

From: [Meredith Desautels](#)
To: [SFPD, Commission \(POL\)](#)
Cc: [Analisa Ruiz](#); [Jen Daly](#)
Subject: Letter to the SF Police Commission re: DGO 7.01
Date: Tuesday, March 12, 2024 5:05:13 PM
Attachments: [Letter to SF Police Commission - LSC - YLC - YWFC - 3.12.24.pdf](#)
[APPENDIX A - SFPD DGO 7.01 20231027 - YLC redlines and comments.docx](#)

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Good evening,

Please find attached a letter to the San Francisco Police Commission regarding DGO 7.01, sent on behalf of Legal Services for Children, the Young Women's Freedom Center, and the Youth Law Center. We're also including proposed revisions to DGO 7.01 as Attachment A.

We would be grateful if this letter and attachment could be transmitted to the Police Commission members. Thank you for your assistance, and please do not hesitate to reach out if there is any additional information we can provide.

Sincerely,
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March 12, 2024

San Francisco Police Commission

Via email: sfpd.commission@sfgov.org

Dear President Elias and Honorable Commissioners,

We write on behalf of the Youth Law Center, the Young Women's Freedom Center, and Legal Services for Children to provide comments on the recent proposed revisions to Department General Order 7.01, "Policies and Procedures for Youth Non-Psychological Detention, Arrest, and Custody." With this letter, we hope to encourage all stakeholders to consider an urgent question: how can the Department improve its interactions with youth so as to avoid inflicting harm, and instead to promote healing and wellbeing?

We believe that revisions to DGO 7.01 are long overdue and commend the San Francisco Police Department on its efforts to update this nearly 16-year-old policy. However, further revisions are needed, as the current proposed version continues to be both out of compliance with the law and out of step with best practices in the field. We hope that you will accept this comment letter and attached redline revisions, and that you will consider undertaking more extensive revisions of DGO 7.01.

In summary, we offer the following recommendations, with further details in the "Public Comment" section below:

- 1. Reform SFPD's public comment process to promote meaningful public participation in DGO revisions.**
- 2. Conduct a comprehensive policy overhaul for interactions with youth, with assistance from Strategies for Youth, a national expert in the field.**
- 3. Incorporate additional scientific research on adolescent development into SFPD's Policy Statement.**
- 4. Establish procedures for prioritizing diversion.**
- 5. Establish a presumption against the use of handcuffs when transporting youth.**
- 6. Convene stakeholders to review policies for foster youth.**
- 7. Correct noncompliance with state law & regulation.**

About us:

The **Youth Law Center** (YLC) is a public interest law firm based in San Francisco that advocates on behalf of children in the foster care and juvenile delinquency systems to ensure they have the supports and services they need to become healthy and productive adults. For decades, YLC advocates have been advancing reforms to keep young people out of the juvenile delinquency

system, and to instead support young people in their families and communities, where they are best positioned for a healthy transition to adulthood.

Legal Services for Children (LSC) provides free representation to children and youth who require legal assistance to stabilize their lives and realize their full potential. Through a holistic team approach utilizing legal advocacy and social work services, our goal is to empower clients and actively involve them in the critical decisions that impact their lives. LSC uses this model to achieve safety and stability at home, educational success, and freedom from detention and deportation for our clients.

The **Young Women’s Freedom Center** (YWFC) has worked for 30 years to inspire and empower young women, girls, and trans people of all genders who have been involved in youth and adult legal systems, child welfare system, and/or the underground street economy to create a positive change in their lives and communities. YWFC's mission is to decarcerate and decriminalize women, girls, and trans folks of all genders through one-on-one support, systems advocacy, and leadership development.

Public Comment:

Below we offer seven comments related to the proposed revisions to DGO 7.01. The first comment pertains to the public comment process, and the remaining six focus on additional revisions to the proposed DGO. We are also submitting a redlined copy of DGO 7.01 that incorporates our suggested changes, included as Attachment A.

1. Reform SFPD’s Public Comment Process to Promote Meaningful Public Participation in DGO Revisions

At the outset, we are compelled to comment on your public comment process for DGO revisions. As you may be aware, the comment portal is so restrictive as to appear designed to discourage public participation. For example, the website advises commenters to include research and supporting sources for comments. Yet, the comment field is a single line of text that is limited to just 250 *characters*, including spaces – less space than even a “tweet.” This extreme and unnecessary length limitation is a major obstacle to offering meaningful public comment. Additionally, the comment form for DGO 7.01 was deactivated well before the end of the day on the 90th day for public comment. Closing comment at the end of the business day, rather than at the end of the calendar day, discourages public participation, as the public is often contributing on top of their daily work and childcare schedules. We urge you to reevaluate your comment process and modify your systems to be more inclusive of community input.

2. Conduct a Comprehensive Policy Overhaul for Interactions with Youth, with Assistance from with Strategies for Youth

Our overarching comment is that we believe ***SFPD should engage in a comprehensive overhaul of its policies related to policing interactions with youth.*** In the 16 years since SFPD last

updated its youth policies, there have been tremendous advances in the research on youth development and the interventions that are most effective in promoting positive youth behavior.

Towards the goal of a comprehensive youth-specific policy, we strongly recommend that the Police Commission and SFPD seek technical assistance from Strategies for Youth, a national policy and training organization dedicated to ensuring best outcomes for youth interacting with law enforcement.¹ Strategies for Youth offers a program called “12 Model Law Enforcement Policies for Youth Interaction,”² which can serve as the foundational template for a new SFPD policy for youth that incorporates current scientific research, legal standards, and best practices.

Using the resources from Strategies for Youth, we recommend both revising existing youth-specific policies and adding policies to DGO 7.01 or in another DGO to address the following issues:

- Interactive, intensive training on adolescent development, trauma, and developmentally appropriate interactions with young people;
- Youth-specific policies on investigatory stops, searches, and seizures;
- Youth-specific policies on the conduct of interrogations;
- Youth-specific policies on use of force;
- Policies on fair and impartial policing of youth, including policies addressing:
 - Race, National Origin, and Immigration Status
 - LGBTQ+ Youth
 - Youth with Disabilities, Experiencing Mental Health Crises, or Impaired By Drugs or Alcohol

These additions are crucial to establishing a culture within the Department that acknowledges the unique developmental needs and vulnerabilities of youth, and that seeks to promote youth safety as an integral part of safety for all of San Francisco.

