

L 21- 00146

**CITY OF MANITOWOC CLAIM FORM**  
**NOTICE OF CIRCUMSTANCES (§893.80(1d)(a) Wis. Stats.)**

NAME Kimberly Howell TELEPHONE NUMBER 920-629-7487  
ADDRESS 2000 Johnston dr.#25 (Street)  
OF CLAIMANT Manitowoc, WI 54220 (City, State, Zip Code)  
EMAIL (optional): Kahowell29@gmail.com

**RECEIVED**

SEP 14 2021

**CITY CLERK'S OFFICE**

**CIRCUMSTANCES OF CLAIM:** Describe the circumstances of your claim below and attach additional sheets if necessary (who, what, where, when and how). For auto/property damages, attach a copy of the police report, if any; and a diagram of the accident scene including north, south, east or west. For personal injury, indicate the nature of the injury; if medical attention was given, the name of the physician/immediate care/hospital. List the names and addresses of any witnesses to the incident/accident. Give details.

**Incident/Accident Information:**

Date 9/6/21

Place County Jail

Time \_\_\_\_\_

**RECEIVED**

SEP 14 2021

**CITY ATTORNEY**

**Circumstances of Claim (Attach additional sheets if necessary):**

I'm seeking the relief of this case being thrown out and the children returned

100,000 dollars in legal fees and 3 million dollars for punitive damages for every hour my granddaughter was raped

Hour my family was without the family love and support or just contact

Also every hour I spent in jail or on bail on charges mccue had no reason to charge

because even the child told him I had never harmed her or left a mark

I'm seeking damages against Manitowoc COUNTY, MANITOWOC CITY, MANITOWOC COUNTY HUMAN SERVICES BRIANNA ZIPPERER CLARK, DET C

The city particularly, a referral came in at cps about me and the complaint looked retaliatory

against me because the women CLAIMED to be my friend and neighbor b

We are feuding now so that's why she's calling now.

**Witnesses (names and addresses):**

Brianna zipperer

Shalayna Gorecki

The complaint said there was no immediate danger the police were not needed and it should be looked into within 5 days. The children told him she lies all the time and he said that's okay I believe her.

Well they came in 3 days with a cop scaring my grandchildren. Arrested me on false charges of physical abuse to a child causing Great bodily harm but they didn't document any harm, not so much as a red mark.

3 counts of emotional trauma to a child. I would like to know when Detective McCue became licensed to diagnose, didn't find any trauma, and I challenge him to even find a medical report that will express a concern about any cares for the children in my care their vaccines, well checks and every appointment was up to date.

**Procedure for filing claims:**

1. In most instances, a signed **Notice of Circumstances of Claim** must be served on the City within 120 days after the happening of the event giving rise to the claim or it will be barred by State Statute.
2. A **Claim** must be filed with the City Clerk, City of Manitowoc, 900 Quay Street, Manitowoc, WI 54220, containing the claimant's address and an itemized statement of the relief or damages sought. This is the bottom portion of the form entitled "Claim Form." No action will be taken until this portion is completed and submitted to the City.
3. The City Attorney and or CVMIC (the City's liability insurance carrier) will then determine if your claim should be paid, compromised or disallowed. You will be notified by letter should the City determine to pay or compromise your claim. The City Attorney has the authority to pay, settle, or disallow claims up to \$5,000. Claims exceeding \$5,000 will be reviewed by the City's Finance Committee, who will present a final recommendation to the Common Council.
4. This procedure is established by Wisconsin Statutes to provide a mechanism for persons to recover damages in the event a municipality is responsible for an incident. This procedure is also designed to protect the municipality and its taxpayers from having to pay out inappropriate and/or nuisance claims.

*This document does not constitute legal advice and should not be substituted for the advice of private legal counsel. Claimants have the right to retain an attorney of their choice to assist them with filing a claim solely at their own cost and expense.*

*Claimants are encouraged to review Wis. Stat. § 893.80 prior to filing a claim.*

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## **CLAIM FORM (§893.80(1d)(b) Wis. Stats.)**

After filing a Notice of Circumstances of claim with the City of Manitowoc you must also file a claim **itemizing** the relief sought (what you want from the City or do not want the City do to). You may file a claim at any time consistent with the applicable statute of limitations. Provide copies of any bills supporting the amount of the claim. For claims involving auto/truck/property damage, please attach two estimates. If the relief sought is non-monetary be as detailed and/or descriptive as possible.

The person signing below makes a claim against the City of Manitowoc arising out of the circumstances above-described. The claim is for relief in the form of money damages as indicated below, and non-monetary relief as follows:

Auto/truck \$ <u>0</u>	Personal Injury \$ <u>Punitive 300000.</u>
Property \$ <u>0</u>	Other (specify) \$ <u>100,000 in legal fees and 3million</u>

**Sign and then click Submit Form button below to submit to the City Clerk's Office.**

Signed *Kendall Howell*

**SUBMIT FORM**

evidence to commence the interview of a child, whether the child is on private or public property.

