

National Public Registry of Active-Warrants: A Policy Proposal

David M. Bierie

University of Maryland, College Park

THERE ARE OVER two million active criminal warrants in the United States on any given day (Bierie, 2014). Over 1 million of these warrants are for felonies and approximately 100,000 are for serious violent crime (Bierie, 2014). Law enforcement agencies invest significant resources in pursuing fugitives and processing warrant arrests (Goldkamp, 2012). For example, Guynes and Wolf (2004) examined police departments across three counties and found that nearly half of all arrests emerged from warrant investigations. Similar patterns are observed in federal law enforcement. The U.S. Marshals Service (USMS) makes approximately 150,000 warrant-arrests per year, a figure that represents just over half of all arrests made by the U.S. Department of Justice (U.S. Marshals, 2013). Warrant investigations, then, represent a major component of policing at the local as well as the federal level.

Warrant investigations are important to the criminal justice system in part because they are pervasive, but also because “fugitives represent not only an outrage to the rule of law, they are also a serious threat to public safety” (Fugitives, 2001, p.1). Fugitives are presumed risky because an elevated propensity for crime likely drove many into the status of “fugitive” in the first place. They are also presumed risky because being a fugitive adds new structures that likely amplify this underlying propensity. That is,

without resort to the police and the courts, [fugitives] take the law into their own hands. [Fugitives], even more than (unwanted) criminals, can neither use the law nor find stable work in noncriminal enterprises. As a result, crime becomes a

natural source of income, moreover, the costs of using violence to solve disputes decreases for people who are already outside the law. (Tabarrock, 2012, p.463)

The evidence to date suggests support for these assertions. Peterson (2006), for example, found that 22 percent of domestic violence fugitives were rearrested for a new crime prior to capture for their active warrant. Though less dramatic, Guynes and Wolf (2004) found that 8 percent of fugitives with warrants for violent crimes were arrested for a new crime prior to their warrant being served.

The literature above suggests that warrants are important in terms of public safety, budgets, and opportunity costs for police time allocated to warrant investigations. Increasing the efficiency of warrant investigations would return substantial benefits to taxpayers. This includes strategies or technologies that would increase voluntary surrender among wanted persons (Flannery & Kretschmar, 2012). It also includes finding ways to increase the ability of citizens to offer tips (Miles, 2005). And finally, it includes addressing other high-cost problems within this arena of enforcement, such as the risk of false arrests due to error in warrant databases. In short, the great cost of warrant investigations suggests an equally great opportunity for police and communities; opportunities for law enforcement and citizens to work together toward increasing the efficiency and effectiveness of fugitive apprehension.

Opportunities Created by a Registry

Warrant investigations present several opportunities to the police as well as the public. The

first opportunity is that many fugitives do not know that they have a warrant—but might turn themselves in if they did. Flannery and Kretschmar (2012) show some evidence of this in their analysis of the U.S. Marshals Service program, *Fugitive Safe Surrender*. They found that over 40,000 fugitives voluntarily surrendered across 10 cities when given a platform for doing so. They also found that an additional 8,000 attempted to turn themselves in because they believed they had a warrant, although none could be found by law enforcement officers running the program. This research implies that (a) there are a nontrivial number of people with warrants who would willingly contact law enforcement and process their warrant if given a medium to facilitate that action, and (b) people make errors in assessing their own warrant status.¹ Given the lack of certainty among wanted persons observed in this research, we must wonder how many other fugitives also would have volunteered if they had known about their warrant—how many are *unintentional fugitives*.

A second opportunity is tied to the goal of locating fugitives who would not choose to self-surrender (*intentional fugitives*). Many fugitive-apprehensions derive from the assistance of other citizens as informants or

¹ It is important to note that the *Safe Surrender* program added motivation for fugitives to surrender, either through the promise of leniency, the threat of a pending sweep by law enforcement, or the convenience of fast processing. However, these aspects of the program are not the point of referencing *Safe Surrender* here. Rather, *Safe Surrender* is used to illustrate the assertion that (a) there is value in making it easier for citizens to turn themselves in, and (b) some citizens mistakenly believe they have warrants.

witnesses: people interviewed by police who offer tips (Miles, 2005). In many cases, fugitives live under their true identity and interact with people who know them (Goffman, 2009). That is, “fugitives often need some connection to the life they had prior to their warrant—few can truly disappear to seek a new life wholly unconnected with their prior one” (Bierie & Detar, 2014, p.18). There are often opportunities, then, for citizens to turn a fugitive in. However, there is often no way for people to realize they are associating with a fugitive; that information is usually hidden from public view. Thus, citizens who could otherwise proactively contact police are not given the chance and police must instead employ alternative and inherently more costly investigative techniques in order to locate the same fugitive.

