My feeling is the same with respect to affording the accused an opportunity to notify a relative or friend or consult with counsel of his own choosing. There are some instances where it might be unwise to permit such notification because notification might jeopardize the life of a kidnaped child, or permit incriminating evidence to be hidden or destroyed, or valuable loot to be moved or disposed of, or material witnesses to disappear or be intimidated. Here again, I feel that the notification should be permitted within a reasonable time but not necessarily immediately.

I am opposed to a 6-hour rule or any other arbitrary time limit between arrest and arraignment. What is a reasonable time depends entirely upon the circumstances of the individual case. As I pointed out in my original statement, police require reasonable time to check on the accused's story, to check the accused's fingerprints, to bring witnesses in to see if they can identify him as the person who committed the crime, to interview and take statements from victims, witnesses, and the accused, to search for the murder weapon or loot or other physical evidence of the crime, and to make laboratory analyses of physical evidence. Some of these police actions can be conducted simultaneously but the point is a reasonable time is required which may be more or less than 6 hours. Allowance must be made for these necessary actions between arrest and arraignment. Probable cause to arrest is not necessarily probable cause to formally charge or arraign.

As to the fourth suggestion that the questioning of an accused be witnessed by a responsible person who is not a law enforcement officer, I feel that this is a good idea in a few important murder cases but is impracticable when one considers the tremendous volume of criminal cases investigated daily in a large metropolitan city. In Chicago, for example, we investigate close to 500 felonies a day. Again, I feel that this should not be an automatic precondition to the admissibility of a confession. To get a responsible outsider present to witness the questioning of an accused may not always be practicable, particularly at odd hours, and may add to the very delay that the law is seeking to rectify. In instances where neutral observers were not available and statements were taken without the presence of observers, defense counsel would certainly use this fact to the disadvantage of the prosecution in attempting to exclude confessions from evidence.

If a wire or tape recorder were used, it would be necessary that the accused be informed that his statements were being recorded electronically. It is inevitable that many persons, through ignorance or suspicion, would immediately refuse cooperation. Moreover, confessions or admissions are often made sua sponte or in circumstances where outside witnesses or wire recorders are not immediately available.

It appears to me that the introduction of the safeguards proposed by Mr. Katzenbach and Mr. Acheson might well have the effect of not only codifying the Mallory rule but introducing new automatic exclusionary rules that go beyond even the present requirements. As Senator Dominick has so aptly put it, "I have a basic feeling that the more legislative standards you put into the law which must be complied with prior to a conviction, the more shillelaghs you give to a defendant's attorney to say that they haven't been lived up to." It seems to me that appellate courts would inevitably add interpretive extensions to the statutory requirements that would lead to utter chaos. It is difficult enough as it is for a policeman to know how to find his way through the maze of conflicting legal decisions in the law of arrest, search, and seizure, and the questioning of suspects.

I think that we should stay away from arbitrary or automatic exclusionary rules and get back to deciding cases on the rule of reason, admitting or excluding confessions solely on the question of their voluntariness.

Sincerely,

O. W. WILSON,
Superintendent of Police.

UNIVERSITY OF MINNESOTA LAW SCHOOL,
Minneapolis, November 21, 1963.

Hon. ALAN BIBLE,
Chairman, Senate Committee on the District of Columbia,
U.S. Senate, Washington, D.C.

DEAR SENATOR: I welcome your invitation of November 8 to comment on Deputy Attorney General Nicholas de B. Katzenbach's suggested amendments to any legislation amending the *Mallory* rule, and, I take it, to comment on the testimony of November 5 generally. I would greatly appreciate it if the follow-