

COMMITTEE ON PUBLIC SAFETY JOINTLY WITH THE

COMMITTEE ON JUSTICE SYSTEM

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CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY JOINTLY WITH THE
COMMITTEE ON JUSTICE SYSTEM

February 25, 2019
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HELD AT: Committee Room - City Hall

B E F O R E: DONOVAN J. RICHARDS
Chairperson

RORY I. LANMAN
Co-Chair

COUNCIL MEMBERS:

JUSTIN L. BRANNAN
FERNANDO CABRERA
ANDREW COHEN
CHAIM M. DEUTSCH
VANESSA L. GIBSON
ALAN N. MAISEL
CARLOS MENCHACA
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PAUL A. VALLONE
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A P P E A R A N C E S (CONTINUED)

Fausto Pichardo
Assistant Chief, Executive Officer of the Patrol
Services Bureau

Terri Tobin
Deputy Chief and Commanding Officer of the Office
Of the Deputy Commissioner Collaborative Policing

Oleg Chernyavsky
Executive Director of Legislative Affairs

Lisa Schreibersdorf
Executive Director of Brooklyn Defender Services,
BDS

Kate Wood
Attorney with the Legal Aid Society

Fallon Speaker
Attorney in Family Defense with the Bronx
Defenders

Dianna King
Policy Manager with the Drug Policy Alliance, DPA

Tanya Krupat
Director of the Osborne Center for Justice at
Cross Generations with the Osborne Association

Allison Hollihan
Senior Policy Manager for the New York Initiative
For Children of Incarcerated Parents, the Osborne
Association

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2 [gavel]

3 CHAIRPERSON RICHARDS: Alright, good
4 morning. My name is Donovan Richards and I am the
5 Chair of the Public Safety Committee. We are here
6 with Chair Rory Lancman and the Committee on the
7 Justice System as well. We are hearing two pieces of
8 legislation today, Introduction Number 1349, a Local
9 Law to amend the administrative code of the city of
10 New York in relation to requiring the Police
11 Department to implement sensitive arrest policies and
12 Introduction Number 806, a Local Law in relation to
13 creating an interagency test for us to be charged
14 with studying the obstacles faced by children of
15 incarcerated parents from arrest or reunification. I
16 want to begin by thanking the members of the NYPD who
17 are here to testify. We also invited the district
18 attorney's offices but if... but I... if I understand
19 correctly, they will not be attendance and that's
20 really a shame. I know a couple of them are planning
21 to be here on Wednesday to talk about marijuana
22 legalization, which I believe they do support but I
23 think they should also be here to talk about
24 practices that we as law makers and as an oversight
25 body may, may be somewhat critical of. This hearing

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was sparked by what happened to Jasmine Headley at an HRA Office back in December and I'm sure some of my colleagues will have some questions about that incident as do I. Before I move on to the NYPD side of this issue, I have to say that I find it deeply upsetting that after she was put through the trauma of that arrest a district attorney's office asked for an order of protection barring Miss Headley from seeing the son that she was only trying to protect especially when she was the only one... especially when they didn't really know what happened when they asked for it. Separating parents and children should not be the default and I'm disappointed that none of the DR... DAs are here talk about how and why they made these decisions. I don't want to dwell on that incident just to point fingers, we already had our discipline hearing a few weeks ago and this hearing is really not about whether to discipline the NYPD officers who a lot of people saw on video along with HRA security guards ripping Miss Headley's son out of her arms while she was on the ground. I have met with Commissioner O'Neill about the incident and I know his position and I trust that he thought carefully about his decision not to take disciplinary action

2 against those officers. I strongly disagree with this
3 inclusion, but I want to move on from that today. I
4 want us all to learn from that incident and to move
5 forward and think about how officers will deal with
6 similar situations in the future and that's what
7 Council Member Danny Dromm's bill is about today but
8 the NYPD needs to understand that not publicly
9 confronting what happened in that case sends a signal
10 to New Yorkers that according to the NYPD those
11 actions are acceptable. What I saw is simply never
12 acceptable and we can't sit back and quietly worry
13 that other officers might see that and believe that
14 was how that situation should have been handled. I
15 know the police officers were there for a long time
16 before that video started and they really tried to
17 deescalate the situation and they were not the ones
18 driving it towards what we saw but we all saw what we
19 saw and we all need the NYPD to say to us and to
20 these off... to their officers that there is a better
21 way, that their standards are higher, that their
22 training teaches them how to avoid what happened that
23 day. From what I understand that is what we are going
24 to hear so I look forward to discussing what their
25 training is, what their NYPD policy is and most of

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2 all that they support the legislation we are hearing
3 today. Before I turn it over to my colleague, Co-
4 Chair Lancman and then to Dromm and Williams I just
5 wanted to have a moment of silence for Detective
6 Brian Simonsen who was killed unfortunately last
7 week, if we can have a moment of silence. Thank you,
8 I will now turn it over to Chair Lancman and then
9 we'll hear from Council Member Dromm.

10 COUNCIL MEMBER LANCMAN: Thank you. Good
11 morning, I'm Councilman Rory Lancman, Chair of the
12 Committee on the Justice System and thank you to
13 Council Member Donovan Richards for leading this
14 hearing about parent/child separation in non-domestic
15 violence criminal proceedings. [coughs] Excuse me.
16 Last November my committee held a hearing about
17 parent/child separation in family court that looked
18 at the process of removing children from their
19 parent's custody. We heard about the trauma that can
20 result from even short separation and examined how we
21 can strengthen the process to keep children in their
22 own homes. Less than two weeks later the entire city
23 saw the video of Jasmine Headley's arrest in a public
24 benefit's office where her son was literally ripped
25 from her arms. What is much less known... which... what

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is much less widely known is that at her arraignment where among other things she was charged with endangering the welfare of her child, an order of protection was issued that prevented Miss Headley from even seeing her son. The charges were ultimately dismissed, and the order of protection lifted after video of the arrest stirred justifiable public outcry but how many other Jasmine Headley's are out there? How many parents find themselves needlessly forbidden from seeing their children based on an order of protection issued at a criminal court arraignment? To issue a temporary order of protection a criminal court must find good cause to believe that there is a danger of intimidation or injury, the district attorney must make a presentation of facts and law to support their position for a temporary order of protection. In practice, district attorneys request orders of protection in almost every case involving a complaining witness regardless of how much information is actually available at the time of arraignment, whether the person being protected wants or needs courts intervention or collateral consequences for a defendant's family, housing or job. Public defenders indicate that the court grants

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an order of protection in virtually every instance in which a DA requests one. A full order prohibits a defendant from having any contact with an individual from the moment that it is issued including being in the same household, school, building or workplace. Overt police communities' risk further destabilization as a result of the pro-form issuance of such orders that can render defendants homeless, unemployed and without family support. Defendants have a right to due process, but courts have found that having an opportunity to be heard at their arraignment satisfies that requirement. At the request of the defense attorney, orders of protection are offer made.. often made subject to family court modification but while a family court could legally remove the order it typically will not. The perfunctory nature of most orders of protection and the general disregard for collateral consequences led in the spring of 2017 to a new review procedure in the Bronx. Cases involving family members where either the defendant or the complaining witness is under 21 and living in the same household are now required to have an expedited hearing in the domestic violence part of criminal court often as soon as the

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2 next business day. We are interested in learning
3 whether this program has addressed any of the
4 problems inherent in the current rubber stamp system
5 for orders of protection and whether there are steps
6 our district attorneys should take or policies they
7 should adopt to prevent the unnecessary separation of
8 parents from their children in non-domestic violence
9 situations like Jasmine Headley's. I look forward to
10 hearing today from the administration, legal services
11 providers and advocates about how to better implement
12 child center, centered trauma informed policies in
13 criminal cases and if I may just mention that we've
14 been joined by Council Member Debi Rose from Staten
15 Island who's a member of the Committee on the Justice
16 System. And if I may Council Member Paul Vallone who
17 is not a member of, of my Committee but he's a swell
18 guy, nonetheless.

19 CHAIRPERSON RICHARDS: Always glad to
20 have Paul Vallone. Alright, we're going to go to
21 Danny Dromm and then I believe Council Member
22 Williams is making his way up as well.

23 COUNCIL MEMBER DROMM: Okay, thank you
24 very much Mr. Chair. Imagine the horror, the sheer
25 horror of being a parent or caregiver during the

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2 chaos of an arrest when the welfare of your child is
3 foremost on your mind. Imagine the tremendous terror
4 of being a child witnessing your parent or caregiver
5 being hand, handcuffed and led away, arrests are
6 traumatic especially for small children who may not
7 fully understand what is transpiring. We as a city
8 must do everything, we can to minimize the trauma of
9 arrest on child bystanders. Intro 1349 will ensure
10 that the Police Department implements child sensitive
11 arrest policies aimed at reducing trauma and
12 supporting child bystander's physical safety and
13 emotional wellbeing following an arrest. This
14 legislation lays out procedures that police should
15 follow in dealing with young bystanders. For arrests
16 unrelated to child abuse or neglect, a parent or
17 caregiver must be given every reasonable opportunity
18 to ensure that their child is in safe hands. The
19 Police Department must be trained on dealing with
20 such children and implement practices aimed at
21 diverting and calming them. I look forward to hearing
22 from the range of experts on this issue. I am also
23 interested in hearing about the encouraging practices
24 already being pursued by the NYPD and how those can
25 be spread to all corners of the city. This is an

2 issue that my office has been working with advocates
3 on for a very long time. I'm grateful to Chair
4 Richards and Chair Lancman for holding this hearing
5 which is part of a larger dialogue in the wake of the
6 arrest of Jasmine Headley. I am hopeful that the
7 result of this conversation will be the improved
8 treatment of New Yorkers and their families by the
9 city employees who should be serving them. Thank you
10 very much.

11 CHAIRPERSON RICHARDS: Thank you, we're
12 now going to go to someone I wondered was... were they
13 going to make it, I heard there was something going
14 on tomorrow in the city of New York but nevertheless
15 glad to see him here, we'll go to Jumaane Williams.

16 COUNCIL MEMBER WILLIAMS: Thank you so
17 much Mr. Chair. Thank you, Chair Richards, Chair
18 Lancman and my colleagues for holding this hearing as
19 well as those test... who will testify before us today.
20 The failures of our criminal justice system do not
21 just punish those who are incarcerated, there's an
22 effect that resonates throughout the neighborhood and
23 within the home. It punishes families who lose a
24 husband, a mother, a father, the trauma caused by the
25 separation of families can and does have an immense

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impact on the long term outcomes of children well into adulthood, it lends to a cycle of pain, interactions with law enforcement and the criminal justice system that we as leaders must work tirelessly to stem in our system that's why I'm proud to sponsor legislation creating an interagency task force charged with studying the obstacles faced by children of incarcerated parents from arrest to reunification. Under this bill the task force will consist of the Commissioners of the Department of Correction, Children Services and the Police Department as well as three members appointed by the Mayor with relevant experience in the area of children of incarcerated parents and three such members appointed by the Speaker of the Council, the Speaker of the City Council. These members would serve for a term of one year without compensation and would meet quarterly. The task force would invite representatives of the New York State Office of Children and Family Services, the New York State Department of Corrections and Community Supervision and any other relevant state agency. The task force would issue a report of its findings and recommendations to the Mayor and the Speaker of the

2 we see a lot of things happening and recycling
3 generational, we want to find a way to try to block
4 that and I think this interagency task force might
5 have a great assistance in doing that. Again, I'm
6 thankful to the Chairs for holding this hearing on
7 the bills today and bringing into focus the often
8 overlooked but damaging trauma and suffering caused
9 by the criminal justice system on our youth and
10 children. Thank you.

11 CHAIRPERSON RICHARDS: Thank you, we're
12 now joined by Council Members Matteo and Brannan. I
13 said Matteo, Maisel, sorry, the.. I'm sorry. Are we
14 ready for the first panel, sorry? I didn't have
15 coffee this morning so.. alright, we're going to go to
16 Assistant Chief Pichardo, Deputy Chief Teresa Tobin
17 and then Executive Director Oleg for testimony now.
18 So, he's going to swear you in.

19 COMMITTEE CLERK: And do you swear to
20 tell the truth, the whole truth and nothing but the
21 truth to this Committee and answer all questions to
22 the best of your ability?

23 OLEG CHERNYAVSKY: Yes.

24 FAUSTO PICHARDO: I do. Good morning
25 Chair Richards, Chair Lancman and members of the

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2 Council. I'm Assistant Chief Fausto Pichardo, the
3 Executive Officer of the Patrol Services Bureau. I am
4 joined here today by Deputy Chief Terri Tobin,
5 Commanding Officer of the Office of the Deputy
6 Commissioner of Collaborative Policing, and Oleg
7 Chernyavsky, Executive Director of Legislative
8 Affairs. On behalf of Police Commissioner James P.
9 O'Neill, I am pleased to testify about the oversight
10 topic of family separation in certain criminal cases,
11 as well as the legislation being heard today. The
12 department's commitment to fighting crime is born of
13 a passion, first and foremost, to protect those who
14 are vulnerable, those who cannot help or control
15 their circumstances. It is this very commitment that
16 has allowed the Department to leverage the, the
17 city's historically low crime rates in furtherance
18 of victim and vulnerable population centered
19 initiatives. Initiatives such as the Crime Victim's
20 Assistance Program which has placed crime victim
21 advocates into every precinct and police service area
22 across this city. These advocates aim to mitigate
23 trauma in the aftermath of crime; give information to
24 victims about the criminal justice process and
25 support them as they go through the court system; it

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2 help victims develop a safety plan to prevent repeat
3 victimization; provide assistance to access needed
4 services such as safe affordable housing, emergency
5 NYCHA transfers, victim compensation, medical care,
6 or public benefits; and link victims to other local
7 service providers for additional and more specialized
8 assistance. Another example is our homeless outreach
9 partnership with the Department of Homeless Services
10 which has offices across the city connecting with
11 those living on our streets with the goal of
12 transitioning the street homeless populations into
13 treatment programs, safe havens, drop in centers, and
14 shelters, particularly during the cold winter months.
15 Likewise, the Child Trauma Response Team, which began
16 in 2016, is yet another example and now encompasses
17 ten precincts and Police Service Areas in Manhattan,
18 Queens and the Bronx. The Child Trauma Response Team
19 program involves follow up home visits to residences
20 that experience domestic violence incidents in which
21 children were present, in order to offer traumatic
22 stress treatment and other services to mitigate any
23 traumatic effects an incident may have had on a
24 vulnerable child. Additionally, and significant to
25 the topic being heard today, the Department is in the

2 process of instituting a child sensitive arrest
3 policy, which began as a pilot program in one patrol
4 borough in 2017 and is now being rolled out
5 department wide. While the department has always
6 trained its officers on practices that treated
7 innocent children with sensitivity, this initiative
8 is aimed at expanding the scope of these long-
9 standing practices and codifying them in department
10 procedures. The Neighborhood Policing philosophy
11 encourages collaborative problem solving, greater
12 community engagement and outreach, building trust, as
13 well as a shared responsibility and partnership with
14 those we serve to drive crime down even further. In
15 fact, enforcement activity in the form of summonses
16 and arrests has consistently declined since the
17 beginning of this administration, all while crime
18 continues to decrease. However, no matter our
19 collective efforts towards a fairer criminal justice
20 system, one that attempts to calibrate law
21 enforcement action to the crime or condition being
22 complained of, we cannot escape the harsh realities
23 of life. There are those that commit serious crimes,
24 such as acts, acts of violence and domestic violence,
25 and there are situations officers respond to where

2 they no longer have the discretion to avoid arrest.
3 In these cases, the crimes or actions of an arrestee
4 dictate that response. While such situations pose
5 many challenges, one of the most significant among
6 them is when an arrestee has physical custody of an
7 innocent child at the time of their arrest. A long-
8 standing part of each officer's training is to not
9 only know how to interact with and protect a child in
10 such scenarios, but also be cognizant of telltale
11 signs of the presence of a child, as it may not
12 always be readily apparent and to that end, the
13 department has incorporated props such as baby
14 carriages, toys and other child specific items into
15 its scenario-based training exercises. For example,
16 during the course of an exercise aimed at training
17 officers on responding to a complaint of an assault
18 at a home, a child specific item is randomly placed
19 somewhere in the mock apartment. While an officer is
20 evaluated on his or her tactical entry and movements
21 in the apartment, interaction with the victim and
22 alleged perpetrator, and recognition and safeguarding
23 of evidence, among other things, an officer is also
24 expected to spot the child specific item and make
25 inquiries aimed at determining if a child is present

