

Task Force to Identify and Recommend Policies and Procedures to Improve the Accuracy of Eyewitness Identifications

Minutes of Meeting of December 9, 2010

[“ _____ ‘ = Corrections / Additions]

The 6th meeting of the “Task Force to Identify and Recommend Policies and Procedures to Improve the Accuracy of Eyewitness Identifications” (hereafter, “the Task Force”) was convened at the office of the Public Defender on Thursday, December 9, 2010 at approximately 9:00 AM.

Present at the meeting were the following members:

- John Hardiman (Public Defender)
- Gerald Coyne (Attorney General)
- Col. Joseph Moran (Central Falls Police Department, representing Rhode Island Police Chiefs Association)
- Professor Andrew Horwitz (Associate Dean of Academic Affairs, Roger Williams University Law School, representing the Rhode Island Association of Criminal Defense Lawyers)
- Chief Anthony Silva (Rhode Island Municipal Police Training Academy)
- Professor Ross Cheit, Brown University (academic appointment)
- J. Richard Ratcliffe, Esq. (Designee for the RI Bar Association)
- Sgt. Shari Russell (RI State Police)
- Michael Evora, Esq. (Executive Director of the RI Commission for Human Rights)

Also present was Michael DiLauro of the Office of the Public Defender and James Cullen, law student intern at the Office of the Public Defender.

Summary of the meeting:

- The Task Force discussed using the statutory language in the preliminary sections of the report. Agreed
- The Task Force agreed that recommendation 1(g) should be changed to read that administrators should avoid using fillers who so closely resemble the suspect that even someone who is familiar with the suspect would find it difficult to distinguish the suspect from the fillers.

- The Task Force agreed that there needed to be additions to the text around footnote 9 clarifying that the recommendations only apply once the police have a suspect in mind and not to the viewing of large numbers of “mug-shots.”
- Task Force agreed to ignore the issues surrounding the placement of suspects in position number 1 in the line-up.
- The Task Force discussed the order of the recommendations. It was agreed that recommendation number 7 (on written policies) should be recommendation number 1 and that recommendation number 5 (on blind administration) should become recommendation number 2.
- The Task Force discussed requiring that written policies be put in place by a particular date. April 1st suggested. Agreed that should recommend that by June 1st 2011 that each law enforcement agency have a written policy consistent with Task Force recommendations. Agreed that implementation should be supervised by Police Academy and the Attorney Generals Office.
- The Task Force discussed the need to recommend that the Task Force remain in existence to evaluate the implementation of the recommendations. Various time frames were discussed. Agreement that the Task force reconvene January 2012. Although some members were concerned that after one year there would not be sufficient implementation to allow for evaluation.

- Discussion of sequential vs. simultaneous line-ups. Agreed that sequential appears to be the better practice but the Task Force was unwilling to say that it was the “best practice.” Agreed to suggest that law enforcement “strongly consider” using sequential method. Task Force agreed that this was something to be revisited in 2011.
- The Task Force agreed that the language of recommendation 2(b)(v) and (vi) needed to be reworked.
- The Task Force discussed the need to recommend a form. Concerns were raised in relation to micro-management. The Task force agreed to draft a form and suggest that law enforcement use it as a model.
- The Task Force considered the issue of video-taping or recording the whole identification procedure where practicable. It appeared to be agreed.
- The Task Force discussed the issue of what information law enforcement personnel should provide to the victim/witness. Suggested that this should be considered in 2012. Agreed that language should be used like “In order to protect integrity of ID I cannot tell you.” Agreed that once someone was in custody this information should be conveyed to the victim, as required under Victims’ Bill of rights. Language will be developed and circulated.
- Task Force discussed the need to adapt recommendation 5. Recommend
 - a. when practicable use a double-blind procedure
 - b. when procedure in (a) is not practicable use the folder shuffle.

- Task force discussed the need for training before any change was likely to be seen and how long the Task Force might have to wait.
- **Agreed next meeting 12/20/2010 at RIPD at 8.30 AM, same location**

Michael A. DiLauro