

Eyewitness Identification Task Force
Thursday, October 4, 2012
Minutes

Attendees

Members:

Justice David Borden, Senator Eric Coleman, Dr. David Cameron, Attorney Richard Colangelo, Dr. John DeCarlo, Attorney Deborah DelPrete Sullivan, Attorney Robert Farr, Executive Director Thomas Flaherty, Attorney Karen Goodrow, Chief State's Attorney Kevin Kane, Chief Duane Lovello, Dean Bradley Saxton, Attorney Lisa Steele, Lt. Mark Sticca

Staff:

Ms. Sherry Haller, Dr. Ronald Schack, Mr. Alex Tsarkov

Opening Remarks

Justice Borden called the meeting to order at approximately 10:10 a.m. He commended the Working Group, led by Chief Flaherty, for their outstanding efforts in developing the draft set of recommendations on Mandatory Uniform Policy and Procedures, Witness Instruction Form and the Standard Identification Procedures Record and Form. He then asked Chief Flaherty to provide an overview of the work of the Working Group.

Working Group Recommendations and Comments/Suggestions by Task Force Members

Chief Flaherty stated that, over the summer months, the Working Group consisting of himself, Kevin Kane, Duane Lovello, Karen Goodrow, Lt. Sticca, and Sgt. John Turner held 7 meetings and sent numerous electronic communications to draft a set of recommendations to meet the requirements of the Public Act. In addition, he thanked Dr. Ron Schack, Attorney Rebecca Brown of the National Innocence Project and Sherry Haller for their assistance. Chief Flaherty also thanked the Bridgeport Police Department for allowing him to observe the pilot software system for videotaping that the department is using and recommended the Task Force members consider seeing the system first-hand as well. He noted that the projected timeline is for the POST Council to review the recommendations at their November meeting and, if approved, to then move forward to meet the timeline outlined in the Public Act.

Justice Borden set forth the framework for discussion. He noted that he did not view the role of the Task Force as micromanager of the policies and procedures, rather the role was to oversee, advise and provide suggestions. Justice Borden further stated that, while he did not view the Act as empowering the Task Force to set the standards, he knew that the suggestions made by Task Force members would be taken seriously by POST. Justice Borden then invited comments/recommendations from Task Force members.

Attorney Farr asked about data collection and it was noted that data will be kept and evaluated. There was also discussion about how data will be accurately gathered if there is more than one lineup conducted for a particular offense. Chief State's Attorney Kane underscored the importance of not wanting to bog police down in too much paperwork which could invite mistakes and that the proposed process would be reviewed to see if there was any need to more clearly identify the data being collected.

Working Group Recommendations and Comments/Suggestions by Task Force Members *cont'd*

Dean Saxton commended the superb efforts of the Working Group and raised several points for consideration: first, the possibility of providing the eyewitness with a copy of the instructions as they are being read in order to foster better comprehension; second, whether police can caution the eyewitness in the beginning to listen carefully to all of the instructions; third, that police stress to the eyewitness that h/she should not feel as though they must make an identification - it is not a problem if the eyewitness cannot make an identification, investigators will continue to investigate in the appropriate manner whether or not an identification is made.

Question was raised about distinctive witnesses, where facial features such as full facial tattoos might provide an impediment for an effective array. Chief Lovello noted that in situations where extremely distinctive characteristics were evident, there may not be the need for an array. Justice Borden noted that the Task Force's efforts are a work in progress and not all issues can be addressed early-on in the process. Attorney Goodrow underscored the importance of training in order for police officers understanding the need for record keeping in order to explain why a policy or practice was not followed in a particular case.

Attorney Del Prete Sullivan offered several recommendations including compressing Draft 5 if at all possible to one page, having the terminology remain consistent in the documents. Dr. DeCarlo noted that in the future there should be a discussion on adding a field on drivers' licenses for identifying marks.

Attorney Farr expressed concern about victims, particularly rape victims, having the need to obtain information about the suspect. Justice Borden noted at some point in the process it would be appropriate, but that the risks the identification would be corrupted are too high if it were to happen during the eyewitness identification procedure.

Show-Ups

Justice Borden asked Attorney Steele to present her materials and suggestions on the administration of show-ups. Attorney Steele presented her language suggestions. She expressed concern about situations where there is a reluctant witness. Attorney Farr expressed concern that further and more in-depth study be conducted before the Task Force were to recommend a change in practice. It was recommended that expertise be sought within the Department of Justice.

Justice Borden noted that the body of science in show ups is not readily available yet and noted over the next two years the Task Force will be assembling important data on the subject. Chief Flaherty thanked everyone for their suggestions and stated that he will report back to the Task Force with the results of the November POST Council meeting.

Next Steps

Proposed Implementation Evaluation Approach

Dr. Schack described the proposed initial data collection and evaluation approach and noted that The Justice Education Center will be housing the data through 2013 for the first contained implementation analysis. Justice Borden asked that a Research Working Group be established to work with Dr. Schack and asked that Dr. DeCarlo, Dr. Cameron, Attorney Farr and representative from POST and Chief State's Attorney's Office be included.

Proposed Training and Technical Assistance Approach

Sherry Haller described the efforts underway during the summer to collect training materials from select sites throughout the country, including the work of Chief Brooks in Massachusetts. Ms. Haller noted that both she and Chief Lovello had been in touch with Chief Brooks to determine his interest in working with the Task Force and POST in developing the training and technical assistance protocols for Connecticut. Chief Brooks is very interested and Ms. Haller and Chief Lovello will be further reviewing the training protocols and following up with Chief Brooks in the weeks ahead. Justice Borden recommended that a Training Working Group consisting a minimum of Chief Flaherty, Chief Lovello, Lt. Sticca, Chief State's Attorney Kane, Assistant State's Attorney Colangelo, Attorney Debra DelPrete Sullivan, and Attorney Steele be convened to work with Ms. Haller

Other Business

Attorney Goodrow noted that the Public Defender Training program is scheduled for November 19th. Ms. Haller suggested that Justice Borden be invited to present an overview of the work of the Task Force and the mandates of the Public Act. Attorney Goodrow agreed and will be following up with the Chief Public Defender.

Dr. Cameron mentioned the case of the State v. Gilbert and the importance of making the decision available in the training process. Attorney Steele noted that there was 5 page overview of the decision that had been prepared by the Office of Legislative Research, 2012 R 0415.

Justice Borden thanked Task Force members for their excellent suggestions and efforts. He noted that while the Working Groups would be meeting, a full Task Force meeting would be scheduled after the POST meeting in November. Copies of the final recommendations will be forwarded to all Task Force members. With no further business to discuss, Justice Borden adjourned the meeting at 11:30 a.m.