

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: May 13, 2016

NUMBER: 3.11 - INVESTIGATIONS

SUBJECT: DAYTIME LOITERING /TRUANCY OF JUVENILES

RELATED POLICY: [3.08, 3.11](#)

ORIGINATING DIVISION: JUVENILE ADMINISTRATION

NEW PROCEDURE:

PROCEDURAL CHANGE:

SUPERSEDES: DP 3.11- MAY 3, 2013

I. PURPOSE

This Department procedure establishes guidelines for the enforcement, processing, and exemptions associated with juvenile loitering and truancy contacts.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

Truants are often responsible for daytime burglaries, thefts, and other offenses. Historically, approximately 40% of juvenile arrests for felony and misdemeanor offenses occur between the hours of 8:30 a.m. and 1:30 p.m., when juveniles are required to be in school. Juvenile victimization is also of concern, with approximately 15% of violent crimes involving juveniles occurring during school hours.

Under California law, all persons between the ages of six and eighteen are required to be in school with some exceptions for special circumstances. California Educational Code § 48200, et al. San Diego Municipal Code (SDMC) section 58.05, Daytime Loitering of Juveniles In Any Public Place On School Days, was designed to help reduce juvenile crime and to keep children in school. Under Section 58.05, a peace officer who arrests a juvenile for truancy has the option of returning the juvenile home or to the school from which the juvenile is truant.

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Section 58.05 allows for the arrest of parents who knowingly permit a child to be absent from school. If a parent has been previously warned, as set forth in SDMC section 58.05(d)(1), upon a parent's first violation of SDMC 58.05(b)(3), a peace officer may issue a citation for an infraction to the parent to appear in court. Those found in violation of this ordinance could face fines of up to \$250 and community service work for their first offense, and up to \$1,000 and/or six months in jail for subsequent violations.

IV. **DEFINITIONS**

For purposes of this procedure:

- A. Adult - any person twenty-one years of age and older.
- B. Emergency - includes, but is not limited to, fire, natural disaster, automobile accident, or requirement for immediate medical care for another person.
- C. Establishment - any privately owned place of business operated for a profit to which the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, office buildings, transport facilities, shopping centers, and malls.
- D. Juvenile - any person under eighteen years of age.
- E. Loitering - to delay, linger or idle about any public place without lawful business for being present.
- F. Parent - a person who is the natural or adoptive parent of a juvenile. This includes a court-appointed guardian or other person eighteen years of age or older authorized by the parent, by a court order, or by a court-appointed guardian to have care and custody of the person.
- G. Public place - any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, office buildings, transport facilities, shopping centers and malls.

V. **SAN DIEGO MUNICIPAL CODE SECTION ON DAYTIME LOITERING OF JUVENILES**

- A. A peace officer may arrest any juvenile subject to compulsory education per section 58.05(b)(1) SDMC or compulsory alternative education (including home study) per section 58.05(b)(2) SDMC, who is found loitering, wandering, or standing idle upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public buildings, or the premises of any establishment,

vacant lot, or any unsupervised place between the hours of 8:30 a.m. and 1:30 p.m. on any day when school is in session for that juvenile or any day when that juvenile would otherwise be required to attend a regular compulsory education school.

- B. Any parent of any juvenile who knowingly permits or, by insufficient control, allows his or her child to be in violation of section 58.05(b) SDMC, may be cited for violation of section 58.05(b)(3) SDMC, which is an infraction, if a parent has been previously warned as set forth in section 58.05(d)(1). For subsequent violations of this section, officers may issue the parent a citation for a misdemeanor.

VI. EXCEPTIONS

Juveniles are not subject to enforcement under this section when:

- A. Accompanied by his or her parent or other adult having care or custody of the juvenile.
- B. On an emergency errand directed by their parent.
- C. Going to or directly coming from their place of school-approved employment or a medical appointment.
- D. Having permission to leave the school campus for lunch, a school-sponsored activity, or has in their possession a valid, school-issued, off-campus permit/pass.
- E. Going to or coming from a compulsory alternative education program activity.
- F. Attending or, without any detour or stop, going to or returning from an official school, religious, government-sponsored, or other recreational activity supervised by adults and sponsored by the City of San Diego or a civic organization.
- G. Court approved emancipated minors or any student eighteen years of age and older.

VII. PROCEDURES

Although the Daytime Loitering of Juveniles section of the SDMC provides officers with a tool for dealing with juveniles suspected of being out of compliance with the state mandated educational requirements, it must be used carefully and prudently. The same standard of reasonable suspicion for detaining adults also applies to juveniles. A detention based on a violation of this section alone, for example, is insufficient

justification to question a juvenile about his or her involvement in some other incident or crime unless additional specific and supporting facts are known.

