

HR 1071 - Law enforcement agencies; develop and implement written policies; urge

Sponsored By

(1) Benfield,Stephanie 85th (2) Ralston,David 7th (3) Mumford,Robert 95th
 (4) Mangham,Randal 94th (5) Levitas,Kevin 82nd (6) Hatfield,Mark 177th

Committees

HC: JudyNC **SC:**

Current Status

04/02/08 - House Passed/Adopted

First Reader Summary

A RESOLUTION urging all law enforcement agencies of this state to develop and implement written policies for conducting showups, photographic lineups, and physical lineups setting forth the manner in which these operations shall be conducted; and for other purposes.

Votes

Date	Time	Vote No	Yeas	Nays	NV	Exc	Description
04/02/2008	4:35PM	House Vote #985	144	013	018	005	ADOPT

Status History

Date	Action
01/28/2008	House First Readers
01/29/2008	House Second Readers
02/06/2008	House Committee Favorably Reported
04/02/2008	House Third Readers
04/02/2008	House Passed/Adopted

Footnotes

4/2/2008 Passed House by Rules Committee Substitute

Versions

1. LC 29 3012/a
2. LC 29 3144S/hs
3. LC 18 7581S/rcs

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08 LC 29 3012

House Resolution 1071

By: Representatives Benfield of the 85th, Ralston of the 7th, Mumford of the 95th, Mangham of the 94th, Levitas of the 82nd, and others

A RESOLUTION

Urging all law enforcement agencies of this state to develop and implement written policies for conducting showups, photographic lineups, and physical lineups setting forth the manner in which these operations shall be conducted; and for other purposes.

WHEREAS, eyewitness error is the leading cause of mistaken convictions, and cases of mistaken convictions in this state due to eyewitness misidentification have resulted in actual perpetrators remaining free to commit more crimes; and

WHEREAS, the goal of a police investigation is to identify accurately and apprehend the true perpetrators of crimes, and scientific studies of eyewitness memory have demonstrated that eyewitness evidence is, like trace physical evidence, susceptible to contamination if not handled properly; and

WHEREAS, well-intentioned witnesses and authorities acting in good faith may sometimes inadvertently undermine the accuracy of an identification procedure unless appropriate safeguards are in place; and

WHEREAS, extensive scientific research has shown that alternative methods of conducting identification procedures greatly enhance eyewitness identification accuracy; and

WHEREAS, this state has a compelling interest in assuring that appropriate eyewitness identification procedures are utilized in this state; and

WHEREAS, the House Study Committee on Eyewitness Identification Procedures recently completed a study of issues pertaining to witness identification and the use of various lineup procedures; and

WHEREAS, the House Study Committee on Eyewitness Identification Procedures developed

guidelines and procedures which should be contained in written policies, as follows: (1)

Prior to conducting a photographic lineup or physical lineup, all witnesses should be separated from each other. Witnesses should not be allowed to confer with each other before, during, or after the identification procedure.

(2) It is strongly encouraged that the administrator of a photographic lineup or physical lineup should be a neutral independent administrator, and no person familiar with the identity of the suspect should be present during a photographic lineup or physical lineup.

(3) When it is not feasible to have a photographic lineup or physical lineup administered by a neutral independent administrator, an alternative method may be used, and the administrator should exercise extreme caution to avoid inadvertent signaling to the witness of the administrator's preferred response. Alternative methods may include:

(A) Automated computer programs that can automatically administer the photographic lineup directly to a witness and prevent the administrator from seeing which photograph the witness is viewing until after the procedure is completed; or

(B) A procedure in which photographs are placed in folders, randomly numbered, shuffled, and then presented to a witness such that the administrator cannot see or track which photograph is being presented to the witness until after the photographic lineup is completed.

(4) Photographic lineups and physical lineups should be conducted in a manner that promotes the reliability, fairness, and objectivity of the witness's identification.

(5) Simultaneous photographic lineup or physical lineup procedures where photographs or

individuals are shown at the same time or sequential photographic lineup or physical lineup procedures where photographs or individuals are shown to the witness one at a time may be used. If a simultaneous photographic lineup or physical lineup procedure is utilized, it shall be administered by a neutral independent administrator.

(6) Each witness should be shown all photographs or individuals even if such witness makes an identification during the photographic lineup or physical lineup.

(7) Each witness should be asked to give feedback in his or her own words regarding his or her level of confidence in the identification.

