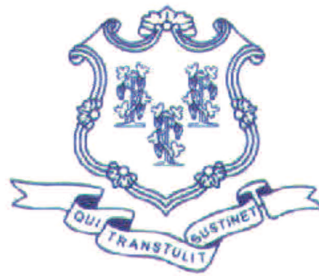


Eyewitness Identification Task Force



**Report to the Judiciary Committee of the
Connecticut General Assembly**

February, 2014

Table of Contents

2	Task Force Membership
3	Background and Initial Recommendations
4	Eyewitness Identification Overview
4	Simultaneous vs. Sequential Methods of Identification and Double Blind
5	Original Workplan, Timeframe, and Working Groups Police Working Group and Survey Legislative Working Group
6	Expert Presentations
6	Best Practices
7	Mandatory State and Local Police Policies and Procedures
7	Statewide Police Training <i>Police Officer Pocket Cards</i>
8	Police Department Data Collection <i>Overview</i> <i>Results To-Date</i>
9	Next Steps <i>Archive for Eyewitness Data</i> <i>Best Practices Conference</i>
10	Appendices
10	Appendix I: Public Act No. 11-252, An Act Concerning Eyewitness Identification.
15	Appendix II: First Police Department Survey
17	Appendix III: Symposium Press Release and Agenda
19	Appendix IV: Public Act No. 12-111, An Act Concerning Eyewitness Identification Procedures.
27	Appendix V: Mandatory Policies and Procedures
35	Appendix VI: Eyewitness Identification Police Officer Pocket Card
36	Appendix VII: Second Eyewitness Identification Police Department Survey and Definitions
38	Appendix VIII: Key Stakeholder Protocol
39	Appendix IX: Research and Evaluation Workplan

Dear Members of the Judiciary Committee:

The Eyewitness Identification Task Force is pleased to submit its 2014 report summarizing the Task Force's activities to-date and next steps.

In 2011, Public Act No. 11-252, Section 2, created the Connecticut Eyewitness Identification Task Force, and mandated that it focus its efforts on: "The science of sequential methods of conducting a live lineup and a photo lineup, (2) the use of sequential lineups in other states, (3) the practical implications of a state law mandating sequential lineups, and (4) other topics as the task force deems appropriate relating to eyewitness identification and the provision of sequential lineups." Based on the work and recommendations of the Task Force, Public Act No. 12-111, An Act Concerning Eyewitness Identification Procedures was passed in 2012. (Both statutes can be found in Appendix I of this report.)

The work of the Eyewitness Identification Task Force was greatly facilitated by the collaborative efforts and cooperation of all of the relevant stakeholders, in particular, police and law enforcement. The law enforcement community is keenly aware of the risks of erroneous identifications by eye-witnesses and understands the critical need to establish reliable identification procedures.

The Task Force's membership consists of the entire spectrum of critical interests, including: the Co-Chairs and Ranking Members of the Judiciary Committee; a retired judge; representatives of the Offices of the Chief State's Attorney and Chief Public Defender; representatives of state and local police departments; legal scholars; social scientists; the State Victim Advocate; a representative of the Connecticut Innocence Project; representatives of the public; and representatives of the Bar.

The Task Force began its work in mid-September, 2011 when distinguished experts in the fields of human memory, police procedures and best practices were invited to present their research findings and field experiences regarding the use of sequential and simultaneous arrays and lineups. The Task Force also reviewed the legislation and recommendations of committees in jurisdictions throughout the country.

The Task Force found that both laboratory research and field studies demonstrated that the use of sequential rather than simultaneous arrays produces more reliable results in reducing the incidents of identification of innocent persons without significantly reducing the identification of actual perpetrators. A simultaneous procedure involves presenting to a victim or a witness of a crime a number of photographs, referred to as an array. Among the photographs is a photo of the person whom the police have identified as the suspect of the crime. The witness is asked to view the array in its entirety to determine whether the witness can identify the perpetrator of the crime. A sequential procedure involves presenting the same photos to the witness one at a time, rather than simultaneously, and asking the witness, as to each photo, whether he/she recognizes the photo as that of the perpetrator of the crime, before going on to the next photo.

Double-blind procedure means that the police officer administering a photo or live lineup should not be aware of the identity of the suspect, and the witness should be told that the officer does not know the identity of the suspect. Additionally, the witness does not know, and cannot know, which photo in the array is that of the suspect identified by the police. Blind means that the officer administering the photo array may know the identity of the suspect, but cannot know where the suspect's photo is in the array, cannot know which photo the witness is viewing during the presentation of the photo array, and is not in a position to leak information to the witness or to give feedback to the witness regarding his/her identification.

After careful consideration, the members voted unanimously to require law enforcement in Connecticut to use sequential rather than simultaneous presentations of photo arrays to witnesses. The Task Force unanimously voted to require double-blind procedures, if practicable, and if not practicable, blind procedures. The Task Force also arrived at consensus in other important areas, including police training, data collection and pilot programming.

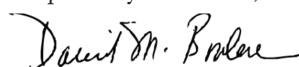
The work of the Eyewitness Identification Task Force could not have been accomplished without the significant contributions of all of its members. Their diligent efforts have enabled the Task Force to develop a set of recommendations, now in statute, which will benefit the State of Connecticut and its system of justice for many years to come.

I wish to express my sincere gratitude to the members of the Task Force whose conscientious efforts helped guide the Task Force's work and insured a positive outcome. I also wish to also express my sincere gratitude to the Task Force's staff: Sherry Haller, Executive Director of The Justice Education Center, Inc., Ronald Schack, Ph.D, Partner, Charter Oak Group, LLC. These persons performed their duties as staff far above and beyond what could reasonably have been expected of them. We simply could not have performed our tasks without their enormous efforts.

The Task Force recognizes the evolving nature of the relevant social sciences and is cognizant of the fact that this area of study will likely continue to evolve and develop. This year, The Task Force is monitoring and assisting in the implementation of eyewitness policies and procedures, to ensure that best practices are updated and to gather data on the use and impact of the sequential and double-blind or blind method of eyewitness identification.

It is the intention of the Task Force to establish an archive for data being collected by police that we hope will provide an ongoing and informative opportunity to review Connecticut's policies and procedures and to identify any revisions that may be necessary in the future.

Respectfully submitted,



Justice David M. Borden
Task Force Chair
Task Force Membership

Task Force Membership

Justice (ret.) David M. Borden
Chair

Senator Eric Coleman
Co-Chair
Judiciary Committee

Representative Gerald Fox, III
Co-Chair
Judiciary Committee

Senator John A. Kissel
Ranking Member
Judiciary Committee

Representative Rosa Rebimbas
Ranking Member
Judiciary Committee

Garvin Ambrose
State Victim Advocate

Dr. David Cameron
Professor of Political Science
Yale University

Richard Colangelo
Senior Assistant State's Attorney
Division of Criminal Justice

Dr. John DeCarlo, Ph.D
Associate Professor
Henry E. Lee College of
Criminal Justice and Forensic Sciences
University of New Haven

Robert Farr, Esq.

Thomas E. Flaherty
Executive Director
Police Officer Standards and
Training Council (POST)

LaReese Harvey
A Better Way Foundation

Kevin Kane
Chief State's Attorney
Division of Criminal Justice

Duane Lovello
Chief
Darien Police Department

Karen McGraw, Esq.
Director
Connecticut Innocence Project

Captain Patrick J. O'Hara
Commanding Officer
Connecticut State Police

Bradley Saxton
Professor
Quinnipiac University

Lisa J. Steele, Esq.
Connecticut Criminal Defense
Lawyers Association

Deborah DelPrete Sullivan, Esq.
Legal Counsel
Office of the Chief Public Defender

I. Background and Initial Recommendations

The Eyewitness Identification Task Force held its first meeting in September 2011 with the nomination and unanimous election of retired Connecticut Supreme Court Justice David Borden as Chair. From the outset, the Task Force's charge was to develop procedures designed to make eyewitness identification as reliable as possible by increasing the accuracy of the number of actual perpetrators identified and reducing the number of wrongful convictions. *(Please see Appendix I for a copy of the statute establishing the Eyewitness Identification Task Force.)*

Based on the expert testimony, review of the literature available and extensive discussions among Task Force members, a number of recommendations were unanimously adopted:

A. Sequential/Double-Blind: That it be mandatory for all law enforcement officers in the State of Connecticut to utilize the sequential method of administering photo arrays during eye-witness identification procedures. Further, it became mandatory for law enforcement to utilize the double blind method of administration only where practicable; and where not practicable, the blind procedure was to be used.

B. Police Officer Standards and Training Council (POST) & Connecticut State Police Training Academy (CSPTA)

That POST and CSPTA develop uniform mandatory policies and appropriate guidelines for all law enforcement officials to follow. In addition, that POST and CSPTA establish intensive training programs in order to implement the new policies and guidelines, which programs shall be available to all law enforcement throughout the State.

C. Instructions to Eyewitnesses

In addition to the instructions mandated by POST/CSPTA policies, the following uniform instructions by law enforcement administrators to witnesses were also recommended by the Task Force:

1. I will ask you to view a series of photographs, and will show them to you one at a time;
2. Please take as much time as you would like to view the photos;
3. Please do not feel that you are compelled to make an identification;
4. It is as important to clear innocent people as to identify the guilty;
5. Persons in the photos may not look exactly as they did on the date of the incident, because features like facial or head hair can change;
6. The person you saw may or may not be in these photographs;
7. The police will continue to investigate this incident, whether you identify someone or not.

D. Relationship of Images to Eyewitness Descriptions

The policy and procedure regarding the photo lineup or live lineup is now composed in such a way that the fillers generally fit the description of the person suspected as the perpetrator. Also, in the case of a photo lineup, that the photograph of the person suspected as the perpetrator does not unnecessarily stand out and resembles his or her appearance at the time of the offense.

