

legislation does not mean that it is not necessary for a local police force.

I repeat that it seems to me the essential question is the right of the individual to walk the streets in relative safety. In this jurisdiction today he does not have that right. We are leading the Nation insofar as these two particular crimes of violence are concerned—assault and robbery. And that is not a good situation for our Capital City.

I feel if the police had this additional opportunity of interrogating individuals that would flow from this legislation, that it would have a most salutary effect, and for that reason I do support it.

The CHAIRMAN. How far should such interrogation be permitted, Mr. Gasch? This seems to be the point on which all of this problem turns.

In reading the *Mallory* decision, which is simply an interpretation of rule 5(a), the Supreme Court's decision made it clear that following an arrest there is to be very little more done than actually taking a case history of the suspect. It would seem to me that is about all it permits.

Do you agree with that?

Mr. GASCH. Yes, sir—very little delay between the point of arrest and the time at which the individual must be taken before a judicial officer for warning as to his right is permitted.

The Court said that he may be booked and the usual police procedures followed. It also says that a brief delay is permissible for the purpose of checking his story.

I would say it involves a matter of a couple of hours perhaps, something like that. And if I may say so, Mr. Chairman, when I was U.S. attorney we had an arrangement whereby, where preliminary hearings under rule 5(a) were necessary, they could be held in the middle of the night, and they frequently were held in the middle of the night—where we felt we were absolutely dependent upon a confession or admission in a given case, and we wanted to minimize the opportunity of a reversal on this point.

The commissioner judge was gotten out of bed, and they were warned of their rights.

Now, I would say where every effort is made to expedite the judicial warning, that what transpires between the police officer and the accused person prior to that time should be admissible, even under the *Mallory* doctrine, provided, of course, the police are not seeking to delay this preliminary hearing.

It is a difficult thing. I hate to get judges and commissioners out of bed in the middle of the night—but we did so.

In the *Porter* case, Mr. Justice Reed, sitting on the circuit by designation, said it was not necessary. But there were differences of opinion among his colleagues on the court of appeal on that question.

And I sought wherever possible and wherever we thought it was necessary to have these preliminary hearings just as soon as possible after the arrest where we thought it was necessary to comply with the restrictions of the *Mallory* doctrine.

Now, while we are waiting for preliminary hearing or while we are complying with normal police practices, I think some questioning of the suspect is entirely proper.