
Warrant and Disposition Management Project

Frequently Asked Questions (FAQs)

For purposes associated with the Administration of Criminal Justice, what is a warrant?

A warrant is an order of a court which authorizes a law enforcement officer to arrest and bring a person before a judge.¹

What is the Administration of Criminal Justice?

The Administration of Criminal Justice is defined as the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.²

Who issues warrants?

In the United States, on both the state and federal level, warrants are issued by judges or magistrates.³

For purposes associated with the Administration of Criminal Justice, what types of warrants do courts issue?

Arrest Warrant: The primary warrant relevant to Warrants and Dispositions systems is the Arrest Warrant. An arrest warrant must be supported by an affidavit that sets forth specific allegations and considerations under oath. Typically, such an affidavit is prepared by a law enforcement officer or a prosecuting attorney. Relying on the allegations and the following considerations, a judge or magistrate will determine whether “probable cause” exists to issue an arrest warrant. Probable cause has been defined as being more than mere suspicion but less than the “beyond a reasonable doubt” burden of proof in a criminal case. The United States Supreme Court has said that probable cause exists where “the facts and circumstances within [the officers’] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief” that a particular crime had been or was being committed.”⁴

In order for an arrest warrant to be issued, probable cause must exist in regard to two separate and distinct factors. First, there must be a demonstration that probable cause exists that a crime has been committed. Second, there must be a demonstration that probable cause exists that the individual named in the affidavit supporting an arrest warrant is the individual who committed the offense.

¹ <http://definitions.uslegal.com/a/arrest-warrant/>

² Title 28, USC, Part 20

³ <http://definitions.uslegal.com/a/arrest-warrant/>

⁴ *Carroll v. United States*, 267 U.S. 132, 162, 45 S.Ct. 280, 288, 69 L.Ed. 543, 555 (1925).

When are warrants issued?

Warrants are issued when a person:

- Is charged with a crime and ordered to appear before a Judge.
- Is charged with a crime, issued a citation and/or convicted of a crime but fails to appear in court for a hearing or sentencing.
- Is convicted of a crime but fails to pay imposed fines, is in contempt of court and/or fails to comply with the orders of a Judge.⁵

Are there other types of warrants?

The material in the Warrants and Dispositions Toolkit primarily applies to Arrest Warrants, but there are a number of other types of warrants listed below.

Search Warrant: A search warrant is a warrant to search a specific premise for evidence of a specific crime. The warrant is issued by the judge if he or she finds probable cause to believe such evidence exists and is located in the place described based on information presented by police to the judge in the form of a signed and sworn affidavit.

Failure to Appear: In addition to warrants for arrest for committing some specified crime, other warrants can be issued for failure to appear in court (FTA) and failure to follow a court's orders. These warrants may be called by different names in different jurisdictions. Following is a list of some of these types of warrants.

Bench Warrant: This type of arrest warrant is issued by a judge or magistrate "from the bench" and normally is put forth because a person has failed to appear in court or has violated a prior order of the court.⁶

Alias Warrant: Issued when the subject fails to appear in court for a scheduled court date before any plea has been entered or fails to respond to a citation in person or by mail. Failure to appear is an added charge.

Capias Warrant/Capias Profine Warrant: A Capias Warrant is issued when a subject has a guilty judgment either through court appearance, plea, or arraignment in jail, then fails to pay a fine or fails to complete some specified conditions within the required time period. The only way to resolve a Capias Warrant is to pay the fine in full or be released "time served" by remaining in jail until enough jail credit has been earned.

Civil Capias Warrant: A Civil Capias Warrant is a special type of apprehension order, issued in civil court where the defendant repeatedly fails to comply with the judge's orders. These are also called Body Attachments or Mittimus, and are slightly different from Criminal Warrants. The purpose of the Capias Warrant in a contempt case is to get a person into court for the hearing.

Fugitive Warrant: Warrant sent from another state when the suspect is believed to be in local jurisdiction.

