

# The impact of parental arrest: ensuring the safety and well-being of children with parents in conflict with the law



This briefing paper will discuss the effect a parent's arrest can have on children, provide an overview of existing efforts to mitigate this impact and suggest further recommended practice.

*16-minute read*

*November 2021*

"Suddenly we heard noise downstairs and the door was kicked in. There were officers everywhere. Eight in all, and dogs that barked. Our little sister was sleeping and she woke up. So my father was there and they put the handcuffs on him and we started crying. There was an officer who said that we should say goodbye."<sup>1</sup>

- Charlotte, 18

*"For many children, a parent's arrest is the moment when **their invisibility is made visible**; when it is made clear to them just how easily they may be overlooked within the systems and institutions that come to claim their parents."<sup>2</sup>*

- Nell Bernstein

# Introducing the issue

It is estimated that on any given day some 2.1 million children are separated from a parent in prison across Council of Europe states.<sup>3</sup> Behind that figure lies an unknown but far greater number of children affected by the **arrest of a parent**. Experiencing a parent's arrest – whether physically witnessing the arrest or coming back to an unexpectedly empty home – can be a profoundly traumatic experience for a child.

A parent's arrest may be **unexpected, confrontational or violent**. Children who have experienced the arrest of a parent are **73% more likely to have elevated post-traumatic stress symptoms** than their peers who have not.<sup>4</sup> Amongst other things, children may feel...

- **shock and fear** resulting from the use of violence
- **confusion and concern** for a parent's well-being
- **upset and stress** caused by being placed into alternative care
- **guilt or blame** that children may assume or
- **shame and stigma** experienced in the aftermath of the arrest.

This, compounded with immediate separation from a parent, may leave children feeling hopeless or abandoned. Furthermore, the impact of a parent's arrest extends beyond the immediate event; when a child is placed in substandard care or in extreme cases, when a child is left unsupervised, this can pose significant dangers to their safety and wellbeing.

This is why it is crucial to safeguard children during parental arrest. Another potentially adverse impact on children, if adequate support is not provided, is the child's future associations with law enforcement.

For many children, witnessing the arrest of a parent may be their first encounter with the police and 'authority' at large. The way officers handle the arrest, explain the situation to a child and respect the parent-child bond can taint a child's association and engagement with law enforcement and beyond.

As it stands, there is very little in the way of concrete policy and procedure that unites **police forces with social services, health care services and schools** to ensure a **cross-sectoral approach**. Currently, the welfare of children is often ensured **sporadically** and may depend upon the **goodwill and experience of police officers present** rather than child-friendly **arrest-procedures** and trauma-informed **training**.

In collaboration with other partners, police officers have a unique opportunity to engender and act upon a **cultural shift** that recognises the needs of children with parents in conflict with the law.

## This briefing paper will do the following:

- **Outline how and why a parent's arrest can impact a child.**
- **Discuss current practice, including initiatives, police training programmes and arrest policies.**
- **Highlight further recommended practice.**

"It was about 6/7 in the morning and the doorbell rang. The gates were thrown open and the police came barging in. I was asleep. They threw the duvet off my bed and told me to stand up. I was confused. I was scared. So many thoughts were working through my mind - why were they here? What were they doing here? Have I done something wrong? I was unsure what was happening."<sup>5</sup>

- M, 12 years old

## *A v Russia*

### EUROPEAN COURT OF HUMAN RIGHTS

November 2019

In the first case to directly consider the issue, the ECtHR held that violently arresting a parent in front of a child may **constitute inhuman or degrading treatment of the child**, in violation of **Article 3 of the ECHR, Prohibition of Torture**.

