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POLICY/PROCEDURE NUMBER: 08-L.E.-013

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SUBJECT: ARREST PROCEDURES AND ALTERNATIVES TO ARREST

EFFECTIVE DATE: March 21, 2022

REVIEW DATE: March 21, 2023

AMENDS/SUPERSEDES: Standard Operating Procedure 200-30: Arrest Procedures, March 8, 2002; Standard Operating Procedure 200-3: Handcuffs, January 1, 2000; February 14, 2008 Version; February 18, 2008 Version; 2006-009: Release From Custody Order/Detention Only – PC 849(b), November 29, 2006; February 26, 2008 version; January 27, 2010 version; February 16, 2011 version; January 8, 2014 version; January 7, 2015 version.

IACLEA STANDARDS: 2.2.1, 2.2.2, 2.2.3, 8.1.1, 8.1.2(c), 8.2.1, 8.2.3, 8.2.4, 8.2.6, 8.4.1, 8.4.2, 9.2.10, 13.2.6

CSU SYSTEMWIDE POLICY – YES

APPROVED: Alfredo B. Fernandez, Chief of Police

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## I. PURPOSE

To clarify the duties and responsibilities of a Police Officer making an arrest with or without a warrant and the specific Penal Code sections governing these situations, and to establish procedures for alternatives to a physical arrest.

## II. POLICY

It is the policy of this Department to abide by all applicable laws and regulations in relation to service of legal process and to seek out alternatives to arrest whenever feasible. This includes utilizing the University internal judicial process for student infractions.

## III. DEFINITIONS

- A. Arrest - To deprive a person of his/her liberty by legal authority.
- B. Arresting Officer - A sworn law enforcement officer who takes a person into custody, with or without a warrant.
- C. Arrest Warrant - A written order of the court which is made on behalf of the State, or United States, and is based upon a complaint issued pursuant to state and/or court rule, and which commands a law enforcement officer to arrest a person and bring him before magistrate.

- D. Civil Arrest - A civil arrest is made pursuant to a written order by a judge of a competent jurisdiction in a civil action or proceeding.
- E. Civil Process - Those writs, summonses, mandates or other process issued from a court of law or equity, pertaining to a cause of action of a civil nature. The term includes original, intermediate and final process to be served by the agency in any action involving civil litigants.
- F. Criminal Process - Writs, summonses, mandates, warrants, or other process issued from a court of law compelling a person to answer for a crime. The term also includes process issued to aid in crime suppression, such as search warrants.
- G. Delinquent Minor - A minor who has committed a crime pursuant to Welfare and Institutions Code (WIC) 602.
- H. Legal Process - Any item of civil or criminal process, whether original, intermediate or final, that is valid on its face and is to be served or executed by the law enforcement agency.
- I. Lockup - A room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest. A minor may be securely confined in a lockup only as provided in Section 207.1(d) WIC.
- J. Minor - A person under 18 years of age.
- K. Non-offender - A minor who is considered a dependent of the court. Welfare and Institutions Code (WIC) Section 300 defines non-offenders; according to the Juvenile Justice and Delinquency Prevention Act and WIC Section 206, non-offenders must not be held in secure detention in a jail or lockup.
- L. Non-Secure Detention - Occurs when a minor's freedom is controlled by the staff of the facility; and (1) the minor is under constant personal visual observation and supervision by staff of the law enforcement facility; (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.
- M. Protective Order - Order issued by court in domestic violence or abuse cases to, for example, protect spouse from physical harm by other spouse or child from abuse by parent(s). Such order may be granted immediately by court in cases where immediate and present danger of violence or abuse is shown. Such emergency orders are granted in ex parte type proceedings and are temporary in duration pending full hearing by court with all involved parties present.
- N. Restraining Order - An order in the nature of an injunction, which may issue upon filing of an application for an injunction forbidding the defendant from doing the threatened act until a hearing on the application can be had.
- O. Search Warrant - An order in writing, issued by a justice or other magistrate, in the name of the state, directed to a sheriff, constable, or other officer, authorizing him to search for and seize any property that constitutes evidence of the commission of a crime, contraband, the fruits of crime, or things otherwise criminally possessed; or, property designed or intended for use or which is or has been used as the means of committing a crime.

- P. Secure Detention - Occurs when a minor is locked in a room/enclosure and/or secured to a cuffing fixture or other stationary object while in custody in a law enforcement facility (which includes police or sheriff stations) for any length of time.
- Q. Status Offender - A minor who has committed an act which would not be considered criminal had it been committed by an adult. Status offenders are defined by WIC 601 and include acts such as: disobeying parents, violating curfew, truancy, and running away. A minor may be in violation of a municipal code that establishes curfew; such a violation would be considered a status offense. According to the federal Juvenile Justice and Delinquency Prevention Act (JJDP) and WIC 207, status offenders must not be held in secure detention in a jail or lockup.
- R. Summons - Writ or process directed to the Sheriff or other proper officer, requiring him to notify the person named that an action has been commenced against him in the court from where the process issues, and that he is required to appear on a day named, and answer the complaint in such action. It is used in instances of low risk, where the person will not be required to appear at a later date.
- S. Sworn Officer - A person who is granted those general peace officer powers prescribed by constitution, statute, or ordinance in the jurisdiction, including those persons who possess authority to make a full custody arrest for limited or specific violations of law within the same jurisdiction.
- T. Temporary Detention Facility - IACLEA/CALEA accreditation defines temporary detention as measured in hours and does not involve housing or feeding detainees except in extenuating circumstances. **Note: The time detainees are to be held within the California State University, Northridge Police Department's temporary detention facility shall not exceed 6 hours.**
- Under California WIC 207.1(i) regulations, the department's detention facility is classified and recognized by the State Correctional Standards Authority as a "Lockup," however this policy utilizes the term "temporary detention facility" as it better reflects the department's facility and position under an accredited status. Lockup, under California regulation, is defined as "a room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest. A minor may be securely confined in a lockup only as provided in Section 207.1(d) WIC."
- U. Temporary Restraining Order - An emergency remedy of brief duration which may issue only in exceptional circumstances and only until the trial court can hear arguments or evidence as the circumstances require, on the subject matter of the controversy and otherwise determine what relief is appropriate.
- V. Writ - A written court order or a judicial process, directing that a sheriff or other judicial officer do what is commanded by the writ; or giving authority and commission to have it done.

#### IV. PROCEDURES

- A. Applicable State Codes – California Penal Code Sections that address arrests *with warrants*:
1. P.C. 815 states that at the time of issuance a warrant will indicate the name of the defendant, time and location issued and be signed by a magistrate. At the time of issuance the magistrate shall fix a reasonable bail.

2. P.C. 816 states that a warrant of arrest shall be directed generally to any peace officer, and when a warrant of arrest has been delivered to a peace officer and the person named in the warrant is in custody, the warrant may be executed by the peace officer.
3. P.C. 817 states that when a declaration of probable cause is made by a peace officer, the magistrate if satisfied that there exists probable cause that the offense has been committed and that the defendant described committed the offense, shall issue a warrant of probable cause for arrest of the defendant.
4. P.C. 817(g) states that an original warrant of probable cause for arrest or the duplicate original warrant shall be sufficient for booking a defendant into custody.
5. P.C. 817(h) states that once the defendant named in the warrant for arrest has been taken into custody, the agency that obtained the warrant shall file a certificate of service with the clerk of the issuing court. The certificate of service shall contain all of the following: date and time of service; name of defendant arrested; location of arrest; and the location where the defendant is incarcerated.
6. P.C. 818 states that in any case in which a peace officer serves upon a person a warrant of arrest for a misdemeanor offense under the Vehicle Code or under any local ordinance reference operation of a motor vehicle, and where no written promise to appear has been filed and the warrant states on its face that a citation may be issued in lieu of physical arrest, the peace officer may, instead of taking the person before a magistrate, prepare a notice to appear and release the person on his promise to appear.
7. P.C. 827.1 states that a person who is specified in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest unless one of the following conditions exists:
  - a. The misdemeanor cited in the warrant involves violence;
  - b. The misdemeanor cited in the warrant involves a firearm;
  - c. The misdemeanor cited in the warrant involves resisting arrest;
  - d. The misdemeanor cited in the warrant involves giving false information to a peace officer;
  - e. The person arrested is a danger to himself or others due to intoxication.
  - f. The person requires medical examination or medical care or is otherwise unable to care for his own safety;
  - g. The person has other ineligible charges pending against him;
  - h. There is reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be endangered by the release of the person.
  - i. The person refuses to sign the notice to appear.
  - j. The person cannot provide satisfactory evidence of personal identification.
  - k. The warrant of arrest indicates that the person is not eligible to be released on a citation.
8. P.C. 842 states that an arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in his possession at the time of the arrest, but if the person arrested requests it, the warrant shall be shown to him as soon as practicable.

9. P.C. 848 states that an officer making an arrest, in obedience to a warrant, must proceed with the person arrested as commanded by the warrant or as provided by law.

