

I have some concern that the Senate is being given the impression that our crime rate is on a great increase here. I will not attempt to duplicate statistics given by my colleague, Mr. Shadoan, but the annual report of the Police Department for the last fiscal year indicated that the crime in the District of Columbia, serious crime in the District of Columbia has declined during that fiscal year 1.2 percent, and although the crime rate has increased considerably since 1957, the serious crime rate in the District during last year was 12.5 percent below what it was in 1953.

I also understand, and this is a matter here of hearsay, and I am sure that the committee staff will be able to verify it, that the District of Columbia leads the Nation in the efficiency of the police, as judged by the percentage of closed cases. As I understand it, this clearance rate, as it is called, is the percentage of cases in which a file is begun and which is ultimately closed by arrests and it is my understanding—hearsay again—that the District of Columbia closed approximately 44 percent of the cases, whereas the national average is 27 percent.

While it may be argued that more cases would be closed without the *Mallory* rule, it does not appear that the *Mallory* rule is preventing them from doing an extremely efficient job.

I would like to have the information as to exactly how many cases have been lost because of the *Mallory* rule. I have never been able to get this information. One of my colleagues who at the present time has been directing the program and for the last 4 years was assistant chief of the court of general sessions, could recall only 3 cases of the approximately 30,000 with which he came in contact that were thrown out because of the *Mallory* rule. Undoubtedly there are a number of other cases in which confessions have been excluded from evidence in the district court and where the Government has lost the case, and there are four or five cases in the court of appeals reversed because of inadmissible confession, but I do not know how many cases have not been presented to the U.S. attorney's office because the police were unable to interrogate in such cases.

I would strongly suggest, however, that the number is not a very large number and one of the reasons is that the police are quite flexible and have quite a bit of ingenuity and in particular areas they are extremely intelligent and as a result they have found devices to avoid the exclusionary effect of the *Mallory* rule.

These devices are largely devices of violating the rule part way. They arrest the person without probable cause, or with probable cause, depending on whether they have it. You detain him clearly for an unnecessary period of time. He confesses. And in his confession you are able to determine not only perhaps the victim of this crime but the fact that he has committed other crimes. And so then you go to your unsolved crimes files and you produce those witnesses and at the trial you do not offer evidence that you illegally obtained your confession, you only offer in evidence the eyewitness testimony of the witness whom you have found as the result of the unlawful detention.

Now, this has been sustained by the Court. In the case of *Leroy Pane*, Pane had been detained 25 hours and ultimately he was tried for an offense other than the one for which he had been arrested because they could not prove the offense for which he had been arrested without violating the *Mallory* rule. But during the period of inter-