

Implementing a Parental Arrest Policy to **SAFEGUARD CHILDREN**

A Guide for Police Executives



BJA
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ABOUT BJA

[The Bureau of Justice Assistance \(BJA\)](#), Office of Justice Programs, U.S. Department of Justice, strengthens the nation's criminal justice system and helps America's state, local, and tribal jurisdictions reduce and prevent crime, reduce recidivism, and promote a fair and safe criminal justice system. BJA focuses its programmatic and policy efforts on providing a wide range of resources, including training and technical assistance to law enforcement, courts, corrections, treatment, reentry, justice information sharing, and community-based partners to address chronic and emerging criminal justice challenges nationwide.

MISSION

BJA's mission is to provide leadership and services in grant administration and criminal justice policy development to support state, local, and tribal justice strategies to achieve safer communities.

ABOUT IACP

The International Association of Chiefs of Police (IACP) is a professional association for law enforcement worldwide. For more than 120 years, the IACP has been launching internationally acclaimed programs, speaking on behalf of law enforcement, conducting groundbreaking research, and providing exemplary programs and services to members across the globe.

Today, the IACP continues to be recognized as a leader in these areas. By maximizing the collective efforts of the membership, IACP actively supports law enforcement through advocacy, outreach, education, and programs.

Through ongoing strategic partnerships across the public safety spectrum, the IACP provides members with resources and support in all aspects of law enforcement policy and operations. These tools help members perform their jobs effectively, efficiently, and safely while also educating the public on the role of law enforcement to help build sustainable community relations.

Learn more at www.theIACP.org.

MISSION

The IACP is dedicated to advancing the law enforcement profession through advocacy, outreach, education, and programs.

INTRODUCTION

In July 2014, the International Association of Chiefs of Police (IACP) and the U.S. Department of Justice, Bureau of Justice Assistance (BJA) released a model policy for law enforcement to protect children, both physically and emotionally, at the time of parental arrest. The *Safeguarding Children of Arrested Parents* (<http://www.theIACP.org/childrenofarrestedparents>) (*Model Policy*) is part of an overarching White House Domestic Policy Council initiative focused on minimizing trauma to children who have incarcerated parents. The *Model Policy* is a customizable template for police agencies, to be used as a foundation for developing or enhancing a departmental policy. It is prefaced by a concept and issues paper, which provides law enforcement professionals rationale for the policy's recommendations.

This implementation guide has been designed to complement the IACP/BJA *Model Policy* and *Concepts and Issues Paper*. The *Model Policy* provides police executives the “what”—practices and procedures to include in an agency policy to safeguard children of arrested parents. The *Concepts and Issues Paper* provides the “why”—the background on why this initiative is integral in positively impacting children by minimizing the potential for trauma as well as the public safety implications for safeguarding children. This implementation guide provides direction on the “how”—including plans and strategies on how to put the *Model Policy* into action.

ESTABLISHING A POLICY IN YOUR AGENCY

The ongoing discourse and scrutiny regarding law enforcement and community relations has primed an atmosphere of necessitated collaboration between law enforcement, community advocates, social service agencies, and the public they serve. The *Final Report of the President's (Obama) Task Force on 21st Century Policing* has further created an opportunity to ensure police departments are communicating, building relationships, and positively interacting with communities. Developing and implementing a policy to safeguard children of arrested and incarcerated parents is one positive step in this ongoing process. Not only would such a policy protect the well-being of children, but it may also impact community-police relations, police image and credibility, and relationship and trust building with the public.

The [IACP's Model Policy](#) provides a template for police agencies to customize a policy using already identified promising practices. The *Model Policy* provides direction on procedures to include such as agency coordination; training; pre-arrest planning; making an arrest; child placement; interaction with children; booking; follow-up; and documentation. To complement these integral pieces, this implementation guide provides additional details to consider during policy development, before your agency delves into the implementation phase.

FORMING PARTNERSHIPS

Developing and implementing a comprehensive policy that protects children against the potential trauma of parental arrest and incarceration should be done in the context of what is suitable, not only for the law enforcement agency but also for its staff and the communities it serves. Including community groups, who have a vested interest in the policy, from the onset of the process can increase the likelihood that the policy is accepted by all participating stakeholders. When developing a parental arrest protocol, consider including the following stakeholders:

- Child welfare system professionals
- Advocates for children of arrested parents
- Family and children advocates
- Mental health professionals
- Youth and adults whose parents were arrested during childhood
- Police oversight agency representatives
- Police legal advisors and training staff
- Patrol officers

- Command staff
- Police union representatives

Some police agencies may not be used to working with community members when developing policies. However, great value can be gained by including people with differing perspectives when creating a policy that serves the community. When community members are invited to participate in the process of developing an important policy, they are more likely to share personal experiences and viewpoints, which often differ from those in law enforcement. These personal insights provide an understanding and perspective that might not have been otherwise considered.

Conversely, community partners who believe they have been heard and included in the process often become advocates, not only for the policy, but for the entire police agency.

Due to past experiences and misunderstandings of each other's views, law enforcement agencies may encounter some obstacles when working with community-based organizations. Honesty and transparency with non-law enforcement agencies is important in building trusting, positive relationships.

