5-03/105.00 - Imperative Release of Prisoner

An imperative release is necessary when detention continues beyond the close of court business on the second court day following the arrest and no court appearance has been made or no other valid detention has been established.

Custodial jailers (e.g., station jailers for station arrestees and WAD; IRC/CRDF for Custody Division inmates) will continue to be responsible for releasing all arrestees not arraigned within two court days, in compliance with section 825 PC.

If the investigator does not intend to arraign the arrestee (e.g., DA reject, cleared, insufficient evidence, etc.), the investigator shall advise the custodial jailer at once so that the release may be expedited.

The watch commander of the unit or detail assigned the case shall determine the cause of any delay and take necessary action as set forth below:

- Ensure that a JDIC message is sent immediately advising WAD or CRDF of the rejection, if the prisoner is to be released from IRC/CRDF;
- Obtain a complaint and/or order to appear in court;
- Release the prisoner;
- Make other dispositions of the prisoner as circumstances require; and/or
- The watch commander shall notify the unit commander when compliance with the above is prohibited.

In all cases where physical disability prohibits the arraignment of a prisoner within the time set forth above, a notation will be made on the court lists indicating a "medical-no-go." The medical staff at the detention location shall make these determinations and notify the WAD section of IRC/CRDF.

If this procedure is not acceptable to the arraigning court and the prisoner's nonappearance is questioned, an SH-CR-409, Declaration of Physician, shall be completed and delivered to the court.