



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY

JOINT COMMITTEE ON JUDICIARY

H.B. No. 6344 (RAISED):
An Act Concerning Eyewitness Identification

March 9, 2011

The Division of Criminal Justice respectfully requests and recommends the Committee's Joint Favorable Substitute Report for H.B. No. 6344, An Act Concerning Eyewitness Identification, to establish a commission to study and make recommendations to the law enforcement community and the General Assembly concerning the procedures utilized in the identification of suspects by eyewitnesses to criminal activity and related issues. The Division has been involved in discussions with various parties interested in these issues and believes that a thorough study by a properly constituted commission is necessary to fully explore the important issues in question. The Division stands ready not only to participate in such a commission but to work with the Committee and all other interested parties in determining the composition of such commission and the scope of its work.

The accuracy of eyewitness identifications has been an issue in only a relatively small number of cases in Connecticut because police and prosecutors recognize that eyewitnesses can be mistaken and, therefore, continue investigating in order to develop either independent evidence or corroborating evidence. The law enforcement community and the courts have been very aware of this issue over the years and have adjusted as knowledge has increased. One example of this is the instructions that are now given to eyewitnesses before they are shown photographs. The Division of Criminal Justice, in conjunction with other law enforcement agencies, developed this protocol for eyewitness identification that incorporates "double-blind" procedures when practicable. We have included a copy of the "Witness Instructions for Photo Identification" with this testimony. The protocol is taught on an ongoing basis through the Police Officer Standards and Training Council (POST) to municipal police officers and in Connecticut State Police training as well. It should be noted that for all practical purposes the eyewitness identification procedure in Connecticut virtually always involves the use photographs. A "live" lineup is an extreme rarity in this state.

The Division of Criminal Justice appreciates the fact that the proponents of the bill as raised by the Committee believe it would improve the accuracy of eyewitness identifications. We also recognize that there have been a variety of studies done by social scientists that may develop "best practices" in this area and that there is vociferous support for some of these

studies from various groups. The Division and some police departments in our state have unsuccessfully sought grant funding to conduct such studies on our own. As we have noted in the past very little of the study in this area has involved actual witnesses of crime or other actual witnesses. The general mode of study often has been to take undergraduate psychology students, show them a grainy video of a simulated crime, and then to ask them to identify the perpetrator in a photo array.

Given the conflicting conclusions of the studies that have been done to date, the Division is in favor of the creation of a commission or task force to determine what should be the "best practices" in Connecticut and how those practices can best be implemented. The establishment of a commission or task force would allow for a thoughtful examination of all questions and a thorough review and evaluation of the various studies already done. The legislature should not be enacting statutes requiring what are claimed by some to be "best practices" when there are studies that are in dispute without examining not only the reliability of the studies but the practical implication of requiring Connecticut's diverse law enforcement agencies to follow them.

In conclusion, the Division would respectfully ask that the Committee to amend H.B. No. 6344 to provide for a comprehensive study by an appropriately constituted commission or task force to study these issues. We would be happy to provide any additional information or to answer any questions the Committee might have.

ADDENDUM

WITNESS INSTRUCTIONS FOR PHOTO IDENTIFICATION

CASE NUMBER: _____ DATE: _____ TIME: _____

1. I will ask you to view a set of photographs.
2. It is as important to clear innocent people as to identify the guilty.
3. 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.
4. The person you saw *may* or *may not* be in these photographs.
5. The police will continue to investigate this incident, whether you identify someone or not.

I understand the instructions, have viewed the photos, and have identified # _____

I understand the instructions, have viewed the photos, and have NOT identified anyone

Witness comments regarding identification:

Witness' name (print)

Witness' signature

Officer's signature