3. Incorporate Additional Scientific Research on Adolescent Development into SFPD’s Policy Statement

Section 7.01.02, the DGO’s policy statement, must be revised to reflect a more comprehensive discussion of adolescent development and its impact on youth interactions with law enforcement. While we acknowledge and greatly appreciate the new language discussing some of this information, we believe that it should be expanded to provide a strong foundation for the Department’s goal, listed on page 2, of seeking alternatives to the juvenile justice system when feasible.

¹ <https://strategiesforyouth.org/>

² <https://strategiesforyouth.org/model-policies/>

Specifically, we recommend incorporating the following key points, which are included as redlines in Attachment A:

- Acknowledge the impact that immaturity may have on a youth’s ability to understand and comply with law enforcement instructions.³ Too often, a failure to follow instructions leads to an escalation in the use of punitive responses (arrest, handcuffs, secure detention), particularly for youth of color.⁴ Members should be encouraged to establish trust and understanding with youth to promote the youth’s feeling of fairness or “procedural justice,” which is a key factor in building a youth’s trust in the justice system.⁵
- Acknowledge that the disparate treatment of youth of color by law enforcement has resulted in negative consequences, including increased exposure to psychological harms and increased rates of future police contact.⁶ Cite the use of diversion responses as a key factor for reducing racial disparities in the juvenile system.⁷
- Acknowledge that research has shown that youth naturally age out of problematic behaviors as part of the normative developmental process.⁸ Moreover, formal processing and punitive responses to youth behavior can disrupt this normative process and increase the likelihood of rearrest.⁹ Instead of formal processing, the Department should have a policy of prioritizing non-punitive responses, such as diversion, which have been shown to lead to better outcomes for youth.¹⁰

4. Establish Procedures for Prioritizing Diversion

DGO 7.01 must include a procedure for implementing diversion of youth prior to contacting the Juvenile Probation Department. In 2023, this Commission expressed a commitment to “pre-arrest diversion.” In November, the Commission received a resolution from the Juvenile

³ See *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011).

⁴ See Kristin Henning, *The Rage of Innocence: How America Criminalizes Black Youth* 153-54 (2021)

⁵ See Amanda Gellar & Jeffrey Fagan, *Police Contact and the Legal Socialization of Urban Teens*, 5 Russell Sage Found. J. Soc. Scis. 26, 29-30 (2019); Erika K. Penner et al., *Procedural Justice Versus Risk Factors for Offending: Predicting Recidivism in Youth*, 38 L. Hum. Behav. 225, 225-37 (2013); Kristin Henning, *The Rage Of Innocence: How America Criminalizes Black Youth* 322 (2021).

⁶ See Juan Del Toro, et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, 116 Proc. Nat’l Acad. Scis. 8261, 8266-67 (2019); Stephanie Wiley & Finn-Aage Esbensen, *The Effect of Police Contact: Does Official Intervention Result in Deviance Amplification?* 62 Crime & Delinq. 283, 299-300 (2013); Henning, *supra*, at 205-235.

⁷ See The Sent’g Project, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* 10 (2022); Annie E. Casey Found., *Increase Successful Diversion for Youth of Color* (2022).

⁸ See Laurence Steinberg et al., *Psychological Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders* (2015).

⁹ See Annie E. Casey Found., *Research in Brief to Transform Juvenile Probation: Expand the Use of Diversion from the Juvenile Justice System*, p. 4 (2020).

¹⁰ See Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting It Right*, p. 8-9 (2018); Logan Seacrest, *Data-Driven Deflection: A Systems Approach to Reducing Juvenile Arrests*, R Street (June 2023).

Probation Commission urging SFPD to expedite implementation of pre-arrest diversion. Yet, actual procedures for pre-arrest diversion continue to be missing from DGO 7.01.

Even if SFPD has not finalized the logistical details of its pre-arrest diversion program, DGO 7.01 can be revised to indicate that diversion is a priority option. This option already exists under state law: when an officer takes temporary custody of the minor, the officer has a list of available responses, including delivering or referring the minor to a public or private agency for shelter care, counseling, or diversion services.¹¹ Existing law also expresses a preference for the option that least restricts the minor's freedom, as long as it is compatible with the best interests of the minor and the community.¹² Based on the research cited above—showing the effectiveness of diversion in promoting positive outcomes—there is a strong basis for expressing a departmental priority to maximize the use of pre-arrest diversion. Suggested redlines are provided on pages 9-10 of Attachment A.

5. Establish a Presumption Against the Use of Handcuffs when Transporting Youth

Section 7.01.04(F) of the revised DGO must go further to eliminate the use of handcuffs when transporting youth to a non-secure location. As noted in DGO section 7.01.02, handcuffing has adverse physical and psychological consequences for young people.¹³ Yet, despite this harmful impact, officers have been routinely handcuffing youth even after it has been determined that the youth can be safely delivered to a non-secure location.

While we commend the decision to allow officers to exercise discretion in the use of handcuffs, the current DGO is insufficient to overcome the current culture and practice of routinely using handcuffs on young people. The DGO must not only give officers discretion, it must *establish a presumption against the use of handcuffs when transporting a youth to a non-secure location*. The DGO should also set forth the factors that an officer must consider before taking the exceptional step of putting handcuffs on a minor who does not require secure detention. Suggested redlines are provided on page 6 of Attachment A.

6. Convene Stakeholders to Review Policies for Foster Youth

Section 7.01.04(P), the policy regarding foster youth, should be revised through a collaborative process that includes experts on homeless youth and youth who are at risk of trafficking. Many, if not all, of the foster youth that police encounter will have risk factors related to commercial sexual exploitation. We urge the Department to revisit this section and collaborate with stakeholders to bring it into alignment with citywide efforts to address trafficking and homelessness among youth. We additionally recommend that the Department eliminate the policy that allows foster youth to be taken to a police facility.