Inviting community partners to participate in the process by forming a working group is only the first step. Police agencies need to develop strategies that will help to maintain those partnerships throughout the creation and implementation of the new policy. There are several approaches to follow when forming and maintaining a working group:

- Establish clear goals for the working group, including a timeline for completion and agreeing on what success will look like.
- Establish clear roles and expectations for each working group member.
- Institute frequent working group meetings to keep communication flowing and to stay on schedule to ensure successful completion.
- Focus on the working group's common goals and values, and identify the mutual benefits of working together. There will be differences of opinion. Don't focus on ideas that divide the group.
- Work with your partners to present the facts regarding parental arrests in a non-accusatory manner. This is not about laying blame but about collaborating to safeguard those most vulnerable.
- Walk partners through scenarios that police face to help them understand the balance needed between officer safety and the well-being of the children involved.
- Consider recommending working group members take ride-alongs with on-duty patrol officers.
- Consider recommending that working group members visit a community program serving children and families of the incarcerated.
- Consider creating a memorandum of understanding (MOU) to reinforce roles and responsibilities for each partner and to provide structure and guidance to the process. However, be careful not to rely solely on an MOU to progress in partnership—change often is most successful at the practitioner level when participants recognize the mutual benefits of working together.
- Ensure agency collaboration includes the exchange of information and input from all partners so mutual benefits are apparent.

“I had a tough time when my mom was taken from me.... I feel like all police officers should check the house to see if any child is present and, if there is, then the police officer should place them with someone who gives good care to them.”¹

¹ Moesha Wise, *Developing a Policy to Protect Children of Arrested Parents*, International Association of Chiefs of Police webinar, MP4, <http://www.theIACP.org/capwebinar4> (accessed November 23, 2015).

- Set up periodic review sessions after policy adoption to discuss possible enhancements and changes to the policy based on unforeseen issues or unintended consequences.

Taking a collaborative approach to developing and implementing a policy on children of arrested parents can help produce lasting partnerships with community members. It can also ensure that the working group's desired outcomes have been achieved.

OVERVIEW OF POLICY RECOMMENDATIONS

Ensure your agency policy clearly outlines what is expected and the process for each of the key aspects of the policy: coordination, training, arrest planning, child placement, arrest processing, and follow-up. Whether your agency is developing a new policy, or enhancing an existing policy, consider adopting the best practice recommendations and principles in the *Model Policy* found at <http://www.theIACP.org/childrenofarrestedparents>. This template can be customized for your own agency's jurisdictional and community needs. Key elements of the protocol include the following:

- **COORDINATION:** Law enforcement agencies can establish or enhance existing collaborations with child welfare services and other key partner organizations to implement strategies that will minimize the trauma to children whose parents are arrested.
- **TRAINING:** Offer training on safeguarding children before, during, and after a parental arrest.
- **ARREST PLANNING:** The protocol offers strategies for identifying children who might or might not be present at the time of their parents' arrest.
- **CHILD PLACEMENT:** The protocol offers strategies for responding officers to secure placement with a responsible caregiver who is known to the child, when possible.
- **ARREST PROCESSING:** Booking officers should ask about an arrestee's responsibilities for children, even if this has been previously asked, in order to clarify and confirm information. Consider the phone call options allowed to the arrested parent regarding child placement, including the use of their cell phones when possible.
- **FOLLOW-UP:** Agencies could assign an officer or support staff to make calls in the days and weeks following arrest to be certain that the child has been placed in a safe and secure home.

TACTICAL OPERATION TIPS TO INCLUDE IN YOUR AGENCY POLICY²

Tactical police operations can have a significant impact on children. These events are complex and may include high-risk search warrants, hostage or barricade incidents, and active shooter incidents. In addition to the overall *Model Policy* recommendations for tactical team operations, below are some detailed tips to aid in outlining responsibilities and duties surrounding planned and unplanned tactical police operations.

- **Allow adequate time for pre-planning, as appropriate.** Focus on intelligence collection, threat analysis, and site surveys to determine the presence of children at the time of the enforcement operation. Ensure questions regarding the presence of children are included in informant debriefs (e.g., when they are expected to be there, what rooms they are in, where they sleep, what time they wake up, and when they go to school). If permissible in your jurisdiction, officers can inspect the suspect's trash to determine the presence of children. Build a threat matrix into operational planning, including a scoring system that identifies threats the suspect poses, threats officers could potentially introduce, and threats to the safety and well-being of children, if present at the time. Site surveys should be done well in advance, but also leading up to the enforcement operation to make sure any changes in the presence of children are known prior to enforcement.

2 Major Edward Allen and Major Scott Ballou, *Safeguarding Children of Arrested Parents during Investigative and Tactical Operations*, International Association of Chiefs of Police webinar, MP4, <http://www.theIACP.org/CAPWebinar2> (accessed November 23, 2015).

- **Designate officers to locate and safeguard children upon entry.** Treat every entry as if it can potentially turn into a barricade or hostage incident. Assign officers to locate and protect children immediately upon entry.
- **Ensure tactical personnel are trained to respond to children, during both the entry and investigative phases.** Incorporate scenarios involving children into training lesson plans. Include guidance on age-appropriate verbal direction and explanations to provide to children. For example, during hostage barricades, children may not understand they're being held hostage or that their parent or caretaker is in need of arrest or mental health treatment or both. Effective communication with children is a learned skill that demands practice so it can be easily implemented on-scene. Commands, direction, and communication with children need to be clear to guarantee safety for all involved and to minimize any potential trauma that might impact the children.