A third opportunity with fugitive investigations is tied to inaccurate or outdated information in warrant databases. The National Criminal Information Center (NCIC) is the central transactional data system that tracks the nation’s warrants. All police agencies can enter their warrants in the system and check the system to identify whether a given individual has a warrant. It is likely that some active warrants are in the system but are associated with the wrong identity. It is also possible for an old warrant to remain active when it previously should have been cleared out of the system. Either case can lead to a false arrest (Holt, 1993).

There is no comprehensive research showing how often false arrests occur nationally. However, an internal audit of one year’s worth of arrests in Chicago found that 155 out of approximately 30,000 arrests made were confirmed false arrests due to clerical errors in the warrant system in 1992 (Holt, 1993). This error rate was similar to that derived from an earlier audit, which found 1,271 erroneous warrants in Chicago out of 125,000 reviewed during 1991 (Holt, 1993). A similar analysis of arrests in Denver found approximately 500 false arrests due to erroneous warrants between 2002 and 2009 (Frosch, 2012). Although these mistakes only occurred in a fraction of all warrant arrests, the costs were likely enormous for citizens affected. And the costs are also potentially enormous for law enforcement agencies that may be held liable for a false arrest and ordered to pay substantively large fines (Holt, 1993).

National and Public Active-Warrants Registry

Creating a national public registry of active warrants (NPRAW) would likely assist law enforcement and communities in pursuit of these three opportunities presented by fugitive investigations. First, citizens could more easily identify situations in which they could offer tips. This might come from providing various search features (e.g., allowing a citizen to search for wanted people from their geographical area, or a specific name of an individual). To this end, a NPRAW might be created in a similar fashion to the National Sex Offender Public Website.² However, a NPRAW might include additional features as well. For example, perhaps citizen motivation could be enhanced by identifying cases in which a reward was offered. Or citizen safety could be enhanced by denoting risk to the public (e.g., fugitive is armed and dangerous; fugitive is a sexual predator).³ And finally, it could ease reporting for citizens by providing potential informants with instruction as well as actionable options. If a citizen has seen someone he or she knows and wishes to alert police, then a registry could provide contact information for the police department or an on-line tip submission system (Rosenbaum, Lurigio, & Lvragas, 1989). It is unclear how many citizens would actively assist police, of course. But research has consistently shown that programs that alert the public to specific crimes or offenders generate significantly higher rates of closure through tips by the public (Miles, 2005; Rosenbaum et al., 1989). The value is likely to be far from trivial.

Second, citizens could use this system to monitor their own status.⁴ If the warrant was

legitimate, then they could obtain step-by-step instructions for contacting police and coordinating surrender. Warrant investigations would benefit because this process could clear out the pool of unintentional-fugitives from warrant investigation caseloads. Law enforcement could then focus resources that would have been used to track down such unintentional-fugitives on those who were actually on the run. This would result in more efficient use of resources and also, by definition, higher warrant clearance rates.

Encouraging more voluntary surrender would lead to increased efficiency beyond police agencies. Arrestees could transport themselves to the court (or jail) to deal with processing rather than invoking the costs associated with a field arrest and police transport. Presumably, a jail or court could schedule a time for the fugitive’s arrival to maximize turnaround speed with respect to court appearance. This would reduce the number of jail beds used and other resources needed for fugitives arrested in the field. For example, many warrant arrests that occur in the evening or on a weekend require the arrestee to be housed in the jail overnight or for several days before a weekday court appearance. To the degree that some of these warrant arrests would have resulted in an immediate release after a court hearing, facilitating a fugitive-surrender operation would save local jail space and associated costs. These benefits could represent meaningful direct and indirect saving to local agencies (Flannery & Kretschmar, 2012).

Encouraging self-surrender also has the potential to reduce intrusion on the lives of offenders, their families, and their communities. As noted above, arrests can be costly for offenders and their families. An arrest can set off a cascade of problems such as losing wages, losing jobs, disrupting family obligations (such as the provision of child care by the arrestee), and traumatizing children who witness a family member arrested. These costs may be less likely to emerge if the warrant closure can be timed to eliminate the public display of an arrest—by avoiding the arrest of a fugitive at a place of work, in a car full of children, or in front of neighbors. Certainly, avoiding some collateral costs of an arrest will not always be possible. Those with serious crime warrants may need to be held in custody regardless of self-surrender and for that reason experience job loss or other costs. But the majority of warrants are for nonviolent (Bierie, 2014) or traffic offenses (Guynes &

