



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on June 28, 2013

Title	Agenda Item Type
Criminal Justice Realignment: Warrants for Supervised Persons	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Approve forms CR-301 and CR-302	July 1, 2013
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	June 5, 2013
	Contact
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Executive Summary

The Criminal Law Advisory Committee recommends the approval of *Warrant Request and Order* (form CR-301) and *Request and Order to Recall Warrant* (form CR-302) for use by supervising agencies and courts to request, order, and recall warrants for the arrest of persons supervised on parole and postrelease community supervision. These new forms are proposed for optional use and designed to facilitate the implementation of recent criminal justice realignment legislation that transferred sole authority to order warrants for the arrest of persons supervised on parole and postrelease community supervision from the California Department of Corrections and Rehabilitation to the superior courts.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective July 1, 2013, approve *Warrant Request and Order* (form CR-301) and *Request and Order to Recall Warrant* (form CR-302) for optional use by supervising agencies and courts to request, order, and recall warrants for the arrest of persons supervised on parole and postrelease community supervision.

The text of the proposed new forms is attached at pages 5 and 6.

Previous Council Action

There is no previous Judicial Council action to report.

Rationale for Recommendation

Criminal justice realignment legislation implemented broad changes to state parole procedures, including creating a new category of supervision called postrelease community supervision (PRCS) and transferring supervision revocation responsibilities from the California Department of Corrections and Rehabilitation to the superior courts.

Before realignment, CDCR was authorized to order warrants for the arrest of parolees without court involvement. The realignment legislation, however, vested courts with *sole* authority to order warrants for persons supervised on PRCS (since October 1, 2011) and parole (beginning July 1, 2013). (Pen. Code, §§ 3000(b)(9)(A), 3455(b)(1).)

The realignment legislation also requires the Judicial Council “to adopt forms and rules of court to establish uniform statewide procedures” to implement the new parole and PRCS schemes. (Pen. Code, §§ 3000.08(f), 3455(a).) The attached forms are designed to facilitate the request, order, and recall of warrants for the arrest of persons supervised on parole and PRCS.

To ensure that courts receive all the information necessary to order a warrant, form CR-301 includes conviction and supervision information, the basis for the request, a signed declaration of probable cause, the identifying information of the supervised person, and all relevant findings and orders.

To ensure that courts receive all the information necessary to *recall* a warrant, form CR-302 includes conviction and supervision information, the date the warrant was ordered, a signed declaration, check boxes for the supervising agency to explain the basis for the request for recall, and an instruction requiring the supervising agency to attach a signed copy of the warrant order to the form.

As optional forms, CR-301 and CR-302 are designed to promote uniform warrant procedures without infringing on court discretion to use local order forms tailored to specific needs and practices. Under rule 1.35 of the California Rules of Court, forms approved by the Judicial Council for optional use may be used by parties and must be accepted by the courts; however, courts may choose to use their own local order forms.

The recommended effective date—July 1, 2013—coincides with the effective date of the new parole revocation procedures.

Comments, Alternatives Considered, and Policy Implications

The attached forms circulated for public comment from May 3, 2013, to May 23, 2013. A total of four comments were received—one that agreed with the proposal and three that agreed if the form was modified. No commentators opposed the proposal. A chart with all comments received and the committee’s responses is attached at pages 7–15.

Comments

Notable comments and committee responses include:

- **Bail.** Two commentators suggested that the check box on form CR-301 that is designed for courts to set a bail amount for the warrant should be deleted because courts are required to deny bail for supervised persons. Although supervised persons are not entitled to bail during revocation proceedings (*People v. Law* (1973) 10 Cal.3d 21, 26), the committee declined the suggestions because courts retain discretion to set a bail amount if desired.
- **State and national warrant systems.** In response to requests from CDCR and the Superior Court of Orange County to include information on form CR-301 about which warrant systems the warrant should be entered into, the committee decided to add check boxes in the “Warrant Request” section to allow the supervising agency to request that the warrant be ordered into the state or national warrant system, or both, and check boxes in the “Order” section for courts to order that the warrant be entered into the state or national warrant system, or both. The new check boxes include common acronyms for each warrant system—“WPS” for the California Department of Justice’s Wanted Persons System and “NCIC” for the National Crime Information Center.
- **Judicial signature.** The committee declined a suggestion to eliminate the judicial signature line on the order to recall the warrant (form CR-302) to allow judicial administrators to recall warrants in lieu of judicial officers. Because the decision to recall a warrant requires the exercise of judicial discretion, the committee decided that the authority to recall a warrant should not be delegated to judicial administrators.
- **Parole holds.** The committee declined several suggestions to amend the forms to apply to parole holds in addition to warrants. Although sole authority to order and recall warrants for parolees will rest with the courts beginning July 1, 2013, parole agents will remain authorized to issue and recall parole holds *without court involvement* under Penal Code section 3056.

