



Training Key® #692

Safeguarding Children of Arrested Parents: Coordination and Response

Part II of this two-part *Training Key*® on children of arrested parents focuses on recommended policies and procedures.

In order to effectively safeguard children of arrested parents, officers should be trained to identify and respond effectively to a child, present or not present, whose parent is arrested in order to help minimize potential trauma and support a child's physical safety and well-being following an arrest.¹

While the focus of this *Key* targets the protection of a child's well-being during parental arrest, the needs and requirements of law enforcement during arrest situations cannot be overlooked. The integrity of the arrest; safety of officers, arrestees, and innocent bystanders, including children; and adherence to departmental procedures and training when performing an arrest must all be balanced in the context of a wide variety of situations and environments—the elements of which may be unknown or only partially known to arresting officers. All officers should be well versed in procedures for conducting arrests in a wide variety of circumstances.² Therefore, conducting arrests is addressed here only to the extent that additional measures may be needed prior to and during arrests to help safeguard the child of an arrested parent.

Safeguarding a child's well-being is the shared responsibility of a number of partner organizations within the community, not only law enforcement.³ Partner organizations can be local, or they may be regional offices or groups representing state or national child welfare enterprises. Collaboration and coordination between law enforcement and partner organizations is essential for meeting the varied needs of a child whose parent has been arrested.

Second, whenever reasonably possible, a child who may be affected by parental arrest should not be

placed in the custody of a law enforcement agency or child welfare services (CWS), but rather be placed temporarily with a caregiver, often the other parent, a close relative, or family friend. Custody provided by law enforcement or CWS may in some instances be the only, if not the best option, particularly when a responsible adult who is able to serve as a caregiver cannot readily be located. But, custody of this type should not be routinely regarded as the only or even the best option. Custody by a law enforcement agency or CWS can have a significant negative emotional impact on a child adding to the trauma of parent-child separation that the arrest may cause and possibly creating an enduring stigmatization. For example, a child may feel, in being taken away from familiar surroundings and friends that he or she has done something wrong and is being punished. The child of an arrested parent needs to understand that he or she is not to blame and has done nothing wrong. Placing the child with a trusted and familiar adult or family member may add a level of stability to the situation and help the child cope with the other changes occurring during the period of stress.

In addition, law enforcement officers should be aware that children love their parents and that most of these arrested individuals love their children, even though they may have made bad decisions without consideration for their children's well-being. Children of all arrested parents—no matter how the parent is judged—can be negatively affected by the arrest and the ensuing separation. Many of these arrests are not related to violent crimes, drugs, or abuse-related offenses. The objective of law enforcement-child inter-

action during arrests is not typically to “protect” the child from their parents, unless abuse or neglect are evident. Rather, the role of law enforcement is to protect the child from trauma that may be caused as a result of the arrest. It is often beneficial to allow the parent to explain the situation directly to the child to prevent future feelings of guilt or wrongdoing on the part of the child.

Interagency Coordination and Training

Law enforcement officers understand the needs and requirements of making arrests, such as the need to gain control of the situation; develop reasonable suspicion and probable cause to make an arrest absent an arrest warrant; and ensure the security of the arrest scene and arrestee. Far fewer officers are fully aware of the impact of the parent’s arrest on his or her child, whether the child is present or not. By the same token, professionals from CWS are educated and generally have hands-on experience in dealing with trauma among children, but may not have a good understanding of law enforcement procedures and protocols during arrests.

Coordination of law enforcement with CWS and other partner organizations combines the two disciplines into a promising model for meeting the needs of the child and the family, as well as the community’s need for public safety. It must be recognized that issues surrounding children of arrested parents are not just a law enforcement, but a community responsibility that can have far-reaching, negative consequences for children as they mature. This directly affects demands on community mental health services and related partner organizations. In sum, it has broad consequences for the present and future well-being of neighborhoods across jurisdictional boundaries, from crime prevention and control, to schools effectively educating their students, and the ability of mental health agencies to deliver services, among many other implications. Officers should be provided with a list of participating partner organizations and contact information so that they may take advantage of services provided through the interagency agreement.