² The National Sex Offender Public Website (NSOPW) is an on-line searchable and national list of all registered sex offenders. It tracks real-time data, includes geographic and other search criteria, and also displays photographs and crime information to the public. The NSOPW tracks just fewer than 1 million sex offenders by linking to state and local registry data systems. As such, the structure of the data and delivery system, size records, and quality of information on a National Registry of Active Warrants could likely be comparable to the NSOPW. The website is operated by the U.S. Department of Justice’s SMART office and can be found at: <http://www.nsopw.gov/>

³ For an example of this type of system, but limited to warrants from a single agency, see: http://www.fbi.gov/wanted/wanted_by_the_fbi/@@search-fbipe rsons?CustomSearchableText=&form.button.search=&getPossibleCountries=JPN&mileage=&zipcode=

⁴ It is possible that law enforcement would want some warrants to remain undisclosed, and so this functionality would be a necessary feature as well.

Wold, 2004). It is likely that the majority of fugitives who self-surrender would indeed reap these benefits.

Third, a NPRAW would likely reduce personal and social costs associated with a special problem in the context of warrants: people who believe they have a warrant but do not. Flannery and Kretschmar (2012) found that approximately 8,000 people who arrived to voluntarily process their warrants during *Safe Surrender* events had no warrant—nearly 20 percent of the population arriving for the program. Likewise, ethnographic work suggests many people living in areas of concentrated disadvantage are unsure of their warrant status, and so default to a life “on the run” just in case they are wanted. The costs to these offenders, their families, and their communities may have been large regardless. Goffman (2014) describes the many changes appearing in the lives of young men who believe they *may* have warrants:

He does not show up at the hospital when his child is born, nor does he seek medical help when he is badly beaten. He doesn't seek formal employment. He doesn't attend the funerals of close friends or visit them in prison. He avoids calling police when harmed or using courts to settle disputes. (Goffman, 2014, p.52).

For example, she describes a young man afraid of appearing for a child custody hearing—desperate to gain access to his child, but worried he *may* have warrants and afraid of the trauma his young son would experience seeing his father arrested and hauled from court.

Taken to a national scale, we must wonder how many people have changed their lives through a mistaken belief they were wanted. How many worked in under-the-table employment rather than accepting higher-paying on-the-record jobs? How many avoided volunteering or otherwise altered their behavior in order to avoid background checks or contact with police? How many were victims of crime but did not report for fear they themselves would be arrested when police arrived? What is the cost to citizens, their families, and their communities when they hold an erroneous belief that they are living on the run? Some of these costs can be reduced by providing a comprehensive and easy-to-access registry of active-warrants.

Fourth, a NPRAW could allow citizens to alert police to a mistake in the warrant system and perhaps even obtain access to step-by-step instructions for rectifying that mistake. Some of the citizens who would benefit are those

that have never had a warrant (pure mistaken identity). Others are citizens who may once have had a warrant that should have been closed previously. It remains unclear whether false arrests due to warrant-errors are frequent and how often they invoke meaningful harm to citizens. Yet, if 500 false arrests have been documented in Denver, and several hundred more in Chicago, one must wonder how many thousands of false arrests occur at the national level. And equally important, we must wonder whether any level of trauma to these citizens is acceptable if a system or strategy can be created relatively easily to prevent or reduce it.

Importantly, the benefits of preventing mistaken arrests are not limited to the experience of citizens and their families. Reducing these events could reduce liability for individual police agencies, such as the costs of litigation and compensation for errors. It may do so through limiting the number of errors in the system as well as placing a plausible sense of responsibility on citizens to identify and address errors. It is important to note that these arguments should not be considered a negation of responsibility for police to audit their records and processes to reduce error. They should do so. And perhaps embracing the public as auditors, and the transparency of data that is implied, will serve as additional motivation for police to do so. Regardless, reducing the number of false arrests implies a reduction in the myriad ways that arrest can damage a person, their family, police budgets, and the legitimacy of police in that community.

Challenges to Implementation

The technical aspects of producing a national registry of active-warrants are achievable. The data already exist in a single master file maintained by the U.S. Department of Justice (Bierie, 2014). Referred to as the *Wanted Persons* file, this dataset is maintained by the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Division and is the same master file that law enforcement access throughout the nation via National Criminal Information Center (NCIC) terminals. The dataset contains columns of data representing pertinent information about wanted persons, their charges, special risks posed (e.g., armed and dangerous), and the agency requesting the arrest, such as the agency name, location, and contact information (Bierie, 2014). The costs and time needed to supply data for a national public registry would likely be similar to those for

the National Sex Offender Public Website.⁵ However, there are likely several important legal and technological challenges to consider.

