

STATE OF NEW MEXICO
BERNALILLO COUNTY
SECOND JUDICIAL DISTRICT CHILDREN'S COURT
JUVENILE JUSTICE CENTER
5100 2nd Street NW
Albuquerque, NM 87107

POLICY AND PROCEDURES

REGARDING WARRANTS

Purpose:

To provide staff with policy and procedures for requesting, processing, serving, and recalling "Failure to Appear" warrants, "Probation Violation" warrants, "Violation of Conditional Release" 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.

Policy:

Children's Court is committed to reducing the number of warrants in the juvenile justice system without compromising public safety or the integrity of the court system.

Juvenile probation and parole staff and other staff to include the public defender and the court clerk's office will make reasonable, affirmative efforts to locate, notify, and produce clients for court appearances and compliance with probation conditions in order to enhance the functioning of the juvenile justice system and reduce the need for warrants.

Juvenile probation and parole staff and other staff to include the public defender and the judicial warrant officer will make on-going documented efforts to locate and produce individuals for whom a warrant has been issued.

Definitions:

- Affidavit for Warrant:
- A sworn statement submitted to the court detailing the basis for the warrant request including information regarding efforts to locate the subject of the warrant.
- Violation of Conditional Release (VCR) Warrant:
- A court order directing law enforcement to take physical custody of a youth that has been:
 - Conditionally released pending trial,
 - Is in violation of release conditions, and
 - who cannot be located for service of summons after diligent effort.
- Failure to Appear (FTA) Warrant:
- A court order directing law enforcement to take physical custody of a youth that fails to appear at a judicial proceeding for which summons was served or notice to appear was appropriately given.
- 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 or appropriate notice to appear.
- Summons or Notice to Appear:
- A court instrument requiring the individual named to appear in court on a specified date and time.
- The summons or notice is to be accompanied by a true copy of the petition upon which the court hearing is based.
- Staff: All Court officers to include but not limited to JPPO, public defenders, court clerk, juvenile detention officers.

Procedures:

Warrants and Violation of Conditional Release Warrants - Probation Violation General

1. Juvenile probation and parole 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.
2. If the hearing is set from the bench, then notification is to occur as soon as possible. This is intended to supplement, not replace, the defense attorney's responsibility to notify and advise youth of hearings set from the bench.

3. Upon notifying / reminding youth and parents of hearings, juvenile probation and parole staff will
 - inquire about transportation plans, and when indicated or necessary, the juvenile probation and parole officer will assist the parents and the child in making transportation arrangements.
 - [NOTE: Youth and families will be expected to provide their own transportation.
 - Facilitation and 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.]

When requesting a “Probation Violation,” or “Violation of Conditional Release” warrant, the juvenile probation and parole officer or community custody officer will prepare and submit to the Judge an “Affidavit for Warrant.”

The Affidavit for Warrant must contain the following information:

1. The facts and information that would cause a reasonable person to believe that the child violated the terms of the child’s probation or violated the terms of the child’s conditional release.
2. The source of the information and sufficient information to establish the reliability of the source;
3. **A clear and concise statement of the reasons why “no less restrictive means” than arrest will ensure the child’s appearance;**
4. Information regarding juvenile probation and parole’s attempts to locate the child.

System Response to Violations of Conditional Release Orders

Conditional Release Review

1. When a child is alleged to have violated the terms of a conditional release, the preferred course of action is to arrange a review before a Special Master or the assigned Judge.
2. The Children’s Court Attorney, the juvenile probation and parole officer assigned to the case, or the community custody officer supervising the child may request a review and obtain a setting.
3. The review should take place no later than five working days after the request.
4. The officer obtaining the setting shall provide notice of the time and place of the review to the following:
 - a. The child

- b. The child's parent(s) or custodian(s)
 - c. The child's defense attorney
 - d. The Children's Court Attorney
 - e. The child's assigned juvenile probation and parole officer
 - f. The child's community custody officer, if the child is in the Community Custody Program
5. Notice to the child and the child's parents or custodians can be oral or written.
 6. Notice to the Children's Court Attorney or the defense attorney shall be in writing and placed in their respective drop boxes in the clerk's office.
 7. Notice to the juvenile probation and parole officer and the community custody officer shall be in writing and delivered to the receiving desks of those offices.

After hearing the concerns and recommendations of the parties to the review, the Judge or Special Master can:

1. Continue the child on the conditional release, with such modifications as deemed appropriate.
2. Remand the child to detention pending further proceedings.

Arrest Warrant

1. If the child is alleged to have violated the terms of his conditional release, the Children's Court Attorney or the officer charged with supervising the child on release can request a warrant for the child's arrest.
2. In order to obtain a warrant, the officer must articulate, in an Affidavit, why the child poses a serious risk to the child's safety or the safety of the community.
3. If the Court agrees that the child poses a serious risk to the child or the community, a warrant for the child's arrest shall be issued.
4. If the Court does not agree, the officer can still obtain a review of the conditional release as outlined above.

Failure to Appear Warrants

1. Failure to Appear Warrants may be requested by the state when a youth, properly served with summons or notice to appear, fails to appear for any of the following hearing types:
 - a. Arraignments,
 - b. First Appearance,
 - c. Trial, Plea,
 - d. Disposition,
 - e. Preliminary Hearing,
 - f. Probation Violation Hearing,
 - g. Judicial Review,
 - h. Conditional Release Review, or
 - i. Community Custody Review.
2. 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 shall consider a delay in the issuing of a warrant.
3. This will allow the JPPO or the defense attorney time to produce the youth for the court, at a time determined by the Court, for the purposes of rescheduling hearing, accepting a plea, review, or trial.