The violent arrest of the applicant's father took place outside her school's gates. The child watched from the car as her father was "*knocked to the ground, beaten up and arrested*". She was later diagnosed with post-traumatic stress disorder, neurogenic hyper-reflective urinary bladder, anxiety, a neurological disorder and other health complications after the incident. The Court found that Article 3 was indeed violated by state authorities when they violently arrested the man knowing that the child was **likely to be present**.<sup>6</sup>

## COUNCIL OF EUROPE RECOMMENDATION

### CM/Rec (2018)5

#### *What resonates with you?*

**Article 8: When arresting a parent, the police should, if possible, make sure children are not there. If a child is present... police should be sensitive and not upset them.**

"I chose this one because when the police come, they should talk to the child to explain what is going on - be friendly and kind at all times because this will mean children like the police and be less afraid of them."

- Lois, aged 12, Time Matters, England

"It's important that the kid is being distracted because it's very hard to see when your parent is being arrested. It's important to be distracted because that's nice for the kid."

- Cheyenne, age 14, Exodus, the Netherlands <sup>7</sup>

# 1. Impact on children: how and why

## How might a parent's arrest impact a child?

From the eyes of an adult an arrest may seem a relatively short life event, either “violent” or “peaceful”.<sup>8</sup> When seen from the perspective of a child, the removal of a parent, whether in a violent manner or not, can cause significant disruption to a child's development.

*“Children are always anxious, regardless of whether it is a calm or violent arrest. You can always see the anxiety in their eyes.”<sup>9</sup>*

*- Danish police officer*

It has been estimated that **two out of every five children aged 2 years** and above whose parents have been arrested have **clinically significant emotional and behavioral problems**, about twice the rate of children in the general population.<sup>10</sup>

According to a 2013 study, children exposed to the arrest of a family member were more likely to have been the victims of and witnesses to a **broad range of violent and nonviolent crimes** such as physical abuse or drug dealing.<sup>11</sup> **Multiple exposure** to potentially traumatic events is associated with higher levels of clinical problems.

The impact of a parent's arrest may vary depending on the age of the child, their relationship to the parent and the nature of the arrest. The study found that behavioral manifestations associated with arrest exposure amongst **young children** tend to be more internalised (e.g. emotional distress). Conversely, behavioral manifestations amongst **older children** tend to be externalised (e.g. irritability and immature behavior).<sup>12</sup> Besides the trauma itself, the arrest marks the sudden separation between child and parent which may negatively impact a child's development.<sup>13</sup>

## Why this impact?

There are many different types of arrest scenarios; from spontaneous traffic-related incidents to pre-planned ‘dawn raids’ that involve unexpected entry into a home at night. During each arrest officers are often trying to balance multiple different exigencies; the integrity of the arrest, the retrieval of evidence, their own safety and the safety and wellbeing of others present, in sometimes chaotic and violent settings.

Under most jurisdictions officers have a duty to ensure the wellbeing of children but very rarely do arrest procedures **directly cite the issue of children's wellbeing during an arrest**. The response to a Freedom of Information request submitted to the UK's College of Policing in October 2021 stated that it does *“not hold a specific protocol regarding the presence of children at any arrest scene”*.<sup>15</sup> In Denmark, the protocol demands a *“gentle approach and principle of proportionality”*, but again this does not explicitly reference children's welfare during arrest procedures.<sup>16</sup> A similar lack of explicit reference can be found in the policy of Northern Ireland and Poland, amongst others. This will be discussed further in the following section of this paper.

If children are exempt from arrest procedures, the actions and decisions made affecting them are not given due importance and may take place **under pressing time constraints by officers who lack trauma-informed training**. One such decision might be the alternative care solution of a child if the arrestee is the sole caregiver. If made in haste, the consequences of such a decision can be harmful.

### Factors that may impact children during an arrest

- Unexpected arrival of police
- Noise of officers shouting and dogs barking
- Witnessing violence and/or seeing a parent handcuffed
- Search of a home environment
- Lack of an explanation to children
- Witnessing a parent treated without dignity
- Shame and stigma surrounding the arrest
- Alternative care if arrestee is sole caregiver
- Children being used to translate between police and arrestee

## 2. Current Practice

The following section will briefly outline some of the current policy, police training programmes and NGO initiatives taking place globally that aim to ensure the safety and wellbeing of children during a parent's arrest.

