

## Child and Dependent Adult Safety

### 381.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

### 381.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Newark Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 381.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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#### 381.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

#### 381.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

#### 381.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether he/she reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

#### 381.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

#### **381.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

#### 381.4.1 ROLES AND RESPONSIBILITIES

Law enforcement responsibilities include:

- (a) Investigating Newark Officers are responsible for the investigation of both the traditional drug case where drug endangered children are found, as well as any related violations involving the children, such as Child Endangerment, PC § 273a (a) & (b), and Children Present at a Drug Manufacturing Location, HS § 11379.7.
- (b) Investigating officers are responsible for all related evidence collection, including but not limited to statements, photos, measurements, collection of contraband, medical reports, etc.
- (c) Investigating officers must notify the Department of Children and Family Services (DCFS) Emergency Response Unity (formerly CPS) via the Hotline (510-259-1800) as soon as is reasonably possible, so that DCFS may send a Child Welfare Worker (CWW) if staffing permits, and may assist Law Enforcement in coordination of medical screening, removal of child from the home, transportation, etc.
- (d) Once the determination has been made that the case falls under the DEC protocols, investigating officers should consult with DCFS on whether to take temporary custody of the child per § 300 W&I. In cases where a child is left unattended, or where either parent or guardians are being arrested, or where a parent or guardian cannot be located, law enforcement should notify DCFS and remove the child per § 300 W&I. In cases where both parents or guardians are present at the scene and one parent or guardian is being detained but another is not, law enforcement will, at a minimum, consult with the DCFS by phoning the Hotline in regards to the release of the children to the available parent or guardian, or to a non-custodial parent before leaving the scene.
- (e) In cases of Level 3, current California law does not recognize an infant's positive toxicology screen alone at the time of delivery to be in and of itself sufficient basis for reporting child abuse or neglect. Additionally, the Alameda County District Attorney's Office will not charge §273a PC on the basis of a positive toxicology screen without additional evidence of abuse or neglect. California Penal Code §123605 mandates that this assessment of the needs of the mother and child be done by a health practitioner or medical social worker, before the infant is released from the hospital. If other evidence of abuse or neglect is discovered, law enforcement shall document such evidence, and send the report to DCFS and the District Attorney's Office, as appropriate.
- (f) The investigating officer should assure that, if appropriate, a medical assessment is completed.

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1. a. In Level 1 cases, officers/detectives should call EMS to respond to the scene for an immediate medical assessment. The child should be transported via ambulance to Children's Hospital in Oakland, if possible. If EMS determines that more immediate medical care is necessary, the child should be transported via ambulance to the nearest Emergency Room.
  2. In Level 2 cases, investigating officers/detectives should consult with DCFS to determine if a medical clearance is necessary, prior to transport to the Assessment Center. If so, efforts should be made to have the medical clearance completed at Children's Hospital in Oakland.
- (g) Officers will coordinate with DCFS to transport the child to the Assessment Center. Newark Officers should notify the Assessment Center intake that the child is being entered under the DEC protocol.
- (h) In the event of pre-planned warrants where the Newark Police Department has prior knowledge of the possible presence of children, Officers shall contact the DCFS Emergence Response Unit specifically requesting a contact person and providing sufficient information so that DCFS can plan for intake, and/or respond at the time of the warrant, staffing permitting.
- (i) Investigating officers will coordinate with DCFS to have joint interviews done at CALICO, if appropriate.
- (j) Upon completion of the investigation, officers will forward the case to the Alameda County Deputy District Attorney for appropriate charging.
- (k) Reports designated as DEC cases will be forwarded to DCFS Emergency Response Unity by the investigating officer within 36 hours after starting the investigation [§11166.3(a)PC]
- (l) Reports designated as DEC cases will also be forwarded to the Detective Sergeant and Administrative Commander. The Detective Sergeant will be responsible for reviewing DEC cases to ensure that proper investigation steps have been taken and that the reports are designated properly as Level 1, Level 2 or Level 3 and assure appropriate action has been taken.
- (m) Each Law Enforcement agency will be responsible for keeping track of the number of DEC cases they investigate, separated into Levels 1, 2 and 3, for data gathering purposes to assist in the formulation of future county policy and best practices.

#### Medical services role:

- (a) When possible, Children's Hospital of Oakland will be used to conduct medical assessments in DEC cases. Medical personnel will be advised that the children are to be handled under the DEC protocols. Treating medical personnel will use their clinical judgment to guide treatment of the child, based on signs and/or symptoms displayed

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by the child and the information provided by the child or accompanying officer. This treatment will range from decontamination and admission to the hospital, to a general medical screen, including a urine toxicology screen.

#### **381.5 TRAINING**

The Training Manager is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

#### **381.6 TRAINING**

The Training Officer is responsible to ensure that all personnel of this department who may be involved in arrests affecting children participate, on a timely basis, in a POST-approved course on effective child safety when a parent or guardian is arrested (Penal Code § 13517.7).