

Protective Custody Warrants (PCWs)

(Revised 08/25/23)

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Forms

The following forms are referenced in this file:

- 04-215 Protective Custody Warrant Affidavit (CWS/CMS Template)
- [JUV-270](#) Protective Custody Warrant Findings and Orders
- [JUV-271](#) Return to Warrant – Juvenile

Related policy

Related policy includes:

- Investigative Search Warrants (ISWs) to enter a home/interview a child
- Pick-Up and Detain Orders (for AWOL dependents).

A helpful PCW Requirements Guide has been created by County Counsel and is available in Resources.

Protective Custody Warrants (PCWs)

Protective Custody Warrants (PCWs) are court orders to remove a child from the custody of a parent or guardian, and are governed by WIC 340.

Office of Child Safety (OCS) requests PCWs for 2 purposes:

1. To place a child in protective custody at the same time as a petition is filed in Juvenile Court alleging that a child comes within WIC 300 and the SW has not brought the child into protective custody (WIC 340[a]).
2. To place a child in protective custody **prior** to the filing of a petition, if there is a substantial danger to the safety or to the physical or emotional health of the child and no reasonable means to protect the child's safety or physical health without removal (WIC 340[b]).

OCS requests Investigative Search Warrants when there is an open child abuse/neglect investigation and a warrant is needed to obtain access to the children and/or the home.

W&IC 340

Welfare and Institutions Code (WIC) 340 states:

- (a) Whenever a petition has been filed in the juvenile court alleging that a minor comes within Section 300 and praying [*] for a hearing on that petition, or whenever any subsequent petition has been filed praying for a hearing in the matter of the minor and it appears to the court that the circumstances of his or her home environment may endanger the health, person, or welfare of the minor, or whenever a dependent minor has run away from his or her court-ordered placement, a protective custody warrant may be issued immediately for the minor.
- (b) A protective custody warrant may be issued without filing a petition under Section 300 if the court finds probable cause to support all of the following:
 - The child is described in Section 300.
 - There is a substantial danger to the safety or to the physical or emotional health of the child.
 - There are no reasonable means to protect the child's safety or physical health without removal.

*Asking for a hearing.

**Possible Safety
Threats Requiring a
Warrant**

Seeking a warrant to remove a child without a petition requires evidence that there is substantial danger to the child's safety or physical well-being.

Seeking a warrant while simultaneously filing a petition in juvenile court requires evidence that the child's home environment may endanger the health, person, or welfare of the child. Many of the threats listed below can be resolved by safety-planning or other interventions. However, if the caregiver is unable or unwilling to protect the child or participate in safety-planning, then a PCW may be needed.

If short-term safety-planning seems feasible, a request for a warrant at the same time a filing a petition may be appropriate.

The majority of these threats correspond to those in SDM:

- Caregiver caused serious physical harm to the child or made a plausible threat to cause serious physical harm as in the current investigation, as indicated by:
 - Serious injury or abuse to the child other than accidental
 - Caregiver fears he/she will maltreat the child
 - Threat to cause harm or retaliate against the child
 - Domestic violence likely to injure child
 - Excessive discipline or physical force
 - Drug/alcohol-exposed infant.
 - Child sexual abuse is suspected, AND circumstances suggest that child's safety may be of immediate concern.
 - Caregiver does not meet the child's immediate needs for supervision, food, clothing, and/or medical or mental health care.
 - The physical living conditions are hazardous and immediately threatening to the health and/ or safety of the child.
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Possible Safety Threats Requiring a Warrant (cont.)

- Caregiver describes the child in predominantly negative terms or acts towards the child in negative ways that result in severe psychological/emotional harm AND these actions result in severe psychological/emotional harm, leading to the child being in danger to self or others.
- Caregiver is unable OR unwilling to protect the child from serious harm or threatened harm by others. This may include physical abuse, sexual abuse, or neglect.
- Caregiver's explanation for the injury to the child is questionable or inconsistent with the type of injury, AND the nature of the injury suggests that the child's safety may be of immediate concern.
- The family refuses access to the child, or there is reason to suspect the family is about to flee.
- Current circumstances, combined with information that the caregiver has or may have previously maltreated a child in his/her care, suggest that the child's safety may be of immediate concern based on the severity of the previous maltreatment or the caregiver's response to the previous incident.

Reasonable Efforts

Before removing a child from the custody of a parent or guardian, there must be no reasonable means by which the child's physical or emotional health may be protected without removing the child from the parents/guardians physical custody pursuant to WIC 319 and 340(b).

Prior to seeking a PCW, the SW must make reasonable efforts to prevent the removal and/or consider whether the child can remain safely in their home. Such efforts may include (but are not limited to):

- safety-planning
- consideration of whether a non-offending caregiver can provide for, and protect, the child while the alleged perpetrator voluntarily agrees to withdraw from the residence
- consideration of a Voluntary Services (VS) plan.