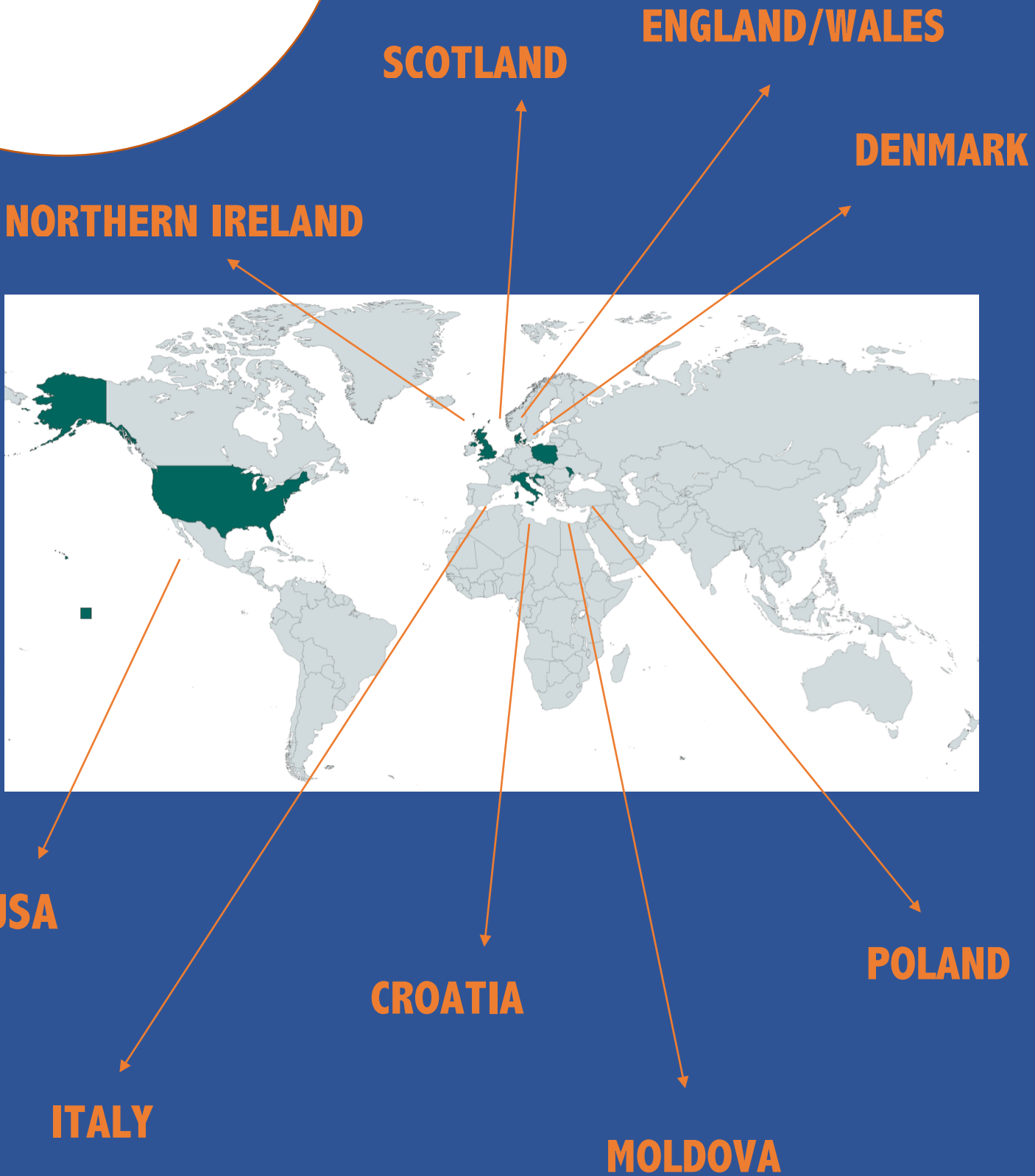
Under most jurisdictions, as will be outlined below, police officers are obliged to carry out arrests as **gently as possible** whilst upholding the **dignity** of the arrestee and others present. This may be a start, but written guidelines are needed outlining **explicitly** what action can be taken **pre-arrest, mid-arrest and post-arrest** involving not only the police but **social welfare services, schools and health care services**. A challenge faced when writing this policy is how to cater to the highly individualised nature of each arrest. Policy cannot be so specific that it will only function in certain jurisdictions and arrest situations, yet mustn't be so broad that it becomes vague, unfocused and ineffective.