Alternatives considered

The committee considered not recommending forms to facilitate warrant procedures because most courts have developed such forms in the comparable context of probation. The committee decided to recommend the forms, however, for two reasons.

First, unlike probation cases, supervising agencies in parole and PRCS cases are statutorily authorized to impose intermediate sanctions for violations of supervision without court involvement (Pen. Code, §§ 3000.08(d), 3454), which will obviate the need for formal court proceedings in many cases and result in frequent requests to recall warrants without court appearances.

Second, CDCR has minimal practical experience requesting warrants from courts. By including all the information necessary to order and recall warrants on the forms, the committee believes that the forms will reduce confusion and ease any burdens associated with the transfer of sole authority to order warrants from CDCR to the courts starting July 1, 2013.

Implementation Requirements, Costs, and Operational Impacts

Expected costs and implementation requirements include training, case management system updates, and the production of new forms.

Attachments

1. Forms CR-301 and CR-302, at pages 5–6
2. Comment chart, at pages 7–15

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not Approved by the Judicial Council</h3>
PEOPLE OF THE STATE OF CALIFORNIA VS. SUPERVISED PERSON:			
REQUEST AND ORDER TO RECALL WARRANT <input type="checkbox"/> PAROLE <input type="checkbox"/> PRCS			
CII No.:	CDCR No.:	FBI No.:	CASE NUMBER:

NOTICE
Any person using this form to request that a warrant be recalled must attach a signed copy of the warrant in question to this form.

CONVICTION AND SUPERVISION INFORMATION

The supervised person was convicted of the following offenses:
 on *(date)*: _____ in case number(s): _____ and sentenced to:

The supervised person was released on supervision on *(date)*:
 Supervision is scheduled to expire on *(date)*:

WARRANT INFORMATION

The attached warrant for the arrest of the supervised person was ordered on *(date)*:
 The warrant was ordered for *(select one)*: No Bail Bail Amount *(specify amount)*:
 Supervision was also summarily revoked and ordered tolled on *(date)*:

REQUEST FOR RECALL OF WARRANT

This request for recall is being made because *(select all that apply)*:

- The supervised person has been located and is currently in compliance with the terms of supervision.
- The supervised person has been arrested for a new offense in another county *(specify charges and case number, if any)*:
- The supervised person has been arrested. The supervising agency declines to petition the court for a formal revocation because the supervising agency has determined that an intermediate sanction without court involvement is an appropriate response to the alleged violation.
- Other *(specify)*:
- The supervising agency also requests that supervision be reinstated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ ▶ _____
TYPE OR PRINT NAME AND TITLE SIGNATURE

ORDER		<i>For court use only</i>
<input type="checkbox"/> Based on the above declaration and information, the court grants the request and orders the warrant described above recalled. <input type="checkbox"/> The court reinstates supervision. <input type="checkbox"/> Request Denied.		
Date: _____	Time: _____	Location: _____

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Criminal Justice Realignment: Warrants for Supervised Persons (adopt Warrant Request and Order (form CR-301) and Request and Order to Recall Warrant (form CR-302))

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	California Department of Corrections and Rehabilitation Mr. Bob E. Underwood Parole Agent III Parole Litigation Compliance Unit Division of Adult Parole Operations	AM	<p>Thank you for providing me with the draft warrant and warrant recall form[s]. Here are some recommendations and requested information to be added.</p> <ul style="list-style-type: none"> • CR-301 “ORDER” section: The order indicates “No Bail or Bail Amount (specify)[.]” [P]er [Penal Code sections 3056 and 1203.2] these warrants in themselves are considered “No Bail.” We do request for “Bail Amount” to be deleted. The ability for an offender to post bail does not apply to a parole hold “3056” or a probation 1203.2 hold. • Additionally we request ... the “ORDER” section to read “No Bail” with a box for the judge or [j]udicial [o]fficer to check “California Warrant” or “[National Crime Information Center (NCIC)] Warrant Issued.” <p>...</p> <p>After further review of the CR-301 warrant request, there is no area on the form indicating what type of warrant is being requested. For example a “code 1” is California only or a “code 2” is for NCIC. The Parole Division would like a recommendation that a simple check box ... be added indicating what type of warrant is requested. <u>Preferably [the Division of Adult Parole Operations</u></p>	<ul style="list-style-type: none"> • The committee declined to delete the check box on form CR-301 for courts to select a bail amount for the warrant. Although supervised persons are not entitled to bail during revocation proceedings (<i>People v. Law</i> (1973) 10 Cal.3d 21, 26), courts retain discretion to set a bail amount if desired. • To enhance the information on form CR-301 by including information about warrant systems, the committee agreed to add check boxes under the “Warrant Request” section for supervising agencies to request that the warrant be entered into the state or national warrant system, or both, and check boxes under the “Order” section for courts to order that the warrant be entered into the state or national warrant system, or both. The new check boxes include common acronyms for the state and national warrant systems— “WPS” for the California Department of Justice’s “Wanted Persons System” and “NCIC” for National Crime Information Center.