¹¹ See Welf. & Inst. Code § 626(b).

¹² See Welf. & Inst. Code § 626.

¹³ See Victor J. St. John et al., *Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities* 4 (2022); Henning, *supra*, p. 216.

7. Correct Noncompliance with State Law & Regulation

Finally, DGO 7.01 must be revised because the current version conflicts in several places with state law and regulation. As noted in the suggested redlines in Attachment A, DGO 7.01 fails to comply with certain requirements set out in Welfare and Institutions Code sections 626, 626.5, 207, 207.1, 208, 208.5, 208.55, as well as regulations set out in the California Code Regulations, Title 15 Minimum Standards for Detention Facilities, sections 1140-1151. The DGO must come into compliance with existing law and regulation, as specifically noted in comments in Attachment A.

Of greatest concern is section 7.01.04 (P), "San Francisco District Attorney Right of First Refusal (SF Admin Code 96D.2)." We understand that this section references local municipal code, however that ordinance violates state law and should not be reproduced in SFPD policy.

San Francisco's Admin Code 96D.2 directs officers to present all juvenile delinquency cases occurring within the City to the San Francisco District Attorney's Office; however, officers have no authority to do so under state law. Welfare and Institutions Code section 626 sets forth the permissible options for law enforcement upon taking a youth into temporary custody for a suspected offense. None of these options allows law enforcement to present delinquency cases directly to the District Attorney. In fact, doing so violates the laws requiring that the county probation officer serve in the intake and investigatory function prior to the commencement of juvenile delinquency proceedings.

Admin Code 96D.2 improperly seeks to give police officers the intake and investigatory authority that by law rests with the county probation department. Under Welfare and Institution Code section 652, the probation officer has the sole authority to conduct an investigation when there is cause to believe a youth comes within the provisions of Welfare and Institutions Code sections 601 or 602. Welfare and Institution Code section 653.5 specifies the circumstances under which the probation officer will bring the case to the district attorney. If the probation officer, after investigating a case, declines to bring the case to the district attorney's office, then the "applicant" (such as SFPD), may apply to the district attorney for a review of this decision under Welfare and Institution Code section 655. There is no statutory authority for a police officer to present a case directly to the district attorney.

San Francisco's ordinance unlawfully circumvents the state's statutory scheme for intake and referral to the district attorney, and it improperly intrudes on probation's exclusive intake and investigative role in the juvenile delinquency system. This section must be deleted so as not to conflict with state law.

Conclusion:

We share the Department's goal of safety for all community members, especially our young people. But we also believe that punishment is too often mistaken as safety, when true safety

comes from promoting the health and wellbeing of all people. We believe that achieving wellbeing for youth requires tailored policing policies that are trauma-informed, culturally responsive, strengths-based, and developmentally appropriate.

We hope that SFPD will undertake a second round of revisions for DGO 7.01 and incorporate the comments above and attached. We're including our contact information below and would be happy to be in touch if you have any questions. Thank you for your time and consideration.

Sincerely,

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Policies and Procedures for Youth Non-Psychological Detention, Arrest, and Custody

7.01.01 PURPOSE

The purpose of this order is to set policy and procedures regarding detention, arrest, and booking of youth that occur in the City and County of San Francisco. All sworn members (“members”) of the San Francisco Police Department shall comply with this order. Since the Airport Bureau utilizes San Mateo County Juvenile Facilities and works with San Mateo County Sheriff’s Office to investigate criminal cases, Airport Bureau members shall comply with exceptions to this order as defined in the current Airport Bureau General Order pertaining to youth.

7.01.02 POLICY

This policy is designed to provide the necessary background and guidance to members so they may ~~more effectively~~ interact with youth in instances of detention, arrest, and custody in a manner that promotes community safety by prioritizing youth safety and wellbeing. To fulfill this commitment, the Department recognizes the importance of understanding adolescent development when interacting with ~~law enforcement. It is difficult for youth to~~

As explained by the National Academies of Science, because the brains of young people are still developing, they are likely to behave differently than adults. During adolescence, young people are often more susceptible to peer influence and risk-taking, and in stressful situations may have a limited ability to exercise problem-solving skills, control their impulses, or consider the consequences of their behavior, especially when faced with stressful situations, including interactions interacting with law enforcement. The Department recognizes that the part of a youth’s brain that controls long term planning and rational thinking is not fully developed, and that youth are more prone to risky behavior, and are vulnerable even when engaging in problematic conduct themselves vulnerable even when engaging in problematic conduct. As a result, youth are less able than adults to understand or comply with law enforcement instructions. It is crucial that members take time to establish mutual understanding and respect, as youth are particularly sensitive to perceptions of fairness and their experiences interacting with law enforcement can continue to impact them over the long term.

Youth, particularly those who have experienced trauma, ~~or who have~~ special needs, or developmental challenges, may have a challenging time exercising self-control, ~~have~~ may experience heightened anxiety, and ~~are~~ may be less likely to trust unfamiliar adults including law enforcement. The Department acknowledges that misperceptions and implicit biases about youth of color (including perceiving them as older than they are) by law enforcement and the general public have historically led to ~~disparate outcomes, youth of color being treated more punitively than their white peers and suffering negative consequences as a result of the disproportionate law enforcement contact. Utilizing diversion is a key to reducing racial and ethnic disparities in the~~

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juvenile delinquency system.

The science of adolescent development has established that youth will age out of challenging behaviors if supported with healthy, strengths-based interventions. Punitive responses, like arrest, prosecution, and punishment, actually disrupt necessary and normative developmental processes. Empirical evidence has shown that formal delinquency processing can do more harm than good, and that youth outcomes are best when contact with the delinquency system is minimized. For this reason, the Department recognizes the importance of utilizing non-punitive, community-based responses, including admonishment, referrals to supportive community services, and diversion.