Law enforcement and partner organizations must also be prepared to recognize and effectively respond to professional culture differences that can negatively impact working relationships. Mutual understanding of the legal and operational roles and responsibilities of partner organizations such as CWS, and those of law enforcement agencies are essential to building trust, understanding, and a collaborative working partnership. Training and education of law enforcement officers are most often geared toward conflict resolution and peacekeeping. Officers may not fully understand or appreciate the need for and role of social service organizations. By the same token, the education of social service professionals does not necessarily provide them with an understanding and appreciation for the many, varied, difficult, and sometimes dangerous encounters law enforcement officers face on a routine basis. This cultural divide can be and

has been overcome in many jurisdictions, most often through co-training and joint operational efforts, although this goal may take years to fully realize. For success to be achieved, law enforcement agencies and partner organizations must be willing to understand and respect the importance of different ways of thinking, recognize different agency goals, mandates, and responsibilities, and share a commitment to persist in a collaborative effort for the benefit of the common good. The ultimate goal of this cooperation is to help avoid or mitigate the trauma experienced by a child of an arrested parent. This recognizes that the officer’s role is not to serve as a mental health professional or trauma expert, but to ensure the overall well-being of the child, protect the child from further harm, protect the officer, and connect the child or family to community resources that may be better equipped to address these problems.

Pre-Arrest Planning

An important measure that law enforcement can take to protect a child when his or her parent will be arrested is to determine, when reasonably possible, whether a child is, or is reasonably likely to be, at the arrest location. Of course, this is not always possible. Arrests made of drivers for motor vehicle violations and similar unanticipated arrests do not allow for such planning. However, when an arrest or search warrant is being executed or officers expect that it is probable that questioning of a suspect at his or her home or other location may lead to an arrest, there may be time to determine whether it is likely that a child will be present or may be under parental care of the suspect. A check of departmental records may indicate that a child was present during prior encounters or arrests, a preliminary drive-by of the proposed arrest location may reveal a child’s toys around the house, or a check with CWS, when time permits, may determine that a child is or is likely to be present.

In some cases, where timing is not a critical concern, an arrest may be postponed so that it will not be conducted in the presence of the child. Decision making in this regard is based on a number of factors that must be weighed collectively before determining the best approach for conducting the arrest, considering law enforcement requirements, the safety of the community and the interests of the child. These types of decisions are more common when using tactical teams to conduct arrests. Pre-deployment checklists are commonly used by such teams and should always factor in risks associated with a child. If delay is not possible, arrangements should be made in advance to have additional law enforcement officers and/or representatives from CWS and/or appropriate partner organizations at the scene or on call.

There may be other situations in which officers can weigh the importance of making an arrest against the trauma that it might inflict on a child who is present. For example, officers may understand to a degree of certainty when, in accordance with historical precedent and local circumstances, an arrestee will be

processed and released within a short period of time, generally a few hours. If departmental policy permits, the use of a citation in lieu of arrest may serve the same ends as an arrest. Use of a citation avoids the need to separate the child from his or her parent and expose the child to the arrest and eliminates the need to transfer the child to another caregiver or have him or her spend time at a law enforcement lockup until the parent is released. Officer judgment in making these types of decisions is essential. Before making a decision to cite rather than arrest, departmental policy must provide such discretion—and obtaining supervisory authorization is recommended.

Making an Arrest

In order to safeguard the welfare of a child during the arrest of a parent, it is essential to determine if a child is present at the proposed arrest location or at another location. The presence of a child is inadequately addressed in a large number of arrest situations throughout the United States given that a majority of departments still do not have policies and procedures for responding to children of arrested parents. Therefore, it is an essential initial measure for arresting officers to ask individuals, when safe to do so, specifically whether they are a parent responsible for any minor children or living with any minor children. The inquiry must include any child who may not be present at the time but is expected to be picked up from school or return home from school, a babysitter, a friend's house, or other location or activity.

