

Rules and Procedures

Rule 321

April 15, 1992

Rule 321 - BAIL AND BAIL COMMISSIONERS

Sec. 1 GENERAL CONSIDERATIONS: The purpose of setting terms for any pre-trial release is to assure the presence in court of the person released. Any person charged with an offense other than an offense punishable by death, or for an offense on which a warrant of arrest has been issued by the Superior Court, is required to be released on his personal recognizance, unless the person setting the terms of release determines other-wise. The following procedures are established in order to ensure that prisoners are provided with an opportunity to be bailed as promptly as possible.

Sec. 2 BOARD OF PROBATION CHECKS: All persons arrested and detained in Boston Police facilities, and who are to be considered for bail, shall be checked through the Board of Probation (BOP). Such check will be made via Datamax machine. A copy of the BOP report will be attached to the booking sheet (BPD Form 2.1), and will be available for inspection by the Bail Magistrate. Individuals not being considered for bail may also be checked.

Sec. 3 NOTIFICATION OF BAIL MAGISTRATE: After completion of the BOP check as provided in section two of this Rule, the Duty Supervisor, or his/her designee, shall notify the appropriate Bail Magistrate assigned to provide service for the facility where the prisoner is being held. This notification shall be made as soon as possible upon completion of the usual administrative procedures (e.g., fingerprinting, photographing, breath testing, etc.). Such notification shall be made without regard as to whether the prisoner has funds, since persons being held under circumstances justifying a release, who are unable to provide a fee, shall be released by the Magistrate without charge.

Sec. 4 BAIL MAGISTRATE DESIGNATION LIST: The Office of Bail Administration has established a list of personnel authorized to release person from police custody for each district.

Sec. 4.1 Said list will be distributed to each district and kept at the booking desk. No authorized notations or additions will be made to such list. Any changes or additions will be made only upon authorization of the Police Commissioner.

Sec. 4.2 There are three categories in which bail personnel have been designated:

Sec. 4.2.1 "PRIMARY MAGISTRATE" - the bail magistrate(s) who have been designated to provide regular coverage to that holding area, and who should be contacted first.

Sec. 4.2.2 "PRIMARY BACK-UP MAGISTRATE" -- the bail magistrate(s) who have designated to be contacted if the Primary Magistrate(s) cannot respond, or fail to respond within a reasonable amount of time.

Sec. 4.2.3 "AVAILABLE MAGISTRATE" - the bail magistrate(s) who area authorized to respond to the holding area, but who should be contacted only if neither of the above designated magistrates can respond, or fail to respond within a reasonable amount of time.

Sec. 4.3 When the services of bail personnel are required, notification will be made by calling bail personnel in the order established by the list. The "Primary Magistrate" category will be exhausted before moving to the "Primary Back-Up Magistrate category. This category will be exhausted before moving to the "Available Magistrate" category. No attempt will be made to apportion calls among bail personnel.

Sec. 5 BAIL MAGISTRATES AND BONDSMEN VIOLATIONS: This Department must play a significant role in assuring that fairness, efficiency, and dignity characterize the operation of the bail system. To this end, officers should be aware of procedures for assuring compliance with the Superior Court Rules.

Sec. 5.1 No Bail Magistrate shall be permitted to bail a prisoner, except in compliance with the procedure in Section 4 of this Rule.

Sec. 5.2 No Bail Magistrate may be given access to the papers of any arrested person whose bail has been set by another Bail Magistrate. Bail once set is final and cannot be altered by a second Bail Magistrate.

Sec. 5.3 Any Bail Magistrate or bail bondsman present at a police station at a time when he does not have specific business there should be asked to leave. The soliciting of business by bondsmen are not permitted to respond to calls or requests from anyone other than the defendants, their families or attorneys, or authorities who hold the defendants in custody.

Sec. 5.4 Officers should notify persons violating the Superior Court Rules that their conduct is improper and, if the conduct persists or is repeated, they should notify the Office of Bail Administration by sending a written report through Department channels to the Police Commissioner.

Sec. 6 BUSINESS CARD: Business cards of officials authorized to take bail shall not be kept for distribution at any Department facility, and officials concerned will be subject to the rules applicable to those places.

Sec. 7 UNAUTHORIZED DISCLOSURE: All criminal information checks are confidential. Disclosure to unauthorized non-police personnel is a criminal offense and a violation of Boston Police Department Rule 307.