

no help in identification. The only relatively calm and physicaly fit adult available to firm up the identification was a young white woman, Jacquelyn Moore. With the committee's permission, I believe that the transcript speaks best for itself at this point. The following colloquy took place between the assistant U.S. attorney and Miss Moore during direct examination:

Q. "Now, were these men just standing plain in this lineup or were they directed by the police to make certain movements or to say anything?"

A. "They were directed to each one say, 'Get down on the floor lady,' because that is what the boy said to me in the store.

"That is all. They were just standing in a straight line.

Q. "And each one of them was asked this question?"

A. "Yes.

Q. "Now, at what point was it then? Was it after they made this statement that you thought, you said you thought you could identify the voice of one of these parties, and so on?"

A. "Yes.

Q. "And did the police use coercion at all to make you make this statement?"

A. "What do you mean by coercion exactly? You mean try to persuade me?"

Q. "Yes.

A. "Yes.

Q. "In what way did they try to persuade you?"

A. "When they first asked me, you know, I was shown the boys, and each one said, 'Get down on the floor, lady,' the boys in the lineup, and they were directed to turn around with their backs to us. And one of the detectives said, 'Is there anybody here?'"

"I said, 'No,' that I couldn't identify anybody right offhand.

"And then he said, 'Oh, come on, Jacquelyn.'

"Then I said, 'No, there is nobody here.'

"He went into another room. There's two rooms for the lineup, and he said, 'Are you sure there is nobody there? One has confessed.'

"But he didn't say which one, and he said, 'Well, this boy,' who was, I believe, Howard Lee, who was second from the right.

"I said 'His voice sounds like it.' That is all.

"He said, he did say this, 'What difference does it make, it's a couple more niggers.'

"Mr. DUNCAN (the defense attorney). I'm sorry, I did not hear that statement. Would—

"The WITNESS. I said the detective who said, 'Oh, come on Jacquelyn,' to me, when I said there was two boys in the lineup who looked like the ones in the store, he said, 'What difference does it make, it's just a couple more niggers.'

"By Mr. HOGAN.

Q. "What detective said this?"

A. "Do I have to name him?"

"The COURT. Yes.

"The WITNESS. Beltrante.

"By Mr. HOGAN.

Q. "Now, which detective said, 'Oh, come on now, Jacquelyn'?"

A. "Beltrante.

Q. "Is that all he said before you identified that you thought Howard's voice was the one?"

A. "Uh-huh. This was more or less, this is just an interpretation of mine, my interpretation. He was not so much trying to pressure me into it, I think; just his attitude, you know.

Q. "But this is all he said to you?"

A. "Yes, sir."

Similarly, in *United States v. Eugene Evans* (Cr. No. 1062-60), the accused moved to suppress a *Mallory*-type confession. The police detective responded by testifying that the confession had been made right after the arrest while on the way to the precinct in the police cruiser. Of course, if true, this testimony evaded the *Mallory* rule by the "threshold" confession device. The defense attorney asked for a forthwith subpoena of police records. These revealed that the defendant had not even been taken to the precinct in the detective's cruiser, but in fact had been transported there in a paddy wagon. The police officer driving the paddy wagon was called to support the records, and after he did so the confession was suppressed. The irony of this case is that it was later used as an example at Northwestern University to show the evil of the *Mallory* rule.