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			<p>(DAPO) would like to <u>only request NCIC type warrants</u>, due to the fact if our parolee is arrested out of state and there is an existing NCIC warrant DAPO would not have to re-request a NCIC warrant for extradition purposes.</p> <ul style="list-style-type: none"> One other concern is that when DAPO normally request warrants in our current system we indicated caution codes on the warrant. For example “A= armed and dangerous” and “M= indicates mental disorder or mentally disturbed.” Would it be possible to have an area added on the CR-301 to indicate caution type information? This information is useful for when the warrant is placed in the wanted persons system or NCIC system to give fellow [I]aw [e]nforcement [o]fficers an area of concern. 	<ul style="list-style-type: none"> To enhance the information about the supervised person for law enforcement purposes, the committee agreed to add check boxes to CR-301—under the section for information about the supervised person—for parole agents to note that they believe that the supervised person is “armed and dangerous” or possibly suffering from a “mental disorder.”
2.	Ms. Kara K. Walker Clarkson Court Analyst Superior Court of Yolo County	A	CR-301 and CR-302 look good to us. Both forms provide the counterpart to CR-300 that our staff felt was lacking in the updated version.	No response required.
3.	Superior Court of Orange County Ms. Anabel Romero Unit Manager	AM	<p><u>CR-301 Warrant Request and Order Form</u></p> <ul style="list-style-type: none"> We recommend removing the “Bail Amount” checkbox option. Parole [v]iolation [w]arrants as we understand them are always no bail warrants of arrest. It should be noted that the 	<ul style="list-style-type: none"> Please see the committee response to the related suggestion in item 1 above.

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Criminal Justice Realignment: Warrants for Supervised Persons (*adopt Warrant Request and Order (form CR-301) and Request and Order to Recall Warrant (form CR-302)*)

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	Commentator	Position	Comment	Committee Response
			<p>recently [posted “frequently asked questions” (FAQ) on the California Courts website] provide this same information, specifying that there is no right to bail at the time the warrant of arrest is issued and parole is summarily revoked. Bail is an option once the revocation petition is before the court. See excerpt below:</p> <p>“Are parolees entitled to bail?</p> <p>No. Parolees have no right to bail on a pending violation. (<i>In re Law</i> (1973) 10 Cal.3d 21, 26.) However, once the court has jurisdiction over a petition to revoke parole, the court may set bail or release the parolee on his or her own recognizance, if deemed appropriate.”</p> <ul style="list-style-type: none"> • We recommend adding a checkbox option somewhere on this form that allows Parole to note that they have activated the parole violation warrant in the Wanted Persons System (WPS) and National Crime Information Center (NCIC) system. The checkbox option should require notation of time and date the warrant was activated in these systems. This is beneficial for courts that will be relying on Parole to [activate] the warrant authorized by the court. 	<ul style="list-style-type: none"> • Please see the committee response to the related suggestion in item 1 above. The committee declined to require information about the date and time the warrant was activated. Such information would not be known at the time a warrant is requested.

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	Commentator	Position	Comment	Committee Response
			<p><u>CR-302 Request and Order to Recall Warrant</u></p> <ul style="list-style-type: none"> We recommend removing the “Bail Amount” checkbox option. Parole [v]iolation [w]arrants as we understand them are always no bail warrants of arrest. It should be noted that the recently [posted “frequently asked questions” (FAQ) on the California Courts website] provide this same information, specifying that there is no right to bail at the time the warrant of arrest is issued and parole is summarily revoked. Bail is an option once the revocation petition is before the court. See excerpt below: <p>“Are parolees entitled to bail?</p> <p>No. Parolees have no right to bail on a pending violation. (In re Law (1973) 10 Cal.3d 21, 26.) However, once the court has jurisdiction over a petition to revoke parole, the court may set bail or release the parolee on his or her own recognizance, if deemed appropriate.”</p> <ul style="list-style-type: none"> We recommend removing in its entirety the [o]rder section at the bottom of CR-302 that includes a [j]udicial [o]fficer signature line. An order to recall a [p]arole [v]iolation [w]arrant of [a]rrest 	<ul style="list-style-type: none"> Please see the committee response to the related suggestion in item 1 above. The committee declined the suggestion to eliminate the signature line under the “Order” section on form CR-302. Because the decision to recall a warrant requires the exercise of judicial discretion, the

