

**Testimony to the New York City Council**  
**in Support of Int. No. 1349**  
**Requiring NYPD to Adopt a Developmentally Appropriate, Trauma-Sensitive Policy for**  
**Treatment of Children at the Time of a Parents' Arrest**

February 25, 2019

I write on behalf of Strategies for Youth, [www.strategiesforyouth.org](http://www.strategiesforyouth.org), a national nonprofit training and policy organization dedicated to improving police/youth interactions and reducing disproportionate minority contact. SFY currently works with law enforcement agencies in 19 states across the U.S., offering training, policy development, and services to improve interactions between police and youth.

We write to strongly support amending the Administrative Code of New York City to adopt Section 14-177. We believe this Section will help guide law enforcement officers' response, collect critical data, and reduce the traumatic experience of children and families in such situations.

Arresting parents in the presence of their children is a parent's, officer's and child's worst nightmare. The image of an officer tugging a toddler away from a parent is terrifying, ugly, and a source of severe trauma.

As part of our **In the Presence of Children** initiative, we have interviewed children and youth across the country on the impacts of witnessing a parent or caretaker's arrest, and police interactions. This is what they have said and written:

- "Could you ask if they could arrest her not in front of me."
- "Don't point the gun at me."
- "Tell me what's happening."
- "Don't humiliate us."
- "They treat us like we're the criminals, too."

Children and youth tell us of incidents in which officers point guns at them, as well as their baby and toddler siblings, in which they make no effort to comfort the child or reassure them and are angered by the "imposition" of making provisions for their care post-parental arrest.

Time after time, we have learned that youth routinely form their dislike of law enforcement based on what they witnessed when a parent, caretaker, or sibling is

arrested. In these situations, youth perceive police as the source of trauma and danger, instead of a source of assistance.

We also hear from youth how much it meant when officers **do** take the time to explain, to reassure, to help mitigate a traumatic situation by showing concern.

As NYPD commits itself to community policing, it must consider the impacts of its policies and practices on children and youth. The trauma children experience during a violent confrontation with police during a raid, service of a no-knock warrant, or a scene like the one involving Ms. Headley, mark children forever. This experience is acknowledged to be a major adverse childhood event (ACE). NYPD's mission includes reducing exposure to ACEs.

These experiences indelibly undermine positive police/youth interactions, even where the parent is in the wrong, and ensure continued adversarial relations between police and youth in the future.

As the International Association of Chiefs of Police noted in its 2014 report, issued after a 6 year-old died in Detroit and an infant was seriously wounded in Atlanta when officers threw flash grenades into their homes while serving a warrant,

There are numerous benefits associated with safeguarding the children of arrested parents. First and foremost, it supports the immediate, as well as future, physical, emotional, and psychological well-being of the child...Also, while often overlooked, **the image of police, developed by children during these encounters, can have long-lasting effects on their overall views of law enforcement**, and their future willingness to cooperate with police and to abide with the law.

These experiences indelibly undermine positive police/youth interactions, even where the parent is in the wrong, and ensure continued adversarial relations between police and youth in the future.

NYPD's community policing vision will only succeed if it acknowledges the primacy of positive interactions with children and youth, and commits to using policies and practices that make every effort to avoid being the primary source of trauma and danger in children's minds.

#### The Need for A Policy:

According to various sources, NYPD officers have no doubt previously encountered and are likely to encounter this situation again. Notably, according to a 2017 report by the Bureau of Justice Statistics, between 1980 and 2016, the number of incarcerated women increased by more than 700%, from 1980 to in 2016. Obviously, if the number of incarcerated women is up 700%, the number of arrested women is much

higher than that. Indeed, in the city of New York, reportedly 35,581 children lived with a parent arrested in 2017.

Research demonstrates that the vast majority of arrests in the presence of children result from domestic violence incidents, with predominantly males living in the home being arrested.

According to the IACP and the Office of Justice Programs report, [\*First Do No Harm: Model Policies for Law Enforcement Agencies When Arresting a Child in the Presence of Parent\*](#), few agencies adequately address the presence of children at an arrest and fewer still had written policies or procedures. And we also found that when departments do adopt such protocols, make referrals for families reeling from trauma, and conduct follow ups, the impacts are mitigated and there is some indication that the frequency of such incidents declines.

Adopting a developmentally appropriate, trauma-informed approach is now more important than ever.

