

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER MULTI BUREAU	DATE OF ISSUE NOVEMBER 2, 2023	EFFECTIVE DATE NOVEMBER 2, 2023	NO. 106-23
SUBJECT: GENERAL ORDER Safeguarding Children		DISTRIBUTION All Personnel	AMENDS
REFERENCE: NYSLEAP 44.4			RESCINDS 106-23

Purpose: To define Monroe County Sheriff's Office (MCSO) policy and procedures for safeguarding children of an arrested parent and/or guardian.

Policy: Deputies will be trained to identify and respond effectively to a child, present or not present, whose parent(s)/guardians(s) is arrested, to help minimize potential trauma and support a child's physical safety and well-being following an arrest. MCSO will have a cooperative agreement with Children's Services/CPS and other partner organizations that will aid law enforcement when a child's parent/legal guardian is arrested in an effort to ensure that trauma-informed services are provided to the child during or shortly following the arrest of a parent. MCSO will enter into information sharing agreements to the extent authorized by law, to enable partner organizations to provide services to a child following the arrest of a parent/legal guardian or performance of a search or high-risk arrest warrant.

Definitions: **Caregiver:** A responsible adult selected to temporarily care for the child in situations where an individual with legal custody of the child is unavailable. In some cases, responsibility for the temporary care and supervision of a child may be delegated to a relative, neighbor, friend, or another adult, if they are deemed suitable, willing and able.

Child: Any person under the age of 18 whom is not emancipated, or as otherwise defined by state law; whether or not he or she is present at the arrest (As used herein, "child" refers to both an individual child and multiple children).

Child Protective Services (CPS): A public service agency, or its contractee, that has authority to assume responsibility for the care, welfare, and temporary supervision of a child pursuant to law.

Parent or Legal Guardian: Any adult who is legally responsible for the well-being, supervision, and care of a child. In most cases, this individual is a biological or adoptive parent, or guardian.

* **Partner Organization:** An agency or non-profit organization with interests aligned with MCSO in regards to safeguarding a child from trauma when his or her parent is arrested or who is present when a search warrant is executed and which has the capacity to provide trauma-informed services to a child at the time of, or shortly following the event. This may include but is not limited to child protective services, FIT, school, youth service organizations, and faith-based programs.

Responsible Adult: An individual over 18 years of age who can pass a preliminary check of RMS and NCIC, to ensure that he/she does not have any arrests for founded

cases of child abuse, sexual crimes, physical domestic violence, and felony level drug or weapons convictions. This person has an existing positive relationship with the child and volunteers to temporarily care for the child in a situation where the parent is unavailable.

Trauma: Individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, mental, social, emotional, or spiritual well-being.

I. Safeguarding Children when Performing a Search Warrant

- A. The procedures set out below shall be followed except in circumstances when officer safety is compromised or if procedures set out below compromise other training and tactics.
- B. When deputies have reason to believe that a child may be present during a search warrant, particular care should be made to:
 - 1. Include in the pre-plan for the search warrant, measures to minimize potential trauma on a child.
 - 2. When reasonably possible, delay the search until the child is not likely to be present, or consider another time and place for performing a search warrant. If a delay is not possible, arrangements should be made to have a representative from CPS and/or another appropriate partner organization identified and ready to be consulted with, or respond to assist. For CPS intervention, CPS must already have an open case with the family, or a referral must be made through the state central registry. If CPS has an open case with the family, an expedited contact may be initiated by calling 585-461-5698. Otherwise, before CPS is able to intervene, a referral must first be made through the state central registry (1-800-635-1522).
 - 3. While maintaining the integrity of the arrest, and the safety of deputies, suspects, and other parties, whenever reasonably possible and prudent, avoid handcuffing and questioning in the presence of a child.
 - 4. Arrange for a translator service if persons present are not English-language proficient. A parent should not be allowed to interpret for a child, and a child should not be allowed to interpret for a parent.

II. Making an Arrest

- A. The procedures set out below shall be followed except in circumstances when officer safety is compromised or if procedures set out below compromise other training and tactics.
- B. General Procedures
 - 1. The deputy shall make a reasonable attempt to inquire whether the person arrested is a parent or legal guardian of a child who would need arrangements for their care because of the arrest, including any child who may not be present at the time but who is expected to return home from another location or activity.
 - 2. Adults may be reluctant to disclose the presence of, or responsibility for a child, for fear that they may lose custody. Therefore, when making an arrest, and when safe to do so,

the deputy shall be aware of any items in plain view that may indicate the presence of a child, such as toys, diapers, and similar items.

3. If a parent or legal guardian is responsible for a child, whether or not the child is present, a determination regarding appropriate placement shall be made to the extent reasonably possible, as laid out in this policy.
4. The same procedures should be considered when taking a parent or guardian into custody under the NYS Mental Hygiene Law.
5. If placement is necessary, and CPS intervention is needed, CPS must already have an open case with the family, or a referral must be made through the state central registry. If CPS has an open case with the family, an expedited contact may be initiated by calling 585-461-5698. Otherwise, before CPS is able to intervene, a referral must first be made through the state central registry (1-800-635-1522).

