

REFORMING DETENTION FOR JUVENILE WARRANTS IN SAN FRANCISCO

INTRODUCTION

In San Francisco, a significant percentage of the monthly admissions into juvenile hall are due to a warrant. These admissions result from current policies requiring detention for all youth arrested for juvenile warrants. For this reason, the Data & Needs Assessment Subcommittee of the Close Juvenile Hall Work Group (CJHWG) has identified reform of San Francisco’s juvenile warrant policies as critical for achieving closure of the juvenile hall. This policy brief outlines the primary issues related to warrants and makes recommendations for reform.

I. SUMMARY OF RECOMMENDATIONS

Below is a summary of our recommendations. See Section V. for a full description of each.

- 1) San Francisco should implement policies to avoid the issuance of warrants to the greatest extent possible.
- 2) When a warrant cannot be avoided, San Francisco should implement warrant policies that preserve options to release the youth pending their court hearing.
- 3) When a youth cannot be released, San Francisco must expedite its court hearings.
- 4) San Francisco must create processes to allow outstanding warrants to be resolved and cleared without detention of the young person.

II. ISSUE OVERVIEW

What is a juvenile warrant?

A warrant is an order issued by a juvenile court judge. The specific terms of a warrant order vary by county and court.

In San Francisco, juvenile warrants are issued with the following terms:

“You are commanded forthwith to arrest the above named person and to bring said person before the Court, or if the Court is not in session, you are commended to deliver said person into the custody of the Superintendent of the

Juvenile Justice Center of this County, to be detained until the next regular session of this Court.”

Under these terms, when young people are arrested due to a juvenile warrant in San Francisco, they are taken into detention at juvenile hall and held until they can be brought to court for a detention hearing. This hearing typically takes place within two days but may take longer due to weekends/court holidays.¹

When is a warrant issued?

This brief is focused on warrants that are issued when a young person already has a case pending before the court. These warrants can be issued before the youth’s charges have been adjudicated (pre-trial), or after adjudication and/or disposition (when the youth is under court jurisdiction—for example, while on probation).

A bench warrant is issued by a sitting judge, typically when a youth has failed to appear at a court hearing. The court has sole authority to issue a bench warrant; however, the Juvenile Probation Department (JPD) may recommend to the court that it issue a bench warrant.

An arrest warrant is issued by the court at the request of JPD². By law, JPD may request an arrest warrant when: a) a petition has been filed seeking a hearing in court, **and** b) one of the following circumstances is present:

- (1) It appears to the court that the conduct and behavior of the minor may endanger the health, person, welfare, or property of himself or herself, or others, or that the circumstances of his or her home environment may endanger the health, person, welfare, or property of the minor.
- (2) It appears to the court that either personal service upon the minor has been unsuccessful, or the whereabouts of the minor are unknown.
- (3) It appears to the court that the minor has willfully evaded service of process.³

According to JPD, the most common reason that JPD requests an arrest warrant from the court is that a youth’s whereabouts are unknown, for example because they have run away from an out of home placement, or violated the terms of home detention or electronic monitoring, and there is a concern for the safety and well-being of the youth. In rare instances,

¹ Under California Rules of Court, Rule 5.752(e), when a young person is detained in juvenile hall based on a warrant, they must be brought to court within 48 hours of being taken into custody, but non-court days (i.e. weekends and holidays) are not counted. As a result, it is possible for a youth to remain in juvenile hall custody for several days before being brought to court.

² Any law enforcement agency, most often the Police or the District Attorney, including agencies from other jurisdictions, may request that the court issue an arrest warrant for alleged criminal conduct; these types of warrants are outside the scope of this brief.

³ Welf. & Inst. Code § 663(a).

JPD may request an arrest warrant for a technical violation of probation. However, under these circumstances, the warrant must be approved by either the Chief or the Assistant Chief before the request is submitted to the court.