When a child is not at home at the time of the arrest, the arresting officer or a backup officer or supervisor should ensure that appropriate arrangements are made, either through the law enforcement agency or through a partner organization, to place the child with a responsible adult. If the child is at school or daycare, the arrested parent should be consulted on who should pick the child up and who will provide temporary care. Most schools have lists of approved adults who, in the absence of a child's parents, are authorized to pick up the child. These would usually be the logical choices. If they are not available, however, officers may need to contact the school principal or similar adult and discuss the most appropriate and least traumatic means of transporting the child to temporary care.

Some parents may be reluctant to disclose the presence of a child or their responsibility for a child who is not present. The parent's fear is often that the child will be taken by CWS or similar agencies, and that the arrest may result in loss of custody. As such, officers should be aware of any indications of a child in the home, such as toys, clothing, diapers, or other items.

When arrests are performed outside the home, officers should also inquire whether the arrestee is responsible for a child and whether taking him or her into custody will require that arrangements be made for care of the child. As some of the legal case studies discussed in Part I reveal, the presence of a child during arrests made during traffic stops is a common sce-

nario. In these and similar instances, officers must not only focus on the integrity of the arrest, but also ensure that arrangements are made for care of the child. Options include calling the other parent or other legal guardian(s), or another responsible adult, such as a relative, or a close family friend and arranging for transportation of the child to a safe location or calling upon an appropriate partner organization to take the child into temporary custody until other arrangements can be made. The option that is patently unacceptable in these or other arrest situations is to leave the child unattended. The officer charged with addressing the child's care must not leave the scene of an arrest until suitable arrangements have been made for care of the child. This applies equally to all children, defined as anyone under the age of 18. Officers should not assume that a teenager can be safely left without supervision.

The integrity and safety of the arrest, quelling of commotion, and de-escalation of conflict, whether in a residence or elsewhere is of primary importance. When accomplished, officers may then focus on obtaining proper care for a child. However, in situations where a child is present, officers are encouraged to make certain allowances in order to reduce the potential of trauma. For example, when reasonable and prudent, the arrest—including handcuffing and questioning—should be performed away from the sight and hearing of the child.

When it is appropriate and safe to do so, the parent should be given the opportunity to speak to the child, explain what is happening and reassure him or her that arrangements will be made for his or her care and safety. Parents should also be given first consideration to identify someone who they feel would be most suitable and best situated to take care of their child. In some cases, efforts to comfort the child or make appropriate child care placement decisions may not be prudent or possible. The parent being arrested may be so distraught as to make the child even more upset. The parent may not be articulate enough to convey an appropriate message, may not understand how best to comfort the child, or may be incapable of doing so because of impairment by alcohol, drugs, or mental instability. If the parent is incapable or unwilling to comfort and inform the child, an officer or trained representative from a partner organization, such as a social worker, caseworker, or victim advocate, when available, should perform this task. The child should be spoken to in an age- and developmentally-appropriate manner and to the degree possible, be provided with an explanation of what is happening. Above all, the child should be made to understand that he or she has done nothing wrong and that arrangements will be made so that he or she will be safe and well cared for. Additionally, children generally worry about what will happen to their parent and whether he or she will be safe. Therefore, to the extent possible, officers should provide information to the caregiver about how they can locate the parent for visitation.

When a child is removed from the home, it is often comforting to them to keep items with them that are familiar or make them feel safe. Parents should be asked about these items, or if that is not appropriate, the child should be allowed to select some favorite toys, clothing, blankets, books, photographs, or foods. In addition, officers should inquire about any of the child's special needs such as medical or mental health conditions, physical impairments or limitations, allergies, or developmental disorders, as well as any medications or treatments necessary for these conditions.

Appropriate Placement of a Child

Normally, the best placement of a child is with another parent or legal guardian, particularly if the child can remain in his or her own home. Moreover, this is usually legally required barring any issues that would disqualify the other parent or guardian. Exceptions to this arise when there are concerns about the capability or competency of the second parent or legal guardian to provide proper physical care, emotional support, and supervision of the child.