“If children have to witness their parent’s arrest, the police officer should take time to sit down with them and explain what was going on or send a family member to support them while they take their parent away.”³

POTENTIAL CHALLENGES

When creating an agency arrest policy, expect some challenges to occur internally and externally, potentially due to a lack of understanding regarding the purpose of the policy. Internally, it should be stressed that the policy is meant to ensure officers can identify and respond effectively to a child, present or not present, whose parent is arrested, in order to minimize potential trauma and support the child’s physical safety and well-being at the time of, and following, the arrest. This duty is already a police officer’s job. By establishing a policy, you are providing a resource to help officers be successful in doing their job. Prepare for a wide variety of questions from officers such as:

- What if someone gets arrested and won’t answer our questions?
- What if an arrested person tells us their child is home alone and they live in another jurisdiction?
- How far do we go to follow-up?

Consider using departmental resources to alleviate concerns, answer questions, and lessen the workload on officers. Some suggestions follow:

- Train booking sergeants to talk to arrested parties to further explain why officers are asking questions about children.
- Place posters in the agency’s booking room, reminding parents to affirm their children are cared for while they are incarcerated.
- Consider leveraging external resources via partnerships with community programs and agencies in neighboring jurisdictions.

PRACTICAL STEPS FOR IMPLEMENTATION

Implementing a newly developed policy is often the most challenging phase of the process for law enforcement agencies. Effective implementation requires leadership commitment to innovative strategies that promote officers’ acceptance of, and compliance with, the policy, even when that means additional work for them. Agencies must use a structured implementation approach to ensure adherence without creating barriers that may prevent the policy from

³ Moesha Wise, *Developing a Policy to Protect Children of Arrested Parents*, International Association of Chiefs of Police webinar, MP4, <http://www.theIACP.org/capwebinar4> (accessed November 23, 2015).

being successful. Below are some helpful tips to consider when implementing a policy that protects the physical and mental health of children at the scene of parental arrest:

“I blamed myself for when he got arrested that day.”⁴

- **Communicate to officers why the policy is important, not just for the community but for the officers themselves.** In 2008, one in every 28 children under the age of 18 in the United States had a parent incarcerated in jail or prison.⁵ With parental incarceration classified as an adverse childhood experience (ACE), law enforcement personnel have both a sworn obligation and a moral responsibility to minimize the immediate and lasting physical and psychological impact on the children of the parents they arrest. Inform officers of the negative outcomes these children may potentially experience (both as children and adults) because of parental arrests—cognitive impairment, depression, illegal drug use, domestic violence and other criminal activities, early onset sexual activity, heart disease, and suicide⁶—to encourage them to handle these cases in ways that protect children. Remind officers that children at the scene of a parental arrest have not committed a crime, to motivate them to spend the few extra minutes it takes to ensure the children’s physical safety and mental health.

Set an expectation for officers to safeguard children as part of their police duties—it fosters improved relations between law enforcement and the community at large. If an officer disregards the needs of a child during a parental arrest, law enforcement can easily become a source of fear and mistrust within a community. However, when officers foster trusting relationships with children, they are investing in the future of the community they serve. These children will grow up to become members of the community and these investments can help law enforcement by “improving officer safety and helping officers achieve their goals.”⁷ To increase compliance with the specific requirements of the policy, communicate to officers that the policy is not only a public protection duty but also a crime prevention technique that has the potential to break the cycle of violence and crime in communities in the long term.

- **Provide training.** Effective and innovative training is key to successfully implementing a policy to safeguard children of arrested parents. Provide training that outlines the policy, discusses the reasoning behind it, and gives instructions to officers on how to put it into practice. Presentations from children who have directly experienced and been affected by parental arrest are effective ways to provide officers first-hand case examples. These presentations go a long way in showing officers how their attitudes, actions, and behaviors before, during, and after the arrest of a parent can have profound effects on children. This training should also include opportunities for officers to think about their assumptions and beliefs about children. For example, some officers may bring a perspective that the children are better off without their parent and this viewpoint can inadvertently blind officers to the trauma that may be caused by the removal of the parent. As part of department training efforts, include a training video for officers to view at roll call or in-service training. Consider using the IACP/BJA’s *Safeguarding Children of Arrested Parents* roll call training video at <http://www.theIACP.org/cap>. The 17-minute video was developed in partnership with multiple law enforcement agencies and subject matter experts and is based on the **Model Policy**. The training video provides an overview of the issue, the scope of the problem, and the challenges for responding officers. It outlines policy implementation at the agency and officer levels and includes information useful during pre-arrest, arrest, booking, documentation, and follow-up. It also includes interviews with law enforcement leaders, police officers, mental health practitioners, and children of arrested parents.

4 Cheyenne McKenzie, *Developing a Policy to Protect Children of Arrested Parents*, International Association of Chiefs of Police webinar, MP4, <http://www.theIACP.org/capwebinar4> (accessed November 23, 2015).

