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THE JUSTICE OF THE PEACE COURT

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ALAN G. DAVIS
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POLICY DIRECTIVE 13-247 (1st SUPPLEMENT)

TO: **ALL JUSTICE OF THE PEACE COURT EMPLOYEES**

FROM: **ALAN G. DAVIS** AGD
CHIEF MAGISTRATE

DATE: **JUNE 15, 2023**

RE: **FUGITIVE WARRANT PROCEDURES**

SCOPE

This policy directive addresses the fugitive process in the Justice of the Peace Court. Six (6) areas of disparities in procedures may be found among the counties, judges within the same county, and different judges working at the same court location. The goal of this policy directive is to present a comprehensive examination of the fugitive process and introduce more consistent and uniform procedures for all Justice of the Peace Court locations.

In addition, this policy directive provides details to the judge for three (3) uncommon scenarios which may possibly come before them: 1) an incarcerated fugitive contesting extradition changes his/her mind after the presentment; 2) the Governor's Warrant or Pre-signed Waiver of Extradition from the demanding state's prosecuting authority (demanding state) is submitted to the Court prior to the scheduled Fugitive Hearing date; and 3) the State does not proceed at the 30-day or at the 90-day Fugitive Hearing.

This policy directive also presents the following forms and documents (each discussed in more detail at the end of the policy directive.) Some are updated with common language. Some are to be given to the fugitive after signing so they have reminders of what the judge explained to them at their presentment. The remainder are for the judges and clerical staff.

a) Updated "Waiver of Extradition" form, now titled "Consent to Extradition;"

b) Updated "Order: Consent to Extradition" form, now titled "Order to Extradite;"

c) New "Contesting Extradition" form;

d) New Fugitive Flowchart; and

e) New Fugitive Warrant Process Clerical Instructions.

This policy directive does not apply to the process for handing juvenile fugitives.[1]

JUSTICE OF THE PEACE COURT POLICY

It is the policy of the Justice of the Peace Court that:

- Judges shall review fugitive warrants for probable cause and approve or deny the warrants based upon the stated probable cause, regardless of whether the defendant has pending Delaware charges or a concurrently-submitted arrest warrant for new State of Delaware offenses (see page 4;)

- When a fugitive agrees to go back to the demanding state, they must sign the "Consent to Extradition" along with three (3) witnesses. Witness signatures must be completed in the defendant's physical presence pursuant to 11 *Del. C.* § 2526 (see page 6;)

- When a judge wishes to conduct a discretionary "extradition review," they may continue to do so, but will need to create a *personal* reminder of their choosing, such as scheduling an Outlook Calendar Appointment for an email reminder. Clerical staff will no longer computer-generate an extrajudicial event to appear on the fugitive's commitment (see page 7;)

- When the Court schedules a 30-day hearing for a fugitive who is signing the "Contesting Extradition" form, the hearing shall be designated a "Fugitive Hearing (see page 9;)"

[1] A discussion on juvenile fugitives can be located in the JP Court Bail Benchbook, under the "Juveniles" tab and on page 2 of the attached Fugitive Flowchart.

- When fugitive probationers or parolees are before the Court, judges shall accept Pre-signed Waivers of Extradition submitted by the State in accordance with the Rules and Procedures of the Interstate Compact for Adult Offender Supervision (ICAOS) (see pages 9;)

- When an **incarcerated** fugitive contesting extradition changes their mind at any time after the initial presentment and submits a request in writing for such change to the Court, the Court shall schedule a video hearing upon the next availability of the Department of Correction (DOC) (see page 12;)

- When a Governor's Warrant or a Pre-signed Waiver of Extradition for an **incarcerated** fugitive is submitted to the Court prior to the next scheduled Fugitive Hearing date, the Court shall schedule a video hearing upon the next joint availability of the State Detective and the DOC (see page 13;)

- Conversely, the Court shall **not** change the scheduled date when a Governor's Warrant or a Pre-signed Waiver of Extradition for a **released** fugitive is submitted to the Court prior to the scheduled Fugitive Hearing date (see page 13;)

- Judges shall fill out and sign the "Order to Extradite" at any juncture in the fugitive process at which the defendant consents to extradition, the State submits proof of a Pre-signed Waiver of Extradition (if applicable,) or the State submits a Governor's Warrant (see page 20); and

- Judges shall sign a new Commitment to accompany a Governor's Warrant or Pre-Signed Waiver of Extradition when a fugitive is committed.

EFFECTIVE DATE

This policy shall take effect on June 26, 2023.

POLICIES AFFECTED

PD 13-247 "Fugitive Warrant Procedures While Awaiting Requisition" is modified in that the judge conducting a discretionary extradition review may not directly contact the demanding state with an inquiry on a delay in requisitioning the fugitive. The judge or clerical staff at the judge's request may contact the Delaware State Detective when this circumstance occurs.

LEGAL MEMORANDUM AFFECTED

LM 80-9 (2nd Supplement) "Extradition," January 28, 1998. The standards for enforceability of a prior, or pre-signed, waiver of extradition have been modified by Delaware's adoption of the revised Interstate Compact for Adult Offender Supervision (ICAOS) in 2003.

DISCUSSION:

SIX (6) AREAS OF DISPARITY IN PROCEDURES

There are six (6) areas to be discussed where disparities in procedures in the fugitive process may be found throughout the J.P. Court's different locations. They are:

1) Approval of a fugitive warrant when the fugitive has pending or new Delaware charges;

2) Supplemental documents submitted to the Court for approval of a fugitive arrest warrant;

3) Signatures on the "Consent to Extradition;"

4) Discretionary "extradition reviews;"

5) Next event scheduled when the fugitive contests extradition; and

6) Pre-signed Waivers of Extradition of Probationers and Parolees.

1) Approval of a Fugitive Warrant When the Fugitive has Pending or new Delaware Charges

When a fugitive has new Delaware charges and another state is currently requesting their extradition, the State may proceed in one of two ways: 1) the State may file an arrest warrant for the current Delaware charges and if the defendant is held on secured or cash financial conditions of release on these Delaware charges, file a copy of the charging document from the demanding state with the Department of Correction (DOC,) which will serve as a detainer; or 2) the State may file both an arrest warrant for the new Delaware charges and, at the same time, a fugitive warrant for extradition to the other state. If an officer is unsure of how to proceed, the judge can inform them that they should contact the State Detective's office in the Attorney General's office for advice.[2]

The submission of arrest warrants to the Court for approval and the decisions on how and when to prosecute the defendants is a function of the State. The State determines if and when they file fugitive warrants against absconders. It is a prosecutorial function to take into consideration the time constraints presented by the fugitive process. If the defendant has pending or new Delaware charges and a concurrent fugitive charge, the Court sets bail conditions for all cases before them as standard procedures allow and the prosecuting authorities from the two states will decide in what order to proceed against the defendant.[3]

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[2] Legal Memorandum 80-9, p. 8.

[3] ICAOS Rule 5.101 provides that "[n]otwithstanding any other rule, if an offender is charged with a subsequent felony or violent crime, the offender shall not be retaken or ordered to return until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to

Although a rare occurrence, a fugitive may be wanted in more than one demanding state and multiple fugitive warrants are permitted to be submitted at the same time. But fugitive charges from multiple states shall not be permitted on the same fugitive warrant. If the officer submits more than one fugitive warrant for the person due to demands from multiple states, the judge shall approve them, as long as probable cause exists for each independently. In such cases, the State of Delaware will turn the fugitive over to the demanding state arriving first with a Governor's Warrant or Pre-signed Waiver of Extradition. The State of Delaware's prosecuting authority may then dismiss the other pending fugitive warrant and a detainer will be lodged with the state picking the fugitive up.

Judges have two functions in the fugitive warrant approval process: 1) The judge reviews the fugitive warrant and supplemental documents for probable cause and approves or denies the warrant based upon the stated probable cause; and 2) The judge ensures that there are no State of Delaware offenses or multiple states requesting extradition charged in the fugitive warrant. A fugitive charge from a demanding state stands alone.

2) Supplemental Documents Submitted to the Court for Approval of a Fugitive Warrant

The following documents provide information the judge should have for both the fugitive warrant approval and the initial presentment and should be submitted to the Court prior to approval of the warrant:

- The demanding state's arrest warrant for the fugitive. This document states the fugitive's charges and a probable cause statement. If the charge is a Failure to Appear, the warrant may be a bench warrant only with the charges listed, just as a capias issued by Delaware courts lists the charges but does not include the probable cause statement. Often bench warrants include a bail recommendation. If the fugitive contests extradition, the judge is to review the charges, compare them to similar charges in Delaware, and set bail accordingly.

  If the demanding state's warrant is for a Violation of Probation or Parole and the probationer or parolee is in Delaware pursuant to the Interstate Commission for Adult Offender Supervision (ICAOS), the police officer should be aware that both the demanding state and the State of Delaware's Probation & Parole Division of the Department of Correction (P&P) have a copy of the fugitive's Pre-signed Waiver of Extradition. The officer has access to a copy of the demanding state's warrant, which includes the local jurisdiction that issued the warrant. The arresting officer may simply contact that jurisdiction, letting them know that the person is in custody and request a copy of the Pre-signed Waiver of Extradition. If

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supervision for the subsequent offense, *unless the sending and receiving states mutually agree to the retaking or return*" (emphasis added.)

the demanding state is close by and has the resources to come pick up the fugitive, they can make an agreement with the arresting officer/agency to do so without involving the court: ***as long as Delaware's arresting officer/agency receives a copy of the Pre-signed Waiver of Extradition***.

Delaware's arresting officer/agency will need to submit a fugitive warrant to the Court if:

1) The arresting officer/agency cannot get a copy of the Pre-signed Waiver of Extradition, either from the demanding state or from Delaware's P&P;

2) The demanding state does not have the available resources to come to pick up the probationer/parolee within a reasonable time frame set by the arresting officer/agency; or

3) The probationer/parolee is not in Delaware pursuant to the ICAOS.

- The NCIC Report (if a Pre-signed Waiver of Extradition has not been submitted to the Court.) This document provides the judge with personal identifying information on the fugitive, the fugitive's alleged charges in the demanding state, and information on which states, or areas, or from how far the demanding state will pursue extradition of the fugitive. At times, the NCIC report is not available or will state that "no records are found" if the defendant is incarcerated. The demanding state may have removed the wanted information from NCIC as soon as they knew that the absconder was in custody in the foreign state. Regardless, the DOC will still need to provide a copy of the NCIC report;

- A reasonably current statement, letter or email from the demanding state confirming that they still wish extradition of the fugitive (if a Pre-signed Waiver of Extradition has not been submitted to the Court.) The principles on "stale information" are relevant, as the judge may be considering committing the fugitive on secured or cash financial conditions of release. And as the phrase "reasonably current" is subjective, judges may use their discretion in determining if the document submitted is "stale." If the arresting officer states in the "4 corners" of the arrest warrant that the demanding state confirmed that they currently still wish extradition of the fugitive, and the officer swears or affirms before the judge to the truth of this information, the judge should accept this as satisfying this prong, making the submission of a letter or email from the demanding state redundant.