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2 and what actions will be required to further the best
3 interest of the child. While current NYPD protocols
4 and training include safeguards aimed at protecting
5 innocent children when their parent or guardian is
6 being arrested, we realized we could do more, we
7 could do better. As Commissioner O'Neill has often
8 said, in some areas the department is very good, in
9 some areas we are the best, but in all areas, we can
10 do better. This is why, with respect to child
11 sensitive arrest procedures, the department has
12 sought the input of respected stakeholders and has
13 undertaken a significant revision of our procedures
14 in these circumstances. A comprehensive policy
15 revision of this scope is not easy and cannot be done
16 with the flip of a switch. The NYPD is the largest
17 municipal police force in the nation comprising over
18 36,000 uniformed members patrolling a city of over
19 8.6 million. Significant changes to a policy such as
20 this requires time for implementation on a smaller
21 scale, analysis of such a pilot, revision based on
22 lessons learned, and a significant training
23 component. Anything short of this could potentially
24 result in jeopardizing the very children we all aim
25 to protect. This is why in 2017, the department began

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a pilot program in Patrol Borough Brooklyn South which instituted child sensitive arrest protocols that largely mirrored the recommendations made by the International Association of Chief's of Police and the Department of Justice. Many of the recommendations were being done as a matter of practice. For example, notifying a patrol supervisor about the presence of an innocent child, effecting the arrest in a tactically safe manner outside of the child's sight and hearing where possible, allowing the parent to reassure the child that he or she would be safe, identifying and locating a designated caregiver, identifying and securing any medication needed by the child, and encouraging the child to take a familiar object and any other items that might help the child's emotional wellbeing. But the pilot went further, we began notifying the Administration for Children's Services of the child's location when staying with a designated caregiver at a location other than the child's residence. We also instituted a program of enhanced training for both the domestic violence prevention officers and the domestic violence prevention sergeants. This enhanced training is necessary because, as a part of the pilot,

2 designated caregivers will receive follow up visits
3 from the precinct's domestic violence prevention
4 officer while the parent or guardian remains
5 incarcerated. In the rare circumstances where an
6 appropriate caregiver cannot be identified or
7 located, the officer will now transport the child to
8 the precinct station house or a Safe Horizon Child
9 Advocacy Center until he or she is picked up by that
10 designated caregiver. Child Advocacy Centers are
11 comfortable, child friendly locations staffed with
12 teams of childcare experts designated to meet the
13 child's needs by addressing their safety and tending
14 to their physical and emotional wellbeing. As an
15 additional safeguard, we've placed posters outside
16 precinct holding cells with a picture of a child
17 below the words, did you forget about me? This is
18 done so that in the rare instance where a parent who
19 was arrested was unwilling to or incapable of or for
20 any other reason, did not notify officers of the
21 existence of a dependent child, and officers did not
22 become aware on their own, a parent may be reminded
23 to notify the precinct personnel of such a fact. Last
24 August, the department decided to implement child
25 sensitive arrest procedures citywide modeled on that

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Brooklyn South pilot. We are currently in the process of training officers on the proper response to these situations and updating department procedures. I will know... now turn to Intro 1349. As I have laid out in my testimony the department is not only supportive of the goals of this bill, it has already piloted and undertaken department wide implementation of a child sensitive arrest procedure on its own initiative, with stakeholder input along the way. Although our procedure largely mirrors the requirements of the proposed legislation, it is important that operational and tactical protocols be established as a matter of department policy and not dictated by law. A policy driven approach allows for those with proven experience in policing, as well as interested stakeholders, maximum flexibility in making necessary changes that not only address the best interest of children, but also the evolution of operational realities. Likewise, although the department has already begun to train officers on child sensitive arrest procedures, dictating specific training in legislation may not envision evolutions in this field, and can have the unintended impact of delaying rollout due to the need to retrain officers pursuant

2 to the requirements of the bill. Finally, although
3 the department has both unilaterally and in
4 collaboration with Council, made a significant amount
5 of data available to the public, the reporting
6 requirements in this bill raise multiple challenges.
7 Namely, requiring the department to report on data
8 which is not in the department's control, such as 3-
9 1-1 and COMMITTEE CLERKRB data, and data not
10 currently captured by department forms or systems. As
11 always, we look forward to working with the bill
12 sponsor to achieve the greater goal of transparency
13 within the department's capabilities. The department
14 remains committed not only to the safety and welfare
15 of affected children at the time of a caregiver's
16 arrest, but also to our demonstrated and forward-
17 looking initiatives aimed at protecting and
18 advocating for vulnerable populations. Thank you for
19 the opportunity to speak about this very important
20 issue and I look forward to answering any questions
21 that you may have.

22 CHAIRPERSON RICHARDS: Thank you
23 Assistant Chief Pichardo and I want to acknowledge
24 we've been joined by Council Member Gibson as well.
25 So, let me just start off, you didn't talk about

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2 Jumaane's bill, is there any... on the task force bill,
3 is there any... [cross-talk]

4 OLEG CHERNYAVSKY: Are there... [cross-
5 talk]

6 CHAIRPERSON RICHARDS: ...opinion on
7 whether you support it or not?

8 OLEG CHERNYAVSKY: The administration is
9 still reviewing the bill and we're going to be taking
10 the position in the future.

11 CHAIRPERSON RICHARDS: Okay and then on
12 Intro 1349 and, and I know Council Member Dromm will
13 drill down a lot more on this, I just want to point
14 out, you know when you look at the situation that
15 arose unfortunately at that HRA Center, you know it
16 would be our hope that we wouldn't have to legislate
17 things like this or move to legislate that, you know
18 officers who respond to a situation like that with a
19 baby would respond appropriately and we wouldn't be
20 here today but unfortunately between the HRA peace
21 officers and obviously the NYPD something went wrong
22 so the Council's obligation as law makers is to be
23 law makers so I just wanted to point that... point that
24 out. Let me just go to... I have a few questions and
25 then I'm going to turn it over to sponsor Dromm. So,

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3 us... an officer reassures that child giving the parent
4 where it's possible an opportunity to select that
5 care giver giving the child the opportunity to take
6 an item of comfort from the home, inquiring about the
7 child's medical condition if any or if that child
8 takes any medication and giving an opportunity to
9 take that medication from the apartment to go with
10 the child, those sort of protocols have been trained
11 and have been in place. What we have begun doing in
12 2017 and I'll, I'll allow Chief Tobin to go deeper
13 and explain the, the pilot, is we instituted a pilot
14 in one patrol borough which expanded upon that
15 protocol, expanded upon the recommended practices of
16 the International Association of Chiefs of Police,
17 that pilot program has... is still really in effect
18 because there is no logical need to suspend that
19 program and that's in the process... that pilot and
20 what we've learned from it is in the process of being
21 rolled out department wide and Chief Tobin... [cross-
22 talk]

22 CHAIRPERSON RICHARDS: That's in Brooklyn
23 South the pilot, right?

24 OLEG CHERNYAVSKY: The pilot was piloted
25 in Brooklyn South and now we, we're in the process of

2 instituting these protocols into the patrol guide
3 and... as well as doing training and, and actually
4 building upon what the recommendations of
5 stakeholders and the International, International
6 Association of Chiefs of Police was and I'll, I'll
7 allow Chief Tobin to expand.. [cross-talk]

8 CHAIRPERSON RICHARDS: And before you
9 turn to her, so out of the recommendations that DOJ
10 and its... the Chiefs came up with... Chief of Police and
11 Departments came up with did you reject any of their
12 recommendations or everything you... that they came up
13 with you've followed?

14 OLEG CHERNYAVSKY: I, I think the Chief
15 could expand.. [cross-talk]

16 CHAIRPERSON RICHARDS: The Chief could,
17 okay.

18 TERRI TOBIN: Good morning. So, most of
19 the provisions that were in the IACP policy were
20 already in action in the NYPD, the three new
21 components that were added to the policy were, one is
22 that the CAC, which is the Child's Advocacy Centers
23 in each borough would be a place that officers could
24 take a child if there was going to be a, a period of
25 time between the time the person was taken into

2 custody and the person who is assuming care given
3 would be able to pick up the child. The second was
4 that if the person remained incarcerated on the third
5 day the domestic violence officer in the precinct
6 where the child was located would go and do a home
7 visit and lastly, we have been rolling out training
8 for domestic violence officers and sergeants that
9 take place right at the CAC and we have done
10 Brooklyn, Manhattan, Queens, we're scheduled for the
11 Bronx in March.

12 CHAIRPERSON RICHARDS: Great and... sorry,
13 so those are the three new recommendations and just
14 go through and I don't know if... I mean I want to go
15 through Miss Headley's situation, do you think that
16 if... so, so can you speak to some of the specifics of
17 that situation, so after that situation arose and she
18 was arrested what did, did the... did her child get
19 taken to a, a child advocacy center or what, what
20 happened after her arrest, how did NYPD follow up
21 after that?

22 OLEG CHERNYAVSKY: I mean unfortunately
23 we can't speak to the specific situation because it
24 is the subject of, of current litigation however,
25 what I can say more broadly is that as a result of

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2 that incident both HRA and the NYPD did a close
3 review of their protocols and collaboratively we've
4 both instituted changes within our respective
5 organizations. So, for example, if the NYPD is called
6 to the scene of an HRA facility a patrol supervisor
7 is now dispatched in all such scenarios, HRA also
8 instituted a protocol that prior to calling the NYPD
9 based on an incident happening at their facility they
10 have a chain of command including supervisors that
11 would review the incident and determine whether or
12 not the police department should, should be called to
13 the scene and there's a chain of command that's
14 established between the two, two agencies in the
15 event that we're called to the scene of these
16 incidents who takes control and, and at what time.
17 So, I think the... that review and the determinations
18 that both agencies have come to should result in a
19 significant decrease in the number of times the NYPD
20 is actually called to an HRA facility and it
21 certainly should, should ensure that unfortunate
22 incidents like the one that you referenced are
23 minimized if not eliminated.

24

CHAIRPERSON RICHARDS: So, Chief Tobin if

25

you can and let's, let's move away... let's not focus

2 specifically on that incident because I know there
3 are a lot of different situations that arise in HRA
4 centers that may not have got the amount of publicity
5 as Miss Headley's situation so take me through a
6 similar situation, now let's, let's remove Miss
7 Headley from the situation now, take me through how
8 the NYPD now based on some of the new training and
9 protocols being put in place and let's imagine we had
10 a similar situation how would the NYPD respond now in
11 a situation like that? So, let's...

12 TERRI TOBIN: So, as you know we are in
13 the process of doing crisis intervention training for
14 all our officers and part of our training for... in
15 crisis intervention training is de-escalation
16 techniques and our goal is always to gain voluntary
17 compliance where a parent would willingly allow the
18 officers to have the child while they are removed
19 from the scene and, and processed.

20 CHAIRPERSON RICHARDS: Right and, and
21 just take me through and I know you mentioned the,
22 the patrol guide as well now so the, the new
23 procedures that you're looking at doing they, they've
24 been added to the patrol guide, has anything been
25 added, added to the patrol guide so far and I know

2 you mentioned in your testimony that some of the
3 procedures were being added but I didn't see a clear
4 indication on whether they were being added into the...
5 [cross-talk]

6 OLEG CHERNYAVSKY: Sure, so... [cross-talk]

7 CHAIRPERSON RICHARDS: ...patrol guide?

8 OLEG CHERNYAVSKY: With, with the full
9 implementation of the Brooklyn South pilot department
10 wide there will be the, the procedures that the
11 department has been doing is a matter of practice for
12 decades and has been trained to do is now going to
13 be... is now going to be codified into the patrol
14 guide. So, I think it's in its final stages now,
15 we're in the process of implementing it, the training
16 as the Chief mentioned is well underway if... pretty
17 close to completion, the patrol guide sections have
18 been revised although not finalized but once they're
19 finalized they're going to be put into the patrol
20 guide and obviously as you know the patrol guide is
21 posted online so the online patrol guide would be
22 updated... [cross-talk]

23 CHAIRPERSON RICHARDS: And which section
24 in the patrol guide is it going... [cross-talk]

2 OLEG CHERNYAVSKY: I mean that's... it's
3 not finalized yet so I'm going to... I'm not really
4 sure at this point.

5 CHAIRPERSON RICHARDS: And when do we
6 anticipate full completion... anticipated.. [cross-talk]

7 OLEG CHERNYAVSKY: I... [cross-talk]

8 CHAIRPERSON RICHARDS: ...time line?

9 OLEG CHERNYAVSKY: I don't... I don't have
10 an exact date, I think certainly this year, I know
11 we're at the beginning of the year so we're hoping
12 for sooner rather than later, I think he... your... as
13 you've heard by Chief Tobin's testimony and Chief
14 Pichardo's testimony that we're pretty well underway
15 already and so we don't envision it taking a
16 significant amount of time longer but we certainly
17 think it'll happen this year.

18 CHAIRPERSON RICHARDS: And in your... can
19 you speak to the confidence and I'm going to turn it
20 over to Chair Lancman and then Dromm, are you
21 confident now that with the specific training
22 procedures that are being put in place and based on
23 this pilot that we will not arrive back at a
24 situation that we all witnessed unfortunately with
25 this incident that was highly publicized?

1
2 OLEG CHERNYAVSKY: We, we are confident,
3 we think that all, the entire police department would
4 benefit from, from the new protocols and from the
5 training associated.

6 CHAIRPERSON RICHARDS: And penalties and
7 repercussions if an individual or if an officer does
8 not adhere to the new policy?

9 OLEG CHERNYAVSKY: I think it's as is the
10 case with all deviations from department protocol, I
11 think there would be an... not I think, I know there
12 would be an investigation, determination would be
13 made if obviously if it was an intentional deviation
14 whether it was an accidental and the appropriate
15 discipline would be calibrated to the facts of any
16 particular case, is it a case that is unintentional
17 and training, additional training is needed, is it
18 something that's intentional and more of a
19 significant discipline is needed, I think those
20 determinations are made on the case by case basis.

21 CHAIRPERSON RICHARDS: Okay, thank you.
22 You didn't mention how many officer... patrol officers
23 were trained already, how many?

24 TERRI TOBIN: There are over 12,000.
25

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2 CHAIRPERSON RICHARDS: Over 12,000, when
3 do we anticipate the entire department will be
4 trained?

5 OLEG CHERNYAVSKY: I think the, the goal
6 of... the goal of de-escalation CIT is to have 16,000
7 trained by, by 2021 which is... and as the Chief said
8 we have 12 and a half thousand done already, I mean
9 it's a pretty intensive and extensive training, once
10 the protocols go into effect with respect to child
11 sensitive arrest policies there's going to be a
12 department wide training done there and then there's
13 an ongoing training component being done the more
14 enhanced training for domestic violence officers and
15 domestic violence sergeants so all of that is
16 happening simultaneously, we're not waiting for one
17 to complete to be completed before we start the
18 other.

19 CHAIRPERSON RICHARDS: And the specific
20 curriculum you're using you've worked with
21 organizations such as Safe Horizon and others to sort
22 of flesh out and take recommendations from them or
23 have you done that, have you worked with the
24 advocates and you mentioned stakeholders in your
25

2 testimony, I'm interested in knowing who the
3 stakeholders were that you worked with as well?

4 OLEG CHERNYAVSKY: I think... I'm... I don't
5 want to butcher the name, I think the Osborne
6 Institute.

7 CHAIRPERSON RICHARDS: Osborne Institute,
8 okay.

9 OLEG CHERNYAVSKY: Osborne, Osborne
10 Association.

11 CHAIRPERSON RICHARDS: Association...

12 OLEG CHERNYAVSKY: They certainly are a
13 stakeholder that we've, we've consulted with and, and
14 partnered with in the past as well as other law
15 enforcement and, and our partners in the service
16 provider industry as well.

