

If you will permit me, I would like to elaborate on that answer to tell you the following:

A person under arrest has a right to be taken before a magistrate and arraigned without unnecessary delay, and in any event, within 2 days after his arrest excluding Sundays and holidays. This is set out by the California Penal Code, section 825 and partly in 849.

Penal code section 841 requires a person making an arrest must inform the person to be arrested, of the cause of the arrest, and upon request of the person he is arresting, of the offense for which he is being arrested.

Section 849 provides:

"(a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, must, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person, must be laid before such magistrate.

"(b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever—

"(1) he is satisfied that there is no ground for making a criminal complaint against the person arrested. Any record of such arrest shall include a record of the release hereunder and thereafter shall not be deemed an arrest but a detention only.

"(2) the person arrested was arrested for intoxication only, and no further proceedings are desirable.

"(3) the person arrested was arrested for a misdemeanor, and has signed an agreement to appear in court or before a magistrate at a place and time designated, as provided in this code (as amended Stats. 1957, ch. 2147, p. 3806, sec. 6)."

There are many sections in California law that are a result of codification of the decisions of the supreme court. One of these that has recently been rewritten after the original section was repealed, is section 647, which in several sections describes unusual conduct. Section (e) particularly, states: "Who loiters or wanders upon the streets or from place to place without apparent reason or business and who refuses to identify himself and to account for his presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety demands such identification." The penalty provisions of this section is, that every person who commits any of the acts which includes the above, shall be guilty of disorderly conduct, a misdemeanor.

I reiterate, that I share your concern about infringement on the Constitution and its guarantees, however, I do believe that Congress can make rules by codifying the decisions of the courts in their interpretations of the Constitution. However, all things being equal, procedural rules and their interpretation should not be judged in the same light or with the same weight as constitutional guarantees. Congress has been eminently successful in this field, as witnessed by the many codes that now maintain us as the greatest government in the world, with the other two branches of government in support.

I was impressed and deeply grateful by the manner in which I was treated while testifying before you, and want to assure you that I would consider it a privilege to be of any assistance that you might request.

Very sincerely yours,

MICHAEL N. CANLIS,
Sheriff-Coroner, San Joaquin County.

The CHAIRMAN. Thank you very much, Sheriff.

As I indicated earlier, Superintendent Wilson had a transportation problem. He is not here right now. We will stand in recess until 2 o'clock this afternoon.

(Whereupon, at 12:10 p.m., the hearing was recessed, to reconvene at 2 p.m. on the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

I apologize to our witness this afternoon for being a little late. We had a voting session in the Senate.