Hobbs Sealing Request

The Affidavit includes an option to request a Hobbs Sealing. A Hobbs Sealing is a request to seal all or part of the warrant affidavit that relates to facts or information which, if disclosed, will reveal or tend to reveal confidential information. A Hobbs Sealing will be requested **only if** the confidential information contained in the Affidavit would place the child or a parent in danger. The SW will check the Hobbs box and select either "yes" or "no" as applicable. If checking "yes," complete Attachment A (the last page of the Affidavit). If checking "No," discard Attachment A before submitting.

Night Service

The Affidavit includes reference to night service of the Warrant, which is defined as serving the Warrant between 10:00 p.m. and 7:00 a.m. Indicate in the Affidavit if night service is needed, and if so, why.

Requesting a PCW Prior to Filing a Petition

PCWs may be requested between 8:30 a.m. and 4:00 p.m. on Court days in Department 1 at the Meadow Lark court, but SWs should be aware that the court will hear them only from 8:30 - 11:30 a.m., and from 1:30 - 4:00 p.m.

**Requesting a PCW
Prior to Filing a
Petition (cont.)**

The following procedures will be followed when requesting a PCW **prior** to a petition being filed.

NOTE: A separate PCW must be submitted for each applicable child. The PCW is good for 10 days from when the Judge signs it.

Step	Who	Action
1	SW	<ul style="list-style-type: none"> • Confer with PSS and CC about need for PCW. (SW must know or be reasonably certain of the child(ren)'s whereabouts) • Call CC at 858-492-2555 to make a screening PCW appointment, indicating that no petition has been filed. • On the PCW Affidavit (04-215): <ul style="list-style-type: none"> ○ Complete heading. ○ Check the 2nd box requesting a PCW under WIC 340(b) and complete the remaining fields on first page. ○ In section 1, check option (a). ○ In section 2, check option B. ○ In section 2C, check the applicable box. ○ In section 2D, check the "no" box unless instructed by CC to do otherwise. ○ Print name and sign in blue ink. ○ On the Statement of Cause page, complete all fields. ○ Complete Attachment A (related to Hobbs sealing) only if it applies. Otherwise, detach it from the Affidavit. If Hobbs applies, make two copies of the Statement of Cause section of the Affidavit: one copy with no redactions, the other copy with redactions of the information listed on Attachment A. ○ Spellcheck document. • On the Protective Custody Warrant - Findings and Orders (JUV-270): <ul style="list-style-type: none"> ○ Fill in the header, Child's Name and Child's DOB ○ Check 3(b) ○ Leave the rest blank (the Judge will complete). • After PSS review, SW email to CC (with cc to PSS)
2	CC	<ul style="list-style-type: none"> • Review Affidavit and JUV 270. • If necessary, request SW revisions. • If approved, sign Affidavit in blue ink and scan or hand to SW.

**Requesting a PCW
Prior to Filing a
Petition (cont.)**

Step	Who	Action
3	SW	<ul style="list-style-type: none"> • Call the Court Unit Duty Officer to advise of the forthcoming warrant. • Scan the signed Affidavit, any attachments, and the JUV 270 to the Duty Court Officer. • Provide Court Officer with a work cell phone number and a back-up number (e.g., desk number or PSS phone number). <ul style="list-style-type: none"> ○ The SW (not the PSS nor anyone else) must be available by phone for the court to swear the SW in. Otherwise, the SW must appear in-person.
4	Duty Court Officer	<ul style="list-style-type: none"> • Call the Search Warrant Clerk at 858-634-1603 to advise them that a PCW Affidavit is being prepared and to ensure that a Judge is available. • When the Search Warrant Clerk provides the search warrant number, write it on both copies of the Affidavit (in the box on the top left of the first page after case number). • Print 2 copies of the Affidavit (and any attachments) and 2 copies of the PCW Findings and Orders. • Meet Search Warrant Clerk at the time and place specified by the Clerk. • Provide both copies of the Affidavit and of the Findings and Order to the Judge. • Provide the SW's phone number to the Judge.
5	Judge	<ul style="list-style-type: none"> • Review the documents and swear in the SW over the phone.
6	Duty Court Officer	<p>Did the Judge sign the JUV-270?</p> <p>If yes, then the court will place the signed JUV-270 in a confidential envelope labeled with the associated search warrant number. The Court Officer (along with the Judge) will sign the flap of the confidential envelope when/where instructed and hand the envelope to the Search Warrant Clerk, who will complete the process per internal business practice.</p> <ul style="list-style-type: none"> • If no, Immediately notify SW and CC of Judge's decision and reason(s). STOP.
7	Search Warrant Clerk	<p>Return one copy of the signed JUV-270 to the Duty Court Officer.</p>

**Requesting a PCW
Prior to Filing a
Petition (cont.)**

Step	Who	Action
8	Duty Court Officer	<ul style="list-style-type: none"> Immediately notify SW and CC of outcome. Send signed JUV-270 to SW immediately. Import into CWS/CMS.
9	SW	<ul style="list-style-type: none"> Print JUV-270 and make 2 additional copies (one for client, one for law enforcement). Maintain a copy in the case file. Arrange with law enforcement to pick up child(ren). By the end of the next business day, email a copy of the Affidavit and the JUV-270 to CC.
10	SW	Complete Return process below.