Therefore, to promote positive, safer, and healthier interactions between the police and youth during detention and arrest, it is the Department's policy that members carefully consider the following:

- Speak to youth in a calm, courteous, age-appropriate manner.
- Strive to protect the well-being of youth, ~~even when it is difficult,~~ with the understanding that doing so reduces trauma and fosters healthy youth development, which are crucial components of the Department's public safety mission.
- Uphold the youth's rights guaranteed by the state and federal Constitutions, state law and regulation, and local ordinances.
- To the greatest extent possible, seek to minimize or avoid inflicting harm on young people.
- Consider the adverse psychological and physical consequences of handcuffing youth.
- To the greatest extent possible, seek alternatives to the juvenile justice system (e.g. admonishment, diversion, etc.), when feasible.

7.01.03 DEFINITIONS

A. Child - A person 11 years of age or younger.

B. Responsible Adult (SF Admin. Code § 96C)

1. The youth's parent or guardian;
2. A person 18 years old or over who is related to the youth by blood or adoption including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons even if the marriage was terminated by dissolution or death;
3. A person 18 years of age or over who has a mentoring or an established familial relationship with the youth or a relative of the youth;
4. The youth's teacher, medical professional, clergy, neighbor, social worker, or mental health clinician; or
5. An employee of a non-profit or community organization whose primary focus is

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assisting youth.

- C. **Juvenile Number (“J number”)** - A unique identifying number, specific to an incident, created in order to report mandatory data to the California Department of Justice.
- D. **Temporary Custody** - When a youth is in the care and custody of the Police Department, and members are responsible for their safety and well-being. Youth defined by W&I Code sections 300, 601, and 602 may be under Police Department’s temporary custody.
- E. **Unnecessary Conversation** - Communications with the detained youth that are not designed to address the youth’s physical needs or to give the youth directions relating to operation of the facility where the youth is detained. (SF Admin. Code § 96C.2)
- F. **Youth** - A person 17 years of age or younger.
- G. **Youth Facilities** - City & County youth facilities and authorized referral centers including, but not limited to: Community Assessment and Resource Center (CARC), Juvenile Justice Center (JJC), and Huckleberry House.

7.01.04 PROCEDURES

- A. **Detention of Youth** - Except as set forth below, members shall not engage in “unnecessary conversation,” questioning, or a custodial interrogation with any youth that is detained or not free to leave unless and until the youth (1) has consulted with legal counsel and (2) is informed that a Responsible Adult may be present during the questioning.

When a member detains an individual and suspects they may be a youth, the member shall ask, as soon as reasonably possible, ask the individual their age. If a member determines that an individual is a youth, the member shall:

1. Advise the youth of their Miranda rights using developmentally appropriate language.
2. As soon as practical, and prior to any interrogation, facilitate a consultation in person, by telephone, or by video conference with the on-call juvenile attorney with the Public Defender’s Office. Call (415) 583-2773. The youth must consult with an attorney before the member engages in “unnecessary conversation,” questioning, or a custodial interrogation. The youth cannot waive the phone call with the Public Defender’s Office legal counsel, but can ~~instead~~ choose to call a private attorney instead of the Public Defender’s Office.
 - a. Members shall take reasonable steps to ensure that youth are able to talk or meet with legal counsel in private.
 - b. A youth cannot waive their Miranda rights until this conversation takes place.
3. After the youth consults with the legal counsel, members may request a Miranda waiver-waiver of Miranda rights. If a youth indicates that they want to waive their Miranda rights, a member must explain the consequences of the waiver in

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developmentally appropriate language and obtain a signed waiver prior to beginning questioning. Members must also explain that the youth can change their mind at any time and questioning will stop.

Members may not request a waiver from youth who are unable to read or write, from youth with intellectual or developmental disabilities, from youth with vision, speech, or hearing impairments, or from youth with limited English proficiency.

4. After the legal consultation, members shall inform the youth that they may request a Responsible Adult or attorney be present during “unnecessary conversation,” questioning, or a custodial interrogation.

The Responsible Adult cannot be a suspect or witness in the crime. The Responsible Adult may be present either in person, by telephone, or by video conference. The Responsible Adult may not willfully delay or obstruct the police investigation.

These requirements do not apply if (1) a member questions a youth after reasonably concluding that the information the member is seeking is necessary to protect life or property from an imminent threat; and (2) a member limits the questions to those reasonably necessary to obtain that information.

Commented [YLC1]: It is unclear what the term “these requirements” refers to. Does it mean paragraph #4 or the entire section? Section 626.5 of the Welf. & Inst. Code (hereinafter, “WIC”) does not have any exceptions for the requirement that youth consult with counsel prior to interrogation. The exceptions only apply regarding the question of admissibility. See WIC 626.5(c).

- B. Searching Youth** - All searches of youth, including pat searches, shall be conducted by a member of the same gender as the youth. If the youth is transgender, gender-variant, or non-binary, the member should ask the youth their preference with regard to the member searching them.

If a member has knowledge or reasonably believes that a transgender, gender-variant, non-binary, or youth not of the same gender has a concealed dangerous weapon, the youth should be restrained (handcuffed) until a search can be made by an appropriate member.

In the event a youth who has not been searched appears to be attempting to access a weapon while restrained in handcuffs, any member may conduct a cursory pat search. This search shall be limited only to areas the youth could reasonably access while restrained in handcuffs.

If a dangerous weapon is visible, any member may remove the dangerous weapon to ensure the safety of the youth, themselves, and the public.

If there are exigent circumstances, any member may search a youth.

Commented [YLC2]: This term is very vague. We recommend providing specific guidance or a standard for when any member may search a youth.

C. Interrogations

1. The number of members interrogating a youth shall be limited to two at any given time.
2. Interrogations shall be audio recorded unless exigent circumstances are present. If a youth is suspected of committing murder as listed under 187 or 189 PC, members shall

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video and audio record the interrogation consistent with 859.5 PC.