Parents have the right to express their preference in where they would like their child to be housed and the person(s) who should provide care and supervision. If the arrested parent has sole custody of the child, he or she should be given a reasonable opportunity to select a caregiver unless the arrest is for child abuse or neglect. However, some arrested parents do not make the best placement decisions for their child. Some children have been left in homes where drugs or alcohol abuse is present, supervision is poor or nonexistent, or caregivers are abusive or neglectful. Even when parents make appropriate decisions, some potential caregivers may simply not have the financial resources; physical capabilities; housing requirements; or, when working on a daily basis, the time necessary to provide proper supervision and care. Officers may ask the child, in age appropriate language, if he or she feels safe and comfortable with the proposed caregiver, or has any concerns that would make him or her uncomfortable or put him or her in danger. However, it is the responsibility of law enforcement and, in some cases, CWS to check with the temporary caregiver to ensure the child's wellbeing.

As such, as soon as reasonably possible, some basic checks of the proposed caregiver should be performed. Follow-up visits can provide additional information about the capabilities and ability of the caregiver to care for the child, and can lead to referrals for supportive services to address the child's and caregiver's needs. At arrest, a preliminary NCIC check of the selected caregiver(s) should be performed by the law enforcement agency and CWS case files should be checked if possible. Any arrests for child abuse or neglect, sexual crimes, domestic violence, or recent arrests for major drug offenses and/or violent felonies should automatically disqualify the individual from taking custody of the child.

If the parent cannot or will not provide the name and contact information of a preferred caregiver, offi-

cers should make arrangements to have the child taken into the care of CWS or another authorized partner organization. Referral to CWS and similar child protection agencies should be avoided whenever reasonably possible. Similarly, referral to CWS is not always necessary or appropriate. In many cases state laws dictate the circumstances under which CWS can or must be involved. In many situations, the child of an arrested parent is not inherently in harm's way. Many children of arrested parents live in homes with caring and nurturing adults. Placement of these children in institutional care can have a significant, negative impact on them. Therefore, whenever reasonably possible, placement with a familiar, responsible adult is the preferred option. In the absence of parental decisions, an older child may express a preference for where and with whom they would like to stay. This preference should be given reasonable consideration pending a determination of whether the placement is safe and a responsible adult is present to ensure the child's well-being and proper supervision.

Follow-Up Visits

Although the realities of budget and manpower limitations may make this difficult, whenever reasonably possible, law enforcement agencies should strive to ensure that the arresting officer or departmental liaison officer visit the caregiver who has assumed responsibility for the child. Telephone contacts alone are generally insufficient to ensure that the child's welfare is being adequately addressed. On-site visits to the caregiver's residence are most important when NCIC checks and any potential CWS case file checks have not yet been completed. It is also more important to physically visit the caregiver when the arrestee cannot or is unlikely to make bond based on the offense or cannot appear before a magistrate in a timely manner to establish release criteria.

If a telephone call is all that can be performed, the inquiring officer can still gain some assurance as to whether the child is being cared for properly. The officer should speak to the child in an age-appropriate language and ask how he or she feels, when he or she last ate and what was eaten, whether he or she took a bath or cleaned up, and the child's feelings about the caregiver. Does the child feel safe and comfortable or uncomfortable and fearful? In many cases, the use of yes/no questions may be prudent to provide the child with an opportunity to respond truthfully without fear of negative interference from the caretaker who may be listening. These types of inquiries and related follow-up questions can provide valuable information that can help determine whether additional on-site follow-up may be necessary. They also provide the child with reassurance that his or her safety is important. This is particularly valuable and noteworthy for children when it comes from a law enforcement officer. When speaking with the caregiver, an officer can ask similar questions about the child's behavior and care and any signs or symptoms of serious problems. During these discussions, the caregiver can also be pro-

vided with information on community resources and services that may be needed to address perceived problems.