### Remedies Exist: Policies & Training

Mr. Lynch of the NYC Patrolmen's Benevolent Association asked, "[W]hen confronted with a similar impossible scenario, what do you want us to do?"

The answer needs to be: rely on NYPD policies and practices. NYPD needs to provide guidance to officers. And the good news is that such policies exist and NYPD can easily adopt them.

In addition to the [San Francisco Police Department General Order 7.04](#), SFY has noted that cities including Cleveland, Indianapolis and Philadelphia have policies require officers and SWAT teams to make significant efforts to ensure that no children or other vulnerable populations are at the site where a warrant or raid will occur. Strategies for Youth has developed such [A Model Policy for Effective Law Enforcement Agency Interactions with Children at the Time of Parents' Arrest](#) which has been vetted and improved by officers from four different urban law enforcement agencies.

In 2018, it should go without saying that law enforcement must adopt trauma-informed policies. It is well recognized that trauma costs this nation money, human capital, and lost opportunities. The time for law enforcement to adopt such policies to avoid being the source of such trauma is long overdue.

Police are necessary but not sufficient; they must be accompanied by training. Officers must learn about trauma, attachment theory, and best practices for these incidents. It is remarkable that police officers, whose lives are immersed in trauma, are not proactively trained to recognize traumatic responses, and how to reduce the likelihood that their actions will cause far-reaching traumatic collateral consequences. It

is critical that officers' training curriculum include an understanding of trauma, development, and the need for trauma-informed, developmentally appropriate policies and practices.

Presently New York State's police recruit curriculum requires recruits to learn to take care to be especially professional, courteous, and patient with children and youth. It is fair to say that when a situation like Ms. Headley's occurs--and her situation appears mostly remarkable for being reported, not for its facts--something appears to be getting lost in translation after the academy.

### In NYPD's Legal Interest

NYPD should also consider its exposure to Section 1983 for civil rights violations and *Monell* claims for failure to train and provide officers policies for these incidents.

In the 2<sup>nd</sup> U.S. Circuit Court of Appeals, the court found that a Section 1983 civil rights claim involving an infant that was being held by a woman when an officer used pepper spray could proceed. The court found that a determination of whether a reasonable officer could have believed that use of pepper spray against the infant was reasonable in light of the circumstances needed to be resolved by a jury. *Rivers v. O'Brien*, 83 F. Supp 2.d 328 (N.D.N.Y. 2000).

And in the 9<sup>th</sup> U.S. Circuit Court of Appeals, the court found that "the pointing of a gun at someone may constitute excessive force, even if it does not cause physical injury" in a case that involved a barefoot eleven-year old boy (*Tekle v. U.S.*, 511 F.3d 839 (9th Cir. 2007)). In another case, the court denied qualified immunity because "no reasonable officer could believe that pointing a gun at a child, particularly a five-week-old baby, was reasonable during the course of a non-exigent...search." *Motley v. Parks*, 383 F.3d 1058 (9th Cir. 2004). See also, *Miller v. Placer County*, 84 Fed. Appx. 973 (9th Cir. 2004) (section 1983 claim involving excessive force when police pointed guns at a 10 year old); *Avina v. U.S.*, 681 F.3d 1127 (9th Cir. 2012) (intentional infliction of emotional distress claim involving an eleven year old and fourteen year old held at gun point by federal agents); and *Johnson v. Shasta County*, 83 F.Supp. 3d 918 (E.D. Cal. 2015) (section 1983 claim involving a thirteen year old being held at gunpoint by law enforcement).

As the Courts become more aware of the impacts of trauma, they are likely to be less tolerant of failures to provide training and policies to avoid problems that routinely occur.

### Materials Available

SFY has previously offered its materials to NYPD, most recently in December 2018 after the Headley incident.

We again offer our [In the Presence of Children](#) materials. Our materials were developed by psychologists and psychiatrists, and law enforcement officers who are expert in domestic violence. These materials provide officers and law enforcement agencies with tools to help mitigate the trauma of a parental arrest, including:

- Checklist for officers encountering such situations
- *What to Expect? Chart* which identifies strategies for officers to use as a function of the child's age and the reason for the arrest;
- Cards for officers to provide parents to recognize signs of trauma in children and locate services to assist;
- Posters for booking cells to encourage arrested parents to ensure their children have been cared for during and after their arrest and to receive assistance from the booking officer to make the necessary calls;
- Teddy Bears for officers to give children as a comfort and distraction.