3. During a custodial interrogation of a youth, members shall not employ threats, physical harm, deception, or psychologically manipulative interrogation tactics. (See W&I Code 625.7) This prohibition does not apply to interrogations of a youth if both of the following criteria are met:
 - a. a member questions a youth after reasonably concluding that the information the member is seeking is necessary to protect life or property from imminent threat and
 - b. a member limits the questions to those reasonably necessary to obtain that information.

D. Notification of Responsible Adult - When a youth has been detained, arrested, brought into a police or juvenile facility, or has been transported by a member, that member or their designee shall take immediate steps to notify the youth's Responsible Adult as soon as reasonably possible.

1. **Notification** - Member should notify the Responsible Adult by telephone or in person.
 - a. When a Responsible Adult is contacted, the member shall inform the Responsible Adult where the Youth is and the violation or the reason for the police contact. The Responsible Adult and Youth shall be ~~allowed to inform that they may~~ speak with one another, privately, and shall be allowed to do so if either party so desires.
 - b. Should an initial attempt to contact a Responsible Adult fail, renewed attempts shall be made by phone every thirty minutes until the processing and investigation has been completed. The time of all calls shall be entered on the Non-Secured or Secured Detention Logs.
 - c. If a Responsible Adult has not been contacted at the conclusion of the investigation and processing, the assigned member shall be responsible for arranging for either electronic communication or the leaving of a note. This notification should provide information about the Youth's present whereabouts, and the name and phone number to contact a member or the phone number of the district station.
2. **Out of Town** - If the Youth resides outside of the City, members shall make a telephone call to a Responsible Adult. If notification cannot be made by telephone, members shall arrange for notification through the local law enforcement agency.
3. **Youth Victims** - When a member takes a report from a Youth who is a victim of a crime, the member shall notify the Responsible Adult as soon as ~~reasonable possible~~. This notification is not to be made if the suspect is the Responsible Adult. If the report is being taken at a school, the member may request school personnel make the notification.

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4. **Documenting Notification** - Members shall include in their incident report how notification was made or what actions the member took in attempting to notify a Responsible Adult.

E. **Transporting Youth** - Members may only transport a Youth for a lawful police purpose.

1. **With Adults** - Members shall not knowingly transport Youth with adult arrestees.
2. **Female Youth** - Female Youth shall, when possible, be transported by female members. If a female member is unavailable, (2) two male members shall transport female youth with a supervisor's approval.
3. **Documenting the Transportation of Youth** - Prior to the transport of any youth, members shall broadcast to Department of Emergency Management (DEM) their destination and the police vehicle's starting mileage. Upon arrival, members shall inform DEM of their ending mileage. In both instances, dispatch shall broadcast and record in CAD a starting time and ending time for the transport.

If a member's Body Worn Camera ("BWC") is on, continuous recording by BWC will satisfy the required notification to DEM and documentation.

F. **Transporting Youth to Non-Custodial Location** - When transporting Youth to any non-custodial location (e.g. CARC, Huckleberry House, Family Children Services (FCS), etc.), members have the discretion to not handcuff. When determining, and there shall be a presumption that handcuffs will not be used unless they are necessary for the appropriateness safety of the youth, the officer, or others, and other less restrictive alternatives have first been attempted. Prior to applying handcuffs or other physical restraints, members shall restraint during transport, a member shall first consider:

1. The totality of the circumstances known at the time of transport, including, but not limited to, the nature of the incident, the youth's age, physical size, actions, and conduct; and
2. Whether such restraints are necessary to provide for the safety of the youth, the officer, or others, and whether safety can be maintained through less restrictive alternatives.
3. The physical and psychological trauma caused to youth by the use of restraints.

G. **Temporary Custody at a Police Facility** - After a member has made reasonable efforts from the field or from an appropriate youth facility to investigate, arrange release, or transfer, a member may bring a youth who is taken into temporary custody on the basis of being a person described under W&I 602 to a police facility containing an adult lockup. Members shall follow these procedures:

Youth may be held in temporary custody in such a facility solely for the purposes of: 1) investigating the case, 2) facilitating the release of the minor to a parent or guardian, or 3) arranging for the transfer of the minor to an appropriate juvenile facility.

Members shall additionally follow these procedures:

Commented [YLC3]: As detailed in our comment letter, we believe that handcuffs should not be used in this situation. At a minimum, there should be a presumption against the use of handcuffs.

Commented [YLC4]: Edits to this section are necessary to comply with WIC 207.1 and Title 15, sections 1140-1151.

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1. **Non-Secure** - Youth, age 13 and under, ~~detained for any~~ who are taken into temporary custody on the basis of being a person described under W&I 602 offense shall be held in non-secure custody. Youth, age 14 and over, who are taken into temporary custody on the basis of being a person described under W&I 602 and who do not reasonably present a serious security risk of harm to themselves or others, shall be held in non-secure custody. When holding a youth in non-secure custody, members shall:
 - a. Not hold a youth in a locked room or securely detain them in any way.
 - ~~b. Not handcuff youth to any rail or stationary object.~~
 - ~~e.b.~~ Ensure that youth do not have any contact with any adults or youth in secure detention.
 - ~~e.c.~~ Maintain constant direct visual supervision of the youth at all times to ensure their safety. Members shall not use audio, video, or other electronic equipment as a substitute for constant personal observation.
 - ~~d.~~ Exercise one of the dispositional options authorized by W&I sections 626 and 626.5 without delay.
 - e. Not hold youth at a district station for more than (6) six hours.
2. **Secure** - Youth, age 14 and over, who are taken into temporary custody on the basis of being a person described under W&I 602 and who members reasonably believe present a serious security risk of harm to self or others, may be held in secure custody.

Members shall take reasonable steps and consider the following factors before placing a youth in secure custody:

- a. The youth's physical and emotional age, maturity, and history of delinquency and criminal contacts, if known or as reasonably observed;
- b. The youth's developmental and intellectual maturity, if known or as reasonably observed;
- c. The seriousness of the offense;
- ~~d.~~ The youth's behavior, including the degree to which the youth appears to be cooperative or non-cooperative;
- ~~e.c.~~ Availability of staff to adequately supervise and protect a youth; and
- ~~e.f.~~ The age, type, and number of other subjects being held at the facility.