If the demanding state does not articulate that they will extradite, the fugitive warrant shall not be approved by the judge.[4]

3) **Signatures on the "Consent to Extradition"**

Under the Uniform Criminal Extradition Act (UCEA) and the Uniform Extradition and Rendition Act (UERA), any fugitive can sign a waiver of all procedural rights incident to the extradition and voluntarily return to the demanding state by signing a waiver of these rights.[5] ***However, in order for this document to be valid, it must be signed after the judge has informed the defendant of their rights.***[6]

Delaware statute 11 *Del. C.* § 2526 reads: "The waiver of requisition shall be in writing, and shall set forth that the person voluntarily waives requisition and that the person's rights have been fully explained and are understood, which shall be signed by the prisoner and 3 other witnesses *in the prisoner's presence*" (emphasis added).

Clerical staff or the judge will email or fax the "Consent to Extradition" form to the arresting agency or location either prior to the presentment or after the defendant has indicated that they are willing to return to the demanding state. Delaware statute requires the 3 witnesses to watch the fugitive sign the document and for the fugitive to watch the three witnesses sign the document. ***It requires that all four (4) individuals be physically present at the signing.***

Delaware statute does *not* require the judge to witness the signing of the "Consent to Extradition" or for the judge to sign the "Consent to Extradition." And the judge's signature is not required by the UCEA or the UERA. Nonetheless, judges shall continue to sign the "Consent to Extradition." The judge's signature on the document is an acknowledgement that they conducted the presentment and heard and understood the fugitive's choice to consent to extradition.

A signed copy of the "Consent to Extradition" form shall be given to the fugitive at the end of the hearing.

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[4] For probationers/parolees, the ICAOS gives authority to sentencing judges in all states to terminate the fugitive's sentence of probation (discharge as unimproved) when the originating state declines to extradite.

[5] The UERA was designed in 1981 to replace the Uniform Criminal Extradition Act (UCEA.) It "expands the role of the judiciary and fills gaps in the UCEA" and addresses issues of mental competency, bail after *habeas corpus* proceedings, and other constitutional and jurisdictional issues. U.S. Department of Justice, "Extradition in America – Of Uniform Acts and Governmental Discretion."

[6] The UERA, as stated in the ICAOS Bench Book, Chapter 4.2.2, p. 1.

4) **Discretionary "Extradition Reviews"**

Initially, PD 13-247 "Fugitive Warrant Procedures While Awaiting Requisition" permitted a judge to conduct a records review, scheduled on a set date by which the judge wanted the fugitive to be picked up by the demanding state. It also permitted a judge to contact "the demanding state to inquire as to the delay," if the fugitive had not been extradited by that date.[7] When a judge wished to conduct a records review, clerical staff would discard the Commitment which prints with every fugitive case processing, and produce another Commitment with a scheduled "Extradition Review," under "Other Event," and this date would appear on the commitment.

The policy directive continued with:

> "The judge *shall not* release the fugitive even if the demanding state has not complied with the judge's set date, as only Superior Court has the jurisdiction to make determinations whether the fugitive "has been held for too long or in contradiction of their constitutional rights."[8]

This is because a signed "Consent to Extradition" is considered to be the equivalent of a Governor's Warrant.[9] And pursuant to the UCEA and the UERA, once a fugitive has signed the "Consent to Extradition," the asylum state (the State of Delaware is the asylum state for fugitive cases presented to the Justice of the Peace Court judge) has the responsibility to hold the fugitive and keep said fugitive available for the demanding state's representatives.[10]

In order to advance more consistent and uniform procedures among J.P. Court locations, the following shall be in effect as of this supplement:

- **Judges continue to have the discretion to conduct a records review or an "extradition review."** However, when a judge wishes to conduct a discretionary "extradition review," they will need to create a *personal* reminder of their choosing, such as scheduling an Outlook Calendar Appointment for an email reminder. Clerical staff will no longer computer-generate an extrajudicial event to appear on a fugitive's Commitment;

- Clerical staff will no longer discard the "Fugitive Waiver Commitment" printed when initially processing the case or produce a new Commitment for an "Extradition Review." This will standardize the clerical process and all fugitive

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[7] PD 13-247 "Fugitive Warrant Procedures While Awaiting Requisition," p. 3.
[8] Id.
[9] *Authority Under 11 Del. C. § 2526 to Commit Without Bail Fugitive Who Has Waived Extradition*, Del. Op. Atty Gen. 88-I011, 1988 WL 383433 (Del.A.G.); Montana Op. Atty Gen. No. 50-7 (2004), available at: http://www.doj.mt.gov/resources/opinions2004/50-007.pdf.Del.Op.Atty.Gen 88-1011 (Del. A.G.), 1988 WL 383433.
[10] Id.

documents while also allowing those who wish to review the extradition status of the fugitive to continue to do so. The "Fugitive Waiver Commitment" printed when the clerk processes the case reads "...committed on waiver as fugitive..." and as the DOC considers the document sufficient for their purposes, it shall be the standard document for said purpose, with no need for additional information;

- Judges or clerical staff at the judge's request may directly contact the Attorney General's Extradition Unit ("State Detective's office") inquiring about any delay past their determined reasonable date for the fugitive's pick-up, since the State Detective is the entity with authority to contact the requesting state for an estimated date for rendition. The judge shall not make the DOC an intermediary between the judge and the State Detective's office;[11] and

- Judges may schedule another Outlook Calendar Appointment (for example) for a second email reminder if a fugitive has yet to be picked up by the first review date. This allows judges who wish to continue with a second "extradition review" to do so. But the State Detective has no standing to request continuances for "extradition review" events that judges have created for themselves in order to review DOC records.

5) Next Event Scheduled When a Fugitive Contests Extradition

Currently, when a fugitive chooses to contest extradition, some judges schedule a "Requisition Hearing." Other judges schedule an "Extradition Hearing." In order to advance more consistent and uniform procedures among J.P. Court locations, the "30-day hearing" scheduled when a fugitive chooses to contest extradition shall be designated a "Fugitive Hearing." If the 30th day falls on a weekend or holiday, the Fugitive Hearing shall be scheduled for the day prior, so as not to exceed the 30-day statutory limit.[12] Computer screens will have "Fugitive Hearing" as the option for clerical staff to check.

If the fugitive refuses to decide whether to consent to extradition or to contest extradition, the Court will schedule a Fugitive Hearing in 30 days. The Court has the responsibility to protect the defendant's rights and to not encumber those rights due to the defendant's indecisiveness. In this circumstance, the Court shall tell the defendant that they have the right to request a hearing at any time in order to consent to extradition.

When a fugitive contests extradition, the Court should inform the defendant that if they are able to post bail, they can go back to the demanding state to resolve the fugitive issue prior to the hearing date. The Court should also inform them that they need to notify the Court of their status if they are unable to be present at the 30-day hearing due to judge's orders from the demanding state or to extraordinary circumstances.

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[11] At times, the DOC may directly contact the State Detective's office (without prompting from the Court) about a delay in pick-up.
[12] 11 *Del. C.* § 2515.

6) Pre-Signed Waivers of Extradition of Probationers and Parolees

The discussion on the validity and enforceability of a Pre-signed Waiver of Extradition in Justice of the Peace Court Legal Memorandum 80-9 (2nd Supplement) relied on a Delaware Supreme Court decision from 1969, and stated that Pre-signed Waivers of Extradition are valid and enforceable so long as the waiver was "intelligently made with the intention to abandon [the constitutional right]."[13] Therefore, judges in Delaware were to inquire of the fugitive if the Pre-signed Waiver of Extradition was intelligently made and if they understood the rights they were giving up when they signed the waiver.[14]

The ICAOS's Bench Book begins with a discussion on the general laws of Interstate Compacts:

> *"...interstate Compacts are not mere agreements between the states subject to parochial interpretations or selective application. On their face, they are statutory contracts that bind member states including respective agencies, officials, and citizens to an agreed set of principles and understandings. They are not a series of recommended procedures or easily disregarded discretionary proposals of convenience. Moreover, they are not uniform, model, or suggested state laws, nor are they administrative agreements between agencies or executive officials. Understanding the unique significance of interstate Compacts in the American legal system is an important predicate to correct application of Compact terms and conditions that may prevent legal jeopardy vis-à-vis fulfilling its contractual obligations."*[15]

The ICAOS (the Compact) was developed in 1998, replacing an existing compact from 1937 (called the Interstate Compact for the Supervision of Parolees and Probationers) and received U.S. Congressional consent in 2004. Congressional consent gives the Compact the color of Federal law and is enforceable on all member states.[16] Compact member states specifically are to recognize that no convicted offender has a "right" to live in another state. And Courts are required to "give full force and effect to the agreement by the explicit terms of the ICAOS and its standing as (1) a valid Compact, (2) which is contractual in nature, and (3) must be construed as federal law."[17]

All fifty (50) states are members of the Compact. Delaware adopted the Compact in 2003 through legislative action, stating that "The Governor shall execute a compact on behalf of the State with any of the United States legally joining therein in the form substantially as follows: INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS."[18]

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[13] *Reed v. State,* Del. Supr., 251 A.2d 549, 550 (1969).

[14] Other states have had different conclusions in the past on the topic of Pre-signed Waivers of Extradition and have ruled that they are valid and enforceable. These states have ruled that Pre-signed Waivers of Extradition remove the extradition process from requirements of the Uniform Criminal Extradition Act.

[15] ICAOS Bench Book, Chapter 1, p. 1.

[16] ICAOS Bench Book, Chapter 2.6, p. 1.

[17] Id. See also *Scott v. Virginia,* 676 S.E. 2d 343, 346 (Va. App. 2009).

[18] 11 *Del. C.* § 4358, Subchapter V. Interstate Compact for the Supervision of Adult Offenders.

The Interstate Commission for Adult Offender Supervision (the Commission) consists of representatives from all member states. The Commission has the power to create rules for the ICAOS and to enforce member states' compliance with Compact provisions and Commission rules. The Commission's rules have the full effect and force of statute and are binding in all member states.[19]

The U. S. Supreme Court has ruled that a convicted offender does not have a Constitutional right to be granted probation or parole. Probation or parole is a privilege, or a "act of grace" extended to a person convicted of a crime, and therefore conditions may be placed upon the offender when extending said privilege.[20] Convicted offenders may be allowed to transfer their probation or parole to another state where family, community, or employment ties are present, instead of serving out their time or probation/parole period in the state where they are incarcerated.[21] The ICAOS, the mechanism allowing this transfer, places conditions upon offenders transferring their probation or parole. Rule 3.109, effective August 1, 2004, pertains to an offender's "waiver of extradition," and considers it binding:

(a) "An offender applying for interstate supervision shall execute, at the time of application for transfer, a waiver of extradition from any state to which the offender may abscond while under supervision in the receiving state.

