



# Witness Misidentification/ Coerced Confessions

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GRADE LEVEL: 11TH-12TH GRADES

## Overview

In this lesson, we focus on the 1957 *Mallory v. United States* decision, which revolved around the question of whether the questioning of Andrew Mallory prior to his appearance before a commissioner violated due process and the federal rules of criminal procedure. Custodial interrogation during Mallory's era lives in the shadow of the Emmett Till torture and murder. The Court's decision was an attempt at reining in extrajudicial detention and interrogation, hallmarks of Jim Crow human rights abuses.





FIGURE 4: DISPLAY INSIDE THE EMMETT TILL HISTORIC INTREPID CENTER IN GLENDORA, MISSISSIPPI  
FULL CITATION: CAROL M. HIGHSMITH, *DISPLAY INSIDE THE EMMETT TILL HISTORIC INTREPID CENTER IN AN OLD COTTON-GIN BUILDING IN TINY GLENDORA, MISSISSIPPI*, PHOTOGRAPH, GLENDORA TALLAHATCHIE COUNTY, 2016.

## Objectives

- Define due process
- Describe the interpretation of the Fourteenth Amendment and due process over time
- Analyze the precedent set forth from *Mallory v. United States*
- Discuss long-term impacts of the Warren Court's decision on due process and the federal rules of criminal procedure

## Materials

- Lesson handouts printed or shared via Google Docs
- Articles printed or shared via Google Docs

## Vocabulary

- Due process
- Fourteenth Amendment
- Fifth Amendment
- Civil Rights Act of 1875
- Federal rules of criminal procedure
- Custodial interrogation
- Search and seizure

## Pework

Recommended to complete Lesson 5: Burger, Rehnquist, and Roberts Courts—Police Discretion and Police Reform.

## Lesson Activities

### WARM-UP

**Step 1:** As a class, ask students to recall what amendments cover due process.

**Step 2:** After students share their answers, ask them to consider shows or books they have read that cover police interrogations. Ask them to consider what they have seen or read about how officers obtain information from a person in custody. How do they think this can impact that individual's right to due process?

**Step 3:** Explain to students that they will be exploring custodial interrogation as it relates to due process and federal rules of criminal procedure under the Warren Court.

### ACTIVITY 1: DUE PROCESS AND THE JIM CROW SOUTH (15 MINUTES)

**Step 1:** Have students in groups read about the Fourteenth Amendment and the Civil Rights Act of 1875 on the National Museum of African American History and Culture's "[Reconstructing Citizenship](#)" webpage. Tell students to begin at the section titled "Civil Rights Act of 1875," and then have them work together to break up reading the rest of the page.

**Step 2:** Ask students as a class to explain why the Civil Rights Act of 1875 was established and how it relates to due process in the Fourteenth Amendment.

**Step 3:** Share with students that they are going to focus on the webpage that mentions the Emmett Till case. Ask them first what they know about the case outside of the context of what they just read. Due to the sensitive nature of the content, choose one of the following two options:

- **Option 1:** Show the clip from Time on Emmett Till featured on the Equal Justice Initiative's "[Emmett Till Abducted and Murdered in Mississippi Delta](#)" webpage. *Please note that this video includes important but graphic images.*
- **Option 2:** Read through the article as a class.

**Step 4:** Ask students upon completing the reading or viewing the video what role the Fourteenth Amendment and due process has in relation to this case. What makes it a significant case in relation to the civil rights movement?

### **ACTIVITY 2: DUE PROCESS AND FEDERAL RULES OF CRIMINAL PROCEDURE IN *MALLORY V. UNITED STATES***

**Step 1:** Read about the *Mallory v. United States* case in the same groups.

**Step 2:** As a class, discuss the following questions in relation to the case reading and the information that students learned in their prior activity:

- What was the constitutional question of this case? What precedent was set?
- How did *Miranda v. Arizona* and the *Emmett Till* case shape your understanding of the *Mallory* case? What similar aspects are present?
- How does the case highlight the hallmarks of Jim Crow-era laws in relation to the protections offered in the Fourteenth Amendment?
- How did the interpretation of the Fourteenth Amendment change over time?