⁵ Amended from <http://definitions.uslegal.com/a/arrest-warrant/>

⁶ Amended from http://www.ehow.com/about_5085165_issues-arrest-warrants.html

Governor's Warrant: These warrants come from the Governor's Office so the suspect, who has committed a crime in another state, maybe arrested and transported back to that state.

After warrants are issued, how are they served?

In most instances, warrants are given to local, state and Federal law enforcement agencies to serve in order to bring the person who is the subject of a warrant before a judge or magistrate. When law enforcement is unable to locate the subject of a warrant, the warrant becomes an outstanding warrant and the information contained on the warrant and identifying information pertaining to the person is entered into local, state and/or national record management systems or computerized wanted person files. This enables the information to be readily accessible to law enforcement and other authorized entities when intrastate and nationwide contact is made with the subject of the warrant. Intrastate notification to law enforcement that a person is wanted on an outstanding warrant is generally the result of an inquiry of local and state justice information systems. National notification to law enforcement that a person is wanted on an outstanding warrant is the result of an inquiry of the National Crime Information Center (NCIC), Wanted Person File.

What is NCIC?

NCIC is the National Crime Information Center, a computerized database of documented criminal justice information available to law enforcement agencies nationwide, 24 hours a day, 365 days a year. The NCIC became operational on January 27, 1967, with the goal of assisting law enforcement in apprehending fugitives and locating stolen property. This goal has since expanded to include locating missing persons and further protecting law enforcement personnel and the public.⁷

What files are maintained and available through NCIC?

The NCIC database consists of 19 files. The seven property files are the Article, Boat, Gun, License Plate, Securities, Vehicle, and Vehicle and Boat Part Files. The 12 person files are the Foreign Fugitive, Gang, Identity Theft, Immigration Violator, Known or Appropriately Suspected Terrorist, Missing Person, Protection Order, Supervised Release, Unidentified Person, U.S. Secret Service Protective, Violent Gang and Terrorist Organization, and Wanted Person Files and the National Sex Offender Registry. In addition, the database contains images that can be associated with NCIC records to assist agencies in identifying people and property items. The Interstate Identification Index, which contains automated criminal history record information, is also accessible through the same network as the NCIC.⁸

What does the NCIC Wanted Person File contain?

The Wanted Person File contains records of individuals who have outstanding warrants. This file also contains records of juveniles who have been adjudicated delinquent and who have escaped from custody or supervision or who have absconded while on probation or parole. The file also contains records of juveniles who were charged with committing acts of delinquency (that would be crimes if committed by adults) and who have fled from the state in which the act was committed. Agencies may also enter temporary felony want records into this file. Temporary felony want records allow a law

⁷ USDOJ, FBI CJIS Division, National Crime Information Center, An Overview - December 2010

⁸ USDOJ, FBI CJIS Division, National Crime Information Center, An Overview - December 2010

enforcement agency to take prompt action to apprehend a person suspected of committing a felony when circumstances prevent the agency from immediately obtaining a warrant.⁹

How long do warrants or Wanted Person File records remain on file with NCIC?

Except for temporary felony want records, which are active for 48 hours and unless removed by the entering agency, Wanted Person File records remain in this file indefinitely.¹⁰

How is NCIC managed?

Since its inception, the NCIC has operated under a shared management concept between the Federal Bureau of Investigation (FBI) and state and federal criminal justice agencies. The general policy concerning the philosophy, concept, and operational principles of the System is based upon the recommendations of the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) to the Director of the FBI. Top administrators from local, state, territory, tribal and federal criminal justice agencies throughout the United States make up this advisory process. The FBI maintains the host computer and provides a telecommunication network to the CJIS Systems Agency (CSA) in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada, as well as federal criminal justice agencies.

Criminal justice agencies enter records into the NCIC, which, in turn, are accessible to law enforcement agencies nationwide. For example, a law enforcement officer can conduct an inquiry of NCIC during a traffic stop to determine if the vehicle in question is stolen or if the driver is a wanted person and the NCIC System responds instantly.¹¹

What is a CSA?