B. California Penal Code Sections that address arrests *without a warrant*:

1. P.C. 836 states that a peace officer may arrest a person in obedience to a warrant or without a warrant, whenever any of the following circumstances occur:
  - a. The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.
  - b. The person arrested has committed a felony, although not in the officer's presence.
  - c. The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.
2. P.C. 849(a) and P.C. 837 (Private Person/Citizen arrests). See Section IV.F of this policy for further details of these penal code sections and private person arrest procedures.
3. P.C. 849(b) states that any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:
  - a. He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
  - b. The person arrested was arrested for intoxication only, and no further proceedings are desirable.
  - c. The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.
  - d. PC 849(b) Procedures:

The following procedures, in compliance with California Penal Code sections 849 and 851.6, shall be followed by police officers in release from custody situations where individuals are classified as "detained only". Any person arrested without a warrant may be released from custody under Penal Code 849 and considered a "detained only" individual. If an officer releases someone from their custody a "release form custody order" certificate (Appendix A) shall be issued to the detained party immediately upon release. The detained individual shall be informed that he/she is being released pending further investigation as further information/evidence is required for a criminal complaint to be filed.

The completion of the certificate is self-explanatory and requires officers to simply fill in the blanks and obtain both the shift supervisor and detained party's signatures. The white copy (original) is to be forwarded to records for filing, while the blue copy is to be provided directly to the detained party. Please note that this form does not need to be completed for those arrested/detained for intoxication only (PC 647f) with no further proceedings being sought, as stipulated under PC 851.6(a). Detainees should be advised to contact CSUN investigators at the phone

number listed on the certificate should they have questions regarding the detention and potential for further investigation.

4. P.C. 853.6 states that in any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth in this chapter. If the person is released, the officer or superior shall prepare in duplicate a written notice-to-appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court.
5. It is this department's policy that whenever a person is detained for an offense declared to be an infraction and/or misdemeanor and the detainee's identity (name, date of birth) cannot be confirmed from valid identification such as a driver license (with a photograph) and/or other form(s) of appropriate identification, the detainee is to be arrested and transported to a jail/lock-up facility for booking and fingerprinting identification processing. Releasing a detainee/arrestee, whose identity has not been verified, under the 849(b) PC authority or via a release-from-custody (RFC) citation/written notice-to-appear is prohibited until a response is received from DOJ (i.e. JDIC) regarding the results of the fingerprint check. However, juveniles are to be handled in accordance with section IV, subsection J (Juvenile Arrests & Detention) of this policy.

C. Other Legal Considerations in making Arrests *with or without a Warrant*

1. When a Police Officer stops and detains a person, and as a result of a warrant check, determines the person has an outstanding warrant, the officer shall complete the following actions:
  - a. Determine that the person described in the warrant and the subject in custody are one and the same.
  - b. Determine if the warrant is available for service. Agencies out of the immediate area may not want to send an abstract or extradite for booking purposes due to the distance involved and the type of crime for which the warrant has been issued.
  - c. Upon receipt of the warrant abstract, the person should be taken into custody and taken before the nearest or most accessible magistrate. If a magistrate is not available, the officer must take the arrestee to the county jail for booking and posting of bail, or hold pending appearance before a magistrate.
2. The University Police Department is not authorized under P.C. 1269b to accept bail for arrestees or to cite and release persons arrested under a warrant. Therefore, no officers employed by this department shall accept money as bail or in payment of a fine.

D. General Arrest Procedures

1. Precautions - Officers shall take all reasonable precautions in arresting and detaining persons to ensure against injury and/or escape. Officers must be alert to the possibility of weapons being in the possession of suspects or arrestees. Officers shall be responsible for the safety of prisoners and their property.

2. Security of Weapons - Officers shall exercise caution with firearms or other weapons at all times and particularly when in the presence of suspects, prisoners, and detainees. All weapons shall be secured or removed from locations accessible to prisoners while they are being detained within the police facility.
3. Treatment of Prisoners and Suspects - Prisoners and suspects shall be treated in a humane manner. They shall not be subjected to excessive physical force. No officer shall strike a prisoner or suspect, except in self-defense, to prevent an escape, or to prevent injury to another person. No officer shall verbally abuse prisoners or suspects.
4. Searching Prisoners and Suspects - All searches shall be conducted in accordance with department policy and training. See department policy 08-L.E.-014: "Legal and Constitutional Authority for Search and Seizure, Interviews/Interrogation, and Arrest" for policies on searches.
5. Temporary Detention of Detainees/Prisoners - The Department utilizes a temporary detention facility for the processing and holding of adults which is located east of the department's break area. Two unsecured juvenile temporary holding rooms are located in the police report writing room. Given that some detainees are a potential threat to themselves and/or agency staff, the only instance where an adult prisoner/detainee shall enter the secured area of the police facility shall be to interview them in one of the two investigations unit interview rooms prior to booking or release. [See department policy #08-L.E.-014 (Legal & Constitutional Authority for Search and Seizure, Interviews, Interrogation, and Arrest) for requirements of investigations unit interview room use.]

All prisoners/detainees brought into the department shall be under continuous control and supervision by the detaining/arresting officer who will be held to the utmost accountability for the actions of those in their custody/detention. All officers shall ensure that each detainee/prisoner is field searched prior to entering the department and that the complete separation by gender, gender-identity, and juvenile prisoners/detainees be strictly maintained. At no time shall any adult prisoner/detainee come into sight or sound of a juvenile in the department's custody. Officers are to ensure that prisoners/detainees are provided water, restrooms, or other needs (as deemed necessary for their safe physical condition) in a timely manner.

First aid kits and fire extinguishers are located within the monitoring room that separates the two investigations unit interview rooms, within the officer workroom on the temporary detention facility, and outside the juvenile temporary holding rooms for use in the event of a fire or medical situation while a prisoner/detainee is in being held prior to release. For those prisoners/detainees (adults and juveniles) who are under continuous control and supervision while in the department and outside the temporary detention facility, detaining officers (in the event of a fire alarm or actual fire) shall escort their prisoner/detainee outside the building to the rear secured parking lot. The individual(s) shall then be secured within the rear prisoner compartment of a police vehicle until it is safe to reenter the facility. American Disabilities Act (ADA) compliant evacuation signs are posted throughout the police facility for use in the event of a facility evacuation due to fire or other hazardous situation. See department policy #09-S.O.-021: Temporary Detention Facility and Arrestee Processing for details of evacuation procedures when prisoners/detainees are housed within the department's temporary detention facility.

All police personnel are issued a portable police radio. Each is equipped with a panic/duress alarm (orange button on top of the radio) for use in the event of an emergency which requires immediate police response. Officers who are in control of a prisoner/detainee and enter the police facility shall ensure dispatch has logged their location as such, so in the event their portable radio emergency button is activated, the appropriate emergency response will be directed.

**All department employees shall be trained on all procedures and safety protocols involving the temporary detention and movement of prisoners/detainees within the police facility. The department requires that every officer sustains the best in officer safety and weapons control while maintaining control/supervision of a detainee/prisoner. At no time shall any civilian staff or non-involved sworn personnel initiate conversation with or enter a holding area where a prisoner/detainee is being held and/or interviewed.**

6. Bail Posting Prohibited

- a. No Officer shall post bail for persons placed under arrest by a member of the department.
- b. No officer shall suggest or recommend any person or firm engaged in the business of furnishing bail to any prisoner or person requesting such information.
- c. No officer shall recommend any attorney to any party in a criminal or civil case in which the officer's department is involved.

7. Use of Handcuffs and Other Physical Restraints

- a. The Departmental Policy regarding the handcuffing of a person is predicated on the responsibility of protecting the officer, the public and the person handcuffed. While policy guidelines are provided regarding the use and application of handcuffs during specific police/public contacts, the department recognizes that the final decision whether or not to handcuff an individual must rest with the ranking officer at the scene. Each public contact is different and requires officers to apply a broad range of criteria related to officer and public safety, the safety of the detainee, and to the laws of arrest, search and seizure. These criteria are fluid and situational, and suggest that the officer after considering all factors relevant to the situation must have full discretion in applying policy guidelines.
- b. Police officers should avoid using force and/or physical restraints, such as handcuffs or guns, during a detention situation whenever possible. These indications of custody may cause the court to view the detention as an arrest. When the detention exceeds the boundaries of a permissible investigative stop, the detention becomes a de facto arrest requiring probable cause.
- c. Police officers can use whatever precautionary safety measures (i.e., department authorized physical restraint methods) are reasonable under the circumstances. During a lawful detention, officers are authorized to take such steps as are reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop.
- d. In determining whether a police contact was a lawful detention or an unlawful arrest, the court will look to the totality of the circumstances

and evaluate the intrusiveness of the detention and the justification for using the force or “restraints” that were employed.

