

PROCEDURE FOR FILING FACILITY APPLICATIONS FOR PETITION

- AUTHORITY:** Administrative Directive
- RESCINDS:** Procedure Manual Item 3-1-307, dated 02/20/15
- FORMS:**
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|-------------------------------------|----------------|
| Application for Petition | (F057-4024.17) |
| Special Incident Report | (F057-7018.12) |
| Intake Transmittal Sheet | (F0502-4001) |
| Institutional Rules of Conduct | (F057-6028.6) |
| Laboratory Report (when applicable) | |
| Furlough Contract (when applicable) | |
| Juvenile Hall | (F057-6210) |
| Joplin Youth Center | (F057-6852) |
| Youth Guidance Center | (F057-6398.3) |
| Youth Leadership Academy | (F057-6500) |
- PURPOSE:** To provide information on writing clear, concise and accurate Special Incident Reports (SIRs), completing legally sufficient Applications for Petition, listing appropriate allegations, and submitting requests for warrants; to provide an understanding of legal guidelines and requirements for facility filings; to ensure all necessary paperwork is completed and routed appropriately.

I. GENERAL INFORMATION

- A. In general, Supervising Juvenile Correctional Officers (SJCOs) within the **facility** are responsible for generating applications for petition within the **facility** and/or delegation of these duties to other **facility** staff. The SJCO is responsible for:
1. Supervising investigations, ensuring their completion in a thorough and timely manner, and ensuring that accurate written documentation of these investigations is completed.
 2. Interfacing with **deputy** probation officers (**DPOs**), the District Attorney's (DA's) Office, police departments, and other supervisory/management staff in clarifying legal issues, seeking guidance, assistance, and minimizing risks to the safety and security of the **facility**.
 3. Completing applications for petitions with Assistant Director/Director approval.
 4. Assuring legal sufficiency, chain of evidence, compliance with Miranda **advisement**, and confidentiality.
 5. Adherence to procedural guidelines in communication via chain of command in matters of **facility** security and in organization and routing of violation packets.

6. Keeping abreast of changes in legislative decisions and Juvenile Court policy which affect **facility** filings.

B. Usual Terms and Conditions of Probation vs. **Facility** Rules/Regulations

Youth committed to the **facility** who are also ordered released under the usual terms and conditions of probation upon completion of commitment are NOT subject to the usual terms and conditions of probation while under commitment. They are, however, subject to the rules and regulations of the **facility** which are ordered in court at the time the youth receives the commitment. Therefore, violations filed under Section 777 of the Welfare and Institutions Code (WIC) by the assigned DPO is filed due to a violation of a court order (VCO) rather than a probation violation (PV).

C. The District Attorney's Discretion

It is the DA's job to make legal and tactical decisions regarding legal sufficiency of petitions; therefore, violations as alleged may or may not be filed. **Facility** staff filing petitions should assure that all reasonable allegations are filed, and then the DA will determine which of these allegations meet the legal requirements for the petition. The DA must be provided with **sound** allegations and sufficient, substantiating information to take the matter to trial or the application for petition will be rejected.

D. California Legal Codes

The Penal Code (PC) and Welfare and Institutions Code are the primary laws which are used by peace officers in filing violations. A current edition of The California Penal Code and Welfare and Institutions Code should be available at each **facility** so that the SJCO may read the law in its entirety to determine if a **youth** meets the criteria for a new law violation.

II. PROCEDURE

A. Special Incident Reports

1. Content

The SIR is the primary vehicle for relaying information gathered in the investigative process. The SIR must contain specific information as opposed to general statements. Avoid using non-behavioral terms (i.e., "The youth has a bad attitude"). Rather, describe behavior in specific and concrete language (i.e., "The youth used profane language toward staff, specifically '[quote]'"). It should be concise, chronological, comprehensive, and legible (for further information on Special Incident Reports, see Procedure Manual Item 3-1-303).