A CSA is a criminal justice agency that has overall responsibility for the administration and usage of the NCIC within a district, state, territory, or federal agency. Those agencies generally operate their own computer systems, providing NCIC access to virtually all local criminal justice agencies. Through this cooperative network, law enforcement personnel have direct on-line access to enter data or search millions of records for persons and property.¹²

Does a positive response from NCIC establish sufficient probable cause for a law enforcement officer to take action against a person who he/she believes is the subject of the NCIC Wanted Person File response?

No, a positive response from the NCIC is not probable cause for an officer to take action. NCIC policy requires the inquiring agency to make contact with the entering agency to verify the information is accurate and up-to-date. Once the record is confirmed, the inquiring agency may take action to arrest a fugitive, return a missing person, charge a subject with violation of a protection order, recover stolen property, or deny the purchase of a firearm or access to explosives.¹³

⁹ USDOJ, FBI CJIS Division, National Crime Information Center, The NCIC File Reference Card, August 2010

¹⁰ USDOJ, FBI CJIS Division, National Crime Information Center, The NCIC File Reference Card, August 2010

¹¹ USDOJ, FBI CJIS Division, National Crime Information Center, An Overview - December 2010

¹² USDOJ, FBI CJIS Division, National Crime Information Center, An Overview - December 2010

¹³ USDOJ, FBI CJIS Division, National Crime Information Center, An Overview - December 2010

In some circumstances, the hit confirmed with the originating agency may be the major or only element necessary to detain or make an arrest. For instance, a confirmation of an outstanding warrant on an individual or a hit confirmed on a stolen vehicle or stolen property in a timeframe very close to the time of an actual theft would likely support an arrest decision. The confirmation of a hit on a person file record, regardless of how long it had been in the System, would be enough cause to take appropriate action. However, when attempting to recover the stolen property record that had been in the System one or two years, the officer would need more than the element of the hit, but also additional facts adding up to probable cause. For instance, a hit on a record two years after a vehicle was stolen would in itself be inadequate probable cause for an arrest, since it would be possible or even probable the vehicle was then in the possession of an innocent purchaser rather than the original thief. To make an arrest under these circumstances, the officer would need not only the element of the hit but also additional facts adding up to probable cause. A hit confirmed with the originating agency can be adequate grounds to recover stolen property, return a missing person, arrest a fugitive, or charge a subject with violation of a protection order.¹⁴

What entity is responsible for maintaining NCIC system security and quality control?

The head of the CSA appoints a CJIS Systems Officer (CSO) from its agency. The CSO is responsible for monitoring system use, enforcing system discipline and security, and assuring that all users follow operating procedures. NCIC policy establishes a number of security measures to ensure the privacy and integrity of the data, which are encrypted to prevent unauthorized access. Each user of the system is authenticated to ensure proper levels of access for every transaction. To further ascertain and verify the accuracy and integrity of the data, each agency must periodically validate its records. Agencies also must undergo periodic audits to ensure data quality and adherence to all security provisions.¹⁵

Will an inquiry of the NCIC Wanted Persons File produce a response from any other NCIC file?

Yes, a Wanted Person File inquiry will also search the Foreign Fugitive, Gang, Identity Theft, Immigration Violator, KST (Known or Appropriately Suspected Terrorist), Missing Person, National Sexual Offender Registry, Protection Order, Supervised Release, and the U.S. Secret Service Protective Files.¹⁶

What is the NCIC procedure regarding Hit Confirmation and what does it mean to confirm a hit?