(b) States that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice."[22]

Therefore, the offender is subject to the "alternative procedures" provided in the Compact and the Compact's rules.[23] The standard procedural rights for extradition (formal extradition proceedings such as the issuance of a Governor's Warrant or consent to return to the requesting state) of the UCEA/UERA do not apply.[24]

When a sending state has issued a warrant for the arrest of a convicted offender on probation or parole with a Pre-signed Waiver of Extradition pursuant to the Compact, no member state may order a bail or release the fugitive. This is strictly prohibited.[25] Therefore, Pre-signed Waivers of Extradition are valid and enforceable and no longer require an inquiry of the

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[19] ICAOS Bench Book, Chapter 2.6. p. 1.

[20] *Escoe v. Zerbst,* 295 U.S. 490 (1935; *Burns v. United States*, 287 U.S. 216 (1932). *See also, United States ex rel. Harris v. Ragen,* 177 F.2d 303 (7th Cir. 1949).

[21] Preliminary factors the Delaware Attorney General's office may take into consideration when *not* approving out-of-state supervision are: a) the sentence includes at least one (1) year of probation; b) the victim experienced physical or psychological harm; c) a firearm was involved; and d) the conviction is for a "sex offense" or a second (or above) DUI.

[22] Interstate Commission for Adult Offender Supervision, ICAOS Rules, *Rule 3.109 (/icaos-les/chapter/ch3/rule-3-109).*

[23] "Retaking" and Probable Cause Hearings, pursuant to ICAOS Rule 5.

[24] ICAOS Bench Book, Chapter 4.2.2, p. 1. ICAOS Rule 3.109.

[25] ICAOS Bench Book, Chapter 4.6.1, p. 1.

fugitive's understanding of the waiver. A Pre-signed Waiver of Extradition is considered to be equivalent to a Governor's Warrant.

Therefore, the constraints on the standard extradition process presented by the ICAOS are controlling over fugitives in Delaware pursuant to the ICAOS. After a police officer has submitted a fugitive warrant to the Court, the officer may obtain a copy of the Pre-signed Waiver of Extradition (Waiver) from the demanding state or from Delaware's P&P and submit it prior to the fugitive's presentment. If at the time of presentment, the Court is in possession of the Waiver, the fugitive does not have a choice (nor do they have a choice at any future juncture in the process when a Waiver is submitted) to sign the "Consent to Extradition" or to contest extradition. The Court issues an Order to Extradite and signs a "Fugitive Waiver Commitment." No bail is permitted, and the fugitive waits for pick-up from the demanding state. However, the Court shall still inform the fugitive of their right to file a Writ of *Habeas Corpus* with Superior Court.

However, if a copy of the Waiver was not available when the fugitive warrant was approved or at the time of presentment, then the case must be handled in the same manner as a typical fugitive warrant for which the State of Delaware is awaiting a Governor's Warrant from the demanding state. The judge must inform the fugitive of their rights, explain their current choice in how to proceed (consent to extradition or contest extradition,) and tell them that the State may submit the Pre-signed Waiver of Extradition to the Court at any time during the fugitive process. If a Waiver is submitted to the Court in the future, they will then be held without any consideration of bail to await pick up from the demanding state. If the State requests an expedited hearing to serve the fugitive and procure a "Fugitive Waiver Commitment," the Court shall schedule a Hearing for the first available time for both the State Detective and the DOC.

At times, a probationer from another state may be supervised in Delaware but *not* be subject to ICAOS. The originating state has preemptively decided that they will *not* extradite the defendant if they violate their probation. Even when this occurs, the defendant has often signed a Waiver of Extradition prior to coming to Delaware, agreeing to *voluntarily* return to the originating state. This may, for example, occur for probationers with convictions for non-violent misdemeanors. This may also occur when a defendant is released prior to finishing a sentence in an asylum state in order to return to a demanding state to resolve outstanding charges. In this scenario, the probationer signs a waiver of extradition agreeing to *voluntarily* return to the asylum state to finish any remaining sentence there.[26] Therefore, a fugitive warrant for a person with this type of Pre-signed Waiver of Extradition should not be approved. If the fugitive warrant was inadvertently approved, the judge at presentment shall release the person on unsecured or own recognizance bail, schedule a 30-day hearing, and contact the State Detective's office to apprise them of the issue.

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[26] The ICAOS gives authority to sentencing judges in all states to terminate the fugitive's sentence of probation (discharge as unimproved) when the originating state declines to extradite.

THREE (3) UNCOMMON SCENARIOS

These possible scenarios are:

1) When an incarcerated fugitive contesting extradition changes their mind after the initial presentment;

2) When a Governor's Warrant or Pre-signed Waiver of Extradition is submitted to the Court prior to the date of the scheduled Fugitive Hearing; and

3) When the State does not proceed at either the 30-day Fugitive Hearing or at the continued Fugitive Hearing.

An Incarcerated Fugitive Contesting Extradition Changes Their Mind after the Presentment

A fugitive who decides at the presentment to contest extradition, may decide differently after a self-evaluation of their circumstances, especially after being informed that the hearing has been continued for sixty (60) days. They may decide that they would prefer to consent to extradition and wait for the demanding state to pick them up. Therefore, judges should make a fugitive who is contesting extradition aware during the presentment that they have the option to change their mind at any time. They may contact the Court in writing at any time (or ask their attorney to contact the Court) informing the Court of their change of mind or they may orally present this decision to the judge at the 30-day Fugitive Hearing. When the Court receives a request from an incarcerated fugitive more than seven (7) days prior to a scheduled hearing, the Court shall schedule a video hearing upon the next availability of the Department of Corrections and notify the State Detective's office, in order to expedite the extradition and halt the State Detective's process of procuring the Governor's Warrant.

After the video hearing, the fugitive and three (3) witnesses will sign a "Consent to Extradition," as described earlier in this policy directive. The clerical staff will remove the current bail, print a "Fugitive Waiver Commitment," and enter a disposition of "EXTR" in the computer at this time. The judge will sign the "Consent to Extradition," fill out and sign the "Order to Extradite," and sign the Commitment. There will be no monetary bail amount on the Commitment, as bail conditions are no longer applicable. The Court will notify the State Detective's office per normal procedures.

Conversely, a fugitive who has consented to extradition at their presentment and signed the "Consent to Extradition" cannot decide at a later date to change their mind in order to contest the extradition. Once the fugitive has consented to extradition, the fugitive is no longer under the jurisdiction of the Justice of the Peace Court. The fugitive's legal remedy at this juncture is to articulate the grounds upon which they are withdrawing their consent in a Writ of *habeas corpus,* filed with Superior Court.

A Governor's Warrant or Pre-Signed Waiver of Extradition is Submitted to the Court Prior to the Date of the Scheduled Fugitive Hearing

When a Governor's Warrant or a newly submitted Pre-signed Waiver of Extradition for an incarcerated fugitive is submitted to the Court more than seven (7) days prior to the date of the scheduled Fugitive Hearing (either the initial scheduled event or the continued scheduled event,) the Court shall schedule a video hearing at the next joint availability of the State Detective and the DOC in order to expedite the extradition.

Conversely, when a Governor's Warrant or newly submitted Pre-signed Waiver of Extradition for a released fugitive is submitted to the Court prior to the next scheduled Fugitive Hearing date (either the initial scheduled event or the continued scheduled event,) the Court shall ***not*** change the scheduled date. The fugitive may be in the process of traveling to the demanding state and/or appearing before the demanding prosecutorial agency or court.

When the fugitive appears at the hearing (expedited or originally scheduled,) the State Detective will present a copy of the Governor's Warrant or the Pre-signed Waiver of Extradition to the fugitive in the judge's presence (virtual or in person.) The judge will explain to the fugitive that:

a. A Governor's Warrant or a Pre-signed Waiver of Extradition means that they have to go back to the demanding state whether they want to or not;

b. They will be held without any consideration of bail until the demanding state picks them up;

c. They have the right to file a Writ of *habeas corpus* in Superior Court; and

d. FOR RELEASED FUGITIVES ONLY: Any monetary bail posted will be returned to the payee.[27]

The clerical staff will remove the current bail, print either the "Governor's Warrant Commitment" stating that the defendant is "...committed on Governor's Warrant as fugitive...," or the "Fugitive Waiver Commitment" stating that the defendant is "...committed on waiver as fugitive..." and enter a disposition of "EXTR" in the computer at this time. The new "Governor's Warrant Commitment" accurately records the reason for the commitment when a Governor's Warrant has been submitted to the Court.[28] The judge must sign the Commitment and fill out and sign the "Order to Extradite." *An updated commitment is necessary as the previous bail conditions no longer apply and the fugitive must be held with no option for release until the demanding state picks them up.*

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[27] Monetary bail is processed and handled in the same manner as monetary bail posted for any other type of case.

[28] Until now, when a Governor's Warrant has been submitted, the Court has only had the original "Fugitive Commitment" stating that the defendant is "...committed on waiver as fugitive..." available to sign to commit the defendant.

Fugitive Fails to Appear:

1) If the fugitive fails to appear at the Fugitive Hearing and is incarcerated in the demanding (or other) state, any monetary bail is to be returned to the payee upon presentation of a receipt. When the State dismisses the case, the case is finalized; and

2) If the fugitive fails to appear at the Fugitive Hearing and is not incarcerated in the demanding (or other) state, the judge *shall* order a bail forfeiture pursuant to the procedures laid out in Justice of the Peace Court policy.[29] The judge *shall* also issue a capias for the fugitive's arrest. When the fugitive is arrested on the capias, the judge shall order "hold without bail" and re-schedule the fugitive for a Fugitive Hearing as soon as possible in coordination with the State Detective's office. If the fugitive is brought before a judge in a different location than the location presiding over the fugitive, the judge will transfer the case to the presiding location for scheduling purposes and the presiding location will contact the State Detective's office.

The State Does Not Proceed at Either the 30-Day Fugitive Hearing or at the Continued Fugitive Hearing

When a fugitive, whether incarcerated or released, appears at either the 30-day Fugitive Hearing or at the *continued* Fugitive Hearing, ***and*** the State has failed to proceed, the judge will explain to the fugitive that:

a. The State may receive a Governor's Warrant or Pre-signed Waiver of Extradition from the demanding state at any time in the future;

b. A Governor's Warrant from the demanding state remains valid as long as "the warrant itself does not contain any time restrictions and it has not been recalled" and the outstanding charges remain in the demanding state;[30]

c. They may be arrested at any time after the State receives a Governor's Warrant or Pre-signed Waiver of Extradition from the demanding state. A Governor's Warrant does not become "stale" even if the signing governor is no longer in office; and

d. As long as there are outstanding charges in the demanding state, they remain a fugitive and are not immune from extradition.[31]

The State's failure to proceed at a 30-day Fugitive Hearing means that the State has failed to request either a continuance or a dismissal, regardless of whether the State is present or has failed to appear, ***and*** has not submitted a Governor's Warrant or Pre-signed Waiver of Extradition.