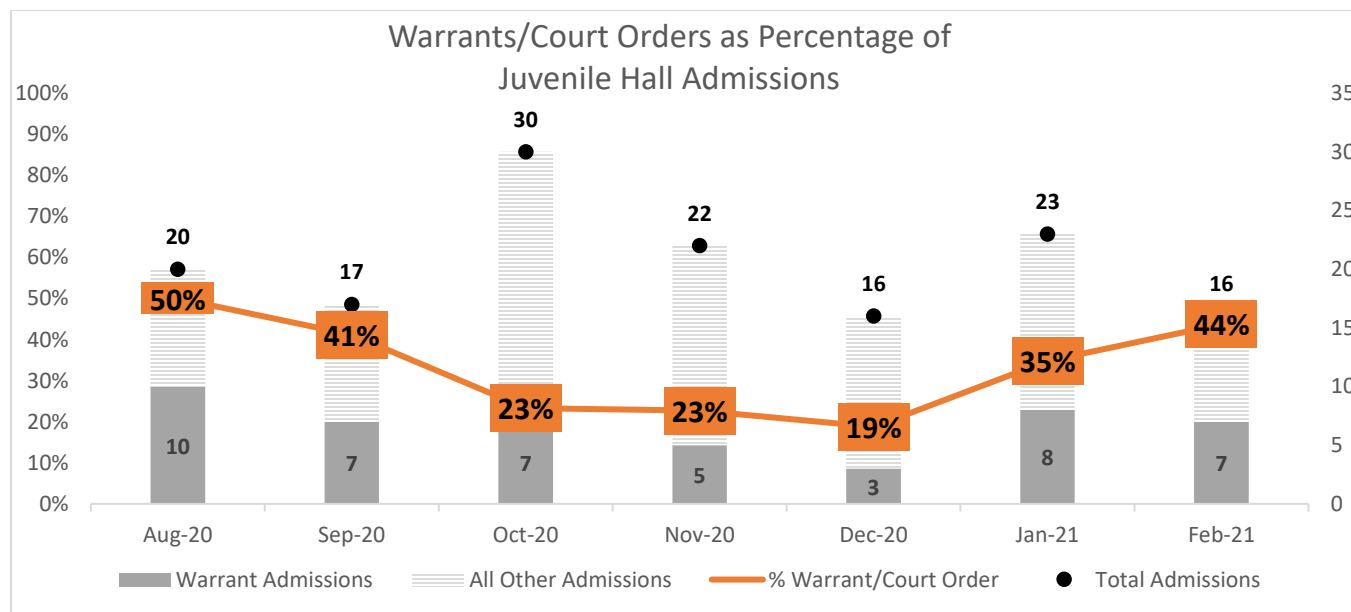
Can the Juvenile Probation Department (JPD) decide to release a youth who has been arrested on a warrant?

Not currently. Under the terms of the warrants currently being issued by San Francisco’s juvenile court, JPD does not have the discretion to release youth who are brought to juvenile hall as a result of a warrant. The court order directs JPD to detain the youth in juvenile hall until his or her court hearing. This mandatory court-ordered detention is an exception to the discretion that JPD usually has under Welfare & Institutions Code section 628 to decide whether or not to take a youth into detention custody.⁴

As described in more detail below, JPD is currently working in collaboration with the Superior Court to explore policy changes that would allow discretion in releasing some youth arrested due to a warrant.

III. DATA ANALYSIS

JPD data from August 2020 to February 2021 indicate that warrants accounted for between 19 and 50 percent of juvenile hall admissions on a monthly basis, and 45 percent of juvenile hall admissions overall.



⁴ The law only requires that Probation holds in their custody youth who are at least 14 years old and taken into custody for personal use of a firearm in the attempt or commission of a felony or any offense listed in Welf. & Inst. Code § 707(b) until a judge reviews their case and makes a determination about detention.

IV. RESEARCH & ISSUE ANALYSIS

- ❖ **San Francisco’s policy of mandatory detention for all juvenile warrants conflicts with the overarching juvenile court principle of keeping youth at home whenever possible.**

Under the law of the juvenile court, one of the court’s primary goals is to “preserve and strengthen” the family ties of any child under its jurisdiction.⁵ Thus, the law directs that the court remove a child from their parents’ custody “*only when necessary* for his or her welfare or for the safety and protection of the public.”⁶

California has a robust statutory scheme for detention of children that is intended to protect their due process rights and curtail excessive detention practices.⁷ One basic premise of this scheme is that each young person must be treated as an individual, and not subject to automatic or mandatory rules of detention.⁸

By issuing warrants that require detention in all circumstances, San Francisco’s practices contradict the key principles under juvenile court law that youth should remain home whenever possible, and that detention should occur only when justified under the youth’s individual circumstances.