E. Number of Images

POST/CSPTA developed mandatory policies and appropriate guidelines regarding the number of images to be shown to eyewitnesses during the identification procedure.

F. Number of Times Images are Viewed (Number of Laps), Shuffling of Images and Use of Software to Present Images

It was determined that witnesses be allowed to view the photos sequentially a second time ("lap") only, and only if requested to do so by the witness. Witnesses are not to be told at the start of the procedure that they will be allowed a second lap. POST/CSPTA developed mandatory policies and appropriate guidelines regarding whether or not photos could be reshuffled in the event of a second lap.

G. Written Recording of Procedures

POST/CSPTA developed mandatory policies and appropriate guidelines regarding the written recording of eyewitness identification procedures. POST/CSPTA also developed and created standard forms to be utilized by law enforcement for the purpose of accurately recording the eyewitness identification process.

H. Tracking Eyewitness Procedures

The total number of eyewitness procedures are now being tracked, including the number and percent of procedures using the sequential and double-blind or blind process. Where the mandated process is not used, a detailed record is being maintained, which includes the reason that the law enforcement officer did not utilize the mandated process. Tracking includes the number and percent of suspect identifications, and the number and percent of filler identifications. POST/CSPTA developed and created standard forms to be utilized by law enforcement for the purpose of accurately recording the tracking of eyewitness procedures.

I. Pilot Program for Videotaping of Procedures

The Task Force did recommend a pilot program for videotaping double-blind/blind sequential procedures.

J. Show-Ups

POST/CSPTA developed mandatory policies and appropriate guidelines regarding show-ups.

II. Overview of Eyewitness Identification

Mistaken eyewitness identification is the leading cause of wrongful convictions in the United States. It is undisputed that nationwide, within the past 15 years, 289 persons convicted of serious crimes — mainly murder and sexual assault — have been exonerated of those crimes by DNA evidence. More than 75 percent of those convictions rested, in significant part, on positive, but false, eyewitness identification evidence. These figures do not include, of course, the many convictions for crimes that did not involve DNA evidence; e.g., the drive-by shootings, the street muggings, the convenience store robberies, and the homicides and sexual assaults for which no DNA evidence may be available. Due to these data, it is clear that our current eyewitness identification procedures can and should be improved.

Connecticut is not immune from wrongful convictions. In the past several years, there have been three DNA exonerations in Connecticut of individuals who have been wrongfully convicted. In each of the three DNA exonerations, the DNA which exonerated the innocent ultimately led to the arrest and conviction of the true perpetrator. The conviction of one of the individuals, James Calvin Tillman, was based almost entirely on inaccurate eyewitness identification evidence.

Law enforcement recognizes the need to establish reliable eyewitness identification procedures while maintaining the utility of such identifications as a useful investigative tool. In Connecticut, as well as in other states, law enforcement has begun to institute changes in the way that eye-witness identification procedures are conducted in order to guard against misidentifications and wrongful convictions. The new procedures are based on studies by social scientists that have shed light on the memory process and the factors that may influence a witness's identification.

For the past 35 years, social scientists have been conducting thousands of laboratory experiments that have yielded hundreds of peer-reviewed papers on the science of eyewitness evidence. In addition, they have conducted a number of field studies. The result of this research is a general scientific consensus on a set of best practices regarding such evidence. Among these best practices is the use of sequential, rather than simultaneous, procedures of a photo array in which there is a suspect for the crime under investigation. The work of the Task Force has been to bring that science and those law enforcement procedures together.

The Task Force recognized and emphasized that the importance of adopting procedures to reduce the incidence of false positive identifications is not just a matter of concern to those wrongfully convicted. It is a matter of grave concern to law enforcement and to the public at large, because whenever a person is wrongfully arrested and convicted on the basis of a positive, but false identification, the actual perpetrator remains free to commit other crimes.

III. Simultaneous vs. Sequential Methods of Identification and Double Blind

Simultaneous vs. Sequential Methods of Identification

There are two methods of administering an eyewitness identification procedure to a victim or a witness. These are the “simultaneous” and the “sequential” procedures.

The most commonly used method, both in Connecticut and elsewhere, is the simultaneous method. In this method, once the police have identified a suspect for the crime under investigation, a photo of that suspect is placed in a group of photos, called an array. The array also includes photos of other individuals who generally fit the same description of the perpetrator given by the witness, but who are not suspects. The photos of these additional individuals are called “fillers”.

The photo array is presented to the witness all at once, or simultaneously. A witness may be asked whether the witness can identify the perpetrator, whether anyone in the photo array looks familiar, or some other question or statement intended to determine whether the witness is able to make an identification from the array.

Scientific research has now established that, when the simultaneous method is used and when a photo of the actual perpetrator is not included in the array, witnesses tend to choose from the array the photo that **most closely resembles the perpetrator, relative to the other photos in the array**. This process, known as the “relative judgment process”, is now viewed as a significant factor resulting in witnesses' identification of “false positives” (i.e., mistaken identification of innocent persons as perpetrators).

The second method in eyewitness identification procedures is the sequential method. In the sequential method, the same group of photos — suspect and fillers — is presented to the witness, but one at a time, rather than all at once. The witness is given preliminary instructions regarding recognition of any of the photos.

Research on the use of the sequential procedure has established that the procedure helps reduce or eliminate the “relative judgment” effect that tends to occur in the simultaneous array procedure, as described above. As a result, the sequential procedure helps witnesses avoid making false positive identifications.

Prior to the start of the Task Force's work, there was some appropriate concern about the use of the sequential procedure, in part due to the evolving nature of the social sciences that have helped to inform best practices in eyewitness identification. There was a concern that the research, being based primarily on laboratory experiments, did not reflect actual conditions in the

field. In mid-September, 2011, the American Judicature Society (AJS) published the results of its large scale two-year field study. The field study was led by Dr. Gary Wells, Dr. Jennifer Dysart, and Dr. Nancy Steblay, three well-recognized and widely-respected researchers in the field. The AJS study was based on hundreds of actual, law enforcement conducted eyewitness identification procedures in Charlotte, North Carolina; Dallas, Texas; Tucson, Arizona; and San Diego, California. Its findings confirmed what years of scientific lab results had found; namely, that the sequential method yields significantly fewer misidentifications of innocent persons, without significantly reducing the rate of accurate identifications of actual suspects.

Double-Blind

The term “double-blind” means that the police officer administering a photo or live line-up should not be aware of the identity of the suspect, and the witness should be told that the officer does not know the identity of the suspect. Additionally, the witness does not know, and cannot know, which photo in the array is that of the suspect identified by the police. Blind means that the officer administering the photo array may know the identity of the suspect, but cannot know where the suspect’s photo is in the array, cannot know which photo the witness is viewing during the presentation of the photo array, and, as explained in the next paragraph, is not in a position to leak information to the witness or to give feedback to the witness regarding his/her identification.

In any scientific test — particularly one involving face-to-face contact between the tester and the person being tested, such as an eyewitness identification procedure — best practices require that the person administering the test **not know the desired outcome**. Blinding the tester to the desired outcome is a universally-accepted scientific protocol as the person administering the test may unconsciously “leak” information regarding the desired outcome to the person being tested.

Leaking may occur by non-verbal communication, such as body language, tone of voice, and gesture. In addition, research shows that when a police officer knows who the suspect is in the array, if the witness identifies that suspect as the perpetrator, the police officer may give positive feedback or reinforcement of that identification, which in turn may artificially inflate the degree of certainty on the part of the witness in his/her identification. Once an identification is made by the witness, whether correct or not, the witness’ memory of the identification can then “replace” the person’s memory of the event. For these reasons, scientists have recommended, as an ideal best practice, that eyewitness identification procedures be double-blind.

Section I of the statute establishing the Eyewitness Identification Task Force, (Public Act No. 11-52) provides that all state and local police departments employ the double-blind procedure “where practicable” as of January 1, 2011. Although the use of double-blind procedures are not the main focus of the Task Force’s work, Task Force members recognized at the outset,

and the police department survey confirmed, that the strict requirement of a double-blind procedure may pose some difficulties for police departments, particularly small ones where all or most of the sworn personnel may know the identity of suspect under investigation of the major crime. Testimony before the Task Force from experts in the field indicated that the difficulties can be overcome by softening the double-blind requirement to a “blinded” procedure with the use of the so-called “folder shuffle method”, or some similar procedure. With the careful positioning of the investigating officer, the risk of either leaking information, or undue positive or negative reinforcement, can be avoided. Consequently, the Task Force recommended an amendment to section 1 of the 2011 Public Act such that double blind will be required where practicable, but where impracticable, the blind procedure will be used. This amendment was passed.

IV. Original Workplan, Timeframe, and Working Groups

The Eyewitness Identification Task Force began its work in September, 2011, and met approximately every two weeks prior to the start of the General Assembly Session. The activities and steps taken by the Task Force during the fall and winter of 2011 included: presentations by experts in the field, both in and outside of Connecticut; development of the Police Survey; review of legislative approaches in other states; research issues relating to “show ups”; identification of the key elements of possible legislative language for Connecticut; and review of the issues of blind versus double-blind procedures.

Early in the process, Justice Borden appointed two working groups. The first group was charged with surveying Connecticut police departments regarding their methods of and experience with eyewitness identification procedures. The second group was charged with gathering and analyzing the legislation adopted in other states regarding the sequential method of presentation.

Police Working Group and Police Survey

A critical component to the Eyewitness Identification Task Force’s work was to determine current police practices in the state and any concerns departments might have in utilizing the sequential procedure with eyewitnesses. The Police Department Survey was distributed to all Connecticut Police Departments via e-mail during the first week of November, 2011. The survey, administered via an internet survey tool, gathered enough responses (70) to provide a good interim sense of current practice. Paper surveys were also distributed via regional meetings of the Connecticut Association of Chiefs of Police. *(Please see Appendix II for a copy of the Survey.)*

The survey established a baseline of current police department practices across the state. According to the results received to

date, 72.5% of police departments currently use a simultaneous approach and 70% of them plan to move to sequential. Fifteen police departments do not plan on moving to sequential, and half of those believe that sequential is less effective than the simultaneous approach. Only three police departments utilize sequential double-blind. Sixty percent of police departments believe that there are obstacles for them to implement the double blind method.

