

March 4, 1953

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ARIZONA ATTORNEY GENERAL

The Honorable Wallace O. Tanner  
Apache County Attorney  
Court House  
St. Johns, Arizona

Dear Mr. Tanner:

This letter is in reply to your letter of February 5, 1953.

In answer to your question 1 - what constitutes a reasonable time - we are attaching herewith a copy of an opinion mailed to Mr. Sweeney discussing this problem.

Question 2 - does a highway patrolman have the same powers as any other peace officer in dealing with prisoners? We respectfully direct your attention to the following Arizona cases: TOMARIS v. STATE, 71 Ariz. 147, and STATE v. HENDRICKS, 66 Ariz. 235. In these cases our Supreme Court states that a highway patrolman is a peace officer. He would have the same powers as any other peace officer in dealing with prisoners he arrests while fulfilling his duties as a highway patrolman.

Answering your question 3 regarding the duties of the highway patrolman after taking a prisoner before a magistrate, Section 47-201, A.C.A. 1939, makes the sheriff the jailkeeper and responsible for any prisoners committed to the jail.

As to question 4, if the defendant is intoxicated, this would be one of the circumstances to be considered in determining if the time is reasonable or unreasonable as in question 1.

In answer to question 5, Section 43-3101, A.C.A. 1939, dealing with criminal prosecution for the sale of certain types of intoxicating liquors to Indians, was repealed by Laws 1951, Chapter 155, Section 1. Your attention is directed to page 122 of A.C.A. 1939 Official Edition, 1952 Cumulative Supplement, for a discussion of the legality of selling liquor to Indians. Title 18, Section 1154, U.S.C.A., prohibits the sale, selling or barter of intoxicating liquors to certain Indians. However, this is a Federal statute and would not be within State jurisdiction.

Hon. Wallace O. Tanner,  
Apache County Attorney

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We trust that the above information will answer your  
questions.

Yours very truly,

IRWIN CANTOR  
Assistant to the  
Attorney General

IC:LWG  
Enclosure

COOPER