

In Danger of Falling Through the Cracks: Children of Arrested Parents

By Marcus Nieto

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EXECUTIVE SUMMARY

The California Legislative Women's Caucus has long been concerned about public policies related to arrested and incarcerated women and their families. In the fall of 2001, the Caucus requested that the California Research Bureau gather information about local law enforcement and child protective services policies and procedures relative to the children of arrested parents. Following the example of a 1994 national study by the American Bar Association,¹ we surveyed California's local police and county sheriff's departments and county Child Protective Services (CPS) agencies.* Our findings suggest that the children of arrested and incarcerated parents (mothers and fathers) in California are in danger of being left in unsafe situations. The results can be tragic, as with the recent murder of Megan Mendez, left at age three with abusive neighbors when her single parent mother was arrested on drug charges.²

How can the children of arrested and incarcerated parents "fall through the cracks?" In general, it is because key questions about the children are not regularly asked when a parent is arrested or incarcerated—a de facto "don't ask and don't tell" policy. Neither law enforcement nor CPS have the information they need to make a clear assessment of the numbers or appropriate placement of the children of arrested parents. Several cities have recently introduced policies to begin to remedy this situation, partnering with nonprofit organizations and/or CPS.

Don't ask: According to our survey, officers in only 13 percent of law enforcement agencies ask whether an arrestee has dependent children every time an arrest is made, whether or not children are present. Officers in a majority of law enforcement agencies do not ask about an arrestee's children at the scene of a crime or when making an arrest. If children are present at the time of arrest, officers in 42 percent of the responding departments will inquire about their care. If an arrestee offers information about children, officers in 39 percent of the departments will get involved, and 12 percent will ask about children when there is physical evidence at the scene (toys, clothes, baby bottles, etc.).

Nearly two-thirds of local law enforcement agencies do not have a written policy to guide their officers on whether, or how, to assume responsibility for minor children when a caretaker is arrested.[†] Only seven percent of the responding agencies report that their officers would assume responsibility for minor children in every arrest of a sole caretaker, and eleven percent report that they would never assume responsibility.

They report that the arrested sole caretaker is a woman in over 80 percent of the cases, and that she is most likely to be arrested for either a drug -or economic-related crime. Nonetheless, almost half of all law enforcement agencies (42 percent) do not know the number of mothers with minor children arrested in their jurisdictions, including 58 percent of the medium sized departments (100,001 to 500,000 jurisdictional population).

* The survey methodology and instruments are presented in Appendix A.

[†] Nevertheless, court decisions have found that officers have a duty to reasonably ensure the safety of children left unattended following a caretaker's arrest [White v. Rochford, 592 F2d 381 (7th Cir. 1979)].

Further, there appears to be very little communication and coordination between CPS and law enforcement agencies. Only one-quarter of the surveyed law enforcement agencies assume responsibility for a minor child when a sole caretaker is arrested, of those, nearly half determine where the child is placed without involving CPS.* Surveyed CPS agencies report that law enforcement agencies “almost always” notify CPS only about one-quarter of the time after the arrest of a mother with minor children.

Nearly half of the CPS agencies responding to the survey do not have any written policies guiding their staff on how to respond in an arrest situation to law enforcement requests for assistance with minor children. Nor do they have guidelines or consistent policies on how to place the children of arrestees. Approximately one-quarter of the agencies do have specific policies, and one-third report that they have applicable general policies.

Sixty-one percent of the responding CPS agencies report that once they are contacted by law enforcement to assume custody of the child, they will do so. Nearly one-third (31 percent) would assume custody, depending on the circumstances.

Asked whether the placement needs of children whose mothers are arrested are being met, only 54 percent of the CPS agencies responding to the survey agree that they are. The 46 percent of the agencies who feel that the children’s placement needs are not being met give the following reasons:

- 50 percent report that the number of foster homes in their area is inadequate;
- 25 percent have limited alternative placement options; and
- 25 percent state that placements take too long.

Only 11 percent of the CPS agencies agree that they respond well to the needs of the children of arrested parents.

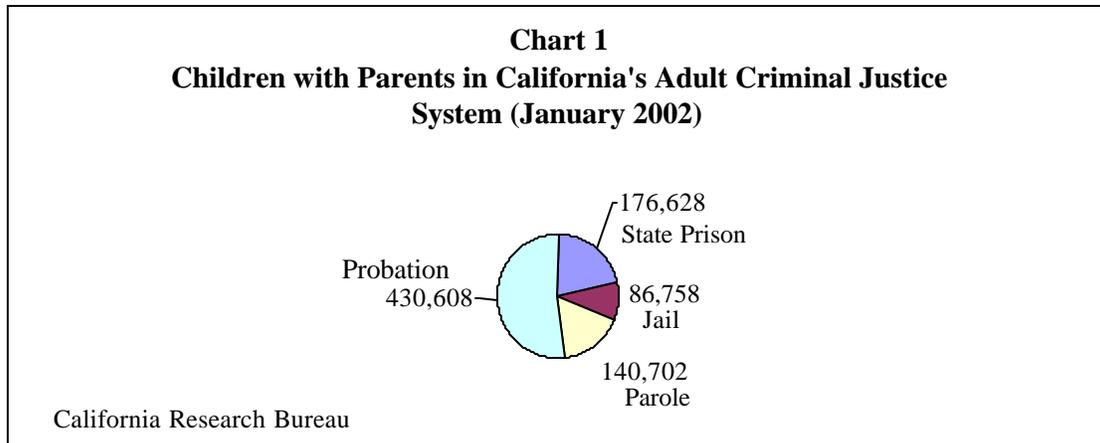
Don’t tell: Arrested parents may not have an incentive to tell police about their children, particularly if they are not asked. They may hope that friends, neighbors and relatives will care for the children without official involvement. Placement with CPS raises concerns about foster care and losing the children to adoption. (Under state and federal policy, if a sole caretaker parent is arrested and incarcerated, that parent could have their parental rights terminated if a child has been in foster care 15 of the last 22 months; six months, if the child is younger than three.) Unfortunately, arrested parents do not always make good choices for their children. Children have been left in drug homes and with inappropriate neighbors and relatives.

The time of sentencing is another point at which information about a prisoner’s children might be gathered and the children’s status and well-being reviewed. In some jurisdictions information about minor children is included in the probation report. The courts generally do not inquire about the location and care of the children at the time a

* The national American Bar Association study found that law enforcement officers make a variety of placement decisions in the field, including taking the child to the police station (a potentially traumatic experience for a young child), informally placing the child with neighbors or relatives, or calling in CPS.

prisoner is sentenced. Informal conversations suggest that criminal judges do not want, nor feel they have time, to become involved in a separate civil issue to ensure the safe and appropriate placement of the children.

Nearly nine percent of California's children have a parent involved in the adult criminal justice system. We estimate that 834,696 California children have a parent in jail, prison, or on parole/probation, as of the first quarter of 2002. According to the Census 2000, there are 9,249,829 children ages 0 to 17 in California.



Beyond immediate concerns about the children's safety, there are other reasons to pay attention to what happens to the children of arrested and incarcerated parents. In an earlier CRB report, we found that "...the effects of parental arrest and incarceration on a child's development are profound. The children may suffer from multiple psychological problems including trauma, anxiety, guilt, shame, and fear. Negative behavioral manifestations can include sadness, withdrawal, low self-esteem, decline in school performance, truancy, and use of drugs or alcohol, and aggression."³ Intergenerational incarceration, and its associated social and personal costs, is an important concern.

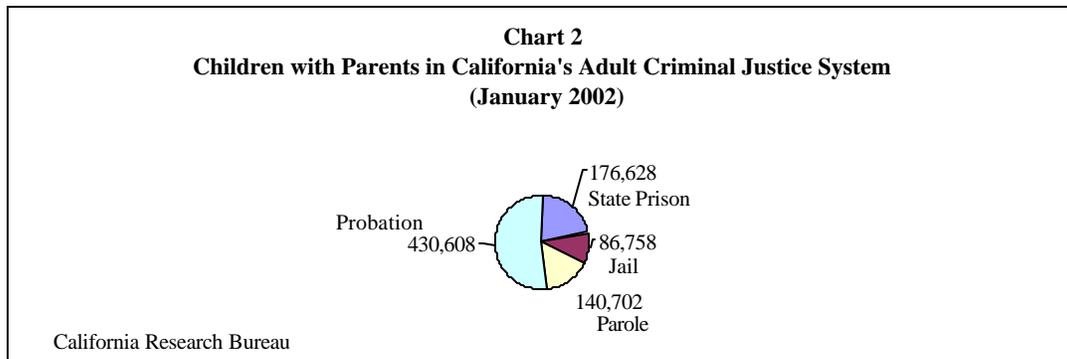
In the *Options* section of this report, we highlight some basic changes in local and state policies that could break the "don't ask, don't tell" silence and contribute to the safety and well-being of the children of arrested and incarcerated parents. Some of these are based on suggestions made by law enforcement and CPS agencies, although a discouraging one-third of the law enforcement agencies are of the opinion that nothing can be done to improve the current situation.

BACKGROUND

A police supervisor summarizes the dilemma of arresting police officers: “Once we leave, who knows what happens to those kids? We can’t take them with us...but what can we do.”⁴

One boy, now 16, was 9 years old when the police came to his door. They arrested his mother, who used drugs, but left him and his infant brother behind. (He speculates now that they must have thought there was another adult in the house.) For two weeks, he took care of the baby and stayed inside, waiting for his mother to come back...Eventually, a neighbor stopped by and called the authorities and he and his brother went into separate foster homes. He didn’t see his mother again until he was a teenager.⁵

When an adult is arrested and incarcerated in the U.S., he or she is likely to be the parent of a minor child. Adults in U.S. prisons (federal and state) were the parents of an estimated 1,498,800 minor children in 1999, an increase of 500,000 children since 1991.⁶ African-American children were nearly nine times as likely to have a parent in prison as white children, and Hispanic children were about three times as likely to have an inmate parent.⁷ While California does not keep family information about arrested or convicted persons, we estimate that approximately 834,696 children had a parent in the state’s criminal justice system (prison, jail, parole or probation) in the first quarter of 2002.*



Nearly two-thirds of incarcerated mothers are the sole caretakers of their children at the time of arrest.⁸ For this reason, their children may be at particular risk. In the first month of 2002, female inmates in California comprised nearly 13 percent of the statewide county jail daily census (9,476 women)⁹ and about six percent of the state prison inmate population (9,399 women).¹⁰ Although many more men are incarcerated, and about 55

* These estimates are based on research findings that 80 percent of California women incarcerated have an average of two children each; 55 percent of male prisoners nationally have children, and; the assumption that prisoners in jail and on parole and probation mirror these findings. All figures are for January 2002 except for probation, which is for 2000.

percent nationally are fathers, nearly 90 percent of their children remain in the custody of their mother.

Who cares for the children of arrested and incarcerated parents during their confinement? Criminal justice and child protective service agencies are increasingly faced with this difficult issue as tragedies involving neglected children of arrested and incarcerated parents are regularly reported in the news. In a recent case in Modesto, California, four year old Megan Mendez was found murdered after having been missing for two years. She was left with neighbors by her mother when her mother was arrested on drug charges. Megan's great-aunt's persistence finally led authorities to her body.¹¹

The effects of a parent's arrest and incarceration on a child are profound. In an earlier report, we found that, "The children may suffer from multiple psychological problems including trauma, anxiety, guilt, shame, and fear. Negative behavioral manifestations can include sadness, withdrawal, low self-esteem, decline in school performance, truancy, and use of drugs or alcohol, and aggression."¹² Intergenerational incarceration, and its associated social and personal costs, is an important concern. According to a recent article, as many as half of all juvenile hall inmates have a parent who has been incarcerated.¹³ An incarcerated mother explains her children's pain and her worry:

If you think it's bad for me, imagine what me being in jail is like for my kids. Yes, they have suffered all right. They have no one to help them along now that I'm here. No mother, no father, all of their friends make fun of them, and they don't have anyone in the world. At least if the judge is going to keep me here, he should give something for my kids. I worry that my boys are already headed down the wrong path because I'm not there to be watching out for them. Can't someone help my children?¹⁴

CALIFORNIA LAW

California laws do not specifically address the needs of children whose primary caretakers are arrested and/or incarcerated. However, Article 6 of the Welfare and Institutions Code covers related issues. Under Section 305, law enforcement personnel are empowered to take protective custody of a child when they have reasonable cause for believing that the child "...has an immediate need for medical care...is in immediate danger of physical or sexual abuse, or the physical environment *or the fact that the child is left unattended* poses an immediate threat to the child's health or safety" (italics added).¹⁵ Once a peace officer has taken a minor child under protective custody, under Section 307 the officer is to "...give preference to the alternative which least interferes with the parents' or guardians' custody of the minor if this alternative is compatible with the safety of the minor."¹⁶

Under Section 300 of the Welfare and Institutions Code, a child can fall within the jurisdiction of the juvenile court in a number of circumstances, including (g) "The child has been left without any provision for support...the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child..." A minor adjudged a

dependent child of the court under Section 300 can be removed from the parent's physical custody, or the parent's control over the minor can be limited.¹⁷ This applies to several situations, including when, "The minor has been left without any provision for his or her support, or [when] a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor..."¹⁸

RELATIVE PLACEMENT

Children are often placed with relatives when a parent is arrested or incarcerated. In California, any peace officer, probation officer or social worker may release a minor who has been taken into temporary custody to a responsible relative, provided a reasonable assessment of the relative's suitability and criminal background check is satisfactory.¹⁹ A California Court of Appeals case (*Terry E.*, 225 Cal. Rptr. 803 (Cal. App. 1986)) refused to terminate the parental rights of an incarcerated mother because the Department of Social Services ignored her repeated requests to have her relatives evaluated as caregivers. The court noted that the Department of Social Services has a duty to explore placing the child with guardian relatives.

