Fireworks violations,
 - 2. Disorderly conduct, and
 - 3. Park curfew violations.
- C. An officer may elect to transport the juvenile home, direct him home and make personal or telephone contact with parent or guardians to provide them with information and counseling concerning the child's behavior; refer the child to Juvenile Probation, or detain the child for release to a parent or guardian when:
 - 1. The nature of the incident is potentially more serious,
 - 2. The juvenile is fully aware of the seriousness of his behavior and/or is acting in allegiance or collusion with others to commit such acts,
 - 3. The juvenile fails to cooperate or positively respond to the officer's intervention and direction,
 - 4. The juvenile's parents or guardians have failed to provide appropriate control and supervision, and
 - 5. The juvenile is under legal age for filing of a delinquency petition.
- D. In dealing with juvenile offenders, the officer may use his discretion and will consider the following alternatives and factors:
 - 1. Based on an assessment of the seriousness and circumstances surrounding the offense, the background and demeanor of the juvenile and other relevant factors, the juvenile may be released to his parents, guardians, or other responsible adult.
 - 2. The officer will pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
 - 3. Juvenile offenders may be placed in shelter care if the parent or legal guardian cannot be contacted or there is concern for the child's welfare if returned home.
- E. If the parents or legal guardians refuse to accept custody, then placement is initiated through Juvenile Probation.
- F. Officers who select non-custodial alternatives or engage in informal enforcement contacts with juveniles will complete appropriate field interview and/or incident reports as required. These reports clearly identify the juvenile involved, the nature of the incident and the rationale for the officer's disposition.
- G. A detention report is maintained on each juvenile who is detained, specifying:
 - 1. The day, date, time and duration of the detention,

2. The name of the officer responsible for visual supervision,
 3. A statement of the basis for the detention, and
 4. The time at which each period of interrogation was commenced and completed, the officers present, and the names of parents or guardians present.
- H. Any time a juvenile is transported, officers will notify communication with their starting and their ending mileage.

IV. JUVENILE TAKEN INTO CUSTODY

- A. When a juvenile offender presents an immediate danger to himself or others, he will be taken to a detention facility or to a certified juvenile processing office.
- B. Whenever a juvenile is taken into custody, the officer will ensure that the child's parent or guardian is notified of the circumstances surrounding the custody, the nature of the custody, the location of the child, and of his/her rights and responsibilities relative to the child's detention or placement.
- C. When there is no suitable parental supervision, delinquency charges may be filed in all cases where a child 10 years of age or older is alleged to have committed:
1. An act, which if committed by an adult, would be a criminal offense,
 2. An act involving the use of a deadly weapon,
 3. A serious gang related offense,
 4. An act of physical assault,
 5. An act committed while the child is on probation, parole, or when there are other charges pending against the child, and
 6. An act committed when the child has been designated as a repeat offender.
- D. A juvenile taken into custody for a status offense will be handled the same as any other arrestee, that is, he/she will be searched for weapons prior to being transported, and handcuffed or otherwise restrained.
- E. When the violation is a class B misdemeanor or higher, the Juvenile will be processed with photos and fingerprints.
- F. When an officer takes a juvenile into custody, and the charge warrants placing the juvenile into a juvenile detention center, Hays County Juvenile Probation will be notified upon detention of the juvenile.
- G. The officer will, without unnecessary delay, transport the detainee to the Juvenile Processing Offices that are designated for Department use by the Hays County Juvenile Court Judge, or to the juvenile detention facility.
- H. Juvenile offenders in temporary custody of the police will not be placed in Juvenile Processing Offices with adult offenders. Additionally, juvenile offenders will be:
1. Under constant visual supervision,
 2. Afforded reasonable access to restroom facilities, and
 3. Provided reasonable access to water.

- I. Juveniles taken into custody for any offense may be held in non-secure custody for no longer than 6 hours. This will allow the officer to conduct the investigation, related processing requirements, and facilitate their release to a parent, guardian, responsible adult, or Hays County Juvenile Probation.
- J. Juveniles contacted or taken into custody for criminal offenses are subject to the same reporting requirements as adults.
- K. With the exception of public intoxication, the Juvenile Detention Center does not accept juveniles charged only with class C misdemeanors. Officers will process all juveniles charged with class C misdemeanor violations at the Department.

V. DWI/DUI

- A. An officer who takes a child into custody and who has reasonable grounds to believe that the child has been operating a motor vehicle in a public place while intoxicated may:
 - 1. Take the child to a place to obtain a specimen of the child's breath or blood as provided by Chapter 724, Transportation Code; and
 - 2. Perform breath test processing and videotaping of the child in an adult processing office of a law enforcement agency.
- B. Notwithstanding Section 51.09(a) Texas Family Code, a child taken into custody may submit to the taking of a breath specimen or refuse to submit to the taking of a breath specimen without the concurrence of an attorney, but only if the request made of the child to give the specimen and the child's response to that request is videotaped. A videotape made under this subsection must be maintained until the disposition of any proceeding against the child relating to the arrest is final and be made available to an attorney representing the child during that period.
- C. An officer need only have reasonable grounds to believe that the child has been operating a motor vehicle in a public place while having any detectable amount of alcohol in the child's system to charge the juvenile with DUI.
 - 1. If there is evidence that the juvenile has consumed alcohol but was not intoxicated at the time of the vehicle operation, he or she may be charged with driving under the influence by a minor.
 - 2. The first two (2) offenses are Class C misdemeanors. Subsequent offenses are classified as delinquent conduct. The case will be transferred from the municipal court to the juvenile court upon the third offense.
- D. Officers charging a juvenile with the Class C misdemeanor charge of DUI should issue a citation and turn the juvenile over to a parent, guardian or responsible adult.

VI. INTERVIEWING JUVENILES

- A. An officer interviewing a juvenile offender will ensure that the rights of the juvenile are protected.
 - 1. Officers may interview the juvenile without the juvenile's parent present.
 - 2. The juvenile has the right to have his parents or legal guardian present during interviewing.

3. The juvenile will be advised of his constitutional rights under Miranda prior to being interviewed.
4. If the juvenile requests an attorney, the interview will cease until the attorney has an opportunity to consult with the juvenile.
5. The juvenile and his parent or legal guardian will be advised of the proceedings that will be followed with regard to custody, release, transport to juvenile detention center and the process involving Juvenile Probation.