

Rules and Procedures

Rule 318E

June 12, 2006

Rule 318E - FUGITIVE FROM JUSTICE – PROCEDURES

PURPOSE: This rule is issued to establish Department policy and procedures and ensure compliance with existing statutes and regulations when encountering individuals wanted by an out of state jurisdiction.

SEC. 1 GENERAL CONSIDERATIONS: Members of the department must follow specific procedures when encountering persons wanted by an out of state jurisdiction for criminal violations. Officers must rely on information provided by the out of state jurisdiction to establish probable cause for an arrest. Officers must pay special attention to extradition language before making an arrest for “Fugitive from Justice.” Members of the department must carefully document actions taken and follow up with procedures cited in this rule.

SEC. 2 DEFINITIONS: For purposes of this rule, the following definitions shall apply. Officers will note that the terms extradition and rendition can be used interchangeably, depending on the jurisdiction involved. However, when an individual is surrendered from one country to another country, the term extradition is used exclusively.

A. Extradition: The surrender by one state or country to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which, being competent to try and punish him/her, demands the surrender (Black’s Law Dictionary, 5th edition).

B. Rendition: The return of a fugitive to the state in which he/she is accused of having committed a crime, by the order of the governor of the state to which the fugitive has gone (Black’s Law Dictionary, 5th edition).

A trial court justice is also authorized to demand the return of a fugitive.

C. Uniform Criminal Extradition Act (UCEA): Most states, including Massachusetts, have adopted this federal act. The UCEA allows the arrest of fugitives in a state accused of a crime in another state for which the penalty is at least one year in jail.

Officers should also note M.G.L. Chapter 276, Sections 11-20, Fugitives from Justice and Chapter 209D, Uniform Interstate Family Support Act, Article 8, Interstate Rendition.

SEC. 3 PROCEDURES: When an officer determines during a lawful stop through an MDT or Nova Base query that an out of state warrant exists, he/she shall adhere to the following procedures:

A. MDT Query: During an MDT query, if an officer determines that an individual is a "Wanted Person" from an out of state jurisdiction, the officer shall pay particular attention to specific extradition/rendition instructions. The officer shall read the entire prompt within the MIS field to determine whether the person is subject to extradition/rendition.

When reading a Warrant Hit Notification on an MDT, if a NOEX " (No Extradition) is displayed in the MIS field, NO ARREST shall be made. The officer will release the person and complete an FIOFS and an incident report utilizing incident type "Investigate Persons." The incident report shall include the following:

- § NCIC Reference Number (NIC Number)
- § OCA Number (Originating Case Agency)
- § Name of Department, City and State

B. Nova Base Query: Officers without access to an MDT may make a warrant query based on the lawful stop of an individual by contacting Nova Base at Operations. Officers shall request a query of this individual supplying all available information. Upon a "Hit Notification" (Hit on a Wanted Person), Nova Base shall contact the warrant unit for verification of the information. Warrant unit personnel shall check on the information and relay its findings to Nova Base. Nova Base shall then notify the requesting officer whether or not an arrest is authorized.

The Warrant Unit shall comply with the following procedures:

- § Advise unit to standby for warrant verification
- § Carefully read message in the containment field
- § Carefully advise unit of extradition/NOEX instructions included in Teletype response

Strict attention must be paid to extradition/rendition, extradition/rendition limitations, and NOEX orders.

C. Arrest Process: Upon determining that a person is subject to extradition/rendition, the officer shall transport the subject to the district of arrest occurrence and send a "Hit Confirmation" request (YQ message), entering "U" in the priority field, to the originating agency to confirm the warrant and the agency's willingness to extradite. The officer will also request to have a copy of the warrant faxed to him/her.

After receiving confirmation of extradition/rendition (YR message), and a copy of the warrant, the officer shall complete the booking process, make out an incident report

and complete a court application for complaint charging the person as a “Fugitive from Justice” (MGL Chapter 276 Section 20A) along with any additional local charges.

D. Hit Notification through Identification Unit: When a suspect has been booked on unrelated charges and the Identification Unit is notified through IAFIS that an arrested person is wanted on an NCIC warrant, the ID Unit shall enter this information into the imaging system and notify the Fugitive Unit and the Duty Supervisor of the district where the person is in custody.

After the Duty Supervisor receives confirmation of a wanted person from the Identification Unit, he/she will assure that the procedures set forth for individuals subject to extradition/rendition are followed. However, the arresting officer shall complete a supplementary incident report using “Fugitive from Justice” in the crime category. The arresting officer will also make out a court application for complaint charging the suspect as a “Fugitive from Justice” (MGL Chapter 276 Section 20A) on behalf of the demanding state. The officer will attach a copy of the supplementary report and complaint to the original court complaint package.

When an individual is booked as a Fugitive from Justice, the district shall fax a copy of the following documents to the Fugitive Unit at 617.343.5351 and Teletype at 617.343.4750:

- § Incident/Supplementary report(s)
- § Application for Complaint
- § Copy of Warrant
- § Copy of YQ and YR message
- § Confirmation of extradition from originating agency and any other pertinent information

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