

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT SP13-04

Title	Action Requested
Criminal Justice Realignment: Warrants for Supervised Persons	Review and submit comments by May 23, 2013
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt forms CR-301 and CR-302	July 1, 2013
Proposed by	Contacts
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	Arturo Castro, 415-865-7702 arturo.castro@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes the adoption of *Warrant Request and Order Form* (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. The 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 (CDCR) to the courts.

Background

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 CDCR to the 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 proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The Proposal

To facilitate the request, order, and recall of warrants for the arrest of persons supervised on parole and PRCS, the Criminal Law Advisory Committee proposes two new optional forms for use by supervising agencies and courts: *Warrant Request and Order Form* (form CR-301) and *Request and Order to Recall Warrant* (form CR-302).

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, bail information, 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 issued, bail information, 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, the proposal is designed to promote uniform warrant procedures without infringing on court discretion to use local order forms tailored to specific needs and customs. 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.

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, 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

No significant implementation requirements, costs, or operational impacts for courts are expected.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal reasonably achieve the stated purpose?
- 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 advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings?
- What would the implementation requirements be for courts? For example, 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.
- Would an effective date immediately after Judicial Council approval of this proposal provide sufficient time for implementation?
- 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?

Attachments

1. *Warrant Request and Order Form* (form CR-301)
2. *Request and Order to Recall Warrant* (form CR-302)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			<i>FOR COURT USE ONLY</i> <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:			
WARRANT REQUEST AND ORDER FORM <input type="checkbox"/> PAROLE <input type="checkbox"/> PRCS			
CII No.:	CDCR No.:	FBI No.:	CASE NUMBER:

CONVICTION INFORMATION:

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

SUPERVISION INFORMATION:

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

WARRANT REQUEST

A warrant is being requested because (select one):

- The supervised person has absconded and his or her whereabouts are unknown.
- The supervised person has committed a new offense (specify offense):
- The supervised person has violated the following term(s) of supervision (specify):
- Other (specify):

DECLARATION

(State facts that establish probable cause for the warrant. If more space is needed, attach the optional Attached Declaration (form MC-031).)

IDENTIFYING INFORMATION OF THE SUPERVISED PERSON

Name: _____ Alias: _____
 DOB: _____ Gender: _____ Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____
 Tattoos: _____ Other: _____
 Last Known Address: _____

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

- Based on the above declaration and information, the court finds probable cause to arrest and orders a No Bail Bail Amount (specify): _____ warrant for the arrest of the supervised person described above.
- The court also summarily revokes supervision and tolls the running of the supervision period.
- Request Denied. The court finds no probable cause to arrest.

For court use only

Date: _____ Time: _____ Location: _____

(JUDICIAL OFFICER)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			<i>FOR COURT USE ONLY</i> <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 INFORMATION

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

SUPERVISION INFORMATION

The supervised person was originally 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

- Based on the above declaration and information, the court grants the request and orders the warrant described above recalled.
- The court reinstates supervision.
- Request Denied.

For court use only

Date: _____ Time: _____ Location: _____
(JUDICIAL OFFICER)