

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Police and Investigations Subcommittee

March 21, 2008 Meeting Minutes

The Police and Investigations Subcommittee of the Capital Punishment Reform Study Committee held a meeting on Friday, March 21, 2008 at 10 AM at the University of Chicago Law School, Dean's Conference Room, First Floor.

The following subcommittee members participated in the meeting: James Coldren, Chair, Geoffrey Stone and Richard Schwind (via telephone).

1. **Review of lineup and eyewitness studies.**

(a) *Double blind Sequential Systems.* Mr. Coldren summarized a recent communication he received from Geof Stone concerning his review of several lineup studies. The general conclusion of the studies is that sequential lineups are more reliable than simultaneous lineups, especially when conducted in a double blind manner. However, while this procedure produces fewer false identifications, the procedure also results in fewer overall identifications being made and fewer identifications of the police suspects. There are different methods of administration of sequential lineups and photo spreads and the rate of identifications sometimes hinges on the way in

which the sequential procedure is conducted. There does not seem to be conclusive evidence regarding the best way to conduct sequential lineups.

Mr. Stone also explained the flawed nature of the ISP (so-called “Mecklenburg”) study. Mr. Schwind noted that one of the more recent studies assigned to him, the report published by The Justice Project, “Eyewitness Identification - A Policy Review” (2007), merits the subcommittee’s attention. Mr. Coldren will send a copy of that study to all subcommittee members. Mr. Schwind said he has heard that several new sequential vs. simultaneous lineup studies may be underway, but he does not know where they are being conducted. Mr. Coldren said he will check with Nancy Steblay and James Doyle.

Mr. Stone suggested that the subcommittee engage the services of an expert experimental social scientist to render judgment on the methodological rigor of the studies the subcommittee is reviewing.

(b) *“Blind” administrators.* Mr. Stone stated that the evidence is overwhelming in support of competent blind administrators, that is, that lineups and photo spreads should be conducted by persons who are not aware of the identity of the suspect.

Mr. Schwind commented on his review of several studies, although he has not completed a full review of the studies assigned to

him. He noted that most of the studies assigned to him were written by Professor Gary Wells, usually with several co-authors, and that the evidence was strong in favor of double blind administration. One of the studies he reviewed suggests that accuracy or error in eyewitness identification often hinges on pre-lineup instructions. He suggested that poor instructions might affect a double blind administration as well as a non-blind administration.

Following further discussion on this matter, the members concluded that, all other things being equal, double blind administration will produce fewer identification errors than non-blind administration.

Mr. Coldren stated that he had attempted to reach Professors Malpass, Gary Wells, Nancy Steblay, and John Doyle (all authors of recent lineup studies). He has received responses from Ms. Steblay and Mr. Doyle, who indicated a willingness to discuss lineup issues with the subcommittee. Mr. Doyle told Mr. Coldren that he was aware of a new study scheduled for release in about a week, and that he will send a copy to Mr. Coldren. When he receives the study, Mr. Coldren will review it and report back to the subcommittee.

The subcommittee decided to contact Professor Sheri Diamond at Northwestern University, and ask that she review the studies and render an opinion on their methodologies and findings. Mr. Coldren will contact Prof. Diamond and request her assistance.

Mr. Coldren stated that a recommendation in favor of legislation requiring use of blind administrators of lineups and photo spreads was removed from the Committee Third Annual Report at the request of several Committee members. This was done based upon the language calling for use of blind administrators “wherever practicable.” (Third Annual Report, pages 13-14.) Mr. Coldren observed that the Committee Chair has specifically asked this subcommittee to develop a recommendation regarding use of blind administrators. Mr. Coldren also stressed that the objection to the language in the Third Annual Report related to the use of the word “practicable,” and there are few if any doubts among Committee members to the superiority of blind administration of lineups.

Mr. Coldren said that North Carolina has mandated sequential lineups, and several other states -- Georgia, Maryland, Vermont, West Virginia -- are considering similar legislation, and in several cases are undertaking studies and investigations.

Mr. Stone suggested that since North Carolina appears to have taken the strongest stance on this issue, the subcommittee should begin with an inquiry into that state’s experience with sequential double blind procedures. Further discussion on this matter resulted in a recommendation that the subcommittee contact the Illinois Chief’s Association, the Illinois Sheriff’s Association, and several downstate

rural police agencies, to inquire about the feasibility of double blind sequential lineups if they were to be mandated. Mr. Schwind agreed to inquire with the Illinois Sheriff's Association, and Mr. Coldren will inquire with the Illinois Chief's Association.

In summary:

1. The subcommittee will continue reviewing lineup studies, and consult with Mr. Hull. Mr. Schwind has several other studies to review;
2. Mr. Coldren will review any new studies that come to the subcommittee's attention and report his findings to the subcommittee;
3. Mr. Coldren will inquire into North Carolina's experience with sequential double blind administration;
4. Mr. Coldren will send the 2007 report of The Justice Project to subcommittee members;
5. Messrs. Coldren and Schwind will work to identify individuals in Illinois law enforcement associations who can inform the subcommittee about the feasibility of sequential lineup administration, especially in rural jurisdictions and small towns;
6. Mr. Coldren will contact Prof. Diamond at Northwestern University to inquire about her availability to assist with the review of lineup studies; and

7. Mr. Coldren will inquire with Professors Steblay and Doyle about recent lineup-photo spread studies.

2. Approval of minutes of the February 22, 2008 meeting.

The subcommittee members present approved the minutes from the most recent subcommittee meeting.

3. Discussion of subcommittee contribution to the 4th annual report of the full Committee.

The members present suggested that the section pertaining to “permanent certification” of death penalty cases be removed from the draft of the 4th annual report. Mr. Coldren agreed to send the amended report to Rick Schwind, so he may make a final review before sending it to Tom Sullivan.

The subcommittee meeting adjourned at approximately 11 AM.

James Coldren
March 24, 2008