**Requesting a PCW
When a Petition Has
Been Filed**

The following procedures will be followed when requesting a PCW **when a petition has been filed.**

Step	Who	Action
1	SW	<ul style="list-style-type: none"> Complete the PCW Affidavit (04-215) and the JUV-270 Findings and Orders and take them to CC when screening the petition. Call County Counsel and request an appointment. See Petition Tip Sheet for instructions on filing a petition.
2	CC	Screen for approval.
3	SW	<ul style="list-style-type: none"> Take the Affidavit to the assigned court immediately following approval from CC. <p>NOTE: The SW or CC may have to call the Business Office at Meadow Lark to see which court room will be assigned the case.</p> <p>SWs will avoid removing children from their parent(s)/guardian(s) at court unless there is an extenuating circumstance, such as the SW being unable to locate the child(ren) the previous day and the parent showing up at court with the children, or concern that the parents may flee with the children.</p> <ul style="list-style-type: none"> Make a copy for each child, attorney, judge and SW file. (The Affidavit needs the same number of copies as a Detention Report.)

**Requesting a PCW
When a Petition
Has Been Filed
(cont.)**

Step	Who	Action
4	Judge	Review the Affidavit and make a decision.
5	SW	<ul style="list-style-type: none"> Did the Judge sign the JUV-270? If no, consult with CC. <p>If yes:</p> <ul style="list-style-type: none"> Make every effort to pick up the child(ren) the same day the Judge signed the JUV-270. <p>NOTE: If the pick-up needs to be turned over to standby, the SW must first document the efforts that were made during the day and the PSS will confer with the Hotline PSS.</p> <ul style="list-style-type: none"> Put a copy of the Affidavit and the JUV-270 in the file. Contact CC to let them know the PCW was issued and whether or not the child(ren) were picked up.

**After PCW Has
Been Issued (The
Return)**

If the PCW was served **after** filing a petition, the SW will contact County Counsel to notify them if the child(ren) were removed.

If the PCW was issued **prior** to filing a petition [i.e., under WIC 340(b)], the SW will follow this procedure:

Step	Who	Action
1	SW	<p>Within 48 hours after the PCW has been served, complete the JUV-271 (Return to Warrant) and submit the original to the Court Unit.</p> <p>NOTE: The return must be filed at court within 10 days regardless of the action taken.</p>
2	Court Officer	<ul style="list-style-type: none"> Contact the SW and ask which upcoming mornings the SW would be available to again be sworn in by the Judge. <p>NOTE: The entire Return to Warrant process must be completed within 10 calendar days of the warrant's execution.</p> <ul style="list-style-type: none"> Call Juvenile Court Administration at (858) 634-1668 and request that the confidential search warrant be pulled. Provide the SW availability information to the court and select a morning for the SW to be sworn in. Provide the date and approximate time to the SW.

After PCW Has Been Issued (The Return) (cont.)

Step	Who	Action
3	Search Warrant Clerk	On the specified date, meet the Court Officer outside of the Judge's chambers (the Court Officer will have the SW on telephone standby).
4	Court Officer	<ul style="list-style-type: none"> • Present the judge with a signed copy (original signature) of the return. • Provide the Judge with the SW's phone number.
5	Judge	Review documents and call the SW to be sworn in over the phone.
6	Court Officer	<p>Did the Judge sign the JUV-271?</p> <p>If yes, then the court will place the signed JUV-271 in a confidential envelope labeled with the associated search warrant number. The Court Officer (along with the Judge) will sign the flap of the confidential envelope when/where instructed and hand the envelope to the Search Warrant Clerk, who will complete the process per internal business practice.</p> <p>If no, then contact CC immediately.</p>
7	Court Officer	Send a copy of the signed JUV-271 to the SW.
8	SW	<ul style="list-style-type: none"> • Email a copy of the return to CC. • Maintain a copy in the case file.

Alignment with SET

This policy aligns with [SET Value 1](#) by recognizing that enhancing safety for children and youth in the home is the top priority for everyone involved, and with [SET Value 5](#) by working towards efforts to improve court processes to ensure that they are supportive of mutual goals.