- e. It is the policy of this Department to handcuff all felony suspects (both adults and juveniles) when arrested for a violation of a State and/or Federal Law.
- f. The handcuffing of juveniles and adults in misdemeanor situations shall be left to the officer's discretion. Officers should evaluate the age and general demeanor of juveniles prior to applying handcuffs. In essence, some juveniles may be taken into custody for a misdemeanor without handcuffs while others must be handcuffed for their own protection, the protection of others or to avoid escape attempts. In all instances officers shall make every attempt to protect the privacy and dignity of persons being handcuffed.
- h. Handcuffs shall only be used as a temporary restraining device on mentally challenged persons. In order to avoid injury, padded straps are to be utilized by medical practitioners such as psychiatric emergency services personnel and City & County paramedics who have padded straps and are authorized to restrain persons in this manner.
- i. In the event an adult prisoner/detainee must be secured to an immovable object for his or her own safety or that of others, it shall be designed and intended for such use (i.e. handcuffing bar or ring, not a part of a vehicle or other structure) and the individual shall not be secured to that object for longer than 2 hours. Juvenile prisoners/detainees held in secure detention shall not be secured to a stationary object for more than 30 minutes. The arresting or booking officer shall be present at all times to assure the minor's safety while secured to a stationary object. Securing the juvenile to a stationary object for longer than 30 minutes, and every 30 minutes thereafter must be approved by the shift supervisor and the reasons for continued secure detention shall be documented within the RIMS report. The supervisor's decision to secure a minor to a stationary object for longer than 30 minutes and every 30 minutes thereafter must be based on the best interests of the minor. Minors who are deemed by the shift supervisor as someone requiring a need to be continuously secured to a stationary object shall be moved to a locked enclosure (i.e., lockup facility) at such time as one becomes available.
- j. Handcuffing Procedures
  - i. One Person - Handcuffs shall be placed around the subject's wrists, hands behind the back, palms out. No persons shall be handcuffed with the hands in front unless the subject is suffering from a deformity, disability, or some injury that makes this practice impossible or impractical.
  - ii. Two Persons – The handcuffing of two persons with a single set of handcuffs is prohibited by this department.
  - iii. Double Locking Handcuffs. Handcuffs shall be double-locked whenever they are used. This not only prevents the person from picking the lock, but also keeps the handcuffs from tightening on the wrist of the person and causing injury.
- k. Practices to Avoid When Using Handcuffs
  - i. Do not handcuff a person with hands in front unless required by a physical deformity or injury. (See section i.1 above.)
  - ii. Handcuffing yourself to a person is prohibited.

- iii. Do not attach a single handcuff to a person and attempt to use it as a come along.
- iv. No juveniles shall be handcuffed to an adult at any time.

1. Situations when not to handcuff - Absent any perceived threat to the safety of officers or the detainee. handcuffs should not be used in the following situations:

- i. When not under arrest.
- ii. For transportation only, if safety not in jeopardy.
- iii. After person is frisk/pat searched, no weapons are found and person does not constitute a threat to the safety of officers and the general public.
- iv. And/or if no physical cause to detain or arrest and safety not in jeopardy.

E. Arrest Procedures via Warrant Service

1. Service of Warrants

- a. Arrest warrants will be executed by sworn peace officers only.
- b. Warrants obtained in California are maintained in CLETS, an automated warrants system.
- c. When an individual is contacted, the officer will have Dispatch confirm that a valid warrant is active by calling the law enforcement agency.
- d. Officers will utilize a print out of a working paper that indicates that the warrant is valid and outstanding. This paper indicates the offense, bail amount, and warrant type (bench warrant, traffic, criminal).
- e. If a valid warrant is confirmed, the individual will be taken into custody and the service of the warrant will be documented in an Arrest Report. This report will indicate the date, time and location of the arrest, information on the suspect including name, date of birth and social security number.
- f. A record on the execution or attempted service of all warrants or any legal process shall be maintained through RIMS (once service is made) which is to include:
  - i. date and time service was executed/attempted;
  - ii. name of officer(s) executing/attempting service;
  - iii. name of person on whom legal process was served/attempted;
  - iv. method of service and/or reason of non-service; and
  - v. address (location) of service/attempt.

2. Service of Warrants by Outside Jurisdictions

- a. This Department occasionally works with outside agencies on the service of their warrants.
- b. If an outside agency has a warrant they wish to serve on this campus they will contact this Department for assistance in the service of the warrant. They will serve the warrant and take custody of the suspect.
- c. **Our responsibility is to facilitate the service of legal process in a manner that is least disruptive to the University.** There should be no disruption of class or educational activity unless the severity of the offense, potential threat to community exists or other emergency exists.

3. Execution of Criminal Process (warrants)
  - a. Officers will execute only traffic and criminal warrants. The only exception to this is civil restraining orders.
  - b. Execution of CSUN Police Department warrants outside of this jurisdiction will be determined on a case-by-case basis, depending on the distance, crime, and University needs and only upon approval of the Chief of Police.
  - c. When serving a warrant outside of this jurisdiction, the agency will be notified that we are going to serve a warrant in their jurisdiction, and a request will be made to have a unit from their agency assist.
  - d. Individuals arrested outside of this jurisdiction will be brought back to the Los Angeles County court system and booked into a LAPD or LASD jail facility, unless otherwise directed by a magistrate.
  
4. Arrest Criteria and Enforcement Procedures in reference to Protective Orders
  - a. The following are three types of restraining/protective orders:
    - i. Emergency Protective Order is obtained by a peace officer from superior court by phone;
    - ii. Civil Court Restraining Orders, are obtained by a victim from the civil court; and
    - iii. Criminal Stay-Away Orders, pursuant to Penal Code Section 136.2 are issued by the criminal court.
  
  - b. All three of these protective orders are enforceable in any county no matter where issued. These orders remain valid regardless of the actions of the protected person. For example, if the protected person allows the restrained party back into a residence, the order still remains valid.
  
  - c. Verification of Protective Orders
 

Penal Code Section 13710 requires law enforcement agencies to maintain a complete and systematic record of all Protective Orders. Whenever a complainant advises an officer of the existence of a Protective Order, the officer should:

    - i. Prepare a written report.
    - ii. Ascertain whether a Protective Order is on file with the Department and if the complainant has a copy of the order in their possession;
    - iii. The Protective Order is still valid as to duration/time (if there is no expiration date on the order, the order is valid three years from the date of issuance, with the exception of permanent orders issued pursuant to a divorce);
    - iv. If proof of service or prior notice exists or that the suspect was in court when the order was made; and;
    - v. The terms of the Protective Order.
  
  - d. Enforcement Procedures
 

A violation of a Protective Order is a misdemeanor under P.C. 166 and 273.6(a) and may be a felony, under P.C. 273.6(d), 646.9 or 136.

An arrest shall be made when there is reasonable cause to believe the subject of the Protective Order has violated the order and any of the following conditions are met:

- The existence of the order and proof of the service on the suspect has been verified by the officer;
- The complainant produces a valid copy of the order bearing the file stamp of a court and a proof of service on the subject;
- The existence of the order has been verified by the officer (no proof of service is required if the order reflects that the suspect was personally present in court when the order was made); or
- The existence of the order has been verified, and there is proof that the suspect has previously been admonished or served a copy of the order.

When the officer verifies that a Protective Order exists, but cannot verify proof of service or prior knowledge of the order by the suspect, the officer should:

- Inform the suspect of the terms of the order;
- Admonish the suspect of the order, that the suspect is now on notice and that the violation of the order will result in an arrest (if the suspect continues to violate the order after being advised of the terms, an arrest should be made);
- If the suspect complies after admonishment of the terms, the officer shall make a retrievable report pursuant to Penal Code Section 13730(c) showing the suspect was admonished of the terms of the order, the name of the admonishing officer, time and date. The Department's copy of the Protective Order will be updated to reflect the admonishment information.

e. Protective Order Not Verifiable

- i. When the victim is not in possession of the Protective Order, and/or in case of computer error, officers may not be able to confirm the order's validity.
- ii. Penal Code Section 13730(c) requires that an officer shall write a report, give the victim the police report number and direct the victim to contact Investigations for follow-up information.
- iii. When an order is not verifiable through the verification procedures, officer shall advise the victim of the right to make a private person's arrest for the violation of the Protective Order.

F. Private Person Arrest Procedures

1. Definitions

- a. Arrest: To deprive a person of his/her liberty by legal authority (P.C. 834).
- b. Private Person: Any person not defined as a peace officer in Chapter 4.5 of the California Penal Code.

2. Applicable Penal Code Sections

- a. P.C. 834: An arrest is taking a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.
- b. P.C.837: A private person may arrest another:
  - i. For a public offense committed or attempted in his presence.
  - ii. When the person arrested has committed a felony, although not in his presence.
  - iii. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
  - iv. Officers, who are physically present at the time an allegation is presented that a crime has been committed, who know the allegation to be false based on first-hand knowledge, may refuse to accept any arrest attempted under 837 P.C. (Citizen's arrest). These incidents will be documented in a RIMS report.
- c. P.C. 838: A magistrate may orally order a peace officer or private person to arrest anyone committing or attempting to commit a public offense in the presence of such magistrate.
- d. P.C. 839: Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.
- e. P.C. 841: The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or the person to be arrested is pursued immediately after its commission, or after an escape. The person making the arrest must, on request of the person he is arresting, inform the latter of the offense for which he is being arrested.
- f. P.C. 847: A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him or her to a peace officer. There shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer or federal criminal investigator or law enforcement officer described in subdivision (a) or (d) of Section 830.8, acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest when any one of the following circumstances exist:
  - i. The arrest was lawful or when the peace officer, at the time of the arrest had reasonable cause to believe the arrest was lawful.
  - ii. When the arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.
  - iii. When the arrest was made pursuant to the requirements of Section 142, 838, or 839.
- g. P.C. 849 (a): When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before such magistrate.

849 (b) - Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:

- He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
- The person arrested was arrested for intoxication only, and no further proceedings are desirable.
- The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.

849(c) - Any record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, such arrest shall not be deemed an arrest, but a detention only.