When using the sequential approach, many police departments allow for more than two laps (allowing the witness to look through the series of images more than two times) and use computers to find images. Eight departments use computers to present lineups and only one department uses facial recognition software. No departments that responded currently track the number of lineups and the accuracy of the lineups.

The barriers that most police departments listed in adopting sequential lineups include the need for additional training, few officers on duty, and information sharing in high profile cases. Seven respondents indicated the use of the sequential “single-blind” method. Single-blind refers to the situation where the administering officer is aware of the suspect, but is positioned in such a way that he or she does not know which photographs the witness is viewing.

Legislative Working Group

The Legislative Working Group was charged with the task of identifying the states and jurisdictions around the country that require sequential administration of photo arrays and line-ups in eyewitness identification (EWID) procedures. They found that many jurisdictions mandate sequential, while others require it only when possible or feasible; and some jurisdictions merely recommend sequential procedures. The Legislative Working Group briefly the states and jurisdictions that require or recommend sequential administration of EWID procedures.

The Legislative Working Group also provided a list of the jurisdictions in Connecticut presently utilizing the sequential process and noted that, although the mandate of the Task Force is to consider sequential administration, there are aspects of blind administration where the two areas naturally intersect (such as instructions to the witness, training, etc.) which required examination. The Group also stated that while the emphasis of the Task Force focused on photo array procedures, live line-up procedures are generally treated in the same fashion, and may require additional or specific protocols.

V. Expert Presentations

Justice Borden invited prominent researchers in the field, representatives from Connecticut police departments as well as police departments and prosecutorial offices outside of the state to present their experiences and research findings regarding the use of sequential photo arrays.

The invitees included: Dr. Gary L. Wells, Professor of Psychology and Distinguished Professor of Liberal Arts and Sciences, Iowa State University; Dr. Jennifer Dysart, Associate Professor of Psychology, John Jay College; William G. Brooks III, Deputy Chief of Police of Wellesley, Massachusetts and Michael Fabbri, Deputy District Attorney of Middlesex County, Massachusetts; and Duane Lovello, Chief of Police of the Darien Police Department, who is also a member of the Task Force. *(Please see Appendix III for a copy of the program and press release for the Symposium.)*

In addition, the Task Force received and considered an extensive written report from Dr. Steven Clark, Professor of Psychology, at the University of California, Riverside. His research focuses on questions about human memory and eyewitness memory. Lastly, Professor David Cameron, a member of the Task Force, prepared a synopsis of the relevant research. Summaries of their presentations can be found in the first report of the Task Force submitted on February 8, 2012.

VI. Best Practices

A best practice is a policy, process, activity, or strategy that has been established to be effective through laboratory and field research and application in the field. Best practices can evolve as research and application suggest new modifications to practice. The term “best practice” is used here to describe any aspect of the eyewitness identification process where research and experience suggests a specific method or procedure that is effective in producing desired outcomes (i.e., reduce the number of false eyewitness identifications while allowing accurate identifications).

The Eyewitness Identification Task Force identified several recommended best practices in the eyewitness identification process to be incorporated into the eyewitness identification policy of each police department. The best practices are set forth in the recommendations included at the beginning of this report.

It is important to note that the best practices described do not constitute a magic bullet. Human memory is not a videotape. It remains malleable, corruptible, dynamic and constructive, and mistakes will inevitably be made. Nonetheless, the Task Force recognizes that eyewitness evidence is often necessary for effective law enforcement. While these best practices will not

ensure that all eyewitness identifications will be absolutely accurate, adoption of them will significantly reduce the incidence of false identifications, without significantly reducing the incidence of accurate identifications of actual perpetrators.

VII. Mandatory State and Local Police Policies and Procedures

The unanimous recommendations of the Task Force were drafted into legislation and passed into law during the 2012 General Assembly session. *(Please see Appendix IV for a copy of Public Act 12-111, which sets forth the framework for the development of new eyewitness identification policies and procedures.)*

Based on the statute's mandate, Mandatory Uniform Policy and Guidelines for Eyewitness Identification Procedures was developed by the Police Working Group and adopted by the Police Officer Standards and Training Council (POST) in November, 8, 2012. The materials include the Eyewitness Identification Policy; Witness Instructions and the Procedure Record and Form. *(Please see Appendix V for copies of the Uniform Policy and Guidelines.)*

Notification of the Council's unanimous adoption of the policy and guidelines along with the policy and procedures documents were distributed by POST General Notice on December 12, 2012 and mailed to every Chief Law Enforcement Officer, Department Training Officer, Units for Protective Services, and Resident Troopers in the State. A General Notice was also posted on the Agency website.

VIII. Statewide Police Training

The statute also mandated that police trainings be developed and completed no later than May 1, 2013. The Training Working Group met on January 7, 2013 to discuss the content and coordination of the police officer trainings. The Executive Director of POST, Thomas Flaherty and Chief Daly, President of the Connecticut Chiefs of Police Association contacted Chiefs of Police throughout the state along with the Training Officer Association to begin the process of selecting trainers. The focus was on selecting experienced detectives to participate wherever possible.

Chief William Brooks of the Norwood MA Police Department, a renowned training expert in eyewitness identification police training was invited to present his approach to the Working Group. Chief Brooks provided an overview of the powerpoint presentation he uses with officers nationwide and stressed the importance of police officers understanding the science of

human memory. He also noted the value of having police officers actively participate in the training through group exercises and discussion.

Chief Brooks offered to provide his materials to trainers in Connecticut or to present the training personally. The Working Group unanimously agreed that Chief Brooks should provide the initial training through a Train-the-Trainer Program. March 19, 2013 was selected as the date for the Train-the-Trainers Program with a back-up date of March 27, 2013.

A total of 49 personnel were trained representing Municipal Police Departments, the Connecticut State Police and the Division of Criminal Justice. Every training participant was given a 4 gigabyte flash drive with Chief Brooks' presentation and contact information. Training manuals and CDs containing the complete contents of the educational material were distributed. Following the Train-the-Trainers Program, regional police officer trainings were held.

The majority of police line officers involved in eyewitness procedures have been trained statewide. In addition, the 200 recruits who graduated from POST this past year have been trained. Going forward, each class of police recruits at POST will be trained. Also, in-service trainings held at the New Haven, Waterbury, New Britain and Bridgeport Training Academies have included eyewitness policies and procedures.

Additional ongoing trainings including a review of steps for blind/double blind procedures during roll call settings and a combined prosecutorial/defense training are under exploration.

Police Officer Pocket Cards

Beginning in April, 2012, a notice was sent to all Law Enforcement agencies advising them that Pocket Cards had been produced in connection with Eyewitness Identification and that they could be obtained in the Office of the Executive Director at the Academy, whenever agency personnel were at POST. 15,000 cards were printed and have been distributed. Pocket Cards were created to provide police officers in the field with a readily available and accessible reference tool that included eyewitness procedures and instructions regarding show-ups on one side and Miranda rights on the other. 15,000 3x5 rounded edge, laminated cards were printed that could easily fit in a police officer's front shirt pocket *(Please see Appendix VI for a sample of the Police Officer Pocket Card.)*

IX. Police Department Data Collection

Overview

Justice Borden asked that a Research and Evaluation Working Group be established. The Working Group's recommendation was that POST begin collecting data submitted by police agencies on or about August 1, 2013.

While POST policies require every police department to collect data on all eyewitness identifications on standardized forms, the submittal process is completely voluntary. There is no requirement that the departments forward their data to POST or any other entity. The Research and Evaluation Working Group collectively agreed that POST would begin collecting data on or about August 1, 2013. A memo was sent out to all Chief Law Enforcement Officers through the Connecticut Police Chiefs Association on July 17, 2013 advising that data collection would begin on or about August 1st. A second notice was sent out on August 1, 2013 advising that completed Procedure and Record Forms be e-mailed or mailed to POST. Subsequently, the Connecticut Police Chiefs Association followed up with an additional request to forward all completed forms to POST.

Following this initial data collection effort, the Research and Evaluation Working Group met in November, 2013. The Working Group reviewed the data on eyewitness procedure forms that had been received to-date, identified any issues with completion of data or gaps in data as well as discussed strategies to assist larger jurisdictions in compiling and transmitting the data.

In addition, the Work Group finalized the police department survey which was sent out by Survey Monkey January, 2014. The survey is a repeat of the one conducted by the Task Force in 2011. Originally, the survey asked about barriers to implementation and descriptions of procedures currently being used. The new survey is designed to help the Eyewitness Identification Task Force understand how the implementation of the new mandatory uniform procedures are working, what best practices have emerged, and what challenges remain. *(Please see Appendix VII for a copy of the revised survey instrument.)*

In order to further understand the impact of implementation, a protocol for conducting key stakeholder interviews has been developed. The interviews will be conducted with a sample of Assistant State's Attorneys, Public Defenders, and Police Chiefs where procedures have been conducted with greatest frequency to further understand the impact of implementation. *(Please see Appendix VIII for a copy of the Key Stakeholder Protocol.)*

The Research and Evaluation Work Plan provides for a statewide phased-in approach to the research and evaluation of the eyewitness identification process. In the months remaining, the Research and Evaluation Working Group will continue to review and made adjustments to the Work Plan if needed. *(Please see Appendix IX for a copy of the revised Workplan.)*

Data Collection Results To-Date

This section will include the following:

- a) Descriptive statistics for each field on the data collection form for data collected to date.
- b) Charts of key questions,
 - a. Total procedures conducted
 - b. % using double blind, sequential or blinded sequential
 - c. % procedures where fillers were picked
 - d. % procedures where suspect was identified
- c) Analysis of the of the percentages in b, c and d co-varied with other variables, such as the type of procedure used and the type of crime.
- d) Descriptive statistics for each question in the police department survey
- e) Comparisons between these questions and the responses from the first survey
- f) Common themes regarding remaining issues, possible procedural changes, and promising or best practices
- g) Cross-respondent analysis of key stakeholder interview data

X. Next Steps

Eyewitness Data Archive

The Eyewitness Identification Task Force recognizes the importance of creating a central data base to compile and archive eyewitness data once the Task Force has completed its work in 2014. The recommendation is for the data to be housed at a university or college to ensure a continual opportunity for data gathering and data review and enable the data to be accessible for research purposes on an ongoing basis.