### **ACTIVITY 3: PLEA BARGAINING AND COERCED CONFESSIONS**

**Step 1:** Have students in their same groups read the following: “[Coerced Plea Bargaining: An American Export the World Can Do Without](#),” “[How Courts Work](#),” and “[Plea FAQs](#).”

**Step 2:** Discuss as a class to what extent plea bargaining is constitutional. Encourage students to use the information they have learned from this lesson and broader unit as evidence to support their answer (if using the lessons in sequence from this unit).

### **ACTIVITY 4**

**Step 1:** Introduce to students the following free response essay prompt:

**Take a position on to what extent plea bargaining is constitutional.**

Use at least one piece of evidence from the lesson. In your response, you should include the following:

- thesis that establishes your argument;
- at least two pieces of supporting evidence that are relevant to your argument; and
- your response to an opposing viewpoint and response to the counterargument to further support your claim.

**Step 2:** Provide students with 25 minutes to answer the question. To differentiate the response aside from extra time, offer students an opportunity to present their arguments in a presentation or video.

## Exit Ticket (5 minutes)

Describe one thing that surprised you, troubled you, or interested you from this lesson.

## Optional Extension Activity

**Step 1:** Introduce “The Man Who Lived Underground” by Richard Wright.

**Step 2:** Have students read the text or introduce the following summary:

The protagonist in the short story “The Man Who Lived Underground” cannot recover from the violation of his forced confession (“They know I didn’t do anything, he muttered. But how could he prove it? He had signed a confession. Though innocent, he felt guilty, condemned.”). A narrative twist allows him to witness the custodial interrogation of another innocent man, a watchman accused of theft.

Those were the same policemen who had beaten him, had made him sign that paper when he had been too tired and sick to care. Now they were doing the same thing to the watchman. His heart pounded as he saw one of the policemen shake a finger into the watchman’s face. . . . He watched the policemen clamp handcuffs on the watchman’s wrists and ankles; then they lifted the watchman and swung him upside-down and hoisted his feet to the edge of a door. The watchman hung, head down, his eyes bulging.

He decides to confront his tormentors (fictional detectives Johnson, Murphy, and Lawson) and to surrender a second time to their abuse.

Before he knew it a sharp blow had clipped him on the chin; darkness covered his eyes. He dimly felt himself being lifted and laid out on a sofa. He heard low voices and struggled to rise, but hard hands held him down.

“What do you suppose he’s suffering from?” Johnson asked.

“Delusions of grandeur, maybe,” Murphy said.

“Maybe it’s because he lives in a white man’s world,” Lawson said.

The protagonist is summarily executed to cover up the initial coerced interrogation.

He looked brightly at the policemen; he was bursting with happiness. He bent down and placed his hands on the rim of the hole and sat on the edge, his feet dangling into watery darkness. He heard the familiar drone of the gray current. He lowered his body and hung for a moment by his fingers, then he went downward on steel prongs, hand over hand, until he reached the last rung.

He saw Lawson raise the gun and point it directly at him. Lawson’s face twitched, as though he were hesitating.

Then there was a thunderous report and a streak of fire ripped through his chest. He was hurled into the water, flat on his back. He looked in amazement at the blurred white faces

looming above him. They shot me, he said to himself. The water flowed past him, blossoming in foam about his arms, his legs, his head. His jaw sagged and his mouth gaped soundless. A vast pain gripped his head and gradually squeezed out consciousness. As from a great distance he heard hollow voices.

"What did you shoot him for, Lawson?"

"I had to"

"Why?"

"You've got to shoot his kind. They'd wreck things."

**Step 3:** Ask students how this narrative highlights the constitutional questions addressed in the cases they learned about in this lesson. What does it say about custodial interrogations federal criminal procedure? Connect the fictional text about coerced confession to the information from the lesson.

**Optional follow-up:** Connect this fictional account of a coerced confession and a summary extrajudicial execution to the 2014 Laquan McDonald murder at the hands of the Chicago police, recounted in the documentary [16 Shots](#). McDonald ran away from police in 2014 and was shot 16 times by officer Jason Van Dyke, sparking protests that resulted in the resignation of Chicago Police Superintendent Garry McCarthy, the unseating of Cook County, Illinois, State's Attorney Anita Alvarez, and the decision by Chicago Mayor Rahm Emanuel not to seek reelection. Officer Van Dyke served 3 of 6.5 years to which he was sentenced for second degree murder.