

Eyewitness Identification Task Force  
Wednesday, November 30 2011  
Minutes

**Attendees**

Members:

Justice David Borden, Senator Eric Coleman, Representative Gerald Fox III, Representative John Hetherington, Senator John A. Kissel, Dr. David Cameron, John DeCarlo, Richard Colangelo, Attorney Hakema Bey-Coon, Attorney Deborah DelPrete Sullivan, Attorney Robert Farr, Executive Director Thomas Flaherty, Attorney Karen Goodrow, Chief State's Attorney Kevin Kane, Chief Duane Lovello, Lt. Regina Rush-Kittle, Dean Bradley Saxton, Attorney Lisa Steele, LaReese Harvey

Staff:

Ms. Deborah Blanchard, Dr. Ron Schack, Mr. Alex Tsarkov

**Minutes of Previous Meeting and Introduction of the Speaker**

Justice David Borden, Chair of the Eyewitness Identification Task Force, convened the meeting and asked members to review the minutes of the November 16th meeting. Chief State's Attorney Kane made a motion to accept the minutes. The motion was seconded by Senator Kissel and unanimously passed by task force members. The next item on the agenda was the report of Professor Steven Clark from the University of California Riverside and the response by Professor Jen Dysart on the issue of sequential vs. simultaneous eyewitness identification protocols. Justice David Borden welcomed Professor Dysart of the John Jay College of Criminal Justice, and thanked her for traveling to Connecticut to share her expertise with the task force.

**Presentation by Professor Dysart**

Professor Dysart began her presentation by stating that Professor Clark is a cognitive psychologist and that uses mathematical modeling to conduct his research. She stated that very little of his research collects data from real participants and he uses data from other studies to determine how it fits into his proposed models for human behavior. Professor Dysart spoke to several points in Professor Clark's analysis. His analysis does not consider filler identifications and he does not differentiate between filler identifications and non-identifications. He considers two parameters: criterion shift (whether the researcher could encourage the witnesses to saying yes or no) and memory strength (how good the person's memory is). Dr. Dysart noted that Professor Clark does

not consider a number of factors such as real witness behavior or “unsure” responses. He does not include multiple IDs in lineups or a second lap in his mathematical models.

Professor Dysart also pointed out that in a recent lecture given in Washington DC, Dr. Clark suggested that perhaps double blind administration should not be used in identifications procedures because there may be a loss of suspect identifications. Professor Dysart compared that to advocating suggestive identification procedures.

Attorney Bob Farr stated that according to Dr. Clark, there are no studies done showing the impact of not having a double blind and blind line ups. Professor Dysart responded that there are studies on that and that she could provide the task force with such studies.

Attorney Karen Goodrow asked to what extent there has become a battle of experts between Professor Dysart and Professor Clark. Dr. Dysart responded that Dr. Clark has had his perspective on sequential lineups for several years and that there are a few other researchers who publish with Dr. Clark who find that the data from research labs do not fit their mathematical models. Their conclusion is that there is something wrong with the data. However, in studies that look at whether one could influence a witness, Dr. Clark’s models are inadequate in explaining real witness behavior because they do not take into account human interactions. Dr. Dysart also noted that Dr. Clark is an expert who testifies for defense attorneys in criminal and civil cases, but on the one issue of sequential lineups, he is not convinced.

Professor Dysart addressed Professor Clark’s criticism of her methodology in the meta-analysis study, and in particular, the issue of correct and false identifications, which Professor Clark believes is a biased measure. Professor Dysart pointed out that to her knowledge Dr. Clark is the only eyewitness identification researcher who criticizes diagnosticity ratios. The diagnosticity ratio is the ratio of correct decisions to incorrect decisions. She noted, however, that Professor Clark has also stated that diagnosticity ratios could be useful and that he uses them.

Professor Dysart explained that the numerical ratio is not important for researchers. What they show in meta-analysis is that the pattern of correct to false identifications is always higher for sequential lineups compared to simultaneous lineups. If identification has been made from a sequential lineup, it is more likely that it will be correct than an identification that has been made from a simultaneous lineup.

Attorney Farr suggested that one of Dr. Clark’s criticisms is that if you reduce the number of identifications, it improves the ratio. Dr. Dysart responded that the ratio itself is not important to researchers; the comparison of two ratios from two different procedures is the critical element.

John DeCarlo asked about filler identification in Professor Clark’s analysis. Professor Dysart responded that filler identifications are not considered in Professor Clark’s analysis.

Professor Dysart addressed Professor Clark’s criticism that the meta-analysis did not include the five studies that Professor Clark would have included. She noted that one of

the studies did not address the issue of sequential vs. simultaneous. Another study was a complete oversight. She then noted the reasons to exclude the other studies.