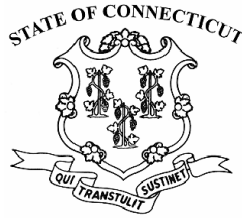
The Task Force will be seeking advice on how to prepare a request for proposal that will be distributed to Connecticut universities and colleges in the months ahead. It is further recommended that the data be cleaned and converted to a file that is easy to query and analyze, specifically the Statistical Program for the Social Sciences (SPSS) file. SPSS allows for the variable names, variable lengths, and values be defined and standardized more easily. These files, together with a data dictionary, can be made publicly available on a regular basis, (preferably downloadable from a website) with the opportunity for regular reports to be run both statewide and for each police department.

Best Practices Conference

The Task Force will explore the potential for developing and hosting a National Symposium on Eyewitness Identification Reform.

A P P E N D I X I

Public Act No. 11-252
An Act Concerning Eyewitness Identification



Substitute House Bill No. 6344

Public Act No. 11-252

AN ACT CONCERNING EYEWITNESS IDENTIFICATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this section:

(1) "Eyewitness" means a person who observes another person at or near the scene of an offense;

(2) "Photo lineup" means a procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

(3) "Live lineup" means a procedure in which a group of persons, including the person suspected as the perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

(4) "Identification procedure" means either a photo lineup or a live lineup; and

Substitute House Bill No. 6344

(5) "Filler" means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

(b) Not later than January 1, 2012, each municipal police department and the Department of Public Safety shall adopt procedures for the conducting of photo lineups and live lineups that comply with the following requirements:

(1) When practicable, the person conducting the identification procedure shall be a person who is not aware of which person in the photo lineup or live lineup is suspected as the perpetrator of the offense;

(2) The eyewitness shall be instructed prior to the identification procedure:

(A) That the perpetrator may not be among the persons in the photo lineup or the live lineup;

(B) That the eyewitness should not feel compelled to make an identification; and

(C) That the eyewitness should take as much time as needed in making a decision;

(3) The photo lineup or live lineup shall be composed so that the fillers generally fit the description of the person suspected as the perpetrator and, in the case of a photo lineup, so that the photograph of the person suspected as the perpetrator resembles his or her appearance at the time of the offense and does not unduly stand out;

(4) If the eyewitness has previously viewed a photo lineup or live lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup in

Substitute House Bill No. 6344

which the person suspected as the perpetrator participates or in which the photograph of the person suspected as the perpetrator is included shall be different from the fillers used in any prior lineups;

(5) At least five fillers shall be included in the photo lineup and at least four fillers shall be included in the live lineup, in addition to the person suspected as the perpetrator;

(6) In a photo lineup, no writings or information concerning any previous arrest of the person suspected as the perpetrator shall be visible to the eyewitness;

(7) In a live lineup, any identification actions, such as speaking or making gestures or other movements, shall be performed by all lineup participants;

(8) In a live lineup, all lineup participants shall be out of the view of the eyewitness at the beginning of the identification procedure;

(9) The person suspected as the perpetrator shall be the only suspected perpetrator included in the identification procedure;

(10) Nothing shall be said to the eyewitness regarding the position in the photo lineup or the live lineup of the person suspected as the perpetrator;

(11) Nothing shall be said to the eyewitness that might influence the eyewitness's selection of the person suspected as the perpetrator;

(12) If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person prior to obtaining the eyewitness's statement that he or she is certain of the selection; and

(13) A written record of the identification procedure shall be made that includes the following information:

Substitute House Bill No. 6344

(A) All identification and nonidentification results obtained during the identification procedure, signed by the eyewitness, including the eyewitness's own words regarding how certain he or she is of the selection;

(B) The names of all persons present at the identification procedure;

(C) The date and time of the identification procedure;

(D) In a photo lineup, the photographs themselves;

(E) In a photo lineup, identification information on all persons whose photograph was included in the lineup and the sources of all photographs used; and

(F) In a live lineup, identification information on all persons who participated in the lineup.

Sec. 2. (*Effective from passage*) (a) There is established an Eyewitness Identification Task Force to study issues concerning eyewitness identification in criminal investigations and the use of sequential live and photo lineups. The task force shall examine: (1) The science of sequential methods of conducting a live lineup and a photo lineup, (2) the use of sequential lineups in other states, (3) the practical implications of a state law mandating sequential lineups, and (4) such other topics as the task force deems appropriate relating to eyewitness identification and the provision of sequential lineups.

(b) The task force shall consist of the following members or their designees: The chairpersons and ranking members of the joint standing committee of the General Assembly on the judiciary; the Chief State's Attorney; the Chief Public Defender; the Victim Advocate; an active or retired judge appointed by the Chief Justice of the Supreme Court; a municipal police chief appointed by the president of the Connecticut Police Chiefs Association; a representative of the

Substitute House Bill No. 6344

Police Officer Standards and Training Council; a representative of the State Police Training School appointed by the Commissioner of Public Safety; a representative of the criminal defense bar appointed by the president of the Connecticut Criminal Defense Lawyers Association; a representative from the Innocence Project; and six public members, including the dean of a law school located in this state and a social scientist, appointed one each by the president pro tempore of the Senate, the speaker of the House of Representatives, the majority leader of the Senate, the majority leader of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) The task force may solicit and accept gifts, donations, grants or funds from any public or private source to assist the task force in carrying out its duties.

(d) The task force shall report its findings and recommendations to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than April 1, 2012.

Approved July 13, 2011

APPENDIX II

First Police Department Survey

Connecticut Police Department Eyewitness Identification Police Department Survey Results

Introduction

This survey was intended to provide a baseline for current eyewitness identification procedures in Connecticut police departments. This survey was distributed to all CT Police Departments via email during the first week of November, 2011. The survey, which is administered via an internet survey tool, was open through January 30, 2012. Seventy-three (73) responses have been collected and provide a good sense of current practice. Paper surveys were also distributed via regional meetings of the Connecticut Association of Chiefs of Police. The results in this appendix differ slightly (but insignificantly) from the interim results reported by the taskforce in December 2011.

Table 1. Number of Sworn Officers in Responding Department

How many sworn officers in your department?		
Answer Options	Response Percent	Response Count
less than 25	20.5%	15
25-50	45.2%	33
51-100	15.1%	11
101-200	15.1%	11
201-250	0.0%	0
251+	4.1%	3
<i>answered question</i>		73
<i>skipped question</i>		0

Table 2. Current Eyewitness Identification Process

Which of the following best describes your eyewitness identification process?		
Answer Options	Response Percent	Response Count
double-blind, simultaneous	6.8%	4
single-blind, simultaneous	64.4%	38
double-blind, sequential	5.1%	3
single-blind, sequential	11.9%	7
other	11.9%	7
<i>answered question</i>		59
<i>skipped question</i>		14

Table 3. Upcoming Use of Sequential Identification

If your department is not currently using sequential identification, is your department planning on implementing this in the next year?		
Answer Options	Response Percent	Response Count
Yes	65.4%	34
No	34.6%	18
<i>answered question</i>		52
<i>skipped question</i>		21

Table 4. Reasons For Not Implementing Sequential ID Procedure

If no, please check any of the reasons that may apply for not implementing a sequential identification procedure:		
Answer Options	Response Percent	Response Count
Too complicated	15.8%	3
Requires additional training	26.3%	5
Not believed to be as effective as current procedure	52.6%	10
other	52.6%	10
<i>answered question</i>		19
<i>skipped question</i>		54

Table 5. Identification of Obstacles To Implementing Double-Blind

A double-blind procedure is required by statute beginning January 1, 2012, where practicable. Do you foresee any obstacles to implementing the double-blind procedure by then?		
Answer Options	Response Percent	Response Count
Yes	59.3%	35
No	40.7%	24
<i>answered question</i>		59
<i>skipped question</i>		14

Table 6. Reasons For Not Implementing Double Blind Procedure

If Yes, please check any of the reasons that may apply for not implementing a double blind procedure:		
Answer Options	Response Percent	Response Count
Too complicated	24.3%	9
Requires additional training	37.8%	14
Not believed to be as effective as current procedure	5.4%	2
Other	73.0%	27
<i>answered question</i>		37
<i>skipped question</i>		36

Table 7. Use of Multiple "Laps" In Sequential Process

If you are currently using sequential identification, do you allow witnesses to look at the sequence more than once?		
Answer Options	Response Percent	Response Count
Yes	69.2%	18
No	30.8%	8
<i>answered question</i>		26
<i>skipped question</i>		47

APPENDIX II

First Police Department Survey (continued)

Table 8. How Many “Laps” Allowed

If yes, how many times do you allow witnesses to look through the sequence?		
Answer Options	Response Percent	Response Count
1 more time	15.8%	3
2 more times	5.3%	1
As many times as they want	78.9%	15
<i>answered question</i>		19
<i>skipped question</i>		54