17 CHAIRPERSON RICHARDS: Okay, so you're
18 saying you've worked with them in tandem... [cross-
19 talk]

20 OLEG CHERNYAVSKY: Yes, they... I mean our,
21 our work towards child sensitive arrest policies has
22 dated back to 2014... it's dated back a, a number of
23 years... [cross-talk]

24 CHAIRPERSON RICHARDS: Okay... [cross-talk]

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2 OLEG CHERNYAVSKY: ...and again as I said a
3 lot of the protocols that I've highlighted, you know
4 making arrests outside of the child's presence and
5 comforting items and, and determining a care giver
6 based on the parent's wishes all of that has been in
7 place and has been the practice with the department
8 for decades, we've just enhanced it, we've codified
9 it which is the goal of the... of the department wide
10 roll out is codifying it and then enhancing it with
11 the CA... via the use of CACs via notification to ACS
12 and, and the like and the, the, the follow up visits
13 by the domestic violence officers.

14 CHAIRPERSON RICHARDS: Alright, thank
15 you, you know I think my, my big concern is, is not
16 necessarily just the training but making sure
17 implementation obviously really happens and you know
18 I mean I don't want... you know we've spoken about this
19 situation seems like for the last few months but it
20 really shined a, a glaring light on where the
21 department could do better and I'm just hoping that
22 implementation not just we're training people but
23 that implementation is, is set from... that are
24 certainly being adhered to so I'm going to turn it
25 over to Chair Lancman for questions.

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2 COUNCIL MEMBER LANCMAN: I think Council
3 member Dromm has a... has something he's got to get to
4 so...

5 COUNCIL MEMBER DROMM: Thank you very
6 much, you are very kind. There is an education
7 meeting on funding for the Department of Education
8 and as a former Education Chair and as the Finance
9 Chair I need to get over there as well, so I really
10 appreciate Chair Lancman giving me the opportunity to
11 just ask a few questions. So, my questions are really
12 about your opposition I guess to codifying some of
13 the suggestions... or some of the, the, the pieces of
14 my legislation and I... and I... and I want to hit on a
15 point I think that Chair Richards mentioned as well
16 which is that it... the training might be there but the
17 in practice it's not happening and I think that was
18 evident in the Jasmine Headley case but I think that
19 there have been other examples of it as well. So, let
20 me just go to your testimony and, and, and it says
21 here although our procedure largely mirrors the
22 requirements of the proposed legislation, it's
23 important that operational and tactical protocols be
24 established as a matter of department policy and not
25 dictated by law, why?

2 OLEG CHERNYAVSKY: Well I think Council
3 Member the, the unique nature of policing and the
4 dangers involved and the fluidity of, of incidents as
5 we... as we arrive at them require operational
6 decisions, now in terms of the spirit of your bill
7 and the goal of your bill we can take down the nine
8 items that you highlight in your bill and you can
9 basically see that the department in... as a matter of
10 practice is in fact doing those things, now to the
11 extent that they're... that they're done is we make
12 best, best efforts obviously given the situation that
13 we're faced with but there is a guiding map towards
14 how we approach arrest situations when there's a
15 child present and we've been doing that for a number
16 of years, we've shown as a matter of our own
17 initiative that we want to improve and that we
18 recognize the sensitivities involved in these
19 situations and that's why we've partnered with
20 respected stakeholders in the field as well as law
21 enforcement stakeholders to improve upon that and
22 we've actually improved upon that by adding protocols
23 that are not even envisioned in recommendations made
24 by stakeholders but not even envisioned in the bill
25 as well, this is just our constant mission to do

2 better and I think codifying protocols specifically
3 operational protocols in law marries us to a certain
4 procedure to... procedure and a certain time and
5 doesn't account for the evolution over time, certain
6 practices may, may evolve, certain trainings may
7 evolve because certain beliefs evolve and the experts
8 would agree that, you know what we believed a few
9 years ago is not what we believe now and the training
10 should be augmented to account for X whereas we used
11 to believe Y. So, I mean the, the idea... the idea is
12 and I, I just want to be clear that we're not
13 disagreeing with the premise of your bill, what, what
14 your bill is laying out is basically what we're doing
15 today so I'm not going to find a lot of criticism in
16 your bill because you're, you're in agreement with
17 what we're doing and we're in agreement with what you
18 would like us to do. My, my only objection I guess if
19 you will, is that it freezes us in time, and we would
20 like the flexibility to evolve over time.

21 COUNCIL MEMBER DROMM: See I'm not
22 following that thinking actually because to me what I
23 have seen and I've seen it even in cases other than
24 Jasmine Headley that although you state that
25 procedures were in place before and that you have now

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2 COUNCIL MEMBER DROMM: One and three are
3 which ones?

4 OLEG CHERNYAVSKY: I, I mean for example...
5 I'll... without marrying ourselves here for example if
6 we have a, a... an arrest warrant that we're executing
7 that's a good example, I think. I think these are
8 very... law enforcement's... the, the existence of an
9 arrest... of a search warrant or an arrest warrant is a
10 very law enforcement sensitive situation that has a
11 lot of moving parts to it in terms of safety not only
12 to the people in an apartment but residents around an
13 apartment, we couldn't be placed in the situation
14 where we're notifying third parties of law
15 enforcement operations before a law enforcement has a
16 chance to do, that, that would be the easiest example
17 I think... [cross-talk]

18 COUNCIL MEMBER DROMM: Well certainly
19 there must be a way to notify administration for
20 children services an hour before you go to execute a,
21 a search warrant or something like that... [cross-talk]

22 OLEG CHERNYAVSKY: No, I mean I think
23 there's... [cross-talk]

24 COUNCIL MEMBER DROMM: ...you know
25 especially in a... in, in a... in a case where you know

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that there's going to be or the likelihood of the child being in the apartment is high.

OLEG CHERNYAVSKY: Yeah, I think the, the, the right procedures there are procedures that we've done for, for many years now is that when we know a child is going to be present without compromising the law enforcement operation by involving third parties before... you know during the planning stages of the operation is we ensure that individuals from the police department are assigned to tend to the needs of, of children if we know the children are there and then we default to the protocols that I've outlined which is ensuring to the best of our abilities of the child is outside of, of sight and sound of the arrest, that the child... if the child is going to be placed with a, a third party, a care giver that the parent to the extent it's possible can weigh in and identify that care giver, that the child could have a, a comforting item that they can take from the home, medication is identified if there is any so all of these protocols are in place and it is done without compromising operations, I mean that, that's... [cross-talk]

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2 COUNCIL MEMBER DROMM: So, basically,
3 you're saying what it is that I'm proposing it's just
4 that you're, you're opposed to codifying it and I
5 don't really understand that but anyway let me... let
6 me move on a little bit. Does the NYPD have a, a
7 policy written or otherwise of women officers dealing
8 with child bystanders on site?

9 OLEG CHERNYAVSKY: Can you... can you...
10 [cross-talk]

11 COUNCIL MEMBER DROMM: You have a policy
12 of women officers dealing with child bystanders?

13 OLEG CHERNYAVSKY: Yes.

14 COUNCIL MEMBER DROMM: And what is that
15 policy?

16 FAUSTO PICHARDO: So, as, as it relates
17 specifically to a, a lost or a found child you'll see
18 procedurally in our patrol guide as Oleg stated, its
19 online, that delineates what steps we would take as
20 an agency to deal with that lost or found child so
21 you can see that online as well. I don't have that
22 policy in, in front of me today but it's definitely
23 in the patrol guide.

24 COUNCIL MEMBER DROMM: And that's, that's
25 specifically for women?

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2 FAUSTO PICHARDO: You speaking of female
3 police officers, correct... [cross-talk]

4 COUNCIL MEMBER DROMM: Yes, I'm... I asked
5 does the NYPD have policy written or otherwise of
6 women officers dealing with child bystanders?

7 FAUSTO PICHARDO: So, the, the policy and
8 the procedure itself speaks to when we find a lost
9 child and what steps the patrol officers would take
10 and... in securing aid for that child whether it's
11 transportation or notifying Administrative for
12 Children Services including who would be best at that
13 given time to sit with that child.

14 COUNCIL MEMBER DROMM: And that could be
15 a woman?

16 FAUSTO PICHARDO: That is correct.

17 COUNCIL MEMBER DROMM: And is that often
18 the case?

19 FAUSTO PICHARDO: Well I, I think we have
20 as an agency I would like to believe in my years of
21 experiencing that that male and female police
22 officers at any given time as I've witnessed share
23 the same common goal and, and, and human perspective
24 of aiding a lost or a found child so again it's...
25 [cross-talk]

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COUNCIL MEMBER DROMM: And what about when a parent is placed under arrest?

FAUSTO PICHARDO: Any, any time that a parent is placed under arrest again the, the overriding goal is to ensure the safety of all parties involved and specifically to that end when we're... a child is involved we want to make sure that we as best as we can if the option is there to leave that child with a responsible adult or care giver at the behest of the individual that was being arrested whether it be that parent that, that we abide by that and that we do that so that we do not have to bring that child to the precinct or child advocacy center or Administrative for Children Services.

COUNCIL MEMBER DROMM: Do any of those officers who deal directly with the children have any type of a degree in child development or how to work with children that are facing this situation?

FAUSTO PICHARDO: I can't speak of a, a specific incident, I, I mean we're 36,000 uniformed members on the street, I mean you, you have police officers who have PhDs, you have police officers who are lawyers, you have police officers who are

2 artists, who runs the gambit, going back to the
3 training... [cross-talk]

4 COUNCIL MEMBER DROMM: No, we're not...
5 we're not talking about that today, we're talking
6 about child sensitive policies and whether or not
7 officers are trained to deal with those children when
8 in fact an arrest occurs and so I find that answer to
9 be somewhat evasive to be honest with you and, and
10 that's what we're trying to get at and I'm not trying
11 to attack the department or anything like that, we're
12 trying to find a better way to be able to deal with
13 these situations.

14 FAUSTO PICHARDO: I, I believe that the,
15 the police department is, is... has probably the best
16 trained police officers in the nation and, and...
17 [cross-talk]

18 COUNCIL MEMBER DROMM: Alright, so you
19 don't want to answer that... [cross-talk]

20 FAUSTO PICHARDO: ...if... [cross-talk]

21 COUNCIL MEMBER DROMM: Are responding
22 officers alerted beforehand in the... of the presence
23 of a child?

24 FAUSTO PICHARDO: Do you refer to a
25 specific incident?

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2 COUNCIL MEMBER DROMM: Yeah, are they... is
3 there ever a case where an officer is, is brought to
4 a scene and, and they're told advance... in advance
5 there are children here and you need to bring a
6 specialist or somebody along with you who can deal
7 with the situation in a possible separation?

8 FAUSTO PICHARDO: I can't think of a
9 specific time that I've ever heard a call with the
10 exception of perhaps a, a notification through ACS
11 but your typical 9-1-1 call does not come bundled up
12 with someone saying... [cross-talk]

13 COUNCIL MEMBER DROMM: No but like a...
14 like in, in the HRA situation would those officers
15 have told you there's a woman here with a child
16 sitting on the floor and you know when, when they
17 respond are they aware that that's the case and, and
18 not only in Jasmine Headley's case but in other cases
19 where parents have children and there's an
20 interaction with law enforcement?

21 FAUSTO PICHARDO: Well the, the
22 information that we receive is, is as good and as
23 reliable as the people who... and the folks that are
24 calling 9-1-1 and giving us the information.

25

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2 COUNCIL MEMBER DROMM: So, those HRA
3 officers weren't that reliable?

4 FAUSTO PICHARDO: I can't speak
5 specifically to that incident, in general terms as
6 you alluded to if someone calls 9-1-1 the information
7 that they give that dispatcher that in turn gives to
8 the responding police officers if the information is
9 included whether there are children present, elderly
10 present, dependent... adults present or any other
11 myriad of situations that could be evolving around
12 that specific incident then is related to the
13 specific... to the police officers that are responding
14 to that 9-1-1 call.

15 COUNCIL MEMBER DROMM: So, when a police
16 officer gets to a scene and sees children involved
17 then they would respond back to the precinct?

18 FAUSTO PICHARDO: Well it depends what,
19 what you're speaking of to the scene, I, I mean at,
20 at times there are children at... present at a scene of
21 a vehicle collision, there are children present at
22 the scene of... [cross-talk]

23 COUNCIL MEMBER DROMM: Well I'm talking
24 about when a parent is being arrested because we're
25 not talking about vehicle accidents today, we're

2 talking about specifically when parents are going to
3 be arrested.

4 FAUSTO PICHARDO: So, at the scene of an
5 arrest where a child is present first and foremost
6 again the overriding goal is to ensure the safety of
7 all the parties present and involved in that specific
8 scenario; the parent, the child, the officers and to
9 ensure that that child if that parent is getting
10 arrested that... [cross-talk]

11 COUNCIL MEMBER DROMM: But are you
12 calling the precinct to inform them that a child is
13 involved?

14 FAUSTO PICHARDO: Well the police
15 officers that respond are respond and in any arrest
16 situation police officers request the response of the
17 patrol supervisor which is a supervisor in the rank
18 of sergeant or at times a lieutenant.

19 COUNCIL MEMBER DROMM: And then they are
20 responsible to deal with the, the children?

21 FAUSTO PICHARDO: Well collectively at
22 the scene we would... it would be a responsibility
23 that's bared upon everybody so we would afford if
24 circumstances dictate that parent to speak to their
25 child to let them know what is going on to have that

2 parent let us know if there's someone in that
3 household, a relative, another care giver that they
4 entrust with their child so that that child can
5 remain in that household, a familiar place or go with
6 someone who is familiar with them.

7 COUNCIL MEMBER DROMM: I don't know, it,
8 it seems like you're arguing against yourself to a
9 certain extent because the policies are too loose and
10 it seems to just support my legislation that it needs
11 to be tightened up because it doesn't seem to be
12 structured enough to support children when they face
13 these types of situations so, with that I, I look
14 forward to continuing to negotiate with the
15 department on the legislation and, and I thank you
16 for coming in.

17 OLEG CHERNYAVSKY: Thank you.

18 CHAIRPERSON RICHARDS: And I know before
19 I turn it over to Chair Lancman, I know you can't go
20 through specifics, can you go through who responded,
21 what was the rank of the individuals who responded at
22 the HRA Center that day?

23 OLEG CHERNYAVSKY: Council Member we
24 respectfully we can't go into the answer... [cross-
25 talk]

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2 CHAIRPERSON RICHARDS: I mean I know the
3 answer to it because I think that... [cross-talk]

4 OLEG CHERNYAVSKY: No, I, I... [cross-talk]

5 CHAIRPERSON RICHARDS: ...they were... they
6 were fairly new officers so they... so, I think... you
7 know what, what Council Member Dromm certainly is
8 saying I think the police Commission had acknowledged
9 it during the situation that, you know these were
10 fairly new officers and this is why he felt like they
11 needed I believe more training or I don't even know
12 if he said that but the, the point we're making is
13 that there's, there's a flaw somewhere in the policy
14 and, and obviously that day when Miss Headley, when
15 the HRA peace officers called there was a breakdown
16 clearly in the protocol that you say that the
17 department adheres to so, so I think, you know this
18 is why Council Member Dromm is making that point,
19 clearly that day if you're saying a lieutenant or
20 whomever is supposed to show up that day they didn't
21 show up so there was a breakdown somewhere so..

22 OLEG CHERNYAVSKY: Well I, I think the,
23 the... without speaking to the incident... well what I
24 have mentioned is after the incident the protocols of
25 having a supervisor show up at every scene of an HRA

2 call that was instituted post-incident not pre so..
3 [cross-talk]

4 CHAIRPERSON RICHARDS: Okay, got it. Let
5 me just recognize Council Members Cabrera, Deutsch,
6 Cohen, Powers, after we hear from Chair Lancman we'll
7 go to Council Member Deutsch who had a question.

