



# MASSACHUSETTS STATE POLICE

## WAIVER OF PROMPT ARRAIGNMENT

I, \_\_\_\_\_, Understand that:

-I have the right to be brought to court as soon as reasonably possible.

- I cannot be brought to court on weekends or legal holidays, or after court hours during the week.
- If I am not brought to court within 24 hours of my arrest, a court magistrate can release me even if court is closed, unless a judge orders that I be held without bail.

I understand that:

- at court I must be told what crimes I am being charged with.
- at court a judge can appoint a lawyer for me if I cannot afford one.
- at court a judge can decide to release me.

I understand that:

- If I was arrested more than six hours ago, the police cannot question me before I am brought to court, unless I sign this notice and agree to talk.
- I can decide to stop answering questions when I want.
- After questioning, I will be brought to court as soon as is reasonably possible.

I hereby waive my rights, and agree to answer questions before I go to court.

It is now \_\_\_\_\_ on \_\_\_\_\_.  
(time) (date)

\_\_\_\_\_  
(officer witnessing)

\_\_\_\_\_  
(person arrested)

\_\_\_\_\_  
(second witness)



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## SJC's Rule on Interrogation Before Court Appearance

The Supreme Judicial Court announced a rule in 1992 regarding the interrogation of defendants who have been arrested. They did this in two opinions, Commonwealth v. Rosario, 422 Mass, 48, and Commonwealth v. Ortiz, 422 Mass 64. The rule states-No arrested person may be interrogated after six hours has past from the time of their arrest. However, an arrested person may be interrogated during the first six hours after arrest without violating Rule 7 of the Massachusetts Rules of Criminal Procedure.

This rule does not require that the arrested person be brought to court within six hours of arrest; however, the rule creates a "safe harbor" from the operation of Rule 7 only for the purposes of interrogation. The interrogation may be on the crimes for which the person was arrested, or on other suspected crimes. The new rule does not relieve the Commonwealth from the requirements of Miranda or rights under c.276, sec. 33A, to use the telephone.

The importance of this ruling is an arrested person may execute **a written (or recorded) waiver** of the right to be brought to court without unreasonable delay, even after the 6 hours have expired. The SJC offered its suggestion of what "warnings" should be included in this waiver. Finally, the six hours do not start running if the arrested person is "incapacitated" by drugs or alcohol, or for any reason "not attributable to the police."

The above is an enclosed "Waiver of Prompt Arraignment" form which should be used whenever a defendant is going to be interrogated beyond the **six hour safe harbor** which was created by the SJC.

This rule is sometimes referred to as the "safe harbor" or "six hour" rule. As long as we have a waiver we interrogation can occur beyond the six hour rule. The waiver has been copied on our letterhead. The interpretations of the law are from first assistant District Attorney Robert Weiner of the Essex County DA'S office.