5 The Pew Charitable Trusts: Pew Center on the States, *Collateral Costs: Incarceration’s Effect on Economic Mobility* (Washington, D.C.: The Pew Charitable Trusts, 2010), 18–19, http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2010/collateralcosts1pdf.pdf (accessed October 3, 2015).

6 Center for Disease Control and Prevention, “Major Findings,” *Adverse Childhood Experience (ACE) Study* (last modified May 13, 2014), <http://www.cdc.gov/violenceprevention/acestudy/about.html> (accessed October 3, 2015).

7 National Center for Children Exposed to Violence, *A Commitment to Finding Solutions* (New Haven, CT: Yale University, School of Medicine, Child Study Center, 1999).

If you choose to develop your own agency video, include input and assistance from community groups in the development phase. The training video should depict various scenarios officers might encounter when arresting a parent, guardian, or caregiver—along with an introduction from the police chief to emphasize that the well-being of children at the scene of a parental arrest is a departmental priority. Hearing this message directly from the agency's leadership will reinforce the mission of protecting children. Ensure all training materials include the message that safeguarding children at the time of parental arrest is protecting the vulnerable and, therefore, a core duty of police officers.

Frontline supervisors and managers should ensure agency employees understand and comply with the policy by conducting training at roll call that includes a review of the policy and video, and asking officers to describe their response to hypothetical scenarios involving children of arrested parents. In the early stages of implementation, supervisors should respond to calls for service involving an arrest where children are present to provide additional guidance to frontline officers. In fact, supervisors and managers should seek out opportunities to endorse the policy in the field.

Consider web-based training options such as the IACP/BJA's no-cost, self-paced, online training *Safeguarding Children of Arrested Parents* at <http://elearning-courses.net/IACP>. The IACP online system tracks users to confirm completion before issuing a course completion certificate. If you choose to develop an in-house, department online training, implement a tracking system to ensure each officer completes the training.

“I thought I had done something wrong because I had to go away too.”⁸

MESSAGING FROM CHIEFS

When departments contract out training development, training materials sometimes miss messaging from the police chief. It is essential that no matter where the training material is created—internally or externally—it include a message from the agency chief. This message can be added to trainings already available, such as the IACP training tools at www.theIACP.org/cap. This “message from the top” can ensure a department’s mission of protecting children is highlighted.

Provide your officers with the training and resources that will further educate them on age-appropriate law enforcement responses to children at the scene of parental arrest. There are a number of existing resources available so that you do not have to create your own. The IACP/BJA has a toolkit of no-cost resources that can be utilized and tweaked for your agency, available at <http://www.theIACP.org/cap>, including the following:

- Model Policy
- Roll-call Training Video
- Roll-call Training Guides
- Classroom Training Curricula
- Online Training
- Webinar Series of Six Trainings
 - [Protecting Children of Arrested Parents: Using a Trauma-Informed Approach](#)
 - [Safeguarding Children of Arrested Parents during Investigative and Tactical Operations](#)
 - [Collaborating with Community Partners to Safeguard Children of Arrested Parents](#)

8 Puddefoot and Foster, *Keeping Children Safe When Their Parents Are Arrested*, 10.

- [Developing a Policy to Protect Children of Arrested Parents](#)
- [Preparing to Launch: Q & A on Implementing Parental Arrest Policies to Safeguard Children](#)
- [Parental Arrest Policies and Protecting Children: Training Your Department](#)
- Pre-arrest/Arrest Checklist
- Tip Sheet

Consider recommending supplemental training to your officers on ACEs and trauma-informed responses using community partners or the IACP online training (<http://elearning-courses.net/IACP>) that integrates general information on ACEs and trauma-informed responses.⁹

The IACP and the Yale Child Study Center, in partnership with the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, will launch a new toolkit in the Fall of 2016 to increase understanding of children exposed to violence among law enforcement leaders and officers, and to equip law enforcement professionals in their vital roles helping children and families through identification and trauma-informed response to violent events, including arrest.¹⁰

Some of these materials were designed to respond to children in domestic violence situations or who are considered drug endangered. While some children of arrested parents may fit into these categories, far more children have not been maltreated but are at risk for the trauma of separation from their parents in the aftermath of the arrest.

There are other helpful resources available from subject matter experts around the country that are designed specifically for the broader range of children of arrested parents and can be used along with the materials previously noted. For example, *Keeping Children Safe When Their Parents Are Arrested: Local Approaches That Work* by Ginny Puddefoot and Lisa Foster, provides charts that instruct officers on what they should tell children and how to talk to and interact with children at various developmental stages.¹¹ Officers may find it helpful to take these materials with them on patrol to have on hand when handling arrest cases where children are present.

- **Use technology to provide resources for the officers.** Officers need reliable resources to assist them when learning and complying with a new policy. Allowing officers immediate access to review a policy through the use of technology will ensure that officers know and comply with the policy. Many agencies issue their officers smartphones or laptops for use in the field. If not already installed, consider downloading the department's policy on the device, providing officers immediate access to the policy and thereby increasing compliance. You can also develop applications to install on officer smartphones to aid in 1) knowing the policy, 2) providing resources to parents/guardians/caregivers, and 3) accessing child welfare agency representatives.
- **Collect data for evaluation purposes.** Add fields to your departmental incident report form to document 1) whether children were at the scene, 2) whether the arrested adult was asked if he or she is responsible for the care of a child, and 3) whether the child welfare, or other community/social service, agency was contacted. Having these additional mandatory fields on the incident report forms will remind officers of their requirements under the policy and reinforce that the department considers the needs of all children to be a priority. With the current national trend of recommending law enforcement agencies to collect data on the people it serves to guard against biased policing, these additional fields can also allow your agency to easily report on the number of arrests where children were present, along with race, age, languages and translators used, and gender of the children and families involved.