8 COUNCIL MEMBER LANCMAN: So, I'm
9 interested in the process that results in an order of
10 protection where a parent is ordered to stay away
11 from his or her child as happened in the Jasmine
12 Headley case among the other indignity she had to
13 endure, one was that an order of protection was
14 issued which prohibited her from contacting her... or,
15 or having any connection or, or contact with her..
16 with her son and ultimately it's the district
17 attorney's office that is asking for that, that order
18 of protection and ultimately it's the district
19 attorney's office that is choosing which charges to,
20 to bring but that's heavily influenced by the police
21 department's behavior and choices in arresting
22 someone and at least arresting them based on XYZ
23 charges. The most common charge that triggers an
24 order of protection will be endangering the welfare
25 of a child which is an A misdemeanor and it's what

2 needs to have probable cause that the elements of
3 that particular crime have been met. Now placing the,
4 the charge, endangering the welfare of a child on an
5 arrest report does not necessarily translate to an
6 automatic arraignment on that charge, I think at...
7 that's where the checks and balances come in where
8 the police officer, the arresting officer would be
9 going to... before... would be going to ECAB, would be
10 going to speak to ADA that's going to write up the
11 case and the ADA would vet and I guess for lack of a
12 better term, vet the arrest and vet the charges being
13 charged and determine if in fact the facts of the
14 case sustain the charges being charged and if they
15 don't believe that a particular fact pattern
16 sustains... [cross-talk]

17 COUNCIL MEMBER LANCMAN: I, I know what
18 the ADAs do... [cross-talk]

19 OLEG CHERNYAVSKY: Right, but, but
20 that's... I mean I think that's the answer to your
21 question, where from our end we're dictated by penal
22 law 260.10 in endangering the welfare of a child and
23 we need to have... the fact pattern needs to give us
24 probable cause that that section was in fact violated

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and then it would be up to the DA to determine whether or not they're going to bring that charge.

COUNCIL MEMBER LANCMAN: So, so... right, so here's the concern and we saw it I think in the Headley case I think most people would be hard pressed to identify how she was endangering or was intending to endanger the welfare of her, her... of her child, ultimately those charges were, were dismissed and, and what we're hearing both from the defense bar and, and from some folks in, in the prosecution world is that whenever there is a child in, in... present where an offense is being allegedly committed that in addition to whatever the person, the adult is being charged with; obstruction of justice you name it, the endangering the welfare of a child charge arrest is, is tacked on and then that leads to ultimately a strong inclination on the part of the district attorney's office to, to bring that charge, ultimately it's their decision but to bring that charge and so what guidance and, and, and what policies are, are officers operating under when they are arresting someone for... and putting on the arrest sheet endangerment of the welfare of a child when the

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2 child's welfare was, was arguably not endangered just
3 was... the child was, was present?

4 OLEG CHERNYAVSKY: Well, I think... I think
5 you're, you're answering the question, if the mere
6 presence of a child at a location where a parent or a
7 care giver is being arrested does not result in an
8 endangering the welfare of a child charge being
9 charged or tacked on as you said, I think and again
10 as I've answered to you prior question it's a case by
11 case analysis meaning the fact pattern of every case
12 has to dictate that the probable cause exists that
13 the individual knowingly, knowingly and that's the
14 element there, endangered the physical, moral or, or
15 mental welfare of the child and that's done on a case
16 by case basis, it's certainly... I would not agree with
17 a characterization and I understand that you are not
18 making that characterization that we tack on the
19 charge or the police tack on the charge of
20 endangering in every case that a child is present, or
21 a care giver is being arrested that's just not true.

22 COUNCIL MEMBER LANCMAN: Is, is there
23 anywhere in, in the... NYPD's training materials or in
24 the patrol guide which says in some in substance the
25 mere presence of a child when someone is being

2 arrested or the mere presence of a child when, when
3 someone is committing... Allegedly committing some
4 offense is, is not sufficient to also arrest them for
5 endangering the welfare of a child?

6 OLEG CHERNYAVSKY: I can't say with
7 certainty, I mean I, I can certainly take a look at
8 that and, and get back to you but it's generally
9 would be... that would be training in the negative not
10 to say that it doesn't exist, I'll look at it and see
11 if maybe there's a, a note in the patrol guide
12 procedure or somewhere in the... in the training but I
13 can tell you that generally in training when you
14 train to what are the elements of the crime you're
15 training to the elements of the crime, you're
16 training officers that when you're going to charge an
17 offense on an arrest report that you know and you
18 have probable cause that the elements... each and every
19 element of that particular crime are present.

20 COUNCIL MEMBER LANCMAN: Alright, well...
21 [cross-talk]

22 OLEG CHERNYAVSKY: But I'll, I'll double
23 check, I mean I'll, I'll... [cross-talk]

24 COUNCIL MEMBER LANCMAN: Yeah, we'd,
25 we'd... [cross-talk]

2 OLEG CHERNYAVSKY: ...I'll do a search...

3 [cross-talk]

4 COUNCIL MEMBER LANCMAN: ...we'd like you
5 to, to do that, I mean my colleagues are covering
6 very well and comprehensively all of the other
7 aspects that I think relate to the... to the police
8 department and my main focus is the order of
9 protection issue but how officers... how officers
10 describe the arrest and what they put on the arrest
11 sheet and what they communicate to the district
12 attorney's especially in that first 24 hours when
13 charges have got to be drawn up and, and there's a
14 culture of, I don't want to say overcharge because
15 that's a charged word but there's a culture of let's
16 put it all out there and then after the arraignment
17 we all have a chance to, to, to breathe we can figure
18 it out and that, that practice is, is very ingenious
19 to, to, to defendants and to the... to the system and
20 so I would be interested in and I would like to, to
21 know and I would like to see whatever training
22 materials there are for officers when it comes to
23 charge... arresting and charging for endangering the
24 welfare of a child. Thank you.

25 OLEG CHERNYAVSKY: Thank you.

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2 CHAIRPERSON RICHARDS: Thank you, I'm
3 going to go to Council Member Deutsch.

4 COUNCIL MEMBER DEUTSCH: Thank you Chair.
5 So, firstly I just want to mention that you did... you
6 did speak about the new protocols within the police
7 department in regard to policy, you are training
8 1,300 officers now on... in lieu of the incident of
9 what happened to... in the Miss Headley case with a
10 child. Now is that being implemented now in the
11 patrol guide like when you do training for officers
12 that attend the police academy so aside from training
13 the 38,000 plus officers is this now going to be part
14 of the police academy training?

15 OLEG CHERNYAVSKY: So, I'll... I can double
16 check on police academy training, what I can tell you
17 is on December 19th of last year a department wide
18 directive went out to every command around the city
19 and every commanding officer of every precinct and
20 PSA and so on was instructed to relay and train the
21 officers belonging to that precinct or PSA or transit
22 district of the protocol that was instituted,
23 instituted after the incident.

24 COUNCIL MEMBER DEUTSCH: Okay, so I just
25 wanted... I just want... I think it's important to add

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this into the police.. the police academy training and that... I guess that would add additional time for an officer to be trained if you're putting in like different training protocols that we... even had hearings in the past where you're training officers all that should be implemented in the police academy when the officer... before an officer becomes a cop so all those things that were implemented in previous bills as well. I, I have been very vocal when it came to, to the Jasmine Headley case like I mentioned before having five children, two grandchildren of my own and understanding what it is when you lose sight of a child even for a few seconds or not knowing where your child is. So, firstly I just want to reiterate something that I mentioned at the last hearing how stressful it is for... you know for an officer to do his or her job, I just learned that an officer just committed suicide within the last 12 hours and that demonstrates how stressful an officer is because we expect an officer to be a cop, to be an EMT and so many other things we expect from a cop. I'm going to mention this again that as a council we need to stand up and ask for fair pay for every single officer in this city, 40,000 dollars and

2 expecting so much, we need accountability in order to
3 get the accountability to get people who are going to
4 go through all this additional training, right and
5 keeping them at 40,000 dollars only to go home and
6 not being able to provide for their families is
7 totally, totally, totally unacceptable. When you give
8 more accountability or when we expect more from an
9 officer, we need to give them the pay that they
10 deserve, and I cannot stress this enough, so this is
11 something that we need to talk about here in the
12 Council. Finally, I just want to say my condolences
13 to the officer who just committed suicide recently
14 within the last 12 hours and, you know we, we need to
15 do more, and I have no... I have no words so I'm just
16 going to end right here.

17 OLEG CHERNYAVSKY: Thank you.

18 CHAIRPERSON RICHARDS: Thank you Chaim.

19 Okay, let me go back to... so, let's just go back to
20 the training for a second so we spoke about ICAP
21 recommendations, I think they came into play 2014, so
22 I just want to go back to the training you said we've
23 trained 12,000 people?

24 OLEG CHERNYAVSKY: So, in terms of de-
25 escalation that's the IT training... [cross-talk]

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2 CHAIRPERSON RICHARDS: Uh-huh... [cross-
3 talk]

4 OLEG CHERNYAVSKY: ...we have 12 and a half
5 thousand trained with a goal of 16,000 by I believe
6 2021...

7 CHAIRPERSON RICHARDS: So, we're in 2019
8 and you anticipate you'll... [cross-talk]

9 OLEG CHERNYAVSKY: Yeah, I mean... [cross-
10 talk]

11 CHAIRPERSON RICHARDS: ...only be... [cross-
12 talk]

13 OLEG CHERNYAVSKY: ...this... I, I... Chief
14 Tobin can probably go into the length and, and... but
15 this isn't... [cross-talk]

16 CHAIRPERSON RICHARDS: How intensive is
17 the training is the... [cross-talk]

18 OLEG CHERNYAVSKY: Yeah, it's... [cross-
19 talk]

20 CHAIRPERSON RICHARDS: ...question so on
21 a... how... yeah.

22 TERRI TOBIN: So, the CIT training is
23 offered on three tours a day, the class is limited to
24 30 participants, there are I believe one day tour and
25 two four to 12 tours but I know regardless of the

2 platoon that it is given it is given three times a
3 day which means that we are approximately training 90
4 members per week and it's a four day and the morning
5 portion of the course is lecture based and goes
6 through crisis situations specifically with mentally
7 ill and then in the afternoon the bulk of the class
8 is spent doing scenarios in the mock environments
9 that the new academy has to ensure that what was
10 taught in the morning is then put into practice in
11 the afternoon and as the officers go through the
12 class which is why we limit it to 30 so that everyone
13 gets to participate in the scenario based training.
14 They are evaluated by both the officer instructor but
15 also, we have mental health clinicians that evaluate
16 them as well and the role playing is done by
17 professional actors.

18 CHAIRPERSON RICHARDS: And I appreciate
19 that, and I know CIT has a lot to do with mental
20 health, very appreciative of the work and look
21 forward to obviously releasing a recommendation soon
22 that we work very closely on over the past year.
23 Take... so these scenarios include child sensitive
24 arrests, or does it go through... because I know de-
25 escalation and mental health are big piece, the CIT

2 training but does it cover this specific area that
3 we're here to discuss today?

4 OLEG CHERNYAVSKY: Well I think it's... I
5 think it's a combination of all of the trainings,
6 right, so there's de-escalation and certainly we've
7 talked at length about today the need for de-
8 escalation training and certain situations that
9 escalate, there's also the implementation... there's
10 been the training dealing with child sensitive arrest
11 protocols that officers have gotten for... I mean as
12 far back as anybody that I've talked to can remember
13 going into this hearing and prepping for the hearing
14 and these are the items that I mentioned about making
15 arrests outside of the presence of the child, you
16 know letting the arrestee to the extent it's possible
17 pick the caregiver, designate a care giver trying not
18 to... trying to leave the child at home and having the
19 care giver arrive there where it's possible so all of
20 these protocols have been trained, now they're being
21 codified, additional protocols are being added which
22 is the CAC, which is the ACS notification, which is
23 the DV sergeant and DV officers and, and the home
24 visits so now the DV sergeant and DV officers are
25 getting enhanced training relative to the situations

2 and then as this goes department wide there is going
3 to be an additional training that's going to be
4 instituted department wide of these new codified
5 protocols so it's, it's really kind of a
6 reinforcement so there's going to be some new pieces
7 which is the ACS notification and the CAC and, and DV
8 officers, you know with their enhanced training but
9 there's also... it... there's going to be a reinforcement
10 of things that officers have known over the years
11 which are the things that I itemized and that's going
12 to be done prior to the full rollout so that's yet
13 another layer. So, it's... what it is it's, it's a
14 combination, I mean I don't... we, we... we're talking
15 about different training components and I know the
16 question you're asking is well what about the CIT is
17 specific to this and what I'm... what I'm trying to
18 explain is it's a combination of all of these
19 trainings which get to what... get to where you're
20 going which is there's the, the... there's the de-
21 escalation piece, there's notification and CAC piece,
22 there a DVO so all of these are done and they're done
23 in a way that gets its across to everybody in the
24 department.

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2 CHAIRPERSON RICHARDS: So, I'm trying to
3 be kind but I... and I, I... this is a new Commissioner,
4 I think the department is certainly trying to move
5 into a different direction and it would be foolish of
6 me not to acknowledge it but for some reason in the
7 back of my mind I know that there's still this sorted
8 history, right, between the department and especially
9 communities of color and I, I want to believe you but
10 I'm finding it hard after seeing what Jasmine went
11 through to really... to, to really understand if the
12 flowery depiction of the department when they arrive
13 at an incident of giving parents a great opportunity
14 to make phone calls and to find loved ones and so
15 this flower, flowery story that I think is being
16 painted I find it hard to believe based on the sorted
17 history that unfortunately we've... communities of
18 color have, have endured for a long time so just,
19 just take me through and that's why I wanted to
20 understand the scenario a little bit more on, you
21 arrive at a scene, can you take me through exactly a
22 police, patrol officer does in the event they have to
23 arrest a, a parent?

24 OLEG CHERNYAVSKY: So, I, I mean I... to,
25 to start off... [cross-talk]

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2 CHAIRPERSON RICHARDS: So, and... right and
3 what I'm trying to get at is you know is it a reality
4 for officers to give the, the opportunity for you to
5 call onto your grandma to come pick up, you know I'll
6 just use my son D3 if you arrived my house for
7 something, is that a reality or are you just taking
8 me off, putting me in the squad car and then calling
9 ACS, so I'm just trying to get at, you know and, and
10 if it's not happening, you know I would rather the
11 acknowledgement of that and then for us to say you
12 know what we're going to take... you know we're, we're
13 looking at taking measures to make sure... because the
14 trauma associated with separating a child from their
15 parent like, you know is real, you know it has long
16 term effects... [cross-talk]

17 OLEG CHERNYAVSKY: So, I, I think...

18 [cross-talk]

19 CHAIRPERSON RICHARDS: ...on children,
20 right, so seeing your parent arrested does have long
21 term consequences. My wife is in education, I know
22 her... a child in her school perhaps I think I've heard
23 of incidents where, you know the child comes to
24 school and paints a picture of the parent being
25 arrested by the police, you know like... you know the

2 kids in elementary school so I'm just trying to
3 understand, you know are we... are we really giving due
4 process to the parents to move, you know their child
5 into a loved one's hand without having to endure such
6 trauma when a parent is being arrested, so, you know
7 do you allow them to actually pick up the cell phone...
8 a cell phone and... would you have allowed Miss Headley
9 to call grandma to come pick up her son, let's remove
10 her from the situation but would... [cross-talk]

11 OLEG CHERNYAVSKY: So, I, I mean... [cross-
12 talk]

13 CHAIRPERSON RICHARDS: ...take me through a
14 scenario?

15 OLEG CHERNYAVSKY: Before... and, and
16 Chief Pichardo could do... will take, take you through
17 our, our... a scenario and... but let me just say that it
18 absolutely is happening, I mean it's, it's very hard...
19 the situation you point to is an unfortunate
20 situation but it's very hard to gauge every
21 interaction where a police officer responds to an
22 incident based on one interaction although it was a
23 publicized interaction but there are I think you
24 would agree in a city of 8.6 million people that
25 there are a much larger number of interactions than

2 one, a much larger number of interactions then we
3 would like to see but all of those, the vast, vast...
4 the vast majority of them and with a child being left
5 with a designated care giver as chosen by the parent,
6 I mean that's just the reality of it, I mean that's
7 how most of the incidents play out, most of them play
8 out and they're, they're deescalated situations, most
9 of them play out with either a care giver that's
10 already living in the home that's not... that's not
11 being arrested or a care giver that the arrestee is
12 giving to the extent that they are capable of doing...
13 [cross-talk]

14 CHAIRPERSON RICHARDS: So, on the scene
15 that... [cross-talk]

16 OLEG CHERNYAVSKY: Yeah, there... [cross-
17 talk]

18 CHAIRPERSON RICHARDS: ...would be worked
19 out?

20 OLEG CHERNYAVSKY: Yeah, that's... when,
21 when it can... when it can that is... [cross-talk]

22 CHAIRPERSON RICHARDS: I don't like when
23 it can... [cross-talk]

24 OLEG CHERNYAVSKY: ...the... but that's the...
25 that's... [cross-talk]

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2 CHAIRPERSON RICHARDS: I mean when, when
3 it can... [cross-talk]

4 OLEG CHERNYAVSKY: But that's the...
5 [cross-talk]

6 CHAIRPERSON RICHARDS: Okay... [cross-talk]

7 OLEG CHERNYAVSKY: ...preferable choice, I
8 mean... [cross-talk]

9 CHAIRPERSON RICHARDS: Okay... [cross-talk]

10 OLEG CHERNYAVSKY: ...I, I think... there's
11 an acknowledgment and I think a lot of the advocates
12 and stakeholders that work with us I would hope that
13 they would acknowledge that. Our... we've always
14 strived not to take or not, not to have the child
15 taken from the home, for the child to remain right in
16 the home without having... and the care giver whether
17 they already live in the home or whether they show up
18 at the home in the relatively short amount of time
19 given the opportunity to do that. Now these protocols
20 that we established as a result of the pilot that are
21 going to go pre... department wide they envision the
22 scenario where a designated care giver can't get
23 there in a reasonable amount of time and in that
24 situation we've worked with our stakeholder partners
25 to find a place, a child friendly place that has

2 minimal trauma on the child where the child can stay
3 awaiting for that care giver to show up, you know so
4 these, these are protocols that we've taken but I'll
5 tell you I'll, I'll... and Chief Pichardo can, can
6 certainly, you know look back on his years and
7 experience... of experience and, and tell you some
8 stories but we, we even... maybe one, one that he'd
9 like to highlight is a situation where the parent is
10 not even there or a parent being arrested during
11 school hours when the child is in school and not even
12 present and the protocols we have in place for that.