REASONABLE EFFORTS TO PREVENT A CHILD'S REMOVAL FROM A PARENT

Under *Welfare & Institutions Code § 361.5(e) (1)*, the juvenile court is required to order provision of reasonable services for an incarcerated parent or guardian whose child is in foster care. An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs if these programs are available. Reasonable services may also be offered to extended family members or to foster parents providing care for the child.

Following the federal Adoption and Safe Families Act of 1997, California places a 12-month limit on temporary foster care services for children over three years of age, and a six-month limit on temporary foster care services for children ages three and younger. Concurrent permanency planning can lead to termination of parental rights and adoption of the children at the end of the time period. The time frame for temporary services can be extended to 18 months if the court determines that the child is likely to be returned and safely maintained in the home within the extended time period [*Welfare & Institutions Code § 361.5(a)*]. A key goal is to assure that there is a permanent home for the child as soon as possible. Many incarcerated parents are sentenced to serve terms of more than 18 months and thus are likely to have their parental rights terminated if their children are placed in the foster care system.

California courts may also terminate the rights of a parent convicted of a felony indicating parental unfitness [*Welfare & Institutions Code § 366.26(c)*]. The Juvenile Court has the ultimate authority to determine if reunification is in the best interest of the child, especially when an incarcerated parent has failed while on probation/parole on one or more occasions [*Welfare & Institutions Code § 361.5(e)(1)*].

AMERICAN BAR ASSOCIATION STUDY

In 1994, the American Bar Association (ABA) conducted a three-year nationwide study to explore what communities were doing to meet the needs of children whose parents were arrested and incarcerated.²⁰ The study examined local law enforcement and child protective services responses from the time of a parent's arrest and the child's emergency placement, through the parent's incarceration and the child's possible foster placement, to the parent's release and the family's possible reunification. Some of the major findings from the 1994 ABA study were as follows:

Law Enforcement

- Arrests of mothers of minor children were increasing.
- Law enforcement officers did not consistently ask the arrested parent about the status of any children.
- The arrestee, and not the law enforcement officer or a child protective services worker, usually made the initial decision as to where the child would stay.
- Police officers were required to contact their local child protective services agency upon the arrest of the caretaker of a minor child only if they suspected child abuse.
- Many law enforcement departments provided no formal training to their officers about their personal responsibility and potential liability for the well-being of children whose sole caretaker is arrested.
- If the arrestee was not charged with a serious offense, law enforcement officers were likely to use their discretion to "cite and release," so as not to separate caretakers from their children.
- A small number of law enforcement agencies nationwide notified child protective services when they arrested a mother who was the sole caretaker of minor children.
- When asked to recommend improvements, most police officers suggested changes outside of the law enforcement departments: increased availability of child placements, improvements in Child Protective Services (CPS), counseling for arrestees and children, greater community involvement with children of arrestees, and better CPS follow-up with the children.

Child Protective Services (CPS)

- CPS workers reported a rise in the number of calls from police for their help in placing children of arrestees.
- Few informal procedures were in place for CPS to check on the nominated caretaker's acceptability.
- A majority of CPS workers said a caretaker's sentence length had no impact on a child's placement.
- The type of crime committed by the caretaker did not have an impact on where or with whom the child was placed, except when the crime was of a violent nature.
- A child's age did affect placement; older children were more likely to be housed in group homes, reside with friends, or live independently. Younger children were more likely to be permanently placed for adoption.
- Few CPS agencies nationwide had a special policy regarding placement of children of arrestees.

FINDINGS OF THE CRB LAW ENFORCEMENT SURVEY

In the fall of 2001, we surveyed all California local police departments, county sheriff's departments, and social welfare departments (which administer child protective services). The research project consisted of two components. The first phase was a two-part questionnaire sent to 350 local law enforcement agencies, 58 county sheriffs' departments, and 58 county social services and welfare departments. The second phase was composed of a series of on-site interviews with local community-based service providers who work with children, their caretakers, and incarcerated parents to enable successful parental reunification. The questions in the survey were modeled on the 1994 national study by the American Bar Association (ABA) discussed above.²¹ (See Appendix A for the CRB survey methodology and instruments.) The goals of the survey were to:

- Assess existing policies, procedures and practices of California law enforcement and child protective services agencies relative to children whose primary caretaker(s) have been arrested and/or incarcerated.
- Assess whether law enforcement responds differently to a mother's arrest than a father's arrest.
- Assess the type of services provided to children of arrested parents by child protective services agencies.
- Identify innovative strategies that could be implemented by local law enforcement and child protective services agencies to improve their responses to the children of arrested or incarcerated parents, as well as services that might be provided to the children's caretakers.

CALIFORNIA RESEARCH BUREAU LAW ENFORCEMENT SURVEY FINDINGS

Since about two-thirds of arrested and incarcerated mothers are the sole caretakers of their children, our questions focused on a mother's arrest.* This is because when a single parent is arrested and jailed, the immediate and long-term care of the children become critical concerns.²² However virtually all of the law enforcement survey respondents said that their responses would have been the same for arrested fathers, so the findings are applicable to all parents.

Law enforcement survey respondents were asked to provide information about their departmental workloads for the preceding six months, including the number of uniformed officers and the characteristics of arrestees. The size of the law enforcement agencies in the survey varied from six to nearly 9,000 sworn officers. We analyzed survey responses by jurisdictional population, in part to see if size and resources have an impact on

* Nearly 90 percent of the children of incarcerated fathers continue to live with their mothers after the incarceration. Only half of these fathers were living with their youngest child prior to incarceration.

departmental practices. Four categories of law enforcement departments are used in the analysis:

- Small departments (10,000 or less jurisdictional population)
- Average departments (10,001 to 100,000 jurisdictional population)
- Medium departments (100,001 to 500,000 jurisdictional population)
- Large departments (500,000 or more population)

ARRESTED MOTHERS

According to the law enforcement survey respondents, the arrested sole caretaker is a woman in over 80 percent of the cases, and is most likely to be arrested for either a drug- or economic-related crime. Nonetheless, close to half of all law enforcement agencies (42 percent) did not know the number of mothers with minor children arrested in their jurisdictions. Medium sized departments were the least attentive to this issue; 58 percent did not know the number of arrested mothers. As Table 1 shows, the estimated number of mothers arrested on felony charges ranged from one to 200.

Size of Law Enforcement Agency	Small	Average	Medium	Large
Number of Arrested Mothers				
1-4 mothers	31 percent	12 percent	3 percent	0 percent
5-10 mothers	6 percent	11 percent	0 percent	0 percent
11-20 mothers	12 percent	12 percent	8 percent	0 percent
21-50 mothers	3 percent	15 percent	11 percent	0 percent
51-100 mothers	0 percent	8 percent	6 percent	24 percent
101-200 mothers	1 percent	4 percent	6 percent	13 percent
200 or more mothers	0 percent	3 percent	8 percent	25 percent
Number of arrested mothers with minor children not known	47 percent	35 percent	58 percent	38 percent

Source: California Research Bureau Survey, 2001

When asked if there had been an increase in the number of arrests of mothers of minor children in the preceding six months, one-third of the survey respondents said there had been, 38 percent did not know, and 30 percent reported that the number was the same.

Of the law enforcement agencies (all jurisdictions) that reported an increase in the arrests of mothers of minor children, 42 percent attributed the rise to an increase in drug-related crimes, 39 percent cited increased law enforcement activities, and 17 percent cited an increase in economic-related crimes (Table 2).

Law Enforcement Agency Size	Small	Average	Medium	Large
Has the number of arrested mothers increased?	Yes-38 percent	Yes-33 percent	Yes-27 percent	Yes-58 percent
No change	21 percent	33 percent	26 percent	8 percent
Don't know	41 percent	29 percent	47 percent	34 percent
Reasons for the Increase				
General increase in law enforcement activity	14 percent	13 percent	11 percent	8 percent
Drug-related crime	24 percent	13 percent	5 percent	25 percent
Increase in prostitution	0 percent	0 percent	0 percent	17 percent
Economic-related crime	0 percent	7 percent	3 percent	8 percent
Other factors	0 percent	0 percent	8 percent	8 percent

Source: California Research Bureau Survey, 2001

Given the large number of parental arrests, one might suppose that arresting officers would be faced with issues relating to children, with an impact on departmental workloads. However, only ten percent of the law enforcement agency survey respondents report that the children of arrested mothers cause them *major* problems. These problems include difficulties in dealing with traumatized children, problems with transporting the children, and/or difficulties with interagency communication. Three quarters of the law enforcement respondents report having had *some or a few* of these problems, and only 14 percent of the respondents had no problems.

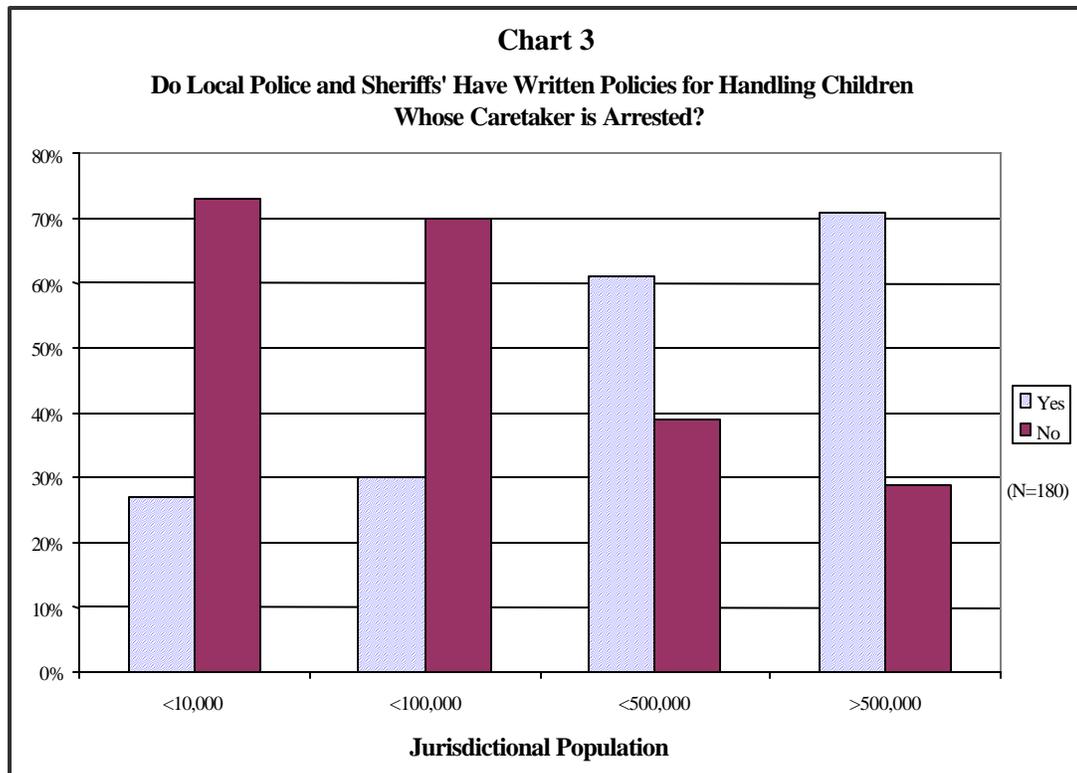
Factors that can assist law enforcement responses include good interagency relationships with CPS, training to guide officers' responses, decisive actions by individual officers, and the ready availability of shelters to care for the children.