Probation Violation Warrants

Subsequent to the filing of a probation violation petition, a probation violation warrant shall be requested when the following conditions exist:

1. Facts or information that would cause a reasonable person to believe that the youth has violated probation conditions by committing a felony or a firearm related violation and the youth couldn't be located.
2. The youth is classified "high" risk on the Departments Structured Decision Making (SDM) tool, has violated probation condition(s), and cannot be located.
3. The underlying charge is a felony or is firearm related, the youth has violated probation conditions, and cannot be located.
4. The youth has violated probation condition(s), there is credible information indicating that the youth poses a significant risk to self or to public safety and cannot be located. In this instance, the juvenile probation and parole officer must consult with their supervisor to establish the risk to public safety.

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 run away or absconded from probation and cannot be located.

The juvenile probation and parole officer will consult with his/her supervisor and consider the following factors to determine whether a warrant will be requested.:

1. The SDM "risk" classification of the youth.
2. The length of time since the last known substantive violation.
3. The youth's general level of compliance with probation conditions.
4. 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.
5. Whether there are outstanding court ordered accountability obligations.

Prior to requesting a probation violation warrant, the juvenile probation and parole officer will make every reasonable effort to locate the youth, including the following:

1. Attempt telephone contact with parent/guardian or other known relative.
 - a. If there is no home telephone, attempt to contact a parent/guardian at their place of employment or attempt contact with a relative or other known individual who may have residence information.
2. Conduct a visit to the last known address.
 - a. If it is apparent that the youth and parent/guardian have moved, staff shall attempt contact with a neighbor (if it appears safe) or the landlord in order to obtain a forwarding address.
3. Conduct a school visit if it is believed that the youth may be attending school or contact school police for current enrollment information.
4. Contact the youth's employer.
5. Contact the defense attorney and provide them with an opportunity to contact and produce the youth within 48 hours for a meeting with the probation officer.

Monitoring Delinquency Warrant Status 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 JPPO
2. The Department will make ongoing, regular, documented (chrono log notes in case - FACTS Narrative file) efforts to locate youth for whom a warrant has been issued.
3. During the initial 90 days, the assigned juvenile probation and parole officer or designee will, on a monthly basis, actively attempt to locate the youth if on probation.
 - a. Department staff will attempt contact with parents/relatives and schools.
 - b. Staff will conduct home visits to the last known address, JUVENILE PROBATION AND PAROLE STAFF CONDUCT HOME VISITS ON YOUTH ON WARRANT STATUS ONLY WHEN ACCOMPANIED BY A LAW ENFORCEMENT OFFICER, and

- c. Will request the assistance of data services staff to check Department of Motor Vehicle, Protective Services and Albuquerque Public Schools databases for parent/guardian, youth addresses, etc.
4. 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.
5. On a monthly basis, the Children’s Court Clerk will distribute to the Children’s Court Attorney, the Chief Children’s Court Defense Attorney, and the Chief of Probation a list of outstanding warrants.
 - a. If possible, the list will be categorized by age.
6. Periodically, the Children’s Court Attorney’s office will review the list of outstanding warrants to determine whether warrants in the system should be recalled.

Serving / Clearing Warrants

1. When juvenile probation and parole staff become aware of the location/whereabouts of a warrant status youth classified “high” risk on the SDM tool or otherwise believed to pose a significant risk to public safety, Department staff shall:
 - a. Immediately call law enforcement, report the youth’s location and request apprehension.
2. 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. If, however, there is credible information suggesting that the youth presents an imminent risk to the child or others, then call 911.
3. In all other cases, juvenile probation and parole staff must either call law enforcement or instruct the youth to immediately turn him/herself into the Detention Center for an intake screening and a hold/release decision.
 - a. If the youth fails to take reasonable, immediate steps to turn him/herself in and the youth’s location is known, then juvenile probation and parole staff will call law enforcement to request that the warrant be served.

Warrant Recall

Factors to be considered prior to requesting warrant recall are as follows:

1. Whether the pending or underlying charge is a person or firearm law violation.
2. The SDM “risk” classification of the youth.
3. Whether the youth is believed to pose a significant public safety risk.
4. 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.
5. The age or adult status of a youth.

6. Whether the youth is also under the jurisdiction of the adult justice system.
7. The length of time that the warrant has been in the system.
8. If there is credible information indicating the youth resides out of state and whether we would be willing to extradite if the youth was arrested on our warrant.

When it is determined by the juvenile probation and parole department that a warrant should be recalled, the assigned juvenile probation and parole officer will prepare and submit a "Request for Warrant Recall" form to Children's Court Attorney.

The form must contain a statement detailing the reason for the request. If the Children's Court Attorney concurs in the Request for Warrant Recall, the Children's Court Attorney will forward the request to the Court for recall authorization.

FTA Warrants - Release by Probation Liaison Officers

If a child is arrested and booked on a Failure to Appear (FTA) warrant regarding a delinquency cause, a Probation Liaison Officer is authorized to release the child if it is in the best interests of the child and the community.

In determining whether to release the child, the Probation Liaison Officer shall consider the following:

1. The reasons leading to the Failure to Appear.
2. The seriousness of the offense.
3. The probability of future appearances.
4. The availability of appropriate supervisory resources.

If the Probation Liaison Officer determines that the child should be released, the release can be to the custody of a parent or custodian, and under such conditions of release as the Officer deems appropriate. The release can also be subject to supervision by the Community Custody Program under a level of supervision determined by that program. The juvenile probation and parole officer shall be notified prior to any releases authorized by the Probation Liaison Officer.