

That witness, in effect, testified that at a lineup of prisoners she was coerced by a police officer into identifying the defendants and, in addition, that the police officer stated "what difference does it make, it's just a couple more niggers."

In this particular case, it is noteworthy that we did in fact, prior to the lineup, obtain a confession from one of the defendants. It is also pertinent, in connection with other statements offered by Mr. Shadoan, that this confession was obtained (in front of a disinterested witness) after the investigating officers had checked out an alibi offered by the confessing defendant.

With respect to the testimony read into the record by Mr. Shadoan, I am forwarding to the committee a confidential report by one of the investigating officers relating the views expressed by the assistant U.S. attorney regarding this witness, and his decision not to call her in the second trial. This report may reflect somewhat on the motive behind the testimony of that particular witness.

Mr. Shadoan also discussed the case of *United States v. Eugene Evans* in which the investigating detective testified that the defendant confessed while in the police cruiser on the way to the station house, whereas the defense claimed, and was supported by testimony of a precinct officer, that the defendant was transported to headquarters in a patrol wagon.

This conflict of testimony was brought to the attention of this department by the U.S. attorney, at the time, and although it could not be resolved, it was brought to the attention of all detective personnel and they were instructed to be very careful in keeping a chronological journal of their activities in each major arrest in order to prevent similar incidents in future cases.

Notice is also taken of Mr. Shadoan's testimony that in 1960 there were 1,337 felony indictments, of which there were 140 acquittals, indicating an acquittal rate of about 5 percent of the indictments. He suggests that this compares favorably with the State jurisdictions who are not hampered by the *Mallory* rule.

I think the committee should also have benefit of the following statistical information. In the fiscal year 1960, there were 9,510 felony arrests in this city. At the end of the year, 590 were pending, 402 had been dismissed, 1,487 had been nolle prossed, 1,333 had been dropped with no papers, 1,851 had been referred to juvenile authorities, 605 had been committed to penal institutions by lower courts, and 3,242 had been referred to the grand jury. Taking Mr. Shadoan's statistic, apparently 1,197 had been convicted in the U.S. district court. Counting as convictions the 590 pending, the 1,851 juvenile, the 605 lower court commitments, and the 1,197 district court convictions, the overall rate totals a maximum of 45 percent.

I, of course, would not argue that all of these cases are lost because of the *Mallory* rule. Some of them are, but many of them are weeded out under the procedure of presenting to the grand jury only the best cases, when multiple charges are placed against a defendant, in order to avoid clogging the courts with a great number of criminal charges finally resulting in concurrent sentences.

Too, and I would be the first to admit it, some of these cases are lost because of inexperience, lack of judgment, or failure to follow proper procedures by investigating officers who are pressed, not only by procedural policies imposed by the courts, but also by heavy workloads during peak periods.

I would also want to take issue with the statement by Prof. Yale Kamisar that 6,000 suspects were "picked up" in connection with three murders. It would seem that he is misinterpreting as arrests the interviews reported in newspaper articles regarding some spectacular cases. There have been a number of major cases in this city in which hundreds of suspects were checked out and interviewed without arrests being made.

For example, in the case of the murder of Gordon C. Brown, there was a newspaper item relating to the fact that about 5,000 servicemen were questioned. However, these interviews were in no sense arrests, but voluntary interviews conducted on the base at Bolling Field. The defendant in the case was actually passed over during his first interview, but was later requestioned as a result of information obtained from other persons. He was eventually charged with the murder and convicted. There have been a number of similar cases where hundreds and on occasion more than a thousand persons were interviewed, but I have no recollection and there is no record of this department to substantiate such a statement as that made by the professor.

With regard to the testimony of Mr. Kenneth Pye, it is worth noting that his quotation of crime statistics was not current. Actually, during the fiscal year 1963, crime in this city increased by 8 percent over the preceding year, and as of