Law Enforcement Policies and Practices

Two-thirds of the responding departments report that they do not have a written policy outlining their officers' responsibilities for minor children at the time of a caretaker's arrest. Law enforcement agencies in large populated areas are far more likely than smaller agencies to have such policies.

Only 13 percent of the law enforcement survey respondents report that their officers will always inquire about an arrestee's children, whether or not the children are present. A majority of law enforcement agencies do not ask about an arrestee's children at the scene of a crime or when making an arrest. If children are present at the time of arrest, officers in only 42 percent of the responding departments will inquire about their care. If an arrestee offers information about children, officers in 39 percent of the departments will get involved, and 12 percent will ask about children when there is physical evidence at the scene (toys, clothes, baby bottles, etc.).

If the arrested person is a woman, 43 percent of the responding department's officers are more likely to ask about children. However 38 percent are not more likely to ask an arrested woman about children, and 19 percent do not know what is likely to happen. Officers in small law enforcement agencies (with jurisdictions of less than 100,000 population) are more likely to ask an arrested woman about unattended children than are officers in larger departments (over 100,000 population). Thus even though larger departments are more likely to have policies, officers in smaller departments appear to be more sensitive to this issue.



Source: California Research Bureau/State Library Survey 2001

Of the agencies that have written policies, only seven percent said that they would assume responsibility for minor children in every arrest of a sole caretaker; eleven percent report that they would never assume responsibility (See Chart 3 above). Nine percent would assume responsibility only if the child is deemed to be in need of care or is in danger, while seven percent would assume responsibility only if they suspected child abuse. These findings are seemingly contrary to *Welfare & Institutions Code 300(g)*, in which a child “left without any provision for support (whose)...parent has been incarcerated or institutionalized...” is subject to the jurisdiction of the juvenile court.

Law Enforcement Group Interviews

We interviewed officers in two medium-sized law enforcement agencies (city and county), and asked about their responses to children of arrested mothers. One jurisdiction has a recently adopted departmental policy defining officer responsibility and one does not. The difference seems to be due to the interest and initiative of a new Chief.

The interviewed law enforcement officers report that they generally rely upon their instincts as to who should be designated as responsible for a child when arresting a female caretaker. In some cases this means locating a family member, relative, friend, or trusted neighbor and waiting at the scene until they can arrive. In other instances, the children are transported in a police car to the station to await the arrival of a caretaker.

Officers in a county department state that they have the primary responsibility for locating caretakers for the children of arrested parents. Even when an arresting officer is called to another crime scene, other personnel will remain with the child(ren) until a caretaker arrives. Sometimes that means staying as long as three hours with a child. The officers contend that CPS workers are reluctant to respond to their requests for help because they have “higher priority” children to deal with. The officers assert that if a mother is arrested in this relatively middle class urban area, CPS assumes that a spouse, relative, or neighbor is readily available to take responsibility for the child(ren).

The circumstances involved in the arrest of a caretaker influence officers’ decisions as to who should assume temporary responsibility for a child. For example, if a violent crime has occurred, officers are more likely to try to involve a CPS worker.

One urban department has a CPS worker assigned to the department, which enables officers to make quicker and better field decisions. They know a child’s proposed caretaker will be interviewed and the home inspected by CPS (see page 28 for a discussion). Having CPS involved in the placement of children when a sole caretaker is arrested relieves law enforcement officers of the stress and responsibility for the child.

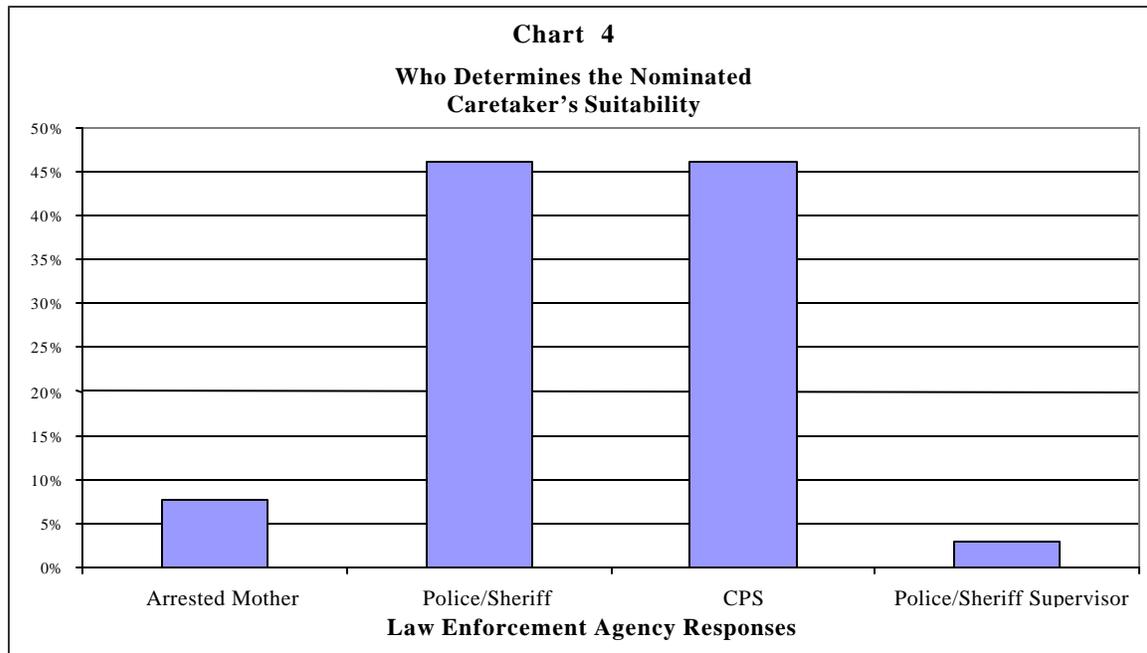
Whether or not CPS is involved, law enforcement officers report that having more temporary child placement options available would make their job easier, without requiring immediate CPS involvement. These options might include more domestic violence shelters, crisis nurseries, churches, or other civic and social service agencies. Many of these family service agencies are local nonprofits that offer a case-managed approach to providing appropriate services to the arrested parent, the caretaker and the children. The goal is often family support and reunification. In contrast, involving CPS may require foster care and eventual adoption of the children.

Practices Related to Child Placements

When arresting a parent, an officer may request that the parent designate a temporary caretaker (relative, friend, or neighbor) for the children. Nearly two-thirds of the responding agencies report that they will accept an arrestee’s suggested caretaker, at the discretion of the arresting officer. This is more likely when the crime is non-violent. Officers in smaller law enforcement agencies are the most likely to grant a mother’s request for her children’s placement. An officer’s response is conditioned by limited resources, and depends on the ability of the officer to make a judgment call in the field.

More than half of the responding departments have procedures in place to check on the suitability of a nominated caretaker, but 44 percent do not. This is important because 46

percent of the departments report that their officers determine whether a child's placement is acceptable or not. An equal number of departments rely on a determination by child protective services. Thus a significant number of child placements are made by police officers in the field, at their discretion, and perhaps without the benefit of departmental policies and procedures.

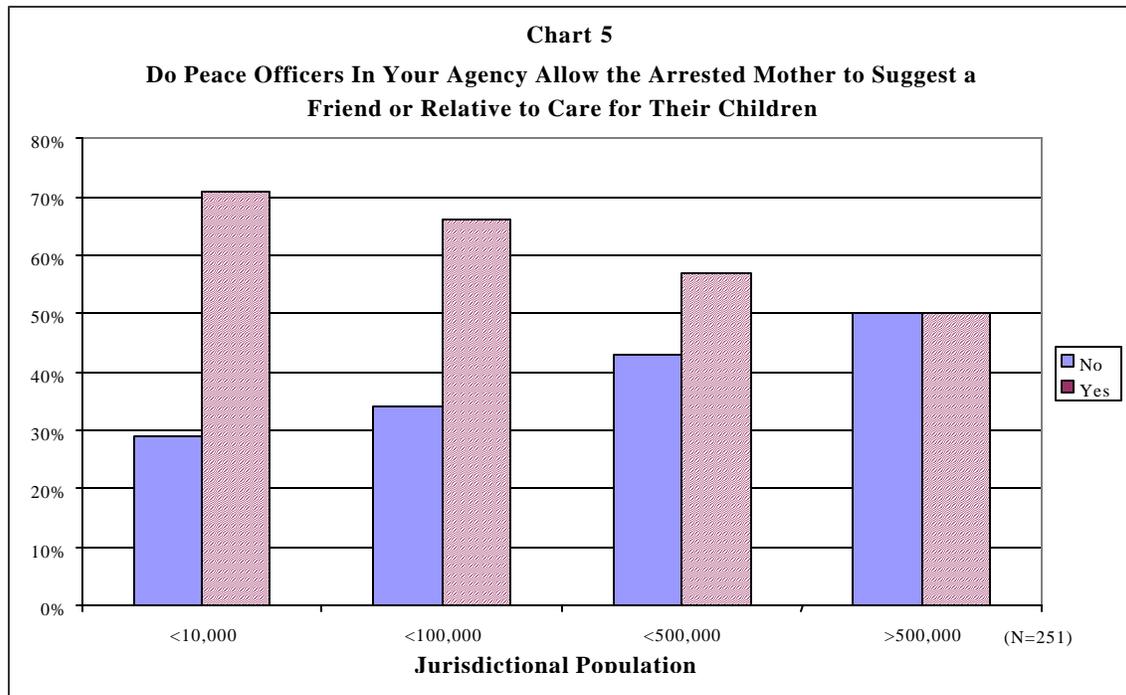


Source: California Research Bureau/State Library Survey 2001

Of the departments that do have specific procedures in place to check on a nominated caretaker's suitability (54 percent of the total):

- 40 percent rely on a police background check;
- 38 percent rely on child protective services (CPS) to conduct a background check; and
- 21 percent require the officer to conduct a site inspection of the nominated caretaker and home.

In follow-up conversations, law enforcement agencies point out that they are mandated to report to CPS when they suspect that a child has been abused or neglected. Nearly half of the agencies responding to the survey (49 percent) report that their arresting officers involve CPS when a child is present and drugs and alcohol were used at the scene by the arrestee(s). Clearly there are a significant number of cases in which CPS is not involved.



Source: California Research Bureau/State Library Survey, 2001

Notification of Other Agencies

When officers are aware that an arrestee has minor children, four-fifths (82 percent) of the law enforcement survey respondents report that they are required to notify another agency if the arrestee is a sole caretaker. Nearly one-fifth (18 percent) report that they are not required to notify another agency. Of the law enforcement agencies that notify other agencies, 91 percent contact the local CPS and nine percent notify other local agencies. Although nearly all (94 percent) report that they make the notification as soon as possible, only 68 percent call by telephone, while 22 percent notify in writing.

Relationship with Child Protective Services

To learn more about law enforcement agency relationships with CPS, we asked them to describe the nature of that working relationship. When a caretaker is arrested and a child is at the scene, 31 percent of the law enforcement agencies will request that CPS take custody of the child. At the other end of the spectrum, six percent of the law enforcement agencies report that they have no working relationship with CPS.

A few law enforcement agencies have developed a close working relationship with CPS. Four percent of the agencies have a CPS worker stationed on site at the police or sheriff's department, and 11 percent describe their working relationship as cooperative and very good. We describe two such models later in the report.

Suggestions for Improvements

Law enforcement agencies offer a number of suggestions for improving responses to children of arrestees, although the most common--and discouraging--response of nearly

one-third of the agencies is that nothing can be done. Seventeen percent of the agencies suggest that CPS could improve their response time, 13 percent recommend better staff education and training, 15 percent mention the need for more child placements in foster care and/or more shelters for children, and 10 percent suggest hiring more law enforcement staff. Other responses include:

- Improving basic necessities, such as providing comfortable holding areas for children in police and sheriff stations, and food and toiletries;
- Establishing written procedures; and
- Having more “child-friendly” law enforcement staff.

RESPONSES TO HYPOTHETICAL CASES

The survey posed two hypothetical cases in order to better understand how law enforcement personnel in the field might respond to these situations.

Scenario 1: Officers/deputies arrest a mother of two children, whose ages are six months and five years, on a drunk driving charge on a Saturday at 2 p.m. They take the mother into custody and learn that she has an outstanding warrant for welfare fraud. She tells the officer that she is an only parent and the children are with a teenage babysitter who is expecting to go home at 4 p.m. (the father’s whereabouts are unknown—he has not provided any child support for several years). She further relates that her next-door neighbor would probably be willing to take care of the children. What would your officers/deputies likely do? Which agencies, if any, would they consult?