Commented [YLC5]: See CCR, Title 15, section 1145.

When holding a youth, age 14 and over, who is taken into temporary custody on the basis of being a person described under W&I 602 in secure custody, members shall:

- a. ~~Shall inform~~ Not hold the youth for more than six (6) hours;
- ~~a.b.~~ Inform the youth at the time they are securely detained of the purpose for their secure custody, of the expected custody time, and of the 6-hour maximum.
- c. If an extension is granted under W&I 207.1(d) by the Board of State and Community Corrections due to the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of

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transportation, inform the youth of the length of time that the extension is expected to last.

~~b.d.~~ May handcuff the youth to a stationary object for a maximum of (30) thirty minutes as necessary to prevent escape and protect the minors and others from harm, and only if other, less restrictive options are not available. After (30) thirty minutes, members shall either remove the youth from secure custody or obtain approval from a supervisor to extend the secure custody. Each 30-minute extension shall be approved and recorded by a supervisor on the Detention Log and shall be based upon the best interests of the minor.

~~e.~~ Shall maintain constant direct visual supervision of the youth at all times whenever there is an adult prisoner present in the same room or area as the

~~f.~~ Shall not permit youth, and prevent any communication between adult prisoners and youth and to ensure come or remain in contact with confined adults.

~~e.g.~~ Shall maintain a log or other written record showing the offense that is the basis for the safety secure detention of the youth minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

3. **Detention Logs** - Members shall ensure proper documentation in the Secure and Non-Secure Detention Logs. Prior to the end of each watch, the platoon commander shall ensure that the Secure or Non-Secure Detention of Juvenile Log Forms (SFPD 473/472) have been properly completed.

4. **Telephone Calls** - Immediately after taking the youth to a place of confinement and except where physically impossible, no later than (1) one hour after the youth has been taken into custody, members shall allow the youth to make at least (2) two telephone calls: one completed call to a Responsible Adult and another completed and confidential call to an attorney.

5. **Access to Basic Amenities** - In secure and non-secure custody, members shall ensure that the following amenities are made available to youth:

a. ~~Reasonable~~ Access to toilets and washing facilities;

b. A snack if the youth has not eaten within 4 hours or is otherwise in need of appropriate nourishment;

~~c. Reasonable~~ Access to drinking water;

d. Access to language services;

e. Access to disability services;

~~e.f.~~ Sanitary napkins, panty liners, and tampons;

g. Privacy during visits with a Responsible Adult and/or lawyer;

h. Blankets and clothing, as necessary, to assure the comfort of the minor; and

i. Personal clothing unless the clothing is inadequate, presents a health or safety problem, or is required to be utilized as evidence of an offense.

Upon entry, the minor shall be informed in writing of what is available under this section, and it shall be posted in at least one conspicuous place to which minors have access.

Commented [YLC6]: Edit required to comply with CCR, Title 15, section 1146.

Commented [YLC7]: We recommend adding this limitation.

Commented [YLC8]: We recommend constant visual supervision. Alternatively, this section must (at a minimum) comply with CCR, Title 15, sections 1147 and 1148.

Commented [YLC9]: See WIC 208.

Commented [YLC10]: Edits are necessary to come into compliance with CCR, Title 15, section 1143.

6. **Well-Being** - Members are responsible for the security, safety, and physical well-being of youth in their care and custody.
 - a. Behavioral or Mental Health Crisis - If members reasonably believe that youth might be experiencing a behavioral or mental health crisis, members shall adhere to DGO 7.02 *Psychological Evaluation of Juveniles*.
 - b. Medical Assistance - Members shall ensure that youth who are obviously ill, injured, or under the influence of alcohol or drugs, are examined at the San Francisco General Hospital prior to being booked at JJC or transferred to a youth facility.
 - i. If the youth must remain in the hospital and booking is required, members shall complete an admission form and deliver it to JJC. Members shall request that a JJC counselor be dispatched to the hospital for the purpose of taking custody of the youth.
 - ii. Members shall remain with the youth until medically cleared or relieved by the counselor from JJC. If released by medical staff while still in police custody, members shall transport the youth to JJC. If the youth is violent, members may request the patrol wagon from dispatch.

H. Procedures for Criminal Offenses for Youth 12 Years or Older (W&I 602)

1. If a youth (12 years of age and older) has been arrested for a criminal offense, ~~except for minor traffic infractions or admonishments, members shall call CARC to speak to a CARC representative. Members should provide CARC with preliminary information about the youth and the incident. Juvenile Probation Department (JPD) will provide information and instructions including whether to transport the youth to CARC or another youth facility for processing, book the youth at JJC, issue a citation, or divert the youth.~~ members should, if feasible, call the Family and Children Services (FCS) / Child Protective Services (CPS) Hotline prior to consulting with CARC or the JPD to inquire whether the youth is an active Dependent, has an FCS social worker, or is in an FCS placement as this information will assist CARC and JPD.
~~Misdemeanor citations for a youth do not require a citizen's arrest nor do they have to occurred in a member's presence.~~

Commented [YLC11]: This section fails to comply with the standards set out in Welf. & Inst. Code section 626 and, at a minimum, must be revised to meet those statutory standards.

Commented [YLC12]: This text has been moved to paragraph #4.

Commented [YLC13]: This text was moved up because it should be considered before any other action.

Commented [YLC14]: This text has been moved to paragraph #4.

2. Under Welfare and Institutions Code section 626, in determining which disposition of the minor to make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.

