



Introducing the Differential Warrant/Order Concept

Preliminary data from the new DRAI shows almost double the amount of youth that score for secure detention are placed in secure detention as a result of screening. The primary reason for this statistic is the number of court orders issued that mandate the placement of secure detention regardless of the DRAI score. Further examination of these court orders revealed the most frequent reason for issuance is failure to appear for a court hearing. The goal of the order is typically to have the youth duly noticed and set a new hearing date.

DID YOU KNOW?

- In calendar year 2019, 2,177 youth were detained for failure to appear, which accounted for 12% of the overall detention admissions.
- Most of these youth only stayed in secure detention for 2 days, which means they were released at the detention hearing with a notice to appear for a new hearing.

WHAT IS THE DIFFERENTIAL WARRANT/ORDER CONCEPT?

The differential warrant/order concept is simply consideration/implementation of multiple options for resolving the matter before the court as opposed to a one size fits all. These options should be available on the court order for all court personnel to consider. In many circuits around the state, a failure to appear always results in an order to securely detain. In other circuits, practices that involve in court resets or modified language that allows for alternative resolutions. However, these practices may not be consistent if the various options are not available on the court order for anyone to see. This means if there are rotating court personnel for detention hearings (which happens quite frequently on weekends and holidays), they may not be aware the other options could be considered.

REASONS TO CONSIDER THE ADOPTION OF THIS PRACTICE

- There may be extenuating circumstances related to the youth's failure to appear: transportation issues, lack of parental support, didn't receive notice due to relocation, etc.
- Lessens the number of detention hearings needed just to provide a new hearing date.
- Prevents lower risk kids, who may not have ever otherwise scored for secure detention, from being exposed to higher risk youth.

CONSIDER MAKING THE PROCESS SUSTAINABLE

The creation of a written circuit policy which allows for all counterparts to understand why the practice was implemented and the various options for the court within it can help to ensure sustainability.

IMPLEMENTING THE CONCEPT

Courts that choose to implement this concept typically consider the following factors:

- Number of previous failures to appear
- Youth's level of contact with attorney and DJJ (Is there a way to determine the youth was duly noticed and reminded of the hearing?)
- Known previous barriers to court appearance (Is this willful or not? Were any resolutions to barriers beyond the youth's control implemented?)
- Youth's age (Is the youth old enough to arrange transportation without parental assistance)

After consideration of the factors, the following options are explored to determine the most appropriate response:

Option 1: In Court Reset

The court immediately sets a new hearing date and allows the youth's attorney or the Department of Juvenile Justice (DJJ) an opportunity to contact the youth/family to advise of the new court hearing and address any barriers to court appearance.

Option 2: Notice and Release Order

Issue an order for the youth to be taken into custody by law enforcement, taken to DJJ for screening, and receive a new noticed to appear in court regardless of score.

Option 3: Order to Place According to Score

Issue an order for the youth to be taken into custody by law enforcement, taken to DJJ for screening, and placed according to DRAI score.

This means if the youth scores 12 or less points, he/she will simply be noticed for a new hearing date. If he/she scores for secure, placement in secure will occur until further determination can be made by the court at the detention hearing.

Option 4: Mandatory Hold Order

Issue order for youth to be placed in secure detention regardless of score. This is typically reserved for youth who have exhibited a pattern of willful failure to appear.

Order Example
CIRCUIT COURT, XXX COUNTY, FLORIDA
JUVENILE DIVISION

UCN: XXXXXXXXXXXXX

Case Number: XX-XXXXDLANO

In the interest of:
XXXXXXXXXXXX
A child.

Person ID: XXXXXXXXXXXXXXX

CUSTODIAL WARRANT/ORDER TO TAKE INTO
CUSTODY

This cause having come on to be heard upon the Court's own motion and the Court being advised that the said child failed to appear on -DATE- AT THE SCHEDULED -HEARING TYPE- on the charge(s):

XX-XXXXDLANO BATTERY

Ordered and adjudged that any law enforcement agency is hereby authorized to take: --Youth name-- who resides at:

-----, FL -----

Into custody and deliver him/her to the Department of Juvenile Justice (DJJ) for detention screening. Upon delivery, the Department will:

- Notice and release the child to appear within XXX county regardless of score.
- Screening and place according to score. The child that scores 12 or less will be released and noticed to appear the next week day (Monday through Friday) at a detention hearing within XXX county. The child that score 13 or more will be delivered to the regional detention center with a detention hearing.
- Deliver the child to the regional detention center regardless of score with a detention hearing.

IT IS FURTHER ORDERED AND ADJUDGED that speedy trial is hereby waived.

DONE AND ORDERED ON THIS THE XX DAY OF XX MONTH XX YEAR.

Circuit Court Judge