13 FAUSTO PICHARDO: Thank you, I, I, I can
14 certainly appreciate the fact that, that the Council
15 understands the, the line of work that we're in and
16 that no day is, is like the next day or the day prior
17 just as no response to a 9-1-1 call or an arrest
18 situation is, is the same. I can tell you personally
19 in, in, in my 20 years of experience in working
20 various parts of, of the city; Manhattan and Harlem
21 and the Upper East Side and the Bronx I can't tell
22 you of one single incident where we have not gotten
23 and me being personally present at a scene some sort
24 of voluntary compliance all through communication
25 and, and at times that means involving a neighbor to

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calm things down, an elderly... a local respected
community leader, whatever the, the situation may
call for because the overriding goal at the end of
the day and it's my belief for any police officer in
the NYPD is to ensure the wellbeing of... again, I say
all parties but when we talk about our children
specifically to keep that child in, in a safe haven
and safe place and more often than not that safe
haven is in that child's home and we will stop at no
means involving anyone including the person that will
be arrested or is going to be arrested in that
process respect to an, an incident where perhaps we
come upon an individual and that they get arrested
and perhaps that child is not home whether they get
arrested out in the street, at another location and
our policy specifically we dictate and, and we ask
and our officers and our desk officers that often are
in the ranks of sergeants or lieutenants that a
question is posed to that individual that's being
arrested and that question is simply are there any
dependent adults or child that are uncared for either
at home or anywhere, any other location and that is...
that is procedure in the NYPD and if that is the case
whether that's a dependent adult or a child then it's

2 incumbent obviously upon us to ensure the wellbeing
3 of that... of that child or dependent adult and if
4 that's a child that's in school because that
5 individual was arrested during school hours then we
6 will ensure by any means necessary that that child
7 gets taken of, gets that dependent adult, gets that
8 relative via the parent or relative and that's first
9 and foremost our... I think not only our procedural
10 obligation, but I think some moral obligation to
11 ensure that that child is, is okay.

12 CHAIRPERSON RICHARDS: And with the
13 parent in that case who may be at the local precinct
14 would they... would they be able to make a phone call
15 or speak to their child, does... is that arranged?

16 FAUSTO PICHARDO: In, in, in the event
17 that a, a parent is arrested and their child let's
18 say again, I'll go to the example the child is in
19 school hours, as, as we know when someone is arrested
20 in the confines of the city of New York they're
21 allotted a certain number of phone calls and I think
22 it's important to note that those phone calls
23 regarding the wellbeing and the safety and looking
24 for an individual or friend or family member to take
25 care of the child does not count against the number

2 of phone calls that that arrestee has and I think
3 that's, that's critical to note because again we talk
4 about the human perspective and, and whether at times
5 that may be a police officer handing over our
6 department phone whether it's, you know calling... how,
7 however many times possible to get someone because
8 again at the end of that school day and we'll talk
9 about the school incident, at the end of the school
10 day I think we can all agree that when that child is
11 leaving that school what better face to see than the
12 face of a... of a relative or a known family member or
13 friend to pick them up and, and, and then every
14 scenario is different but we would certainly afford
15 the, the opportunity once we know the child is in a
16 safe place if that parent needs to reach out and
17 wants to talk to the child to... for them to talk to
18 their child, absolutely.

19 CHAIRPERSON RICHARDS: And then in the
20 event that they couldn't contact a parent what is the
21 coordination with ACS, can you just go through what
22 that looks like?

23 FAUSTO PICHARDO: Sure, so and, and we'll
24 stick with that scenario where the child is at school
25 and we will... we would make sure and, and we have

2 school safety officers that, that are very familiar
3 with the school administration officials we would
4 ensure that that information is corroborated to the
5 Department of Education officials that, that can help
6 us again in partnership relay a message and if that
7 means that at that very moment we haven't been able
8 to reach out to the parent... excuse me, to an... to a
9 relative or a family member we, we want to be
10 cognizant of the fact that if the person is arrested
11 for a, a crime that they can get a desk appearance
12 ticket for and are eligible then that would also be
13 when we talk about a child in school that needs to be
14 taken care of or cared for that that would be another
15 option that we would... that we would visit certainly
16 so that the parent can, can go pick up that child at
17 school.

18 CHAIRPERSON RICHARDS: And is it feasible
19 that the parent could make a call before they're
20 taken into custody so before you slap the handcuffs
21 on, is it... are there any scenarios where that
22 happened or does that... or you're not able to make
23 that happen?

24 FAUSTO PICHARDO: Certainly, I mean again
25 the, the, the situations and, and the scenarios can

2 play out a thousand different ways as we all know
3 because no situation is the same but to afford
4 someone, the individual and depending, you know how
5 receptive they are to understanding the process of
6 what is going on in that instance and, and that being
7 that they're going to be arrested that's certainly
8 something that can be afforded to them and, and again
9 every situation is different. Nonetheless, without a
10 doubt once they're at that... at the precinct station
11 house or police service area or transit district
12 those phone calls will be made and will be afforded
13 to them to ensure that that child is, is in a safe
14 place.

15 CHAIRPERSON RICHARDS: I'm going to begin
16 to wrap up, I just had a question about the child
17 advocacy centers, and I got the, the... had the honor I
18 think of visiting the one in Queens earlier last year
19 sometime. So, how often do you use the, the CACs?

20 TERRI TOBIN: It's very rare but I think
21 one of the things to note is that the number of times
22 that we, we the police department have custody of
23 children is less than one percent of all our aided, I
24 know that it's been used a handful of times when we

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2 know that there's going to be a length of time where
3 a care giver is not able to respond immediately.

4 CHAIRPERSON RICHARDS: Alright and then
5 you're, you're looking to expand so just go through
6 the placements or you have one in every borough or..
7 [cross-talk]

8 TERRI TOBIN: Yes, there's a child
9 advocacy center in every borough and.. [cross-talk]

10 CHAIRPERSON RICHARDS: And.. [cross-talk]

11 TERRI TOBIN: ...the DV officers and the DV
12 sergeants are being trained at the CAC and part of
13 their training is to get a walk through of the center
14 and to have input from the people that run the CACs
15 in terms of what's available and, and the process of
16 how the children are treated and what their day looks
17 like when they're there.

18 CHAIRPERSON RICHARDS: And are you
19 looking at expansions and I know geography could be a
20 challenge, I think the one I visited for instance if
21 I live in Far Rock Away and.. [cross-talk]

22 TERRI TOBIN: Right... [cross-talk]

23 CHAIRPERSON RICHARDS: ...you know to get
24 to that center.. [cross-talk]

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2 TERRI TOBIN: It's on Queens Boulevard..

3 [cross-talk]

4 CHAIRPERSON RICHARDS: ...it could take me
5 three hours or four hours... [cross-talk]

6 TERRI TOBIN: Right... [cross-talk]

7 CHAIRPERSON RICHARDS: ...so is there any
8 thought being put into expanding centers or making
9 them much more geographically accessible especially
10 to communities, I won't speak to where the center is
11 because I don't know if it's sensitive information to
12 discuss in here but I know if I live even in Jamaica
13 Queens it's just hard to get to the specific center
14 so how... since I'm assuming a large majority of these
15 cases like many of them are, are centered in certain
16 communities, I could just say communities of color,
17 how do we make them... the centers more accessible for
18 these communities?

19 TERRI TOBIN: They, they are totally run
20 by non-profits and we... [cross-talk]

21 CHAIRPERSON RICHARDS: And you don't fund
22 any but this... [cross-talk]

23 TERRI TOBIN: No...

24 CHAIRPERSON RICHARDS: Okay but I'm sure
25 City Hall does so, so we should work to make sure

2 that, you know these centers are really accessible
3 to, to families. Alright, I'm going to go to Deutsch,
4 I think that's, that's just my point on that and
5 we'll go to, to Deutsch for one more question and
6 then...

7 COUNCIL MEMBER DEUTSCH: Thank you, a
8 real quick question. So, if, if a... if a parent gets
9 pulled over for let's say a suspended license at
10 three o'clock... two o'clock in the morning or even
11 like earlier and she says she has children at home,
12 what's the protocol?

13 FAUSTO PICHARDO: Well it... regardless of
14 what time frame in the morning or day that is if, if
15 a parent tells us at any given time that they have a
16 uncared for child at home we want to make sure that
17 we give them every single opportunity in conjunction
18 with, with the NYPD to, to find a suitable guardian
19 for them at that time and that may entail that we may
20 have to go to that home and find out if, if they are
21 home alone and, and then we, we would have to sort
22 out who we can... if, if available leave those children
23 with at, at the behest of, of the guardian or of the
24 parent.

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2 COUNCIL MEMBER DEUTSCH: So, if you have
3 to play out a scenario, so this mother is driving,
4 gets pulled over to check the, the officer checks her
5 license, she has a suspension so they notify a
6 sergeant, right, the sergeant comes down to the... to
7 the scene and she goes I have children at home so how
8 would that play out like what would happen?

9 FAUSTO PICHARDO: So, more often than not
10 we say is there anyone that... at... any adult or
11 responsible party with them and if the... that answer
12 happens to be no, do you have a responsible adult or
13 individual or family member that will care for them
14 and if that answer is yes then we want to make sure
15 that, that that, that those children are, are cared
16 for by that party... by that... by that third party if
17 you will.

18 COUNCIL MEMBER DEUTSCH: So, this would
19 happen before she's taken down to the station?

20 FAUSTO PICHARDO: Well that, that
21 conversation perhaps initially and again not... I don't
22 want to just go down a path where every incident is
23 going to be exactly the same but in a... in a perfect
24 world, yes, we'll have that conversation right then
25 and there, do you have somebody and, and let's... I

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3 mean we're, we're, we're talking about it in, in a, a
4 limited amount of time but that actually could take a
5 few seconds out, yes I have somebody my, my, my
6 grandmother lives in the adjoining apartment,
7 they're, they're... whomever it is, my sister lives in
8 the adjoining apartment and yes I'm going to call her
9 right now, can you call her and, and my kids are
10 good, okay then, then I'm good because again the...
11 it's a two prong approach, right, we want to ensure
12 that we have voluntary compliance as always from the
13 person that's going to be arrested and, and we
14 understand that not only is the thought of the child
15 being left alone probably a little traumatic for, for
16 the parent it... themselves but also the fact that
17 they're going to be arrested, right, so we have to be
18 cognizant of that so it's a two prong approach and I
19 think we can all agree that if someone who is being
20 arrested in that particular scenario has the comfort
21 level that their kids are okay at home then the, the
22 arrest process and the arrest itself will probably go
23 a lot smoother.

23 COUNCIL MEMBER DEUTSCH: So, would that
24 be the officer's question or would that... would that
25 be the sergeant's question to the... to the motorist?

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2 FAUSTO PICHARDO: Well at the scene..

3 [cross-talk]

4 COUNCIL MEMBER DEUTSCH: Like what is the
5 protocol?

6 FAUSTO PICHARDO: At, at the scene it, it
7 could be any, anyone's question, at the station house
8 we have department documentation that the officers
9 asked as well as the desk officer being that sergeant
10 or lieutenant whoever may be at the desk asks the
11 questions as well.

12 COUNCIL MEMBER DEUTSCH: Okay, thank you.

13 FAUSTO PICHARDO: You're welcome.

14 CHAIRPERSON RICHARDS: Alright, thank you
15 so much. So, I want to thank you for coming out today
16 and, and you know obviously we're here because
17 obviously a situation occurred, but you know for that
18 situation, that one situation we know that there were
19 hundreds or more or thousands that we may perhaps
20 not, not know about. I just want to make a few points
21 as we close out so obviously ICAP recommendation came
22 out in 2014 and I know Oleg acknowledged that the
23 department has been doing this for, for a long time
24 so I'm hoping that the patrol guide that it's not
25 going to take another year since, you know the

2 department has really been doing this already for
3 this stuff to be added to the patrol guide. I do want
4 to acknowledge that I'm, I'm grateful to the police
5 Commissioner for really working with HRA and, and,
6 and I think taking a lead in saying that PD should
7 not have to respond to a lot of these situations,
8 obviously I don't think the police department needed
9 to respond the day of Jasmine Headley's situation but
10 it... you know it all boils back down to that, that
11 same statement we make all the time and you know
12 unfortunately poverty is criminalized in our city too
13 often and we, we have a long way to go to fix that
14 but I do want to acknowledge at least the police
15 Commissioner and I agree with him as been saying
16 this, a lot of these situations should not be NYPD
17 situations, they shouldn't arise to the NYPD having
18 to take the lead on these situations, a lot of it is
19 really systematic and you know and, and I'm hoping
20 that we as a Council continue to, to push and make a
21 dent in, in, in agencies like HRA and others as well.
22 So, I want to thank you for coming today, we look
23 forward to continuing this conversation and, and I'm
24 going to obviously go to Chair Lancman to close out
25 as well but I'm hoping we never have to find

2 ourselves here again and that is the, the... you know
3 in that we never have another Jasmine Headley
4 situation again, I think she's an unsung hero for a
5 lot of individuals who's voices have sort of been
6 clouded out going through this system for a long
7 time. So, I'm hoping out of that we continue to make
8 progress in the city especially for those who
9 unfortunately are down on hard times. With that being
10 said I'm going to go to Chair Lancman and then we're
11 going to get to the next panel.

12 COUNCIL MEMBER LANCMAN: Yeah, just to
13 close I want to emphasize I'm very concerned that the
14 endangering the welfare of a child charge is, is used
15 very liberally and, and, and almost excessively so
16 I'm, I'm very interested in getting the, the training
17 material that you used to, to train officers so that
18 they can make an informed and correct legal judgments
19 to when they should be recommending those, those
20 charges and then we might have some, some more follow
21 up and we might be asking for some, some data because
22 that is the charge and that is the, the beginning of
23 a process that almost always ends up with an order of
24 protection against the parent, it needs to be her
25 own... her own child so we have to be very, very

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2 careful in how those charges are, are brought, how
3 those arrests are made and those charges are brought
4 but I look forward to getting that information from
5 you. Thank you very much.

6 CHAIRPERSON RICHARDS: Thank you, thank
7 you.

8 COUNCIL MEMBER LANCMAN: Alright, next
9 up, our friends from the public defenders Lisa
10 Schreibersdorf from Brooklyn Defender Services; I
11 think its Fallon Speaker from Bronx Defenders; Kate
12 Wood from the Legal Aid Society.