Depending on the circumstances of the arrest, child placement, and other considerations, the arresting officer or the liaison officer may seek the assistance of CWS or another partner organization representative to participate in the home visit. However, CWS case-workers and other similar agencies may have guidelines and restrictions on when and how they can become involved in such visits, and officers should be aware of these protocols. Without a warrant, probable cause, permission of the caregiver, or exigent circumstances, officers may not enter the residence to perform a visual inspection of the home environment or to communicate with the child. Normally an individual who has agreed to serve as a caregiver will permit an officer to enter the residence and, if necessary, allow a social worker or caseworker to also enter to converse with the child and the caregiver. When in the home, questions similar to those asked by phone can be posed to the caregiver and the child. Additionally, the officer will have a better opportunity to read the body language of involved parties, get a visual picture of the home environment, and even determine if the placement may be negatively affected by family crises. Social workers or caseworkers are in the best position to determine whether a family may be in crisis, based on such factors as the recent death of a close family member, financial problems that would affect the ability to care for the child, indications of substance abuse, marital or domestic tensions/problems, frequent visits and “sleep overs” by different boyfriends or girlfriends, and major illnesses of the caregiver or immediate family members.

Follow-up with the caregiver and the child during the time frame immediately surrounding and following the arrest of the parent is essential. Longer-term follow-up may also be needed to ensure that the child and others involved in the situation, including the arrested parent, are receiving the support that is needed. A child may initially appear unaffected by the arrest, but later show increasing signs of trauma. Law enforcement agencies should work with partner organizations to provide ongoing information and assistance to these children and their families in an effort to minimize the lasting negative effects of the arrest.

Documentation

Whenever an arrest is made, the existence of an arrestee’s child, whether present or not, should be noted in the arrest report along with related documentation that will allow the department and others to monitor the safety and well-being of the child. When a child of the arrestee is identified, the following types of information should be recorded:

- the identities and biographical information of any dependent child whether or not he or she was present at the arrest;
- any of the child’s special needs such as medical or mental health conditions, physical impair-

ments or limitations, allergies, or developmental disorders;

- the identities, addresses, and contact information for any actual or potential caregivers;
- the names and contact information of any involved representatives from partner organizations;
- the names and contact information of any adult contacted for notification purposes, such as school officials;
- the final placement determination for the child; and
- any information or observations that suggest the need for further investigation into the child’s living conditions and general well-being, such as any indications of a household in crisis.

Endnotes

¹ This *Training Key*® is based on the document “Safeguarding Children of Arrested Parents,” which can be accessed by visiting www.theiacp.org/childrenofarrestedparents. Please refer to this document for a more in-depth discussion of collaboration recommendations, booking procedures, and documentation.

² See, for example, policies, procedures, and discussion papers on the following topics “Off-Duty Arrests,” “Executing Search Warrants,” and “Arrests,” published by the IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, VA.

³ Please refer to Part I of this *Training Key*® for definitions of terms used in this document.

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questions

The following questions are based on material in this *Training Key*®. Select the one best answer for each question.

1. Which of the following is recommended when making an arrest?
 - (a) Ask individuals whether they are a parent responsible for any minor children
 - (b) Look for signs of a child in the home, such as toys and diapers
 - (c) Do not allow any contact between the child and the arrested parent
 - (d) A and b
2. Which of the following is not an acceptable option when determining the placement of a child after his or her parent is arrested?
 - (a) Place the child with the other parent or a legal guardian.
 - (b) If the child is over 13 years of age, no placement decision is necessary - the child can remain in the home without a designated caregiver.
 - (c) Allow the arrested parent to express his or her preference as to the person who should provide care for the child.
 - (d) If no caregiver is available, place the child in the care of CWS or an authorized partner organization.
3. Follow-up visits do not need to be performed in all situations - only when there are concerns about the designated caregiver.
 - (a) True
 - (b) False

answers

1. (d) A and b. Where appropriate, the parent should be given the opportunity to speak to the child, explain what is happening and reassure him or her that arrangements will be made for his or her care and safety.
2. (b) Appropriate placement decisions, including the identification of a responsible adult as a caregiver, must be made for all children, defined as any unemancipated person under the age of 18.
3. (b) Follow-up visits should be conducted in all cases to ensure the well-being and safety of the child.