9 International Association of Chiefs of Police, *Safeguarding Children of Arrested Parents*, online training, December 2015, <http://elearning-courses.net/IACP>.

10 For more information, please visit <http://www.theIACP.org/Children-Exposed-to-Violence>.

11 Ginny Puddefoot and Lisa Foster, *Keeping Children Safe When Their Parents Are Arrested: Local Approaches That Work* (Sacramento, CA: California Research Bureau, 2007), 1-19, <http://www.library.ca.gov/crb/07/07-006.pdf> (accessed on October 4, 2015).

MEDIA AND PUBLIC OUTREACH STRATEGIES

- Design a message that clearly highlights the purpose and intent of the policy. The message should reflect that the initiative is focused on safeguarding children and minimizing any trauma they may experience as a result of a parental arrest. Avoid messages that lay blame on either a parent or an officer and make sure to highlight that the initiative is not about taking kids away from parents – removing kids from their parents is not a recommended practice for officers except in cases of child neglect or abuse.
- Consider if the initiative can be leveraged as part of a larger agency strategy to highlight during community forums or through media outlets.
- Use social media to highlight the policy and agency partnerships and to solicit community feedback.
- Post the policy on your agency's website and include an area for community feedback.
- Consider hosting a televised meeting where the policy is voted on and passed.
- Launch a press release to announce the policy.
- Include information on the policy in your district newsletters to the community.
- Develop a brochure and/or resource guide in collaboration with community partners.
- Distribute brochures in schools and interact with children about the issues surrounding this policy.
- Provide a resource guide to parents/caregivers/guardians at the scene of a parental arrest.
- Update your community on any positive outcomes as a result of the policy.
- Consider agency personnel to be ongoing members of a Children of Incarcerated Parents group to maintain contact, provide public outreach, and get feedback from the community.

EVALUATION AND FOLLOW-UP

Once a policy is adopted, confirm it is being implemented in a manner that will achieve the agency and working group's desired goals and outcomes. Use both qualitative and quantitative data to determine the policy's effectiveness and the impact on the community.

Consider implementing a web-based survey for officers to provide information on their experiences with handling calls for service involving children of arrested parents and enforcing the policy. Posing a series of questions asking for their experiences with your agency's training on the policy, as well as their experiences with practical application of the policy in the field, will yield data about how often officers encounter children at the scene of a parental arrest. It can also provide feedback on what is working and what needs to be improved through training and collaborating with other agencies. Providing a mechanism for officer feedback will also help with intra-agency collaboration, transparency, and buy-in. Questions may include:

- What was the most helpful thing you learned in the training?
- How has the training helped you in the performance of your duties?
- What did you learn that changed your knowledge of children of arrested parents?
- Since attending the training, how many children of arrested parents have you encountered?
- How was your experience dealing with the children at the scene? The arrested parent? The responsible adult?
- Is there anything you feel should be added/changed in the training or the policy?

You can also obtain quantitative data through your agency's report writing system. Staff assigned to data analysis can extract information about the number, types, and outcomes of arrests when children are present. As mentioned above, you can also collect data on age, gender, language, and race of families and children affected by the policy, as well as quantitative information about officer policy compliance for the agency's internal affairs division and the local police oversight agency. The data can be reported to the working group and the community at large to demonstrate the agency's commitment to transparency, willingness to ensure officer compliance, responsibility to protect children, and cooperation with the community. Analysis of the data will allow your agency to evolve the policy so that it reflects community policing best practices.

Policies should be reviewed and updated regularly. Set up a system for review to guarantee the policy is not in conflict with other agency policies and to ensure it is being implemented and enforced the way it was intended. Identify a point of contact within your department and funnel arrest/child information to that person or unit. A single point of contact within your agency will allow for better accounting of how the policy is working and what needs to be improved.

To further assess impact on the children and families you work with, consider an evaluation process to determine the following:

- number of child placements with known relatives versus number of placements with Child Protective Services;
- number of arrested parents who collaborate in the placement of their children;
- number of children reached due to booking procedures such as a second phone call to children or use of the arrestee's personal cell phone;
- number of follow-up visits or calls made, with notations on child well-being at the time of follow-up;
- number of resources on minimizing trauma distributed to families; and
- number of families who contacted services, if resources on community support programs were distributed.

Additionally, create a feedback loop to share information gathered regarding the policy with the entire department, especially with the arresting officers. The continued acceptance, credibility, and success of the policy can be secured by ensuring officers are fully aware of how the procedural changes have impacted the children and families with whom they work.

OFFICER AND AGENCY LIABILITY

When implementing policies to address children of arrested parents, be aware of potential legal issues that can affect policy development, implementation, and enforcement. Ambiguity exists in federal and state statutes on what officers' responsibilities are regarding minors they encounter during a caregiver's arrest. However, some existing legal clauses can be construed as exceptions and interpreted as requiring law enforcement duty or caution.