2. Witnesses

The "Witness" section of the SIR must provide the names, titles, addresses, and phone numbers of individuals who have direct personal knowledge of the circumstances of the alleged violation. A brief summary of the nature of the testimony must also be provided. If the witnesses are

staff members, name, title, work location, work phone number, and nature of testimony are sufficient information for subpoena purposes.

EXAMPLE: John Smith, Deputy Juvenile Correctional Officer, Joplin Youth Center (949-635-2610), can testify to indoctrinating the youth as to the **facility** rules of conduct.

3. Identify the SIRs

In a multi-count application packet, label the SIRs by count number on the bottom of the page in bold letters (see examples **below**). This will help the DA filter the information and more efficiently review your substantiating material. If youth / victim statements are also included in the packet, label them by count number as well. Also, try to arrange your paperwork in an orderly fashion with information relative to Count 1 first, then Count 2, and so on.

4. Summary SIR

As a general rule, there is no need to include a Summary SIR in your application packet. The exception may be if numerous rule violations which occurred over a period of time are alleged. It may be beneficial to briefly summarize the ward's ongoing unacceptable behavior, the attempts that have been made to deal with the problems internally, and the reasons for ultimately requesting a petition.

B. Allegations

1. Application for Petition

- a. The SJCO shall complete the top section of the application entitled "Police Use Only."
- b. Custody Intake will complete the section entitled "Probation Use Only."
- c. In cases where only one 777 WIC Allegation is alleged, the DA format for the charge shall be written by the youth's assigned DPO in the third section on the blank lines following the words "Additional info. for DA" (See Section 2).
- d. The DA format for multiple charges is placed on a form entitled "Recommended Allegations." The content is listed in Sections 2, 3, 4, and 5.
- e. The SIR(s) is/are included as before, and three copies of each are included in the packet.
- f. Custody Intake is to receive all five copies of the Application for Petition. One copy is to be retained by the **facility**.

2. **Facility** Rules Violations

- a. Youth who violate **facility** rules (VCO) are charged by the DA under Section 777 WIC. This is the most commonly used allegation by the **facility** and is filed as #11 (fill-in-the-blank format) to the DA's Office. Only the youth's assigned DPO may file a 777 W&IC petition on behalf of their **youth**, even for **facility** rule violations. Close communication and cooperation with the assigned DPO is essential in getting 777 applications for petition filed against youth in custody.
- b. If by committing one act the youth violates two or more **facility** rules, allege all of the rules violated in one count. However, if the youth violated more than one rule, but on separate occasions, each occurrence should be filed as a separate count. A Summary SIR should be included describing the repetitive nature of the violations, illustrating each violation. This SIR should be followed by SIRs for each alleged count (see C.1).

*#11 Violation of Facility Rules/Regulations: On (date of commitment), the youth was committed to (name of facility) and was ordered to obey the rules and regulations of the **facility**. On or about (date of violation), the youth did violate the court order by violating rule number (rule number), in that the **youth** (nature of violation – very brief).*

EXAMPLE: Count 1: #11 12-3-89/Joplin Youth Center/1-5-90/#4, #12/entered into a physical altercation with another youth.

3. New Law Violations

- a. There is no need to write out allegations in full for new violations. The DA's clerical staff has all the standard wording readily available to them. Indicate the count number, the code section alleged, and the specific information needed to complete the allegation.

EXAMPLE: Count 1: 240/242/ PC (on 2/7/89 the **youth** assaulted Johnny Juvenile.)

- b. Allegation #12 has been standardized for instances in which a youth brings a controlled substance / firearm / alcoholic beverage into the **facility**. The wording is as follows:

*#12 Controlled Substance/Firearm/Alcoholic Beverage in the Facility: On or about (date of violation), said youth did knowingly bring or send into, or did knowingly assist in bringing or sending into, (name of facility), a County juvenile **facility**, (a controlled substance) (a firearm) (an alcoholic beverage) in violation of Section 871.5 WIC.*

EXAMPLE: Count 1: #12 2-5-89/Joplin Youth Center/a controlled substance, namely cocaine.

