

# 2025



*POST Guidelines for Child Safety*

# When a Custodial Parent or Guardian is Arrested



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## **POST Guidelines for Child Safety - When a Custodial Parent or Guardian is Arrested**

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# SUBJECT MATTER EXPERTS ACKNOWLEDGMENTS

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This document represents the collective effort of individuals from several organizations, agencies, and communities. The content contained herein does not necessarily represent the viewpoint or position of every advisor or author, however, it does represent the diverse perspectives and meaningful dialogue that is necessary to come together in a collaborative and respectful process.

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## FOREWORD

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**Assembly Bill (AB) 1942 (Nava)** was approved by the California Legislature and signed into law by Governor Arnold Schwarzenegger in September 2006. **AB 1942** added *Penal Code (PC) § 833.2*, which states (in part), “...*It is the intent of the Legislature to encourage law enforcement and county child welfare agencies to develop protocols in collaboration with other local entities, which may include local educational, judicial, correctional, and community-based organizations, when appropriate, regarding how to best cooperate in their response to the arrest of a caregiver parent or guardian of a minor child, to ensure the child’s safety and well-being...*”

AB 1942 added *PC § 13517.7*, which (in part) directs the Commission on Peace Officer Standards and Training (POST) to “...*develop guidelines and training for use by state and local law enforcement officers to address issues related to child safety when a caretaker parent or guardian is arrested...*” This publication serves to fulfill this directive and provides guidelines and training topics for use by law enforcement agencies. These guidelines do not constitute a policy, but should be considered in the development of specific policies and procedures to be followed when a caregiver parent or guardian is arrested.

POST staff assembled a broad representation of subject matter experts in the development of these guidelines. The information referenced and contained in this publication represents the best thinking of many experts in law enforcement and child welfare. POST is grateful for the assistance of those who so generously gave of their time and expertise. These guidelines are intended to be a resource for agency executives, watch commanders, and trainers to assist in providing for the well-being of California’s most treasured resource — its children.

Questions or comments concerning these guidelines and curriculum should be directed to the POST Management Counseling and Projects Bureau at (916) 227-4261.

**Manuel Alvarez Jr.**  
POST Executive Director

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## INTRODUCTION

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Extensive research has shown that adverse childhood experiences, including abuse, neglect, exposure to violence, and the sudden loss or removal of a caregiver, can have profound and lasting impacts on physical health, mental health, and social development. These impacts can manifest throughout an individual's lifetime, contributing to increased risks of chronic illness, substance abuse, criminal justice involvement, and intergenerational cycles of trauma. The arrest of a parent or guardian represents a particularly acute form of disruption, often combining sudden separation, uncertainty, and fear. When this event is not handled with care, it can compound existing trauma or create new emotional and physical risks for the child(ren).

These guidelines are intended to improve services and ensure child safety when a parent or guardian is arrested.

They provide key criteria for law enforcement agencies to consider in the development of policy and procedures to ensure child safety when a parent or guardian is arrested. Once the policy is developed, it should be formally issued and reinforced through training to ensure officers are well-informed about its contents.

A number of resources appear in the appendices of this publication. Beyond the guidelines, these resources provide the findings of academic research, case studies, and models from various communities. POST encourages readers to use these resources to gain better understanding of the issues and to develop solutions appropriate for individual communities.

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## **PROCEDURES DURING ARREST**

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**Child safety** is paramount for peace officers. It becomes an officer's responsibility when they arrest a parent or guardian of a minor child. At that moment, the parent or guardian is no longer free to perform their duty to care for their child(ren). The officer must assume responsibility and the duty to ensure that the child(ren) receives appropriate care.

The complexity and level of care required depends on many factors. Foremost among these factors may be the availability of appropriate family/friends and the age and number of children needing care. Additional factors, such as location, mental and emotional states, and willingness to comply, may also present complications. When possible, officers should take reasonable steps to mitigate known factors in advance of an arrest. In other instances, prior identification of resources and review of procedures will mitigate the process and ensure the best possible outcome for the child(ren).