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[29] Policy Directive 12-244 "Forfeiture of Bail."
[30] Legal Memorandum 80-9 3rd Supplement, p. 4.
[31] Legal Memorandum 80-9 2nd Supplement, p. 9.

The State's failure to proceed at a ***continued*** Fugitive Hearing means that the State has failed to submit a dismissal, regardless of whether the State is present or has failed to appear, ***and*** has not submitted a Governor's Warrant or Pre-signed Waiver of Extradition.

The Court may *sua sponte* dismiss the Fugitive Warrant at the 30-day Fugitive Hearing, whether the fugitive has appeared or has failed to appear, if the State has failed to proceed as defined above.

The Court may *sua sponte* dismiss the Fugitive Warrant at the continued Fugitive Hearing, whether the fugitive has appeared or has failed to appear, if the State has failed to proceed as defined above.

OTHER TOPICS OF IMPORTANCE

Successive Fugitive Warrants

A Fugitive Warrant is a Successive Fugitive Warrant when it is for the same charge as a prior-dismissed fugitive warrant.

If there is an extradition request from a demanding state in NCIC data base when a defendant is arrested on Delaware charges or if the demanding state placed the request in NCIC after the fugitive has been incarcerated in Delaware, as soon as Delaware notifies the demanding state that the fugitive is in custody, the demanding state will often remove the request from the data base. The demanding state will often resubmit the request into the data base when, for example, the extradition process ends in the asylum state's dismissal of the fugitive warrant or if the fugitive doesn't appear for their charges after posting bail.

Once the extradition request is back on the NCIC data base and the fugitive has contact with the police, the fugitive will be rearrested, and the police officer will submit a fugitive warrant in the DELJIS arrest warrant queue. However, Chief Magistrate Griffin stated in Legal Memorandum 80-9 2nd Supplement that if a fugitive was incarcerated for the ninety (90) day detention limit and a fugitive warrant was dismissed at the ninety (90) day mark because the State had not yet procured a Governor's Warrant, a successive fugitive warrant on the same charge may not be issued.[32]

However, neither the officer nor the judge will typically be aware that this warrant is a successive warrant at the time of its submission for approval. The officer typically doesn't review the fugitive's Delaware charge history or investigate if they have been arrested on the same charge in a different asylum state prior to submitting the warrant. And the judge typically doesn't review the fugitive's Delaware adjudication summary or have access to their out-of-state criminal history prior to presentment.

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[32] However, additional detention time once a Governor's Warrant is procured is permitted.

The limiting factor in Judge Griffin's legal memorandum is the incarceration time the fugitive has served waiting for the demanding state to pick them up. She refered to cases in which the fugitive contested extradition, did not post bail, and remained in custody for 90 days AND the State did not submit a Governor's Warrant (or Pre-signed Waiver of Extradition.) The fugitive charge would have usually be dismissed in such circumstances. But the legal memorandum is silent on if the new fugitive warrant is for a fugitive who posted bail and therefore, was not incarcerated for 90 days.

Practical application of the bar to issue a successive fugitive warrant is difficult for all stakeholders. The demanding state expects the asylum state to extradite the fugitive who has yet to handle their charges. The police have had contact with a person wanted from another state and cannot simply ignore the requirements of the ICAOS, so they will submit a fugitive warrant. The judge reviewing the warrant for approval will most likely not be able to research the underlying fact patterns necessary for the judge to explicitly follow the Memorandum. They are difficult and time-consuming to uncover. Is the new fugitive warrant on the same charges as a dismissed prior fugitive warrant? What if the new fugitive warrant is on the same underlying charge but is a bench warrant for a failure to appear for arraignment, case review, sentencing, etc.? Why was the prior fugitive warrant dismissed? Was the fugitive incarcerated after presentment on the first fugitive warrant? If so, for how long (ex: if the fugitive posted bail after 20 days, are they still subject to 70 more days of incarceration on a successive warrant)? If the judge is able to do the research and discovers that the warrant application is a true successive warrant and the fugitive has already been incarcerated for 90 days on the same charge, is the judge to simply tell the police to let the fugitive go, risking repercussions from the ICAOS?

The judge at presentment is in a similar scenario. Is a secured or cash bail prohibited by the Memorandum? If the judge is permitted to order secured or cash bail, is the time frame so limited by the Memorandum that a Fugitive Hearing must be scheduled in less than 30 days? How does this decision affect the Extradition Unit's ability to procure a timely Governor's Warrant? How would the judge know if the State is in possession of a Governor's Warrant on the dismissed prior fugitive warrant, since there is currently no efficient and effective way to communicate this information from the Attorney General's office to all police departments?[33] Was the successive fugitive warrant due to the procurement of a Governor's Warrant and the demanding state is unable to timely pick up the fugitive, so a commitment is required to hold them?

Practicality with fugitive procedures will inevitably result in approved successive fugitive warrants, presentments, and detentions due to bail settings. The remedy lies in the fugitive's right to file a writ of *habeas corpus* with Superior Court.

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[33] The Attorney General's Extradition Unit is currently working with DELJIS on the possibility of placing a flag on the person when a Governor's Warrant is procured.

The State's Continuance Requests

The State should submit a request to the Court for a continuance as soon as they determine that a Governor's Warrant will not be procured in time for the 30-day Fugitive Hearing. The State must also inform the Court that they provided "notice to the defendant of the continuance request and a reasonable opportunity to respond."[34] The Court should use its discretion to determine *when* to rule on the continuance request. Considerations are:

1) Did the State provide notice to the fugitive of the continuance request;

2) Did the State reasonably articulate the status of the procurement of the Governor's Warrant or Pre-signed Waiver of Extradition (i.e. why the State needs a continuance;)

3) If the judge does not rule on the continuance request until the Fugitive Hearing, the State may not be present due to limited resources;[35]

4) If the judge grants a continuance request prior to the scheduled hearing, and an *incarcerated* fugitive decides to change their mind and consent to extradition prior to the hearing, the Court may not be able to use the Fugitive Hearing video appearance that was previously scheduled, due to a change in DOC scheduling. If the originally scheduled time slot becomes unavailable, the Court will need to re-schedule a video appearance at the next availability of the DOC;

5) If the judge grants a continuance request prior to the scheduled hearing, the 30-day hearing "event" has been cancelled in the computer, so the judge cannot issue a capias for a released fugitive who fails to appear and cannot order a bail forfeiture; and

6) Although not commonly seen, if the judge grants a continuance request prior to the scheduled hearing and a fugitive *released* on bail appears at the Fugitive Hearing with proof of disposition of their case in the demanding state, a continuance and rescheduling of the fugitive for a continued Fugitive Hearing needlessly complicates the process.

When the judge has not yet ruled on the State's continuance request *and* a released fugitive fails to appear at the 30-day Fugitive Hearing and the Court has not received notice of the fugitive's status in the demanding (or other) state, the judge has discretion to:

1) Grant the continuance request; or

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[34] Policy Directive 13-247 "Fugitive Warrant Procedures While Awaiting Requisition," p. 4, footnote #10.

[35] There may be multiple Fugitive Hearings scheduled throughout the state on the same day or the State Detectives are travelling to or in another state picking up a fugitive from Delaware.

2) Reserve decision on the continuance request and issue a capias and order a bail forfeiture. Once the fugitive has been arrested on the capias, the judge may then grant the State's request for a continuance and reset bail for a continued Fugitive Hearing scheduled for 60 days from the time of appearance before the Court. The 60-day continuance period had not yet begun to toll since the fugitive failed to appear at the 30-day hearing.[36] The judge also has the option at this juncture to hold the fugitive on a criminal contempt charge for a period of up to 60 days.[37]

***It should be a very rare occurrence when the judge denies a continuance request from the State.**

***It should be a very rare occurrence when the judge *sua sponte* continues the hearing.**

Governor's Warrant Identification Affidavits

The Governor's Warrant process for any state is the result of 1) the demanding state putting a defendant's warrant information in the NCIC data base requesting extradition from an asylum state; 2) the defendant being arrested in an asylum state that is included in the range of extradition limits the demanding state has set for extradition; and 3) the defendant refusing to go back to the demanding state willingly (refusing to waive their right to an extradition hearing.)

A Governor's Warrant will force the defendant to go back to the demanding state without regard for the defendant's wishes. A Governor's Warrant from the demanding state submitted to the asylum state includes a photograph of the fugitive, along with other types of identification such as fingerprints.[38] Each state has their own Governor's Warrant document package, so they may be slightly different from one another, but they all must include a state-generated photograph of the fugitive. This provides positive identification of the individual that the demanding state is requesting from the asylum state.

Asylum states may refuse to extradite a defendant unless the demanding state's Governor's Warrant package includes a state-generated photograph of the fugitive or, in its stead, a notarized (certified) Identification Affidavit with a photograph. The demanding state may not have a photograph of the fugitive on file because the individual has not yet been arrested. Or the Federal Bureau of Investigation may have forwarded fingerprints of the fugitive but did not have a photograph to send. And an officer who authored the arrest warrant may have identified the suspect through Facebook or through other virtual means which was enough for probable cause purposes, but not enough for extradition purposes.

An Identification Affidavit certifies that the photograph used for establishing the identity of the defendant is genuine and that the arresting officer verifies the individual's identity. It is

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[36] Legal Memorandum 80-9 3rd Supplement, p. 2.
[37] Id., p.3
[38] Governor's Warrants can be from 25 to 50 pages long, according to Delaware's Attorney General's Extradition Unit.

not an evidentiary document for use against the fugitive in any future trial. It is a notarization that the officer has certified that the picture submitted is a true and unaltered picture of the person that they arrested and for whom the demanding state is requesting extradition.[39]

At times, Delaware's Extradition Unit will need an arresting officer to submit an affidavit about the defendant's identification, but their police agency does not have a notary public on staff. Title 10, Chapter 53, gives authority to justices of the peace to administer oaths or affirmations.[40] And J.P. Court policy permits judges to do so.[41] The judge should be willing to notarize an Identification Affidavit as it is an independent act from the judicial role.

Bail Money Held by the Court

If the fugitive fails to appear at either the 30-day or continued Fugitive Hearing and *is incarcerated* in the demanding (or other) state, any monetary bail is to be returned to the payee per standard bail procedures.

If the fugitive fails to appear at the 30-day Fugitive Hearing and is *not incarcerated* in the demanding (or other) state, the bail may be forfeited pursuant to the procedures laid out in Justice of the Peace Court policy ONLY if the judge has reserved a decision on a continuance request by the State.[42]

If the fugitive fails to appear at the continued Fugitive Hearing and is *not incarcerated* in the demanding (or other) state, the bail is forfeited pursuant to the procedures laid out in Justice of the Peace Court policy.[43]

FORMS/FLOWCHART/CLERICAL INSTRUCTIONS

Consent to Extradition

The "Consent to Extradition" (form no. GJ715B) has been updated with plain language and information on the fugitive's right to file a Writ of *habeas corpus* has been included. In addition, the three (3) witnesses will be required to print their names along with their signatures. The fugitive will keep a copy of the signed "Consent to Extradite" after it is emailed or faxed back to the court. It reminds them of the right to file the Writ and other information that the judge told them during their presentment. They will also get a copy of the Office of Defense Services' information sheet titled "How to Get a Lawyer."