3. A member may release a youth pursuant to Welfare and Institutions Code section 626(a).

4. If circumstances do not warrant releasing, diverting, citing, or booking-arresting a youth, members may in their discretion, admonish a youth on misdemeanor and infraction cases with the approval of a supervisor. Members are not required to call CARC. Members shall follow the procedures in 7.01.04.A Detention of Youth, and contact the Public Defender's Office prior to an admonishment. Members shall release the youth consistent with 7.01.04.L, Releasing Youth, issue an 849(b) certificate of release, and document the incident in a police report. (See DO 5.03 Investigative Detentions)

5. Members should, if feasible, call the Family and Children Services (FCS) / Child Protective Services (CPS) Hotline Prior to consulting with contacting CARC or the JPD to inquire Juvenile Probation Department, members shall consider whether the youth's case can instead delivered or referred for shelter care, counseling, or diversion services.. W&I 626(b). Diversion shall be used to the greatest extent possible to maximize positive outcomes for the youth is an active Dependent, has an FCS social worker, and community, and avoid the harms that result from formal delinquency processing.

6. Except for minor traffic infractions or is in an FCS placement as this admonishments or cases eligible for diversion, members shall call CARC to speak to a CARC representative. Members should provide CARC with preliminary information about the youth and the incident. Juvenile Probation Department (JPD) will assist CARC and JPD provide information and instructions including whether to transport the youth to CARC or another youth facility for processing, book the youth at JJC, issue a citation, or divert the youth.

Misdemeanor citations for a youth do not require a citizen's arrest nor do they have to occurred in a member's presence.

3.7. If a member is transporting a youth to CARC, members shall provide CARC with a referral form and complete Section (A) the Juvenile Detention Disposition Report Form (#JUS 8716).

4.8. If CARC is closed and after speaking with the on-duty Juvenile Probation Officer it is determined that the youth will not be booked, members shall issue a citation.

5. Booking: Members shall book youth 12 years of age and older when any of the following exists:
a.]

Commented [YLC15]: SFPD should adopt a formal policy of increasing use of diversion options without contacting the Probation Department. This approach aligns with the Department's commitment to expanding pre-arrest diversion. A procedure for pre-arrest diversion should be incorporated before this paragraph.

- a. ~~The seriousness of the offense is such that the release of the youth would prove dangerous to the public, as determined by a risk assessment instrument and in consultation with a Juvenile Probation Officer.~~
- b. ~~The youth is arrested pursuant to a warrant.~~
- e. ~~The youth is in possession of a firearm.~~

I. Special Procedures for A CHILD 11 and Under

1. If a child is arrested for any of the following offenses pursuant to 602(b) W&I, members shall contact JPD as soon as reasonably possible to arrange for transfer of the child into JPD custody:
 - a. Homicide;
 - b. Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
 - c. Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
 - d. Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful injury; or
 - e. Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
2. For any other criminal offense, members shall document the incident involving a child in an incident report. ~~The report shall be forwarded to Family & Children Services (FCS/CPS) at FCSHotline@sfgov.org once it is completed. Members shall release the youth consistent with 7.01.04.L.~~

J. Juvenile Numbers - Members shall obtain a juvenile number ("J number") from the Police Department's ID Bureau when a youth age 12 or older is cited or arrested under 602 W&I, or transported under 601 W&I.

K. Juvenile Justice Center Admissions and Report Requirements

1. When members are directed by CARC or JPD, to ~~book~~deliver a youth to the custody of JPD at JJC, members shall, during the booking process, complete Section (A) of the Juvenile Disposition Report Form (#JUS 8716) and submit the form to the on-duty probation officer.
2. At the time of delivering the youth to JJC, members shall complete an Admission Form, San Francisco Juvenile Court (form #1202-03). In addition to providing a probable cause statement upon delivery of the youth to JPD, members ~~shall~~ provide, when available, aggravating and mitigating information about the Youth and/or the offense.
3. Members ~~shall~~outlet document in the incident report the name of the JPD official who authorized the booking.

Commented [YLC16]: It is unclear what is meant by "booking" here, but it appears that this term is intended to mean "booking" of the youth into the juvenile hall. If that is the case, then this section conflicts with existing law regarding detention. Under WIC 628, it is within the sole discretion of the county probation department to determine whether or not a youth shall be taken into juvenile hall detention, based on an investigation and assessment of statutory factors. This section must be deleted or clarified. The DGO should not direct members to exercise any authority with respect to detention decisions, as they have no such authority under the law.

Commented [YLC17]: This falls short of San Francisco's legal obligation under WIC 602.1: "Counties shall develop a process for determining the least restrictive responses that may be used instead of, or in addition to, the release of the minor to his or her parent, guardian, or caregiver."

Commented [YLC18]: These edits are required under WIC 626(d).

4. When a Youth is being admitted to JJC for a criminal offense, the member shall provide the incident report to JJC as soon as possible. Members may either fax or email the report. Members shall not include CLETS attachments in a fax or email. Members shall confirm the receipt of the report.

L. Changes of Custody

1. If a subject booked at County Jail is found to be a youth, the station that originally booked the subject shall process and transport the youth to CARC, JJC, or the appropriate youth facility within the City. Members shall contact CARC who, in consultation with JPD, will provide information and instructions on where to transport the youth or whether to issue a citation.

If the arresting members are unable to return and transport their arrestee, they shall immediately notify their supervisor, who will be responsible for ensuring a unit from their station responds to County Jail and provides transportation to the appropriate youth facility.

Southern Station personnel remain responsible for transporting a youth from County Jail to the appropriate youth facility for those youth who were booked by an investigative unit and were later discovered to be a youth.

In all cases, the transfer of custody from County Jail to the youth facility shall be documented in a statement or a supplemental incident report.

2. If a subject is taken into custody for an adult warrant and prior to booking it is discovered that the subject is a youth or is under the jurisdiction of the juvenile court, members shall process the subject as a youth and book the youth at JJC. Members shall notify County Jail and request that a booking form be completed with a notation that the subject is a youth and is being held at JJC. Members shall contact the on-duty Juvenile Probation Officer prior to booking the youth.

Commented [YLC19]: See WIC sections 208.5, 208.55.

