

NOTES OF DECISIONS

1. Generally

Court, in a criminal action, will not inquire into the method by which defendant is brought before it, since proper tribunals and adequate laws exist for determining responsibility and liability of those who, in mistaken zeal, may willfully or ignorantly exceed their authority in making arrests. *State v. Moore*, 4 Terry 509, 43 Del. 509, 50 A.2d 791 (1947).

SEC. 1908. POSSESSION AND DISPLAY OF WARRANT

An arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in his possession at the time of the arrest, but, if the person arrested so requests, the warrant shall be shown to him as soon as practicable.

HISTORY AND SOURCE OF LAW

DERIVATION:

48 Del. Laws, Ch. 304, Code 1935, Sec. 5343-H.

1951 AMENDMENT:

48 Del. Laws, Ch. 304, amended Code 1935 by adding these provisions as section 5343-H.

SEC. 1909. SUMMONS INSTEAD OF ARREST; FORM; PENALTY FOR NONAPPEARANCE

(a) In any case in which it is lawful for a peace officer to arrest without a warrant a person for misdemeanor, he may, but need not, give him a written summons. (See sample attached.)

(b) If the person fails to appear in answer to the summons or if there is reasonable cause to believe that he will not appear, a warrant for his arrest may issue.

(c) Whoever willfully fails to appear in answer to the summons may be fined not more than \$100 or imprisoned for not more than 30 days or both.

HISTORY AND SOURCE OF LAW

DERIVATION:

48 Del. Laws, Ch. 304, Code 1935, Sec. 5343-I.

1951 AMENDMENT:

48 Del. Laws, Ch. 304, amended Code 1935 by adding these provisions as section 5343-I.

SEC. 1910. RELEASE OF PERSON ARRESTED WITHOUT WARRANT

(a) Any officer in charge of a police department or any officer delegated by him may release, instead of taking before a magistrate, any person who has been arrested without a warrant by an officer of his department whenever—

(1) He is satisfied either that there is no ground for making a criminal complaint against the person or that the person was arrested for drunkenness and no further proceedings are desirable; or

(2) The person was arrested for a misdemeanor and has signed an agreement to appear in court at a time designated, if the officer is satisfied that the person is a resident of the State and will appear in court at the time designated.

(b) A person released as provided in this section shall have no right to sue on the ground that he was released without being brought before a magistrate.

HISTORY AND SOURCE OF LAW

DERIVATION:

48 Del. Laws, ch. 304, Code 1935, sec. 5343-J.

1951 AMENDMENT:

48 Del. Laws, ch. 304, amended code 1935 by adding these provisions as sec. 5343-J.

SEC. 1911. HEARING WITHOUT DELAY; PERMISSIBLE DELAY

If not otherwise released, every person arrested shall be brought before a magistrate without unreasonable delay, and in any event he shall, if possible, be so brought within 24 hours of arrest, Sunday and holidays excluded, unless a resident judge of the county where he is detained or of the county where the crime was committed for good cause shown orders that he be held for a further period of not exceeding 48 hours.