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**Penal Code § 13517.7(b)(1)**

### **Procedures to ensure that officers and custodial employees inquire whether an arrestee has minor dependent children without appropriate supervision:**

- 1) Inquire about and confirm the location of minor children during arrest. If a child is not present, but evidence of a child exists, the officer should exercise due diligence in ensuring they have adequate care.
  - a) Grandparents, aunts/uncles, older brothers or sisters, babysitters — any number of persons could be responsible (i.e., caregiver for a minor child). Ask the arrestee to determine if this responsibility for minor children exists.
- 2) Additional considerations during the arrest of caregiver:
  - a) Engage with a trauma informed approach and child centered communication style (i.e., firm, respectful, empathetic approach in speaking with the arrested parent).
  - b) Demonstrate cultural competency when interacting with the arrested parent and family.
  - c) Document location of the child(ren) and who they are with, if the child(ren) is/are not with the parent, at the time of arrest.
- 3) Look for evidence of children.
  - a) Some arrestees may not want their child(ren) "taken" by law enforcement. They may not be forthcoming with all information in effort to prevent separation from their child(ren).
- 4) Officers shall exercise due diligence in verifying the custody of children by

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consulting Child Welfare (or Protective) Services (CWS or CPS) and reviewing records of prior calls for service that may have involved children. Allow the arrestee reasonable time to arrange for care of minor child(ren) with a responsible party, as appropriate.

- a) Temporary placement of minor child(ren) with family or friends is often most appropriate. Once it has been determined that minor child(ren) need(s) care, allow the arrestee to arrange for it as appropriate.
  - i) Notify or request county CWS/CPS, as appropriate; check for criminal history and substantiated allegations against the potential caregiver in child welfare history, family, friends, associates (PC §§ 11167 (b) and (c) and 11166.3 (a)).
  - ii) Document actions taken; ensure full name(s), address, and contact information for the caregiver.
  - iii) Document the reasons if the arrestee did not have a say in the placement of the child. Identify reasonable efforts and take into account the condition of the arrestee (i.e., under the influence, WI 5150).
  - iv) Ensure supervisor review.



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## GUIDELINE 2

# PROCEDURES DURING BOOKING

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**In some instances, officers may be unable to arrange for the care of minor child(ren) who are not present at the location of the arrest.** It is essential that these arrangements be made during the booking process to ensure the safety of the child(ren).

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**Penal Code § 13517.7(b)(2)**

**Authorizing additional telephone calls by arrestees so that they may arrange for the care of minor dependent child(ren):**

- 1) The arresting officer shall confirm if the arrestee is responsible for minor child(ren).
  - a) Allow the arrestee to make phone calls to arrange for the care of minor child(ren). When appropriate, it is recommended that additional call(s) are afforded to assist with the care of the child(ren). Allow additional phone calls as needed until the child(ren)'s care arrangements have been confirmed.
  - b) Notify or request assistance from county CWS/CPS if there is a connection to child endangerment or a history of child welfare risk factors arising from the arrest, even if these factors are not the primary reason for the arrest.
  - c) Document who was called, their phone number, and where the child(ren) can be located.
  - d) Ensure supervisor review.
- 2) When appropriate, notify the booking officer or detention supervisor of the outcome(s) relating to minor child(ren). Coordination between the booking officer and the detention supervisor should ensure the safety of the child(ren) has been properly addressed.

**NOTE:** It is recommended to use open-ended questions rather than checkboxes/checklists during the booking process.

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# USE OF COUNTY CHILD WELFARE SERVICES

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**CWS/CPS** agencies (also known as “social services” agencies) generally have greater capacities for meeting the needs of children than do law enforcement agencies. Therefore, it is of great benefit to law enforcement agencies to develop plans with local CWS/CPS agencies before these circumstances arise. Like any emergency or critical services system partnership, activation and the utilization of CWS/CPS will be more effective if *standard operating procedures and protocols are established prior to their need*.

