



**State of Connecticut**  
**DIVISION OF CRIMINAL JUSTICE**

**Testimony of the Division of Criminal Justice**  
**Joint Committee on Judiciary – March 24, 2009**

In opposition to:

- **S.B. No. 357 An Act Concerning Eyewitness Identification**

The Division of Criminal Justice opposes S.B. No. 357 and would respectfully recommend that the Committee reject this bill. The bill is an attempt to legislate the investigative procedures and practices that should be employed by law enforcement professionals without any conclusive research to support such a move.

S.B. No. 357 would mandate that law enforcement officers utilize what is known as a "sequential" presentation when asking an eyewitness to a crime to identify a potential suspect from a "live" lineup of actual individuals or photographs of individuals. In a sequential procedure, the photos or individuals are presented to the witness one at a time instead of as a group, or simultaneous presentation. Very rarely would the identification procedure in Connecticut involve a lineup of actual individuals; it is most often accomplished by a series of photographs on a display board.

Little has changed since April of 2007 when Senior Assistant State's Attorney James G. Clark, a prosecutor in the Career Criminal Unit for the Judicial District of New Haven, appeared before this Committee to give detailed testimony in opposition to legislation that is essentially what is before the Committee today. As Mr. Clarke noted then, and remains the situation today, no one can definitely say which identification procedure – sequential or simultaneous – is more accurate. The primary reason is that very little of the so-called academic research into the accuracy of eyewitness identifications has been done utilizing actual victims of crime or witnesses. Most often the supposed research in this area is done by utilizing undergraduate psychology students who are shown a grainy video of a simulated crime and then asked to identify the perpetrator in a photo array.

The Division also would call the Committee's attention to the report of the Advisory Commission on Wrongful Convictions, which was submitted to the General Assembly this past February pursuant to Public Act 08-143, An Act Concerning the Compensation of Wrongfully Convicted and Incarcerated Persons, the Duties and Duration of the Sentencing Task Force and the Preparation of Racial and Ethnic Impact Statements. P.A. 08-143 required the Advisory Commission on Wrongful Convictions to, among other provisions, to monitor and evaluate "eyewitness identification procedures that, when practicable, use a double-blind administration wherein the person conducting the identification procedure is not aware of which person in the photo lineup or live lineup is suspected of being the perpetrator of the crime." As reported in the Advisory Commission's report, the Division of Criminal Justice in conjunction with the law enforcement community of Connecticut has developed a protocol for eyewitness identification that incorporates double-blind procedures when practicable. Further, as the Commission noted, this protocol is taught at the comprehensive and ongoing training programs that are already mandated for police and other law enforcement officers.

This protocol was issued by the Chief State's Attorney on September 23, 2005. Included with the letter sent to all law enforcement agencies were an officer instruction form and a witness instruction form to be used in all eyewitness identifications. Clearly, the law enforcement community has demonstrated its commitment to uniformity in the use of identification procedures and to the utilization of best practices. The question becomes what constitutes best practices. The Division of Criminal Justice believes the answer to this question should be left to the law enforcement professionals and not mandated through legislation based on the inconclusive or outright erroneous findings of so-called academic research.

For these reasons, the Division of Criminal Justice must oppose S.B. No. 357 and would respectfully request that the Committee reject this bill. We would be happy to provide any additional information or to answer any questions the Committee might have. Thank you for affording us this opportunity to address this matter.