DUE PROCESS CLAUSE OF THE 14TH AMENDMENT

The Due Process Clause of the 14th Amendment provides that "no State shall...deprive any person of life, liberty, or property without due process of law." Nothing in this language itself requires states to protect the life, liberty, and property of their citizens against invasion by private actors.¹³ There are two exceptions to this rule: the "special relationship" doctrine and the danger creation theory.¹⁴

“I was trying to ask them what happened and they wouldn't say. Everything went so fast. They just rushed in the house and got her and left.”¹²

12 Puddefoot and Foster, *Keeping Children Safe When Their Parents Are Arrested*, 10.

13 *DeShaney v. Winnebago County of Social Services, et al*, 489 U.S. 189 at 195, 109 S. Ct. 998 at 1003 (1989); see also, *Harris v. McRae*, 448 U.S. 297, 317-318, 100 S. Ct. 2671, 2688-2689 (1980).

14 *Uhlrig v. Harder*, 64 F.3d 567, 572 (10th Cir. 1995).

The “special relationship” doctrine affirms that the duty to protect arises from the limitations on the individual’s freedom to act on his or her own behalf, not from the state’s knowledge of the individual’s predicament or from its expressions of intent to help. So when the state takes a person into custody, there is a corresponding duty to assume some responsibility for the individual’s safety and general well-being.¹⁵ A “special relationship” may also exist if an officer makes a promise to protect an individual from another party.¹⁶ At the time of a parental arrest, if police officers take children into custody or provide for the placement of children, it could be argued that they have created a special relationship with the children and are, therefore, responsible for the direct safety and protection of those children. Conceivably, this special relationship already exists when police take custody of children, but the implementation of a policy helps to strengthen the argument for a plaintiff in the event of any injuries to the children.

Next, to meet the “state-created danger” exception, a duty to protect may exist if an officer leaves an individual in a more dangerous situation than the officer found the person. In this exception, the plaintiff has the burden of proving 1) the injuries were foreseeable; 2) the state acted in willful disregard for the plaintiff’s safety, 3) there was a relationship between the state and the plaintiff during which the state placed the plaintiff in danger of a foreseeable injury, and 4) the state used its authority to create a dangerous situation or to make the plaintiff more vulnerable to danger had the state not intervened.¹⁷ Because the primary purpose of a policy dealing with children of arrested parents is to prevent harm to children and to place the children in a better position as a result of the police contact, it could be argued that police recognize the additional hazards to this class of children. Therefore, it is imperative that any jurisdiction implementing a policy have the ability to follow through with it. Some risk is involved for a jurisdiction to simply have a policy on paper that is not actually occurring in the field. Taking the extra time to ensure all are willing and able to comply with the policy provisions prior to implementation is prudent. The political expediency of claiming a jurisdiction has a policy that is not being uniformly applied could end up more problematic than not having a policy at all.

Fear of litigation is not a good reason to refrain from implementing a policy protecting children of arrested parents. Liability exists to agencies without policies as well. For example, the Constitution’s Due Process Clause does not affirm a citizen’s right to state aid, but by voluntarily undertaking to protect an individual against a danger the state played no part in creating, officers or public service agencies could acquire a duty under state tort law to provide the individual with adequate protection against that danger.¹⁸ Additionally, police professionals are aware of the liability risks for failure to train and there are existing state statutes under which arresting officers do indeed have a duty to protect minor children. The potential for liability requires agencies to ensure that any policy implemented is feasible and actually being enforced.

CONCLUSION

As a police leader, you are charged with forming agency culture, inspiring transformation, and ushering in change for all levels of your organization. The *Final Report of the President’s (Obama) Task Force on 21st Century Policing* has created a national call to action for ongoing organizational improvement. Implementing a parental arrest policy that protects children at the time of and following arrest will further advance your agency’s ability to enhance public safety for children and communities and improve the effectiveness of your agency’s role in the criminal justice system. Development and implementation of a policy can be instrumental in building trust and fostering collaboration within your community. Execution of a parental arrest policy rooted in the best practices discussed here is aligned with the principles of community policing and conflict resolution. The time is now, and you can be the agent for change within your department and your community.

¹⁵ *Deshaney*, 489 U.S. at 199-201.

¹⁶ *Pinder v Johnson*, 54 F.3d 1169, 1175 (4th Cir. 1995) cert denied, 116 S. Ct. 530 (1995).

¹⁷ *Kneipp v. Tedder*, 95 F.3d 1199 at 1208-1209 (3d Cir. 1996), citing, *Mark v. Borough of Hatboro*, 51 F.3d 1137, 1141 (3d Cir.), cert denied, 516 U.S. 858, 116 S. Ct. 165 (1995).

¹⁸ *DeShaney*, 489 U.S. 189 at 201-201, referencing, Restatement (Second) of Torts §323 (1965) and William Lloyd Prosser, W. Page Keeton, Dan B. Dobbs, Robert E. Keeton, and David G. Owen, eds., *Prosser and Keeton on the Law of Torts*, 5th ed. (1984) §56.