“In our circuit, a reasonable official would have known that the law barred this entry. Any government official can be held to know that their office does not give them an unrestricted right to enter peoples’ homes at will. We held in *White v. Pierce County* a child welfare investigation case, that ‘it was settled constitutional law that, absent exigent circumstances, police could not enter a dwelling without a warrant even under statutory authority where probable cause existed.’ The principle that government officials cannot coerce entry into peoples’ houses without a search warrant or applicability of an established exception to the requirement of a search warrant is so well established that any reasonable officer would know it.”

“We conclude that the Warrant clause must be complied with. First, none of the exceptions to the Warrant Clause apply in this situation, including ‘exigent circumstances coupled with probable cause,’ because there is, by definition, time enough to apply to a magistrate for an ex parte removal order. See State v. Hatter, 342N.W.2d 851, 855 (Iowa 1983) (holding the exigent circumstances exception to the Warrant Clause only applies when ‘an immediate major crisis in the performance of duty afforded neither time nor opportunity to apply to a magistrate.’). Second, as noted by the Second Circuit, ‘[I]n context of a seizure of a child by the State during an abuse investigation . . . a court order is the equivalent of a warrant.’



Tenenbaum v. Williams, 193 F.3d 581, 602 (2nd Cir. 1999).  
F.K. v. Iowa district Court for Polk County, Id.“

“Another recent 9th Circuit case also held that there is no exception to the warrant requirement for social workers in the context of a child abuse investigation. ‘The [California] regulations they cite require social workers to respond to various contacts in various ways. But none of the regulations cited say that the social worker may force her way into a home without a search warrant in the absence of any emergency.’ Calabretta v. Floyd, 189 F.3d 808 (1999). Calabretta also cites various cases from other jurisdictions for its conclusion.

Good v. Dauphin County Social Servs., 891 F.2d 1087 (3rd Cir. 1989) held that a social worker and police officer were not entitled to qualified immunity for insisting on entering her house against the mother’s will to examine her child for bruises. Good holds that a search warrant or exigent circumstances, such as a need to protect a child against imminent danger of serious bodily injury, was necessary for an entry without consent, and the anonymous tip claiming bruises was in the case insufficient to establish special exigency.

The 9th Circuit further opined in Wallis v. Spencer, 202 F.3d 1126 (9th Cir. 2000), that ‘[b]ecause the swing of every pendulum brings with it potential adverse consequences, it is important to emphasize that in the area of child abuse, as with the investigation and prosecution of all crimes, the state is constrained by the substantive and procedural guarantees of the Constitution. The fact that the suspected crime may be heinous – whether it involves children or adults – does not provide cause for

Important

Describe the child(ren)'s injury or conditions as a result of the alleged maltreatment or services needed.  
Shalayna is treated very differently than the other kids in the home.

c. Describe the child(ren)'s current location, school / daycare including dismissal time, functioning, including special needs, if any, and highlighting current vulnerability.  
Jayden is autistic.

Shalayna is home schooled. She does not get to get out of the home much. She is being isolated. She is not a happy girl.

d. Document relevant information from CPS history, CCAP and Sex Offender Registry-Reverse Address checks (if no relevant information found, document that checks were completed).

CPS HISTORY -

SERVICES NOT NEEDED

2018 Physical Abuse of Jayden

2017 Physical Abuse of Gracelynn

2017 Physical Abuse of Shalayna

UNSUBSTANTIATED

2016 Emotional Abuse, Physical Abuse and Neglect of Shalayna by Kimberly

2015 Physical Abuse of Shalayna by Kasey and Holly, Neglect of Shalayna by Holly and Neglect of Gracelynn by

Kasey

2015 Physical Abuse and Emotional Abuse of Shalayna by Holly and Kimberly Howell

CCAP - KIM - 2016 Small Claims

CCAP - DEAN - Small Claims, Civil

SEX OFFENDER SEARCH - No match

e. Describe when the alleged maltreater will have access to the child.  
There is daily access.

f. Describe any changes in circumstances that may make it difficult to fulfill CPS responsibilities.  
No known circumstances.

g. Describe presence of domestic violence, if applicable, including the demonstration of power and control and entitlement within the home environment.  
No known domestic violence.

h. Describe how the family may respond to intervention by the agency, including the parental protective capacities.  
Kim will deny it all.

DESCRIBE ANY PRESENT DANGER THREATS, INCLUDING A DESCRIPTION OF POSSIBLE OR LIKELY EMERGENCY (EXIGENT) CIRCUMSTANCES.

No Present Danger Threats

THE FOLLOWING SECTION MUST BE COMPLETED FOR ALLEGED MALTREATMENT BY PRIMARY CAREGIVER OR PARENTAL CONTRIBUTION TO THE MALTREATMENT:

i. Describe the parents or adults in the parental role: current location, functioning, and parenting practices and views of child(ren).