Before policy can be effectively implemented, however, there is a pressing need for adequate **police training** to provide officers with an understanding of child trauma and the role officers can play in trauma reduction.

*Officers taking part in a study in Poland in 2011 drew on their **experience rather than training** as being most useful when learning how to conduct a child-friendly arrest.<sup>17</sup>*

Safeguarding children present during **domestic violence incidents** is comparatively more widely discussed than that of children present during arrests at large. This is reflected in the number of initiatives and schemes tackling the subject. Some similar strategies and approaches can be applied to protect children present at **all arrest scenarios**, regardless of the criminal activity.

**Current Practice:**  
*some sample initiatives*





## DENMARK

### Police Training

Children and other relatives are not an independent topic at the Police Academy of Denmark but are included in teaching in some contexts.

*“In psychology classes work is done on conflict resolution which, among other things, is about those situations where children are present in the home in connection with an arrest.”<sup>27</sup>*

An assistant detective who teaches police theory at the Police Academy stated, with regards to police officer’s way of handling children:

*“If they are not good at it, they are told that there is something they need to work on and that is something we are told about immediately.”<sup>28</sup>*

A Danish Institute of Human Rights questionnaire found:

**53% of police officers had experienced children who behaved as if they did not understand what was happening; 47% had experienced children who cried; and 32% had experienced children who clung to their mother or father.**<sup>29</sup>

## NORTHERN IRELAND

### Policy and Procedure

The Northern Ireland Police Service has produced **written guidelines** requiring officers making arrests to prepare a **“plan of search”**, identifying whether children are likely to be in the house.<sup>33</sup>

Police guidance on “Children in the Company of Detained Persons Brought to Custody Suites” states that, where possible, **arrangements for care should be made by the arrested person.**<sup>34</sup>

As in other jurisdictions, there appears to be considerable effort and discussion as to ensuring the safety of children in cases related to domestic violence and child sexual abuse, **but this effort is not matched in wider criminal cases where those in conflict with the law are parents.**

## POLAND

### Policy and Procedure

In Poland, arrest procedures lack specific reference to children present, however it does state that **“searches should be conducted in a way that respects the dignity of persons who are present”** and without causing **“unnecessary material losses or unnecessary inconvenience”**.<sup>30</sup>

The general Police Guidelines on how officers should deal with children apply to arrest situations:

- 1. Police officers should use such **vocabulary** as can easily be understood by the child and which is appropriate to his or her age.*
- 2. Police officers should **refrain from any actions which would be stressful** for the child, for instance trying to rush the child.*
- 3. Police officers should not display any behavior that would be **demeaning** to the child.*
- 4. If there is a need for the child to be questioned, such **questioning should be conducted in a sensitive manner**, and questions should be formulated in a simple way, avoiding any jargon, and providing descriptive explanations appropriate to the child’s age if necessary.<sup>31</sup>*

Despite this, there still lacks explicit procedural mention of action to take if children are present during an arrest. Police officers are obliged to inform social services if they cannot source alternative care for a child following the arrest of a parent. However, it has been reported that this line of communication could be improved upon. A social work and welfare center reported that it is often **neighbors who contact social services** regarding the well-being of a child of a parent in conflict with the law.<sup>32</sup>