C. When a Child is Present the Deputy shall:

1. Take custody of the child in accordance with state law when the deputy reasonably believes there is a threat of imminent danger to the child, in accordance with state and local laws, as well as MCSO policies and procedures.
2. While maintaining the integrity of the arrest, and the safety of deputies, suspects, and other parties, whenever reasonably possible and prudent, avoid handcuffing and questioning in the presence of a child.
3. Unless the threat of imminent danger, reasonably avoid the use of force to physically separate a child from the arrested.
4. Determine whether the arrestee shall be permitted to speak with the child prior to being removed from the premises. When possible it should be facilitated.
5. Arrange for a translator service if persons present are not English-language proficient. A parent should not be allowed to interpret for a child, and a child should not be allowed to interpret for a parent.
6. When possible, designate a deputy to remain with and be responsible for a child until the child is in the care of an authorized community partner or responsible adult.

D. When a Child is Not Present the Deputy shall:

- * If the arrest occurs while the child is not present (e.g., at school or daycare), the deputy should discuss designating a caretaker with the parent or legal guardian and arrangements about how the child will be picked up and by whom. If the parent is not available to designate a caregiver for the child, ensure that appropriate arrangements are made through CPS to place the child with a responsible adult.

III. Determining Appropriate Placement for a Child

- A. When child abuse or child neglect is suspected, refer to **PBGO 043-22, Child Abuse Investigations**.
- B. The child should be placed with the other parent or legal guardian if this individual is capable of assuming responsibility for and care of the child.
- C. If another parent or legal guardian is not available, the arrested parent or legal guardian should be given a reasonable opportunity to select, and contact a caregiver unless there is a compelling reason not to do so, or the arrest is for child abuse or neglect. The deputy or another member of MCSO may contact the caregiver on behalf of the arrestee.
- D. If the parent or legal guardian is not willing or able to identify a caregiver, the deputy shall take reasonable measures to locate a relative or other responsible adult for the child.
- E. The parent or legal guardian has the right to designate a caregiver for his or her child. When the potential caregiver is not designated by a parent or legal guardian, the deputy should, to the extent feasible, conduct further inquiry. These inquiries shall include an RMS and NCIC check or access to other sources to identify any arrests/convictions for child abuse, sexual crimes, physical domestic violence, recent arrests for felony level drugs or other recent violent felony violations, which would disqualify the individual from taking custody of the child. Deputies shall also inquire as to any court ordered custodial arrangements and/or orders of protection.
- F. If questions should arise concerning the capability or competency of the second or another caregiver, the deputy should request assistance from a supervisor.
- G. The deputy should examine photo identification, or utilize other means to confirm the caregiver's identity and record the details in the applicable reports or record management system.
- H. While waiting for the arrival of a caregiver, the deputy shall remain at the premises or take the child to a juvenile approved room in an MCSO facility.
- I. If it is not reasonably possible to identify a caregiver, and alternative arrangements cannot be made, the deputy shall notify CPS of the need for emergency placement of the child. When placement is needed, there are two ways to initiate CPS intervention. Either CPS must already have an open case with the family, or a referral must be made through the state central registry. If CPS has an open case with the family, an expedited contact may be initiated by calling 585-461-5698. Otherwise, before CPS is able to intervene, a referral must first be made through the state central registry (1-800-635-1522).

IV. Interacting with a Child

- A. Where appropriate and safe, the parent or legal guardian should be given an opportunity to reassure the child and explain what is happening.
- B. If the parent or legal guardian is unable to provide reassurance to the child, the deputy or partner organization shall provide an explanation to the child, in an age and developmentally appropriate manner. It should be emphasized that the child has done nothing wrong and will be safe and cared for.

- C. When reasonably possible, the deputy shall ask the parent or legal guardian about items or objects that provide comfort to the child, such as toys, clothing, blankets, photographs or food that can be taken with the child.
- D. The deputy shall ask the parent or legal guardian about any medical, behavioral, or psychological conditions and/or required medications or treatments of the child that would become the responsibility of a caregiver.

V. Follow up

- A. Depending on the circumstances, deputies may follow-up with the Parent(s), Legal Guardians(s), Partner Organizations, and/or children involved in a circumstance involving this policy.
- B. The Police Bureau Major or their designee shall convene annual meetings involving all established partner organizations to review and evaluate the effectiveness of joint operational protocols, make improvements where necessary, and develop plans to expand services for a child after a parent/guardian is arrested. If any of the parties see a need, a meeting may be called at any time.

VI. Documentation

- A. The reporting member in the appropriate report shall document all actions taken by MCSO as outlined within this policy.
- B. Whenever a search warrant, arrest, or MHT is executed, the existence of a child, present or not, who requires alternative caregiving, the following shall be documented:
 - 1. The child's name and DOB.
 - 2. Any of the child's special needs such as language spoken, medical or mental health conditions, physical impairments or limitations, allergies, developmental disorders, or medications.
 - 3. The identity, address, contact information, and relationship of the responsible adult, caregiver, or partner organization representative, the child is being left in the care of.
 - 4. Any information or observation that would suggest the child is being neglected or abused, or where a follow-up may be necessary.
 - 5. In addition to written documentation, BWC may also be utilized in capturing the designation made by the arrested parent/legal guardian.

VII. Training

MCSO shall provide training to its Police Bureaus Members.

By Order of the Sheriff,



Todd K. Baxter