Table 9. Use of Computer in Eyewitness ID Process

Do you use a computer for any part of the eyewitness identification process? If so, how? (check all that apply)		
Answer Options	Response Percent	Response Count
To find images that resemble the eyewitness description	93.5%	43
To present the images to the eyewitness	17.4%	8
Other	19.6%	9
<i>answered question</i>		46

Table 10. Use of Facial Recognition Software

If you use the computer to find images that resemble the eyewitness description, do you use facial recognition software of any kind?		
Answer Options	Response Percent	Response Count
Yes	2.0%	1
No	98.0%	50
<i>answered question</i>		51
<i>skipped question</i>		22

Table 11. Tracking of Misidentifications

Do you track the number of misidentifications that occur in your eyewitness identification process?		
Answer Options	Response Percent	Response Count
Yes	1.8%	1
No	98.2%	56
<i>answered question</i>		57
<i>skipped question</i>		16

Table 12. Barriers To Implementation of Sequential, Double Blind Process

Are there certain circumstances that you feel make the implementation of a sequential, double blind process more difficult or impractical? (circle all that apply)		
Answer Options	Response Percent	Response Count
Violent crimes	11.1%	6
Need for a quick identification	61.1%	33
Multiple eyewitnesses	37.0%	20
Eyewitness description includes very distinctive features	18.5%	10
Periods when there are few officers on duty at the station	68.5%	37
Crimes where an “all hands on deck” investigation leaves all officers with knowledge of the suspects identification	75.9%	41
Other	22.2%	12
<i>answered question</i>		54
<i>skipped question</i>		19

Responding Departments

- Ansonia
- Berlin Police Department
- Bethel Police
- Bloomfield Police
- Branford Police Department
- Bridgeport Police Department
- Brookfield
- Canton
- Central CT State University
- Cheshire Police Department
- City of Groton Police Department
- Coventry Police Department
- Cromwell Police
- Danbury Police Department
- Darien
- East Hartford
- Eastern Connecticut State University
- Fairfield CT Police Department
- Farmington Police Department
- Granby Police Department
- Greenwich
- Guilford
- Hartford Police Department
- Madison Police Department
- Manchester Police
- Middlebury
- Middletown Police Department
- Monroe Police Department
- Naugatuck Police
- New Canaan Police Department
- New Haven Police Department
- New Milford Police Department
- Newington Police Department
- Newtown
- Norwalk PD
- Norwich Police Department
- Orange Police Department
- Plainfield
- Plainville Police Dept.
- Putnam Police Department
- Redding Police Department
- Seymour Police Department
- Shelton Police Department
- Simsbury Police Department
- Southington Police Department
- State Capitol Police
- Stratford Police Department
- Suffield Police Department
- Thomaston Police Department
- Trumbull Police
- UConn Health Center Police Department
- Vernon Police Department
- Waterford Police Department
- West Hartford Police Department
- West Haven Police Department
- Weston Police Department
- Westport Police Department
- Wethersfield
- Willimantic
- Wilton
- Winchester Police Department
- Windsor Locks
- Wolcott Police Department
- Woodbridge Police Department
- Stonington

A P P E N D I X I I I

Symposium Press Release and Agenda



*****NEWS ADVISORY*****

FOR IMMEDIATE RELEASE

Monday, October 17, 2011

**EYEWITNESS TASK FORCE WELCOMES
NATIONAL EXPERT ON IDENTIFYING SUSPECTS**

HARTFORD – A new state task force charged with studying how eyewitnesses identify suspected criminals and how that testimony is used in a trial will welcome a national expert on eyewitness identification to the Legislative Office Building this week.

This Wednesday, October 19 at 10 a.m. in Room 2-C of the Legislative Office Building in Hartford, the Task Force will welcome Dr. Gary Wells of Iowa State University, who is a nationally recognized expert in the field of eyewitness identification.

A link to Dr. Wells' recent eyewitness identification study may be found at:
http://www.ajs.org/wc/pdfs/EWID_PrintFriendly.pdf

The 10 a.m. meeting with Dr. Wells will be followed by an 11:30 a.m. meeting in the LOB Room 2-B where Judiciary Committee Co-Chairmen Senator Eric Coleman (D-Bloomfield) and Rep. Gerry Fox (D-Stamford) will introduce Dr. Wells and describe his study, followed by questions from the public and the press.

The Eyewitness Identification Task Force, created by PA 11-252, is studying issues concerning eyewitness identification in criminal investigations and the use of sequential live and photo lineups.

The Task Force is charged with examining: (1) The science of sequential methods of conducting a live lineup and a photo lineup, (2) the use of sequential lineups in other states, and (3) the practical implications of a state law mandating sequential lineups.

Eyewitness Identification Task Force Symposium
Legislative Office Building Room 2C
Friday, March 16, 2012

9:30 a.m.

Welcoming Remarks

Justice David Borden, Task Force Chair
Senator Eric Coleman, Co-Chair of Judiciary Committee
Representative Gerald Fox III, Co-Chair of Judiciary Committee

9:45 a.m. -
10:30 a.m.

Introduction of Keynote Speaker
Andrew McDonald, General Counsel to
Connecticut Governor Dannel P. Malloy

Keynote
Jennifer Thompson, Co-Author
Picking Cotton: Our Memoir of Injustice and Redemption
Questions and Answers

10:30 - a.m.
11:15 a.m.

Task Force Recommendations and Reactions
Moderator: Justice David Borden

Panelists:
Chief State's Attorney Kevin Kane, Division of Criminal Justice
Attorney Karen Goodrow, Director, Connecticut Innocence Project
Chief Duane Lovello, Darien Police Department
Professor John DeCarlo, Ph.D., University of New Haven

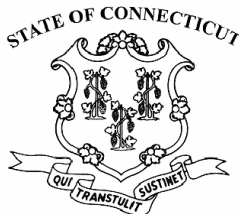
11:15 - a.m. -
noon

The Work that Lies Ahead
Moderator: Justice David Borden

Panelists:
Senator Eric Coleman, Co-Chair, Judiciary Committee
Representative Gerald Fox III, House Co-Chair, Judiciary Committee
Senator John Kissel, Ranking Member, Judiciary Committee
Representative John Hetherington, Ranking Member, Judiciary Committee
Thomas Flaherty, Executive Director, Police Officer Standards and
Training Council (POST)
Chief Duane Lovello, Darien Police Department
Lt. Clayton Brown, State Police Training Academy

A P P E N D I X I V

Public Act No. 12-111
An Act Concerning Eyewitness Identification Procedures



Substitute House Bill No. 5501

Public Act No. 12-111

AN ACT CONCERNING EYEWITNESS IDENTIFICATION PROCEDURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 54-1p of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(a) For the purposes of this section:

(1) "Eyewitness" means a person who observes another person at or near the scene of an offense;

(2) "Photo lineup" means a procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of other persons not suspected of the offense, is [displayed] presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

(3) "Live lineup" means a procedure in which a group of persons, including the person suspected as the perpetrator of an offense and other persons not suspected of the offense, is [displayed] presented to an eyewitness for the purpose of determining whether the eyewitness

Substitute House Bill No. 5501

is able to identify the suspect as the perpetrator;

(4) "Identification procedure" means either a photo lineup or a live lineup; and

(5) "Filler" means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

(b) Not later than February 1, 2013, the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection shall jointly develop and promulgate uniform mandatory policies and appropriate guidelines for the conducting of eyewitness identification procedures that shall be based on best practices and be followed by all municipal and state law enforcement agencies. Said council and division shall also develop and promulgate a standardized form to be used by municipal and state law enforcement agencies when conducting an identification procedure and making a written record thereof.

[(b)] (c) Not later than [January 1, 2012] May 1, 2013, each municipal police department and the Department of Emergency Services and Public Protection shall adopt procedures for the conducting of photo lineups and live lineups that are in accordance with the policies and guidelines developed and promulgated by the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection pursuant to subsection (b) of this section and that comply with the following requirements:

[(1) When practicable, the person conducting the identification procedure shall be a person who is not aware of which person in the photo lineup or live lineup is suspected as the perpetrator of the offense;]

Substitute House Bill No. 5501

(1) Whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating in a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time in accordance with the policies and guidelines developed and promulgated by the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection pursuant to subsection (b) of this section;

(2) The identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense, except that, if it is not practicable to conduct a photo lineup in such a manner, the photo lineup shall be conducted by the use of a folder shuffle method, computer program or other comparable method so that the person conducting the procedure does not know which photograph the eyewitness is viewing during the procedure;

[(2)] (3) The eyewitness shall be instructed prior to the identification procedure:

(A) That the eyewitness will be asked to view an array of photographs or a group of persons, and that each photograph or person will be presented one at a time;

(B) That it is as important to exclude innocent persons as it is to identify the perpetrator;

(C) That the persons in a photo lineup or live lineup may not look exactly as they did on the date of the offense because features like facial or head hair can change;

[(A)] (D) That the perpetrator may or may not be among the persons

Substitute House Bill No. 5501

in the photo lineup or [the] live lineup;

[(B)] (E) That the eyewitness should not feel compelled to make an identification; [and]

[(C)] (F) That the eyewitness should take as much time as needed in making a decision; and

(G) That the police will continue to investigate the offense regardless of whether the eyewitness makes an identification;

(4) In addition to the instructions required by subdivision (3) of this subsection, the eyewitness shall be given such instructions as may be developed and promulgated by the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection pursuant to subsection (b) of this section;

[(3)] (5) The photo lineup or live lineup shall be composed so that the fillers generally fit the description of the person suspected as the perpetrator and, in the case of a photo lineup, so that the photograph of the person suspected as the perpetrator resembles his or her appearance at the time of the offense and does not unduly stand out;

[(4)] (6) If the eyewitness has previously viewed a photo lineup or live lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup in which the person suspected as the perpetrator participates or in which the photograph of the person suspected as the perpetrator is included shall be different from the fillers used in any prior lineups;

