

Warrant/Discretionary Warrant

I. Description

A Warrant is a Judicial Writ (order) authorizing a physical arrest, which may result in the Juvenile Justice Court detaining the youth. Warrants to arrest a youth are issued by the Juvenile Justice Court and may fall under one of the following categories: a Welfare and Institutions Code (WIC) 602, WIC 777 (Violation of Probation), a Bench Warrant and/or Deferred Entry of Judgment.

Typically, an Arrest Warrant requires that all youth with an active warrant be arrested and detained. However, Santa Clara County also utilizes a Discretionary Warrant policy. The Discretionary Warrant aims to reduce the unnecessary detention of youth who are not a public safety threat, but are held due to an active warrant. Under this policy, when issuing a warrant, the Juvenile Justice Court will indicate whether the youth is eligible for release pending the next scheduled court hearing.

The following policy addresses the Discretionary and Non-Discretionary Warrant process.

II. Discretionary Warrant

The following describes the process for a Discretionary Warrant. Warrant requests that do not meet the criteria for a Discretionary Warrant should follow the process underlined in the Non-Discretionary Warrant section (Part III) of this policy.

A. Eligibility Criteria

Whether a youth is eligible to receive a Discretionary Warrant depends on two factors: (1) reason for the Warrant and (2) underlying law violations. These criteria are described in more detail below.

1. Reason for the Warrant

- a. Youth who fail to appear in Court (FTA);
- b. Youth who have Warrants requested by Probation due to the following reasons shall receive a Discretionary Warrant:
 - i. Youth who abscond from Probation (i.e., parent reports the youth has left the home);
 - ii. Youth who cannot be located (i.e., family may have moved and not notified Probation);
 - iii. Youth who has violated the Electronic Monitoring Program (EMP) for unauthorized leave;
 - iv. Youth who has violated the Community Release Program (CRP) for unauthorized leave;

****Youth who have absconded from the Juvenile Rehabilitation Facility (JRF), a placement, unauthorized removal of EMP equipment are not eligible for a Discretionary Warrant (See Non-Discretionary Warrant, Part III, B).***

*At the time of submitting a case for a Discretionary Warrant request, the Deputy Probation Officer (DPO) or Supervising Probation Officer (SPO) will advise the Unit Clerk that it is a Discretionary Warrant, in order for the Unit Clerk to check the appropriate box on the "G-53" form.

2. Underlying offense

A youth's underlying offense is considered as follows:

- a. Youth who have a WIC 707(b) offense that was adjudicated two or more years ago are eligible. However, the District Attorney, Defense Attorney and Probation must have the opportunity to make their case in Court before the Judge determines whether the Warrant will be a Discretionary Warrant. (Refer to Section B, 1)
- b. If the youth has been adjudicated for a WIC 707(b) offense within the last two years or is pending a Petition alleging a WIC 707(b) offense, he/she is ineligible for a Discretionary Warrant, regardless of the reason for Warrant.

*At the time of submitting a case for a Non-Discretionary Warrant request, the DPO or SPO will advise the Unit Clerk it is a Non-Discretionary Warrant, in order for the Unit Clerk to check the appropriate box on the "G-53" form.

B. Process for Requesting Warrant

1. When requesting a Warrant for a youth with an underlying WIC 707(b) offense that was adjudicated two or more years prior, Probation must submit a request to calendar a hearing for a Discretionary Warrant.
2. At the time of submitting a case that is eligible for a Discretionary Warrant, the DPO or SPO will advise the Unit Clerk that "All Parties Required" for this Warrant request. The Unit Clerk will check the appropriate box on the "G-53" form. As a result, the Court will initiate the following:
 - a. The Juvenile Justice Court Judge will then conduct a hearing with the District Attorney, Probation and the Defense Attorney. This hearing will allow all parties to state their position before the judge as to what type of Warrant should be issued. The type of Warrant issued will be documented in Court and shared with all parties.
 - b. Probation and the Defense Attorney should make every effort to inform the youth/family of the type of Warrant issued and the options for self-surrender or getting back on the Court calendar.
 - c. If the youth or parent contacts Probation, Probation will inform them of the type of Warrant issued and the option to contact their Defense Attorney or self-surrender.

3. When requesting a Warrant for a youth with no underlying 707(b) offense and meets the eligibility criteria for a Discretionary Warrant, the matter will appear before the Court to be issued.
4. The type of Warrant issued will be shared with all the parties and documented on the Court's Minute Order.