- h. P.C. 490.5 (f) (1): A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises. A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility. (2) In making the detention a merchant, theater owner, or a person employed by a library facility may use a reasonable amount of non-deadly force necessary to protect himself or herself and to prevent escape of the person detained or the loss of tangible or intangible property. (3) During the period of detention any items which a merchant or theater owner, or any items which a person employed by a library facility has probable cause to believe are unlawfully taken from the premises of the merchant or library facility, or recorded on theater premises, and which are in plain view may be examined by the merchant, theater owner, or person employed by a library facility for the purposes of ascertaining the ownership thereof. (4) A merchant, theater owner, a person employed by a library facility, or an agent thereof, having probable cause to believe the person detained was attempting to unlawfully take or has taken any item from the premises, or was attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater, may request the person detained to voluntarily surrender the item or recording. Should the person detained refuse to surrender the recording or item of which there is probable cause to believe has been recorded on or unlawfully taken from the premises, or attempted to be recorded or unlawfully taken from the premises, a limited and reasonable search may be conducted by those authorized to make the detention in order to recover the item. Only packages, shopping bags, handbags or other property in the immediate possession of the person detained, but not including any clothing worn by the person, may be searched pursuant to

this subdivision. Upon surrender or discovery of the item, the person detained may also be requested, but may not be required, to provide adequate proof of his or her true identity.

### 3. Procedures

- a. The duties of a police officer in any private person arrest include the following:
  - i. Maintain control and order at the scene;
  - ii. Contact and request shift supervisor presence, if not already on scene;
  - iii. Determine the facts and document the incident within a RIMS report;
  - iv. Complete the department's "Private Persons Arrest" form, located on the department police server "P" under the data/forms file (i.e. "P:\Data\FORMS"), and have the private person affecting the arrest sign the form.
  - v. Take custody of the person lawfully arrested and any applicable evidence; and
  - vi. Process the arrested person as required by department policy.
  - vii. Officers may refuse any arrest that they reasonably believe is unlawful.
  
- b. When completing documentation:
  - i. Include the words used by the private person making the arrest;
  - ii. Include any statement made by the person arrested;
  - iii. Provide all details known and the names of any witnesses present.

### G. Alternatives to Arrest

1. CSUN Police Officers may exercise alternatives to arrest based on the individual circumstances of each situation. Alternatives to a custodial arrest are utilized by the officer with discretion, taking into consideration the severity of the crime or violation and also considering the conduct of the suspect and the suspect's past criminal history.
 

Types of incidents eligible for alternatives to arrest (i.e., oral warning, judicial referral, etc.) include, but are not limited to: violations of the student code of conduct; Education Code 89031 violations (i.e., university policies); University housing policy violations; Los Angeles municipal code violations occurring on campus; and traffic safety / public nuisance infractions.
2. When possible or appropriate, officers are encouraged to exercise alternatives to physical arrest.
3. Available alternatives include:
  - a. Verbal warning (provided the violation is minor);
  - b. Referral to California State University, Northridge Judicial Affairs Coordinator for student code of conduct violations;
  - c. Infraction ticket;
  - d. Release to parents (if juvenile);

- e. Referral to social services; and/or
  - f. Referral to the judicial affairs authority within residential housing (i.e., the Associate Director of Housing).
- 4. Officers will use discretion when selecting the appropriate course of action in each situation, taking into account the person's past history, age, physical and psychological state at the time of the incident, attitude, and other extenuating circumstances.
  - 5. If there is a victim in the case, the officer will consider and honor as much as possible the victim's preference for alternative or an arrest, except for domestic violence cases, where an alternative may not be the appropriate course of action.
  - 6. If a question arises concerning the use of an alternative, officers should contact the shift supervisor to resolve the matter.

#### H. Procedures for Alternatives to Arrest

- 1. Oral warning:
  - a. May be issued for infractions or petty offenses;
  - b. Document using a Field Interview Card (FI card) and notation in RIMS.; and
  - c. Make a referral if appropriate.
- 2. Sending a referral to the Judicial Affairs Office requires that officers send, via RIMS email, the referral request to the investigations unit after obtaining approval from the shift supervisor. Note: all referrals to Judicial Affairs and/or housing residential judicial authority review must be prepared by the investigations unit and approved by the Chief of Police or her/his designee. Referrals are to reflect a violation of the Student Code of Conduct/Title V and reason(s) for the alleged violation.
  - a. Officer
    - i. Use as an alternative to arrest with the shift supervisor's approval.
    - ii. Indicate a referral request to Judicial Affairs in the body of the Incident/Offense report, if a report is written.
    - iii. Ensure the incident is documented within RIMS.
  - b. Patrol Shift Supervisor
    - i. Approve and forward with comments, as needed, to Investigations;
    - ii. Advise the Chief of Police, Patrol Operations Commander, or on-duty watch commander immediately by telephone or in person of any incidents involving sensitive issues or having exigent circumstances.
  - c. Investigations Unit Supervisor
    - i. Review the case and the referral, obtaining the Chief of Police's or her/his designee's approval for forwarding to the Judicial Affairs office and/or housing residential judicial authority. In

the event of a criminal investigation, administrative judicial referrals will normally be available for forwarding upon completion and filing of a criminal case and should not be delayed in lieu of criminal proceedings;

- ii. Meet with Judicial Affairs and/or housing residential judicial authority if necessary to discuss the incident;
- iii. Document all referrals to Judicial Affairs and/or Housing residential judicial authority review on a ledger (hardcopy or computer file) to include date, student being referred, alleged violation, who authorized the approval, and whether a copy of a RIMS report and any other documentation, photographs, or other administrative evidence was forwarded to the judicial affairs authorities; and
- iv. Provide feedback to officers about the disposition of the referral, if known.

## I. Criminal Justice and Social Service Diversion Programs

1. A social service diversion program is any procedure or action that substitutes:
  - a. non-entry for official entry into the justice process;
  - b. the suspension of criminal or juvenile proceedings for other processes;
  - c. referral to a non-justice agency; or
  - d. a non-confinement status for confinement.
  - e. Subsequent to a case being reviewed by the Prosecutor's Office, a decision may be made to utilize a diversion program. This action is the responsibility of the Prosecutor's Office and not the University Police.

### 2. Campus Programs

The following campus programs and services are available to the Department for referral:

- a. Student Affairs Judicial Affairs Unit disciplinary review;
- b. Housing residential authority review;
- c. University Counseling Services (psychological);
- d. Klotz Student Health Center (counseling for drugs, alcohol, and other substance abuse issues); and
- e. University Human Resources (Employee Issues).

## J. Juvenile Arrests and Detention

The following are juvenile detention procedures for CSU police departments as directed through the CSU System-wide Guidelines. These guidelines are based on the rules regarding the detention of juveniles, as mandated by Welfare and Institutions Code Sections 207.1(d) and 210.2(a).

1. The following three sections of the Welfare and Institutions Code authorize jurisdiction of the Juvenile Court over minors.
  - a. Section 300 W&I: (*Dependents*) – Includes dependent, neglected, destitute, abused children or those who are physically dangerous to the public because of mental or physical deficiency. All such protective service cases are to be adjudged “dependents of the court.”

- b. Section 601 W&I: (Status Offenders, any person under the age of 18 years) – Includes habitual incorrigibles, habitual runaways, truants, immoral youths, and those with dependent tendencies. Those in this category are known as “status offenders.”
- c. Section 602 W&I: (Delinquents, 14 years of age or older) – Includes violations of federal, state and local laws. Those in this category are adjudged “delinquent.”

2. Department Programs

- a. The department is committed to the development and preparation of programs designed to prevent and control juvenile delinquency. To do this, the department investigations unit works with the Los Angeles County District Attorney’s office and LAPD in the referral of delinquent juveniles to diversion programs coordinated and operated by their respective agencies.
- b. All sworn personnel are responsible for supporting efforts by the department to reduce the occurrence of juvenile crime and delinquency on campus by following the procedures set forth within this policy.

3. Alternatives to Arrest: Officers dealing with juvenile offenders shall use the least coercive among reasonable alternatives.

- a. Outright release with no further action.
  - i. Based on the judgment of the officer in consultation with the shift supervisor, a juvenile may be released in the field without further formal action. The best interests of the minor and the community shall be considered.
  - ii. Documentation of such release shall be made within a written RIMS report and ensure to select “juvenile detention” in the drop down selection menu under the special circumstances category on page one of the RIMS report.
- b. Written citations or summonses to juvenile offenders to appear in lieu of taking them into custody: criteria and procedures for issuing.
  - i. Juveniles arrested for infractions and low-grade misdemeanors should be released in the field unless circumstances indicate that it would be in the best interest of the minor and/or the public for him or her to be detained or if such release would be otherwise unlawful or inappropriate.
  - ii. If a minor is detained for a non-traffic infraction or low-grade (non-violent) misdemeanor, the arresting officer may, upon approval of a supervisor, release the minor in the field. If the detention is for a 602 W&I offense, either issue a citation for release, consistent with those that meet Juvenile Traffic Court Provisions, or complete a RIMS crime report for the offense committed. Also make sure to select “juvenile arrest” in the drop down selection menu under the special circumstances category on page one of the RIMS report.
  - iii. Those juveniles arrested for the following 602 W&I charges shall be detained until a responsible adult can respond to accept custody, or the juvenile is booked into juvenile hall:

- California Vehicle Code (CVC), Sections 23152(a), 23152(b), 23153(a), and 23153(b);
  - Health and Safety Code (H&S), Section 11550; and
  - California Penal Code (CPC), Section 647(f).
- iv. If the detention is for a 601 W&I Status Offense, (i.e., runaway, truancy, and curfew) and the minor is going to be released in the field to a parent/guardian or responsible party, the officer shall write a RIMS report and select “juvenile detention” in the drop down selection menu under the special circumstances category on page one of the RIMS report.
- v. Citations: Juvenile violators of the California Vehicle Code should be released with a citation.