(8) Composition of photographic lineups and physical lineups should meet the following requirements:

(A) Only one member of a photographic lineup or physical lineup should be a suspect, and the remainder should be fillers;

(B) If the witness has previously viewed a photographic lineup or physical lineup in connection with the investigation of the crime, the fillers in any subsequent photographic lineup or physical lineup should be different from the fillers used in any prior lineup;

(C) The fillers selected should generally fit the witness's description of the perpetrator at the time of the crime, especially with respect to any unique or significant features; and

(D) In addition to the suspect, at least five fillers should be included in a photographic lineup, and at least four fillers should be included in a physical lineup.

(9) Prior to beginning a photographic lineup or physical lineup identification procedure, the administrator should instruct the witness that:

(A) The witness does not have to make an identification, and the identification procedure is important to the investigation whether or not an identification is made;

(B) The individuals depicted in the photographic lineup or physical lineup may not appear exactly as the witness observed on the date of the crime because features such as hairstyles and facial hair are subject to change;

(C) The perpetrator may or may not be among those shown in the photographic lineup or physical lineup;

(D) When a neutral independent administrator is conducting the photographic lineup or

physical lineup, the administrator is not aware of whether the suspect is included in such photographic lineup or physical lineup; and

(E) Regardless of whether an identification is made, law enforcement will continue to investigate the crime.

(10) When conducting a photographic lineup or physical lineup, the administrator should preserve the outcome of the procedure by documenting any identification or nonidentification result obtained from a witness. All witness responses to the photographic lineup or physical lineup participants should be documented using the witness's own words, either in writing or with an audio or video recording.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY that all law enforcement agencies of this state are strongly urged to develop and implement written policies for conducting showups, photographic lineups, and physical lineups setting forth the manner in which these operations shall be conducted.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the Georgia Sheriff's Association, the Georgia Association of Chiefs of Police, the Georgia Bureau of Investigation, and the Georgia Peace Officer Standards and Training Council.

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08 LC 29 3144S

The House Committee on Judiciary Non-civil offers the following substitute to HR 1071:

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WHEREAS, eyewitness error is the leading cause of mistaken convictions, and cases of mistaken convictions in this state due to eyewitness misidentification have resulted in actual perpetrators remaining free to commit more crimes; and

WHEREAS, the goal of a police investigation is to identify accurately and apprehend the true perpetrators of crimes, and scientific studies of eyewitness memory have demonstrated that eyewitness evidence is, like trace physical evidence, susceptible to contamination if not handled properly; and

WHEREAS, well-intentioned witnesses and authorities acting in good faith may sometimes inadvertently undermine the accuracy of an identification procedure unless appropriate safeguards are in place; and

WHEREAS, extensive scientific research has shown that alternative methods of conducting identification procedures greatly enhance eyewitness identification accuracy; and

WHEREAS, this state has a compelling interest in assuring that appropriate eyewitness identification procedures are utilized in this state; and

WHEREAS, the House Study Committee on Eyewitness Identification Procedures recently completed a study of issues pertaining to witness identification and the use of various lineup procedures; and

WHEREAS, the House Study Committee on Eyewitness Identification Procedures developed guidelines and procedures which should be contained in written policies, as follows: (1) It is strongly encouraged that the administrator of a photographic lineup or physical lineup should be a neutral independent administrator, when feasible, and no person familiar with the identity of the suspect should be present during a photographic lineup or physical lineup;

(2) Prior to beginning a photographic lineup or physical lineup identification procedure, the administrator should instruct the witness that:

(A) The witness does not have to make an identification, and the identification procedure is important to the investigation whether or not an identification is made;

(B) The individuals depicted in the photographic lineup or physical lineup may not appear exactly as the witness observed on the date of the crime because features such as hairstyles and facial hair are subject to change;

(C) The perpetrator may or may not be among those shown in the photographic lineup or physical lineup;

(D) When a neutral independent administrator is conducting the photographic lineup or physical lineup, the administrator is not aware of whether the suspect is included in such photographic lineup or physical lineup; and

(E) Regardless of whether an identification is made, law enforcement will continue to investigate the crime; and

(3) When conducting a photographic lineup or physical lineup, the administrator should preserve the outcome of the procedure by documenting any identification or nonidentification result obtained from a witness. All witness responses to the photographic lineup or physical lineup participants should be documented using the witness's own

words, either in writing or with an audio or video recording.

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