- ❖ **Detention for warrants imposes significant harms on youth and is counter-productive to the rehabilitative goals of the juvenile court.**

As with any type of youth incarceration, detention based on a warrant imposes significant harms. It disrupts the youth’s ties to their family, school, and community. It exposes the youth to the trauma of being searched and confined in a cell, and it imposes a stigma of being incarcerated.⁹ Incarcerated youth experience exacerbation of mental health issues and increased risk of self-harm, as well as increased risk of exposure to violence and abuse.¹⁰

⁵ Welf. & Inst. Code sec. 202(a).

⁶ *Id.* (emphasis added).

⁷ See *In re Ryan B.*, 216 Cal. App. 3d 1519, 1526 (1989). As stated by the Cal. Supreme Court, the law of the juvenile court was enacted to end “California’s lamentable practices as to excessive detention.” *In re William M.*, 3 Cal. 3d 16, 25 (1970).

⁸ See *In re William M.*, 3 Cal. 3d at 31.

⁹ Sarah Cusworth Walker & Jerald R, Hertin, “The Impact of Pretrial Juvenile Detention on 12-Month Recidivism: A Matched Comparison Study,” *Crime and Delinquency*, p.5 (2020).

¹⁰ Barry Holman & Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute, p. 8-9 (2006).

Detention is also associated with more punitive case outcomes, particularly for youth of color.¹¹

In the long-term, youth who have been detained have higher recidivism rates.¹² They also have decreased rates of high school graduation,¹³ increased rates of adult incarceration,¹⁴ and poor life¹⁵ and health¹⁶ outcomes. Even short periods of confinement have been associated with higher rates of depression later in life.¹⁷

❖ **There is no deterrence justification for detaining youth with warrants.**

One possible justification for detaining youth with warrants might be to help deter youth from violating court orders; however, there is no research basis to support this approach. Existing research offers no empirical evidence to suggest that detention pursuant to a warrant works to deter youth from violating court orders.¹⁸ Just the opposite, current research suggests that deterrence-based strategies do not prevent future offending, and may actually increase it.¹⁹ Similarly, in the adult context, the research shows deterrence-based detention strategies have been found to be ineffective in changing behavior.²⁰

The science of adolescent development raises further doubt that detention for warrants will promote compliance with court orders. Behavioral and neuroscience research demonstrate that during adolescence, youth are “more impulsive, more likely to focus on potential rewards in lieu of potential costs of a risky situation, and more likely to be short-sighted in their decision making.”²¹ These characteristics are developmentally normal and linked to the biological immaturity of the adolescent brain. The use of detention for warrants conflicts with

¹¹ Meghan R. Ogle & Jillian J. Turanovic, "Is Getting Tough With Low-Risk Kids a Good Idea? The Effect of Failure to Appear Detention Stays on Juvenile Recidivism," *Criminal Justice Policy Review*, p. 3-4 (2016).

¹² *Id.*

¹³ Anna Aizer & Joseph J. Doyle, Jr., *Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges*, 130:2 Q. J. OF ECON. 759-803 (2015).

¹⁴ *Id.*

¹⁵ Karen M. Abram, et al., *Sex and Racial/Ethnic Differences in Positive Outcomes in Delinquent Youth After Detention: A 12-Year Longitudinal Study*, 171:2 JAMA PEDIATRICS 123-32.

¹⁶ Elizabeth S. Barnert, et al., *How Does Incarcerating Young People Affect Adult Health Outcomes?*, 139(2) PEDIATRICS 7 (2017).

¹⁷ *Id.*

¹⁸ Ogle and Turanovic, *supra* note 11, p. 5.

¹⁹ M.W. Lipsey, J. Howell, M. Kelley, & G. Chapman, *Improving the Effectiveness of Juvenile Justice Programs: A New Perspective on Evidence-Based Practice*. Washington, DC: Georgetown Public Policy Institute (2010).