13 CHAIRPERSON RICHARDS: I also want to
14 acknowledge we were joined by Council Member
15 Menchaca.

16 COUNCIL MEMBER LANCMAN: Ready? Alright,
17 good morning..

18 LISA SCHREIBERSDORF: Morning...

19 COUNCIL MEMBER LANCMAN: Let's get sworn
20 in and we'll get started. Do you swear or affirm the
21 testimony you're about to give is the truth, the
22 whole truth and nothing but the truth?

23 LISA SCHREIBERSDORF: Yes.

24 COUNCIL MEMBER LANCMAN: Great, let's
25 hear what you have to say.

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LISA SCHREIBERSDORF: My name is Lisa Schreibersdorf, I'm the Executive Director of Brooklyn Defender Services. I also represented Jasmine Headley, so I want to start by thanking the Council for the support of Jasmine Headley throughout the process of changes that I think are much needed and I just want to say that she really appreciates the look at all these different issues. As you well know she did come to, to a hearing recently and I think said what she needed to say interestingly eight million views around the country of her testimony. We actually took it and you know just took some highlights which I think shows that this is isn't just a local issue but it's a national issue, that all of these issues are national and there are a lot of issues I think that cut... spring out of that, this is definitely one of them and you know I... but I, I no longer feel like it's appropriate for her to speak directly to these things having said her piece but I want you to know that she does... is aware of it and she does, you know ask me to speak, you know on behalf of her and I think others in her similar circumstances. Alright, so Brooklyn Defender Services represents people that get arrested and we also

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represent parents who have had their children removed in Child Welfare proceedings. We also represent immigrants who have their children removed sometimes at the border unfortunately we have had those cases but also when parents are taken to be detained for deportation proceedings. So, the issue of parents being taken by the government, I'm just using sort of broad strokes here, it's really pervasive and as I think, you know Council Member Richards has pointed out many times, of course it is more prevalent in communities of color, that is clear and especially poor communities. In many ways we, you know in this city and I think elsewhere in the country have criminalized poverty, we have also used poverty as a... as a basis for destroying families and I think if you ask my Child Welfare, you know practice attorneys and staff that's... you know that's what they feel, they feel that ACS... I mean and, and I'll just say society at large because I don't think any of these agencies operate in a vacuum, really does target poor communities of color particularly black communities but also Latin X communities and that's the same communities that are targeted for arrest. So, the number of black children that are removed from

2 families is, you know I'm sure you have numbers but
3 the percentages, you know are astronomically higher
4 than it is for white children and so when you add in
5 the element of arrest being more prevalent in black
6 communities and Latin X communities, I think you're
7 multiplying a problem that is really profound and the
8 intersection of these issues I think should not be
9 taken lightly. The... well my first thing I really want
10 to say is that I really appreciate the Council
11 looking at the issue of what to do with children when
12 they... a parent gets arrested. There are lots of times
13 parents are unavailable for their children, you could
14 have a medical emergency and they call an ambulance
15 and the police are there and they have to figure out
16 what to do, same problem the kid's getting out at
17 three o'clock. Parents really care about what's
18 happening to their kids even when they are in crisis.
19 As you well know if you're parents or certainly as
20 children because you know how your parents felt. The
21 system treats parents as if they don't care about
22 their children, they treat parents who get arrested
23 as if they don't care about their children and the
24 first thing, I really want to say is that is just not
25 true. When I meet a client in a criminal case

2 especially a mother if they were arrested the first
3 thing they're asking me about is not what's going to
4 happen to me but where are my... do you know if the
5 police, you know found somebody to watch my kids,
6 where are my kids, what's going to happen to my kids?
7 And you have to understand that when the arrest
8 initially happens the... nobody really knows how long
9 that parent is going to be absent just like when you
10 go to the hospital, do you know if you're going to
11 just be released from the... by the emergency room in a
12 few hours or are you going to be admitted or maybe
13 pass away and that is often what happens with
14 arrests. When we first meet the client, we have no
15 idea how long they're going to actually be at Rikers
16 Island or what the other impediments are to release.
17 The police probably have some idea of how serious the
18 matter is, we heard mention of driving with a
19 suspended license, we know that person likely will
20 not stay in jail very long but another person could
21 be arrested for selling drugs and that person might
22 be staying in jail for a while or it could be even
23 more serious. So, I think it's really important to
24 know that even parents that get arrested for major
25 and important and serious crimes, people that are

2 left a kid... a child, you know alone and something
3 happened, I don't remember the details, I'm trying to
4 rack my brains but it was after that that the police
5 actually started asking people do you have a child at
6 home, is there a child that you need to... that you're
7 taking care of and actually I will say, you know just
8 to give credit to the police, they actually do a very
9 good job of that and while that... yes, I understand
10 that the grey area and the confusion, I agree with
11 all of that as well but I want to point out that
12 Jasmine Headley's son was brought to her mother. I
13 can't remember... and I don't know that I ever asked
14 this specifically what... how that happened but ACS did
15 get called but that... later on they did a minimal
16 investigation, they did provide that child with a
17 home that he was familiar with and I do believe that
18 the police do, do that most of the time and every
19 situation is very different. Sometimes there are
20 really hot situations going on where somebody is
21 getting arrested in the home, people are screaming,
22 there's a lot happening. I just think the expectation
23 that somehow, we can moderate that experience so that
24 the child is really isolated from it, it's maybe
25 unrealistic, we have to work within a situation that

2 we have. Okay, so having said that here are my
3 recommendations. First of all, let's stop arresting
4 so many people, okay. The first thing is if somebody
5 is driving with a suspended license is it really
6 worth all of this? What we do by taking the... you know
7 possibly facing a child having been... have it be
8 brought to a child advocacy center or something like
9 that. So, the first thing we need to do is reduce,
10 reduce, reduce arrests, okay. The second thing we
11 need to do is we need to... you know I... personally I am
12 a believer that having a civilian person with the
13 police to make these choices and make these decisions
14 is better than having ACS there, right? I appreciate
15 the look at this, but I'm worried about some of these
16 bills, enhancing and increasing the roll of ACS in
17 their lives of poor people of color who are already
18 over targeted. I am deep... really profoundly concerned
19 about that. If ACS is involved in every arrest where
20 there's a child you're going to double your child
21 removals because once they get involved there's more
22 chance that they will, you know find something and
23 they are in many ways... you know there's an incentive
24 for them to find a reason to remove a child and I
25 will say even in Jasmine Headley's case where it was...

2 I think everybody understood that she really was not
3 a threat to her child, we still had to do the
4 investigation in that case. So, ACS doesn't let go,
5 they really hold on tight, they follow through, they
6 are kind of relentless. So, I just want to say I have
7 real concerns about this... some of these proposals and
8 I think there are some better solutions that usually
9 involve civilians. If a civilian non... you know
10 whatever non-profit agency its job is to really be
11 just... stay with the children until the caregiver can
12 come. Most people have somebody that they can call,
13 right. I think the problem for us we find is a little
14 bit later on when the... when maybe the neighbors come,
15 right, which is I... just think look about your own
16 life. If something happened and I, I go back to
17 thinking about going to the hospital, if I had to
18 call an ambulance and my child was young, I would
19 have asked my neighbor, can you please just come and
20 stay with my son while my sister is on her way.
21 That's what most people would do and that is what our
22 clients do but just FYI after they get to jail
23 there's a big sign on the wall that says, did you
24 forget about your child and there's a picture of a
25 kid as if that's all anybody's is worried about like

2 that the... that the, the... after they just removed that
3 person from their child they're worried that the
4 parent forgot about their child and then they put
5 them... they put the sign in the... in the cell where
6 there's no access to a phone or anything like that.
7 So, I just want to say I think the whole premise of
8 the way that we're treating these parents as if they
9 don't care about their children, as if it's their
10 fault that somehow their child is alone that is one
11 of the issues, I think needs to be looked at very
12 carefully. Having said that I just want to just
13 address what is a protection issue a little bit and
14 then pass to my colleagues. So, I... by the way there's
15 a little more in our testimony of course about also
16 once ACS gets involved there's a good chance somebody
17 will end up on the, the registry and then that will
18 effect forever their chance of getting a job so it
19 could be the most minor case, they could end up on
20 the registry after an investigation that's, you know
21 very minimal burden of proof and it just spirals the
22 family downward. So, I just do want to minimize the
23 number of situations where ACS is involved, and I
24 just want to add one more thing on that issue. We
25 recently had a, a child who was removed by ACS, it

2 didn't involve an arrest and the... for whatever... I, I
3 forget the details of the case but it wasn't an
4 arrest and they couldn't find somebody right away or
5 they didn't believe that they should provide the...
6 those particular people that were available with the
7 children, they took a child who was sitting in a
8 wheelchair with a broken leg to I think a child
9 advocacy center or another kind of holding center
10 that they have and that child sat there for a week.
11 The child was supposed to have their... yeah, the child
12 was supposed to have their cast removed, they didn't
13 go to school, there was no way to get the child in
14 the wheelchair around and I just want... there was...
15 what happens to children when they are removed by ACS
16 is not some kind of better outcome, right, the... that
17 is not some kind of magical panacea that we should be
18 looking to so I just want to make that point really
19 clear. The issue of orders of protection is a very
20 important one which I really appreciate you bringing
21 up, many people are bored by legal issues and
22 appreciate that Council Member Lancman is not but of
23 course these legal questions have a very profound
24 impact on people. The decision to charge endangering
25 the welfare of a child is I think a very important

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2 question, obviously the decision of the DA to
3 continue to prosecute that charge is another issue.
4 In this case, in Jasmine Headley's case the police
5 charged it, let's assume that they believed that when
6 she refused to give over her child that she put the
7 child in danger by forcing them to actually remove
8 the child, it seems like a twisted logic but it
9 wouldn't be shocking if that's the way that they
10 decided, that they felt they met their burden to
11 charge that, that is something I've heard before but
12 then the prosecutor takes a look at it, now again
13 giving them credit, a young person middle of the
14 night they don't have the time to analyze it and
15 giving credit to Eric Gonzalez, my district attorney
16 he did dismiss the charges within a couple of days
17 when it all came to light, now if it was not a high
18 publicity matter I'm not sure that it would have been
19 but that... they did ask for a full order of protection
20 which was issued in court so that meant that if
21 Jasmine Headley did not have a complication, I know
22 if... New Jersey situation that was taken care of
23 immediately but because of that she was held, if she
24 had been released she wouldn't be able to see her
25 child and the issue of orders of protection is very

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complicated and it's just overly broad but the reality is we need actual state legislation that changes the burden of proof for how to get an order of protection and requires the court to have a real hearing like they would in family court which you might hear from the Legal Aid Society, you can't hold a child in family court without giving them a hearing if they ask for it within... you know within three days and in, in criminal court you're in front of a judge for literally ten seconds where the DA says we're asking for a full order of protection, the judge says okay and that's the end of it and there's no burden, there's very little discussion, it is... you're... very disturbing and it, it goes way beyond these kind of cases into a whole range of cases including many cases where domestic violence is charged and maybe the child is there and there's an endangering but maybe the child is not even there and there is no endangering charge and what happens is they issue an order of protection sometimes subject to family court and that... there is no family court proceeding, right, if there's already a family court proceeding that's fine because we can go to family court and talk to the judge there but let's say there is no family

2 court proceeding you're now requiring a person who's
3 just been arrested and just for fun I'd like to say
4 let's say it's a mom because I think it helps us
5 understand it better. A mom who gets arrested because
6 that happens about 20 percent of the time and it's a
7 domestic violence incident and there's an... full order
8 subject to family court now that mom has to go to
9 family court and file her own case in family court in
10 order to have the right to see her own children and
11 now again she's triggering an ACS investigation so we
12 advise people all the time we, we recommend against
13 going to family court unless you're already there
14 because we don't see family court really as a family
15 friendly place for many people and we certainly don't
16 see ACS who's main responsibility is to investigate
17 and determine whether children need to be removed, I
18 mean that is their main role in these circumstances.
19 So, I think having said that I have... those are my
20 main concerns of course I think you should hear from
21 my... oh I'm sorry, I just had one thing that I jotted
22 down while the police were testifying, you know there
23 is a national movement around de-escalation for
24 police officers. I don't believe New York City is at
25 the front of that movement at all and I, I do think

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2 that if those officers had real de-escalation not
3 just training but a real understanding that every
4 situation, let's say 99 percent of situations could
5 be managed without arresting somebody, without it
6 getting out of control. In Jasmine Headley's case it
7 was already pretty much out of... not in... it was in
8 control as she was walking out and then the worker in
9 the... in the facility started it up again and that's
10 how she ended up on the floor, if the police officers
11 see it, at that time it got hot again and it got
12 heated and I don't want to underestimate what do we
13 expect these police officers to do, they're not
14 superhuman but I think even at that moment if they
15 would have said okay everybody relax, calm down,
16 let's stop, let's let her get up if that had happened
17 I don't think... not only are they not trained to keep
18 de-escalating, don't give up deescalating, keep it
19 up... keep it up... keep it up but also that there's a
20 real culture of de-escalation in the police
21 department and there really is not, right, the police
22 department... the reason that they took those... that
23 child so dramatically was because she wasn't
24 listening, you know we're telling you to do... you know
25 and I think that, that's a culture shift that maybe

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we could start talking about a little more, I would appreciate that. Thank you.

CHAIRPERSON RICHARDS: You may begin.

KATE WOOD: Good morning, my name is Kate Wood and I'm an Attorney with the Legal Aid Society, I'm sure you know the Legal Aid Society is the nation's oldest and largest not for profit legal services organization representing low income individuals and families across a variety of civil, criminal and juvenile rights matters while also fighting for legal reform. I'd like to thank both Chairs Lancman and Richards for holding this very, very important and timely hearing. We know from statistics that at least 35,000 children lived with a parent who was arrested in 2017, all of those children experienced the trauma of family separation as a result of their care givers arrest and likely a significant number witnessed the arrest itself. Witnessing the arrest of a care giver is stressful, traumatic, can have long lasting harmful consequences for these children and given the firmly established racial and ethnic disparities in policing and arrest practices in New York, black and Latin X children are no doubt disproportionately impacted by care giver

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arrests. Because the manner in which children are treated at the time of a care giver's arrest can be so significant, we urge NYPD and all agencies with arrest authority to implement policies and procedures that protect the children at the time of care giver arrest and minimize this trauma. First as evidence by the arrest of Jasmine Headley at the HRA building we believe that all entities; HRA, NYPD, and all entities with authority to make arrests must implement child sensitive arrest policies. The arrest of Miss Headley was particularly appalling in our view because not only was it very traumatic, no doubt for herself and for her child but it was also apparent that there was no justification for making any arrest at that moment. We believe that the City Council must work to prohibit NYPD and other actors from making arrests, taking a person into custody rather than issuing a summons or a desk appearance ticket when the conducted issue does not rise to the level of a misdemeanor offense. At a minimum taking a person into custody for non-criminal conduct should not be permitted when the person has his or her child in their physical custody at the time of the alleged incident. With regard to bill 1349, we are very

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pleased to, to see that there's a bill requiring NYPD
to, to codify child sensitive arrest policies and
training but we believe the bill could be
strengthened in several ways. First, as my colleague
just touched on, we recommend that a community-based
organization rather than ACS assist with the arrest
when a child bystander is present. There's a stigma
associated with ACS involvement and many families may
be hesitant to trust ACS workers or feel comforted by
their presence and any feelings of distress or fear
would undermine the very purpose of their presence in
these highly traumatic moments. Second and it sounds
like NYPD has already started to do this but we would
recommend that there is a, a place for the department
to bring children that's safe and child friendly if
the child cannot wait at home until an alternative
care giver is located and finally, several provisions
of the bill have a... the language where practicable
included and we believe this undermines the urgency
and necessity of these requirements and without a
clear definition of what where practicable means it
allows for unfettered discretion by department
officers. All of the requirements in the bill should
be mandatory unless there's extraordinary

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circumstances such as a real immediate physical

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threat to officer's safety or others. There is a

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national movement towards de-escalation and towards

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these child sensitive arrest practices and we believe

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it's time for New York to get in line with that

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movement and we believe it's also time to ensure that

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the citizens of New York City are not subjected to

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unnecessary humiliation and potential trauma of being

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taken into custody for conduct that doesn't even

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constitute a crime under New York's laws. Thank you

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again for the opportunity to testify.