ADDITIONAL RESOURCES

International Association of Chiefs of Police (IACP)

The IACP is the world's largest police executive membership association with more than 25,000 members in 120 countries, providing resources for law enforcement including training, technical assistance, publications, model policies, and executive services such as management studies, executive searches, promotional testing, and assessment centers. <http://www.theIACP.org>

IACP/BJA Model Policy

Customizable model policy for law enforcement providing detailed policy and procedure recommendations. <http://www.theIACP.org/childrenofarrestedparents>

IACP/BJA Children of Arrested Parents Project

No-cost, best practice resources to aid police in safeguarding children of arrested parents including a **roll call training video**, self-paced **online training**, archived **webinar** series, **fact sheet**, **pre-arrest/arrest checklist**, and **training curricula**. <http://www.theIACP.org/cap>

Youth.Gov Children of Incarcerated Parents Initiative

Tools to assist police, schools, youth, parents, and youth-serving organizations in supporting children with incarcerated parents. <http://youth.gov/youth-topics/children-of-incarcerated-parents>

Strategies for Youth

Resources for law enforcement including agency protocols, checklists, and information to order customized materials. <http://strategiesforyouth.org/for-police/in-the-presence-of-children>

Sesame Street Little Children, Big Challenges: Incarceration Toolkit

Resources, offered in English and Spanish, for families with young children (ages three–eight) including guides for parents and caregivers, tools for service providers, a story book, and a DVD. <http://www.sesamestreet.org/parents/topicsandactivities/toolkits/incarceration>

New York Initiative for Children of Incarcerated Parents

Fact sheets, handbooks, and reports providing recommendations in the areas of arrest, sentencing, incarceration, reentry, education, child welfare, caregiver support, and children's health and mental health. <http://www.osborneny.org/programs.cfm?programID=23>

San Francisco Children of Incarcerated Parents Partnership

Resources for children, families, parents and caregivers, child advocates and youth service professionals, researchers, and policy makers. <http://sfciipp.typepad.com/resources>

AGENCY SPOTLIGHT: ALBANY POLICE DEPARTMENT

Winning Over a Generation *by* Chief Brendan Cox

In the 21st Century world of policing, we know we must do more to build positive relationships with our communities. In the Albany, New York, Police Department, we believe that starts with our youth. It is our youth that we will look to as our future leaders and it is in our youth that we will truly break down decade old barriers of distrust.

The Albany Police Department believes in this so much that it developed a strategic goal around building positive relationships between its officers and the city's youth. Winning Over a Generation builds upon existing bonds throughout the community by fortifying a trusting relationship with Albany's youth and their families. The effort aspires to gain trust and legitimacy with youth and to establish a bond that will last from cradle to career.

The first step in "winning over a generation" for the Albany Police Department was establishing a policy on safeguarding children of incarcerated parents. We have an obligation to protect those most vulnerable in our society, and children are our most vulnerable. When an officer makes an arrest of a parent, it can have long-lasting, devastating effects on a child. We have one first chance to positively impact and influence the children of our city. We must minimize trauma and ensure that child has the appropriate resources to support him or her.

The Albany Police Department is taking a structured approach in engaging in the lives of our youth. We are starting when children are young and working at staying engaged through ongoing activities that build throughout the child's life. We start early by including our officers in our Police Athletic League programs, which serve kids from 5 to 15 years old. We also work with our partners in the City School District of Albany and the United States Attorney's Office for the Northern District of New York to bring prevention programming to our grade school and middle school children.

As children grow up, we work to continue that positive relationship. We do this in a number of ways, including working with our youth in "knowing their rights" and establishing a summer youth employment CADET program where teenagers get paid to learn the skills needed to work in the field of criminal justice. We engage our older teens in the Explorer program, to help them make career choices and stay connected to police officers.

As police leaders, we are at an ever-important crossroads with our communities, which we must step up and meet. Starting with our children certainly makes sense to the Albany Police Department.