#### 4. Juvenile Court Custody Dispositions

Officers must make an initial determination as to which Welfare and Institution (W&I) jurisdictional section the minor is under. Determining whether the juvenile is alleged to have been harmed or to be in danger of harm is of primary concern (e.g., falling within Section 300 W&I Code). The following categories present procedures to follow based upon the applicable jurisdictional section.

- a. Section 300 W&I – **Dependents**: Detention Authority, Section 305 W&I
- i. Detention and Disposition – Minors (dependants) taken into protective custody under Section 305 W&I should be referred to the appropriate agency as soon as possible.
  - ii. In most cases, this will involve contacting a Child Protective Service (CPS) worker at the Department of Social Services.
  - iii. Minors may then be immediately released to the care and custody of the CPS worker for foster care placement and/or reunification with parent or legal guardian.
  - iv. In cases of injury or illness where a parent or legal guardian is unavailable, an officer may seek and order medical treatment for such minor.
  - v. Officers detaining minors under Section 305 W&I shall complete a RIMS report detailing the circumstances of the case.
  - vi. Notifications to Parent or Legal Guardian – Officers taking any minor into custody are responsible for taking immediate steps to notify parents or guardians. When this is not possible, reasons for the failure to notify shall be documented in the officer’s report.
  - vii. Under no circumstances will Section 300 W&I dependents or Section 601 W&I status offenders be placed in a “secure confinement” (lockup) or be permitted to come into contact with adult prisoners.
- b. Sections 601 W&I – **Status Offenders**: Detention Authority, Section 625 W&I.
- i. Detention and Disposition – Minors (status offenders) taken into custody under Section 625 W&I shall be referred to the appropriate agency or released to a parent or guardian as soon as possible.

- ii. In some cases, minors may be considered for protective custody as a Dependant (300 W&I). In certain aggravated cases, 601's may be referred to the juvenile court for consideration of possible wardship.
  - iii. In most cases, a 601 offender may not be lodged in a juvenile detention facility. In some cases if no adult can be located, they may be transported to Sylmar juvenile detention facility and turned over to individuals who will find other accommodations.
  - iv. Officers detaining minors under Section 625 W&I shall complete a RIMS report detailing the circumstances of the case.
  - v. Notifications to parent/guardian – Officers taking any minor into temporary custody are responsible for taking immediate steps to notify the parent or guardian. When this is not possible, reasons for the failure to notify shall be documented in the officer's report.
  - vi. Whoever responds to obtain custody of the juvenile should be advised of the circumstances and relevant information on the citation.
  - vii. Under no circumstances will Section 300 W&I dependents or Section 601 W&I status offenders be placed in a “secure confinement” (lockup) or be permitted to come into contact with adult prisoners.
- c. Sections 602 W&I – **Delinquent** – Detention Authority, Section 625 W&I
- i. Arrest and Disposition – Temporary custody pending a court hearing is discouraged in most cases.
  - ii. Officers are required to release, admonish and release, or cite and release whenever possible.
  - iii. Only if minors are escapees, probation violators, a menace to persons (themselves or others) or property, or apt to flee the jurisdiction, or there is no adult to release them to, they may be lodged in the Sylmar juvenile detention facility or other place designated by a probation officer.
  - iv. Officers arresting minors under this section shall complete a RIMS crime and arrest report detailing the circumstances of the case.
  - v. Notifications to parent/guardian – Officers taking any minor into temporary custody are responsible for taking immediate steps to notify the parent or guardian. When this is not possible (e.g., runaway refusing to provide identity information, child with no parent or legal guardian, etc.), reasons for the failure to notify shall be documented in the officer's report. In the event a parent or legal guardian is unable to be contacted, officers must take immediate steps to contact the Department of Child Services and Sylmar Juvenile Detention Facility to determine placement of the detained juvenile within an approved juvenile detention/holding facility.

Remember that time is of the essence as the law **REQUIRES** juveniles to be released from CSUN Police custody within 6 hours from the point of detention. Being “very busy” or “units all tied up” are not acceptable reasons for extending parent

notification or releasing the juvenile to an approved juvenile detention facility.

- vi. Incarceration – When a minor has been taken into temporary custody under Section 602 W&I and detention is indicated, the officer shall contact the shift supervisor for approval and transport without delay. A copy of the detention referral form must accompany the arrested juvenile to the receiving facility.
  - vii. Minors may be taken into custody:
    - On the basis of a criminal law violation; or
    - The arresting officer has a reasonable belief that the minor presents a serious security risk of harm to himself or others.
  - viii. No warrant is required unless the minor is at home; then Ramey warrant requirements must be met in the case of Section 602 offenders.
- d. Minors meeting any of the above 300, 601, or 602 W&I criteria should be brought to the Department or an appropriate in-take facility without delay, unless the juvenile is in need of emergency medical treatment. When brought into the department for processing and temporary holding, the juvenile is to be placed into a juvenile holding room located in the police officer's report writing area, subject to the following conditions:
- i. Juveniles detained shall be under continuous control and supervision by the detaining/arresting officer who will be held to the utmost accountability for the actions of those in their custody/detention. Monitoring a minor using audio, video, or other electronic device does not replace direct visual observation.
  - ii. The detention must be for the purpose of giving the officer time to investigate the case, facilitate release of the minors to a parent or guardian, or arrange transfer to the Sylmar juvenile detention facility or other appropriate juvenile facility.
  - iii. Minors must be separated from adult prisoners and ensure they never come into sight nor sound of adult prisoners.
  - iv. Minors shall be field searched prior to entering the department and separated into separate holding rooms by gender and gender-identity as needed (i.e. males, females, gender non-conforming). Although no state regulations currently exist, the California Department of Corrections and Rehabilitation (CDCR) standards recommend a department not assign a transgender or intersex inmate to a men's or women's facility based solely on the inmate's external genital anatomy and that the transgender [or intersex] inmate's own views with respect to his or her own safety shall be given serious consideration. Instead, the standards require the department conduct a case-by-case multifaceted analysis to determine whether they can best ensure a transgender [or intersex] person's health and safety at a facility for men or women. Compliance with these standards should increase safety for transgender and gender non-conforming people in custody. In as such, those who identify as gender non-conforming will be provided an assessment by the detaining officer to determine the

best manner in which to separate them with respect to their safety. This assessment and decision must be made with the shift supervisor in consultation with the Patrol Operations Commander and documented on the juvenile temporary detention log and within the case report.

- v. Before placement of a juvenile detainee/arrestee in one of the department's two non-secured temporary juvenile holding rooms, the detaining officer shall complete a security inspection of the room to search for contraband or any possible items that could be used as a weapon. Areas to inspect include all crevices on the floor, window, door, and bench. Upon exiting the holding room, a second security inspection shall be made to ensure no contraband or item(s) are left behind. Should any item(s) of a contraband or possible weapon be found within this room, a RIMS report shall be made immediately documenting such find and seized items booked into evidence per department policies 06-C.I.-003 (Property and Evidence Packaging and Control) and 07-C.I.-004 (Crime Scene Processing and the Collection and Preservation of Evidence).
- vi. Minors must be provided the Miranda Admonishment immediately upon arrest or detention; be told the reason for their detention/arrest; how long the detention is expected to last; and of the maximum six-hour period and any secured detention is authorized to last. Juvenile detentions by police officers **shall never exceed 6 hours**. Therefore officers and shift supervisors should plan accordingly should the investigation continue too long or a problem arises in the contacting of a parent or legal guardian.
- vii. Arresting/detaining officers shall complete **ALL** boxes on the applicable non-secure or secure detention logs (log book located within the police report writing room) and shift supervisors shall approve those entries by signing the "watch commander signature" section on the form. This information shall also be included in the RIMS report as well as explaining the need for and length of any secure detention measures taken due to flight risk or a danger to self/others reasons. Detention log entries and RIMS reports involving a juvenile detainee/arrestee shall be completed prior to the end of watch with no exceptions.
- viii. Juveniles shall typically be detained in a "non-secured" fashion (e.g., handcuffed but not placed in a locked room or secured to a fixed object) and shall only be "secured" (i.e. handcuffed to the holding room bench) if the secure detention conditions are met as mandated on the secure juvenile detention log (e.g. if the minor is in custody for an offense described by WIC 602, is at least 14 years of age, and presents a serious security risk of harm to self or others). Factors to be considered when determining if the minor presents a serious security risk to self or others are: age, maturity and delinquent history; severity of offense for which taken into custody; minor's behavior; availability of staff to provide adequate supervision or protection of the minor; and age/type/and number of other individuals detained at the facility. In the event a juvenile must be secured to the juvenile holding room bench to prevent escape and/or protect the minor and others from harm see section IV, sub-section D.7.i of this policy.

- ix. For procedures applicable to the use of restraints on juveniles, see section V, sub-section D.7 of this policy.
- x. For further detention conditions that must be met upon placement of a juvenile within a department juvenile holding room, see the department's non-secure (light green) and secure (pink) juvenile detention logs located in a black 3-ring binder on the first report writing desk in the report writing room.
- xi. At **NO** time shall department employees take any form of disciplinary action to addressing negative behaviors exhibited by the detained/arrested juvenile.

e. Fire, Earthquake, and Other Life Safety Incidents

The Department's non-secured juvenile temporary holding rooms are equipped with smoke/heat detectors and sprinkler system which are approved by the State Fire Marshal and inspected annually by the University's contracted fire safety service company to ensure that all points being monitored are functioning and that the system's power supply is operational. Physical Plant Management (PPM) maintains the records of all fire safety inspections.

In addition to a facility fire system, a fire extinguisher which is approved by the State Fire Marshal is housed outside the juvenile temporary holding rooms. The fire extinguisher is visually inspected on a daily basis by each patrol shift supervisor to ensure the equipment is maintained in ready for use state. This inspection is be logged on the temporary detention facility's "Safety and Sanitation Log" when shift supervisors conduct their pre-shift safety/security check of the detention facility and juvenile temporary holding rooms.

In the event of an actual fire, earthquake or other life safety incident, Department police personnel shall take immediate action to evacuate any and all juvenile detainees to an area of safety, notify the Los Angeles Fire Department so that appropriate fire department personnel respond, and attempt to extinguish a fire or provide life safety support if needed. There are two emergency evacuation routes for the temporary juvenile holding rooms. They are:

- i. Exit the report writing room through the north door and proceed to the right (east) toward the first floor break room. Proceed to the east exit door into the rear secure police parking lot.

**Note:** This is the preferred detainee evacuation route. Officers are to ensure continuous supervision of the juvenile detainee at all times, handcuffing them as deemed necessary and in accordance with department policy prior to exiting the police facility in the event of an emergency. Juveniles are to be held in an area of the parking lot clear from the view and sound of adult arrestees.

- ii. Exit the report writing room (where the temporary juvenile holding rooms are located) through the north door and proceed to the left (west) toward the department first floor lobby. Proceed out the west exit door to the visitor parking lot and into the secured police parking lot through the southwest perimeter gate.

- iii. Whenever possible, juvenile arrestees (e.g., WIC 602 only) should be placed into the prisoner compartment area of a patrol car until such time as it is deemed safe to re-enter the department's temporary detention facility or be transferred to another agency's juvenile detention facility.

f. Juvenile Detention Documentation

- i. All juvenile non-secure and secure detentions/arrests shall be documented in the officer's report. Documentation will include the date, time, need for the detention, length of the detention (time in & time out of the facility), any notifications (i.e., parents, probation officer, etc.), results of notifications, and final disposition.
- ii. Should the juvenile be brought into the police station for the detention or arrest, the involved officer(s) shall also complete an entry of the juvenile detention/arrest into the appropriate detention log. The shift supervisor is responsible for ensuring that all juvenile detention/custody issues are adhered to and that the detention logs are properly completed.
- iii. Non-secure and secure detention logs shall be maintained in a folder located on the first report writing station in the report writing room. The first day of every month at midnight (i.e. March 1 at 0001 hours), the shift supervisor shall collect the prior months juvenile detention log sheets even if no entries were made (i.e. February), place them into a 8 ½" by 11" sealed envelope, and leave the envelope in the records coordinator's mailbox for filing in central records.
- iv. Pursuant to Section 2071(d)(6) W&I, log entries recorded on the secured and non-secured detention logs shall be tallied monthly and entered on the Monthly Report on the Detention of Minors in Jails/Lockups, CYA form 10.402. This report shall then be sent to the California Corrections Standards Authority at the address, email, or fax numbers listed on the bottom section of the form.

g. Review of Juvenile Temporary Detention Facility Directives

Every two (2) years by February 1<sup>st</sup>, a review of the policies and procedures for the juvenile temporary detention facilities shall be completed by the Patrol Operations Commander or their designee. A report of the review findings, including any recommended policy/procedure revisions if needed, shall be forwarded to the Chief of Police.

5. Additional procedures when taking a juvenile into custody.

- a. In determining whether a juvenile is alleged to have engaged in non-criminal misbehavior (601 W&I status offender), or in circumstances where there is an allegation the juvenile has been harmed or may be in danger of harm (300 W&I status offender), the following is to be considered.

- i. The application of the status offense governing code definition shall be the first consideration.
  - ii. If a juvenile is taken into custody for a W&I 601 status offense (non-criminal) or to prevent harm, the officer shall:
    - Notify and consult with the shift supervisor and department investigators;
    - Complete a RIMS report;
    - Notify the juvenile taken into custody of the reason(s) for the action, if the juvenile is of an age to understand; and
    - Notify the parents of legal guardians of the juvenile of the action taken.
- b. Procedures for the detention and custodial interrogation of juveniles.
- i. The constitutional rights of a juvenile will be protected at all times. The Miranda Admonishment shall be given to all juveniles detained and/or arrested immediately.
  - ii. Per 627 of the Welfare Institutions Code, when an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, they shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he/she is being held. And immediately after being taken to a place of confinement, except where physically impossible, no later than one (1) hour after taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where he/she is being held, one call completed to his/her parent or guardian, a responsible relative, or his/her employer, and another call completed to an attorney. Any public officer or employee who willfully deprives a minor taken into custody of his/her right to make such telephone calls is guilty of a misdemeanor.
  - iii. Conferring with parents, guardians, or a lawyer: A minor shall be advised that he/she may confer with his/her parents or guardian before and anytime during an interview. Privacy shall be given during consultations with family, guardian, or a lawyer.
  - iv. Parents and guardians shall be provided information relative to the charges pending and probable future court proceedings.
  - v. An interview should be limited to no more than two officers and periods of no longer than one-hour increments without a break.
  - vi. An explanation of agency and juvenile justice system procedures will be provided to a juvenile being interrogated or interviewed as well as his/her parents or legal guardians. This will include informing them that:
    - A record of the case is established with the department;
    - Parents/guardians are contacted and informed of circumstances;
    - Officers dealing with juvenile offenders use the least coercive among reasonable alternatives; and
    - Pending court action, if any.
- c. Care of Juveniles/Minors in Temporary Custody

- i. The following shall be made available to all minors held in temporary custody:
  - Access to toilets and washing facilities.
  - One snack upon request during term of temporary custody if the minor has not eaten within the past (4) hours or is otherwise in need of nourishment. For these circumstances, a sealed envelope containing \$20.00 in U.S. currency has been placed within the locked key box within the police equipment room. If a meal is provided, it shall consist of 1 regular sized value meal from a local fast food establishment (i.e. McDonalds, Carl's Jr., or Jack in the Box). A receipt is required from the food vendor and shall be forwarded to the Patrol Operations Commander for processing and replacement of money within the sealed envelope. Meals provided are to be logged on the "Arrestee Processing Log" within the detention facility.
  - Access to drinking water.
  - Privacy during visits with family, guardian, or lawyer.
- ii. Officers shall be vigilant in monitoring juvenile detainees/arrestees for signs of suicide risk and take necessary precautions to prevent such acts. Precautions to prevent such acts shall be taken only after consulting and gaining approval from the shift supervisor.
- iii. At no time shall any officer/employee permit the use of any form of discipline upon a juvenile detainee/arrestee.
- iv. Although not permitted under department policy #09-S.O.-021: Temporary Detention Facility and Arrestee Processing, should an arrested/detained juvenile need to be placed within a locked room (i.e. secured detention) located in the department's temporary detention facility, the following procedures apply:
  - The shift supervisor shall contact their respective Patrol Operations Commander or their designee for approval, providing them justification for the need to secure the juvenile in such a location (e.g. the minor must be in custody for an offense described by WIC 602, be at least 14 years of age, and presents a serious security risk of harm to self or others). Factors that will be considered by command staff in determining if the minor presents a serious security risk to self or others necessitating securing him/her within the department's temporary detention facility are: age, maturity and delinquent history, severity of offense for which taken into custody, minor's behavior, availability of staff to provide adequate supervision or protection of the minor, and age/type/and number of other individuals detained at the facility.
  - Upon command staff approval and admittance of an arrested/detained juvenile into the detention facility, the juvenile shall be provided blankets and clothing, as

necessary, to assure the comfort of the minor. He/she shall also be permitted to retain and wear his/her clothing unless the clothing is inadequate, presents a health or safety problem, or is required to be utilized as evidence of an offense.

- Juveniles admitted to the department's detention facility shall be secured within Cell 2 only, adhering to all segregation and contact between juvenile and adult and prisoner policies contained within this policy.
- See Department Policy #09-S.O.-021: Temporary Detention Facility and Arrestee Processing for further policies and procedures involving use of the department's temporary detention facility.

d. Medical and Health Care Services for a Detained Minor

- i. Intoxicated and substance abusing minors: a medical clearance shall be obtained (prior to admittance into the CSUN Police facility and detention areas) for any minor who displays outward signs of intoxication or is known or suspected to have ingested any substance that could result in a medical emergency. While in CSUN Police custody (both secured and non-secured), continuous supervision shall be maintained of these minors to include visual safety checks (face-to-face) no less than once every 15 minutes until resolution of the intoxicated state, with the actual time of each personal observation documented within the RIMS report.
- ii. In the event that a juvenile who is being held in the custody of the CSUN Department of Police Services is in need of emergency medical treatment, the Los Angeles Fire Department paramedics shall be called immediately to render medical aid. Until the Los Angeles Fire Department paramedics arrive, the individual discovering the medical emergency shall render first aid, as necessary, utilizing the resources available (i.e. AED, First Aid Kit, personal CPR protective mask, etc.). All California State University, Northridge Police Department personnel shall follow the Los Angeles Fire Department paramedics' recommendations regarding additional medical treatment for arrestees detained within the detention facility.
- iii. In the event of a suicide attempt, serious illness, injury or death of a minor, the Shift Supervisor shall immediately notify their respective Patrol Operations Commander, Deputy Chief, and Chief of Police at which time direction will be given as to the mandatory notification of the court (e.g. Sylmar Juvenile Detention Hall and L.A. County Department of Child Services) and parent/legal guardian.
- iv. See Department Policy #09-S.O.-021: Temporary Detention Facility and Arrestee Processing, Section IV, Sub-Section E for further procedures in medical and health care response to the serious illness or injury of a minor in the department's adult temporary detention facility.

e. Transporting of juveniles to intake facility.

- i. Unless a juvenile is in need of emergency medical treatment they shall be transported without delay to the department for processing.
      - ii. Public exposure of a juvenile placed into custody shall always be minimized, thereby all detained/arrested juveniles shall be placed into the department's juvenile holding rooms.
    - f. Notifications of parents/guardians.
      - i. Per 627 of the Welfare Institutions Code, when an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, they shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he/she is being held.
      - ii. Parents/guardians shall be provided the circumstances and particulars of the incident in the initial contact with them. In addition, the location as to where parents/guardians may respond to physically contact the juvenile in custody shall be provided.
      - iii. Proper identification should be obtained in order to verify the right to assume custody.
  - 6. Administration of Chemical Tests – If necessary to administer a test to a juvenile to screen for drugs or alcohol, the officer will comply with the procedures outlined in the Welfare and Institutions Code (WIC) Sections 625.1 and 625.2, which requires that the officer give an admonition to the minor (provided in WIC 625.2) and that the minor volunteer to take a urine test after being given opportunity to consult with a parent or guardian. Note: as of January 1, 2013, urine chemical testing was removed as an option during DUI investigations. Urine testing for juveniles under the above WIC sections remains valid.
  - 7. Mandated Miranda Admonishment to all Juvenile Detainees/Prisoners -  
The same constitutional safeguards apply to juveniles as to adults, with the added requirement of Section 625 W&I which states, "In any case where a minor is taken into temporary custody on the ground that there is reasonable cause for believing that such minor is a person described in Sections 601 or 602, or that he has violated an order of the juvenile court, or escaped from any commitment ordered by the juvenile court, the officer **shall (immediately) advise such minor of his/her rights under Miranda.**"
  - 8. Death of a Minor in an Adult Detention Facility – See Department Policy ##09-S.O.-021: Temporary Detention Facility and Arrestee Processing (Section IV, Sub-Section K) for notification/reporting and investigation procedures.
- K. Foreign Nationals/Diplomats/Consular Officials

It is the policy of the CSUN Department of Police Services (DPS) to adhere to the guidance provided by the United States Department of State concerning consular notification and access based on treaty obligations as outlined in the agreements set forth in the Vienna Convention on Consular Relations (VCCR). Adherence to these obligations assists foreign governments to provide assistance to foreign nationals arrested in the United States and helps the U.S. government protect U.S. citizens abroad. DPS shall ensure that all foreign nationals are treated with respect and provided with immunities under international law where applicable.

1. Identification – In conjunction with law and international treaties, when officers/agents encounter foreign nationals during the course of their lawful duties, they shall comply with the following procedures:
  - a. Enforcement of immigration laws and the arrest of undocumented foreign nationals resides exclusively with the United States Federal Government.
  - b. Law enforcement officers may NOT stop, detain and question, arrest or place an immigration or a U.S. Immigration & Customs Enforcement (I.C.E.) hold on any person NOT suspected of crimes, solely on the grounds that they may be undocumented and deportable foreign nationals. When officers make a lawful stop, they may not ordinarily detain the vehicle's occupants beyond a reasonable period of time required for the disposition of the matter that justified the initial stop.
  - c. Officers shall not request immigration documents but may consider them for purposes of identification. Officers shall accept the Mexican Consular Identification Card (Matricula Consular de Alta Seguridad) as a valid form of identification. The Mexican Consular ID Card is not an indication of a person's immigration status, nor is it sufficient evidence to establish reasonable suspicion of a person's immigration status.
  - d. Officers shall not inquire about or seek proof of a person's immigration status unless the person is in custody or is a suspect in a criminal investigation for a non-immigration criminal violation.
  - e. Officers are not required to notify federal immigration officials and shall not call federal immigration officials to the scene of a stop or investigation except in the case of suspected human trafficking (i.e., a traffic stop involving a large amount of undocumented foreign nationals). The officer shall notify the shift supervisor of the incident who will make the appropriate consular notifications prior to contacting I.C.E. officials. The incident shall be properly documented in a RIMS offense/incident report.
  - f. This policy shall not prevent an officer from properly investigating or taking necessary action in a non-immigration criminal violation.
  
2. Consular Notification Obligations
  - a. Consular notification obligations are triggered upon any of the following situations:
    - i. The arrest or detention of a foreign national.
    - ii. The death or serious injury of a foreign national.
    - iii. An injury crash involving a foreign national.
  - b. In cases where a foreign national is the victim of a serious crime or felony, the officer shall ask the victim whether he or she would like consular notification to be made.
  - c. Officers who suspect that a person being arrested or detained is not a U.S. citizen shall inquire about his or her nationality in order to determine whether consular notification requirements apply. When such a request is made, the officer shall explain the purpose of the inquiry.
  - d. If an arrestee or detainee indicates that he or she is a foreign national, the officer shall ask for a passport or green card as identification. The foreign national's country shall be determined using this identification. If no citizenship documentation regarding identification can be provided,

the officer shall accept the foreign nationals own statement about nationality.

- e. Undocumented illegal aliens are also entitled to consular notification and access.
- f. Persons who indicate that they are U.S. citizens shall be presumed to be citizens.
- g. Persons who indicate that they are dual citizens of another country and the U.S. shall be treated as a U.S. citizen. Consular notification is not required under this circumstance.
- h. Refer to the following website for an illustration indicating the Consular Notification Process (CNP) as provided by the U.S. Department of State in reference to the arrest of a non-U.S. Citizen.  
<http://travel.state.gov/content/travel/english/consularnotification.html>

### 3. Mandatory versus Optional Consular Notification

- a. Foreign nationals shall be informed of the option to communicate with their consular officials whenever they are arrested or detained.
  - i. Foreign nationals shall have the option of deciding whether to have their consular representative notified of the arrest. If the foreign national's country of origin is on the Mandatory Notification Countries and Jurisdictions List, then notification is mandatory. This list can be located on the U.S. Department of State website,  
[http://travel.state.gov/content/dam/travel/CNAtrainingresources/CNAManual\\_Feb2014.pdf](http://travel.state.gov/content/dam/travel/CNAtrainingresources/CNAManual_Feb2014.pdf).
  - ii. The nations on the Mandatory Countries and Jurisdictions List have bilateral treaties with the United States that require authorities to make notifications to consular officials of the arrest or detention of one of their nationals, regardless of the nationals wishes.
- b. The arresting officer or shift supervisor shall notify an arrested or detained foreign national when a mandatory notification has been made to his or her consulate or embassy.
  - i. The individual shall be advised that he or she is not required to accept the consulates assistance, but that the consulate may be able to offer assistance in regards to obtaining legal counsel, contacting family members, and in visiting the individual while detained.
  - ii. The reason for the arrest and detention does not have to be disclosed to the consular official. It should only be provided when specifically requested by the official or when it is required under a specific provision as outlined in a bilateral treaty.
  - iii. Mandatory notification requirements must be honored, even if the officer has reason to believe that the foreign national may suffer persecution or mistreatment by his or her government. Precautions should be taken to prevent the release of sensitive information regarding the foreign national.
- c. Under NO circumstances shall any information indicating that a foreign national has applied or is considering applying for asylum be disclosed to a foreign national's government official.

#### 4. How to Notify Consular Officials

- a. When an officer believes that consular notification is required, he or she shall notify the shift supervisor.
- b. The shift supervisor shall verify the foreign national's country of origin and determine whether the consular notification is mandatory or optional and at the foreign national's request.
- c. Regarding optional notifications, the shift supervisor or detaining officer shall ascertain whether the foreign national desires notification be made.
- d. Statements shall be provided to foreign nationals for their review and signature. Translations of these statements are available on the U.S. Department of State website, <http://travel.state.gov/content/travel/english/consularnotification.html>. A signed copy of the form shall be retained with the arrest and booking documentation.
- e. Notifications to consuls or embassies shall be made by facsimile transmission as soon as reasonably possible and a copy of the completed fax transmission verification sheet retained with the arrest and booking documentation. A list of foreign consulates and embassies with contact information is provided on the U.S. Department of State website, <http://travel.state.gov/content/travel/english/consularnotification.html>. A suggested Fax Sheet for Notifying Consular Officers of Arrest or Detentions can be found at <http://travel.state.gov/content/travel/english/consularnotification.html>.
- f. Consular Officials shall also be notified upon the death or serious injury of a foreign national that comes to the attention of DPS. A list of foreign consulates and embassies with contact information is provided on the U.S. Department of State website, <http://travel.state.gov/content/travel/english/consularnotification.html>. A suggested Fax Sheet for Notifying Consular Officers of Death/Serious Injuries can be found in <http://travel.state.gov/content/travel/english/consularnotification.html>.
- g. Once it is determined that notification shall be made, the notification shall be done without delay.
- h. Arresting officers shall notify the detention officer/facility of the fact that the arrestee is a foreign national and of their right to consular notification.
- i. Arresting officers shall ensure that consular notifications are completed.
- j. Arresting officers shall document this notification on the arrest/booking form as well as in the narrative of the offense/incident report or supplemental report.
- k. A record of all instances that a consul has been contacted shall be kept to demonstrate that notification requirements have been met as set forth by the U.S. Department of State.

#### 5. Consular Access to Arrested/Detained Foreign Nationals

- a. The Department of Public Safety shall provide consular officers with reasonable access to detainees who request such access consistent with DPS policies and procedures regarding visitation of detainees.
- b. Authorized personnel shall permit the transmission of communications from foreign nationals to their respective consular official provided that the communication is of reasonable duration and frequency.

- c. Consular officials shall not serve as legal counsel for their foreign national constituents and do not have attorney-client privileges. Consular officials may be allowed to converse privately with their constituent (foreign national) if they so request and if the request can be reasonably accommodated.
- d. Consular officers may provide the following types of assistance to a detainee under the terms of international agreements, although such services may vary by the capabilities of country representation in the United States.
  - i. They may determine the detainees situation and needs.
  - ii. They may arrange for legal counsel and monitor case progress.
  - iii. They may contact authorities concerning the conditions of confinement and bring personal items to the detainee as permitted by DPS policy.

6. Dealing with Foreign Nationals with Diplomatic Immunity

- a. When a foreign national claims to enjoy diplomatic immunity, officers shall identify and verify the diplomatic status of the detainee in the most efficient manner possible.
- b. Certain specified foreign persons are immune from arrest under certain conditions. These include the following:
  - i. Foreign Diplomats, such as Ambassadors and Foreign Ministers, their families, servants and staff are totally immune from arrest for any offense. Any questions of whether an individual is entitled to immunity may be directed to the U.S. Department of State.
  - ii. Foreign Consuls, their families, servants, and employees are not immune from arrest, except for the Mexican Consul, which has limited immunity. If any Foreign Consul is involved in an offense, the shift supervisor will be immediately contacted. The shift supervisor can consult the U.S. Department of State website for further clarification. Shift supervisors may also contact the U.S. Department of State with any questions.
  - iii. Immunity is not extended to the families, servants, or employees of the Consulate. Whenever practical, they will be released on misdemeanor charges in lieu of booking, pending the issuance of a complaint for the offense. A citation in lieu of arrest may be issued if the appropriate criteria are met.
- c. Only an identity card issued by the U.S. Department of State, Office of Protocol, or by the U.S. Mission to the United Nations may be used as valid identification for diplomats and consular officials.
- d. Foreign diplomatic passports, U.S. diplomatic visas, tax exemption cards, vehicle registration, license plates, and driver licenses should not be used to determine whether an individual enjoys immunity.
- e. When legal grounds allow, officers should detain an individual who is unable to produce valid identification but claims diplomatic immunity. He or she shall be informed of the reason for the detention until the U.S. Department of State can confirm the proper identity.
- f. If a person claims immunity when arrested or detained, the burden of proof shall be on the individual to provide proper identification. Officers

shall contact the shift supervisor and make all reasonable attempts to verify the individual's claim of immunity.

- g. Once the individual's status of immunity has been confirmed, he or she shall be released immediately and the incident shall be fully documented in accordance with this policy.
- h. Consular notification procedures shall be followed even if the individual enjoys diplomatic immunity.
- i. When an officer makes contact with a foreign national with diplomatic immunity, the U.S. Department of State shall be contacted without delay.

**\*\* Summary of required steps to follow when a foreign national is arrested or detained:**

1. Determine the foreign national's country of nationality. In the absence of other information, assume this is the country on whose passport or other travel document the foreign national is traveling with.
2. If the foreign national's country is **NOT** on the list of "MANDATORY NOTIFICATION" ("LIST") COUNTRIES AND JURISDICTIONS follow the below instructions:
  - a. See page 4 of the U.S. State Department Consular Notification and Access Manual for a list of countries listed as "Mandatory Notification":  
[http://travel.state.gov/content/dam/travel/CNAtrainingresources/CNAManual\\_Feb2014.pdf](http://travel.state.gov/content/dam/travel/CNAtrainingresources/CNAManual_Feb2014.pdf)
  - b. Inform the foreign national, without delay, that he or she may have his or her consular officers notified of the arrest or detention and may communicate with them. For a suggested statement in several different languages, see Part Five on pages 73 through 94 of the aforementioned manual.
  - c. If the foreign national requests that his or her consular officers be notified, notify the nearest embassy or consulate of the foreign national's country without delay. Foreign embassy and consulate phone numbers, fax numbers and email addresses can be found on the Department of State's web site at <http://travel.state.gov/CNA>. A suggested notification fax sheet appears on page 95 of the aforementioned manual.
  - d. Forward any communication from the foreign national to his or her consular officers without delay.
3. If the foreign national's country **IS ON** the list of "MANDATORY NOTIFICATION" ("LIST") COUNTRIES AND JURISDICTIONS follow the below instructions:
  - a. Notify that country's nearest embassy or consulate, without delay, of the arrest or detention. Phone numbers, fax numbers and email addresses can be found on the Department of State's web site at <http://travel.state.gov/CNA>. You may use the suggested fax sheet on page 96 of the aforementioned manual for making the notification.
  - b. Tell the foreign national that you are making this notification and inform him or her, without delay, that he or she may communicate with his or her consular officers. A suggested statement to the foreign national in several different languages

appears in Part Five on pages 73 through 94 of the aforementioned manual.

- c. Forward any communication from the foreign national to his or her consular officers without delay.
4. KEEP A WRITTEN RECORD OF (i.e., detailed RIMS report):
- a. What information you provided to the foreign national and when.
  - b. The foreign national's requests, if any.
  - c. Whether you notified consular officers and, if so, the date and time of notification and the means you used to notify them (e.g., fax, phone or email). If you used fax to notify the consular officers, you should keep the fax confirmation sheet in your records. If you used email to notify the consular officers, you should retain the sent email in your records.
  - d. Any other relevant actions taken.

**Note:** The following documents related to the arrest and/or detention of foreign nationals may be located at the following website:

<http://travel.state.gov/content/travel/english/consularnotification.html>

- Consular Notification and Access Manual
- Consular Notification Pocket Card
- Consular Notification Steaming Video
- Consular Notification Statements, Foreign Consular Offices
- Suggested Fax Sheets for Notifying Consular Officers of Arrests, Detentions, Death, or Serious Injuries.

## VII. APPENDIX

### A. 849(B) PC Release From Custody Order Form

White Copy (Dept.) / Blue Copy (Detainee)  
Revised 11-06-06



California State University, Northridge  
Police Department

### RELEASE FROM CUSTODY ORDER

As required by the provisions of Penal Code Section 851.6, I hereby certify that the taking into custody of

\_\_\_\_\_ on \_\_\_\_\_ by the CSUN Police Department  
Subject's name Date

was a detention only, not an arrest.

\_\_\_\_\_ was released on \_\_\_\_\_ by the CSUN  
Subject's name Date

Police Department. Pertinent portions of Penal Code Sections 849, 849.5 and 851.6 are included as part of this certificate.

Signed: \_\_\_\_\_ Signature of Detained Party: \_\_\_\_\_

I.D. #: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Report #: \_\_\_\_\_ BKG #: \_\_\_\_\_

Penal Code Section 849 provides, in part:

- (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before such magistrate.
- (b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:
  - (1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
  - (2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.
  - (3) The person was arrested only for being under the influence of a controlled substance of drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.
- (c) Any record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, such arrest shall not be deemed an arrest, but a detention only.

Penal Code Section 851.6 provides, in part:

- (a) In any case in which a person is arrested and released pursuant to paragraph (1) and (3) of subdivision (b) of section 849, the person shall be issued a certificate, signed by the releasing officer of his/her superior officer, describing the action as a detention.
- (b) In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, the person shall be issued a certificate by the law enforcement agency which arrested him/her describing the action as a detention.

**NOTE: HEREAFTER, THIS ARREST SHALL NOT BE DEEMED AN ARREST BUT A DETENTION ONLY. IN COMPLIANCE WITH THE ABOVE SECTIONS, A COPY OF THIS CERTIFICATE WILL BE FILED WITH ANY RECORD OF THIS DETENTION. FOR QUESTIONS, CALL CSUN POLICE INVESTIGATIONS AT (818) 677-3826.**