## SCOTLAND

### NGO and Police Collaboration

Scottish NGO **Families Outside** hosted a **conference in 2017** improving support for families at the point of arrest and listed the following discussion points to be taken forward in conjunction with Police Scotland:

- Develop a new **police contact card with information** for families at the point of arrest.
- Agree **protocols for arrest** when children may be present (ensuring arrest takes place away from family wherever possible).
- **Raise awareness** of the national framework for Support to Families Affected by the Criminal Justice System.
- Discuss the **possible extension of 'Meet the Police' type programmes** with prison visitor centers and schools throughout Scotland.<sup>22</sup>

In 2021 **Families Outside** also launched **accredited training programmes** for individuals and groups across the statutory and voluntary sectors who encounter families affected by imprisonment, including the police.<sup>23</sup>

### Police Family Contact Card in Kilmarnock

Strathclyde Police, Lighthouse Foundation and Families Outside came together to produce a **contact card** for arresting officers to leave with family members when an individual is arrested at home, containing contact details of support and information available that a family may require in the aftermath of an arrest. A simple but effective **cross sectoral** initiative to alleviate the immediate impact when a parent is arrested. Unfortunately, following the formation of Police Scotland in 2013, the Family Contact Card was discontinued.<sup>24</sup>

### UNCRC - INCORPORATION INTO SCOTS' LAW

Following the incorporation of the UNCRC into Scottish Domestic Law in March 2021, public authorities "*must not act in a way that's incompatible with the UNCRC requirements.*" Police Scotland announced that they intend to "*uphold the rights of children and young people as set out in the UNCRC by embedding it within all policies and procedures*". We await further announcement regarding arrest protocol in light of this commitment to the UNCRC.<sup>25</sup>

## ITALY

### Helpline Service

#### Telefono Giallo - Yellow Phone

Italian NGO **Bambinisenzasbarre** has created a "helpline" service to call in aftermath of the arrest of one or both parents.

The service offers practical information as well as psychological counselling.

Telefono Giallo is also now a smart phone app designed for children and young people who have their mothers or fathers in prison and do not know whom to turn to.<sup>26</sup>

## CROATIA

### Police Training + Cross-sectoral Schemes

#### Office of the Ombudsman for Children, Croatia.

In 2020 the Deputy Ombudsperson for Children led workshops on the rights of children whose parents are in conflict with the law in a **basic training course for judicial police officers** at the Ministry of Justice Training Centre.

**The verbal account of a cross-agency initiative in Croatia supporting children of parents in conflict with the law:**

*“The police were going to arrest a mother and father. In the process of considering tactics and gathering information about suspects they realised (most likely from social welfare centre) that there were two children of preschool age in the family and that the children went to kindergarten every morning. The police decided to arrest the parents when the children were at kindergarten and asked the teacher (in collaboration with the social welfare centre) to accompany the children later that day to the police station where the parents were detained. The family didn’t have a car, and children were delighted to drive in the car with a siren and rotating lights (and no other signs of the police). The boy asked the policeman: ‘Who gave you this car?’ ‘My boss’- answered the policemen. ‘You have a good boss’ – the boy concluded.”<sup>37</sup>*

## MOLDOVA

### Cross-sectoral Police Training

In 2021 the Council of Europe **‘Project for Combating violence against children’** in the Republic of Moldova and **‘European Program for Human Rights Education for Legal Professionals (HELP)’** launched an **online course on child-friendly justice**, intended for students at the ‘Stefan cel Mare’ **Police Academy** and **police officers** nominated by the General Inspectorate of Police.

This cross-sectoral project is based on the **Guidelines of the Committee of Ministers on child-friendly justice**, adopted in 2010. The course aims to **translate these standards into practice**.