Challenges to a National and Public Registry of Active Warrants

Although creating a registry would be technically feasible, there are important legal questions that must be addressed before doing so. First, would the creation of a national active-warrants registry violate the privacy of fugitives? Is information on active warrants protected from public dissemination, similar to criminal history data? The distinction between warrants and criminal history, which is more protected, is critical. Law enforcement and the public have the right to know and disseminate warrant information. It is for this reason that many law enforcement entities in the U.S. already display active-warrant details on television and websites, and in newspaper ads. Many state, county, and city websites display photos and other information about wanted persons from their jurisdictions. The same is true of federal law enforcement as well. The U.S. Marshals Service posts pictures, personal information, and crime details of wanted persons in local newspapers to solicit tips and maintains a public website displaying most wanted fugitives. The same is true of other U.S. Department of Justice entities (e.g., Federal Bureau of Investigation, Alcohol Tobacco & Firearms, Drug Enforcement Agency). Likewise, the Department of Defense, Department of State, Interpol, and myriad other federal entities all maintain publicly available online displays of fugitives. In fact, displaying information on wanted persons in public has been a tactic by law enforcement consistently for more than 200 years in the U.S. (Fifer & Kidston, 2003). Importantly, however, these city, county, state, and federal agencies have generally only displayed the 10 or so “Most Wanted” fugitives in their particular jurisdiction rather than the universe of wanted persons. Few, if any, of the modern online systems are comprehensive, linked together, consistently designed, or searchable.

A second challenge to the creation of a registry is likely to be a concern over harm.

⁵ The cost to maintaining a national registry of warrants would likely be similar to the cost of the NSOPW, which is operated by a private vendor managed by the U.S. Department of Justice's Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) office. That cost is budgeted for up to \$500,000 per year: <http://www.ojp.usdoj.gov/smart/pdfs/SMARTFY13nsopw.pdf>.

What if the information is used as justification for firing an employee, destroys a romantic relationship, or generates other collateral harm to the social standing of a fugitive? Even worse—what about a person who is listed by administrative error? What if being listed leads to social harm for these minor or mistaken cases? There is no easy answer to the questions of potential deleterious impacts of a public registry of active warrants. However, it is important to weigh these concerns against the benefits. The same fugitive that we are concerned about “outing” via a public registry is likely to be “outed” regardless. The current system does this by officers showing up at someone’s place of employment, home, or vehicle and placing that person in handcuffs and transporting them to jail. The fugitive’s employer, family, and community are likely to become aware of the warrant because of the dramatic and public display of an arrest. Residents, friends, and employers are often left wondering what the arrestee might have done: Is he dangerous? Is he to be trusted? Again, most warrants are for non-violent crimes. Yet the public may assume far worse of an arrestee in these cases than if information came from a registry. Public arrest likely would lead to more stigma than a registry—outing, then, because of the public nature of an arrest and the absence of contextual information available on a registry (e.g., seeing a charge of “failure to appear in traffic court” or “probation violation” on a public registry). Business as usual is likely to be far more damaging to a fugitive wanted for minor offenses or administrative error than the display of that warrant on a public registry, a system which is clear regarding the content of the warrant and, perhaps, allows the fugitive to quickly process and remove that information before it is viewed by people connected to their lives.

Any system that publicly displays personal information is controversial, and this is especially true as the sensitivity or comprehensiveness of the data grows. As such, there is often a very high bar in terms of public

demand, efficiency, and legal basis before such data systems can be built. I have argued here that building this system would be relatively cheap. This is because it already exists and is in operational use by all law enforcement across the U.S.; it is merely hidden from the public. Second, transitioning these types of hidden law enforcement systems into publicly available systems has been done before and was fairly easy to accomplish. The National Sex Offender Registry Website was created in approximately one year and cost around \$1 million.

I have also argued that a registry would be valuable, because there is some evidence that people do tend to offer tips to police about wanted persons and people do tend to turn themselves in. It would also likely be valuable in providing a way for people with mistaken warrants to learn about a warrant and correct it before they experience a false arrest. But all of these actions are contingent on knowing about a given warrant. Even if a registry only provided a fraction of improved efficiency in warrant investigations, the returns would likely be enormous, because warrant investigations may well account for half of all arrests and thus a significant amount of police resources across the nation.

In short, I argue that the creation of a national public registry of active warrants is a smart policy choice. At the very least, the above arguments suggest that academia, policy makers, and the public should discuss and debate the merits.

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