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[39] Delaware's Extradition Unit reports that there have been ten (10) Identification Affidavits required for Delaware's Governor's Warrant packages within the last 14 months (less than 1 per month) due to the State not having a photograph of the fugitive.

[40] 10 *Del. C.* § 5301. "Any judge of any court in this state, any justice of the peace, or notary public, may, in any case in which an oath or affirmation is necessary or proper, administer such oath or affirmation."

[41] PD 94-151 (Revised) "Administration of Oaths or Affirmations by Justice of the Peace Court Personnel and Notaries Public."

[42] Policy Directive 12-244 "Forfeiture of Bail."

[43] Id.

Order to Extradite

The "Order to Extradite" (form no. GJ715A) has been updated with plain language. It also now includes check-off options for: 1) when the defendant has consented to extradition; 2) when the State has submitted a copy of the fugitive's Pre-signed Waiver of Extradition to the Court, and 3) when the State has submitted a Governor's Warrant to the Court. This provides information to the State Detective's office and the document becomes a written record of the reason for the fugitive's extradition.

The first two (2) of these scenarios may occur at presentment. Any of the three (3) scenarios may occur at a 30-day or continued Fugitive Hearing, or at an expedited hearing for an incarcerated fugitive who has changed their mind and now agrees to be extradited. This form is printed when the case is processed and should remain in the file or reprinted when needed. Judges shall check off the scenario for which the Order to Extradite applies and then sign the Order.

Contesting Extradition

The new "Contesting Extradition" (form no. GJ715C) is the complementary form to the "Consent to Extradition." It gives information to fugitives who choose to contest the extradition, providing a level of procedural fairness with those fugitives who get information when they consent to extradition. They will keep a copy of the signed "Contesting Extradition" form after it is emailed or faxed back to the Court. It reminds them of information that the judge told them at their presentment: 1) they can change their mind: 2) the State of Delaware may request a continuance; 3) the State of Delaware will work to acquire a Governor's Warrant or proof of a Pre-signed Waiver of Extradition, if applicable; 4) if they post bail, they can go to the demanding state to resolve the matter before the 30-day Fugitive Hearing; 5) they have to attend the 30-day hearing or notify the Court in writing to explain that they are incarcerated in the demanding state and cannot attend; etc. They will also get a copy of the Office of Defense Services' information sheet titled "How to Get a Lawyer."

Fugitive Flowchart

The Fugitive Flowchart was created to be an easy way to help judges, including new judges, who want to quickly refresh their knowledge on the process, especially when they are just coming out of a court location assignment which does not handle many fugitive cases. Page 2 of the Fugitive Flowchart is from the Bail Benchbook and gives information on how to proceed when a ***juvenile*** fugitive is before the Court.

Fugitive Warrant Process Clerical Instructions

Newly created and standardized Fugitive Warrant Process Clerical Instructions are formatted in the same manner as other Basic Clerical Education (BCE) process instructions and is the fifth attachment.

CONCLUSION

This policy directive presents more consistent, uniform, and standardized procedures for several areas of the fugitive process. For judges who prefer to conduct a "records review" when a fugitive has chosen to consent to extradition or is held on a Pre-signed Waiver of Extradition or Governor's Warrant, this Supplement maintains the judge's discretion, but also offers a method that preserves standardized procedures. In addition, the Court should have a proactive response to an incarcerated fugitive's request to change their decision and consent to extradition. The Court should also schedule an expedited hearing for an incarcerated fugitive when the Governor's Warrant or Pre-signed Waiver of Extradition is submitted to the Court at least 7 days prior to the next scheduled Fugitive Hearing date.

Judges shall honor all Pre-signed Waivers of Extradition submitted to the Court.

The "Order to Extradite" form shall be filled out and signed by the judge at any juncture in the fugitive process at which the fugitive consents to extradition, the State submits proof of a Pre-signed Waiver of Extradition (if applicable) or the State submits a Governor's Warrant.

A new "Governor's Warrant Commitment" or "Fugitive Waiver Commitment" shall be signed by the judge to accompany the Governor's Warrant or Pre-signed Waiver Of Extradition when a fugitive is committed.

ATTACHMENTS

GJ715A "ORDER TO EXTRADITE"
GJ715B "CONSENT TO EXTRADITION"
GJ715C "CONTESTING EXTRADITION"
GJ737P "HOW TO GET A LAWYER"
GJ7063 "FUGITIVE WAIVER COMMITMENT"
GJ706G "GOVERNOR'S WARRANT COMMITMENT"
GJ7061 "COMMITMENT"
FUGITIVE FLOWCHART
FUGITIVE WARRANT PROCESS CLERICAL INSTRUCTIONS

Cc: Honorable Collins J. Seitz, Jr.
Honorable Kathaleen S. McCormick
Honorable Jan R. Jurden
Honorable Carl C. Danberg
Honorable Michael K. Newell
Gayle P. Lafferty, State Court Administrator
Elizabeth Petrick, Justice of the Peace Court Administrator
Stephanie Parker, Justice of the Peace Court Deputy Administrator
Rebecca Trifillis, Justice of the Peace Court Staff Attorney
Jennifer Kline, Justice of the Peace Court Staff Attorney
Roger Roof, Operations Manager

Jacquetta Livingston, Operations Manager
Kevin Jackson, Chief of Uniformed Services
Law Libraries: New Castle County, Kent County, Sussex County, Widener University School of Law

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 20

STATE OF DELAWARE

V.

GEORGI PORGI
CASE NUMBER: 2306011562

ORDER TO EXTRADITE

GEORGI PORGI is under arrest and held by the State of Delaware for crime(s) allegedly committed in CECIL County, State of MARYLAND. This jurisdiction has asked that the Defendant be extradited to face these charges:

BAD ATTITUDE; BAD BREATH; AND FIGHTING

The Defendant is ordered to be extradited due to **one** of the following reasons (check one):

__ The Defendant, GEORGI PORGI, knowingly and voluntarily signed a Consent to Extradition (Exhibit A).

__ The State of Delaware has submitted proof of the Defendant's Pre-signed Waiver of Extradition (for a parolee/probationer.)

__ The State of Delaware has submitted a Governor's Warrant requiring the extradition of the Defendant.

The Defendant's right to demand a Governor's Warrant or proof of a Pre-signed Waiver of Extradition (for a parolee/probationer) was explained and understood. The Defendant's right to file a Writ of Habeas Corpus in the Superior Court of the State of Delaware was also explained and understood.

For the reasons stated above, the Defendant is to be extradited (returned) to CECIL County, State of MARYLAND.

IT IS SO ORDERED.

_____ (SEAL)
Justice of the Peace

_____
Date

06/13/23 15:36 GJ715A L0 CWAL KPXBIP 2306011562

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 20

STATE OF DELAWARE

V.

GEORGI PORGI
CASE NUMBER: 2306011562

CONSENT TO EXTRADITION

I, GEORGI PORGI, am under arrest and held by the State of Delaware for crime(s) allegedly committed in CECIL County, State of MARYLAND. This jurisdiction has asked that I be extradited to face these charges:

BAD ATTITUDE; BAD BREATH; AND FIGHTING

The following has been explained to me and I understand that:

1) I have the right to demand a Governor's Warrant or proof of a pre-signed waiver of extradition;
2) I have the right to file a Writ of Habeas Corpus in the Superior Court of the State of Delaware;
3) If I file a Writ of Habeas Corpus, the Superior Court may schedule a hearing to decide if I am being held in violation of my constitutional rights;
4) The demanding state legally has up to 30 days to pick me up.

I have signed this waiver voluntarily on 13 day of June, 2023 in the presence of the three witnesses whose signatures appear below, and I consent (agree) to be returned to the requesting jurisdiction and state.

_____
Defendant's Signature

_____
Witness #1: Print Name

_____
Witness #1: Signature

_____
Witness #2: Print Name

_____
Witness #2: Signature

_____
Witness #3: Print Name

_____
Witness #3: Signature

Acknowleged this ____ day of _____, 20 ___

_____(SEAL)
Justice of the Peace

A copy of the "How to Get a Lawyer" document and a copy of this "Consent to Extradite" form must be given to the Defendant.

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 20

STATE OF DELAWARE

V.

GEORGI PORGI
CASE NUMBER: 2306011562

CONTESTING EXTRADITION

I, GEORGI PORGI, am under arrest and held by the State of Delaware for crime(s) allegedly committed in CECIL County, State of MARYLAND. This jurisdiction has asked that I be extradited to face these charges:

BAD ATTITUDE; BAD BREATH; AND FIGHTING

However, I have exercised my right to fight extradition and I have been scheduled for a 30-day fugitive hearing. During this time, the State of Delaware will work to acquire a Governor's Warrant or proof of a Pre-signed Waiver of Extradition (if I am a parolee/probationer.)

The following has been explained to me and I understand that:

1) I am required to appear at my Fugitive Hearing;
2) I am required to notify the Court in writing if I am held by the demanding state and unable to appear for my Fugitive Hearing;
3) If I fail to appear at my hearing without a judge's approval, the Court will issue a capias (bench warrant) for my arrest;
4) If I post bail, I may travel to the demanding state to resolve this matter so that the fugitive warrant can be dismissed;
5) If the State of Delaware does not acquire the necessary document within 30 days, it may ask for a continuance of up to 60 more days. This time may or may not be credited toward my sentence if I am sentenced in the demanding state;
6) If I am unable to post bail, I can consent to extradition prior to my scheduled fugitive hearing.

_____
Defendant's Signature

Acknowleged this ____ day of _____, 20 ___

_____(SEAL)
Justice of the Peace

A copy of the "How to Get a Lawyer" document and a copy of this "Contesting Extradition" form must be given to the Defendant.

06/13/23 15:36 GJ715C L0 CWAL KPXBIP 2306011562

DELAWARE OFFICE OF DEFENSE SERVICES

HOW TO GET A LAWYER

If you want a lawyer to defend you, please contact the Office of Defense Services (ODS) for an interview **BEFORE** your next court date. You should interview as soon as possible and no later than 2 weeks before your next court date. If you qualify for ODS representation, a lawyer will be assigned to defend you in your case.

WAYS TO COMPLETE INTERVIEWS

BY PHONE - Please call the following numbers:

New Castle County - (302) 255-0130 Press 1 for Spanish
Kent County - (302) 739-4476 Press 1 for Spanish
Sussex County - (302) 856-5310 Press 1 for Spanish

When you contact our office by phone, you will either speak to ODS staff directly or be able to leave a voicemail to schedule an interview. If you leave a voicemail, please note that you are requesting an intake interview and provide your contact information. ODS staff will promptly contact you to determine eligibility and schedule an interview.