Giulia Re, the Deputy Head of the Council of Europe Office in Chisinau, stated: **“I hope the course will help police officers to look at the criminal justice system from the perspective of the child: what can be done to ensure that the principles of the best interests of the child, participation, equal treatment and the rule of law are upheld.”**<sup>35</sup>

Marin Maxian, the Deputy Head of the General Inspectorate of Police, specified that **“The best interest of the child is a priority for the police and improving the knowledge of professionals in this field is necessary in order to adapt existing practices to international standards.”**<sup>36</sup>

# USA

## Cross sectoral Initiatives + Police

### San Francisco Police Department

In 2014 SFPD adopted the **Department General Order (DGO) 7.04**, a policy providing specific guidelines for the treatment of children during the arrest of parents.<sup>18</sup> The groundbreaking policy marks the culmination of years of effort by the **San Francisco Children of Incarcerated Parents Project**. The policy aims to minimise the disruption to the children of an arrested parent by:

- providing the most supportive environment possible after an arrest
- minimising unnecessary trauma to the children of an arrestee, and
- determining the best alternative care for the children that is safe.

This significant **model policy** is extensive and thorough in its scope.

*The USA is home to many examples of good practice and model policy. In this paper, two successful cross-sectoral initiatives are referenced. The **International Association of Chiefs of Police**, **Osborne Association**, **Strategies for Youth**, the **REACT project** and the **California Research Bureau** are further examples of relevant research and action.*

### New Haven, Connecticut Child Development - Community Policing Program (CD-CP)

Established in 1991, a cross-sectoral partnership between the New Haven Department of Police Services and the Yale Child Study Centre, the CD-CP aims to protect children and families exposed to violence through collaboration between police, mental health professionals, child protection services and other providers. This exemplar model of collaboration promotes **cross training** to overcome old stereotypes over each agency's role. The CD-CP intends to shift the way that police and service providers do their job. It recognises the need for a widespread understanding of how children being exposed to trauma and violence can be detrimental to both children and wider society.<sup>19</sup>

# ENGLAND / WALES

## NGO + Police Initiatives

### Children Seen and Heard, Oxford Pilot Scheme, Nov. 2021

The **Thames Valley Violence Reduction Unit (VRU)** working alongside the **Thames Valley Police** and the charity **Children Heard & Seen** are piloting a new scheme in Oxford to **swiftly identify children of a parent who is sent to prison**.

The VRU launches an assessment of those sent to prison who have a child and a home address within the local force area. The local neighbourhood policing team are notified and it is usually a Police Community Support Officer (PSCO) who **visits the address to contact the family**. They offer a referral to support provided by Children Heard & Seen.

Sarah Burrows, Chief Executive of Children Heard & Seen, said:

*"Children with a parent in prison can often be the victims of the parent's offending, they might have witnessed an arrest which can be very traumatic."*

*"As there are no existing systems to support and identify these children, so many are left to **muddle through without support**. Being able to identify children early and provide this support at such a crucial stage is the real benefit of this pilot."<sup>20</sup>*

### Operation Encompass

Operation Encompass is a **cross-sectoral initiative connecting police forces with schools** to ensure the safety of children experiencing domestic abuse.

In short, when police officers are made aware of a domestic abuse incident where children are involved, Operation Encompass provides a communication link between **the police and school of the child prior to 9am of the following school day**.

In the immediate aftermath of an incident of domestic abuse, a child will receive support at school. The immediacy of this support is critical and ensured through a relatively simple but reliable line of communication between **police and schools**.<sup>21</sup>

The scope of Operation Encompass could be extended to include all incidents where a child is present at an arrest.

# 3. Next Steps: ‘child friendly’ arrest procedures

The following section assembles recommended practice based on research of the above examples.

## 1. Training

- For any procedural changes to be effectively implemented, police officers should be provided with **trauma-informed training** on the impact of an arrest on children, both short and long term.
- Training should include thorough guidelines on how to **communicate** with children per age. E.g. to lower oneself to the child’s level, speak in age-appropriate language, reassure them and explain to them what is happening.
- **Peer to peer training**: New ideas and procedural changes are successfully embedded into police culture when they are championed by fellow officers. Whilst this training should be informed by representatives of child welfare services and/or mental health professionals, it needs to be a **cultural shift** that takes place from **within** police forces. As such, training should be carried out by fellow officers.