²⁰ *Id.*; J. McGuire (2013). "What works" to reduce re-offending: 18 years on, p. 30. In L. A. Craig, L. Dixon, & T. A. Gannon (Eds.), *What works in offender rehabilitation: An evidence-based approach to assessment and treatment* (pp. 20-49). Chichester, UK: Wiley-Blackwell (concluding through meta-analysis that sanctions and deterrence-based methods repeatedly fail as a strategy for changing behavior).

²¹ Kathryn Monahan, Laurence Steinberg, & Alex Piquero, "Juvenile Justice Policy and Practice: A Developmental Perspective," 44 *Crime and Justice: A Review of Research*, p. 587 (2015).

research demonstrating that constructive interventions are more effective in promoting positive behavior change in young people.²²

❖ **There is no public safety justification for detaining youth with warrants.**

There is no clear public safety justification for detaining all youth with warrants. First, youth who are detained on warrants do not necessarily pose a risk to public safety. These youth have typically already had at least one court appearance and have remained in the community (or returned to the community) after their initial arrest or referral. If there were evidence that these youth were engaging in unlawful conduct, it would be expected that they would face a new delinquency petition, not merely a warrant to appear in court.

The issuance of a warrant for youth who are non-compliant with court orders may actually increase non-compliance. If youth are aware that they will automatically be detained due to a pending warrant, their foreseeable response will be to stay out of contact with probation and the court to avoid detention. This need to “stay under the radar” prevents youth from fulfilling their court obligations and puts them at an increased risk of homelessness and victimization.²³

Thus, there is no clear public safety justification for detaining all youth for whom a warrant has been issued, and in fact this policy may undermine public and youth safety.

❖ **Detention on warrants may lead to an increased risk of recidivism.**

There does not appear to be any academic research evaluating the general practice of detaining youth for warrants in juvenile court. However, one study looked specifically at detention following failures to appear for a juvenile court hearing, which is one of the reasons for the issuance of juvenile warrants in San Francisco. This study specifically examined low-risk youth and found that imposing detention for a failure to appear in court increased recidivism.²⁴ The study found that detention for failing to appear in court led to increased rates of re-detention, technical violations, and new offenses.²⁵

In addition, as mentioned above, there is a large body of research showing that deterrence-based strategies, including incarceration, do not promote positive behavior change for youth, and may have the opposite effect.²⁶

²² John A. Tuell, Jessica Heldman & Kari Harp, "Developmental Reform in Juvenile Justice: Translating the Science of Adolescent Development to Sustainable Best Practice," RFK National Resource Center for Juvenile Justice, p. 3.

²³ See Sarri, R. C., Stroppfregen, E., & Ryan, J. P. (2016, Aug). *Running away from child welfare placements: justice system entry risk. Children and Youth Services Review, 67, 191-197.*

²⁴ Ogle & Turanovic, *supra* note 11, p., 18-19 (2016).

²⁵ *Id.*

²⁶ Tuell, Heldman, & Harp, *supra* note 22, p. 3.

This body of research suggests that detaining youth for warrants may conflict with public safety goals by increasing youth non-compliance or reoffending.

❖ **Other jurisdictions have implemented policies to reduce reliance on warrants.**

The Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) calls on jurisdictions to implement strategies to reduce reliance on warrants.²⁷

The recommended strategies include interventions to reduce failures to appear for court hearings. Oklahoma County in Oklahoma reduced the rates of families failing to appear in court by improving parent and child notification procedures and by improving transportation to court.²⁸ Similarly, in Baltimore County, a call notification program reduced detentions that were due to failure to appear writs. Prior to the policy change, 40 percent of detentions were the result of FTA writs, after the policy change, the proportion reduced to 5 percent.²⁹

The “Warrant Prevention Program” in King County, Washington relies on outreach workers from the YMCA to connect with youth and families and prevent the need for warrants.³⁰

❖ **Other jurisdictions have implemented policies to reduce detention of youth who are arrested on warrants.**

When warrants cannot be avoided, the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) calls on jurisdictions to reduce detention for warrants.

