

POLICE DEPARTMENT,
Tallahassee, Fla., April 12, 1961.

Mr. ROBERT V. MURRAY,
Chief of Police, District of Columbia,
Washington, D.C.

DEAR CHIEF MURRAY: In reply to your letter of April 4, 1961, this is to advise that we have not been affected by the decision in the *Andrew Mallory* case or the *Trilling* case.

Our State statutes are silent as to the exact time between arrest and arraignment. Although our courts have recognized so-called investigation arrests or "arrests on suspicion," we do not have any statute regarding the same. In short, our statutes do not provide for the holding of a suspect on suspicion alone. However, confessions otherwise freely and voluntarily given are accepted by our courts as competent and proper no matter when given. The great majority of our confessions are made between the time of arrest and arraignment. Our courts seem to operate on the theory that the question of the legality or illegality of the arrest or previous detention is not properly a part of the trial.

There is no special procedure in the case of an individual held for investigation and released without formal charge. Wording this another way, our statutes do not recognize any detention without formal charge. However, our courts recognize the holding of an individual for an investigation for a reasonable length of time. The facts of each case would probably be considered by the court as to what a reasonable length of time would be.

Yours very truly,

FRANK STOUTAMIRE, *Chief of Police.*

CITY OF MIAMI,
Miami, Fla., April 13, 1961.

ROBERT V. MURRAY,
Chief of Police, District of Columbia,
Washington, D.C.

DEAR CHIEF MURRAY: In reply to your mimeographed letter of April 4, we are very much interested in any information you may be able to obtain concerning lawful procedures in connection with "investigation arrests." The *Mallory* decision has been discussed at great length on numerous occasions by local judges and various meetings of local law enforcement officers.

According to the laws of the State of Florida, an officer who has arrested a person without a warrant shall without unnecessary delay take the person arrested before the nearest or most accessible magistrate in the county in which the arrest occurs, etc. In all honesty, the law is not adhered to and we realize we are jeopardizing our cases on occasion by making an arrest and then obtaining the necessary evidence. This we feel to be a necessary evil. On many occasions, when a person is held by us on an open charge his attorney usually obtains a writ of habeas corpus at which time we are required to release the individual or to file charges.

We are aware that the State of California has a law which permits police to hold suspects without a formal charge for a stated number of hours. In previous years we have attempted to have our State legislature enact a similar law, but so far have been unsuccessful in our efforts. To date we have never been in serious difficulty following the release, without charge, of a person originally committed on an investigation arrest. To this end we realize we have been fortunate but we don't know what course of action would be pursued if a suit were entered under such circumstances.

The State attorney's office, who of course is also well aware of the *Mallory* case, does assign a member of their staff to be available during weekends and holidays if it is deemed necessary to file charges without delay. Other than this no formal machinery has been established to take an arrested person before the nearest magistrate without unnecessary delay.

We realize that we have not been of any great assistance to you but we would very much appreciate a copy of the results of your survey since we are faced with a similar problem.

Sincerely yours,

J. A. YOEEL,
Assistant Chief of Police.