

STEP PROGRAM ARREST WARRANT/INITIAL APPEARANCE PROCESS
September 6, 2007/Amended 12/10/2008

PETITION - ARREST

1. STEP USPO checks with STEP Team as to whether Petition for Warrant should be prepared for an alleged violation.
2. If Team agrees, STEP USPO prepares Petition for Warrant based on allegation of a violation of probation/supervised release/or STEP conditions. For STEP participants this will likely occur due to a failure to appear for RRC placement or in-patient treatment. A warrant might also issue for a failure to appear at a STEP session.
3. STEP Judge (or in his/her absence another Judge) signs the Petition.
4. Petition filed and Warrant issues.
5. If the person is gone for 30 days without contact or is arrested in another district:
 - A. the person will be terminated from the STEP program by order from STEP Judge and jurisdiction will be transferred back to the original sentencing judge. This will not necessarily disqualify that individual from reapplying to the STEP program at some future time.
 - B. The order will also include that "_____, of the Federal Defenders of Eastern Washington and Idaho, is relieved of his/her limited appearance in this case as the STEP Team member from the Federal Defenders."
6. Arrest by Marshal - held in custody until initial appearance pursuant to FRCP 32.1. Must be "without unnecessary delay." FRCP 32.1(a)(1).

INITIAL APPEARANCE

1. The scheduling clerk should advise the presiding Judge that the Defendant is a STEP participant.(case flag will indicate "STEP")
2. STEP AUSA and STEP FD will be counsel of record on the case (via prior substitution of counsel, if necessary, at Defendant's acceptance into STEP) and be notified of the hearing via ECF or contact by the scheduling clerk.
3. Participant must have Federal Defender duty officer present to represent them. Legal advice may be needed.
4. It is important that participant is advised of the two choices that exist:
 - A. stay in STEP Program and thus waive all hearings and remain in custody pending disposition by STEP Team; or
 - B. withdraw from voluntary STEP Program and become eligible for appointment of counsel and all due process hearings.
5. Determination as to which choice the person wants to make.

NOTE: Ideally STEP USPO or USPO Duty officer will have spoken with person and determined what happened and what choice the person wants to make about STEP participation. This information can be given to the AUSA, FD Duty Officer and STEP FD. Since drug use is likely to have occurred prior to arrest, some persons may have difficulty making the decision. Perhaps a recess or rescheduling to allow the person time to consider the options or discuss the matter with the STEP USPO may be necessary.

IF PARTICIPANT WANTS TO WITHDRAW FROM STEP

1. Person is advised that the STEP Judge will issue an order terminating the person's participation in the STEP Program and transferring jurisdiction back to the original sentencing judge.
2. The initial appearance then proceeds as it would normally for a supervised release/probation violation. If eligible, new defense counsel will be appointed.
3. Because the Judge conducting the initial appearance will not know when the revocation hearing is to be scheduled - the participant should be advised that the original sentencing judge's chambers will set that hearing.
4. STEP Judge should be copied on the initial appearance order- so that his chambers can prepare the necessary STEP order terminating the person's participation in the STEP Program and transferring jurisdiction back to the original sentencing judge. The transfer order should note that a revocation hearing needs to be scheduled.

IF PARTICIPANT WANTS TO STAY IN STEP PROGRAM

1. Person is advised that he/she will be held in custody.
2. Person is advised that he/she will be brought to the next STEP session by the Marshal on a date certain OR STEP Team will issue order releasing participant to the USPO, RRC or a treatment program.
3. Person is advised that custody may continue for more than 7 days if waiting for an in-patient bed date or space at an RRC.
4. Person orally agrees to this continued custody and waives detention determination pursuant to FRCP 32.1(a)(6).
5. The initial appearance order should set hearing date for the next STEP session so the Marshal knows to bring the person to the session. If the person is released before that, the hearing date will be stricken in the order of release.
5. The initial appearance order should be copied to the STEP Judge.

STEP TEAM ACTIONS - RELATED TO DETAINED STEP PARTICIPANTS

1. USPO should consult with Team about plan for detained participant.
2. If the next STEP session is within 7 days of initial appearance, then the Team might choose to handle the issue at that session
3. If next session is more than 7 days after the initial appearance, the USPO may discuss a plan with the Team via email.
 - A. If the warrant issued for a failure to appear at an RRC, the Team might agree to an Order of Release with specific date, time, and for the person to be released to the USPO for transport to the RRC.
 - B. If the warrant issued for a failure to appear for an in-patient treatment program, the USPO should determine when a bed date could be available, and the Team might agree to an Order of Release with specific date, time and person/program to whom they are to be released for entry into the treatment program.

(Marshal confirmed that the release order is all that is necessary for the Marshal- no 199C)
4. The release order should advise that allegations have been resolved and terminate the Petition for Warrant.
5. The Team will address whether any additional sanction is necessary for absconding — which would occur at the next STEP session the participant attends.