IN PERSON - You may complete an intake interview in person. Interviews are done either by appointment or on a walk-in basis from 8:30 am to 4:30 pm at any of the below locations.

Office of Defense Services - New Castle County, Intake Unit
Leonard L. Williams Justice Center
500 N. King St., Suite 2400
Wilmington, Delaware 19801
(302) 255-0130

Spanish interviews are conducted in New Castle County on Thursdays at 2 pm.

Office of Defense Services - Kent County, Intake Unit
Sykes Building
45 The Green
Dover, Delaware 19901
(302) 739-4476
Appointments preferred

Office of Defense Services - Sussex County, Intake Unit
116 West Market Street
Georgetown, Delaware 19947
(302) 856-5310
Appointments preferred

VIA WEBSITE - To request legal representation online, visit https://ods.delaware.gov/request-for-representation/. Once you complete and submit the interview request form, ODS staff will promptly contact you to determine eligibility and schedule an interview.

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 11

FUGITIVE WAIVER COMMITMENT

The State of Delaware

New Castle County, ss.

To any constable and to the Department of Correction of the said State and County:

THIS IS TO COMMAND YOU, the said constable, forthwith to convey and deliver into custody of the Department of Correction of **HRY in New Castle County** the body of **GEORGI PORGI** charged before said Justice of the Peace Court 11 on oath by OFFICER HENDERSON committed on waiver as fugitive, to be taken into custody by a duly authorized agent for the State of MARYLAND.

AND YOU, the said Department of Correction, are hereby required to receive the said defendant into your custody and him safely keep, until he be thence delivered by due course of law.

GIVEN under my hand and seal this 15 day of June, 2023.

_____ (Seal)
Justice of the Peace

The total number of charges is 1.

Case Number	Statute	Offense	Amount of Bail
K1-2306011562-001	11:2513:0000:M:	FUGITIVE FROM ANOTHER STATE	

NAME: GEORGI PORGI SBI: T2353150 SEX: M RACE: W DOB: 06/02/1967

STANDARD BAIL CONDITIONS AND NOTICES

1. DEFENDANT SHALL RETURN TO COURT FOR ALL SCHEDULED HEARINGS UPON NOTICE AND SUBMIT TO THE ORDERS AND PROCESSES OF THE COURT. 2. DEFENDANT, OR ANY PERSON ACTING ON DEFENDANT'S BEHALF, SHALL NOT ENGAGE IN ANY ACTIVITIES INTENDED TO PREVENT OR DISSUADE A VICTIM OR WITNESS FROM ASSISTING THE PROSECUTION OR ATTENDING A HEARING OR TRIAL. 3. DEFENDANT SHALL NOT COMMIT ANY ADDITIONAL CRIMINAL OFFENSES IF RELEASED. 4. VIOLATION OF ANY BAIL CONDITION MAY RESULT IN THE FORFEITURE OF THE BOND, A NEW CRIMINAL CHARGE AND/OR A BENCH WARRANT. DEFENDANT SHALL ALSO BE SUBJECT TO SEPARATE CRIMINAL OFFENSE, WHICH PROVIDES A MAXIMUM PENALTY OF IMPRISONMENT NOT TO EXCEED 5 YEARS AND/OR FINES OF $5,000.

06/15/23 09:36 GJ7063 K1 CWAL KPXBIP 2306011562

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 11

GOVERNOR'S WARRANT COMMITMENT

The State of Delaware

New Castle County, ss.

To any constable and to the Department of Correction of the said State and County:

THIS IS TO COMMAND YOU, the said constable, forthwith to convey and deliver into custody of the Department of Correction of **HRY in New Castle County** the body of **GEORGI PORGI** charged before said Justice of the Peace Court 11 on oath by OFFICER HENDERSON committed on Governor's Warrant as fugitive, to be taken into custody by a duly authorized agent for the State of MARYLAND.

AND YOU, the said Department of Correction, are hereby required to receive the said defendant into your custody and him safely keep, until he be thence delivered by due course of law.

GIVEN under my hand and seal this 13 day of June, 2023.

(Seal)

Justice of the Peace

The total number of charges is 1.

Case Number	Statute	Offense	Amount of Bail
K1-2306011562-001	11:2513:0000:M:	FUGITIVE FROM ANOTHER STATE	

NAME: GEORGI PORGI SBI: T2353150 SEX: M RACE: W DOB: 06/02/1967

STANDARD BAIL CONDITIONS AND NOTICES

1. DEFENDANT SHALL RETURN TO COURT FOR ALL SCHEDULED HEARINGS UPON NOTICE AND SUBMIT TO THE ORDERS AND PROCESSES OF THE COURT. 2. DEFENDANT, OR ANY PERSON ACTING ON DEFENDANT'S BEHALF, SHALL NOT ENGAGE IN ANY ACTIVITIES INTENDED TO PREVENT OR DISSUADE A VICTIM OR WITNESS FROM ASSISTING THE PROSECUTION OR ATTENDING A HEARING OR TRIAL. 3. DEFENDANT SHALL NOT COMMIT ANY ADDITIONAL CRIMINAL OFFENSES IF RELEASED. 4. VIOLATION OF ANY BAIL CONDITION MAY RESULT IN THE FORFEITURE OF THE BOND, A NEW CRIMINAL CHARGE AND/OR A BENCH WARRANT. DEFENDANT SHALL ALSO BE SUBJECT TO SEPARATE CRIMINAL OFFENSE, WHICH PROVIDES A MAXIMUM PENALTY OF IMPRISONMENT NOT TO EXCEED 5 YEARS AND/OR FINES OF $5,000.

06/13/23 14:31 GJ706G K1 CWAL KPXBIP 2306011562

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 11

COMMITMENT

The State of Delaware

New Castle County, ss.

To any constable and to the Department of Correction of the said State and County:

THIS IS TO COMMAND YOU, the said constable, forthwith to convey and deliver into custody of the Department of Correction of **HRY in New Castle County** the body of **GEORGI PORGI** charged before said Justice of the Peace Court 11 on oath by OFFICER HENDERSON with violation of the below stated offenses of the Delaware Code of 1953 as amended.

AND WHEREAS, by my judgement the said defendant is committed **in default of $10,000.00 cash bail only. Appearance in JUSTICE OF THE PEACE COURT 11 for FUGITIVE HEARING on Wednesday June 14, 2023 at 09:00 AM.**

AND YOU, the said Department of Correction, are hereby required to receive the said defendant into your custody and him safely keep, until he be thence delivered by due course of law.

GIVEN under my hand and seal this 13 day of June, 2023.

(Seal)

Justice of the Peace

Conditions of Bail:

The total number of charges is 1.

Crim Act No	Case No	Statute	Offense	Amount of Bail
	K1-2306011562-001	11:2513:0000:M:	FUGITIVE FROM ANOTHER STATE	10,000.00

NAME: GEORGI PORGI SBI: T2353150 SEX: M RACE: W DOB: 06/02/1967

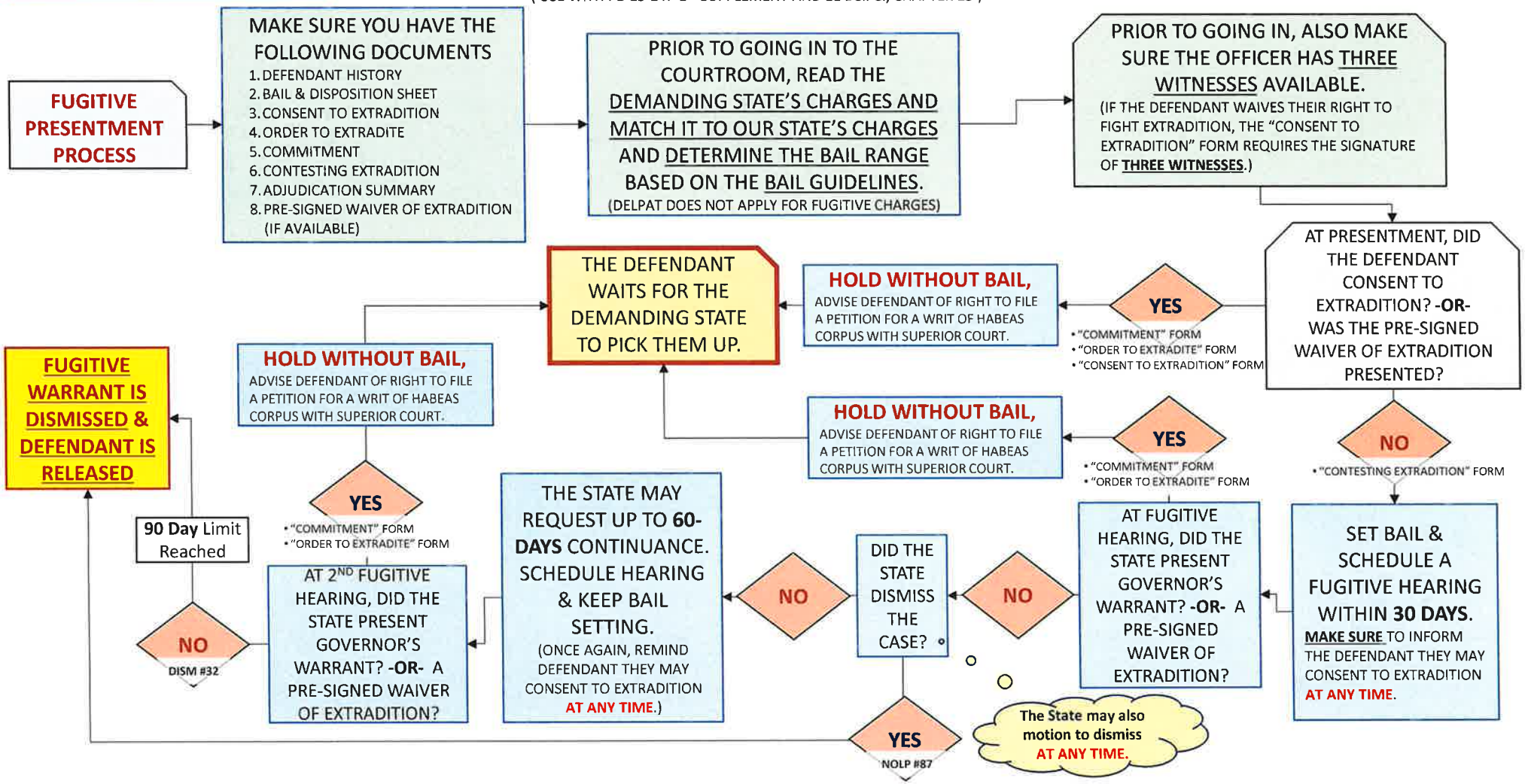
STANDARD BAIL CONDITIONS AND NOTICES

1. DEFENDANT SHALL RETURN TO COURT FOR ALL SCHEDULED HEARINGS UPON NOTICE AND SUBMIT TO THE ORDERS AND PROCESSES OF THE COURT. 2. DEFENDANT, OR ANY PERSON ACTING ON DEFENDANT'S BEHALF, SHALL NOT ENGAGE IN ANY ACTIVITIES INTENDED TO PREVENT OR DISSUADE A VICTIM OR WITNESS FROM ASSISTING THE PROSECUTION OR ATTENDING A HEARING OR TRIAL. 3. DEFENDANT SHALL NOT COMMIT ANY ADDITIONAL CRIMINAL OFFENSES IF RELEASED. 4. VIOLATION OF ANY BAIL CONDITION MAY RESULT IN THE FORFEITURE OF THE BOND, A NEW CRIMINAL CHARGE AND/OR A BENCH WARRANT. DEFENDANT SHALL ALSO BE SUBJECT TO SEPARATE CRIMINAL OFFENSE, WHICH PROVIDES A MAXIMUM PENALTY OF IMPRISONMENT NOT TO EXCEED 5 YEARS AND/OR FINES OF $5,000.