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CHAIRPERSON RICHARDS: Thank you.

14

FALLON SPEAKER: Good morning Chairman

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Richards and Lancman and members of the Public Safety

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and Justice System Committees. My name is Fallon

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Speaker and I'm an Attorney in the Family Defense

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right beside the Bronx Defenders. I represent parents

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whose children have been removed from their care.

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Thank you for the opportunity to testify here today.

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Every day I meet parents who were arrested in front

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of their children and see firsthand how an arrest can

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lead to temporary and at times permanent family

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separation. I want to begin by telling you story of

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one of our clients, Miss B. Though similar to Jasmine

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Headley's arrest, Miss B's arrest was not caught on camera or met with public outrage. Many of our client's arrests are like this. However, her story is one that we continue to hear on a daily basis. In January of this year, police arrived at Miss B's apartment following a call alleging a domestic dispute. The officer spoke with Miss B's husband who described an argument between him and Miss B. He indicated that he did not want to press charges against his wife, however the police were intent on arresting Miss B after they arrived at her apartment. The police forced their way into a bedroom where they found Miss B with her son, she was holding her son crying, her son was crying, they were terrified. The police officers began to yell at her, they threatened her to arrest her if she did not hand over her child, they were aggressive with her and they pulled her son from her arms. These officers refused to allow Miss B to comfort her son during that moment prior to her arrest. Instead they arrested her with her son present and they charged her for endangering the welfare of a child, resisting arrest, assault and harassment. Miss B's husband appeared in her criminal court arraignment, he told the district attorney at

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that arraignment that he did not want to go forward with the case, he indicated that he did not want nor need an order of protection on behalf of himself against Miss B and he also indicated that he did not believe an order of protection was necessary for his son, he indicated that Miss B was a great care taker of his son and that he did not feel that she posed any risk or threat of harm to her son. In fact, Mr. B asked that his wife be allowed to return home to care for his son on that day. Over the objections of Mr. B and Miss B's council the district attorney asked for and the criminal judge in that case assigned a temporary full stay away order of protection against Miss B on behalf of both her husband as well as her baby. The result of that order of protection was that Miss B's family was separated indefinitely meaning that she could not go back home to her husband and her baby until the criminal court terminated that order of protection or that order of protection was modified in family court and Mr. B is still bound by that order today. In addition, I would just add that ACS was called during that incident and ACS was involved with Miss B and filed a petition against her in family court as well. These are not isolated

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cases, in our written testimony we address specific issues with orders of protections like the one issued in Miss B's case. We call on the city Council to work with the Office of Court Administration, the Office of the District Attorney and the courts to change current practices which routinely lead unnecessary family separation and this instance because Miss B had an order of protection placed against her, a full stay away order of protection placed against her in criminal court it made it more likely that ACS would be involved and more likely that a family court would feel unsure about allowing her to go back home with her children and her husband. We join our colleagues in recommending that all arresting officers in New York City be trained in protocols and practices to safe guard children at the time of the parent's arrest as outlined in a letter to Mayor De Blasio included within our written testimony as appendix A. Had the officers in Miss B's case been equipped with the sensitivity and skills necessary to ensure the safety of Miss B's son during her arrest this scene could have played out very differently and needless family separation could have been avoided. Had the officers used de-escalation tactics instead of using

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threats and escalating the situation with yelling and
arresting Miss B and aggressively removing her son
from her and instead have talked to her and reassured
her that her son would be safe then perhaps the
ultimate separation of Miss B with her son could have
been avoided. Once a parent is incarcerated, we must
expand the ability of these parents to meaningfully
participate in their children's lives. While the
proposed legislation is a good start, it should be
incentive to include implementing more protective
measures for parents and children including funding
for resources to expand video and phone contact
between parents and children, increased access to
therapeutic and reunification services for
incarcerated parents and a review and expansion of
diversion programs to increase opportunities for
parents and children to reside together while a
parent pursues treatment. We've discussed all of that
in depth in our written testimony. Finally, we agree
that the creation of an interagency task force who
address the obstacles faced by children of
incarcerated parents is also a good first step. We
implore the Council however to not only consider
children of incarcerated parents but incarcerated

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parents in the family as a whole. We believe that the current parties listed to serve on this task force lacks representation of necessary stakeholders. While we do believe it is important to have the New York Police Department and ACS at this table, it is also essential to expand the table to include a more diverse set of experiences. First and foremost, it is critical that the task force center the voices of parents and children with lived experience of family separation due to arrest and incarceration. It is also important to include public defense institutions who represent parents who are arrested, institutions who represent children, community justice advocates, parent support coalitions and coalitions who fight for the right of the current and formerly incarcerated. For these reasons we do not believe that the appropriate agency to chair this task force is the Department of Corrections instead we believe that an agency in the community and informed by the experience of children and families affected by parental incarceration would be better suited at centering the voices of parents and children who have experienced family separation due to arrest or incarceration. Thank you for your time today.

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2 COUNCIL MEMBER LANCMAN: Thank you so
3 much for your testimony and how common is this
4 specific scenario in your days work?

5 FALLON SPEAKER: It happens daily, with
6 regard... I'm assuming that you're asking how common is
7 it that parents are arrested, and the ACS is
8 contacted.

9 COUNCIL MEMBER LANCMAN: Yep...

10 FALLON SPEAKER: In our experience we
11 find that parents... for whatever the event is whenever
12 a child is... a parent is arrested and a child is
13 present three things typically happen; that child is
14 removed from the parent, ACS is contacted and an
15 order of protection is issued in family court along
16 with endangering the, the welfare of a child charge
17 or... and the order of protection is a... is actually... it
18 starts in criminal court and because ACS is involved
19 it is also then brought over to family court as well...
20 [cross-talk]

21 COUNCIL MEMBER LANCMAN: Family court as
22 well... [cross-talk]

23 LISA SCHREIBERSDORF: Can I just add... can
24 I just add something to that, that... I just want to be
25 really clear like the... that's the cases that do end

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up in family court have that similar story but there are cases that never get to family court that may not be seen by an attorney that works in family court and I just... I don't want to... I don't want to cut back on the idea that some kids are just returned to their... the other person, that does happen but those cases may not be seen by that attorney in family court so, yes, there's probably one a day but there are hundreds more people arrested and I don't... not that I'm trying to... do you understand what I'm saying? So, from that perspective, yes, every time you see that, and we see that in Brooklyn at least every day and they see it in the Bronx every day, see it in Manhattan every single day I'm sure in every borough so every single day that is something that happens without question.

COUNCIL MEMBER LANCMAN: So, let's talk

about the order of protection issue and, and how often is a court persuaded to do a limited order of protection as opposed to a, a full order of, of protection and... [cross-talk]

FALLON SPEAKER: I, I would find that not

often at all, most of the cases that come through misdemeanor or, or felony cases when the DA asks for

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an order of protection they always ask for a full stay away order of protection, we are very... we are not very successful at arguing for a limited order of protection even when we have family members who are present who support it, provide supporting evidence that would suggest that a limited order of protection is okay, limited orders of protections can be crafted in a way to ensure the, the safety of a child while allowing the parent to remain in the home with the child however that often times doesn't happen in criminal court and those criminal court appearances typically last under five minutes, they don't have any real information, they don't take any testimony or receive any evidence to consider the best interest of a child and if, if for example that case doesn't come over to family court then often times that order cannot be modified and you know I believe that... I would say that there are a lot of criminal court judges who are now issuing orders of protections, full stay away, there are many subjects to family court modification on a temporary basis but often times that is not the case as well.

COUNCIL MEMBER LANCMAN: That... what's,

what's not the case?

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FALLON SPEAKER: That those order of

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protections are made subject to family court

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modification meaning that if it is not made subject

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to family court modification and there's no pending

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family court case then that person will have to not

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be able to see their child until the next court...

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criminal court appearance... [cross-talk]

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COUNCIL MEMBER LANCMAN: Right... [cross-

10

talk]

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FALLON SPEAKER: ...when the order is with

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that again.

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COUNCIL MEMBER LANCMAN: Right because...

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and, and, and is it the norm that the full order of

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protection is, is given subject to family court

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modifications, is that the norm?

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FALLON SPEAKER: That is not the norm, we

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do ask for that... [cross-talk]

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COUNCIL MEMBER LANCMAN: Uh-huh... [cross-

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talk]

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FALLON SPEAKER: ...and we have to advocate

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for that so that is not the... I would not say that

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that is the norm.

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COUNCIL MEMBER LANCMAN: Why, why do you

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ask for that because then you have to go to family

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court and start a new proceeding, is that... is that easier and quicker than waiting for the next criminal court appearance?

FALLON SPEAKER: Well because ultimately if our client is the sole care taker of that child and even if they are not the sole care taker of that child if the full stay away order of protection is in place it prevents them from having any contact with their child, it effectively terminates their right to be able to parent that child until the next court proceeding, essentially they are not allowed to come into the home, they are allowed to... [cross-talk]

COUNCIL MEMBER LANCMAN: I understand that, what's the advantage though of asking for the... if there's... if there's... [cross-talk]

FALLON SPEAKER: The modification... [cross-talk]

COUNCIL MEMBER LANCMAN: ...going to be a full order of protection what's the advantage of asking that it be subject to modification by the family court?

LISA SCHREIBERSDORF: We're, we're... [cross-talk]

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2 FALLON SPEAKER: Because the... sorry...

3 [cross-talk]

4 LISA SCHREIBERSDORF: I'm sorry, I, I was
5 just going to say we're not choosing between asking
6 for a limited order which is better, and a full order
7 is subject to family court, we are never given the
8 limited order... [cross-talk]

9 COUNCIL MEMBER LANCMAN: Right, you've
10 already... you've, you've... [cross-talk]

11 LISA SCHREIBERSDORF: ...so we ask for this
12 subject to... [cross-talk]

13 COUNCIL MEMBER LANCMAN: ...you've lost
14 that battle... [cross-talk]

15 LISA SCHREIBERSDORF: ...family... right,
16 we're never going to get that... [cross-talk]

17 COUNCIL MEMBER LANCMAN: ...there's going
18 to be a full order... [cross-talk]

19 LISA SCHREIBERSDORF: ...so now the judge
20 is issuing a full order... [cross-talk]

21 COUNCIL MEMBER LANCMAN: Right...

22 LISA SCHREIBERSDORF: ...at least if there
23 is a family court proceeding as in the case that was
24 just described... [cross-talk]

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2 COUNCIL MEMBER LANCMAN: Uh-huh... [cross-
3 talk]

4 LISA SCHREIBERSDORF: ...and it's subject
5 to family court that means that when you get to
6 family court like the next day that the family court
7 judge then can go ahead and order that the person,
8 some people think go home and others just say at
9 least visit... [cross-talk]

10 COUNCIL MEMBER LANCMAN: Uh-huh... [cross-
11 talk]

12 LISA SCHREIBERSDORF: So... [cross-talk]

13 FALLON SPEAKER: Well... [cross-talk]

14 LISA SCHREIBERSDORF: ...we, we do whatever
15 we can to, to maximize the chances that family court
16 can exercise jurisdiction.

17 FALLON SPEAKER: I would also add that
18 even in cases where ACS is not involved if there is a
19 order subject to family court modification we can
20 advise our clients to go and file a visitation
21 petition and that would allow for them to have access
22 to their child before the next criminal court
23 proceeding date.

24 COUNCIL MEMBER LANCMAN: Uh-huh and, and
25 both of your offices... all of your offices persons

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arrested they're assigned to a defense lawyer from one of your offices if it is... if there's a... an order of protection and its subject to family court modification are you... do you also represent that parent in going to family court or, or is that... they've got to find someone else or... [cross-talk]

FALLON SPEAKER: So... [cross-talk]

COUNCIL MEMBER LANCMAN: What if it's... what if... what if they end up being an eight... what if they end up getting an 18 B lawyer assigned because there's a conflict or... [cross-talk]

FALLON SPEAKER: Right, so... [cross-talk]

COUNCIL MEMBER LANCMAN: Are they just out of luck?

FALLON SPEAKER: We would do a conflict check in criminal court, the way it works in our holistic office is that once the criminal court attorney picks up that person whenever they flag the case for an endangering the welfare of a child or any sort of instance where they know there's a child involved they'll make a referral to my family defense team and then we will start advising the client immediately if there's an order of protection in place we will advise the client on how to go about

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getting the order of protection modified, in some

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instances where it slips through the crack and

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there's a final... or there's the order of protection

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that's not subject to family court modification we'll

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do motion practice to try to move up the court date

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to have that modified as well.

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COUNCIL MEMBER LANCMAN: So, the big

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question I have... a big question I have... [cross-talk]

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LISA SCHREIBERSDORF: But I, I just want

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to say, you know my office does the same thing but

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that is not the case in Queens or Manhattan where the

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agencies that do criminal work are separate from the

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agencies that do family work, right, so there is no

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direct nexus at all and also the Legal Aid Society

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which they, they represent the children in family

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court and therefore usually there's a conflict in a

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case like this and we... Bronx Defenders, Brooklyn

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Defenders will take that case but normally that...

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[cross-talk]

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COUNCIL MEMBER LANCMAN: No, if you're...

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[cross-talk]

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LISA SCHREIBERSDORF: ...it does work out...

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but you understand, and I know we've talked to you

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about this, we're not funded to do that work so if...

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2 you know the more cases there are the harder it is
3 for our offices to absorb... [cross-talk]

4 COUNCIL MEMBER LANCMAN: So... [cross-talk]

5 LISA SCHREIBERSDORF: ...that, that level
6 of like work between before a family court case is..
7 [cross-talk]

8 COUNCIL MEMBER LANCMAN: So, if... so, if
9 you're an indigent defendant in Queens you're either
10 getting legal aid or you're getting Queens law
11 associates?

12 LISA SCHREIBERSDORF: Right...

13 COUNCIL MEMBER LANCMAN: And what you're
14 saying is neither institution is set up to have... to
15 handle taking that defendant's order of protection
16 and going into family court... [cross-talk]

17 LISA SCHREIBERSDORF: Right... [cross-talk]

18 COUNCIL MEMBER LANCMAN: ...because..
19 [cross-talk]

20 LISA SCHREIBERSDORF: ...because the center
21 for family representation works in family court
22 there.

23 COUNCIL MEMBER LANCMAN: Uh-huh... [cross-
24 talk]

25 LISA SCHREIBERSDORF: ...not, not QLA.

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FALLON SPEAKER: And I would just also add that to your point about if there is a conflict, well when there is a conflict and that person... we are... we are unable to help that person so effectively they're unable to see their child.

COUNCIL MEMBER LANCMAN: Right, well they'll, they'll get an 18 B lawyer, but an 18 B lawyer is just an individual and they don't have that... [cross-talk]

FALLON SPEAKER: If there is a family court case then they would get an 18 B lawyer but if there is no family court case assigned... [cross-talk]

COUNCIL MEMBER LANCMAN: Right... [cross-talk]

FALLON SPEAKER: ...then they just have to on their own know how to navigate the family court system and have... [cross-talk]

COUNCIL MEMBER LANCMAN: No, but someone is representing them in the criminal case is what I'm saying.

FALLON SPEAKER: Right...

COUNCIL MEMBER LANCMAN: Right... [cross-talk]

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2 FALLON SPEAKER: ...the criminal... [cross-
3 talk]

4 COUNCIL MEMBER LANCMAN: ...and that person
5 would... [cross-talk]

6 FALLON SPEAKER: ...court attorney wouldn't
7 necessarily tell them you need to go to family court
8 and file for a visitation petition and I'm going to
9 represent you in... [cross-talk]

10 COUNCIL MEMBER LANCMAN: Is there not...
11 that person's not an institutional provider they're
12 just the... [cross-talk]

13 FALLON SPEAKER: Right... [cross-talk]

14 COUNCIL MEMBER LANCMAN: ...one person...
15 [cross-talk]

16 LISA SCHREIBERSDORF: And also, we advise
17 people, but we can't... we cannot go with every person
18 to file a visitation petition with them, we just
19 don't have the resources to do that.

20 COUNCIL MEMBER LANCMAN: So, how, how
21 often are these orders of protection issued on the
22 basis of an endangering the welfare of a child charge
23 that does not actually involve a parent directing bad
24 conduct towards the child? So...