SFY offers to partner with the NYPD to achieve better outcomes for youth in these situations and to help NYPD reach its vision of community policing.

Thank you for considering our concerns.

Lisa H. Thureau,  
Executive Director  
Strategies for Youth, Inc.



## **TESTIMONY TO NEW YORK CITY COUNCIL IN SUPPORT OF INTRO 1349**

**DEANNA R. HOSKINS, PRESIDENT & CEO OF JUSTLEADERSHIPUSA**

### **Councilmember Richards, Councilmember Dromm, members of the Committee on Public Safety, and Sponsors of Intro 1349:**

Today, I submit testimony in support of Intro 1349, and I urge this body to take all of the steps it can to end the dehumanization, devastation, and degradation of human rights that occurs all too frequently when police officers or other law enforcement officials separate children from their parents.

Most of you probably know the name Jazmine Headley. Last December, Jazmine's story made national headlines. Millions across the country saw the video of New York City police mercilessly tearing her one-year old baby out of her arms as they placed her under arrest. I imagine that, for some of you, Jazmine's story is what prompted today's hearing and the legislation that's being discussed. The anguish and devastation Jazmine felt that day, and for many days afterwards, happen far too often to other parents and children throughout our city.

The need to implement policies and procedures that prevent this harm is obvious. Intro 1349 is one such policy. By mandating that police officers demonstrate an awareness of, and some concern for children who are in the presence of an arrest, this measure can take an important step towards protecting the human dignity that is at stake in these terrible situations.

But culture and behavior always trump policy. Therefore, this legislation must be the start of a more critical conversation that leads to the end of a culture that enables or tolerates family separation crises. You must make your deliberations today the first in a series of steps you can take to reckon with and eradicate the harm that the criminal legal system inflicts upon families, parents and children. And each of those steps must be informed by the experience of people who have been, and will continue to be, impacted by the policies you discuss.

I serve as the President and CEO of JustLeadershipUSA - a national criminal justice reform organization dedicated to cutting the U.S. correctional population in half by 2030 by empowering people most impacted by the criminal justice system to drive criminal justice reform. Founded on the value that *those closest to the problem are closest to the solution*, our bold advocacy on issues ranging from policing, to pretrial reform, to probation and parole is informed by the lived experience of people who've endured the harms levied by the criminal legal system. Prior to my service as the leader of this organization, I was a Senior Policy Advisor at the Department of Justice, a reentry coordinator in my home-state of Ohio, and a young mother who spent six months incarcerated as the result of my battle with substance abuse.

**#halfby2030**

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I have lived with - and to this day make efforts to address - the trauma inflicted on my family when the criminal legal system separated me from my child. Remember, as my and millions of other stories should remind you: separation is not isolated to the moment of arrest.

As we work tirelessly to shut down the jails on Rikers Island and as we fight every day to drive down this city's jail population, we do that with full awareness of the reality that people who are still incarcerated must be treated with respect, seen and heard with compassion, and afforded the human rights we each think that our own loved ones deserve. That means that, as long as a child or parent is held in a facility in this city, you must do everything you can to protect the relationships that keep families together - the relationships that help sustain what health and hope is left in a community after police, prosecutors, and cages have taken their toll.

Will Intro 1349 tackle the larger problems of what happens to children when their parents are incarcerated? No. It will not. And it will do nothing to alleviate the crushing heartache inflicted on a parent who loses their child when arrested, detained, or incarcerated. I am thankful and blessed that I was recently able to welcome my son home from prison. I know many mothers - including leaders on our #CLOSErikers campaign - who may never get that chance. Even as this proposal does not attempt to address those longer-term harms, you must find ways to limit the loss of connection and to lower the chance of permanent loss of a child.

Your work last year to make calls from city jails free for all people was a significant step in the right direction. Your passage of Intro 1349 will continue the momentum around this issue. What you do next is even more crucial in ensuring that you are doing everything in your power to see, respect, and preserve human dignity in the Black and brown communities across this city that have been forced to withstand unthinkable oppression and pain.

I urge you to pass Intro 1349. Demand that the Mayor sign it immediately. Force the police, who will not act properly on their own, to recognize the obligation they have to act with decency when carrying out the oath they are sworn to uphold. Then continue to seek out solutions that are guided, from the outset, by the lived experience of directly impacted people. The time to act is now.

**DeAnna R. Hoskins**  
President & CEO  
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