

DSS Policy and Procedure Guide

Division 03: Child Welfare

Chapter 03: Initial Response/Detention

Item 041: Protective Custody Warrants

Suggested changes send to: [DSS PSOA](#) Mailbox

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References: [W&IC 305\(b\)](#)

New

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Preamble

Child Welfare Policy and Procedure Guides (PPG) are meant to be used as tools to relay best practice and staff expectations. It is understood that specific case scenarios may not always align themselves with the stated practices and that at all times what is of paramount importance is the Safety and Well-being of the children we are charged to protect.

Policy

When a Child Welfare Emergency Response (ER) Social Worker (SW) conducts an investigation into allegations of abuse and/or neglect and determines that a child(ren)'s safety is at immediate risk and the SW is unable to obtain a Welfare & Institutions Code (W&IC) 300 Protective Hold from law enforcement they must request a Protective Custody Warrant (PCW) from the Fresno County Superior Court - Juvenile Dependency Division in order to remove the child(ren) from the parent or guardian's care and ensure the child's safety.

Purpose

The purpose of this policy is to outline for Child Welfare staff when it is appropriate to request a PCW and the steps necessary to obtain a warrant, both during regular business hours and afterhours.

Introduction

The Department of Social Services (DSS), Child Welfare division's primary function is to ensure the safety of children and youth in the community. DSS receives reports of abuse and neglect from mandated reporters and community members that must be investigated by highly skilled staff who are specifically trained at assessing safety and risk.

Upon receiving a referral regarding allegations of abuse and/or neglect, the ER SW will investigate the allegations in accordance with PPG [03-03-008 Assessment in Investigation of Abuse/Neglect](#)

[Reports](#). If the SW, during their investigation, determines that the child(ren)'s safety is at immediate risk the SW will contact the appropriate law enforcement agency in the jurisdiction where the family resides or where the incident of child abuse/neglect occurred and request a joint assessment with law enforcement, in accordance with W&IC 305(b).

If the ER SW determines that an appropriate plan of care cannot be made for the child(ren) in order to ensure their safety, they will request a W&IC 300 protective hold on the child(ren). In some cases, the law enforcement agency is not in agreement with the SW's recommendation to place a protective hold on the child(ren). The ER SW will then contact their Social Work Supervisor (SWS) who will determine if it is appropriate to go up the chain of command with DSS and the responding law enforcement agency. If, after going through the chain of command, a protective hold is not granted by the law enforcement agency, the SW will then initiate the process to obtain a PCW.

Substance Affected Infants

DSS receives reports of abuse/neglect on infants who experienced prenatal drug exposure or Fetal Alcohol Spectrum Disorder. While a mother's substance use during pregnancy does not, in itself, indicate the need for intervention by a child welfare agency, there must be additional concerns that the mother will continue to use substances that will render her unable to safely and adequately fulfill the basic needs of the infant upon discharge from the hospital. Refer to PPG [03-03-004 Drug Exposed Infant Protocol](#).

Requesting a Protective Hold

The following procedures apply to requesting a hold on both substance affected infants and other children who are the subject of a child abuse/neglect investigation when the SW has determined that the infant or child(ren)'s safety is at immediate risk. The SW shall consult with their supervisor when determining if a Protective Hold should be requested. For hospitalized infants, the SW will generally request the Protective Hold when the infant is ready for discharge or there is a concern that the parent(s) will flee with the child. The following steps shall be implemented when requesting a Protective Hold:

1. Verify that all necessary documentation has been obtained.
2. Assess any relatives or mentors for placement.
3. If no relatives or mentors are available and/or appropriate for placement, submit the Initial Request for Placement form (6252) which is generated from the Child Welfare Services/Case Management System (CWS/CMS), to the [CWS FPR](#) mailbox to request a resource family home that can meet the infant's needs. In addition to submitting the 6252, submit a Family Finding referral to the [DSS Family Finding](#) mailbox.
4. In accordance with [W&IC 305\(b\)](#), contact law enforcement to request a joint assessment to determine if placing a Protective Hold is necessary. The SW shall explain the reasons the infant is not safe with the parent(s). Please note that some local law enforcement agencies have an internal policy that they **will not** respond to a SW's request to assess a drug exposed

or substance affected infant. Consult with your supervisor who will provide further guidance.

Note: The law enforcement agency responsible for the area around the family's home, not the hospital, should be contacted.