A number of jurisdictions have implemented policies to allow release of youth arrested for warrants, described in more detail below. To support these policies, many jurisdictions have built out an expanded range of options for detention alternatives (such as evening reporting centers) and for non-secure detention (such as home confinement).³¹

Several jurisdictions outside of California have implemented options for probation departments to release youth after they have been arrested on a warrant. For example, in

²⁷ Steinhart, David, “Special Detention Cases: Strategies for handling difficult populations,” Baltimore: The Annie E. Casey Foundation, p.14 (2001).

²⁸ *Id.* at 19.

²⁹ Douglas Young, Christina Yancey, Sara Betsinger & Jill Farrell, “Disproportionate Minority Contact in the Maryland Juvenile Justice System,” Institute for Governmental Service and Research, University of Maryland (2011), <https://goccp.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>.

³⁰ Sarah CusworthWalker, Elizabeth Haumann & Teddi Edington, “Warrant Prevention Program, Preliminary Program Evaluation,” (2014).

³¹ Steinhart, *supra* note 26, p. 16-17. San Francisco County currently uses evening reporting centers and home confinement as alternatives to detention.

Multnomah County, Oregon, the juvenile court can authorize probation to release such youth to detention alternatives.³² Cook County, Illinois also differentiates warrants into categories, allowing certain categories of warrants to be eligible for release.³³ Similarly, in King County, Washington, a “two-tiered” warrant policy exists whereby warrant orders issued by a juvenile court judge designates whether the warrant requires detention or permits release.³⁴

Several jurisdictions in California, including Santa Cruz, Santa Clara, and Ventura Counties, have implemented strategies for differentiating among warrants to eliminate automatic detention for all youth with bench warrants. Santa Cruz, Ventura, and Santa Clara Counties all have a similar policy for issuance of bench warrants that allow discretion in releasing youth pending their next court date. The policies are aimed at reducing the unnecessary detention of youth who are detained due to an active bench warrant, regardless of whether they are deemed to pose a public safety threat.

- **Santa Cruz County “Two-Tiered Warrants.”** In Santa Cruz County, the court may issue a bench warrant that will allow release of the youth at the probation officer’s discretion. For these youth, the local risk assessment instrument is used to determine whether the youth may be released. If released, the youth and their parent or guardian signs a promise to appear for a hearing that is to be scheduled within 48-hours.
- **Ventura “Two-Tiered Warrant.”** In Ventura County, the “two-tiered” bench warrant gives the court the opportunity, in appropriate circumstances, to authorize specific conditions upon which the youth may be released pending his/her next court date. For youth arrested with a warrant authorizing release, the Ventura County Probation Agency’s Juvenile Facilities (VCPA-JF) conduct the standard booking screening procedure, including administering the risk assessment instrument (RAI), for consideration of a detention alternative.
- **Santa Clara “Discretionary Bench Warrant.”** In Santa Clara County, the Discretionary Warrant Policy allows for the discretionary release at screening of some youth with an existing warrant when they are brought to Juvenile Hall. Under this policy, when issuing a discretionary warrant, the court will indicate whether the youth is eligible for release pending the next scheduled court hearing.

³² *Id.* at 15.

³³ *Id.*

³⁴ King County Superior Court Juvenile Department Offender Manual (2015), p. 25, <https://www.kingcounty.gov/~media/courts/superior-court/docs/juvenile/juvenile-offenders/juvenile-offender-manual.ashx?la=en>.

❖ **Other jurisdictions have implemented policies to clear outstanding warrants without detention.**

To further prevent detention for warrants, the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) calls on jurisdictions to implement processes for clearing warrants.

Several jurisdictions have reduced detention for warrants by utilizing procedural mechanisms that allow the court to clear or resolve outstanding warrants. For example, in Cuyahoga County, Ohio, the court implemented a “warrant scrubbing” program to clear a backlog of warrants that were either invalid or outdated.³⁵

In King County, Washington, the court sets an expiration date on every warrant.³⁶ Warrants then automatically expire, either on the date of expiration or when the young person reaches a certain age.³⁷

King County also allows young people to voluntarily appear in court to address and “quash” (or clear) their warrant, without requiring that youth first come into detention.³⁸ In some cases, the court can even resolve the warrant without requiring a court hearing or appearance by the youth.³⁹

By allowing young people an opportunity to affirmatively place their warrant issue on the court’s calendar, without putting themselves at risk of incarceration, courts can encourage youth to take responsibility for their court obligations.