[(5)] (7) At least five fillers shall be included in the photo lineup and at least four fillers shall be included in the live lineup, in addition to the person suspected as the perpetrator;

Substitute House Bill No. 5501

[(6)] (8) In a photo lineup, no writings or information concerning any previous arrest of the person suspected as the perpetrator shall be visible to the eyewitness;

[(7)] (9) In a live lineup, any identification actions, such as speaking or making gestures or other movements, shall be performed by all lineup participants;

[(8)] (10) In a live lineup, all lineup participants shall be out of the view of the eyewitness at the beginning of the identification procedure;

[(9)] (11) The person suspected as the perpetrator shall be the only suspected perpetrator included in the identification procedure;

[(10)] (12) Nothing shall be said to the eyewitness regarding the position in the photo lineup or the live lineup of the person suspected as the perpetrator;

[(11)] (13) Nothing shall be said to the eyewitness that might influence the eyewitness's selection of the person suspected as the perpetrator;

[(12)] (14) If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person prior to obtaining the eyewitness's statement [that he or she is certain] regarding how certain he or she is of the selection; and

[(13)] (15) A written record of the identification procedure shall be made that includes the following information:

(A) All identification and nonidentification results obtained during the identification procedure, signed by the eyewitness, including the eyewitness's own words regarding how certain he or she is of the selection;

(B) The names of all persons present at the identification procedure;

Substitute House Bill No. 5501

(C) The date and time of the identification procedure;

(D) In a photo lineup, the photographs [themselves] presented to the eyewitness or copies thereof;

(E) In a photo lineup, identification information on all persons whose photograph was included in the lineup and the sources of all photographs used; and

(F) In a live lineup, identification information on all persons who participated in the lineup.

Sec. 2. (NEW) (*Effective October 1, 2012*) Each police basic or review training program conducted or administered by the Police Officer Standards and Training Council, the Division of State Police within the Department of Emergency Services and Public Protection or a municipal police department shall provide training to police officers in the administration of eyewitness identification procedures in accordance with the policies and guidelines developed and promulgated by the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection pursuant to subsection (b) of section 54-1p of the general statutes, as amended by this act.

Sec. 3. Section 2 of public act 11-252 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established an Eyewitness Identification Task Force to study issues concerning eyewitness identification in criminal investigations and the use of sequential live and photo lineups. The task force shall examine: (1) The science of sequential methods of conducting a live lineup and a photo lineup, (2) the use of sequential lineups in other states, (3) the practical implications of a state law mandating sequential lineups, and (4) such other topics as the task force deems appropriate relating to eyewitness identification and the

Substitute House Bill No. 5501

provision of sequential lineups.

(b) The task force shall consist of the following members or their designees: The chairpersons and ranking members of the joint standing committee of the General Assembly on the judiciary; the Chief State's Attorney; the Chief Public Defender; the Victim Advocate; an active or retired judge appointed by the Chief Justice of the Supreme Court; a municipal police chief appointed by the president of the Connecticut Police Chiefs Association; a representative of the Police Officer Standards and Training Council; a representative of the State Police Training School appointed by the Commissioner of [Public Safety] Emergency Services and Public Protection; a representative of the criminal defense bar appointed by the president of the Connecticut Criminal Defense Lawyers Association; a representative from the Connecticut Innocence Project; and six public members, including the dean of a law school located in this state and a social scientist, appointed one each by the president pro tempore of the Senate, the speaker of the House of Representatives, the majority leader of the Senate, the majority leader of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) The task force may solicit and accept gifts, donations, grants or funds from any public or private source to assist the task force in carrying out its duties.

(d) The task force shall report its findings and recommendations to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than April 1, 2012.

(e) After submitting the report required under subsection (d) of this section, the task force shall continue in existence for the purpose of (1) assisting the Police Officer Standards and Training Council and the

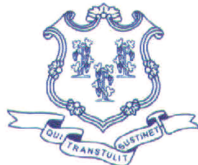
Substitute House Bill No. 5501

Division of State Police within the Department of Emergency Services and Public Protection in the development of policies and guidelines for the conducting of eyewitness identification procedures by law enforcement agencies as required by subsection (b) of section 54-1p of the general statutes, as amended by this act, (2) researching and evaluating best practices in the conducting of eyewitness identification procedures as such practices may change from time to time, and recommending such revised best practices to the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection, (3) collecting statistics concerning the conducting of eyewitness identification procedures by law enforcement agencies, and (4) monitoring the implementation of section 54-1p of the general statutes, as amended by this act. The task force shall report the results of such monitoring, including any recommendations for proposed legislation, to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than February 5, 2014.

A P P E N D I X V

Connecticut State and Local Police Policies and Procedures

- Witness Instructions
- Mandatory Uniform Policy and Procedures
- Model Standard Identification Record and Form



STATE OF CONNECTICUT
 DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION
 Police Officer Standards and Training Council
 Connecticut Police Academy

Instructions

November 8, 2012

NAME OF AGENCY

WITNESS INSTRUCTIONS – IDENTIFICATION PROCEDURES

Agency Case Number: _____ Date: _____

Time: _____ Location: _____

1. Please listen carefully as these instructions are read aloud to you. Each one of the instructions is equally important. You have been given a copy of these instructions to read along with the officer if you wish.
2. You will be asked to view an array of photographs or a group of persons, and each photograph or person will be presented one at a time;
3. It is just as important to exclude innocent persons as it is to identify the perpetrator;
4. The persons in the photographic lineup or live lineup may not look exactly as they did on the date of the offense because features like facial or head hair can change;
5. The perpetrator may or may not be among the persons in the photographic lineup or live lineup;
6. You should not feel that you must make an identification;
7. You should take as much time as needed in making a decision;
8. If you are able to make an identification of someone, you will be asked to describe in your own words how certain you are of that identification;
9. Even if you are able make an identification, you will be asked to finish the procedure by looking at all the photographs or all of the individuals until you have completed looking at each one;
10. If there are other witnesses, you must not indicate to them that you have or have not made an identification of a person;

11. The officer administering this procedure either does not know whether any of the people in the photographic array or in the lineup were involved in the crime or does not know the order in which you are viewing the photographs;
12. If you do select someone, the officer will not be able to provide you any information about the person you have selected;
13. If you select a person or photograph you will be asked to provide a statement about this process and the results. If you don't recognize anyone in the lineup, please say so;
14. Whether or not you select someone, the police will continue to conduct an appropriate investigation into this matter.

I, _____, acknowledge that the above instructions have been read to me by _____, and I fully understand those instructions.

Eyewitness Signature: _____

Date of the procedure: _____ Time of the procedure: _____

Identification Procedure Administered by: Signature: _____

Names of All Persons Present:



STATE OF CONNECTICUT
DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION
Police Officer Standards and Training Council
Connecticut Police Academy

November 8, 2012

POLICE OFFICER STANDARDS AND TRAINING COUNCIL

MANDATORY UNIFORM POLICY

EYEWITNESS IDENTIFICATION PROCEDURES

Purpose and Background: Public Act No. 12-111 provides that “Not later than February 1, 2013, the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection shall jointly develop and promulgate uniform mandatory policies and appropriate guidelines for the conducting of eyewitness identification procedures that shall be based on best practices and be followed by all municipal and state law enforcement agencies.”

The Act also provides among other things that “Not later than May 1, 2013, each municipal police department and the Department of Emergency Services and Public Protection shall adopt procedures for the conducting of photo lineups that are in accordance with the policies and guidelines developed and promulgated by the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection pursuant to subsection (b) of this section and comply with” a number of requirements.

DEFINITIONS:

Eyewitness: means a person who observes another person at or near the scene of an offense;

Photo lineup: means a procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of

other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

Live lineup: means a procedure in which a group of persons, including the person suspected as the perpetrator of an offense and other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

Showup: means a procedure in which a single person suspected as a perpetrator of an offense and maybe others are presented one at a time, to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator. Showup is also known as a Field Identification and/or One on One Identification. Showups typically occur shortly after the commission of a crime and/or when a suspect is apprehended at or near the crime;

Field View: means a procedure wherein the eyewitness views a group of people in a public place on the theory that the suspect may be among the group. A field view differs from a showup in that it may be conducted well after the commission of the crime and may be conducted with or without a suspect in the group;

Identification Procedure: means a photo lineup, a live lineup or a showup;

Filler: means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure;

Sequential Photo Line-up or Live Line-up: means whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating in a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time;

Double Blind Procedure: means that the identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense;

Blind Administration (other than Folder Shuffle, below): means the conduct of an identification procedure in which the administrator of the procedure is unaware of which photograph the witness is viewing during the procedure. This procedure is intended to ensure that the eyewitness does not interpret a gesture or facial expression by the officer (administrator) as an indication as to the identity of the suspect;

Folder Shuffle Method: means that when the conduct of the Double Blind Procedure is not practicable, the photo lineup shall be conducted by inserting each of the required photographs into separate, unmarked folders, shuffling them and allowing the eyewitness to remove the photographs, one at a time to view them. A computer program in which a software program is used to administer any lineup, wholly or in part, shall comport to the procedures contained within this policy. If the eyewitness is able to make an identification of a photograph that person should sign and date the identified photograph;

Lap: means a single completed cycle to view all the photos in a photo lineup or all persons participating in a live lineup;

Confidence Statement: means a statement from the victim/witness, in his or her own words, on how certain they are of the identification which is taken immediately after identification is made. The Confidence Statement should be recorded in writing and signed by the victim/witness or otherwise memorialized;

POLICY – EYEWITNESS IDENTIFICATIONS:

Photographic Lineups and Live Lineups:

A. Whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating in a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time.

B. The identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense, i.e. double blind procedure, except that, if it is not practicable to conduct a photo lineup in such a manner, the photo lineup shall be conducted by the use of a folder shuffle method, computer program or other comparable method so that the person conducting the procedure does not know which photograph the eyewitness is viewing during the procedure.