5. Be present at discharge for a hospitalized infant/child, meet the care providers, and sign the placement paperwork.
6. Ensure that the care providers understand all discharge instructions for a hospitalized infant/child. If needed, ask for assistance from the hospital or Public Health Nursing (PHN) staff.
7. If the infant/child is discharged from the hospital after hours or on the weekend and placed by Standby staff, the following actions are to be completed by the assigned SW:

Follow policies and procedures for Protective Holds including arranging for a Team Decision Making (TDM) meeting, completing the foster care eligibility packet, and arranging for the child packet (JV-225 Child Health and Education form, Parental Notification of Indian Status) to be completed as soon as possible.

8. A TDM shall be held for all placement decisions including if the infant has already been discharged from the hospital at the time a decision is made to place the infant in protective custody.

Requesting a PCW During Normal Business Hours

When a child(ren)'s safety has been determined by the investigating SW to be at immediate risk or a drug exposed infant with an identified safety risk is ready for discharge from the hospital and law enforcement will not place a protective hold:

- Contact the Court Specialist SWS to request a PCW.

Requesting a PCW Afterhours, Weekends or Holidays

- If law enforcement will not place a Protective Hold afterhours or on the weekend, the SW will consult with the on call SWS to determine if a PCW is warranted.
- After gathering all information, the SWS will consult with the on call Program Manager (PM) to determine if a PCW should be requested and submitted to the on call Judge.
- If the on call PM agrees that a PCW should be requested, the SW shall complete:
 - A CWS 0071, eWarrant form.
 - A 300 petition

- Reference CWS 0073, Guide to Generating a Petition and CWS 0077, Guide to Generating a PCW.
- Submit all documents to the on call SWS for review and approval.
- Upon SWS approval and signature, the CWS 0071 and 300 petition are to be reviewed by the on call PM
- Upon approval by the on call PM, the SW shall scan the CWS 0071 and 300 petition, creating a PDF file.

The on call SWS shall call the Fresno County Sheriff's office at (559) 600-3426 to request an emergency PCW by the on call Judge. If the SW is not successful initially at reaching someone at the sheriff's office they should continue to make efforts until they are successful.

- Identify self and the agency represented. Advise the dispatch operator a protective custody warrant is being sought from an on call judge.
 - Dispatch will connect the on call SWS with the on call Judge.
 - The SWS shall remain on the call until confirmation is given by the on call Judge that they are available to review the PCW.
 - The on call Judge will provide the SWS with the email address that the PDF file shall be emailed to.
- The on call Judge will swear the SWS in over the phone as well and discuss any necessary changes over the phone.
 - The SWS will provide the on call Judge with a call back number in the event that the Judge has questions and/or will send the document back for revision.
 - Once the on call Judge has completed their review of the PCW, they will make a decision via an email response. There are three possible responses:
 - Approved- the document will have the form on the first page signed, date/time stamped, and initialed if Night Service was requested and approved.
 - Re-Work Needed- the document will have "RE-WORK" stamped on the first page. The original document must be modified and re-submitted as a separate electronic search warrant submission.
 - Rejected- the document will have "REJECTED" stamped on the first page.

Serving a PCW During Normal Business Hours

If a Judge approves the PCW, the SW must file the signed PCW with the Fresno County Sheriff's Department.

- Once the PCW has been served the SW will advise the court specialist SWS and/or assigned court specialist of the date and time the PCW was served.
- A copy of the form will be kept in the case file and the original attached to the Detention report.

Serving a PCW Afterhours, Weekends or Holidays

If the on call Judge approves the PCW, the SW will proceed with serving the PCW.

- If there are safety issues with serving the PCW, it is recommended the SW request law enforcement assistance.
- For substance affected infants:
 - The SW will complete the CWS 0075, Protective Hold by on call Judge form, indicating the name of the Judge who issued the PCW as well as the date and time the PCW was executed.
 - The SW shall email the PDF file and the CWS 0075 form to the [CWS After Hour PCW](#) mailbox.
 - Provide the hospital with the CWS 0074, Executed Warrant for Hospitalized Baby form. **Do not provide the PCW or related forms to the hospital.**
- The parent(s) is not provided the PCW, any related forms, or the CWS 0074.
 - If the parent(s) request on being provided documentation, they can only be provided a copy of the on call Judge's affidavit and the first three pages of the warrant.
 - Consult with the Standby SWS for questions regarding what documentation can be provided.

Prolonged Hospitalizations

When an infant/child will be hospitalized for a prolonged amount of time:

- If there is concern a parent will flee with the infant/child, placing the infant/child in harm, follow the procedure above for contacting law enforcement to place a protective hold.

- If there is no or little concern that a parent will flee with the infant/child, continue to assess the family. Once the assessment is complete and safety concerns remain about the infant/child, contact the Court Specialist SWS to request a PCW.

Documentation

All requests for a PCW, including whether or not they were granted, shall be narrated in CWS/CMS.