FUGITIVE PRESENTMENTS

(USE WITH PD 13-247 1ST SUPPLEMENT AND 11 *Del.* C., CHAPTER 25)

WARNING: These instructions do not apply to Juvenile fugitives (See Next Slide)



JUVENILE FUGITIVES : BAIL SETTING

(As shown in Bail Benchbook, Juvenile Bail Tab)

Juvenile Fugitive Warrants

- Child has been charged with criminal offenses in demanding state.
- Police will submit a street warrant for a juvenile fugitive.
- Family Court has jurisdiction:
  - o If Family Court is open – police to take child forthwith. 10 *Del. C.* § 1004(2).
  - o If Family Court is closed – Justice of the Peace to set bail for next session of Family Court. Use DYRS liaison if available. Secured bail is permitted under the Interstate Compact.

Runaways (no criminal charges in home state)

- There is **no court involvement in these procedures**. 10 *Del. C.* § 1004(1). Information below is just FYI:
- If the requesting agency is a nearby state, the child should be picked up as soon as possible in lieu of secure detention (less than 4 hours). If the requesting agency will take longer than 4 hours and the child is not a flight risk, Child, Inc. has runaway beds and can be contacted for respite care until the parent can pick up (contact is 302-762-6373).
- If there is no bed available and the child is not a flight risk or detainable pursuant to 10 *Del .C.* §1007, police should contact the DFS hotline for a dependency referral. Once the hotline accepts, DFS will contact the Family Court on-call dependency judge to grant DFS emergency custody, and DFS will then place the child in a suitable location until the parent can pick up the child.
- If the child is a danger to themselves or to others, and is not charged with a criminal offense, the DFS referral may result in placement to an appropriate facility.

Fugitive Warrant

Background or Short Description of Process	Instructions on how to process a Fugitive Warrant issued by a police or correctional officer. The officer will issue a fugitive warrant in LEISS if a person is wanted by another state. Below is the basic process for fugitive proceedings in the JP Court.

Pre-Requisite(s)	Approved Fugitive Warrant - must be accompanied by the original warrant from the demanding state and the NCIC hit lodged by the demanding state; a Pre-signed Waiver of Extradition if available, and any other documents required by the judge.

Policy Directive(s)	PD247 FUGITIVE WARRANT PROCEDURES WHILE AWAITING REQUISTION; PD247 1ST SUPPLEMENT FUGITIVE WARRANT PROCEDURES; PD163 USE OF VIDEOPHONE FOR EXTRADITION PROCEEDINGS; LM009 EXTRADITION

Effective Date	

System Name(s)	CJIS

SECTION LIST – DO NOT UPDATE THIS SECTION; ADMIN TO UPDATE

Section 1 – PROCESS FUGITIVE WARRANT
Section 2 – DEFENDANT CONSENTS TO EXTRADITION
Section 3 – PRE-SIGNED WAIVER OF EXTRADITION SUBMITTED
Section 4 - DEFENDANT IS CONTESTING EXTRADITION
Section 5 – FUGITIVE HEARING HELD
Attachment 1 – CONSENT TO EXTRADITION
Attachment 2 – ORDER TO EXTRADITE
Attachment 3 – CONTESTING EXTRADITION

SECTION 1 – PROCESS FUGITIVE WARRANT

Background or Short Description of Process	This section provides instructions on how to process an approved Fugitive Warrant once it has been submitted to the Court for Presentment.

Document(s) Required	Approved Fugitive Warrant - must be accompanied by the original warrant from the demanding state and the NCIC hit lodged by the demanding state; a Pre-signed Waiver of Extradition if available, and any other documents required by the judge.

Documents Generated	Defendant History; Bail and Disposition Worksheet; Auto-generated Consent to Extradition; Order to Extradite; Contesting Extradition; Fugitive Waiver Commitment; How to Get a Lawyer; DELJIS Adjudication Charge Summary

Step	Action
1.	From the CJIS main menu screen select COURT CASE MANAGEMENT SYSTEM; press ENTER
2.	Select CRIMINAL CHARGE PROCESSING; press ENTER
3.	Enter defendant's first and last name and DOB; press ENTER
4.	Select defendant from the name search return list by entering the appropriate number in the "Enter Selection no section". Make sure the SBI number listed matches the SBI on the warrant; press ENTER
5.	Using the defendant history, verify offender identification (address, phone number, etc.) Update any information that needs changing; press ENTER when finished
6.	Enter the complaint number, date of arrest and arrest number. Information can be at the bottom of the warrant on the first page; press ENTER
7.	From the 'Offender Arrest Selection' screen select the warrant from the outstanding list of warrants for the offender. Make sure the arrest number, case number and complaint number match the warrant; press ENTER
8.	Verify the information in the ACTIVE WARRANT pop up is correct; make any necessary changes; press ENTER
9.	Enter arresting officer badge number and name (see first page of warrant at the bottom); press ENTER
10.	"Add Additional Charge" pop up window - do NOT add any additional charges to this incident; press ENTER
11.	Form Print Option – press ENTER to print court paperwork
12.	Select the appropriate institution for the commitment; press ENTER
13.	Verify Affiant name in the pop up – make any necessary changes; press ENTER

SECTION 2 – DEFENDANT CONSENTS TO EXTRADITION

Background or Short Description of Process	This section provides instruction for when the defendant consents (voluntarily agrees) to be turned over to the state that currently has an active warrant for them (the demanding state).

Document(s) Required	Approved Fugitive Warrant - must be accompanied by the original warrant from the demanding state and the NCIC hit lodged by the demanding state; a Pre-signed Waiver of Extradition if available, and any other documents required by the judge.

Documents Generated	See Section 1 documents generated upon processing of the fugitive warrant.

Step	Action
1.	If the defendant consents to extradition, the defendant and three witnesses need to sign the CONSENT TO EXTRADITION document. The judge signs it when it is returned.
2.	The Judge signs the ORDER TO EXTRADITE document
3.	The Judge signs the original automated FUGITIVE WAIVER COMMITMENT document which indicates that the defendant is "committed on waiver as fugitive" (this means the defendant will be held waiting for the demanding state to pick them up). There are no bail amounts at the bottom of the Commitment.
4.	The defendant awaits the authorities from the demanding state at the Department of Correction (DOC) a. From the CJIS main menu screen select COURT CASE MANAGEMENT SYSTEM; press ENTER b. Select UPDATE CHARGE/DISPOSITION DATA function; press ENTER c. Enter case number and enter function number for Add/Update Sentence Information; press ENTER d. Enter disposition code EXTR; enter judge's code in the "rendered by" field; press ENTER.
5.	The clerk sends the FUGITIVE WAIVER COMMITMENT, ORDER TO EXTRADITE, and HOW TO GET A LAWER documents to the arresting officer.
6.	The clerk sends the FUGITIVE WAIVER COMMITMENT along with the CONSENT TO EXTRADITION, ORDER TO EXTRADITE, a copy of the Fugitive Warrant, and the demanding State's documentation to the DOC Central Offender Records. The clerk notifies the State Detective and sends the same paperwork to them.
7.	Case is completed and filed

- The judge may set a personal reminder to verify that the defendant has been picked up by the demanding state. If the judge's review of the record indicates that the defendant has not been picked up, the judge may ask the clerk to contact the State Detective to ask about an expected date for pick-up

SECTION 3 – PRE-SIGNED WAIVER OF EXTRADITION SUBMITTED

Background or Short Description of Process	This section provides instruction for when the State submits a Pre-signed Waiver of Extradition for the defendant at any time during the fugitive process.

Document(s) Required	Pre-signed Waiver of Extradition; Approved Fugitive Warrant

Documents Generated	See Section 1 documents generated upon processing of the fugitive warrant.

Step	Action
1.	If the State has submitted a Pre-signed Waiver of Extradition with the supporting documents for the fugitive warrant, the judge will hold the defendant for pick up from the demanding state. The defendant does not get to choose to consent to extradition or a have 30-day hearing. Probationers and parolees must sign a document that confirms they agree to extradition if they violate the terms of their probation or parole in order to move to a state other than the incarcerating state. This document is called a Pre-signed Waiver of Extradition.
2.	If the State has not submitted a Pre-signed Waiver of Extradition and the defendant consents to extradition, see Section 2.
3.	If the State has not submitted a Pre-signed Waiver of Extradition and the defendant is contesting extradition, see Section 4.
4.	If the State submits a Pre-signed Waiver of Extradition in advance of the next hearing (either a 30-day or a continued hearing) AND the fugitive is incarcerated, the clerk should schedule a video appearance for the next joint availability of the State Detective and the DOC.
5.	If the Court is in possession of a Pre-signed Waiver of Extradition and the fugitive has been released on bail and is present at the hearing, the judge will detain the fugitive with a Commitment. Posted bail will be returned to the payee. The clerk removes the current bail and selects the FUGITIVE WAIVER COMMITMENT. There are no bail amounts at the bottom of the Commitment. The judge signs the FUGITIVE WAIVER COMMITMENT and the ORDER TO EXTRADITE.
6.	If the Court is in possession of a Pre-signed Waiver of Extradition and the fugitive has been released on bail and fails to appear at the hearing and is not incarcerated, the Court will issue a capias. Posted bail will be forfeited per PD 12-244. When the fugitive is arrested on the capias, the judge will detain the fugitive with a Commitment. The clerk removes the current bail and selects the FUGITIVE WAIVER COMMITMENT. There are no bail amounts at the bottom of the Commitment. The judge signs the FUGITIVE WAIVER COMMITMENT and the ORDER TO EXTRADITE.
7.	If the fugitive arrested on a capias is brought to a court location other than the presiding location, the judge will detain the fugitive without any bail consideration and transfer

	the case to the presiding court location. The clerk removes the current bail and selects the FUGITIVE WAIVER COMMITMENT for the judge to sign.
8.	The defendant awaits the authorities from the demanding state at the Department of Correction (DOC) a. From the CJIS main menu screen select COURT CASE MANAGEMENT SYSTEM; press ENTER b. Select UPDATE CHARGE/DISPOSITION DATA function; press ENTER c. Enter case number and enter function number for Add/Update Sentence Information; press ENTER d. Enter disposition code EXTR; enter judge's code in the "rendered by" field; press ENTER.
9.	The clerk sends the FUGITIVE WAIVER COMMITMENT and the ORDER TO EXTRADITE along with the Pre-signed Waiver of Extradition, a copy of the Fugitive Warrant, and the demanding state's documentation to the DOC. The clerk notifies the State Detective and sends the same paperwork to them. The fugitive receives a copy of the How to Get a Lawyer document.
10.	Case is completed and filed

SECTION 4 – DEFENDANT IS CONTESTING EXTRADITION

Background or Short Description of Process	This section provides instruction for when the defendant does **NOT** consent to be turned over to the state that currently has an active warrant for them (the demanding state).

