



Kern County Sheriff's Office

Policies and Procedures

TITLE: PROTECTIVE CUSTODY ORDERS		NO: H-515	
APPROVED: Donny Youngblood, Sheriff-Coroner			
EFFECTIVE: September 5, 2013	REVIEWED: 10/20/2020	REVISED: 09/05/13	UPDATED: 11/17/2017

POLICY

When an officer of the Sheriff's Office has reasonable cause to believe a child might be in danger of abuse by a family or household member, the officer *shall* seek a court order to remove the minor child from the house and place them into protective custody. The Officer may remove the minor child without a court order if the officer has reasonable cause to believe the child is in imminent danger of serious bodily injury. The courts have stated, "To take a child into protective custody without a warrant, the officer must have reasonable cause to believe that harm will occur in the period of time it would take to procure a warrant and remove the child from the home." See Rogers v. County of San Joaquin, 487 F.3d 1288, 1294-95 (9th Cir.2007)

The officer will detail the reasonable grounds for removal without a court order for each child removed from the home in their written report, including specific facts demonstrating risk as to each child to be removed.

Regardless of the victim's preference, the officer may request an ex parte Protective Custody Order from the on-call judge.

Officers should make this determination based on the complainant's allegations of a recent incident of abuse or threat of abuse. The officer may request a Protective Custody Order whether or not the suspect is present.

The following situations are examples of those which may provide the grounds for requesting a Protective Custody Order:

- The suspect has a recent history of violence or sexual assault on the minor.
- The victim expresses fear of retaliation or further violence or sexual assault.
- Threats of serious danger have been made to the victim.

PROCEDURE

1. The officer shall contact the on-call judge by telephone or otherwise and assert the factual basis for the belief that the order is appropriate. The officer must articulate facts showing imminent risk as to each child removed and when applying for an order, the officer needs to articulate facts demonstrating risk as to each child to be removed. If the officer is requesting a telephonic or oral Protective Custody Order, the officer will record both sides of their conversation with the issuing judge.



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2. Should an officer wish to seek authority for night time service (between 2200 hours and 0700 hours) of a Protective Custody Order, he/she will need to document the reason(s) for such action in the affidavit. Should the issuing judge find good cause for night time service of the custody order, he/she should initial next to the "approved" portion of subsection "A".
3. California Penal Code Section 293 references a victim's right to request confidentiality as a result of being reported as a victim of a sex offense. Due to the sensitive nature of a minor's identification and information pertaining to an investigation in which a Protective Custody Order is sought; it is recommended that officers include articulable facts in the affidavit as to a reason(s) for an authorizing judge to grant a request for confidentiality and authority to seal the requested order. Should the issuing judge find good cause to seal the custody order, he/she should initial next to the "approved" portion of subsection "B". The affidavit will need to be sealed in an envelope upon receipt by the Juvenile Court.
4. Upon issuance of the order by the duty judge, the officer shall transfer it into writing, using the Protective Custody Order provided (see attached copy), and sign the order. The officer requesting the Protective Custody Order shall deliver the original or fax (661-868-4414) a copy of the Protective Custody Order along with the affidavit to the Court Clerk at the Juvenile Justice Center, prior to the end of the officer's shift, within 24 hours of the issue date. If the order is faxed, the original documents will need to be delivered to the Juvenile Justice Center as soon as possible. When the issue date falls into a period of time when the Juvenile Justice Center is closed (I.E. weekend, holiday), all documents will need to be delivered to the Juvenile Justice Center by the close of the next available court business day.
5. ***For Telephonic Oral Orders*** - If the Protective Custody Order is obtained through an oral telephonic affidavit both sides of the conversation must be recorded and later transcribed. Prior to the end of the officer's shift and within 24 hours of the issue date, the order must be faxed to the Juvenile Justice Center (661-868-4414). The transcription and the original Protective Custody Order must be taken to the issuing judge for his/her review and signature. The original Protective Custody Order (with the issuing judge's signature), affidavit, transcription of the recorded conversation, and a CD of the recorded conversation, will be delivered to the Juvenile Justice Center as soon as transcription is complete. A copy of the transcription will accompany the



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officer's report and a CD of the recorded conversation will be booked into the Kern County Sheriff's Office Property Room as evidence.

6. The officer shall serve a copy of the Protective Custody Order (cover page only) on the Parent, Guardian, or person responsible for the minor's welfare.
7. The officer shall transport the minor to the A. Miriam Jamison Children's Center. The officer will give a copy of the Protective Custody Order (cover page only) to the intake official.
8. The officer shall include a copy of the Protective Custody Order (cover page only) with the incident report.
9. The officer shall ensure that prior to the end of their shift, a copy of the Protective Custody Order (cover page only) is hand delivered or faxed (661-872-1224) to the Communications Center and request that the information regarding the order be entered into the complaint history detail for the incident and request a temporary hazard be placed on the involved address for the duration of the order.
10. The officer shall have the Protective Custody Order entered into CLETS via Teletypes and one copy of the cover page only will be faxed or hand delivered to Teletypes, prior to the end of their shift.
11. A Protective Custody Order is valid for ten (10) calendar days after the date of issuance, including weekends and holidays. If the Protective Custody Order is not served on or before the ten (10) day period, the court order becomes *invalid*. Upon expiration, the investigating officer would be required to request and secure a new Protective Custody Order for use in enforcement actions.

OFFICER IMMUNITY

A law enforcement officer who acts in good faith to enforce a Protective Custody Order is not civilly or criminally liable (Government Code 820.4 and 821.6).