Table 3 reports the most common responses to this scenario. These vary considerably by jurisdiction size. Some agencies answered more than one possible response, so the totals are not cumulative.

Responses	Notify or place child with CPS	Leave child with the neighbor	Take custody of child
<i>Jurisdiction Size</i>			
Population greater than 500,000	32 percent	16 percent	26 percent
Population 100,000 to 500,000	48 percent	18 percent	16 percent
Population 10,000 to 100,000	50 percent	23 percent	14 percent
Population 10,000 and less	63 percent	19 percent	2 percent
Total percentage all jurisdictions	50 percent	21 percent	14 percent

Source: California Research Bureau, 2002

Less frequent responses included:

- Book/Charge/Arrest (2 percent)
- Neighbor not an option (2 percent)
- Follow-up after arrest (3 percent)
- Seek parental consent (2 percent)
- Find family relative (2 percent)
- Seek a shelter (4 percent)

As Table 3 reports, the most common law enforcement response is to notify or place the child(ren) with CPS, although less than half of all the large law enforcement agencies responding to the question would do so. Smaller departments are more likely to say that they would notify CPS. Generally an officer would call CPS directly and tell where the child is located so that CPS can arrange for placement. In a small number of cases, officers would call CPS for consultation rather than to arrange placement. Some respondents said that leaving a child alone would qualify as a case of child abuse.

Officers in smaller departments are the most likely to leave children with a neighbor, while those in large departments are less likely to do so. In a significant number of cases (21 percent), an officer would be dispatched to the house to supervise the transfer of the children. Several departments report that a mother's advice about a neighbor would be accepted unless the mother is "extremely intoxicated," in which case officers at the scene would not accept her recommendation.

Approximately 14 percent of all the respondents would instruct their officers to take custody of the child at the scene and take the child to the department until CPS arrives. This response is more likely in larger departments.

Other suggested responses by several departments include:

- having a juvenile unit/division take responsibility;
- trying to persuade the babysitter to stay until a decision could be made by CPS; or
- taking the children to a shelter, where they could await a neighbor or relative.

Scenario 2: Your officers/deputies witness a street drug buy at 6 p.m. on a Friday evening. They arrest the man selling the drugs and his customer. They discover the seller's three minor children were left in his vehicle near the drug buy. They range in age from 7 to 13 years old. The arrestee states that their mother is deceased and he is their only parent. His cousin lives in the next county and he thinks she would care for the kids. What would your officer/deputy likely do? Which agency, if any, would they consult?

There were seven different responses to this scenario; the most frequent are reported in Table 4. Again, the totals are not cumulative as departments could select more than one response.

Table 4			
Most Frequent Law Enforcement Responses to Scenario #2			
Responses	Notify or ask CPS to take custody	Take custody of child at the scene	Let cousin take child
Jurisdiction Size			
Population greater than 500,000	41 percent	18 percent	18 percent
Population 100,001 to 500,000	49 percent	19 percent	17 percent
Population 10,000 to 100,000	57 percent	16 percent	12 percent
Population 10,000 and less	77 percent	2 percent	12 percent
Total percentage all jurisdictions	58 percent	15 percent	13 percent

Source : California Research Bureau, 2002

Again, the most common law enforcement response is to notify or place the child (ren) with CPS, although less than half of all the large law enforcement agencies responding to the question report that they would do so. Smaller departments are much more willing to contact CPS. Many respondents said that their officers would not have the time to transport the children to the next county, or to wait for the cousin to arrive and pick up the children. Some respondents said that CPS would be called because a cousin is not considered a close enough relative.

Fifteen percent of the responding departments would expect their officers to take custody of the children at the scene, as the safety of the children is their main concern. However, the smallest departments are very unlikely to involve their agencies in taking custody of a child, as only one department supported this option. Perhaps for reasons related to personnel and resources, these small agencies may not have the means to take responsibility for children.

A relatively small number of departments would either transport the children across county lines to the cousin's house, or bring the children to the station to await the cousin's arrival. Several departments would contact law enforcement in the cousin's county to do a background check before releasing the children to her. Other responses included transporting the children to a community shelter until a suitable caretaker could be located, finding a family member to take custody, and/or following up with CPS to see how the children are doing.

FINDINGS OF THE CRB CHILD WELFARE SURVEY

In surveying child protective service (CPS) agencies in California, we were particularly interested to learn whether the agencies have specific policies offering guidance to staff about how to respond to and place the children of arrestees. Arrests are complex situations, and there are a range of CPS relationships with law enforcement agencies.

LAW ENFORCEMENT CALLS TO CPS ABOUT FEMALE ARRESTEES WITH CHILDREN

All CPS agencies responding to the survey report that they have received calls from law enforcement agencies about the children of arrested mothers. In the six months preceding the survey, CPS agencies received between 4 and 50 or more such calls, with a mean of 17 (N=36). Twenty percent of the CPS agencies report that the number of calls from law enforcement has increased over the last few years. When asked to account for this increase, 40 percent referred to the rise in drug-related crimes, 40 percent noted that economic crimes are on the rise, 15 percent cited a depressed economy, and 5 percent responded that the increase was due to some combination of these factors.

The vast majority of CPS agencies agree that when law enforcement agencies call them after the arrest of a female with children, the arrestee is almost always the sole caretaker (see Table 5). One quarter of the agencies presume that law enforcement agencies always call them following the arrest of a female caretaker with minor children, and nearly two thirds of the agencies report that law enforcement contacts them occasionally or usually (see Table 5A). However, since only thirteen percent of law enforcement agencies respond that their officers always inquire about an arrestee's children (see page 14), the ability of law enforcement to notify CPS is limited.

Table 5					
CSP Agencies' Estimate of How Often an Arrested Caretaker of a Minor Child Is a Female					
How Often Female Arrestee is Sole Caretaker	Over 90 percent of the time	80-89 percent of the time	70-79 percent of the time	50-69 percent of the time	Less than 50 percent
CPS Agencies that Estimate Each Frequency	35 percent of CPS agencies	35 percent of CPS agencies	15 percent of CPS agencies	8 percent of CPS agencies	7 percent of CPS agencies

Table 5A					
CPS Agencies' Estimate of How Often They are Notified by Law Enforcement When a Female with Children is Arrested					
Frequency of Notification	Almost Always	Usually	Sometimes	Rarely	Don't Know
CPS Agencies that Estimate Each Frequency	25 percent of the agencies	30 percent of the agencies	30 percent of the agencies	13 percent of the agencies	2 percent of the agencies

Source: California Research Bureau, 2002

CHILD PROTECTIVE SERVICES PLACEMENT POLICIES AND FACTORS AFFECTING PLACEMENT

Nearly half of the responding CPS agencies do not have any written policies guiding their staff on how to respond in an arrest situation to law enforcement requests for assistance with minor children. Nor do they have guidelines or consistent policies on how to place the children of arrestees. In contrast, nearly a quarter of the agencies do have specific policies, and a third report that they have applicable general policies (see Table 6).

When called by law enforcement, CPS agencies must assume custody of a child who is abused or who is involved in a domestic violence situation. However, CPS agencies are not mandated to assume custody of the children of a female caretaker arrested for a simple felony, if called to do so by law enforcement. CPS agencies often have limited resources to assume custody of child(ren) whose mother has been arrested. Sixty-one percent of the responding CPS agencies said once they are contacted by law enforcement to assume custody of the child, they will do so. Nearly one-third (31 percent) would assume custody, depending on the circumstances.

CPS agencies report a range of responses to the arrest of a mother with children. Most would assess the child for possible placement, hold the child until a determination could be made, attempt to locate a relative, place the child with whoever the parent suggests, or explore possible placements including foster care (see Table 6A).

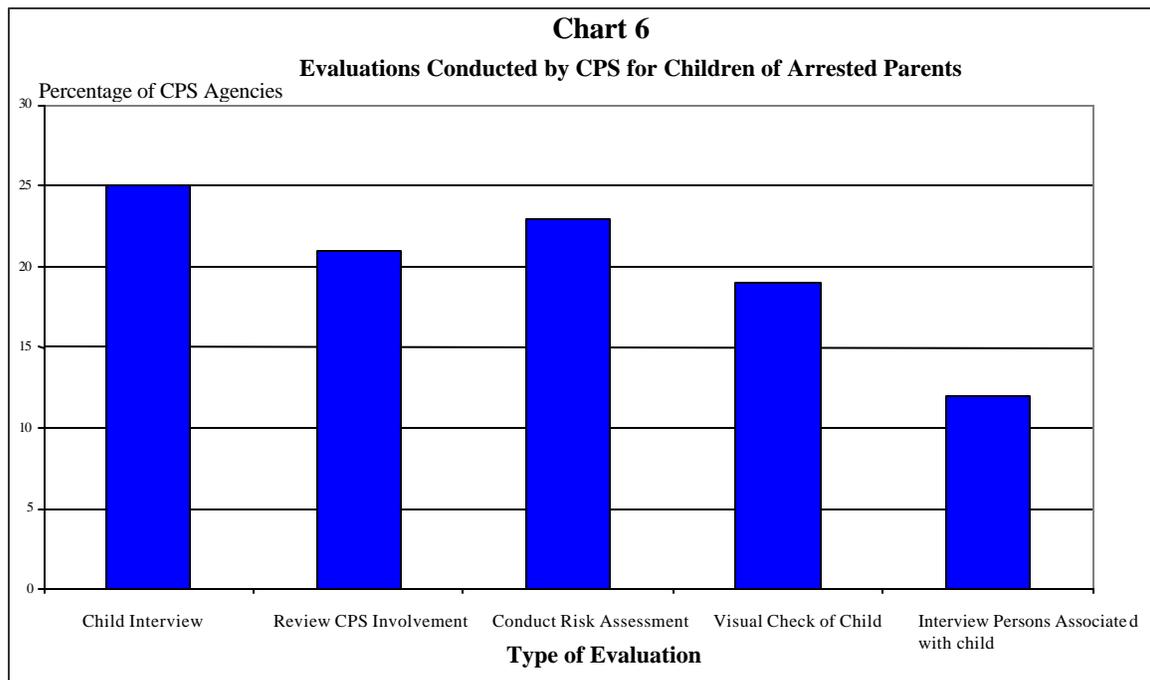
Does the Agency have a Response Policy?	Specific Policy	General Policy	No Policy
Percentage of CPS Agencies	23 percent of agencies	33 percent of agencies	44 percent of agencies

Assess the situation for possible placement	24 percent of agencies
Hold the child until an arrangement can be made	14 percent of agencies
Find a list of placements	10 percent of agencies
Attempt to locate and/or place child with relative	20 percent of agencies
Give the child to whomever the mother suggests	10 percent of agencies
Do risk assessment of child and/or caretaker	12 percent of agencies
Find other placement options including foster care	10 percent of agencies

Source: California Research Bureau, 2001

CPS EVALUATION OF CHILDREN OF ARRESTED PARENTS

Under California law (Welfare & Institution Code § 300), CPS agencies are required to look for signs of abuse when a child is brought to them for protective custody. One-fourth of the CPS agencies responding to the survey report that they interview the child as part of the evaluation, 21 percent check their records for any history of CPS involvement, 19 percent visually check the child, and 23 percent conduct a risk assessment (see Chart 6). Of those agencies that conduct a risk assessment, half report that the assessment might consist of an interview with the child and 11 percent respond that it might consist of a discussion with anyone who has information about the child's situation (law enforcement, neighbors, etc.).



Source: California Research Bureau 2002

ARRESTED MOTHER'S INVOLVEMENT IN CHILD PLACEMENT

Most CPS agencies (82 percent) report that they have access to an arrested mother, and that her wishes are taken into consideration in decisions about her child(ren)'s care. However, nearly one-fifth of CPS agencies (18 percent) do not have access and are unable to talk to an arrested mother about her child(ren)'s placement.

Two-fifths of the CPS agency respondents (41 percent) report that their primary response is to interview an arrested mother right away to determine where her child(ren) could be placed. The same number of agencies rely on a combination of approaches, including locating a family member, relative, or close neighbor to care for the child(ren). A small number of CPS agencies limit the mother's role in determining her child(ren)'s placement depending on the crime she committed, her coherence or mental state, and her reliability. Other CPS responses include not allowing the mother to participate in the placement

decision, no participation while under the influence, and no participation if there is a history of CPS involvement.

Mothers do not always agree to the placements that CPS agencies arrange for their children. Over half of the agencies (58 percent) report that the mother almost always agrees, 25 percent respond that she sometimes agrees, and the remaining agencies state that she rarely agrees.