Document(s) Required	Approved Fugitive Warrant - must be accompanied by the original warrant from the demanding state and the NCIC hit lodged by the demanding state; a Pre-signed Waiver of Extradition if available, and any other documents required by the judge.

Documents Generated	Commitment and/or Bond Order to Appear

Step	Action
1.	Bail conditions are set, which can include financial conditions, and case is scheduled for a fugitive hearing in 30 days. If the 30th day falls on a weekend or holiday, the fugitive hearing must be scheduled for the day prior, so as not to exceed the 30-day statutory limit. a. From the CJIS main menu screen select COURT CASE MANAGEMENT SYSTEM; press ENTER b. Select UPDATE CHARGE/DISPOSITION DATA function; press ENTER c. Enter case number and enter function number for ADD BAIL/BOND INFORMATION AND SCHEDULED APPEARANCE; press ENTER d. Enter judge's code e. Enter bail amount and bail type if applicable; press ENTER f. Enter any bail notes if applicable; enter Y or N g. Enter Appearance Court code h. Enter date and time of next appearance i. Select "OTHER" enter and type in Fugitive Hearing; press ENTER j. Enter name and/or bar code of attorney if applicable; press ENTER k. Select all bail conditions by entering an "X" in front of the condition; manually enter "free text" conditions if applicable; press ENTER
2.	BAIL/BOND/SURETY/PAYMENT ENTRY - If bail is set as CASH or SECURED, this screen will appear to allow the user to enter payment. If no bail is required, go to Step 3 a. If posting bail enter: i. Cash Amount, payment type, and name and address of person posting bail or ii. Secured Bond amount, bail, and address of surety iii. Press ENTER b. If not posting bail press ENTER a. Select the appropriate institution for the commitment; press Enter b. Verify Affiant name in the pop up – make any necessary changes; press ENTER

3.	System will generate either a COMMITMENT or a BOND/ORDER to appear depending on data entered.
4.	***Clerk to notify the State Detective <u>ASAP</u> of hearing date and fax or email appropriate paperwork as generated above in step 3. The 30-day and 90-day "clocks have begun to tick" and the State Detective needs as much time as possible to obtain a Governor's Warrant for the fugitive's extradition.** Clerk sends the COMMITMENT or BOND/ORDER, CONTESTING EXTRADITION, and HOW TO GET A LAWER documents to the arresting officer.
5.	File case under the scheduled date ***New Castle County***: *Court 20 hears all fugitive hearings* ***Kent and Sussex Counties***: *All court locations can hear fugitive hearings. However, Courts 3 and 7 (the 24-hour court locations) and Court 2 (the Statewide Virtual Hearing Criminal Court location) hear most cases.* ***If an incarcerated fugitive changes his/her mind and contacts the Court in writing with a request to do so, the Court should schedule a video appearance for the next availability of the Department of Corrections and notify the State Detective's office.*** *****If the Governor's Warrant or a Pre-signed Waiver of Extradition is submitted to the Court in advance of the next hearing date AND the fugitive is incarcerated on bail, the Court should schedule a video appearance for the next joint availability of the State Detective and the Department of Corrections.***

SECTION 5 – FUGITIVE HEARING HELD

Background or Short Description of Process	This section provides instruction regarding what may take place after a fugitive hearing and instruction on updating the case in the system.

Document(s) Required	Fugitive Case

Documents Generated	Commitment and/or Bond Order to Appear (Step 3 only)

Step	Action
1.	If the defendant makes bail and goes to the demanding state to take care of the warrant and provides the State Detective with proof that the warrant was taken care of, the State Detective will most likely file a dismissal of the fugitive warrant (State's Dismissal code 87.) At the approval of the judge a disposition of "DISM" is entered. a. See Section 2, step 4 for instructions to enter a disposition b. Case is completed and filed
2.	If the Governor's Warrant or Pre-signed Waiver of Extradition is presented to the Court at the hearing, the defendant is taken into or kept in custody until the demanding state picks the defendant up. A disposition of "EXTR" is entered. The judge signs either a GOVERNOR'S WARRANT COMMITMENT or a FUGITIVE WAIVER COMMITMENT, depending upon the document presented to the Court, and the ORDER TO EXTRADITE. a. See Section 2, step 4 for instructions to enter a disposition **Entering of the disposition will close event and inactivate any bail set on the case. Must be done before reprinting commitment.** b. To Print COMMITMENT: i. Select SUB FUNCTIONS ii. Select DOCUMENT PRINT REQUEST function iii. Enter Case Number; press Enter iv. Select Commitment Order; press Enter v. Select Commitment type; press Enter vi. Select Institution from list; press Enter vii. Verify Affiant name; press Enter viii. All documents are sent together. c. Case is completed and filed
3.	The State Detective may request a continuance for up to 60 days (for a total of 90 days) in order to obtain a Governor's Warrant or proof of a Pre-signed Waiver of Extradition. If the 60th day falls on a weekend or holiday, the fugitive hearing must be scheduled for the day prior, so as not to exceed the 60-day statutory limit. a. See Section 4, steps 1-4 for scheduling new date b. File case under the scheduled date
4.	If no Governor's Warrant or proof of a Pre-signed Waiver of Extradition is presented within the total time frame of 90 days, and the State has not submitted a motion to dismiss, the judge may dismiss the case and the fugitive is released. Enter a disposition of 'DISM' (Court's dismissal code #32 in the interest of justice.) Print a release. a. See Section 2, step 4 for instructions to enter a disposition

	b. Case is completed and filed

ATTACHMENT 1 – CONSENT TO EXTRADITION

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR _____ COUNTY
COURT NO. ____

STATE OF DELAWARE

V

DEFENDANT: _____
CASE NUMBER: _____

CONSENT TO EXTRADITION

I, _____, am under arrest and held by the State of Delaware for crime(s) allegedly committed in _____ County, State of _____. This jurisdiction has asked that I be extradited to face these charges:

_____
_____
_____

The following has been explained to me and I understand that:

1) I have the right to demand a Governor's Warrant or proof of a pre-signed waiver of extradition;
2) I have the right to file a Writ of Habeas Corpus in the Superior Court of the State of Delaware;
3) If I file a Writ of Habeas Corpus, the Superior Court may schedule a hearing to decide if I am being held in violation of my constitutional rights;
4) The demanding state legally has up to 30 days to pick me up.

I have signed this waiver voluntarily on _____in the presence of the three witnesses whose signatures appear below, and I consent (agree) to be returned to the requesting jurisdiction and state.

_____
Defendant's Signature

_____
Witness #1: Print Name

_____
Witness #1: Signature

_____
Witness #2: Print Name

_____
Witness #2: Signature

_____
Witness #3: Print Name

_____
Witness #3: Signature

Acknowledged this ____ day of _____, 20___

_____(SEAL)
Justice of the Peace

A copy of the "How to Get a Lawyer" document and a copy of this "Consent to Extradition" form must be given to the Defendant

JP Crim Form No. GJ715B (Rev 1/25/23)

ATTACHMENT 2 – ORDER TO EXTRADITE

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR _____COUNTY
COURT NO. _____

STATE OF DELAWARE
V.
DEFENDANT: _____
CASE NUMBER: _____

ORDER TO EXTRADITE

_____ is under arrest and held by the State of Delaware for crime(s) allegedly committed in _____ COUNTY, State of _____. This jurisdiction has asked that the Defendant be extradited to face these charges:

_____
_____
_____

The Defendant is ordered to be extradited due to **one** of the following reasons (check one):

__ The Defendant, _____, knowingly and voluntarily signed a Consent to Extradition (Exhibit A).

__The State of Delaware has submitted proof of the Defendant's Pre-signed Waiver of Extradition (for a parolee/probationer.)

__ The State of Delaware has submitted a Governor's Warrant requiring the extradition of the Defendant.

The Defendant's right to demand a Governor's Warrant or proof of a Pre-signed Waiver of Extradition (for a parolee/probationer) was explained and understood. The Defendant's right to file a Writ of Habeas Corpus in the Superior Court of the State of Delaware was also explained and understood.

For the reasons stated above, the Defendant is to be extradited (returned) to _____ County, State of _____.

IT IS SO ORDERED.

_____ _____(SEAL)
Date Justice of the Peace

JP Crim Form No. GJ715A (Rev 1/25/23)

ATTACHMENT 3 – CONTESTING EXTRADITION

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR _____ COUNTY
COURT NO. _____

STATE OF DELAWARE
V.
DEFENDANT: _____
CASE NUMBER: _____

CONTESTING EXTRADITION

I, _____, am under arrest and held by the State of Delaware for crime(s) allegedly committed in _____ COUNTY, State of _____. This jurisdiction has asked that I be extradited to face these charges:

_____

_____

However, I have exercised my right to fight extradition and I have been scheduled for a 30-day fugitive hearing. During this time, the State of Delaware will work to acquire a Governor's Warrant or proof of a Pre-signed Waiver of Extradition (if I am a parolee/probationer.)

The following has been explained to me and I understand that:

1) I am required to appear at my Fugitive Hearing;
2) I am required to notify the Court in writing if I am held by the demanding state and unable to appear for my Fugitive Hearing;
3) If I fail to appear at my hearing without a judge's approval, the Court will issue a capias (bench warrant) for my arrest;
4) If I post bail, I may travel to the demanding state to resolve this matter so that the fugitive warrant can be dismissed;
5) If the State of Delaware does not acquire the necessary document within 30 days, it may ask for a continuance of up to 60 more days. This time may or may not be credited toward my sentence if I am sentenced in the demanding state;
6) If I am unable to post bail, I can consent to extradition prior to my scheduled fugitive hearing.

_____
Defendant's Signature

Acknowledged this ____ day of _____, 20___

_____(SEAL)
Justice of the Peace

A copy of the "How to Get a Lawyer" document and a copy of this "Contesting Extradition" form must be given to the Defendant.