V. EFFORTS UNDERWAY AT JPD

JPD has recently undertaken efforts to reduce the number of youth who are admitted to juvenile hall as the result of a warrant.

Prior to requesting an arrest warrant from the court, JPD conducts an individualized analysis of options to encourage the youth to comply with court orders, and engages with the young person’s family/caregiver, community-based case manager, and defense counsel to encourage the youth to appear before the court voluntarily.

³⁵ Steinhart, *supra* note 26, p. 17.

³⁶ King County Superior Court Juvenile Department Offender Manual, *supra* note 33, p. 27-28.

³⁷ *Id.*

³⁸ *Id.* at 26-27.

³⁹ *Id.*

After assuming her role as Chief, in mid-2020, Chief Katy Miller initiated a comprehensive warrant review process resulting in a 50 percent reduction in the back log of outstanding warrants. Outstanding warrants are regularly reviewed to determine if they can be resolved without the use of detention.

JPD has also been exploring a two-tier warrant policy since learning about this approach in October 2020. Under such a policy, probation would have the discretion to release a minor after arrest on a warrant. JPD is collaborating closely with the Superior Court to develop a standardized approach that mirrors other counties in California, such as Santa Cruz. Currently, the court includes this option only on a case-by-case basis.

VI. RECOMMENDATIONS

Successfully closing San Francisco's juvenile hall will require reform of San Francisco's juvenile warrant policies and practices. We offer four recommendations:

1) San Francisco should implement policies to avoid the issuance of warrants to the greatest extent possible.

Resources must be invested in preventing the need for warrants. San Francisco should employ a strategy similar to King County, Washington, and partner with a community-based organization to employ outreach workers for the purpose of warrant prevention. The current Detention Diversion Alternatives Program may serve as a useful model for this effort. Drawing on the science of adolescent development, the program should utilize incentives and a strengths-based framework to encourage compliance with court orders and appearance at court hearings.

Engaging a community-based provider for this effort would be important for reducing fear among youth that they will be locked up if they come forward to address past mistakes. San Francisco could begin with a pilot program, which would allow it to collect data and fine-tune its intervention strategies over time to address emerging needs or barriers.

2) When a warrant cannot be avoided, San Francisco should implement warrant policies that preserve options to release the youth pending their court hearing.

In line with juvenile court law and as recommended by the Annie E. Casey Foundation, San Francisco should revise its warrant practices so that they do not result in automatic detention. San Francisco's warrants should allow for release options, including release to non-detention alternatives or to non-secure detention options.

The current efforts underway are a good first step in this direction. The policy reforms should be expanded to preserve an option for release in as many cases as possible, and should be memorialized so that a uniform standard is applied in all cases.

3) When a youth cannot be released, San Francisco must expedite its court hearings.

When a youth cannot be released following arrest for a warrant, San Francisco should implement *immediate* detention hearings, ideally on the same day as the arrest. Such hearings would allow the court to address the warrant and make an appropriate order for release as quickly as possible, reducing the need for any period of secure detention.

4) San Francisco must create processes to allow outstanding warrants to be resolved and cleared without detention of the young person.

a. Court hearings to clear warrants

San Francisco must have a clear, transparent process that allows any youth to seek a court hearing to resolve an outstanding warrant without coming into detention. Currently, these hearings happen on an *ad hoc* basis, leaving youth unsure of whether they will face incarceration if they proactively appear in court. This uncertainty encourages youth to avoid court and undermines the court's rehabilitative goals. It also conflicts with the practices in adult court in San Francisco, where it is a routine practice to allow people to add matters to the court's calendar for the purpose of addressing an outstanding warrant.

b. Warrant expiration and scrubbing

San Francisco should adopt a policy of warrant expiration dates, to be set at the time that they are issued. Expiration dates would help ensure that youth are not unnecessarily detained on warrants that are invalid or outdated.

VII. ABOUT THIS REPORT

The report was prepared in January 2021 by the Data & Needs Assessment Subcommittee of the Close Juvenile Hall Working Group in San Francisco. Contributors include:

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