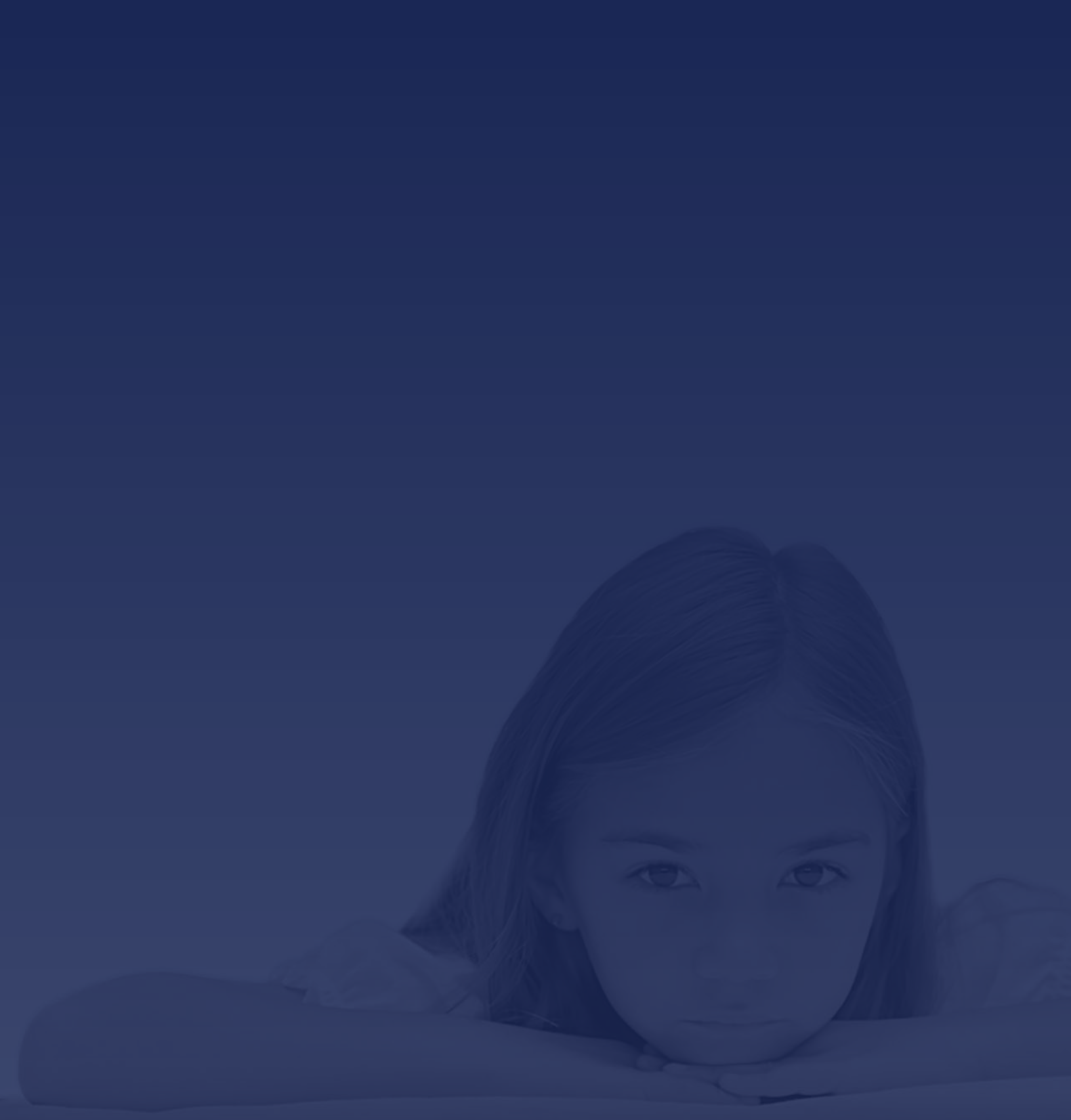
AGENCY SPOTLIGHT: SAN FRANCISCO POLICE DEPARTMENT

Building Community Trust through a Policy on Children of Arrested Parents *by* Sergeant Rachael Kilshaw

The Potrero Hill District of San Francisco is known for being a rough neighborhood. Uzuri Pease-Greene should know—she has worked for Bridge Housing for five years and lives in the housing development just blocks away from her office. Over the years, she has witnessed countless incidents of violence and drug use that cause injury and anguish to the residents—adults and children—in the neighborhood. Uzuri’s goal is to make Potrero Hill a neighborhood where the residents feel safe and take pride in living in the community. She believes the police officers currently assigned to patrol the housing development can help her achieve this goal. At times, the community’s confidence in the police’s willingness and ability to assist them in making their neighborhoods safer has waned, but recently Uzuri witnessed an incident involving a resident and the police that gave her hope.

Karen (pseudonym) was fighting in the street in front of her house when the police arrived. Karen’s children were inside the house and had witnessed the event. Uzuri knew from experience how this all too common scene would likely unfold; she expected a crowd to gather and become antagonistic toward the police, while Karen would scream at the police for arresting her as the children came crying out to the street. But to Uzuri’s surprise none of those things happened. In fact, what she witnessed actually made her wonder aloud, “What’s going on here?” As the officers came to the scene and figured out what happened, they were upfront with Karen and calmly told her she was under arrest and going to jail. However, at the same time, they reassured Karen that she herself could explain to her children what was going to happen to both her and them—she would not be taken away without an opportunity to speak with, and say goodbye to, her children. Uzuri then heard the officers give Karen the option of naming who she wanted to take responsibility for her children after she was removed from the scene. Karen chose the caregiver, and the police waited for that person to arrive and bring the children inside before the officers drove away with Karen in handcuffs. Uzuri believes it was, in part, how the officers interacted with both Karen and her children that helped Karen remain calm, prevented the children from crying, and prevented the group from reacting negatively to the situation.

The incident left Uzuri with both questions and praise for the officers. She saw Chief Gregory Suhr not long after the event and described what had happened. Chief Suhr explained the department’s policy on children of arrested parents, and Uzuri was impressed with the department’s commitment to protecting children who witness the arrest of a parent. Uzuri is aware of the trauma inflicted on children whose parents are arrested or incarcerated, and has seen the impact that trauma has on the community. She views respect as the foundation of the policy—respect for the parent and for their right to maintain a healthy relationship with their children; respect for the officers and for what they need to accomplish; and, most of all, respect for the children who have done nothing wrong. Uzuri hopes this policy encourages officers to treat the children they encounter as if the children were their own. She also sees a police agency’s commitment to policies that safeguard the emotional and physical well-being of children as a step toward building and maintaining community trust, at a time when fostering trust in the community is a priority for law enforcement.



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