

"Do not include anything that happened before your 16th birthday.

"Do not include traffic violations for which a fine of \$25 or less was imposed. All other charges must be included even if they were dismissed."

The Federal job applicant must explain all arrests. He must explain even if the charges were dismissed. This is probably true in job applications for most responsible jobs in private concerns as well. The reputations of a far greater number of innocent citizens would be preserved by the enforcement of *Mallory* because that decision certainly will deter and curb arrests without probable cause. Officers will not be very prone to frequently arraign persons without probable cause when they come to know that arraignments without probable cause will result only in the release of the persons arrested and a loss of time by both officer and citizen.

Some policemen have complained because, they say, a commissioner or committing magistrate is not always available. In the District of Columbia there are 15 judges in the U.S. District Court for the District of Columbia, exclusive of 3 retired judges who serve part time. In the District of Columbia Court of General Sessions there are 15 judges exclusive of 1 retired judge who serves 3 months per year. All 34 of these judges may issue warrants, arraign, commit, discharge, or fix bail for persons brought before them charged with offenses against the United States. In addition to the 34 judges there is a U.S. commissioner who is also empowered to perform these duties. There should, therefore, be no lack of a judicial officer for the purpose of arraignments in the District of Columbia at any time.

Many years ago Congress recognized the fact that in some instances arrested persons were being detained in the District of Columbia for unreasonable lengths of time without formal charge. Congress enacted what is now title 16, section 805, District of Columbia Code, which provides as follows:

"16-805/24: 205/. Right to true copy of commitment—Forfeiture.

"Any person committed or detained, or any person in his behalf, may demand a true copy of the warrant of commitment, or detainer, and any officer or other person detaining him who shall refuse or neglect to deliver to him a true copy of the warrant of commitment or detainer, if there be any, within 6 hours after the demand, shall forfeit to the party so detained the sum of \$500 (Mar. 3, 1901, 31 Stat. 1372, ch. 854, 1147)."

While on its face this statute merely provides for the obtention of a true copy of the warrant of commitment or detainer, its real purpose was to effect the release within 6 hours of persons detained without formal charge. In the District of Columbia there has come to be known among criminal lawyers what is called a 6-hour writ. When a client has been arrested on the so-called charge of investigation and is being held without being charged with any crime, the lawyer will serve upon the officer in charge of the precinct where the client is detained a formal demand for a true copy of the warrant of commitment or detainer pursuant to the aforesaid statute. Under this practice the police officers must then charge the client with some offense formally or release the client. The police officers release or charge such prisoners after such demand because of the forfeiture provision. This might be a somewhat effective method of preventing long unlawful detentions but for the fact that in practice there is required a formal demand in writing which cannot be effected by the prisoner himself and for the further reason that the arrested person seldom knows of this statutory provision and, certainly he is not told of its existence. The result is that the remedial feature of the statute is available only to those persons who have friends or relatives able to employ an attorney. This statute contemplates no penalty against an officer who holds an arrested subject for several days without charge and without arraignment provided that within 6 hours after receipt of the formal demand, he either formally charges the prisoner or releases him. Moreover, in event of a formal charge being placed against the suspect after service of the formal demand or 6-hour writ there is nothing to compel the officer to arraign the prisoner. True enough, in the practice in the District of Columbia if the charge is placed against the suspect during the nighttime hours, the Chief of the Detective Bureau or some police official is empowered to fix the amount of bail bond. This is a judicial function. But aside from all of these matters, the important thing to be considered is that Congress recognized a need for some method of compelling the release of unlawfully detained persons. Because of these reasons it is plain that this provision is woefully inadequate. This statute is in effect only in the District of Columbia and has no application to the States.

We say that the method of enforcement of rule 5(a) of the Federal Rules of