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**Penal Code §13517.7(b)(3)**

**Use of county CWS/CPS, as appropriate, and other similar service providers to assist in the placement of dependent child(ren) when the parent or guardian is unable or unwilling to arrange suitable care for the child(ren):**

- 1) Create a list of providers, services offered and contact information (to include CWS/CPS and child services agencies from various counties) and make it available to law enforcement and dispatchers. Law enforcement agencies are strongly encouraged to establish procedures with CWS/CPS agencies to assist in the disposition of minor child(ren) to:
  - a) Achieve an expedited response and/or placement by CWS/CPS at the time of arrest.
  - b) Define mandated roles and responsibilities of each agency and the associated activities necessary to ensure/facilitate the safe disposition of minor child(ren).
  - c) Formalize information sharing (i.e., law enforcement and CWS/CPS to meet annually to review appropriateness of the current Memorandum of Understanding (MOU)).
- 2) Establish a Memorandum of Understanding (MOU)/Memorandum of Agreement (MOA) with the local CWS/CPS provider.

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## **IDENTIFICATION OF LOCAL GOVERNMENT/ NON-GOVERNMENTAL AGENCIES**

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**Identify appropriate** service providers that can assist the agency in handling minor child(ren) when a parent or guardian has been arrested. Law enforcement agencies should plan and have an MOU or MOA in place with other governmental entities and primary child service agencies. Additionally, it is beneficial for law enforcement agencies to familiarize themselves with the many non-governmental agencies that serve the needs of specific populations and assist in certain child placement situations when the legal caregiver has made an appropriate plan for their care and protection.

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**Penal Code § 13517.7(b)(4)**

### **Identification of local government or non-governmental agencies that are able to provide appropriate custodial services:**

- 1) Identify local CWS/CPS providers and their specific capacities (business hours, nights/weekends, response time, level of custodial care/placement available, etc.).
  - a) County service agencies, to include:
    - i) CWS/CPS
    - ii) Juvenile services or probation
    - iii) Mental health
  - b) County office of education
    - i) School district
    - ii) School resource officers
    - iii) Charter schools
    - iv) Daycare centers
  - c) Community action agency (private or non-profit organization that works to combat poverty)
  - d) City or county teen center
  - e) Child centered services
    - i) YMCA/YWCA, Boys-Girls Clubs
    - ii) Child abuse preventative services (e.g., *Olive Crest*)
  - f) Religious organizations (church, halls, mosque, synagogue, temple, etc.)
  - g) Family justice centers

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- h) Child assessment centers
  - i) Local hospitals, if applicable
  - j) Other nonprofit or non-governmental organizations (be sure the organizations have been vetted through an on-going process)
- 2) Create a list of providers, services offered, and contact information and make it available to law enforcement and dispatchers.

## **TEMPORARY SUPERVISION OF MINOR CHILDREN**

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**There are many** levels of supervision for minor child(ren), varying case by case. In one example, an officer may wait with a teenage child of an arrestee until the other parent arrives. In another instance, after an officer contacts CWS/CPS, the officer may need to wait with the child until their arrival. The officer **may need to contact CWS/CPS** to assist with transporting the **infant** to the hospital for necessary care. Finally, an officer may need to provide the transportation of the child to a designated service provider. In each situation, *officers are responsible for seeking the best possible solution for the situation and providing an age-appropriate explanation of the circumstances.* At the most basic level, this might mean protecting the child from the immediate environment (weather, danger, etc.). At a higher level, this might mean finding placement for the child with a family member who can help the child understand where the parent is being taken and why. In all circumstances, the goal is for the child(ren) to be safe and protected from emotional trauma.

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**Penal Code §13517.7(b)(5)**

### **Temporary supervision of minor child(ren) to ensure their safety and well-being:**

- 1) During the arrest:
  - a) Employ a trauma-informed approach to shield the child(ren) from the immediate volatility of the arrest. When possible, consider the impact of sights, sounds, and interactions.
  - b) Law enforcement should provide immediate supervision for the child(ren) until an appropriate caregiver arrives.
    - i) Consideration should be given to the child's familiarity with the surroundings, comfort, safety, and emotional state.
    - ii) Law enforcement should maintain self-awareness regarding their demeanor, actions, and overall presentation, and consider the potential impact these may have on the child(ren).
  - c) Law enforcement should collaborate with local county CWS/CPS to establish a protocol for expedited response to assess the best disposition for the child(ren).
    - i) The primary goal is to minimize traumatic effects on the child(ren) while maintaining the integrity of the arrest and the safety of all parties involved.