M. Adults Arrested on Juvenile Warrants

1. If an individual over the age of 18 years of age and under 25 years of age, is arrested solely for a juvenile warrant, members shall book the individual at JJC. Members shall notify the on-duty Juvenile Probation Officer prior to booking.
2. If the individual has a juvenile warrant and additional adult charges and/or an adult warrant, members shall notify JJC, book the individual at ~~County Jail~~ JJC, and place a hold on the individual for Juvenile Court.

Commented [YLC20]: WIC section 208.5 supports detention of a youth who is under juvenile court jurisdiction in JJC. WIC section 208.55 requires sight and sound separation between adults and youth who are under the jurisdiction of the juvenile court.

N. Releasing a Youth

1. Members shall consider factors such as time of day, location of release, and the age and known vulnerability of the youth in determining the best circumstances for

releasing that youth.

- a. When releasing a youth to a Responsible Adult, members shall conduct a preliminary criminal background check (California Criminal History (CII)) and contact FCS/CPS to determine if the person willing to take responsibility for the children has a history of child abuse. Any history of sexual crimes, 290 PC registration status, or violence against children makes the Responsible Adult ineligible to assume responsibility for the youth. This does not apply to the parent/guardian unless there is a court order limiting contact with the youth.
 - b. In limited circumstances, based on the above factors, members may release a youth, with approval from a Responsible Adult and the member's supervisor, to themselves. This does not apply to youth arrested for felony offenses. In such a case, the youth must be furnished, upon request, with transportation to their home or to the place where the minor was taken into custody.
2. Members shall document the name, contact information, and relationship to the youth, for any Responsible Adult that a youth was released to or if the youth was released to themselves in an incident report.

Commented [YLC21]: WIC section 207.2 allows any youth to be released to their own custody. There is no basis for categorically excluding youth based on the type of offense, if circumstances otherwise warrant release.

O. Special Procedures for W&I 601 Youth

1. Follow procedure in 7.01.04.A – Detention of Youth.
2. For a W&I 601 violations (e.g., runaway, beyond parental control), a member ~~should~~ call CARC, Huckleberry House, or any agency contracted or authorized by the City to receive 601 Youth to discuss the circumstances of the incident and connect the youth to appropriate resources. Members may deliver or refer the youth to an appropriate agency for shelter care, counseling, or diversion services.
- ~~3. After a member has made reasonable efforts from the field or from an appropriate youth facility to investigate, arrange release, or transfer the youth, a member may, if necessary, bring a youth to a police facility containing an adult lockup.~~
If a W&I 601 youth has been brought to a police facility, members shall hold the youth in non-secure detention and follow all appropriate procedures including detention logs, telephone calls, access to basic amenities, and well-being checks. No youth shall be detained at a district station more than (6) six hours.
4. Members shall obtain a J-Number from the Police Department's ID Bureau if a youth is transported for a 601 offense.

Commented [YLC22]: This is prohibited by WIC section 207.

P. Special Procedures for W&I 300 Youth

1. Follow procedure in 7.01.04.A – Detention of Youth.
2. A member may, with or without a warrant, take a youth into emergency

Commented [YLC23]: As detailed in our comment letter, we believe that this section should be revised through a collaborative process that takes into account the likelihood that a youth may be involved in or at risk of human trafficking. We recommend that a stakeholder group be convened to revisit this section and bring it into alignment with citywide efforts to address trafficking of youth.

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temporary custody if any of the following conditions are met:

- a. The youth is in immediate need of medical care;
 - b. The youth is in immediate danger of physical or sexual abuse;
 - c. The youth's physical environment poses an immediate threat to the youth's health or safety;
 - d. A youth left unattended poses an immediate threat to the youth's health or safety (Prior to taking a Youth into temporary custody for this, members shall first attempt to contact the parent or legal guardian of the Youth);
 - e. The Youth is a dependent of the juvenile court and the member has reason to believe the Youth has violated an order of the court or has left any placement ordered by the juvenile court.
3. When taking a youth into emergency temporary custody, member shall ~~ould~~:
- a. Call the FCS/CPS Hotline for medical screening and/or placement in emergency or temporary shelter. FCS may meet members in the field or direct them to an appropriate location to bring the youth. If applicable, call/notify the youth's home county as well.
 - b. If unable to reach FCS/CPS, members should call CARC or Huckleberry House to discuss the incident and appropriate connection to resources or placement options.
 - c. If bringing a youth to Huckleberry, members should be able to provide basic contact information, parental contact information if applicable, and details surrounding why the youth is being transported to Huckleberry House. Members shall notify Huckleberry House prior to bringing a youth to their location.

~~d. If a W&I 300 youth has been brought to a police facility, members shall hold the youth in non-secure detention and follow all appropriate procedures including detention logs, telephone calls, access to basic amenities, and well-being checks. No youth shall be detained at a district station more than (6) six hours.~~

~~Q. San Francisco District Attorney Right of First Refusal (SF Admin Code 96D.2)~~

- ~~1. Members shall first present to the San Francisco District Attorney's Office all juvenile delinquency cases (W&I 601 and 602) where: (1) all the alleged criminal acts occurred within the City; (2) the Police Department is the lead or sole investigative agency; and (3) W&I 651 permits commencing proceedings in juvenile delinquency court in San Francisco Superior Court or another county. The DA's Office may decide whether to file a petition in the San Francisco Superior Court.~~

~~W&I 651 allows charges to be brought in either the county in which: (1) the youth resides; (2) the youth was found; or (3) the crime occurred.~~

- ~~2. If the DA's Office declines to file in the San Francisco Superior Court, the Police Department may present the case to a district attorney in another jurisdiction consistent with W&I 651.~~

Commented [YLC24]: Taking foster youth to a police facility is traumatizing and should be eliminated as a matter of policy.

Commented [YLC25]: As detailed in the comment letter, this section conflicts with state law and must be removed.

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~~This requirement does not preclude Police Department from collaborating or providing information to other law enforcement agencies.~~

- ~~34. If members are investigating a crime, and another county may have equal jurisdiction over the incident pursuant to W&I Code 651, the approval of the Assistant Chief of Operations is required prior to presenting that case to another district attorney's office.~~