## 2. Pre-arrest

- All measures should be taken, when possible, to **avoid arrest in the presence of children**. This may mean following **school times** to carry out arrests and avoiding locations where children are likely to be present.
- It should be determined on pre-arrest checklists if **children will be present at the home** or not.
- When possible, it should be determined if the arrestee speaks the **language** spoken by police officers. If not, a translation solution should be sourced in advance. Children should **never translate** between police and a parent in conflict with the law.

## 3. Mid-arrest

- At an arrest, officers should ask– as part of a routine set of questions – **if the arrestee is responsible for children and if they are present at the scene of the arrest**.
- **Violence Reduction** and **de-escalation** are a top priority. Officers should avoid the use of handcuffs where possible and limit the amount of loud noise.
- If children are present, **one designated trained officer** should be delegated to remove children from eye/earshot and explain what is happening in **developmentally appropriate language**.
- Officers should be aware that many arrested parents might be reluctant to inform police about children due to mistrust of social services and thus should **check for signs** of children, e.g. toys, children’s clothes etc.
- Police should uphold **dignity and respect** for children, the parent and the bond between them. Where appropriate, they should give a parent time to explain the situation to a child and allow the child to organise themselves if they are to be relocated for alternative care i.e. gather toys and familiar items.
- During an arrest, officers should provide those who are left with **adequate information** about the next stages: where an arrested parent will be and how to contact them.

## 4. Post-arrest

- **Data Collection** should be a priority of police once an arrest is over – this is where police and children’s welfare services should co-ordinate to share information, when appropriate, about the status of potentially vulnerable children.
- **Follow-Up**: when possible, police should work in conjunction with schools and child welfare services to perform follow up visits to families and schools should be informed **immediately** about the arrest of a parent.

*This briefing paper is accompanied by a more in-depth, resource-based Tool Kit with further information regarding the issue and suggestions of good practice, external programmes and model policy.*



## Endnotes

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- <sup>7</sup> Children of Prisoners Europe, Directors Report, 2020, unpublished.
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- <sup>16</sup> Scharff-Smith, P., & Gampell, L. (2011). *Children of imprisoned parents*. The Danish Institute for Human Rights, European Network for Children of Imprisoned Parents, University of Ulster and Bambinisenzasbarre, 61.
- <sup>17</sup> Ibid., 194.
- <sup>18</sup> San Francisco Police Department. (2014) General Order Children of Arrested Parents, DGO 7.04, Policies and Procedures for Juvenile Detention, Arrest and Custody. <https://www.sanfranciscopolice.org/sites/default/files/201811/DGO7.04%20Children%20of%20Arrested%20Parents.pdf>
- <sup>19</sup> Child Development-Community-Policing (CD-CP) Program, New Haven, Connecticut. <https://medicine.yale.edu/childstudy/communitypartnerships/cvtc/cdcp/>
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<sup>36</sup> Ibid.

<sup>37</sup> Office of the Ombudsman for Children, Croatia, <https://dijete.hr/en/homepage-ombudsman-for-children/>



Children of Prisoners Europe (COPE) is a pan-European network of non-profit organisations working with and on behalf of children separated from an imprisoned parent. The network encourages innovative perspectives and practices to ensure that children with an imprisoned parent fully enjoy their rights under the United Nations Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union, and that action is taken to enable their well-being and development.

Children of Prisoners Europe (COPE)

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With thanks to Paula Akyol

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SIRET: 437 527 013 00019



This document has been produced with the financial support of the Rights, Equality and Citizenship Programme of the European Union. The contents are the sole responsibility of Children of Prisoners Europe and can in no way be taken to reflect the views of the European Commission.