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## **SAMPLE PROCEDURES TO ASSIST STATE AND LOCAL GOVERNMENT**

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**Many agencies** have developed procedures for child safety that have proven successful. While communities often differ in their needs and expectations, a number of best practices have emerged related to child safety when the parent or guardian has been arrested. Identifying models that work is an excellent means for development of a customized, local solution.

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**Penal Code § 13517.7(b)(6)**

**Sample procedures to assist state and local law enforcement agencies to develop ways to ensure the safety and wellbeing of child(ren) when the parent or guardian has been arrested:**

- 1) Best Practices
  - a) Co-location of Child Protective Services (CPS) social worker at law enforcement agency
  - b) Designated law enforcement liaison CPS representative
  - c) Designated liaison law enforcement officer to handle inquiries, complaints and questions from CPS
  - d) Audit records management systems (RMS) to ensure cross-reporting requirements are met
  - e) Cross training for law enforcement and social workers
    - i) Agency roles and responsibilities
    - ii) Child development and experience
      - (1) Attention should be given to effects of exposure to parental arrest
      - (2) How trauma may affect childhood development and behavior
    - iii) Vicarious trauma
  - f) Endorsement by agency leadership (creation of MOUs/MOAs)
- 2) Benefits
  - a) Reduces traumatic effects on children during parental arrest
  - b) Defuses volatile situations
  - c) Expedited CWS/CPS response reduces officer's time at scene of arrest
  - d) Creates goodwill between law enforcement, parents, and the community at large

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- e) Encourages non-governmental organizations participation and resources
  - f) Identifies service providers and resources to reduce recidivism by enhancing early intervention
  - g) Enhances criminal investigations and child safety outcomes through the sharing of information
  - h) Enhances the relationship between law enforcement and county child welfare agencies
    - i) Enables each to function more efficiently
    - ii) Reduces number of children placed in protective custody
    - iii) Provide greater buy-in from law enforcement
    - iv) Clarifies responsibilities for involved parties

## TERMS AND DEFINITIONS

**Several terms** are used in this document that may require clarification. They are defined here, solely in reference to their use in this publication.

<b>Arrest</b>	The legal, physical apprehension of a parent, guardian, or caregiver, leaving them unable to carry out their responsibilities for taking care of a child.
<b>Child</b>	A person under the age of 18.
<b>Child Welfare (or Protective) Services</b> (County CWS/CPS or other county services)	Any number of social services available for a child (e.g., CWS/CPS, other child service agencies.).
<b>Legal Guardian</b>	An adult entrusted with the care of a child, assigned responsibility by the court.
<b>Minor</b>	Same as “child” above.
<b>Officer</b>	A peace officer as defined by <a href="#">Penal Code § 832</a> .
<b>Peace Officer</b>	Same as “officer” above.
<b>Law Enforcement Officer</b>	Same as “officer” above.
<b>Parent</b>	A biological, adoptive, or legal guardian of a child, including any individual recognized by law as having parental rights and responsibilities.
<b>Supervision</b>	The act or process of maintaining oversight and providing care for a child.
<b>Supervisor</b>	Any officer who is responsible for approving or directing the work of other officers. A supervisor may or may not have a higher rank.
<b>Temporary Supervision</b>	The non-permanent act or process of maintaining oversight and providing care for a child.
<b>Trauma Informed Approach</b>	Emphasis in creating a safe and supportive environment for those who have experienced trauma, ensuring that services are delivered in a way that avoids re-traumatization and promotes recovery.
<b>Vicarious Trauma</b>	The emotional and physiological impact on individuals who are exposed to the traumatic experiences of others, often resulting from absorbing the trauma of the victims they serve.

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## APPENDIX B

### APPLICABLE STATUTES

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**The following** California statutes are relevant to various situations involving child(ren).