Conduct of Lineups:

- A. Prior to the identification procedure, the eyewitness shall be instructed;
- a. That the eyewitness will be asked to view an array of photographs or a group of persons, and that each photograph or person will be presented one at a time.
 - b. That it is just as important to exclude innocent persons as it is to identify the perpetrator.
 - c. That the persons in a photo lineup or live lineup may not look exactly as they did on the date of the offense because features like facial or head hair change.
 - d. That the perpetrator may or may not be among the persons in the photo lineup or live lineup;
 - e. That the eyewitness should not feel compelled to make an identification.
 - f. That the eyewitness should take as much time as needed in making a decision.
 - g. That the police will continue to investigate the offense regardless of whether the eyewitness makes an identification.
 - h. Prior to the identification procedure, the eyewitness should be instructed that, after the identification procedure, he/she will be asked how certain he/she was that the perpetrator was or was not in the lineup.
 - i. That even if the eyewitness is able to make an identification, he/she will be asked to finish the procedure by looking at all the photographs or all of the individuals until he/she has completed looking at each one;
 - j. If there are other witnesses, the eyewitness must not indicate to them that he/she has or has not made an identification of a suspect;
 - k. The officer administering this procedure either does not know whether any of the people in the photographic array or in the lineup were involved in the crime or does not know the sequence in which the eyewitness is viewing the photographs;
 - l. If the eyewitness selects a person or photograph he/she will be asked to provide a statement about the identification. If the eyewitness doesn't recognize someone, he/she must say so;
 - m. If the eyewitness does not select someone, the police will continue to investigate;

- B. While conducting the photo or live lineup, nothing shall be said to the eyewitness about the suspect or his/her location in the lineup.
- C. Nothing shall be said to the eyewitness that might influence the eyewitness's selection of the person suspected as the perpetrator.
- D. In a live lineup, any identification actions, such as speaking or making gestures or other movements, shall be performed by all lineup participants.
- E. In a live lineup, all lineup participants shall be out of view of the eyewitness at the beginning of the identification procedure.
- F. Only one suspect may be present in a single lineup.
- G. If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person.
- H. A written Standard Identification Form and Record of the identification procedure shall be completed by the Police Officer(s) conducting the identification procedure upon conclusion of the procedure that includes the following information;
- a. All identification and non-identification results obtained during the identification procedure, signed by the eyewitness, including the eyewitness's own words regarding how certain he or she is of the selection, i.e. a confidence or certainty statement.
 - b. The names of all persons present at the identification procedure.
 - c. The date and time of the identification procedure.
 - d. In a photo lineup, the photographs presented to the eyewitness or copies thereof.
 - e. In a photo lineup, identification information on all persons whose photographs were included in the lineup and the sources of all photographs used and
 - f. In a live lineup, identification information on all persons who participated in the lineup.
 - g. Record Collection and Retention – Each agency shall maintain as a separate and distinct record set copies of Standard Identification Forms and Records completed by said agency. This form shall be retained by calendar year for the purpose of facilitating analysis and reporting by outside persons or agencies tasked with same.
- sex, facial features, profile, height, weight, build, specific item of clothing, etc. to the extent applicable to the photo being used of the suspect.
- b. If multiple photographs of the suspect are available, lineup administrators should select the photograph that most resembles the suspect description or appearance at the time of the incident.
 - c. Attention should be paid to unusual identifying marks described by the witness that are visible on the suspect's photo. In these cases, photos containing a similar feature should be included when possible or the area of the feature may be covered on all photographs to be included.
 - d. All photos should be of the same size and no single photo should unduly stand out from the others.
 - e. If the eyewitness has previously viewed a photo lineup or live lineup with the suspect's photo or with the suspect in it, steps must be taken to ensure that the suspect does not stand out in the new lineup.
 - f. A minimum of five fillers must be used in photo lineups and at least four in live lineups in addition to the suspect.
 - g. In a photo lineup, no information concerning any previous arrest of the suspect shall be visible to the eyewitness.
 - h. If multiple suspects are involved, a separate photo lineup must be prepared for each suspect to be presented to the witness.
 - i. In cases where one witness will view multiple lineups, containing different suspects, the person administering the lineup will ensure that different filler photographs are used in each individual photo lineup.
 - j. In cases where multiple witnesses will be viewing photo lineups, separate photo lineups should be prepared for each witness. The person administering the lineup may use the same filler photographs for each witness. When possible the suspect should be placed in a different position.
 - k. In the case of multiple witnesses, every effort should be made to prevent communication between witnesses once one witness has viewed a photographic lineup.
 - l. The administrator shall record the order in which the folders were presented.
 - m. Should the witness request a second "lap," the lineup will be presented in the same ordered sequence as the initial lap.
- B. Administration of Double Blind Photographic Lineups**
- a. No information regarding the identification of the suspect will be revealed to the person administering the lineup.
 - b. The lineup administrator will conduct the lineup following the Sequential protocol, numbering each photo with the order in which it was presented to the witness.
 - c. The assigned investigator or anyone with knowledge of the suspect should not be allowed in the room at the

PROCEDURES AND BEST PRACTICES:

A. Preparation of Photographic Lineups

- a. The suspect and filler photographs should resemble the witness's description in significant features such as race,

time of the lineup administration.

- d. The lineup administrator should give instructions to the witness by verbally reading the Witness Instruction Form to the witness and determine if they understand. The witness will then be asked to sign and date the form.
- e. The lineup administrator will avoid any actions or comments that could be construed as an attempt to influence a witness to select a particular photo or to validate, invalidate or reinforce a selection that has been made by a witness.
- f. If the witness identifies someone, the lineup administrator will then ask the witness to describe in their own words how confident they are of the identification.
- g. Even if someone is identified, all of the photographs in the series will be shown.
- h. The lineup administrator shall not provide any feedback about the lineup results to the witness.
- i. Once the sequential lineup process is complete, the lineup administrator should generate a report with the results of the sequential lineup, initial the back of each photograph for lineup verification in court and preserve the photo lineup as evidence. The original photographs should be secured as any other evidence with the originals being maintained as evidence and one complete copy placed into the case file.
- j. Laps – The administrator should not offer nor suggest that the eyewitness engage in another “lap,” or viewing of the photographs. If the eyewitness should request a second lap of the photographs, one additional lap is permissible but in any event should not exceed two laps. If a witness requests a second lap, the entire series of photographs must be viewed by the witness in the same order in which they were shown originally. The witness must not be permitted to view just one photograph of the selection even if he or she requests to see just one photograph.

C. Blind Folder Shuffle Procedure

- a. When implementation of the Double Blind Photographic procedure is not practicable due to lack of manpower resources, limited number of officers on duty, a major crime where many officers are aware of the identity of the suspect or any other such circumstance, a Blind Folder Shuffle must be used. The photograph of the suspect and the five or more fillers are each placed into separate, unmarked folders and shuffled by the administrator, who will number each folder according to the sequence in which they were shown to the witness. The eyewitness should be instructed to remove each photograph, one at a time and view the single photograph. At no time should the lineup administrator be able to determine which particular photograph is being viewed by the witness at

a particular time. If the blind method is not practicable, then the administrator must position himself or herself so as not to be able to give cues, consciously or subconsciously to the eyewitness such as his or her standing somewhere behind the eyewitness. When the eyewitness concludes viewing a particular photograph, it should be placed back in the folder and returned to the administrator before viewing the next one. Even if the eyewitness identifies a suspect part way through the entire series, he/she should be instructed to continue viewing the remaining photographs. If the eyewitness requests a second lap, the folders should be shown to the witness in the same manner and in the same sequence as the first lap.

D. Administration of Live Lineups

- a. A suspect cannot be compelled to participate in a lineup without probable cause to arrest. If the suspect refuses to participate in a lineup, the officer should contact their State’s Attorney Office.
- b. Before a suspect participates in a lineup, he or she must be informed of his/her right to have an attorney present at the lineup and of his/her right to be provided with an attorney without costs if he/she is unable to afford such legal counsel. Unless a knowing and voluntary waiver is made, in writing if possible, no procedure may proceed without an attorney present
- c. Four fillers should be selected who fit the description of the suspect as provided by the eyewitness(s).
- d. All persons in the lineup should carry cards that identify him or her by number only and they should be referred to only by that number.
- e. The administrator of the lineup should carefully instruct the eyewitness by reading from the instruction form. The eyewitness should be asked to sign the form indicating that they understand the instructions and the administrator should sign and date the form.
- f. The lineup should be conducted so that the suspect and fillers are not viewed by the eyewitness as a group but rather are displayed to the eyewitness one at a time.
- g. If the eyewitness makes an identification of a suspect, a statement must be taken as to the certainty of that identification.
- h. During a lineup, each participant may be directed to wear certain clothing, to put on or take off certain clothing, to take certain positions or to walk, talk, or move in a certain way. All lineup participants shall be asked to perform the same actions.

E. Administration of Show-ups

- a. Showup identification procedures are employed soon after a crime has been committed, when a suspect is detained at or near the crime, or under exigent circumstances such as the near death of the eyewitness or victim.