Suitability of Caretakers

Virtually every CPS agency responding to the survey conducts a suitability assessment of an arrested mother's nominated caretaker. Agencies report twenty different kinds of assessment options, and over half use two or more. For example, an assessment of a potential caretaker could include a finger print check, a background investigation, and a personal interview. One in four agencies conduct a criminal background and records check for child abuse or other major felonies. Seventeen percent review for any CPS history and involvement, and 18 percent conduct a home evaluation before approving the caretaker. Other assessment options include a caretaker questionnaire, face-to-face interviews, placing a child in a foster home until the assessment is completed, and following a variety of internal county protocols for protecting children.

There are qualifying factors as to the thoroughness of CPS caretaker suitability assessments. Some CPS agencies report that it depends on whether they have time, whether there are obvious problems with the nominee, whether an active case is open, who has custody, the family's history, and if licensing requires a background check because the nominee wants to become a foster parent.

Asked whether the placement needs of children whose mothers are arrested are being met, only 54 percent of the CPS agencies responding to the survey agree that they are. The 46 percent of the agencies who report that the children's placement needs are not being met give the following reasons:

- 50 percent report that the number of foster homes in their area is inadequate;
- 25 percent have limited alternative placement options; and
- 25 percent state that placements take too long.

Reunification

In cases in which there are no indications of abuse or neglect, and the mother is released within a few days of the arrest, 43 percent of the CPS agencies state that mother-child reunification is automatic. However, 57 percent of the agencies say that reunification is not automatic in these circumstances, for the following reasons:

- the court is responsible for deciding about reunification (24 percent);
- it depends on the circumstances (24 percent);
- the case must go through a CPS review based on family history (24 percent);
- a risk assessment must be completed (10 percent);
- it depends on the seriousness of the charge (12 percent); or
- it depends on the criminal history (8 percent).

CPS Responses to Fathers as Sole Caretakers

All of the CPS agencies report that they would answer the questions in the survey the same way if the hypothetical arrestee was a father instead of a mother.

Suggestions for Improving CPS Responses to Children of Arrestees

Twenty-one percent of the CPS survey respondents agree that they need more shelters and foster care homes to serve the needs of the children of arrested and incarcerated parents. Fourteen percent of the agencies report that they need better staff support and resources, including counselors. Other suggestions include better coordination with law enforcement, training for law enforcement officers about the needs of children, child-friendly rooms in police departments, lower CPS caseloads, better jail and prison visitation conditions for children, and more monetary support for families. Only 11 percent of the responding agencies agree that the CPS works well already.

Over one-fifth of the CPS agencies (22 percent) agree that they need to do a better job of finding relatives and placing children with them in a timely manner. This issue is of concern to many community-based organizations involved with the families of arrested and incarcerated parents. Placement of children with relatives, and support for kinship caregivers, can be in the children's best interest. It can also be cost effective, by avoiding foster care. In addition, once a child enters the foster care system, the child may be adopted out before a parent's release from jail or prison, due to expedited permanency planning timelines (*Chapter 1083, Statutes of 1996*).²³

INNOVATIVE PROGRAMS

Several innovative county pilot programs are improving immediate responses to the children of arrested parents with formalized CPS-law enforcement relationships. In Los Angeles County, the Sheriff's Department, in conjunction with the county Department of Children and Family Services (DCFS), is piloting a new program in the Lancaster/Palmdale area to improve responses to children whose mother or sole caretaker has been arrested. The pilot program is designed to break down barriers between the two agencies, and to give law enforcement and DCFS workers a better understanding of each other's roles. Prior to the pilot program, sheriff deputies would seldom inquire about children when arresting a mother for fear of being held liable for the children's safety and well-being. According to one officer interviewed about the program, sheriffs' deputies did not want to be "social workers in the field."

A key part of the pilot program requires that each agency conduct a one-hour cross-training session every month, including a review of the protocols to be followed when investigating domestic violence cases or arresting a female with children. Each department has assigned liaison personnel to the project whose responsibility is to coordinate responses in the field. Deputies use a single digit "hotline" number in their car to notify the local DCFS liaison when a mother with children is arrested. According to the DCFS coordinator, before the pilot went into effect, too many children were falling through the "cracks in the system" and were left in at-risk situations.²⁴

In Stockton, the San Joaquin County Welfare Department has assigned a full time CPS worker to the police department's domestic violence investigation division to evaluate children whose parents are being investigated for domestic violence. According to the CPS worker, being assigned to the police department enables a quick response to the scene of a domestic violence situation. Prior to this local collaboration, traumatized children often remained at the scene for long periods of time before police could make a decision about what to do with them. CPS is now able to link the child(ren) to community services and resources right away, while minimizing exposure to the sometimes tragic situation. Resources include children's play and education groups, support activities, and therapeutic services. Previously, the only option was temporary placement under the protective custody of CPS.²⁵

Since San Joaquin County began this innovative collaboration over a year ago, the duties of the CPS worker assigned to the police department have been expanded to include investigating the children of arrested females. The CPS worker serves as a liaison and coordinates responses after the arrest of a female caretaker with children. The CPS liaison's investigation report about the arrestee's children and the temporary caretaker is more detailed than would otherwise have been provided by the arresting officer, and saves time and effort in determining a proposed caretaker's suitability.

As in the Los Angeles County pilot, the CPS worker assigned to the Stockton Police Department conducts training for other CPS workers so that they become familiar with police protocols when investigating domestic violence cases, or when evaluating children whose female caretaker has been arrested. Cross training involving law enforcement personnel is under development.

COMMUNITY-BASED ORGANIZATIONS INVOLVED WITH CHILDREN OF ARRESTED OR INCARCERATED PARENTS

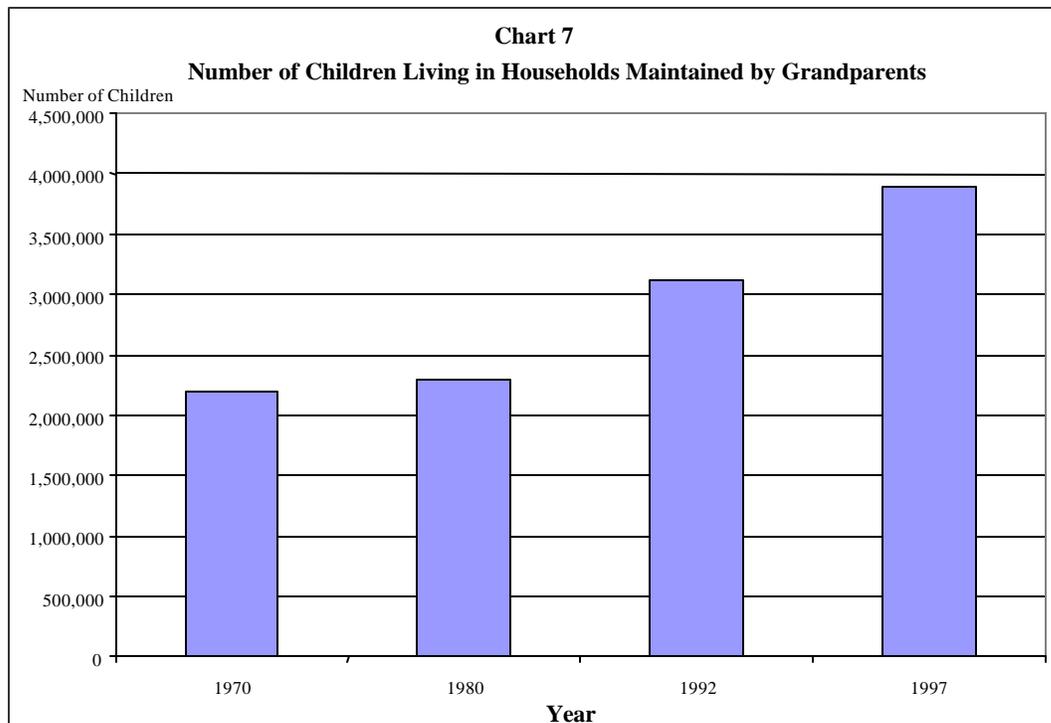
Our survey has found that many law enforcement agencies in California lack protocols and policies to ensure that the children of arrested female caretakers are placed in safe environments with suitable caretakers. Nonetheless, many officers make placement decisions in the field. Further, many CPS agencies report that they lack response policies, and that they do not have sufficient alternative placement options if they are called by law enforcement to take custody of a child after the arrest of a sole caretaker. In some counties, CPS will respond only to child abuse or domestic violence situations.

In this chapter, we examine promising alternative models of community care, some of which offer a spectrum of services. These begin with a safe and secure placement for the children at the time of a mother's arrest, and selection of an appropriate caretaker. Some program models offer care-managed services to the incarcerated parent, caretaker and children, and assistance with reunification, housing, and employment after release.

WHO CARES FOR THE CHILDREN OF INCARCERATED OR ARRESTED PARENTS?

According to researchers at the Child Welfare League: "One in five children of incarcerated mothers witnessed their mother's arrest. Those who don't witness the arrest will reconstruct it in their minds. Either way, it's traumatizing."²⁶

Over the last ten years, the number of relative caregivers (grandparents, aunts and uncles) raising the children of parents who are incarcerated has increased 35 percent nationwide. There are about 46,000 children in California placed by the courts with relatives on a permanent basis. In California, kinship placements represented two-thirds of the growth in foster care from 1984 to 1991.²⁷ According to the Department of Social Services Foster Care Information System, as of 1999, 46 percent of all children in the foster care system statewide resided in relative placements. However, far more relative caregivers are raising children of incarcerated parents informally, without legal custody or guardianship, and outside the foster care system.²⁸



Source: Current Population Reports: U.S. Census Bureau, May 1999

According to the U.S. Census Bureau, the number of children living in households maintained by their grandparents increased from 2.2 million in 1970 to 3.9 million in 1997 (see Chart 7). Many of the grandparent caregivers of children whose mothers are incarcerated are prone to poverty, poor health, and social isolation.²⁹ The average age of a grandmother caregiver is 60 years old. Many are living on low or fixed incomes, which become insufficient when children enter the household.

According to the California Department of Social Services (DSS), kinship providers such as grandparents, uncles and aunts, and other relatives play an important role in the safety and nurturing of the children they are raising. Kinship providers are not required to have a license to provide care, unlike foster parents; “What’s really important is the care and the nurturing that the child is receiving. That’s not regulated through a license; that’s done through selection of a care provider, whether it’s a relative or non-relative, and then working with the foster or kinship family to make sure the child is getting good care.”³⁰

ORGANIZING CARE AROUND CHILDREN AND THEIR CAREGIVERS

In California, a number of community-based organizations (CBOs) have traditionally assisted public welfare agencies to meet the social service needs of single mothers, families, and children. Domestic violence shelters are a notable example of community-based efforts that help parents and their children to temporarily avoid abusive situations. In some instances parents and children are referred to shelters by law enforcement or CPS. They may provide an option for the temporary placement of children at the time of arrest as well. Some faith-based agencies offer comprehensive services and care, and

might also be well suited to be part of an alternative temporary care model for the children of arrested mothers.

An increasing number of inter-agency collaborations, both public and private, offer “wrap-around services” to caregivers and the children they support. In San Francisco City and County for example, the Department of Health Services is the lead agency responsible for coordinating the services of other county agencies and CBOs to ensure that caregivers and the children of incarcerated parents are receiving the services they need. The Family Caregiver Alliance of San Francisco is a participating CBO that receives federal funds to help identify successful caregiver programs that can be duplicated. The Alliance also works to ensure that mothers are free of drugs, keeping appointments, and receiving health and mental health services, whether incarcerated or on probation.

Women leaving jail or prison probably have as great an immediate need to locate a safe and affordable place to live as to reunite with their children and find a job.³¹ The lucky mother may find access to a transitional program or a treatment facility where she can reunite with her family and receive services. Unfortunately, there are few community-based programs that address this need, and publicly funded low-income housing options are rapidly decreasing, especially for women with criminal records.

COMMUNITY-BASED MODELS OF CARE AND SERVICES

Local community-based programs in California are evolving models of care that address the needs of children of incarcerated women, and also the needs of family members caring for these children.

The Kinship Support Network (KSN) was created in San Francisco by a private, nonprofit organization (the Edgewood Center for Children and Families) in 1993. KSN initially provided case management, family support and guidance to relative caregivers and their children. Due to its early success, in 1997 the California Legislature provided start-up and expansion funds (\$1.5 million) for local kinship support service programs (*AB 1193, Chapter 794, Statutes of 1997*). The law authorizes the California Department of Social Services to grant awards to eight counties most able to develop comprehensive public/private collaboration to fill the gap in public social services to relative caregivers and the children they help raise. Each county program is free to develop its own version of the model, and the Edgewood Center for Children and Families is authorized to provide consulting services. In addition to San Francisco County, participating counties include Contra Costa, Los Angeles, Monterey, Riverside, San Diego, San Mateo, and Santa Clara.