Any agency which receives a record(s) in response to an NCIC inquiry must confirm the hit on any record(s) which appears to have been entered for the person or property inquired upon prior to taking any official actions based upon the hit NCIC record: 1) arresting the wanted person, 2) detaining the missing person, 3) seizing the stolen property, 4) charging the subject with violating a protection order, 5) denying the subject the purchase of a firearm, or 6) denying the subject access to explosives as regulated under the Safe Explosives Act. Additionally, an agency detaining an individual on local charges where the individual appears identical to the subject of the wanted person record and is within the geographical area of extradition must confirm the hit.

¹⁴ NCIC 2000 Operating Manual, Introduction, Section 1.2, Data and Probable Cause

¹⁵ USDOJ, FBI CJIS Division, National Crime Information Center, An Overview - December 2010

¹⁶ USDOJ, FBI CJIS Division, National Crime Information Center, The NCIC File Reference Card, August 2010

Confirming a hit means to contact the agency that entered the record to:

1. Ensure that the person or property inquired upon is identical to the person or property identified in the record;
2. Ensure that the warrant, missing person report, protection order, or theft report is still outstanding;
3. Obtain a decision regarding: 1) the extradition of a wanted person when applicable, 2) information regarding the return of the missing person to the appropriate authorities, 3) information regarding the return of stolen property to its rightful owner, or 4) information regarding the terms, conditions, and service of a protection order; and
4. Determine if the entering agency wants the record to be located when the missing person was identified by partial body parts.¹⁷

To facilitate compliance with hit confirmation requirements, the originating agency must be available 24 hours a day to confirm its record entries. Nonterminal agencies must sign a "Holder of the Record" agreement with a 24-hour agency delineating the responsibility for hit confirmation. Originating agencies that are not available 24 hours must place instructions for after-hour hit confirmation, e.g. a 24-hour contact telephone number or an Originating Agency Identifier (ORI) in the Miscellaneous Field.¹⁸

Must agencies respond to Hit Confirmation requests within any specified timeframes?

Yes, the hit confirmation procedure is based on two levels of priority: Urgent and Routine. Agencies must respond as follows:

Priority 1: Urgent

The hit must be confirmed within 10 minutes. In those instances where the hit is the only basis for detaining a suspect or the nature of a case requires urgent confirmation of a hit, priority 1 should be specified.

Priority 2: Routine

The hit must be confirmed within 1 hour. Generally, this priority will be used when the person is being held on local charges, property has been located under circumstances where immediate action is not necessary, or an urgent confirmation is not required.¹⁹

What is validation and how is it accomplished?

Validation obliges the ORI to confirm that the record is complete, accurate, and still outstanding or active. Validation is accomplished by reviewing the entry and current supporting documents, and by recent consultation with any appropriate complainant, victim, prosecutor, court, nonterminal agency, or other appropriate source or individual. In the event the ORI is unsuccessful in its attempts to contact

¹⁷ NCIC 2000 Operating Manual, Introduction, Section 3.5, Hit Confirmation Procedures

¹⁸ NCIC 2000 Operating Manual, Introduction, Section 1.3, Responsibility for Records

¹⁹ NCIC 2000 Operating Manual, Introduction, Section 3.5, Hit Confirmation Procedures

the victim, complainant, etc., the entering authority must make a determination based on the best information and knowledge available whether or not to retain the entry in the file.²⁰

To be considered timely, when or how quickly must warrant entries be made to the NCIC Wanted Person File?

To ensure maximum system effectiveness, NCIC records must be entered immediately when the conditions for entry are met, not to exceed 3 days, upon receipt (electronic or hard copy format) by the entering agency. The only exceptions to immediate entry are when otherwise prescribed by law or when documentation exists to support delayed entry.

Wanted Person File – Entry is made immediately after the decision to arrest or authorize arrest has been made.

Before entering a wanted person record in NCIC, the entering agency must attempt to determine, to the maximum extent possible, if extradition will be authorized if the individual is located in another state.²¹



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²⁰ NCIC 2000 Operating Manual, Introduction, Section 3.4, Validation

²¹ NCIC 2000 Operating Manual, Introduction, Section 3.2, Maintaining the Integrity of NCIC Records