C. Release Criteria

The following criteria should be considered by all parties when determining release:

1. The circumstances at home (whether it is safe to release the youth), including conversations with the parent or guardian;
2. The circumstances under which the youth was arrested, as communicated by the Law Enforcement Agency (LEA) verbally and through the police report;
3. Information from the Juvenile Contact Reports (JCR) from the Deputy Probation Officer (DPO) or LEA;
4. Case notes;
5. Child Protective Services (CPS) reports.

**Not all of the information above will always be available at the time a decision must be made. All parties developing this pilot policy recognize that decision-makers can only make decisions based upon information available to them at the time. Those making decisions about the release of a youth on a Discretionary Warrant (assigned POs, Screening Officers and On-Call Judges) should keep in mind the goal of preventing the unnecessary use of detention and use their best judgement in applying the criteria.*

D. Self-Surrender and Arrests

1. Self-Surrender to Juvenile Hall
 - a. **From Mon-Fri (8am-5pm):**

The Screening Officer will contact the assigned DPO and defer the release decision to them (See D, 2).
 - b. **From Mon-Fri (5pm to 11pm) and Sat/Sun/Holidays (7am to 11pm):**

The Screening Officer is on duty (daily from 7am-11pm). When the assigned DPO is not available, the Screening Officer is expected to make a decision about whether to release the youth.

 - i. The Screening Officer can choose to contact the on-call judge through County Communications for additional consultation; however, this is not mandatory.

- ii. If the youth is released, the Screening Officer will have the youth sign a Promise to Appear, calendar a Court date within 48 business hours; and will notify the Sheriff's Warrant Desk that the Warrant has been served. The Sheriff's Department staff must de-activate the Warrant in the information system. The judge will formally recall the Warrant on the Court record at the next hearing.

c. **From 11pm to 7 am (7 days a week):**

During this time frame there is no Screening Officer on Duty. Youth who are arrested or self-surrender during this time frame will be detained until a Screening Officer comes on duty the next morning.

**Under any scenario, if the youth is detained, a hearing must be held within 48 hours after the youth is taken into custody, excluding weekends and Holidays.*

2. Self-Surrender to DPO

If the youth calls or reports to the assigned DPO, the DPO must determine whether it is appropriate to release the youth with a promise to appear.

a. If the youth is to be detained:

- i. If contacted by telephone, the DPO should inform the youth to report to Juvenile Hall. The DPO should also inform the youth they have the option to contact their Defense Attorney to re-calendar the Court date in lieu of self-surrendering.
- ii. If the youth reports to the DPO, the DPO will walk the youth to Juvenile Hall to be admitted.

b. If the youth is to be released:

- i. The DPO will instruct the youth to report to Probation with a parent or designated person approved by the parent. The DPO should also inform the youth they have the option to contact their Defense Attorney to re-calendar the Court date in lieu of self-surrendering.
- ii. Once the youth self-surrenders to the DPO, the DPO will complete the following:
 - A JCR or update the pre-existing JCR for the Warrant
 - Discretionary Warrant Sheet
 - A Promise to Appear (with a Court date within 48 hours).

- iii. Once the youth is released to the parent or other approved individual, the DPO will provide the Screening Officer the documents identified in Section “ii.”
 - iv. The Screening Officer will complete the RAI and have a blue intake created for the DPO, which will be forwarded to the Record Room.
 - v. The Screening Officer will contact the Sheriff’s Warrant Desk to request the abstract and advise the Warrant has been served.
 - vi. The Court will formally recall the Warrant on the Court record at the next hearing.
3. Arrests by Law Enforcement Agency (LEA)
- If a LEA Officer arrests a youth with a Warrant, the LEA will transport the youth to Juvenile Hall. The Screening Officer will then determine whether the warrant is discretionary or not, and follow the same process to determine release or detention.
4. De-Activating and Recalling the Warrant/Bench Warrant
- a. If a youth self-surrenders, prior to release, the Screening Officer must inform the Sheriff’s Warrant Desk that the Warrant has been served. The Sheriff’s Department will send Probation the abstract and deactivate the Warrant. The Court will formally recall the Warrant on the Court record at the next hearing.
 - b. If the LEA arrests the youth, the LEA is responsible for making the call to the Sheriff to notify that the Warrant was served.