She disagreed with Professor Clark in that the AJS study used “novel procedures” and stated the study used procedures and questions that are very similar to those used in their other studies and that are used regularly by police departments across the country.

Representative Gerald Fox asked Professor Dysart of her opinion on live lineups. Professor Dysart responded by outlining the advantages and the disadvantages of live lineups. The disadvantages in addition to the cost, include the difficulty of finding people that fit the description of the suspect. In addition, the suspect’s behavior might be suggestive, for example, if they are nervous. Professor Dysart noted that according to research, there is very little difference between live and photo lineups. She noted that using a cost-benefit analysis, live lineups are not justified even if there may be a small increase in identification accuracy.

Professor Dysart addressed Professor Clark’s criticism of the exclusion of data. The four cities that participated in Dr. Dysart’s study were Austin, Tucson, Charlotte and San Diego. However, not enough data was received from three out of the four cities. In the larger, more stable numbers, sequential identification was found to be more reliable.

Attorney Kevin Kane asked about situations where police have good reasons to believe that the suspect is the perpetrator and how that may relate to the likelihood that the eyewitness will pick that particular suspect. Dr. Dysart pointed out that substantial evidence from law enforcement does not necessarily increase the likelihood that the eyewitness will correctly identify the suspect because there are many factors that influence eyewitness’s memory and decisions.

Attorney Bob Farr expressed some concerns with the reliability of the results in the study because of its small sample size of data. He then asked whether the study noted any differences in situations where the witness was also the victim. Dr. Dysart responded that it may be difficult to compare because of the many factors in decision making of witnesses who are also victims.

Dr. David Cameron stated that the second lap appears to be very useful and that according to AJS study, 75% of identifications made on the second lap were of the actual suspects. He raised a question about the percentage of people who asked for a second lap in the study. Dr. Dysart responded that 16% of witnesses who participated in the sequential lineups asked for the second lap. Dr. Cameron also asked if the second lap was conducted in the same order or whether the photos were reshuffled. Dr. Dysart responded that the photos in the second lap were viewed in the same order.

Dr. Cameron also noted according to Dr. Clark’s analysis, suspect identifications in simultaneous vs. sequential lineups were not statistically significant in the AJS study. Dr. Cameron was puzzled by the fact that Dr. Clark noted no substantial differences between the numbers of non-identifications and filler identifications. Dr. Dysart agreed with Dr. Cameron’s analysis.

Justice Borden thanked Professor Dysart for taking her time to come before the Task Force and for her excellent presentation.

### **Report of the survey of the police departments**

Dr. Ron Schack presented the survey and described its intent to create a baseline of current police department practices across the state. The survey was sent out the first week of November, and since then Dr Schack reported that half of the police departments have responded. Some of the larger police departments have not yet responded. According to the results received so far, 72.5% of police departments currently use a simultaneous approach, but 70% of them plan to move to sequential. Only three police departments do sequential double blind. Fifteen police departments do not plan on moving to sequential and half of those believe that sequential is less effective than the simultaneous approach. 60% of police departments believe that there are obstacles for them to implement the double blind method. Many police departments allow for more than two laps and use computers to find images. Eight departments use computers to present lineups and only one department uses facial recognition software. No departments tracked 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 survey results indicated the use of the sequential single-blind method. Dr. Schack noted that there may be some confusion about what the single blind procedure actually means.

Lt. Rush-Kittle noted she has not yet received the survey and Chief Lovello replied that he will send her the survey in addition to the police departments that have not yet responded.

David Cameron asked whether we could identify which departments use sequential and which use simultaneous procedures. Dr. Schack responded that the surveys responders left their contact information.

### **Report of the Legislative Working Group**

Attorney Karen Goodrow described the work and the outcome of the legislative working group. She noted that the group in their report found variations of blind, double blind or sequential procedures by police departments across the country. She stated that it is the recommendation of the working group that the task force mandate sequential lineups and that uniform protocols on eyewitness identification be adopted. Attorney Goodrow identified several issues that the legislative working group agreed to explore further with the full task force. Attorney Goodrow noted that although the issue of the number of laps seems to be settled, it is not yet clear whether the photos should be viewed in the same order or whether they should be reshuffled upon the second viewing.

One practical question that the working group asked was who should hold the photographs and whether the task force could agree on video recording. Attorney

Goodrow also stated that the working group is recommending that there be consistent training for all stakeholders involved.

**Date of Next task Force Meeting**

Justice Borden stated that the next meeting of the Task Force will be held on Tuesday, December 13th at 10:00am. With no further business to address, Justice Borden adjourned the meeting.

The Task Force adjourned at 12:37pm.