- b. Every showup must be as fair and non-suggestive as possible. If the suspect is handcuffed, he/she should be positioned so that the handcuffs are not visible to the eyewitness. Unless necessary for the safety of the officers or others, the suspect should not be viewed when he/she is inside a police cruiser, in a cell or in jail clothing.
- c. Detaining a person who fits the description of a suspect in order to arrange a showup is lawful when the officer has reasonable suspicion that a suspect has committed a crime.
- d. If the eyewitness fails to make a positive identification and sufficient other evidence is not developed to establish probable cause to arrest, the suspect must be permitted to leave.
- e. When a suspect is stopped under showup circumstances, he or she should be detained at the scene of the stop and the witness(es) transported to that location to view the suspect.
- f. Suspects should not be transported back to the scene of the crime if avoidable or to any other location barring exigent circumstances such as an unruly crowd. They should never be transported to a police station absent probable cause to arrest.
- g. Officers must not say nor do anything that would convey to the eyewitness that they have evidence of the suspect's guilt.
- h. A suspect should be viewed by one eyewitness at a time out of the presence and hearing of other eyewitnesses. Witnesses who have viewed a suspect should not be permitted to communicate with those who have not.
- i. If an eyewitness makes identification, a statement should be obtained from the eyewitness including the level of certainty of that identification.
- j. When a showup is arranged in an emergency situation, where either an eyewitness or a victim is in imminent danger of death or in critical condition in a hospital, and the circumstances are such that an immediate confrontation is imperative, the emergency identification procedure shall be conducted in a non-suggestive manner.

F. Field Views

- a. Employing a procedure known as Field View may be appropriate depending on the facts of an individual investigation.
- b. The eyewitness may be accompanied to a public location where the suspect may or may not be present and is then permitted to view a group of people in an effort to identify a suspect. The officer or investigator may not direct the eyewitness's attention to any particular person, make any suggestions to the eyewitness or otherwise attempt to influence the witness' ability to observe the group.



STATE OF CONNECTICUT
DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION
 Police Officer Standards and Training Council
 Connecticut Police Academy

November 8, 2012

MODEL STANDARD IDENTIFICATION PROCEDURE RECORD AND FORM

Agency: _____ Troop: _____ Agency Case Number: _____

Date: _____ Procedure Administrator: _____

Identification Procedure

Circle Procedure Used

1. Photographic Lineup 2. Live Lineup 3. Show-up 4. Field View

Answer all that apply

Date of Identification Procedure _____ Time of Identification Procedure (*Military*) _____

Date of Crime _____ Time of Crime (*Military*) _____

Was an Identification made by a witness? Y N Not Sure

Did the witness request and receive a second lap? Y N

Was the witness a victim of the crime? Y N

Was a "filler" identified by the victim or witness? Y N N/A

Was the procedure Double Blind, Blind or Blind Shuffle? *Circle Applicable Procedure* N/A

Was the procedure sequential? Y N N/A

Number of photographs used in the procedure: _____ N/A

Type of Crime (*Circle*) *If more than one applies, circle all that apply.*

- Homicide Home Invasion Sexual Assault Assault Robbery Burglary Narcotics Larceny Motor Vehicle
 Other (specify) _____

APPENDIX VI

Eyewitness Identification Police Officer Pocket Card

Guidelines for an Effective Show-Up:

- A show-up should be conducted shortly after the commission of the crime or the witness' observation of the suspect. A person should only be detained when the officer has reasonable suspicion to believe the person could be a suspect.
- Barring special circumstances, the witness should be transported to the suspect's location. When transporting a witness to a show-up, attempt to prevent the witness from hearing radio transmissions or other officer-to-officer conversations related to the suspect or the investigation.
- A suspect should only be viewed by one witness at a time out of the presence and hearing of other witnesses. Talking among witnesses should not be allowed.
- Minimize suggestiveness. Unless necessary for the safety of officers or others, show-ups should not be conducted if the suspect is seated in the rear of a police cruiser, in a cell, or in any other enclosure associated with custody. If the suspect is handcuffed, he should be turned so that the handcuffs are not visible to the witness.
- Do not tell the witness where the suspect was found, whether the suspect said anything or did anything suspicious, or whether the suspect was found with items potentially related to the crime.
- Once a witness has positively identified the suspect at a show-up, do not conduct additional show-ups with the same suspect.
- If the witness fails to make an identification or is not sure of an identification, and probable cause to arrest cannot be immediately developed, the person must be permitted to leave.

**Officer's Field Card Witness
Instructions for Show-Up Identifications****Instructions to be Read Aloud to the Witness:**

1. You are going to be asked to view some people (even if only one person is shown).
2. The person you saw may or may not be among the people you are about to view.
3. It is just as important to clear innocent persons from suspicion as it is to identify the guilty.
4. Regardless of whether you identify someone, we will continue to investigate the incident.
5. If you identify someone, I will ask you to state, in your own words, how certain you are.
6. If you do select someone, please do not ask us questions about the person you have selected, because we cannot share that information with you at this time.
7. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case or the media.
8. Do you have any questions before we begin?

A P P E N D I X V I I

Second Eyewitness Identification Police Department Survey and Definitions

Eyewitness Identification Task Force Revised Police Survey Revised January, 2014

This purpose of this survey is to help the Eyewitness Identification Task Force understand how the implementation of the new mandatory uniform procedures is working, what best practices have emerged, and what challenges remain. Please have the staff person with the most knowledge of your current practice in the area of eyewitness identification procedure complete this survey. If you have any questions about the terminology used in the survey, please refer to the definitions at the end of the survey. When complete, please mail it to: Chief Thomas Flaherty, POST, 285 Preston Avenue, Meriden, CT 06450.

1. Name of Department

2. Name of staff person completing form

3. Contact e-mail or phone (in case we have questions)

4. Size of Department (sworn staff):

- a. 1-5
- b. 6-10
- c. 11-20
- d. 21-35
- e. 36-50
- f. 51-75
- g. More than 75

5. In the last 6 months has your department performed any show up or field view identifications?

- a. Yes
- b. No

6. What eyewitness procedures have you used in the last 6 months? (Circle all that apply) Please see end of survey if clarification of any terms if needed

- a. Double blind, sequential
- b. Blind shuffle, sequential
- c. Unblinded, sequential

d. Double blind, simultaneous

e. Unblinded, simultaneous

f. Other please specify

g. Have not conducted any eyewitness identification procedures in the past 6 months. If g, then proceed to question 14, otherwise go to question 7

7. If you used any method other than a or b above, please indicate the reasons why the alternative method(s) were used:

- a. Short of staff
 - b. Lack of training in new procedure
 - c. Time sensitivity
 - d. Type of crime/circumstances of case
 - e. Other (Please specify)
- _____

8. If you have conducted eyewitness procedures, have any witnesses asked for a 2nd look at the photo line ups?

- a. Yes
- b. No

9. If yes, was a second look provided?

- a. Yes
- b. No

10. If yes, were additional looks requested?

- a. Yes
- b. No

11. Were additional looks provided?

- a. Yes
- b. No

12. If a photo array was used, did you use any technology to help select the pictures for the array?

- a. Yes
- b. No

13. If yes, what technology was used?

- a. Access to DMV or other outside databases
- b. Software designed to select similar photos
- c. Other _____

14. Do you have any other insights as to how the Eyewitness identification procedures are working, what solutions have been working for your department, or what challenges remain?

Thank you for your participation. Please remember to send any Eyewitness Identification data collection forms for procedures conducted to Chief Thomas Flaherty at POST. If you need assistance in gathering the forms or would like someone to pick them up, please contact Sherry Haller at JusticeEducation@aol.com .

2014 Survey Definitions

Eyewitness: means a person who observes another person at or near the scene of an offense;

Photo lineup: means a procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

Showup: means a procedure in which a single person suspected as a perpetrator of an offense and maybe others are presented one at a time, to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator. Show-up is also known as a Field Identification and/or One on One Identification. Show-ups typically occur shortly after the commission of a crime and/or when a suspect is apprehended at or near the crime;

Field View: means a procedure wherein the eyewitness views a group of people in a public place on the theory that the suspect may be among the group. A field view differs from a showup in that it may be conducted well after the commission of the crime and may be conducted with or without a suspect in the group;

Identification Procedure: means a photo lineup, a live lineup or a show-up;

Filler: means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure;

Sequential Photo Line-up: means whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time;

Double Blind Procedure: means that the identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense;

Blind Administration (other than Folder Shuffle, below): means the conduct of an identification procedure in which the administrator of the procedure is unaware of which photograph the witness is viewing during the procedure. This procedure is intended to ensure that the eyewitness does not interpret a gesture or facial expression by the officer (administrator) as an indication as to the identity of the suspect;

Blind / Shuffle Method: means that when the conduct of the Double Blind Procedure is not practicable, the photo lineup shall be conducted by inserting each of the required photographs into separate, unmarked folders, shuffling them and allowing the eyewitness to remove the photographs, one at a time to view them. A computer program in which a software program is used to administer any lineup, wholly or in part, shall comport to the procedures contained within this policy. If the eyewitness is able to make an identification of a photograph that person should sign and date the identified photograph;

Unblinded Procedure: any procedure where the administrator of the procedure knows which photograph the witness is viewing.

Lap: means a single completed cycle to view all the photos in a photo lineup or all persons participating in a live lineup.

A P P E N D I X V I I I

Key Stakeholder Protocol

Stakeholder Interview Protocol

1. Are you aware of the statutory requirement that eyewitness identification procedures be double blind, and sequential?
2. Are you aware of the new new mandatory uniform procedure for eyewitness identification, issued by the POST in May of 2013?
3. Have you had any personal experience with any case that involved eyewitness identification procedures since May of 2013?
 - a. In any of these cases, were the new requirements not followed? If not, was there any indication as to why not?
 - b. In any of these cases, did something happen that suggests changes are needed in the procedure?
4. How do you feel about the new requirements? Do they appear to do what is necessary to minimize the potential for filler picks while still allowing of the identification of the suspect?
5. Generally (not necessarily in regard to any specific case), what is your impression of the judicial community's reaction to the new requirements? Are you aware of any particular issues or problems that have been raised?
6. Are you aware of promising or best practices in the implementation of these requirements? If so, what are they? Where are they being implemented?
7. How do you think the state would know whether these requirements are working?
8. Are there any additional changes or revisions to these procedures that you would like to see?

A P P E N D I X I X

Research and Evaluation Workplan
