

# Suspect Questioning Policy Is No Return To Past, Layton Says

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Adoption of the new policy of questioning suspects for three hours before arraigning them does not constitute a return by the Police Department to the old outlawed investigative arrest procedures, Police Chief John B. Layton explained yesterday.

Commenting on the order in the wake of "alarming concern" expressed by the District NAACP, Layton said the new policy demands of the arresting officer "probable cause" to believe his suspect committed the crime he is investigating.

## No Dragnet Arrests

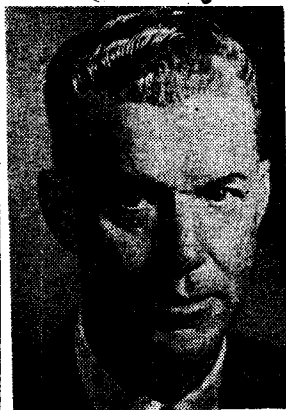
The new policy in no way envisions the old "dragnet" arrests, Layton said. He referred to the old practice of tossing everybody in sight of a crime into a cell in the hope that one of those in custody will turn out to be the criminal.

In its letter to District Commissioner Walter N. Tobriner, NAACP officials had implied they considered the new policy a circumvention of the Mallory Rule, which requires no unreasonable delay between arrest and arraignment. "Actually," Layton said, "there is very little in the order that hasn't been in the police regulations for a long time."

Layton said there seems to be a lot of public confusion about the permission granted police to question a suspect for three hours if the officer has had probable cause to make an arrest.

## How It Works

The very first thing an arresting officer must do, Layton explained, is formally charge the suspect with the crime for which he was arrested.



CHIEF JOHN B. LAYTON  
... clarifies new procedures

and arraignment will significantly bolster the Department's crime solution rate, which has been falling almost in proportion to the rate at which crime has been rising here.

It should result in the recovery of more stolen property, Layton said, and it should give police an opportunity to clarify for court presentation the nature of the crime involved. As an example, Layton cited an original charge of attempted rape, which could prove to be nothing more than a simple assault.

The new policy, Layton reminded, was suggested by U.S. Attorney David C. Acheson as being completely mindful of a defendant's con-

stitutional rights, but he expects there will be a court review of it.

## Acheson Set Guidelines

It was Acheson, Layton recalled, who last October supplied a series of arrest guidelines for police that included a ban on any questioning of suspects once they have been brought into headquarters.

That there will be a court review of the new policy Attorney Monroe Freedman, of the American Civil Liberties Union's Washington office, is convinced.

Freedman said his office is mainly concerned that all policemen will not follow the new order strictly, perhaps omitting the immediate charge required and telling the suspect to go about his business once the questioning has proved non-productive.

Freedman said he also is concerned that under the new policy an indigent suspect will not be able to get a lawyer until the court appoints one, whereas a monied suspect may have one present during the three-hour questioning period.

## Take Time To Prove

Freedman also referred to a section of Layton's order that reminds arresting officers that "they are required to take arrested persons before a committing magistrate, without unnecessary delay, for the proceedings prescribed by Rule 5 (a) of the Federal Rules of Criminal Procedure."

Freedman said he feels that the three-hour questioning period allowed between arrest and arraignment violates Rule 5 (a) to which it refers, "but it will take some time to prove that in court."

ed on probable cause by placing the name and the charge in the arrest book. The questioning period the new policy permits can serve as well to establish the suspect's innocence as it can to confirm the arresting officer's belief that he has the right man, Layton says.

Layton explained that the "investigative arrest" aspect of the three-hour questioning period is lost by the requirement that suspect be charged immediately. It cannot be a "fishing expedition," since once the suspect is charged he cannot simply be released by police after he has convinced them of his innocence.

He must be formally arraigned on the charge before a committing magistrate who must find no ground to hold him and must dismiss the charge. Or, the U.S. Attorney's office can be informed of the man's innocence and will issue "no papers" in the case.

Layton said it is too early to tell if the new questioning period allowed between arrest