There are those—and I would say I have the greatest respect for them, both personally and professionally, like my friend Irving Furman of the American Civil Liberties Union—who feel that the sanction is necessary in requiring the police to conform to rule 5(a).

However, I would suggest for the committee's consideration that if the sanction is imposed and voluntary statements are excluded from evidence, it is the public that is penalized, not the police, and it is effective law enforcement that is penalized, not the police.

It is to the extent that we should try to make law enforcement as efficient as possible that we should reexamine the theory of the sanction.

It goes back to 1914 and the *Weeks* case. That was a search-and-seizure situation. And I am not going into a great deal of detail on that, other than to say that where you are dealing with one's home, and the opportunity of law enforcement to enter one's home, I think you are dealing with a substantially different concept than the question involved in the interrogation of one who has been believed to have been involved in crime.

The sanction has a tendency to immunize the individual accused of crime from the effects of his wrongdoing, and could have a very unfortunate effect if we had a police force other than as honest as I believe our police force to be, because if a police officer wished to confer immunity for one reason or another upon a suspect, all he would have to do would be to detain him longer than the reasonable period for interrogation, and then nothing the individual has said could be used against him in court. And there is a tendency, reflected in the *Killough* case, decided about a year ago, to extend the *Mallory* rule.

This involved a postarraignment, or postwarning confession, which some members of the Court felt very strongly should be admitted and considered by the jury. There is no question about the voluntary nature of it. But the majority of the Court felt it was tainted with the illegality of the first confession, and therefore it was excluded.

I have noticed in recent cases that this doctrine, by virtue of which the second confession was excluded in the *Killough* case, namely the fruit-of-the-poisonous-tree doctrine, the *Nardone* doctrine, that defense counsel have made a renewed effort to inject this doctrine into all facets of evidence learned as a result of detention, the legality of which they question.

I would like to say to the committee that during the time I was U.S. attorney I recognized the importance of having a series of lectures for the guidance of the police, for the information of the police, insofar as these decisions were concerned.

Those lectures have been printed and are available to the committee. The police made the suggestion originally that we have these lectures. And I think they have been very effective.

Also I would like to say we gave consideration to the Police Chief's request that we give suggestions to him as to how his work may be made more effective as a result of the impact of the *Mallory* decision.

I would like to file with the committee a statement which he has brought to my attention, which I gave him some 3 years ago for use with the Appropriations Committee on this subject.