

As I say, I wish that my concern or my lack of reliance were limited to what I have suggested should be labeled the clearance concept. But it is not.

Among some policemen, I cannot say how many—but among some policemen there is also what is known or what I would call a conviction philosophy. That is the policeman, on the basis of some evidence, guesswork, or other criteria, sincerely reaches his personal opinion that the suspect is guilty of a crime. Once he does that, he feels justified in actively seeking a conviction, and sometimes by questionable methods, such as are illustrated by the cases I have here.

The first example is *United States v. Howard W. Lee and John Thomas Lee*, United States Nos. 113-117-62. In this case an elderly grocer, along with certain patrons, had been held up—armed robbery of the grocery—and there was a difficulty of identification.

The grocer, in addition to his age, had such poor vision at times he had to feel the coins to determine their denomination.

A young girl, 15 years old, had been so frightened that she could not make an identification.

The only adult and relatively calm witness to the affray was another woman who had been robbed, a young white woman, whose name was Jacquelyn Moore.

What happened here, after the police had determined, or the policeman had determined that the accused were in fact guilty, is best illustrated by a portion of the transcript itself.

In this portion of the transcript, which I refer to the committee, there is a colloquy between the U.S. attorney at the trial on direct examination of the robbery—not a cross examination by the defense attorney.

And Mr. Hogan, the U.S. attorney said:

Question. 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 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," 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."

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—