III. Non-Discretionary Warrant

The following describes the process for a Non-Discretionary Warrant. Warrant requests meeting the criteria for a Discretionary Warrant should follow the process underlined in the Discretionary Warrant section (Part II) of this policy. In addition, whenever a Warrant is issued by the Court, a copy of the Juvenile Contact Report (JCR) should be provided to Juvenile Hall Police Admissions.

A. 602 Arrest Warrants

- 1. In some cases, the Law Enforcement Agency (LEA) will request the Probation Department present a referral to the District Attorney for Warrant consideration via a Juvenile Contact Report (JCR). The request is due to the LEA’s inability to issue a Citation or arrest typically due to the following:
 - a. The youth in question cannot be located by the LEA.
 - b. The parent(s) are uncooperative.
 - c. The youth resides outside of Santa Clara County.
 - d. The youth is detained in a locked facility

2. In these situations, an out of custody Petition is issued by the DA and a Court date calendared.
 - a. At the first Court Hearing, the DPO will submit a Declaration of Attempt to Contact using the criteria pursuant to Section 663 WIC.
 - b. The DPO will demonstrate their due diligence in locating the youth (try all known telephone numbers, visit the residence, visit the last known school, attempt to find a forwarding address from the school, etc.)
 3. If it is urgent that a 602 Arrest Warrant be requested at the time of issuing, then it should be articulated pursuant to Section 663(a)(1) WIC.
 4. Once the Arrest Warrant is issued by the Court, the DPO must complete a Warrant Description and forward it to the Court Clerk's Office.
- B. Violation of Probation (777 WIC) Warrants
1. The youth has violated an Order of Probation by absconding from the Juvenile Rehabilitation facility (JRF), a placement, or unauthorized removal of Electronic Monitoring Program (EMP) equipment, and his/her whereabouts is unknown.
 2. The DPO must demonstrate due diligence in attempting to locate the youth (try all known telephone numbers, visit the residence, visit the last known school, attempt to find a forwarding address from the school, etc.).
 3. Once all efforts have been exhausted, an Arrest Warrant should be requested.
 4. The DPO prepares a JCR, which outlines all attempts to contact the youth, completes a Notice of Hearing, the Declaration of Attempt to Contact, and Warrant Description.
- C. Deferred Entry of Judgment (DEJ)
1. The DPO must demonstrate due diligence in attempting to locate the youth (try all known telephone numbers, visit the residence, visit the last known school, attempt to find a forwarding address from the school, etc.).
 2. The DPO completes the "Juvenile Justice- Request for Calendar Setting" to advance the Court date.
 3. The DPO or Court Unit SPO will take the form to the appropriate Department Courtroom Clerk to receive a Court date.
 4. Once a the Court date is received, the DPO or Court Unit SPO will make four copies of the form. A copy of the form is forwarded to the DA's Office, youth's attorney, DPO, and the Court Unit. The original file stamped copy goes in the Court file and a copy is provided to the Unit Clerk to prepare notices.
 5. At the advanced Court date, a Declaration of Attempt to Contact must be submitted to the Court in addition to any other report(s).
- D. Execution of the Non-Discretionary Arrest Warrant
1. Local Arrest
 - a. The DPO will receive a Blue Intake referral advising the youth is in custody on the outstanding Warrant.

- b. The DPO has, from the time of arrest, 24 hours to prepare a Detention Hearing Report in order to take the youth through detention (within 48 hours).
- c. If the youth is brought into custody on a new 602 allegations, the Warrant takes priority.
- d. In the Detention Hearing Report, the DPO will recommend to the Court, if the youth should remain in custody or be released.

** Youth that are admitted into custody on a Bench Warrant, which was not identified as a Discretionary Warrant, for a failure to appear for a review, (Parte, Restitution, or DEJ), where there is no open Petition pending before the Court, must be released from custody at the Detention Hearing. Unless a 777 WIC or a 602 Petition is filed, a youth on DEJ may only remain in custody if he/she is failed at the Detention Hearing.*

2. Out of County Arrest

- a. The out of County agency contacts Santa Clara County regarding an arrest on the Warrant issued by Santa Clara County Juvenile Justice Court.
- b. The DPO confirms the Warrant and faxes a copy to the requesting County, who may also request a Warrant teletype abstract from the Santa Clara County Sheriff's Office.
- c. Once the holding County has Warrant verification, Santa Clara County must transport the youth back to Santa Clara County within five (5) calendar days (641 W&IC).
- d. The DPO will prepare a transportation request and forward it to the Transportation Officer in Juvenile Hall (Santa Clara County).
- e. Once the youth returns to Santa Clara County Juvenile Hall, the DPO will then initiate the Intake and Detention Hearing process.