#### ***Assembly Bill 1942***

<b>PC § 270.5</b>	Refusing to accept minor child into home or failing to provide alternative shelter.
<b>PC § 271</b>	Abandonment of a child under 14 years of age.
<b>PC § 271a years of age.</b>	Intentional failure to provide for a child under 14
<b>PC § 273a</b>	To cause or permit child abuse or endangerment
<b>PC § 832</b>	Peace officer defined.
<b>PC § 832.2</b>	Every school police reserve officer must complete a training course approved by POST, which includes guidelines for reporting offenses related to campus violence and other school-related matters to relevant law enforcement agencies.
<b>PC § 851.5(c)</b>	Custodial parent's right to phone calls at booking.
<b>PC § 11165.2</b>	Neglect, severe neglect, general neglect defined.
<b>PC § 11166.3 (a)</b>	Mandates that law enforcement and public child welfare agencies work together to coordinate existing duties with respect to child abuse investigations.
<b>PC § 11167 (b) &amp; (c)</b>	Outlines the authority for information sharing between child welfare agencies and law enforcement when investigating cases of child abuse and neglect.
<b>PC § 13517</b>	The commission shall create guidelines for handling cases of child abuse or neglect, including determining protective custody and minimizing child interviews, and offering an optional specialist training course, developed in consultation with the State Office of Child Abuse Prevention.

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**PC § 13517.7**

The commission shall create guidelines and training for state and local law enforcement to ensure child safety when a caregiver parent or guardian is arrested to include the following minimum topics: procedures for identifying dependent children without supervision, authorizing additional phone calls for care arrangements, utilizing county child welfare services, identifying local custodial agencies, providing temporary child supervision, and creating sample procedures.

**Welfare and Institutions Code (WIC) § 300**

A child who is within the jurisdiction of the juvenile court for reasons which may include abuse, neglect, or caregiver absence/incapacity. Jurisdiction will be under juvenile CWS/CPS.

**WIC § 305**

Any peace officer may, without a warrant, take into temporary custody a dependent child when there is reasonable cause to suspect child abuse or neglect that poses an imminent threat to the child's health and safety.

**WIC § 625**

A child who is within the jurisdiction of the juvenile court for reasons which may include abuse or neglect. Jurisdiction will be under juvenile probation.

**WIC § 827 inspections.**

Wards and Dependent Children - records

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## ADDITIONAL RESOURCES

**Many publications and web pages** provide insight into the issue of child welfare and custody. The following resources are provided as references for further study. The Commission does not necessarily endorse nor guarantee the content.

Boullier, M., & Blair, M. (2018). Adverse Childhood Experiences. *Pediatrics and Child Health*, 28(3), 132-137.

*California Department of Social Services, Child Welfare Protection*

Garrison, Tim. *How to Enhance Police Response to Kids Impacted by Violence*. Police1, August 2017,

Maruschak, Bronson, Jennifer and Alper, Mariel. *Parents in Prison and Their Minor Children: Survey of Prison Inmates*, 2016. Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 2021.

Nolan, Clare M. *Children of Arrested Parents: Strategies to Improve Their Safety and Well-Being*. Sacramento, CA: California Research Bureau, State Library, July 2003 (CRB 03-011).

Pal, Shahil. *Let Kids Be Kids: The Effects of Parental Incarceration on Children*. San Francisco, CA: Center on Juvenile & Criminal Justice, August 2023.

Puddefoot, Ginny and Foster, Lisa K. *Keeping Children Safe when Their Parents Are Arrested: Local Approaches That Work*. Sacramento, CA: California Research Bureau, State Library, July 2007 (CRB-07-007).

Siers-Poisson, Judith. *How Witnessing A Parent's Arrest Can Get 'Under The Skin' Of a Child*. Madison, WI: Institute for Research on Poverty. October 2021.

Simmons, Charlene Wear. *Children of Incarcerated Parents*. Sacramento, CA: California Research Bureau, State Library, March 2000 (CRB Note Vol. 7, No. 2).

Thurau, Lisa. *First, Do No Harm: Model Practices for Law Enforcement Agencies When Arresting Parents in the Presence of Children*. Washington, DC: Strategies for Youth