The San Francisco program uniquely addresses the needs of women in jail who have children residing with a family member during their incarceration. Initially KSN staff, with the help of county jail staff, identify and meet with eligible inmate mothers. They work on a post-release plan to reunite the mothers with their children. This plan generally includes improving parenting skills, problem solving, drug counseling, anger

management, and budget planning. At this time, KSN has one full-time person working at the jail. After an inmate mother agrees to participate in the KSN program, staff works with caregivers to identify their specific needs in helping the children. Services that KSN can provide to the caregiver of the inmate mother's children include access to medical and mental health care, housing and living assistance, transportation needs, respite and support group services, and educational and financial assistance. Educational assistance can include help with the school system, such as accompanying the caregiver to parent conferences, and counseling on college and/or vocational education for the child. Financial assistance can include paying for uncovered medical costs, emergency travel, burial expenses, bus passes, and security deposits on rentals.

All KSN staff working with clients have a B.A. in a related social service field and a minimum of three years of human service experience. Each KSN staff member has a maximum caseload of 25 caregiver families (45-55 children), including families outside the county area. KSN services continue as long as the family agrees to receive services. KSN is subject to the same confidentiality requirements as county probation and cannot release or disclose confidential records or information about their clients to the public (*California Penal Code Section 11165.7*).

Another important community-based model program in California is "Friends Outside." This program, originally known as the Santa Clara Jail Auxiliary, was first started in 1955 by a woman who was concerned about what was happening to families when a family member was incarcerated. As the need for more family and youth services grew in the Santa Clara criminal justice system, so did the program. As a result of its success, in 1970 the Friends Outside State Organization was formed. Chapters were opened in other counties and cities, mostly in the Northern California area, providing similar services to families and children seeking to reunite with incarcerated loved ones. Services and programs include jail interviewing, winter and summer day camps for children whose parent(s) are in the criminal justice system, tutoring, support groups for wives of state prisoners, teen girl groups, and victim-offender mediation services. Today, the Santa Clara County chapter provides counseling services and assistance to prisoners (men and women) incarcerated in the county jail, to individuals who have been released, and to families living in the county who have a spouse, child, or relative who is in custody.

Since 1997, Friends Outside has annually served over 25,000 individuals and clients in California. In Santa Clara County, over 600 youth, 1,500 families, and nearly 11,000 prisoners are served annually.³²

Recently, with the help of local funding, the Santa Clara chapter of Friends Outside has begun to work closely with women in the county jail to develop a plan to keep their children out of the foster care system. According to the Program Director, Jennifer Tait, the key to success is to quickly identify newly arrested females in the county jail who are mothers with children. Friends Outside staff at the county jail assess the arrested mother to determine if her priority need is drug treatment, mental health care, and/or to maintain legal custody of her child(ren). As part of the assessment, she is asked about the status of

her children and who is caring for them. If the arrested mother is willing to maintain custody of her children while in jail, Friends Outside will seek her permission to allow their staff to visit and work with her children and their designated caretaker (in most cases a relative or grandparent). In return, the incarcerated mother must agree to undergo an in-custody residential program including parenting classes and drug counseling.

The social services component of the Friends Outside Program in Santa Clara County begins with a home visitation with the child (ren) and caretaker, for a needs assessment. The outcome of the assessment determines the level of social, health, and education services needed. According to staff, this “hands on” approach is most helpful for economically disadvantaged children, because they traditionally have had very little access to public services without their mother. The small caseload ratio of 25 cases per staff person allows Friends Outside staff to spend more time working with the children and their caretaker.

Once the mother is out of the criminal justice system, Friends Outside requires her to continue working with their counselors and staff on such issues as anger management and parenting skills while she seeks employment and housing for herself and her children. The entire after-release process takes up to 18 months to complete. Evaluation information as to the overall structure of the program and its ability to reduce youth and adult caretakers in the criminal justice system has not been undertaken in Santa Clara County.

Early intervention programs, such as Friends Outside, are especially important given the “fast track” adoption policy process (*Adoption and Safer Families Act of 1997*) that expedites the adoption of young toddlers and infants of incarcerated mothers.* According to Jennifer Tait of Friends Outside, it is very important for organizations like hers to be actively involved with women in county jails, and to ensure that their young children are cared for by relatives whenever appropriate, before the courts intervene and the adoption process begins. Since 1997, when the changes in federal and state adoption law took effect, the number of children available for adoption in California has increased considerably. The adoption rate in California has doubled the national average of 33 percent.³³

Other model community-based programs include:

Project Aurora

- Project Aurora was initiated in 2001 in Solano County as a collaborative between the county jail, the county department of youth and family services, and community-based organizations to help jailed mothers and their children remain

* *California Welfare and Institution Code Section 366.21 and 361.5* allows the Juvenile Court to expedite hearings to end reunification after 6 months for children under 3 years of age, and after 12 months for older children when the court determines that the parent has failed to achieve progress toward reunification. The law also allows public adoption agencies to purchase services from licensed private adoption agencies to facilitate adoption of foster children.

united. It is funded through a blend of local community and government sources and is similar in design to Friends Outside in Santa Clara County. Women in the county jail who volunteer to receive intensive substance abuse treatment also receive care for their children. In the last year, of the 151 women who entered the jail treatment program, 99 reported being parents of children under the age of 12 years old. These children and their caregivers have been assigned caseworkers who coordinate their service needs and act as a liaison with the county jail to reunite the mother and her child(ren), when appropriate.

Mother/Fathers and Their Children (MATCH)

- The San Francisco Sheriff's Department initiated a program to help jail inmates maintain family ties and improve parenting skills in 1997. The inmate average stay is at least five months. The program operates for four hours every Sunday and provides services such as family and individual counseling, post-release planning, and employment and health care referrals. Children's center activities and family support services offer family life workshops, training in self-esteem and gratitude and forgiveness, and case management. A key component of this jail-based program is the commitment of volunteers to help facilitate positive parent/child interaction, and the transformation of a part of the jail into a child-care center. According to one volunteer, having a compatible environment for children is critical to the success of MATCH.

Sisters in Sober Treatment, Empowered in Recovery (Sister)

- The Sisters Project, started in 1994, is a San Francisco jailed-based residential drug treatment program for female offenders who are serving sentences of between 180 and 365 days. The program is managed by Walden House Residential Treatment in conjunction with the county jail. The project is funded by grants from the federal Center for Substance Abuse Treatment, the California Department of Alcohol and Drug Abuse and the National Institute of Corrections. Walden House follows a therapeutic approach to treatment, and collaborates with the Women Treatment Network as part of a transition program for aftercare services. It takes up to two years to complete both aspects of the treatment (behind bars and aftercare) at a cost between \$30,000 and \$40,000. Up to 100 offenders are treated annually in the program.³⁴

Deciding, Educating, Understanding, Counseling, and Evaluation (DEUCE, in Contra Costa County)

- This program is managed by the county adult education department, in conjunction with the Sheriff's department, to provide drug education and counseling classes for any inmate who wishes to participate. It has been in existence for ten years. There are separate programs for male and female inmates at two different sites. The classes are conducted in three phases, offering drug education, anger management, relapse and prevention, along with a host of family

and children services. The final phase stresses relapse management and prevention services. The in-custody program can last between 60 to 90 days, with an average class size of 55 men and 30 women. The County Office of Education is reimbursed by the state based on average daily attendance. Once completed, an inmate may choose to receive employment counseling and assistance in locating job opportunities when released from custody. Former female inmates and their children can also participate in a family recovery program funded by the State Department of Health Services.

OPTIONS

While not necessarily the recommendation of the California Research Bureau, the following are potential options.

I. WRITTEN LAW ENFORCEMENT PROTOCOLS FOR RESPONDING TO CHILDREN AFTER A PARENT IS ARRESTED

We find that nearly two-thirds of local law enforcement agencies do not have a written policy on taking responsibility for minor children at the time of a caretaker's arrest, and only 23 percent of officers ask about children every time an arrest is made. This is a critical point of intervention. Developmental research demonstrates the very negative impact of parental arrest and incarceration on children, including intergenerational incarceration. Furthermore, law enforcement agencies may be liable if children are left unattended or in unsafe conditions. Newspaper accounts regularly report the abuse and even the death, of children who were left with unstable caregivers or in a drug house, by arrested and incarcerated parents.

- At a minimum, all law enforcement agencies could establish a written protocol detailing how officers should respond. This might include asking all arrestees if they have children and, if so, where the children are. It might also include an established mechanism for contacting CPS for guidance and assuming custody, when necessary (such as a sole caretaker's arrest or the arrest of both parents). Local community-based organizations could serve as back-ups and alternatives to CPS, whenever possible.
- The Governor's Office of Criminal Justice Planning (OCJP) could take the lead in developing a model protocol, in consultation with local law enforcement, CPS, and community-based organizations serving this population. AB 2315 (Mazzoni, 2000) might provide a model for legislation (Appendix B).
- The Legislature could require local law enforcement agencies to include information about how officers should query and respond when arresting an adult with minor children in their new cadet training courses. Similar in-service training for veteran officers could be conducted in periodic training updates.

II. LACK OF CLEAR COLLABORATION BETWEEN CHILD PROTECTIVE SERVICES AND LAW ENFORCEMENT AGENCIES

The CRB survey has found important differences between law enforcement and CPS in their understanding of their respective roles and responsibilities. One-quarter of law enforcement agencies assume responsibility of a minor child when a sole caretaker is arrested, and 48 percent determine where children are placed and the acceptability of the caretaker. Only one quarter of CPS agencies reported that law enforcement agencies "almost always" notify them after the arrest of a mother with minor children. Lack of collaboration and understanding between CPS and law enforcement is a major reason that the children of arrested or incarcerated mothers can fall through the cracks. Many CPS

agencies do not have policies guiding their response to children at the time of a parent's arrest.

- The Legislature could encourage better law enforcement and CPS coordination by providing one-time grant opportunities to local law enforcement and CPS agencies to establish consultative committees to create joint policies and improve working relationships. For example, in Stockton existing CPS staff is stationed in the law enforcement agency.
- The Legislature could require the Governor's Office of Criminal Justice Planning and the Department of Social Services to convene a study group of local law enforcement and CPS representatives, Family Court judges and community-based organizations, to examine ways to improve policies for the minor children of arrested and incarcerated parents. The goal would be to ensure the temporary and long-term safety, security, and well-being of children when their sole caretaker is arrested or incarcerated.

III. RESPONDING TO CHILDREN AFTER A PARENT IS ARRESTED.

Many county CPS agencies and local law enforcement agencies lack adequate resources to transport and temporarily house children whose parents or sole caretakers have been arrested. Children may be taken to police stations with inadequate facilities for child care. Even riding in a police car can be stressful for a frightened child. CPS agencies are already attending to very large caseloads and may be unable to respond quickly.

There are some community-based organizations, several of which are discussed in this report, whose mission is to assist children and families in this situation. These organizations provide a range of transportation, temporary care and long-term assistance to the children and their parents. They also enable law enforcement officers to concentrate on their primary responsibilities, and assist CPS by ensuring that children are placed with responsible family members or temporary custodians, after an appropriate background check.

- If law enforcement and CPS agencies were to formalize memorandums of cooperation with community-based organizations to assist in temporarily caring for certain children when a parent or sole caretaker is arrested, it might strengthen CBO efforts to obtain grant funding to expand services in this area.
- The Legislature could strengthen and expand these community-based organizations by enacting enabling legislation encouraging law enforcement and CPS to contract for appropriate CBO services. These services might include transportation and shelter for children at the time of arrest and long-term family support services. Domestic violence shelters are a potential partner in this effort.
- County Proposition 10 commissions could create pilot programs and funding mechanisms to enable local CBOs to serve the young children of arrested parents. Some of these young children experience post-traumatic stress syndrome, and they do not understand why their parent is absent. They require special care.

- Counties could establish safe, full-service, 24-hour childrens' shelters or nurseries to provide temporary care when a relative cannot be found to take custody.
- CPS agencies could improve their ability to respond quickly to calls from law enforcement when a child is present or at risk due to a parent's arrest. Their responsibility to do so could be clarified in California law.