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FALLON SPEAKER: What do you think... every case where a child is present during the arrest in my opinion endangering the welfare of a child... [cross-talk]

COUNCIL MEMBER LANCMAN: In your experience?

FALLON SPEAKER: Yes...

LISA SCHREIBERSDORF: Well I think if the... if the, the wrong conduct happens... I, I think we have to just remember there are arrests that happen that never see family court but there are lots of cases where a child might be present but really conduct had nothing to do with what happened in the house that day. So, for example if they go in the home and there's a lot of drugs there, yes, they're going to charge endangering the welfare but, you know if there's no drugs there that day or I don't know if they went to... somebody had a, a... I'm going to say a parole violation or something like that and they just went to arrest them they wouldn't necessarily take their child, I mean so that... you know that's... they wouldn't charge endangering the welfare but... so, any case where endangering is charged, anytime that... I, I mean anytime that the, the events that give rise to

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the arrest that are happening in the presence of the

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child... [cross-talk]

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COUNCIL MEMBER LANCMAN: Uh-huh... [cross-

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talk]

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LISA SCHREIBERSDORF: ...anytime that

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happens including domestic violence they will charge

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endangering.

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COUNCIL MEMBER LANCMAN: And, and in your

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view is that an improper charge in most cases because

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the parent is not actually endangering the welfare of

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the child, the child is just, just present? Not that

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they're... certainly can't be some kind of conduct that

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the mere presence of a child would put them in danger

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but... [cross-talk]

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LISA SCHREIBERSDORF: If, if this gives

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you any idea of what I think about that, while we

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were think... while we were talking about it earlier

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and the officers were reading out the elements, my

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note was I think we should challenge the

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constitutionality of that statute, I mean that's what

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I think of it, I mean it's really over broad, I mean

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it's, it's insane, I mean the morality of a child, I

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mean what does that even mean and... [cross-talk]

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2 FALLON SPEAKER: I would just... [cross-
3 talk]

4 LISA SCHREIBERSDORF: ...yes... [cross-talk]

5 FALLON SPEAKER: ...also add that where
6 there is an endangering the welfare of a child
7 oftentimes when it's not directly connected to
8 whatever the incident was, when ACS pleas that case
9 oftentimes what they are pleading is the fact that
10 the parent was arrested and there was no one there to
11 take, take care of a child and so that in fact was
12 endangerment of the child, they plead that in family
13 court.

14 LISA SCHREIBERSDORF: Right, that's true
15 too and also like what happened with Jasmine Headley,
16 when we told you to give up the child you didn't so
17 that's endangering the welfare, so, yeah that happens
18 too.

19 COUNCIL MEMBER LANCMAN: Right, that's
20 what I have, thank you.

21 CHAIRPERSON RICHARDS: Thank you all for
22 coming out and testifying.

23 FALLON SPEAKER: Thank you.

24 CHAIRPERSON RICHARDS: Alright, we're
25 going to call the last panel today; Dianna... Dianna

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King, Drug Policy Alliance; Allison Hollihan, Hollihan, to correct me, New York Initiative for Children of Incarcerated Parents; and Tanya Krupat, Osborne Association. Allison, New York Initiative for Children of Incarcerated Parents; Dianna King, DPA; Tanya Krupat, Osborne Association and if there anyone else who wishes to testify please sign up with the Sergeant at Arms now. Yeah, we're going to ask you to get specific because we have to be out of this room for the next hearing that's happening so if you can start, give us your recommendations that would be great. Alright, you'll press the button and you may begin, you'll identify yourself for the record, who you're representing and then you may begin.

DIANNA KING: Okay, my name is Dianna King, I'm the Policy Manager with the Drug Policy Alliance. I realize I printed these incorrectly, so I'll email them to you when I'm done. I support the spirit of the legislation and what the Council is attempting to do, minimizing the harm of child arrest and the long term harm of incarceration but we do share the concerns of the defenders about the intervention of ACS and the way that this particular bill is structured that expedites that intervention

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prior to a parent being contacted. So the policy that was laid out by the NYPD that we don't know if they're actually, you know following through with it, we don't have any data on that, it does delay that intervention to give parents an opportunity to contact a care giver that could take the place of them when they are being arrested and I understand your intent was to prevent a child from witnessing arrests in the first place so you're coordinating with ACS and a partner organization to make sure that they're out of the house but having that intervention so early in the process prior to a parent being made aware that this was going to happen prevents them from having that dialogue with the arresting officer, anyone to make sure that a care giver is contacted so we would like to see that particular structure of the proposal amended to reflect that the overall desire is to make sure that a child is placed with someone who they view as a trusted adult and support the proposals of the defender's saying that they should partner with a partner organization but the priority is to make sure that the parent is given a full agency to determine what is the best situation for that child. I also have a couple of other

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recommendations just about language access, your proposal mentions that an arresting officer should be able to communicate with the parent and the child about what is happening during that arrest but it doesn't make any mention to the fact that not all people who are arrested are going to be English speakers as the first language so to make sure that there's some coordination to know what language choice that that particular parent is and have like a translator or an officer on hand who can direct that and also for people who are disabled or deaf or blind or otherwise to make sure that a person can communicate to the child and the parent what is happening. There's also the training protocol, it's... training is also always recommended to the NYPD, its hard to know how much that training is going to stick but we also just want to make sure that the use of force in front of children is also seen as priority, there's the, the matter of children being... seeing their parent being handcuffed but there's also the traumatizing effect of seeing a gun drawn and, and the report that was referenced by the NYPD they made mention of the fact that 30 percent of children who witness a parent being arrested also viewed a gun

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being drawn during that interaction so that also needs to be made plainly clear in legislation that guns... that officers should be knowledgeable of a child being present but also unless there is an imminent threat of danger, unless they have awareness of weapons being in the facility that they should withhold the use of their weapons in that scenario so that children aren't witnessing that extreme form of violence. The third thing I want to recommend is around the data collection, it's hard for us to report on what the NYPD are doing because there's just not a lot of transparency around that so just being really clear about the number of children who are referred to ACS as a matter of arrests to see that, that intersection take place and what the outcomes are of that, if they're seeing... if they're being in place... out of home care, if they're placed in foster care to make sure that we have a really informed picture of what's happening to children and to just get some more clarity on the... on the use of the policy as they have it written. I know your intent is to codify this legislation to make the proposal legal, but we do as advocates and us defenders need to be made aware of how its actually

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being followed so we can make improvements and have some sort of awareness of what's actually happening on the ground. So, I will stop there and pass it to my colleague.

CHAIRPERSON RICHARDS: Thank you for your testimony.

TANYA KRUPAT: Hi, thank you, I want to echo a lot of what was just said and what has been said this morning so thank you for the opportunity to speak with you and really for the City Council's leadership in addressing the issues that Jasmine Headley's horrific arrest brought to light. My name is Tanya Krupat, I'm Director of the Osborne Center for Justice at Cross Generations with the Osborne Association. Since 2007 when Osborne launched the New York Initiative for children of incarcerated parents we've been deeply involved in leading efforts to safeguard children whose parents are involved with the justice system including from the moment a parent is arrested. Our work focuses on arrest where the parent is not physically harming the child or not harming the child in any way such as the arrest of Jasmine Headley. For more than a decade we've been calling for efforts to safeguard children at the time

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of arrest to prevent the kind of trauma that Miss Headley and her infant son have now experienced and I'd just like to ask, you know when the NYPD refers to things that they're already doing thanks to the City Council the patrol guide is now publicly available, that wasn't the case and we have searched through it and have not found anywhere in the patrol guide the details that they mentioned so we would love to know where it says a lot of those details that they said they're doing and then also what is... what is the training as you pointed out, really digging a little deeper who is doing it, what does it entail, the CIT training is a fantastic training and as you asked it's not to our knowledge inclusive of anything related to children to great training, fantastic and we need a training related to children at the time of arrest as, as you're calling for and we've worked with the Albany Police Department and he... the former Chief Brendan Cox when we met with him said the same thing NYPD is saying, oh, yeah we do that but the difference is when we asked him, is it written down, do you train on it, do you collect data on it, he realized, you know what... no, we don't so it's not okay for me to say we're doing it when we

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don't do any of those three things to guarantee... you know assure we're doing it so just to bring that in. Our sense of urgency here is informed by the very first right of the children of incarcerated parents bill of rights which we included with our testimony which is the, I have the right to be kept safe and informed at the time of my parent's arrest. Created in 2005 in partnership with young people whose parents had been arrested and incarcerated, these eight rights provide us with a roadmap for reform. Since the voices of children and young people are often absent for our decisions around what is needed, I want to take a minute to read you the other seven rights. I have the right to be heard when decisions are made about me. I have the right to be considered when decisions are made about my parent. I have the right to be well cared for in my parent's absence. I have the right to speak with, see and touch my parents. I have the right to support as I face my parent's incarceration. I have the right not to be judged, blamed or labeled because my parent is incarcerated. I have the right to a lifelong relationship with my parent. Sorry. We've heard directly from children who are in our programs about

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how they were devastated and scarred by witnessing their parent's arrest. I also used to work in a women's prison when the children would actually sometimes play out and enact the arrest scenarios so children are deeply impacted though NYPD may not see that it can scar them and effect them for years. As I mentioned the Albany Police Department recognized several years ago that it's not only in children's best interest to do this but actually in law enforcement's best interest to do that, children who witnessed their parent be arrested do not have the best association with law enforcement and many parents who have been arrested themselves worry that their children would not seek the assistance of police should they be in a situation and the Albany Police Department included winning back a generation as part of the reason they embraced a child sensitive arrest protocol. So, the good news is there are actually very concrete models that the NYPD could embrace and, in our testimony, we attached a lot of examples. There's the international association of chiefs of Police model protocol, the Albany police department's protocol, there's data from the criminal justice agency pointing to the fact that more than

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70,000 children have experienced the arrest of a care

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giver who provided some kind of financial support to

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them and strategies for youth is another excellent

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organization that has a lot of resources. So, like

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others have said we support Intro 1349 with some

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amendments and revisions and as others have said most

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broadly not defaulting or over involving ACS. We also

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advise that whenever possible in all warrant

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situations information about children be shared in

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advance of the arrest so that necessary steps can be

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taken to minimize trauma to children. Finally, we

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hope that the City Council will consider funding

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existing children and families serving programs or

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organizations that specialize in children's mental

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health and trauma to be available to NYPD and to

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children and families after an arrest. We cannot wait

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any longer to take action, we owe it to New York

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City's children, to Miss Headley, her infant son and

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to arresting officers who deserve the best guidance

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possible to address this absence of protocol and

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implementation now. Thank you so much.

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CHAIRPERSON RICHARDS: Thank you so much.

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ALLISON HOLLIHAN: Hi, thank you for the

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opportunity to be here today and for focusing on this

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largely invisible issue, this conversation is long overdue. My name is Allison Hollihan and I'm the Senior Policy Manager for the New York Initiative for Children of Incarcerated Parents and I'd like to address Intro 806 and the broader need for the city to address and safeguard children whose parents are involved in the criminal legal system from the point of arrest through reentry. Since 2007, Osborne has been coordinating the New York Initiative for Children of Incarcerated Parents, which is a statewide collaborative of over 60 different government agencies, community and faith-based organizations and those directly impacted by arrest of a parent and their subsequent incarceration. We already know a lot about what agencies can do better to support children of incarcerated parents. We know that there is a great need for practices and policies to be put into place and for cross systems, collaboration to be examined and implemented. We coordinated the first ever state-wide summit in 2010 to examine the needs and experiences of New York State's children with incarcerated parents, leading to the issuing of a report which we provided concrete recommendations which we have submitted along with

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this testimony. While some of the report's comprehensive 87, 87 recommendations have been implemented, most remain pertinent and needed today. They include recommendations for law enforcement, criminal justice agencies and children serving agencies. In 2016, we issued a report specifically for ACS and child welfare outlining recommendations needed within this field and specifically for children in foster care. We also regularly provide training for the New York City Department of Education and family court and work with DOHMH to address the needs of children of incarcerated parents as well. We've tried to get this issue heard on the Mayor's New York City's Children's Cabinet but was unsuccessful... were unsuccessful. While we have extensive experience convening diverse professionals to examine the needs of children whose parents are involved in the justice system and many accomplishments... excuse me, accomplishments to share, our efforts are small compared to the need, we are only two people and there is no question there remains a need for leadership at the city level and coordinated action to safeguard children. For this reason, we applaud the intention behind Council

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Member William's and Levin's introduction of Intro
806. However, we are concerned that placing
leadership of this effort within the Department of
Correction is hugely problematic and that this
approach is both premature and could actually delay
needed progress on this important issue. We advocate
that DOE, Department of Health and Mental... Health...
Hygiene and DHS be at the table and most importantly
that families who have experienced the arrest of a
parent be at the table and part of this discussion.
We ask you to consider that before creating a task
force or at least concurrent with a task force that
the City Council could pass a resolution or bill
enacting the children of incarcerated parents bill of
rights that my colleague Miss Krupat has just
mentioned. This was actually proposed back in 2011 by
Council Member Rodriguez. This would require city
agency... this would also require city agencies to
inventory their existing policies and practices and
revise or create policies to safeguard children
consistent with this bill of rights. Other
jurisdictions have done this; San Francisco provides
an example of taking this step. City Council could
provide funding to support, enhance, and expand the

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New York Initiative for Children of Incarcerated
Parents to have the capacity to provide training and
technical assistance to help agencies do the
necessary work to comply with the bill of rights.
After the above interactions are underway, Intro 80..
806 could be enacted with some revisions. A task
force would be very important to monitor progress and
facilitate cross systems collaboration and
coordination. The task force should be headed by an
agency and person with knowledge of the special
medical, mental health, educational and other needs
of children and families. And finally, we want to
express our concern around the effectiveness of city
task forces to act with the urgency and yield
concrete results. While we think that such task
forces are a valuable idea with the potential to be
very effective, we also look at the recently passed
CARE Act, the Compassion and Assistance for Returning
Elders Act. Mayor De Blasio signed the CARE Act into
effect on January 2018, thanks to a bill sponsored by
Council Member Dromm, to create a citywide
interagency task force examining the needs of older
people returning from incarceration. Fourteen months
later, the task force has not been formed and has

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never met. NYCIP... the New York Initiative for
Children of Incarcerated Parents stands ready and
eager to work with City Council to make significant
progress to safeguard children, it is long past time
to address the fact that we do not know how many
children in foster care have an incarcerated parent
nor do we know how many children are present at a
parent's arrest. It was only recently that we learned
that almost... over 36,000 high school students in New
York City have reported that they have experienced
the incarceration of a parent, those are huge
numbers, but we don't know how many children in
middle school or elementary schools have experienced
this. We know anecdotally that it's very, very, very
many children. It is not okay that we do not know
that thousands of children are feeling isolated,
alone, and stigmatized because their parent's arrest
or incarceration, it's not okay that we know that
many children who want to visit their parents cannot
do so due to lack of resources, lack of programs to
bring them to visit and truly visiting policies at
our city jails that just aren't child friendly and
can be quite traumatizing to children. There is too
much that has become unacceptable and normal that

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should absolutely should not be. I have included many resources with the testimony and hope that these will be considered as the Council decides a path forward. Please note that the New York Initiative for Children of Incarcerated Parents has quarterly meetings and we invite you or your staff to attend such meetings, the next one is Friday, March 8th from ten to 12, I can give you the location and details by request... [cross-talk]

CHAIRPERSON RICHARDS: Yeah, you can...

[cross-talk]

ALLISON HOLLIHAN: ...thank you... [cross-

talk]

CHAIRPERSON RICHARDS: ...give us those,

thank you. Thank you all for coming out today, this was a very good hearing and thank you for recommendations on all the bills and all the advocates who came out who just work day in and day out, we really depend on you to also help to guide us, to make things better so we really appreciate you coming out. With that being said this hearing unless you have any closing remarks... alright, I want to thank all... [cross-talk]

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COUNCIL MEMBER LANCMAN: Thank you very
much... [cross-talk]

CHAIRPERSON RICHARDS: ...of our staffs, I
want to thank the Public Safety Committee's counsel,
Daniel Ades; Casie Addison; Nevin Singh, thank you
for all your work and to my Legislative Director
Jordan Gibbons. This hearing is now closed.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

March 26, 2019