3. Out of State Arrest

- a. The arresting state will contact Santa Clara County to obtain a copy of the Warrant, as well as the DPO's name, phone number and reason for Warrant.
- b. The arresting state will contact Interstate Compact and provide the necessary information.
- c. The arresting state will complete the ICJ Form III, "**Interstate Compact on Juveniles-Consent for Voluntary Return by Runaway, Escapee or Absconder.**"
- d. The youth will sign the ICJ Form III. However, if the youth refuses to sign the form a Hearing must be scheduled by the arresting state.
- e. Once the youth signs the Form, Interstate Compact will notify the DPO in Santa Clara County with the travel arrangements/information.
- f. The Santa Clara County DPO will contact Juvenile Hall Transportation to arrange for the youth to be transported to JH upon arriving back in Santa Clara County.

IV. Non-Discretionary Warrant Recall

- A. Duration of Warrant
 - 1. A Warrant can remain outstanding for an indefinite period of time once the Warrant is issued.
 - 2. Warrants should be periodically reviewed to determine if the Juvenile Justice Court still has jurisdiction, which is limited to age of 21 years old for Petitioned non 707(b) WIC offense(s).
- B. Reason for requesting a Warrant Recall
 - 1. Subsequent contact was made with the youth after the Warrant was issued and after evaluating the case, it is determined the youth does not need to be in custody.
 - a. The evaluation should take into consideration the safety of the community, possibility of recidivism, home situation, initial reason for the Warrant request, and the reason the youth could not be located (i.e. Probation was not contacted with new information, the address record was incorrect, etc.)
 - 2. Youth's whereabouts remains unknown and Court no longer has jurisdiction due to the youth's age.
- C. Warrant Recall Process
 - 1. DPO Responsibilities
 - a. The DPO prepares a NIC Warrant Recall report located in MS Word. The pending Petition and previous referrals, if applicable, should be attached to all reports.
 - b. Submit Warrant Recall report to the DA's Office for review and signature.
 - c. If another Court date is necessary, the DPO must include this recommendation in the report (i.e. "That the Court calendar a Dispositional Hearing in approximately three weeks").
 - d. The specific Court date will be provided by the Courtroom Clerk and indicated on the Minute Order.
 - 2. Unit Clerk Responsibilities
 - a. The Unit Clerk will make two (3) copies of the report and prepare (4) copies of the G-53.
 - b. The original report plus two (2) copies of the report and (3) copies of the G-53 (as well as the Warrant packet, if there is one) are given to the Court Unit SPO.
 - 3. Court Unit SPO Responsibilities
 - a. The Court Unit SPO e-mails the Court Clerk's Office who will pull the Court file and place it in the appropriate Department's in-box along with a copy of the e-mail for reference.
 - b. The Court Unit SPO brings the reports and G-53 to the Court Clerk's Office, who sends it with the Court File to the appropriate Department, where the Judge will call the case on the record and the Courtroom Clerk generates the Minute Order.

- c. The file-stamped reports and the Minute Order is distributed as follows:
 - i. If no new Court date, (i.e. the recommendation is to recall the Warrant, dismiss the Petition, and/or dismiss Probation), then the file stamped reports and Minute Orders are distributed as follows: original is kept in the Court file by the Courtroom Clerk, one to the DPO via the Probation basket in the Court Clerk's Office and the remaining are discarded.
 - ii. If another Court date is needed (i.e. the recommendation is to recall the Warrant, but to set the matter for another Parte Review, Restitution Setting, Jurisdiction, Disposition, etc.), then the file stamped reports and Minute Orders are distributed as follows: the original is kept in the Court file by the Courtroom Clerk, one to the DPO, and the remaining stay in the Court Unit pending the next Court date.

4. Notification

- a. The DPO will immediately inform the Unit Clerk of the information needed for the Notice of Hearing.
- b. This includes information regarding other parties who should be sent Notices (i.e. CASA Advocates, etc.).
- c. The Unit Clerk fills out the Notice(s) and envelopes, turns them into the Court Clerk's Office for distribution.
- d. The original is kept in the Court file, and a copy of the Notice is then sent to the youth, youth's Attorney, and the District Attorney's Office.