2-9-89/Youth Guidance Center/an alcoholic beverage, namely beer.

1-17-89/Juvenile Hall/a firearm.

4. 778 Petitions

- a. In rare circumstances, 778 WIC allegations may be filed with a Director's approval, without the District Attorney being involved. 778 WIC petitions are used to change or modify existing court orders and cannot be used to increase confinement time or allege a violation (VCO or new law violation). Generally, 778's are filed by DPOs through the modification petition; however, it may be necessary for a **facility** to file a 778 in specific incidents. For example, when there is insufficient information to request a 777 petition but removal is being requested when a **youth** has been specifically placed in the **facility** by court order and conditions preclude the **youth** from remaining in the **facility** (i.e., health conditions or case dynamics indicate new placement).
- b. 778 WIC petitions are submitted to Custody Intake staff for processing as are applications for new law violations. The attached SIR should clearly delineate the reason(s) for the change in circumstance that requires formal court intervention.

778 WIC: Pursuant to Section 778, Welfare and Institutions Code, State of California, petition is hereby made to the Juvenile Court for a hearing to change, modify, or set aside the order previously made on (date of order) which reads, in part, (quote order), in the case of the above named youth upon grounds of change or circumstances, to wit: On or about (date), (state briefly what circumstances have changed).

EXAMPLE: Count 1: 778 WIC 7-5-80/"committed to Joplin Youth Center for a period of 90 days"/ 8-9-89/the **youth** injured his back and is unable to participate in the program at Joplin.

C. Request for Warrant

1. Escape/Escape from Furlough

- a. The violation packet for escapes from a Probation **facility** differs from other violations in that unless there are other rule or law violations, an Application for Petition is not completed. Rather, a Request for Warrant is completed, and Custody Intake will then complete Allegation #13 on the Intake Transmittal Sheet. It is not necessary to file an Application for Petition.
- b. Due to an Appellate Court ruling narrowing the interpretation of escapes, the District Attorney has requested that an Application for Petition be filed whenever a youth escapes from a temporary furlough from the facility. The application will allege only a new law violation (871 WIC).

*#13 Escape from Probation Department **Facility**: On or about (date of escape/attempted escape), said youth, while in the custody of the Orange County Probation Department at (name of facility), a County juvenile **facility**, escaped/ attempted to escape, in violation of Section 871 WIC, a misdemeanor.*

2. Warrant Packet

- a. The Deputy Juvenile Correctional Officer(s) who witnessed the escape will complete SIRs and submit them to the appropriate SJCO prior to the end of the shift. If the unit SJCO is unavailable, the SIRs will be given to the Duty Officer.
- b. It will be the responsibility of the SJCO to prepare the warrant packet. It is important that the four-part warrant request be clearly legible through all four pages of the form. The SJCO will then sign the completed warrant request form and deliver the entire packet (including SIRs) to Custody Intake as soon as possible.
- c. Information contained in the Request for Warrant is similar to information in the Application for Petition and generally can be located in the **youth's facility** file. **Facility** staff do not complete section labeled "Probation Officer's Report." The blank section for witnesses is completed by typing in "Escape (see attached reports)."

D. Routing

The Application for Petition packet must contain three copies each of the appropriate substantiating information collated in to three separate packets containing identical copies of all attached documents (except the green application for petition form which is already a 5-part form). Hand deliver the entire packet to Custody Intake at Juvenile Hall. From there, the Application for Petition will be forwarded to the Court Clerk's Office for assignment of a court date and appropriate notice to interested parties.

REFERENCES:

Procedures:	3-1-030	Returning Youth to Juvenile Hall-Medical Holds, Courtesy Holds, Administrative Removals, Psych Holds, Disciplinary Removals
	3-1-102	Reporting Juvenile Facility Escapes
	3-1-303	Special Incident Reports

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APPROVED BY: