



**Multnomah County  
Department of Community Justice  
Policy and Procedures**

<b><u>JUVENILE SERVICES DIVISION</u></b>		
<b><u>CHAPTER:</u></b> Chapter not yet confirmed	<b><u>SUBJECT:</u></b> Warrants	<b><u>POLICY NUMBER:</u></b> Number not yet confirmed
<b><u>APPROVAL:</u></b>	<b><u>EFFECTIVE DATE:</u></b>	<b><u>REPLACES (policy # and date):</u></b> Original – April 4, 2000

I. **PURPOSE:**  
To provide staff with policy and procedures for requesting, processing, serving, and recalling “Failure to Appear”, “Unable to Locate”, “Probation Violation”, “Violation of Conditional Release” and “Dependency” warrants.

To provide staff with policy and procedures regarding the active monitoring of warrant status cases in order to maximize public safety and hold youth accountable by locating juvenile absconders and clearing warrants in the most expeditious manner.

II. **REVIEW HISTORY:**  
February 2003

III. **CONTACT:**  
Counseling Manager

IV. **PERSONS AFFECTED:**  
Juvenile Court Counselors, Juvenile Counselor Assistants, Data Services staff, Unit Support staff and Custody Services Staff.

V. **POLICY:**  
It is the policy of the Department of Community Justice to request warrants in accordance with established criteria in order to maximize public safety, and preserve the integrity of the court system.

Department staff will make reasonable, affirmative efforts to locate, notify, and produce clients for court appearances and compliance with probation conditions in order to improve the functioning of the Juvenile Justice System while reducing the reliance on warrants.

Department staff will make on-going documented (in JJIS) efforts to locate and produce individuals for whom a warrant has been issued.

VI. **RATIONALE:**

The department recognizes the risk to the community and the potential liability associated with the failure to request a warrant for certain high risk youth who are out of compliance with probation conditions and can not be located for service of summons. The department also recognizes the potential liability in cases where a youth's location could have been determined but staff failed to make a reasonable, good faith effort to locate the youth prior to requesting a warrant. The department further recognizes that the prudent use of warrants is essential given the significant system wide financial costs attached to the issuance and service of warrants.

VII. **CROSS REFERENCES:**

Oregon Revised Statutes 419C.306; 419C.317; 419C.320; Oregon Administrative Rules (257-15-000 through 257-15-100) related to the Law Enforcement Data System; and National Crime Information Center (NCIC) protocols.

VIII. **DEFINITIONS:**

**Absconder:** someone who runs away to avoid arrest or prosecution.

**Affidavit for Warrant:** A sworn statement submitted to the court detailing the basis for the warrant request including a citation of documents and information that supports a "probable cause" finding as well as details regarding the department's efforts to locate the subject of the warrant.

**Call Docket:** The calendar of cases awaiting action in court.

**Community Detention:** A program designed to provide supervision and tracking for youths who are awaiting a hearing to assure that they appear at their hearing and do not re-offend.

**Dependency Warrant:** A court order directing that a child/youth be taken into protective custody when the child/youth's condition and circumstances reasonably appear to jeopardize the child/youth's welfare.

**Disposition:** The juvenile court decision or "sentence" following the adjudication of a petition.

**Extradite:** To give up or deliver someone in one jurisdiction to the legal authority of another jurisdiction.

**Failure to Appear (FTA) Warrant:** A court order directing law enforcement to take physical custody of a youth who fails to appear at a judicial proceeding for which summons was served.

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**Felony:** The most serious category of crime punishable by a maximum term of imprisonment of more than one year.

**JCC-** Juvenile Court Counselor

**JCSS-**Juvenile Custody Services Specialist

**LEDS (Law Enforcement Data System):** The State Police information system that contains statewide warrant information and is linked to the National Criminal Justice Information System (NCIC).

**Misdemeanor:** A less serious category of crime punishable by a maximum term of imprisonment of not more than one year.

**No Means Less Restrictive:** The belief that a youth, if released from secure custody, would not appear for a scheduled court hearing or is likely to re-offend while awaiting a court hearing.

**Plea:** The answer of the accused to a delinquency charge.

**Preliminary Hearing:** A hearing held at juvenile court within 36 hours of a youth being taken into custody to determine “probable cause” and whether the youth requires detention or release with conditions.

**Probation Violation (PV) Warrant:** A court order directing law enforcement to take physical custody of a youth who is alleged to have violated conditions of formal probation and who cannot be located for service of summons.

**Restitution:** Full, partial, or nominal payment of damages or loss to a victim.

**Summons Service:** The formal, documented presentation of notice for a named individual to appear in court on a specified date and time.

**Summons:** A court sanctioned instrument requiring the individual(s) named on the summons to appear in court on a specified date and time. The summons is to be accompanied by a true copy of the petition upon which the court hearing is based.

**Unable to Locate (UTL) Warrant:** A court order directing law enforcement to take physical custody of a youth that is: **Not** on probation, has a pending law violation petition, and cannot be located for service of summons.

IX. **PROCEDURES:**

A. **WARRANTS - GENERAL**

1. **Summons:** If a youth required to appear before the court is to be subject to a "Fail to Appear" warrant, he/she must be served with summons.
2. **Hearing Notification:** Department staff will make an affirmative effort by way of telephone, the U.S. mail, home visits or combination of the above, to **notify or remind youth and parents of scheduled hearings** within 48 hours of the hearing. If the hearing is set from the "call docket," then notification is to occur as soon as possible. *NOTE: This is intended to supplement, not replace, the defense attorney's responsibility to notify and advise youth of hearings set from the call docket.*
3. **Transportation to Hearing:** Upon notifying/reminding youth and parents of hearings, Department staff will **inquire about transportation plans** and, when indicated or necessary, the Department will **facilitate, assist, or provide transportation** to the hearing. *[NOTE: Youth and families will be expected to provide their own transportation. Facilitation/assistance may well be limited to a discussion of public transportation schedules, when a youth will need to leave home in order to be on time, an offer of bus tickets, etc. In selected cases, Department staff may choose to provide transportation in order to assure a court appearance.]*
4. **Affidavit for Warrant:** When requesting a warrant, the JCC will prepare and submit to the State Clerk's office an "Affidavit for Warrant," a "Request for Warrant" information form, and a copy of the original petition.

The Affidavit for Warrant must contain the following information:

- a. The date of and the offense for which the youth is charged, or the underlying law violation if the request is for a probation violation warrant;
- b. If the warrant request is based on a probation violation (PV), then state the date and exact nature of the violation, including facts and information that would cause a reasonable person to believe the youth committed the violation;

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- c. If the warrant request is based on a new law violation where “probable cause” was not established at a preliminary hearing, provide a concise summary statement of the facts and information that would cause a reasonable person to believe the youth committed the crime;
- d. If “probable cause” was established at a preliminary hearing, note that information in the affidavit and attach a copy of the preliminary hearing order;
- e. Identify the source of all information and provide sufficient information to establish the reliability of the source;
- f. Provide a clear and concise statement of the reasons why “no less restrictive means” than arrest will ensure the youth/child’s appearance;
- g. If the request is for a warrant where summons cannot be served because the youth’s whereabouts is unknown, then provide Information regarding the Department’s attempts to locate the youth.

**5. Warrant Information Form:**

- a. Complete the Warrant Request/Warrant Information sheet with the most accurate, current information available.
- b. “NATIONAL OR IN-STATE ONLY” section:
  - **"YES" [WILL EXTRADITE]:** Check "yes" if the department intends to extradite the youth if he/she is arrested on our warrant in another state. This would apply to most felony cases and some misdemeanor cases if the youth is considered a risk to public safety.
  - **"NO" [WILL NOT EXTRADITE]:** Check "no" if the department does not intend to extradite the youth if he/she is arrested on our warrant in another state. This would apply to most misdemeanor cases and some property felony cases if the youth is not considered a public safety risk.

6. **Unable to Locate Warrants:**

- a. Prior to filing an “Affidavit for Warrant” based on the assigned JCC’s inability to serve summons for a hearing for a law violation petition, Department staff will make and document the following attempts to locate the youth: **[Note: If it becomes apparent that a youth left the state and/or there are no leads or information that would assist in locating the youth, then each step below need not be pursued.]**
- Attempt telephone contact with the youth and/or parent/guardian. If there is no home telephone, attempt to contact the parent/guardian at their place of employment or attempt contact with a relative or other known individual who may have residence information.
  - Send an appointment letter by U.S. mail.
  - Attempt civil service of summons.
  - Contact Oregon Youth Authority (OYA), Department of Human Services (DHS) or other agency familiar with the youth / family.
  - Contact the last known school in which the youth was enrolled and/or contact school police for a current address.
  - Contact the defense attorney or assigned trial assistant and provide them with an opportunity to contact and produce the youth within a specified timeframe.
  - Conduct a home visit to the last known address. If it is apparent that the youth and parent/guardian have moved, staff may attempt contact with a neighbor or the landlord in order to obtain a forwarding address.
  - Request the assistance of unit support staff to check Department of Motor Vehicles (DMV), Oregon Judicial Information Network (OJIN), Department of

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Corrections (DOC), and Portland Police Data System (PPDS) databases for current parent/guardian or youth address.

- Each effort to locate the youth must be documented with a chronological notation in JJIS.
- b. When it is apparent that the above efforts to locate the youth have failed, the JCC will evaluate the case and apply the following criteria to determine whether a warrant will be requested:
- When the pending, filed petition alleges a felony, a warrant shall be requested.
  - If the pending, filed petition alleges a Class A person misdemeanor, or a misdemeanor firearm charge, a warrant shall be requested.
  - If the pending, filed petition alleges a property misdemeanor with a loss of \$500.00 or more a warrant shall be requested.
  - If the pending, filed petition does not meet the above criteria, the JCC will consult his/her supervisor to determine whether a warrant will be requested. Consideration will be given to the perceived risk to public safety, prior referral history, whether there is un-recovered loss to a victim, etc. If it is determined that a warrant is not required and the petition was filed at the discretion of the Department, a motion to dismiss the petition without prejudice will be filed. Once the petition is dismissed, the case may be closed with the understanding that the youth will be held accountable if he/she again comes to the attention of the department.
7. **Violation of Conditional Release Warrants:** Youth with a pending law violation petition who repeatedly violate release conditions ordered at a preliminary hearing may, with Placement Coordinator approval, be served with summons for a preliminary hearing to review conditions of release.

Youth who run from a placement or home after having been specifically ordered at a preliminary hearing to cooperate with a placement or to not run from home may be subject to a warrant if their

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whereabouts is not known and summons can not be served for a review of release conditions. Prior to requesting a warrant, the JCC will attempt to locate the youth per Section A-6,a above. If a warrant is indicated, the JCC will:

- a. File an affidavit for warrant in accordance with Section A--4 above, to include: a statement regarding the pending petition, the date the youth appeared at a preliminary hearing, a statement indicating that “probable cause” was established at the preliminary hearing, the release conditions ordered by the court, information regarding the youth’s runaway from placement or home, the source of this information, and details of the JCC’s attempt to locate the youth.
- b. Submit the “affidavit for warrant” along with a copy of the petition, the preliminary hearing order, and the “Warrant Request / Warrant Information” form to the State Clerk’s office.

**8. Failure to Appear Warrants:**

- a. Failure to Appear warrants **may** be requested when a youth, properly served with summons, fails to appear for any of the following hearing types:
  - Contested Law Violation, Plea, Disposition, Preliminary, Probation Violation, Review, or Community Detention Review. As indicated above (See Warrants-General, Section A2 and A3), the Department will make an affirmative effort to notify or remind youth and parents of scheduled hearings within 48 hours of the hearing and Department staff will inquire about transportation plans.
  - If the hearing is not contested with witnesses summoned, and if there is reason to believe that the youth did not intentionally fail to appear, the court counselor should request a delay in the issuing of a warrant. This will allow the JCC time to produce the youth for the court, **at a time determined by the court**, for purposes of rescheduling the hearing.
  - When requesting a “Fail to Appear” warrant, the JCC will prepare a “Failure to Appear Request and Order for Warrant” form and submit it to the judge / referee for signature. Follow the procedures indicated above (Section A. Warrants-General, 6a and 6b), attach a copy

of the petition and an “affidavit for warrant” and submit all to the State Clerk’s office for processing.

**9. Probation Violation Warrants:**

- a. Subsequent to the filing of a Probation Violation petition, a Probation Violation warrant shall be requested when the following conditions exist:
  - There are facts and information that would cause a reasonable person to believe that the youth has violated probation conditions by committing a felony person law violation or a firearm related law violation and the youth cannot be located for service of summons.
  - The youth is classified “high” risk, has violated probation condition(s), and cannot be located for service of summons.
  - The underlying charge is a person felony or is firearm related, the youth has violated probation conditions, and cannot be located for service of summons.
  - The youth has violated probation condition(s), there is credible information indicating that the youth poses a significant risk to public safety and cannot be located for service of summons.
  - The youth has unmet court-ordered restitution obligations of \$500.00 or more and cannot be located for service of summons.
- b. In all other case situations, subsequent to the filing of a Probation Violation petition, a Probation Violation Warrant may be requested when the youth has runaway or absconded from probation and cannot be located to serve summons.

The JCC will consider the following factors and may consult with his / her supervisor to determine whether a warrant will be requested:

- The “risk” classification of the youth
- The time elapsed since the last known law violation

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- The youth's general level of compliance with probation conditions
  - Whether the youth is believed to be a significant danger to himself / herself
  - Whether the youth has met or continues to be in need of court ordered treatment / counseling that is intended to address his/her offending behavior
  - Whether there are outstanding court ordered accountability obligations (restitution, community service, unitary assessments, detention time, etc.)
- c. Prior to requesting a Probation Violation warrant, the Department will make every reasonable effort to locate the youth **[See A-7-a]**

**B. DEPENDENCY WARRANTS**

The Department of Human Services (DHS) court liaison initiates requests for dependency warrants for children within DHS custody who are missing or endangered. Department Intake staff serve as backup to the DHS court liaison in facilitating this process.

**C. MONITORING DELINQUENCY WARRANT CASES**

Delinquency cases for which a warrant has been issued will be monitored according to the following standards:

1. Warrant status cases will **remain open** with the assigned JCC, and the Department will make ongoing, regular, documented (chronological note in JJIS) efforts to locate youth for whom a warrant has been issued.
2. During the initial 90 days, the assigned JCC or designee will, on a monthly basis, actively attempt to locate the youth. Department staff will attempt contact with parents, relatives, and schools. Staff will conduct home visits to the last known address, and will request the assistance of unit support staff to check [DMV](#), OJIN, DOC, JJIS and PPDS databases for parent/guardian, youth addresses, etc.
3. These efforts will continue on a monthly basis for "high" risk youth; and, at a minimum of every 60 days for "medium" and "low" risk youth.

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4. Each month, the Department will prepare and distribute to JCCs, for review and comment, a list of outstanding warrants. JCCs will indicate whether the warrant should be continued or recalled. If the warrant is to be recalled, the JCC will follow the "warrant recall" procedures in Section IX - E.
5. Periodically, a representative from Counseling and Court Services, Data Services, and the District Attorney's office will meet to review the list of outstanding warrants to determine whether warrants in the system for over one year should be recalled. If there is consensus that a warrant should be recalled, the assigned JCC will be asked to process a recall request or indicate why, in their opinion, the warrant should be continued.

**D. SERVING / CLEARING WARRANTS**

1. JCCs and other Department staff are **not** authorized by the Department to arrest or take warrant status youth into physical custody.
2. When Department staff become aware of the location/whereabouts of a warrant status youth classified "high" risk or otherwise believed to pose a significant risk to public safety, Department staff shall **immediately** call law enforcement, report the youth's location and request apprehension. When calling law enforcement to report the location of a warrant status youth and to request that a warrant be served, call the **police non-emergency number (823-3333)**. If, however, there is credible information suggesting that the youth presents an **imminent** risk to self or others, then call 911.
3. In all other cases where the location of a warrant status youth is known, Department staff must either call law enforcement or instruct the youth to immediately turn him/her self into Juvenile Detention (JDH) for an intake screening and a hold/release decision. If the youth fails to take reasonable, immediate steps to turn himself/herself in and the youth's location is known, Department staff will call law enforcement to request that the warrant be served.
4. In those instances where a warrant status youth indicates a desire to turn himself/herself into JDH, Department staff are permitted to transport the youth (in a county vehicle) to JDH providing there is no reason to believe that the youth will act impulsively. Before transporting the youth, Department staff must advise the youth that he/she is not in custody. If the youth should change his/her mind and decide to walk away, Department staff are not authorized by

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the Department to physically take the youth into custody. However, law enforcement must then be contacted if the youth's location is known.

**E. WARRANT RECALL**

1. Factors to be considered prior to requesting warrant recall are as follows:
  - Whether the pending or underlying charge is a felony or misdemeanor.
  - Whether the pending or underlying charge is a person or firearm law violation.
  - If based on a pending petition, whether the victim and/or witnesses are still available to testify at a contested hearing.
  - The "risk" classification of the youth.
  - Whether the youth is believed to pose a significant public safety risk.
  - Whether the youth has met or continues to be in need of court ordered treatment/counseling that is intended to address his/her offending behavior.
  - The age or adult status of a youth.
  - Whether or not the youth is still subject to commitment to a Youth Correctional Facility (over age 19).
  - Whether the youth is also under the jurisdiction of the adult justice system.
  - Whether there is unpaid court ordered restitution.
  - The length of time that the warrant has been in the system.
  - If there is credible information indicating the youth resides out of state and, if so, whether we intend to extradite if the youth is arrested on our warrant.
2. When it is determined by the Department that a warrant should be recalled, the assigned JCC will prepare a "Request for Warrant Recall" form. The form must contain a statement detailing the

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reason for the request and summary of the Department's efforts to locate the youth.

3. If the recall request is for a warrant involving a felony, a firearm charge, or a person Class A misdemeanor, the JCC will forward the form / request to the District Attorney's office for review and comment. The District Attorney's Office will indicate whether they object or agree to the request for recall and return the form to the JCC. The JCC will then forward the form to Data Services for further processing and submission to the Clerk's office.
4. Warrants that are not based on a felony, a person Class A misdemeanor, or a firearm charge are to be forwarded directly to Data Services for processing and submission to the Clerk's office. Note: The JCC will check the box indicating that DDA review is not necessary.

**[Note: Upon receiving a "Request for Warrant Recall", Data Services will remove the warrant from LEDS. In the event the Judge declines to authorize the recall of the warrant, Data Services will re-enter the warrant into LEDS.**

X. **EXHIBITS:**

**EXHIBIT A-** Affidavit for Warrant" form (electronic copy available)

**EXHIBIT B-** Request for Warrant / Warrant Information form (electronic copy available)

**EXHIBIT C-** Request for Warrant Recall form (electronic copy available)

**EXHIBIT D-** Failure to Appear Request and Order for Warrant form (State form, electronic copy **not** available)