IV. HELPING COMMUNITY-BASED ORGANIZATIONS WITH INFORMATION ABOUT CAREGIVERS

Several CBOs report that California law (*Welfare and Institution Code Section 360*) makes it difficult for them to gain access to information about the children of incarcerated parents, or to act on behalf of non-custodial relatives seeking custody of those children. As a result, CBOs committed to assisting kinship caregivers, and working to reunify families, are at a disadvantage.

- San Francisco and several other jurisdictions have developed models of information-sharing that facilitate CBO services to incarcerated parents and their children and kinship caregivers. The Legislature could amend state law to clarify and facilitate this kind of information-sharing.

V. LOCAL CORRECTIONAL DRUG TREATMENT, HOUSING AND PARENTING PROGRAMS

Local enforcement agencies report that drug-related crime and economic deprivation are important reasons for the increasing number of arrested and incarcerated women in California jails and prisons. Women offenders in jails are often required to complete drug treatment and/or parenting programs before they are allowed to reunite with their children. Yet prisons and jails often do not provide the drug treatment and/or parenting classes most women must complete before they can reunify with their families. Further, upon release, women often have difficulties finding services such as housing, employment, or child care that would allow them to care for their children.³⁵

- The Legislature could require all local correctional facilities to provide drug treatment and parenting programs to incarcerated mothers, to the extent possible. Some additional state funding, requiring local matching funds (public or private), may be needed to seed this effort. Adult education is another potential funding source.
- A case management approach, concentrating on the needs of an incarcerated parent and her family, might prove very cost effective in the long term. Local CBOs may be in the best position to accomplish this task. The Legislature could enable partnerships, for example with Healthy Start, that would support CBOs that work with these families.

APPENDIX A

Survey Methodology

Law Enforcement Survey Instrument

Child Protective Services Survey Instrument

Survey Methodology

The survey tool is modeled after the American Bar Association instrument used in a nationwide survey of law enforcement agencies in 1994. We had meetings with selected law enforcement officials and professional organizations representing the interests of welfare administrators to ensure their input and cooperation in developing and distributing the surveys. CPS Agencies are generally administered in county welfare departments. Both survey instruments (law enforcement and CPS) were sent out to all local law enforcement agencies, county sheriffs' departments and county welfare directors. Finally, we conducted on-site follow-up interviews with CPS workers and police officers in different regions of the state to gain qualitative information.

In general, the survey respondents were asked to do the following:

- Describe their caseloads and arrest activities involving children and caretakers;
- Indicate the frequency and the types of crimes for which the sole caretakers of children are arrested;
- Describe whether the departments have a written policy that details how officers and CPS caseworkers are to proceed when arresting the sole caretaker of a child and taking custody of that child;
- Indicate whether the departments have a written policy that details how CPS workers take custody of a child whose caretaker is arrested;
- Describe their working relationship and involvement with other county agencies when a caretaker or a mother of a minor child is arrested;
- Suggest how to improve the system and response to the needs of children whose parents are arrested; and
- Detail the responses of officers and CPS caseworkers to hypothetical situations.

Surveys were sent to 350 local law enforcement agencies, 58 county sheriffs' departments, and 58 county welfare departments, for a total of 466 recipients. Surveys were returned by 34 of the 58 county sheriff's departments (representing 82 percent of all sheriff's jurisdictional populations) and 191 of the 350 local law enforcement agencies (representing 70 percent of all local law enforcement jurisdictional populations). Forty-seven of the 58 county welfare agencies responded to the survey (representing 85 percent of the state's population). These overall response rates represent a relatively complete picture of law enforcement and child protective services statewide. An earlier database, developed by the American Bar Association in 1994, provides a comparative framework.³⁶

1. Please give us a sense of the size of your department:

- A. How many officers/deputies do you have?_____
- B. Approximate the number of felony arrests you made last year?_____
- C. Approximate the number of misdemeanor arrests you made last year?_____
- D. Approximate the number of female (felony) arrests you made last year?_____

2. Please estimate how many arrests of mothers of minor children have been made in the last six months. I realize you probably have no hard numbers on this, but please give me your best figure.

- (1) Don't know__
- (2) 1-4__
- (3) 5-10__
- (4) 11-15__
- (5) 16-20__
- (6) 21-30__
- (7) 31-50__
- (8) 51-100__
- (9) 101-200__
- (10) over 200__

3. Has the number increased, decreased, or remained the same over the last few years?

- A. Increased--why do you think the number is increasing?
 - (1) General increase in enforcement activity_____
 - (2) Increase in drug-related crime_____
 - (3) Increase in prostitution_____
 - (4) Other_____
- B. Decrease_____
- C. Remained the same_____
- D. Don't Know_____

4. Would you say that deciding how best to respond to the placement needs of minor children whose mother is arrested poses major, some, few, or no problems for your officers/deputies?

- (1) Major: explain_____
 - (2) Some: explain_____
 - (3) Few: explain_____
 - (4) No problems: explain_____
 - (5) Don't Know_____
-

5. What percent of the sole parents that your officers/deputies arrest are females?

- (1) Over 90 percent of the cases involve a female____
- (2) 80-89 percent of the cases involve a female_____
- (3) 70-79 percent of the cases involve a female_____
- (4) 60-69 percent of the cases involve a female_____
- (5) 50-59 percent of the cases involve a female_____
- (6) Less than 50 percent of the cases involve a female
(estimate the number:_____percent)
- (7) Don't Know_____

6. For what type of crimes are mothers most likely to be arrested?

- (1) Drug-related offense_____
- (2) Economic crimes_____
- (3) Prostitution_____
- (4) Others_____

7. Under what circumstances, if any, would officers/deputies inquire of an arrestee about any children who might be left unattended while the arrestee is in custody?

- (1) Every time_____
- (2) When the arrestee raises the concern_____
- (3) When there is a child or children present_____
- (4) Other_____
- (5) Don't Know_____

7A. Are officers/deputies more likely to ask the arrestee about any children if the arrestee is a female rather than a male?

- (1) Yes_____ (2) No_____ (3) Don't Know_____

8. Does your department have any written polices/procedures/regulations relating to assuming responsibility for minor children when their caretaker is arrested?

- (1) Yes (If, so how is a minor defined?)_____

Please attach a copy or copies of the written procedure

- (2) No_____

9. Under what circumstances, if any, would your department assume responsibility for minor children?

10. Does your department's response differ depending on whether the arrestee suggests the name of a friend or relative who might care for the child or children?

- (1) No___
 - (2) Don't Know___
 - (3) Yes:___
 - (a) How? _____
-
-

(b) Who makes the initial decision to place the child or children?

- (1) Mother_____
- (2) Arresting officer/deputy_____
- (3) Child Protective Services_____
- (4) Other_____

(c) Who ultimately decides who is an "acceptable" caretakers?

- (1) Mother _____
- (2) Arresting Officer/deputy_____
- (3) Child Protective Services_____
- (4) Other_____

(d) Are there procedures to check on the nominated caretaker?

- (1) Yes__
What are they?_____
-
-

(2) No_____

(3)

11. Does your response differ depending on what the arrestee is charged with?

- (1) Yes__ Please explain_____
-
-
- (2) No_____
 - (3) Don't know___

12. Do your officers/deputies notify other agencies after they arrest a mother who is the sole caretaker of a young child or children?

(1) No____

(2) Yes___What agency?

(a) Child Protective Services_____

(b) Other_____

How soon must you notify them?

(a) ASAP_____

(b) Other_____

How must you notify them?

(1) By phone____

(2) In person____

(3) In writing____

(4) Other_____

13. Does your agency have a working relationship with Child Protective Services when a caretaker or a mother of a minor child is arrested? If so, please describe:

14. What else, if anything could be done to better respond to the needs of children whose parents are arrested?

15. Would any of your response to these questions been different if the sole caretaker was the father rather than the mother of female?

(1) No____

(2) Don't Know____

(3) Yes___ Please explain: _____

16. Lastly, I would like to pose two hypothetical cases and ask you how you think your officers might respond.

1. How many child placements, for any reason, did your department make last year?

(a) _____

(b) Could you please indicate how many times in the last 6 months your department received a call telling you that police/deputies officers had arrested a mother with minor children?

- | | |
|-------------------|-------------------|
| (1) None___ | (4) 9-12___ |
| (2) 1-4___ | (5) 13-16___ |
| (3) 5-8___ | (6) 17-25___ |
| (7) 26-50___ | (8) 51 or more___ |
| (9) Don't know___ | |

2. With the exception of alleged child abuse cases, to your knowledge do the police/sheriffs deputies in your county do any of the following after arresting a mother or caretaker with minor children:

- (a) Almost always call you___
- (b) Usually call you_____
- (c) Sometimes call you_____
- (d) Rarely call you_____
- (e) Don't know_____

3. When your department is called by a police officer/deputy after they arrest a sole parent or caretaker of minor children, how often is the caretaker a female? Would you estimate that:

- (6) Over 90 percent of the cases involve a female___
- (7) 80-89 percent of the cases involve a female_____
- (8) 70-79 percent of the cases involve a female_____
- (9) 60-69 percent of the cases involve a female_____
- (10) 50-59 percent of the cases involve a female_____
- (6) Less than 50 percent of the cases involve a female
(please estimate the percentage_____)
- (7) Don't Know_____

4. Does your department have a specific policy when an arrest triggers the placement of a child?

- (a) Have special policy:_____
Describe_____
- _____
- _____

Would you please provide us a copy?

(b) Have a general policy: Yes_____

Would you please provide us a copy?

(b) No_____

(c) Don't know_____

5. With the exception of alleged child abuse cases, if your department is called following the arrest of a mother or caretaker, does your office assume sole responsibility for the child (children)?

(a) Yes___How do you usually get the child (children)?

(1) CPS goes and picks up the child (children)_____

(2) Police/deputies bring the child (children) somewhere___

(3) Other _____

(b) It Depends: explain_____

(c) Don't know_____

6. If officers/deputies bring children somewhere: (a) where do they usually bring the child (children) whose mother is arrested?

(a) CPS_____

(b) Emergency shelter_____

(c) Police/sheriffs station_____

(d) Other_____

(e) What happens if the arrest occurs outside normal business hours?

7. **After the child (children) of an arrestee are brought to CPS, are they evaluated to determine if there are neglect of abuse issues aside from the immediate issue of the caretakers arrest?**

(a) Yes: explain _____

(b) No _____
(c) Don't know _____

8. **Does the mother or caretaker of the child (children) who is arrested have any input to CPS as to what should happen to her child or (children)?**

(a) Yes: explain by what means _____

(b) Don't know _____

9. **Are arrested mothers or caretakers with children interviewed by CPS and given a choice for voluntary placement of the child (children)?**

(a) Yes _____
(b) No _____
(c) Don't know _____

9A. **If an arrested mother is given a choice, how often does a mother agree to voluntary placement?**

(1) Almost always _____
(2) Sometimes _____
(3) Rarely _____
(4) Never _____
(5) Don't know _____

10. **Does your department conduct a suitability assessment of the person nominated for placement of the child (children)?**

(a) Yes: explain _____

(b) No _____
(c) Don't know _____

11. Are the placement needs of children whose mothers are arrested being adequately met in your county?

(a) Yes_____

(b) No; please explain:_____

12. If the arrested mother is released the following day, or several days later, what are the procedures to reunite her with her children, if there are no indicators of abuse or neglect?

(a) Automatic reunification_____

(b) Other approach; explain:_____

13. What else could be done to better respond to a child whose mother is arrested?

14. Finally, I'd like to know whether any of your answers would have been different if the sole caretaker was the father rather than the mother?

(a) Yes, explain:_____

(b) No_____

(c) Don't know_____

Thank you very much for taking the time to complete this survey. Your input and knowledge have been a great help to this project.

APPENDIX B

Tables of Law Enforcement and Child Protective Service Agency Responses

Law Enforcement Survey Responses Regarding Female Arrestees

Trend in Arrests of Mothers of Minor Children *(N=284)

Arrests of mothers of minor children have:	
Increased in recent years.	33%
Stayed the same in recent years.	30%
Decreased in recent years.	05%
Don't know	33%

Reasons Numbers are Increasing *(N=64)

General increase in law enforcement activity.	36%
Drug-related crime is increasing.	42%
Increase in prostitution.	03%
Depressed economy is causing increase	19%

Frequency Sole Caretaker Arrested is Female *(N=171)

90% or more	15%
80-89%.	13%
70-79%.	10%
60-69%.	03%
50-59%.	11%
Less than 50%.	48%

Types of Crimes For Which is Most Likely to be Arrested *(N=191)

Drug-related.	53%
Economic-related.	28%
Prostitution.	04%
Other.	05%
DUI.	10%

Placing Children of Arrestees Causes: *(N=165)

Major problems.	10%
Some problems.	38%
Few problems.	38%
No problems.	14%
Don't Know.	02%

* Denotes number of survey respondents for each answer.

Law Enforcement Policies and Practices

Frequency Officers Ask About Any Children (N=284)

Every time an arrest is made.	13%
Only if the arrestee raises the concern.	39%
Only if a child is present.	42%
When there is evidence of child's presence.	12%
Don't know.	02%

At What Age are Minors Classified as Children (N=191)

Under 18 years of age.	(75%)
Under 17 years of age.	(03%)
Under 14 years of age.	(01%)
As defined in W&I Code section 300.	(20%)

Are Officers More Likely to Inquire About Children if the Arrestee is a Female? (N=173)

Yes.	42%
No.	38%
Don't know.	20%

Written Policy on Taking Responsibility for Minor Children. (N=165)

The department has a written policy.	37%
The department has no written policy.	63%

Circumstances Under Which Department Assumes Responsibility. (N=227)

Assumes responsibility if child is "in need of care" or in danger.	09%
Assumes responsibility of child in every arrest of sole caretaker.	07%
Assumes responsibility of child until CPS takes over.	28%
Assumes responsibility when a responsible party cannot be found.	31%
Other (use judgement; if child is alone or unattended, etc.).	07%
Assumes responsibility if child abuse is suspected.	07%
Never.	11%

Law Enforcement Policies and Practices Related to Child Placements

Does Your Department's Response Differ Depending on Whether the Arrestee Suggests Who Might Care for the Child? (N=191)

Yes we accept the nominee's placement. (63%)
No we do not accept the nominee's placement. (36%)
Don't know. (01%)

Who Makes the Initial Placement Decision? (N=254)

Mother makes initial decision. (12%)
Police makes initial decision. (62%)
CPS makes initial decision. (23%)
Police supervisor makes initial decision. (04%)

Acceptability of Nominated Caretaker (N=247)

Mother makes the determination. (06%)
Police makes the determination. (46%)
CPS makes the determination. (46%)
Police supervisor makes the determination. (02%)

Existence of Procedures to Check on Nominated Caretaker (N=176)

Procedures exist to check on caretaker's acceptability. (56%)
No procedures exist. (44%)

Procedures to Check on Nominated Caretaker (N=189)

Police conduct background criminal check. (40%)
CPS does a background check. (39%)
Police conduct an inspection of the home. (21%)

Law Enforcement Notification of CPS and Other Agencies and How to Improve

Notification of Other Agencies (N=191)

Police do not notify other agencies after they arrest a mother (18%)
who is the sole caretaker of a young child or children

Police do notify other agencies after they arrest a mother (82%)
who is the sole caretaker of a young child or children

Agency Notified (N=149)

Local CPS (91%)

Other (09%)

How Soon Must You Notify Agency and How is it Done? (N=141)

ASAP (94%)

Other (within a week) (06%)

By telephone (68%)

In person (07%)

In writing (22%)

Other (03%)

What Can be Done to Improve the Response to the Needs of Children (N=136)

Nothing can be done (30%)

CPS could improve their response time (17%)

Need better education and training for officers (13%)

More placements opportunities for children after separation from parent
or caretaker (15%)

More police staff (10%)

Basic necessities (07%)

More child friendly staff (05%)

Need written procedures (04%)

Response to Father as Sole Caretaker (N=184)

The responses would be the same as for mothers (96%)

The response would be different for men (04%)

Female Arrestee Characteristics

<u>Trend in Calls Regarding Children of Female Arrestees</u>	(N=46)
Number of calls have increased over the last few years.	(20%)
Number of calls have stayed the same over the last few years.	(65%)
Number of calls have decreased over the last few years.	(15%)
<u>Reasons Numbers are Increasing</u>	(N=10)
Drug-related crime is increasing overall.	(40%)
Economic crime is increasing.	(40%)
Depressed economy is causing increase in crime.	(15%)
Increase is caused by some combination of the above factors>	(05%)
Female population is increasing.	(00%)
<u>Frequency Law Enforcement Calls After of Mother with Minor Children</u>	(N=44)
Almost always.	(25%)
Sometimes.	(30%)
Usually.	(30%)
Rarely.	(15%)
<u>Frequency Arrestee is Female</u>	(N=44)
90% or more.	(36%)
80-90%.	(34%)
70-79%.	(15%)
60-69%.	(05%)
50-59%.	(03%)
Less than 50%.	(03%)
Don't know	(04%)
<u>Nature of Mother's Crime</u>	(N=44)
Drug-related.	(40%)
Economic.	(30%)
Driving under the influence.	(05%)
Prostitution.	(05%)
Some combination of the above.	(20%)

Factors Affecting CPS Placement Decisions

<u>Special Policy</u>	(N=46)
Agency has a specific policy on response and placement of children of arrestees.	(23%)
Agency has a general policy on response and placement of children of arrestees.	(33%)
Agency has no policy on response and placement of children of arrestees.	(44%)
<u>Responses to Arrest of Mother with Children</u>	(N=23)
Assess the situation for possible placement.	(24%)
Hold the child until an arrangement can be made.	(14%)
Find a list of placements.	(10%)
Attempt to locate relative.	(10%)
Place child with relative.	(10%)
Give the child to who the mother suggests.	(10%)
Do a risk assessment of the child.	(06%)
Do a risk assessment of the caretaker.	(06%)
If no caretaker is available take to foster home.	(06%)
Depends of the situation.	(04%)

Children Placement Polices and Evaluations

<u>Custody of/Responsibility for Children of Arrestees</u>	(N=47)
CPS assumes responsibility.	(61%)
CPS does not assume responsibility.	(08%)
It depends on the circumstances.	(31%)
 <u>Method of Getting the Children</u>	 (N=47)
Law enforcement officer transports children.	(36%)
CPS worker pick-up children from scene.	(34%)
Either of the above.	(22%)
Other arrangement will be made.	(08%)
 <u>Polices and Practices for After Hour Arrests</u>	 (N=45)
Law enforcement calls CPS or on-call CPS worker.	(36%)
CPS has 24-hour-a-day, 7 days a week coverage.	(21%)
Officer and or CPS worker takes child to shelter.	(21%)
CPS will look for a suitable caretaker .	(12%)
 <u>Evaluation of Children for Neglect/Abuse</u>	 (N=46)
Children are evaluated for possible abuse.	(100%)
Children are not evaluated for possible abuse.	(00%)
 <u>Type of Evaluation for Neglect/Abuse or When Mother is Arrested</u>	 (N=46)
Child is interviewed.	(25%)
Review any history of CPS involvement.	(21%)
A risk assessment is conducted by CPS.	(23%)
A visual check is conducted of the child.	(19%)
Any person associated with child is interviewed.	(12%)

Suitability, Assessment, and Other Placement Issues

<u>Child Protective Services' Access to Mother</u>	(N=47)
Child protective service has:	
Access to arrestee to learn her placement wishes.	(82%)
No way to talk to mother.	(18%)
<u>Assessment of Nominated Caretaker</u>	(N=47)
CPS evaluates mother's nominee.	96%)
CPS does not evaluate mother's nominee.	(02%)
It depends on other factors.	(02%)
<u>Types of Assessment for Nominated Caretaker</u>	(N=41)
CPS conducts a history background check for involvement in the system.	(25%)
CPS conducts a criminal background for any crimes.	(17%)
CPS conducts a home evaluation of caretaker.	(18%)
Fingerprint scan is taken from caretaker.	(03%)
Child is taken to nominated relative if mother's crime is minor.	(06%)
Department of justice check.	(06%)
Various other assessments.	(25%)
<u>Reunification Issues</u>	(N=40)
Mother is Automatically reunited with children if released within a few days and if abuse or neglect is not indicated.	(43%)
Mother is not automatically reunited with her children.	(57%)
<u>Who Makes Decision to Reunify if not Automatic and When?</u>	(N=25)
The juvenile or family court makes the decision.	(24%)
It depends on the circumstances and charges.	(24%)
CPS must complete its review of family history.	(24%)
CPS must complete a risk assessment.	(06%)
Meet with mother to talk about situation and options.	(06%)
<u>Other Placement Issues</u>	(N=40)
Are placement needs of children of incarcerated mothers being met?	(54%)
Are placement needs of children of incarcerated mothers not being met and why?	(46%)

Why Not?

Inadequate number of foster homes.

Limited options.

Placement takes too long.

(N=16)

(50%)

(25%)

(25%)

Suggestions for Improving the Response to Children of Arrested Mothers

<u>Suggestions for Improvement</u>	(N=46)
More shelters and foster care homes.	(22%)
Better visiting conditions.	(04%)
More workers and resources.	(04%)
Better coordination with law enforcement.	(07%)
Law enforcement training.	(04%)
Lower caseloads.	(04%)
More placement with relatives.	(11%)
More timely location of relatives.	(11%)
Counseling.	(14%)
System already works well.	(11%)
Other general responses.	(08%)

ENDNOTES

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- ¹ Barbara E. Smith and Sharon Goretzky Elstein, *Children on Hold: Improving the Response to Children Whose Parents are Arrested and Incarcerated*, ABA Center of Children and the Law, December 1994.
- ² See Michael G. Mooney, "A little girl's death: What went wrong?" *Modesto Bee*, February 3, 2002, www.modbee.com/
- ³ Charlene Wear Simmons, *Children of Incarcerated Parents*, Sacramento: California Research Bureau, California State Library, March 2000, page 4.
- ⁴ Barbara E. Smith and Sharon G. Elstein, *Children on Hold: Improving the Response to Children Whose Parents are Arrested and Incarcerated*, American Bar Association, Center on Children and the Law, December 1994, p. 5.
- ⁵ Nell Bernstein, "When the jailhouse is far from home," *Salon.com*, March 29, 2000, accessed at <http://www.salon.com/mwt/feature/2000/03/29/jailed/index.html>
- ⁶ Christopher J. Mumola, *Incarcerated Parents and Their Children*, Bureau of Justice Statistics Special Report, August 2000, p. 1.
- ⁷ Christopher J. Mumola, U.S. Bureau of Justice Statistics, *Incarcerated Parents and Their Children*. Washington, D.C.: The Department, August 2000.
- ⁸ U.S. GAO, *Women in Prison*, Washington, D.C. December 1999, p. 32.
- ⁹ California Board of Corrections (BOC), *Jail Profile Survey*, Sacramento: The BOC, 2002.
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- ¹² Charlene Wear Simmons, *Children of Incarcerated Parents*, Sacramento: California Research Bureau, California State Library, March 2000, page 4.
- ¹³ Nell Bernstein, "When the jailhouse is far from home," *Salon.com*, March 29, 2000, p. 3, accessed at <http://www.salon.com/mwt/feature/2000/03/29/jailed/index.html>
- ¹⁴ P. Katz, "Supporting Families and Children of Mothers in Jail: An Integrated Child Welfare and Criminal Justice Strategy," *Journal of Child Welfare League of America, Inc.* Vol. 78, 1998, p. 495-512.
- ¹⁵ California Welfare and Institutions Code § 305.
- ¹⁶ California, Welfare and Institutions Code Sec. 307.
- ¹⁷ California, Welfare and Institutions Code Section 361.
- ¹⁸ *Op.Cit.*, Section (c)(5)
- ¹⁹ California Welfare and Institutions Code, Sections 305 and § 309 (d).
- ²⁰ Barbara Smith, Sharon Elstein, and the ABA Center on Children and the Law, "Children on Hold: Improving the Response to Children Whose Parents Are Arrested and Incarcerated," A Report to the U.S. Department of Health and Human Services, December 1994.
- ²¹ Barbara E. Smith and Sharon Goretzky Elstein, *Children on Hold: Improving the Response to Children Whose Parents are Arrested and Incarcerated*, ABA Center of Children and the Law, December 1994.
- ²² Barbara E. Smith, and Sharon, G. Elstein, *Children on Hold: Improving the Response to Children Whose Parents are Arrested and Incarcerated*, American Bar Association, Center on Children and the Law, December 1994. p. 10.
- ²³ Jennifer Tait, Executive Director, Friends Outside, Santa Clara County chapter, personal communication, August 24, 2001.
- ²⁴ Xiomara Flores-Holguin, Supervising Children's Welfare Services, Los Angeles County Department of Children and Family Services, personal communication, September 19, 2001.
- ²⁵ Interview with Craig Pedrucci, Child Protective Service Investigator, Stockton Police Department, March 25, 2002.
- ²⁶ Cynthia Seymour, General Counsel, Child Welfare League of America, "What Happens to Children Fact Sheet," <http://www.cwla.org/programs/incarcerated/whathappens.html>.
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