

STATE OF DELAWARE,
DELAWARE STATE POLICE HEADQUARTERS,
Dover, Del., November 1, 1961.

Chief ROBERT V. MURRAY,
Metropolitan Police Department,
Washington, D.C.

DEAR CHIEF MURRAY: Enclosed is a copy of the Uniform Arrest Act of the State of Delaware, including the history of the law and judicial opinions, which you requested.

You will note that in section 1902, chapter 19 of title 11, the courts have upheld the constitutionality of the 2-hour detention period prior to arraignment for a specific charge or the release of a person without a charge being placed.

You will note further that in a case of operating under the influence, the courts ruled that evidence obtained during the 2-hour period of detention was admissible; even though the person so charged was not arraigned at the conclusion of the 2-hour period but was held all night due to his intoxicated condition and arraigned the following morning.

In section 1911, chapter 19, title 11, "Hearing Without Delay: Permissible Delay," you will note that a person not released at the conclusion of the 2-hour detention may be held for purposes of continued investigation for a period not greater than 24 hours following arrest, Sundays and holidays excluded. Furthermore, the investigator, upon application to a resident judge of the county where he is detained or the county where the crime was committed, may request an additional period not to exceed 48 hours, which would give an investigator 72 hours, excluding Sundays and holidays, to complete his investigation after arrest but prior to arraignment. (This section of the statute has never been tested as to constitutionality.)

However, all of our investigations, when necessary, are conducted under this provision of the statute. I sincerely hope that this information may assist your three-man committee in studying the problems of arrest and arraignment in your jurisdiction.

If I can be of further assistance in any way, please feel free to call upon me.

Sincerely yours,

JOHN P. FERGUSON, *Superintendent.*

11—DELAWARE LAWS, CHAPTER 19

SUBCHAPTER I. ARREST AND COMMITMENT

Cross References

Extradition, see section 2501 et seq. of this title.

SEC. 1901. DEFINITIONS.

As used in this subchapter—

"Arrest" is the taking of a person into custody in order that he may be forthcoming to answer for the commission of a crime;

"Peace Officer" is any public officer authorized by law to make arrests in a criminal case.

HISTORY AND SOURCE OF LAW

DERIVATION:

48 Del. Laws, Ch. 304 Code 1935, Sec. 5343-A. as covered by the general classification of crimes in section 101 of this title.

REVISION NOTE:

Definitions of "felony" and "misdemeanor" were omitted from this section. 1951 AMENDMENT: 48 Del. Laws, Ch. 304, amended Code 1935 by adding these provisions as section 5343-A.

SEC. 1902. QUESTIONING AND DETAINING SUSPECTS.

(a) A peace officer may stop any person abroad who he has reasonable ground to suspect is committing, has committed, or is about to commit a crime, and may demand of him his name, address, business abroad, and where he is going.

(b) Any person so questioned who fails to identify himself or explain his actions to the satisfaction of the officer may be detained and further questioned and investigated.

(c) The total period of detention provided for by this section shall not exceed 2 hours. The detention is not an arrest and shall not be recorded as an arrest.