**CHIPS TO PERMANENCY TIMELINE**

**Required Timing for Permanency Proceedings under Minnesota Statutes Chapter 260C  
except CHIPS By-pass Cases and Voluntary Placements**

Ann Ahlstrom

Last Revised: February 2015

Month	Day	Event	Other
1	1	Child enters foster care by: 1. Law enforcement hold; or 2. Order for immediate custody; or 3. Voluntary placement agreement	Voluntary placement may occur by agreement under: 1. <a href="#">Minn. Stat. Chapter 260D</a> (for children who are emotionally disturbed or developmentally disabled to access treatment); 2. <a href="#">Minn. Stat. 260C.227</a> ; 3. <a href="#">Minn. Stat. 260C.229</a> (youth age 18 and older) Each type of voluntary has unique court review and permanency requirements.
	3	Emergency Protective Care Hearing	If child is removed involuntarily, CHIPS petition is filed within 72 hours. <a href="#">Minn. Stat. § 260C.176</a> ; <a href="#">MRJPP 33.05</a> requires petition to be filed at or prior to EPC hearing
	3-13	Admit/Deny Hearing  Scheduling Order	If ICWA case, service must take place 10 days prior to hearing; tribe may request up to 20 more days. <a href="#">25 U.S.C. § 1912</a> ; <a href="#">MRJPP 34.02, subd 1 (d)</a> . Scheduling order must issue at or within 15 days of this hearing. <a href="#">MRJPP 6.02</a>
	30	Out of Home Placement Plan filed	Court may approve plan based on contents of CHIPS petition, and implementation of approved plan may be basis for reasonable efforts determination. <a href="#">Minn. Stat. § 260C.178, subd. 7</a> ; <a href="#">MRJPP 37.02, subd. 4</a> Minnesota Assessment of Parenting for Children and Youth is completed by agency. <a href="#">Minn. Stat. § 256N.24</a>
2 weeks to 14 months	14-53	Pretrial Hearing	Must be held at least 10 days prior to trial. <a href="#">MRJPP 36.01</a>
	63, but not later than day 93	CHIPS Trial	CHIPS matters come to trial by day 63; county attorney determines whether criminal or juvenile case proceeds first in cases of egregious harm. <a href="#">Minn. Stat. § 260C.503, subd. 2(d)</a> ; <a href="#">MRJPP 39.02, subd. 1(d)</a>
	78 or within 15 days of conclusion of testimony at trial	Findings and Adjudication  Disposition	Court may extend total time for findings to 30 days under MRJPP 39.05, if extension is in the interests of justice and best interests of child. <a href="#">MRJPP 39.05</a> ; To extent practicable, disposition is entered same day as adjudication; <a href="#">MRJPP 41.02</a> . If disposition cannot be entered the same day, <a href="#">R. 41.02</a> requires disposition to be ordered within 10 days of date petition is found proved. See also last paragraph of <a href="#">Minn. Stat. § 260C.201, subd. 1(b)</a>
	At least every 90 days as long as child is in foster care until there is permanency order	Review Hearings	At any review hearing: 1. Child may be returned home if parent has made progress on case plan and mitigated unsafe conditions to the point home is safe for the child; or 2. If parent is not making significant progress on case plan, agency can move to permanency. Hearings review parent(s) progress on case plan, afford an opportunity to correct problems with services, and address barriers to reunification; also afford opportunity to ensure parent knows consequences to both parent and child of failure to comply with case plan. <a href="#">MRJPP 41.06, subd. 2</a>
6	180 Displea	Permanency Progress Review Hearing Done at 9 months	See table on next page.
11	335	Permanency Pleadings filed	Permanency petition filed by month 11. <a href="#">MRJPP 42.01, subd. 1(b)</a> , and <a href="#">42.04, subd. 2</a> ; see also <a href="#">Minn. Stat. § 260C.505</a>
12	365	Admit/Deny Hearing	Finding required regarding whether the permanency petition states a prima facie case that the agency has made reasonable efforts to reunify the child with the parent. <a href="#">MRJPP 34.03, subd. 3 and 4</a> ; <a href="#">Minn. Stat. § 260C.507(c)</a>
14	Not later than 425	Permanency Trial	Trial, if any, must commence within 60 days of admit/deny hearing. <a href="#">MRJPP 39.02</a> ; <a href="#">Minn. Stat. § 260C.509</a>
Month 14 or later	Within 15 days	Permanency Order issued by court	15 days runs from the conclusion of testimony. Court permitted to extend the time 15 days to a total of 30 days if the court finds an extension of time is required in the interests of justice and the best interests of the child. <a href="#">MRJPP 39.05, subd. 1</a>
	Within 10 days	Post-trial motions, if any	10 days runs from service of notice of filing by court administrator; response is due within 5 days of service of post-trial motion; hearing on post-trial motion is within 10 days of date the post-trial motion is filed; decision on post-trial motion is required within 10 days of conclusion of hearing, if any. <a href="#">MRJPP 45.01</a>
	Within 20 days	Notice of Appeal	20 days runs from service of notice of filing of the order: <ul style="list-style-type: none"> <li>finding petition proved and ordering permanency</li> <li>finding petition not proved; or</li> <li>disposing of the last post-trial motion. <a href="#">MRJPP 47.02, subd. 2</a></li> </ul>