A. Officers who arrest a juvenile for violation of the Daytime Loitering of Juveniles section of the SDMC shall:

1. Confirm that the juvenile meets the requirements outlined above; and,
2. Ensure that the juvenile is not exempt as defined above;

Note: This can be accomplished by calling School Police at (619) 291-7678, contacting School Police by radio on channel 1-C, SCH/PD, or through SDPD Inquiry. School Police also monitor Law CC.

3. Complete a Juvenile Contact Report (JCR/ARJIS-8). Officers must write a comprehensive report, detailing the following:
 - a. Facts leading to reasonable suspicion;
 - b. How the violation was verified;
 - c. The disposition of the juvenile;
 - d. Name of person the juvenile was released to and time; and,
 - e. Any other pertinent information.
4. Admonish the juvenile of his or her Miranda rights when it is reasonable and practical to do so. If the juvenile chooses to make a statement, include it in the narrative portion of the JCR;
5. If a juvenile is detained only for violation of 58.05 SDMC, he/she may not be fingerprinted or photographed unless the juvenile does not have identification; and,
6. Return the juvenile to school, or home (only if a parent or guardian is available). In all cases, attempt to notify the parent or guardian that if he or she knowingly permits or, by insufficient control, allows his or her child to be in violation of the Daytime Loitering of Juveniles section of the SDMC, the parent or guardian may be cited for section 58.05(b)(3) SDMC, an infraction, and that subsequent violations could result in misdemeanor charges. Parents/guardians should also be informed that if the juvenile does not meet the requirements for diversion, the juvenile and parent/guardian will be notified via mail when to appear in Juvenile Department 11 Court or contact Juvenile Probation.

B. Officers who cite and release parents (or legal guardians) for violation of section 58.05(b)(3) SDMC shall:

1. Confirm that the parent or legal guardian meets the requirements as outlined above;
2. Verify that the parent or legal guardian has been given prior warnings or citations;
3. Issue the parent a Notice to Appear Citation (PD-177), charging violation of section 58.05(b)(3) SDMC. Cite the adult as an infraction into San Diego Traffic Court for first violations.
4. Have a parent or legal guardian sign the citation, give him or her the pink copy, then release them; and,
5. Provide a narrative supporting the elements of the offense.

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C. There may be conditions for which the officer does not feel it necessary to complete a JCR/ARJIS-8 on a juvenile who is found to be truant. During school hours, an officer may assume temporary custody of minors subject to full-time or alternative education who are absent from school pursuant to Section 48264 of the Education Code. In such cases, officers will:

1. Complete a Field Interview form on the juvenile and include the reason for the detention in the narrative portion;
2. Transport the juvenile to school and release custody to school authorities, or return the child to the custody of his or her parent(s) or legal guardian(s); and,
3. Prepare a JCR if other charges are appropriate.

An arrest per the Daytime Loitering of Juveniles section of the SDMC is generally considered the preferred method of dealing with truancy unless there are mitigating circumstances concerning why the juvenile is not in school.

D. Investigative Follow-up

1. Daytime Loitering (JCR)
 - a. The area station Juvenile Services Team sergeant will:

Forward one copy of the JCR/ARJIS-8 to case management if the detention report has not already been submitted electronically to

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CRMS. After case management has completed the entry, the copy will be forwarded to San Diego City Schools Police at MS 726A.

- b. The area station Juvenile Services Team detective will:
 - (1) Run the juvenile in ARJIS and/or CRMS for juvenile criminal history and juvenile jacket number.
 - (2) If the juvenile qualifies for diversion, a Juvenile Diversion Contract form (PD-335) will be completed and submitted to an approved diversion program provider..
 - (3) If the juvenile qualifies for Department 11 court, complete an Affidavit and Application for Filing of Juvenile Court Petition form (Prob-419) and send a copy of the JCR (with the ARJIS readout attached) to Juvenile Court, Department 11, at Mail Station P-100.
 - (4) If the juvenile does not qualify for diversion or Department 11 court, complete an Affidavit and Application for Filing of Juvenile Court Petition form (Prob-419) and send a copy of the JCR and Affidavit form to Juvenile Probation at MS P-32.
2. Misdemeanor Citation issued to the Parents.
- a. The original (white copy) is forwarded to the City Attorney (or District Attorney in South Bay).
 - b. A copy of the citation (and narrative) is forwarded to Records Division.