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			<p>issued by the court should not require a judicial signature for recall. The warrants issued in these matters are not required to go before the court for adjudication, therefore why would we want to require a judicial officer sign a form authorizing the recall. Orange County intends to make this an administrative process as follows: When we receive this form or other correspondence from Parole requesting the warrant be recalled, we plan on file docketing the document received and updating our minutes to indicate warrant has been recalled. We anticipate the warrant will already be served under [Penal Code section] 3056 as a hold placed by Parole or a law enforcement agency.</p> <ul style="list-style-type: none"> • We recommend adding a section under “REQUEST FOR RECALL OF WARRANT,” which includes: “<input type="checkbox"/> Warrant has been served on _____date, and a PC3056 Hold has been placed by _____agency” <p>This would provide the court more specific information on the status of the parolee and further ensure the court record is complete with regards to the recalling of the warrant.</p>	<p>authority to recall a warrant should not be delegated to court staff.</p> <ul style="list-style-type: none"> • The committee declined this suggestion as unnecessary. The “Request for Recall of Warrant” section on form CR-302 enumerates sufficient reasons for the request to recall a warrant, including an “other” section.

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			<p>Below are responses to the other information the Judicial Council is seeking feedback on:</p> <ul style="list-style-type: none"> • Does the proposal reasonably achieve the stated purpose? Yes • Would this proposal have an impact on public’s access to the courts? If a positive impact, please describe. If a negative impact, what changes might lessen the impact? The forms proposed assist in uniformity across the State with regards to processing Parole Violation Warrants. With consistency in processes and procedures we improve good public service. • Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings? No cost savings. This is new workload for the Courts, as such, this process is costing courts money in both resource and technology upgrades within our Case Management Systems. • What would the implementation requirements be for courts? For example, 	

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			<p>training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p> <p>Orange County is looking to train over 150 employees and several judicial officers who are anticipated to be assigned this workload. We will also spend numerous hours in preparing for updating of our Case Management System to accommodate Parole Revocation and Warrant Processing, the hours we will spend is unknown as we are still developing.</p> <ul style="list-style-type: none"> • Would an effective date immediately after Judicial Council approval of this proposal provide sufficient time for implementation? <p>The effective date should be July 1, 2013. This would allow courts and parole to plan implementation accordingly.</p> <ul style="list-style-type: none"> • If this proposal would be cumbersome or difficult to implement in a court of your size, what changes would allow the proposal to be implemented more easily or simply in a court of your size? <p>[Not applicable]</p>	

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4.	Superior Court of Placer County Mr. Jake Chatters Court Executive Officer	AM	<p>The Placer Superior Court supports the proposed CR-301 and supports, if amended, the proposed CR-302 that relate to warrants under the new parole revocation process.</p> <p>We would suggest the following revisions to the CR-302 to clarify the handling of warrants where the supervised person has been detained as a result of the warrant but the Parole Agent decides not to file a petition for revocation.</p> <ul style="list-style-type: none"> • Change title to “Request and Order to Recall Warrant / <u>Release Hold</u>.” • After the second box under “Request for Recall of Warrant” include the box for “Other (specify):” and the box for the agency to request that supervision be reinstated. • [Add] a new heading for “Request to Release Hold.” • Under new heading for “Request to Release Hold”: <ol style="list-style-type: none"> a. Add sentence that reads “This request to release the hold is being made because <i>(select all that apply):</i>” b. Include the current box that begins “The supervised person has been arrested...” c. Include a box for “other.” d. Include a box for the agency to request 	<p>The committee declined these various suggestions to apply the forms to parole holds. Although sole authority to order and recall warrants for the arrest of parolees beginning July 1, 2013, will transfer to the courts, parole agents will retain authority to issue and recall parole holds under Penal Code section 3056 <i>without</i> court involvement.</p>

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	Commentator	Position	Comment	Committee Response
			that supervision be reinstated. Thank you again for the opportunity to comment on the proposed process and forms.	

