



SAFVIC

Sexual Assault Family Violence Investigator Course

SAFVIC ON THE SCENE

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Line-up Procedures for Adults and Children: The Past, Present, and Future Trends

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Introduction

In 1981, Jerry Miller (22 y.o.a.), was arrested and charged with robbery, kidnapping, and sexual assault. Two witnesses identified Miller as the perpetrator in line-ups. The victim also identified Miller at trial. Miller was convicted and served 24 years in prison. He was released on parole as a registered sex offender.

Recent DNA tests, however, tell a different story: Semen taken from the victim's clothing—which could have come only from the perpetrator—did not come from Miller. In fact, when a DNA profile was created from the semen and entered into the Federal Bureau of Investigation's convicted offender database, another man was implicated in the crime. On April 23, 2007, Miller became the 200th person in the United States to be exonerated through DNA evidence.

Eyewitnesses play a vital role in the administration of justice in this country. Their testimony, many times, provides the key to identifying, arresting, and convicting a suspect in a criminal case. Oftentimes, eyewitness identifications may be the only evidence available. But cases such as

Miller's show that eyewitness identification is not faultless. It has been documented that witnesses can identify the wrong person or even fail to identify the perpetrator of a crime. According to the American Judicature Society, erroneous identification by eyewitnesses was the leading cause of wrongful conviction in more than 75% of the first 183 DNA exonerations in the United States.

Because of these issues, criminal justice professionals have had to re-examine eyewitness identifications, especially in identifying suspects from photographic and live line-ups.

Traditional Line-Up Procedures

In their simplest form, police line-ups involve placing a suspect among people not suspected of committing the crime, known as fillers, and asking the eyewitness if he/she can identify the suspect. This is most commonly accomplished through the use of a photographic line-up. These line-ups typically contain

anywhere from four to six photographs. Some departments utilize "live line-ups", wherein five or six people (a suspect plus four or five fillers) are used and exposed to the victim/witness. With either of these techniques, the most commonly utilized method of presentation in police departments is a simultaneous presentation, wherein the eyewitness views all the people or photos at the same time.

Usually, the law enforcement official or lineup administrator knows the identity of the suspect. One issue with this knowledge is that the lineup administrators might, whether on purpose or not, give the witness verbal or nonverbal cues as to who the suspect is. One example could be an eyewitness choosing a "filler" and the lineup administrator, who knows the true identity of the suspect, saying "Take your time. Make sure you look at ALL the pictures."

The biggest problem with a simultaneous presentation, research has found, is that witnesses use "relative judgment" when selecting the suspect. This means that they compare line-up photographs or members to each other, rather than to what they can recall about the suspect.



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WELCOME NEW SAFVIC for TCPs INSTRUCTORS!



Front Row - Left to Right:

Shelly Fisher-Cunningham, Hempstead Police Department
Michael Schultz, Cypress-Fairbanks ISD Police Department

Middle Row - Left to Right:

Rhonda Groze, West Columbia Police Department
Antonia Mireles, Brownsville Police Department
Gloria Little, Jones County Sheriff's Department

Back Row - Left to Right:

Laura Moore, Jasper County Sheriff's Department
Claire Lynn, Stafford Police Department

We would like to congratulate and welcome our new SAFVIC for TCPs Instructors! They recently completed the 24-hour SAFVIC for TCPs Instructor Course in Austin, Texas on June 11th - 19th, 2013.

The SAFVIC team would like to thank the following individuals for assisting with another successful 24-hour SAFVIC for TCPs Instructor Training.

Patt Hollingsworth
TCLEOSE Commissioner & SAFVIC Advanced Instructor

Sara Wright
Cedar Park Police Department Communications and Records Staff Manager and SAFVIC for TCPs Instructor

Steve Wadsworth
216th Judicial District Attorney

Vangle Barefoot
Sexual Assault Nurse Examiner, Johns Community Hospital

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This is especially a problem when the perpetrator is not present at all in the line-up, because often the witness will choose the lineup member who most closely resembles the perpetrator. This, in turn, may lead to erroneous arrests and convictions.

New Eyewitness Identification Policies

The numbers of convictions which were primarily obtained by line-up identification and are now being overturned because of DNA evidence has led Sam Houston State University's Law Enforcement Management Institute of Texas (LEMIT) to create and disseminate a model policy in regards to "Eyewitness Identification Procedures". The purpose of this law is to reduce erroneous eyewitness identifications and to enhance objectivity and reliability. In addition, effective September 1, 2012, every law enforcement agency in Texas was required to adopt and implement a written policy deal-

ing with eyewitness identifications.

The model policy stresses the following areas of importance:

Blind Procedure – A procedure wherein the person administering the live lineup or photo array does not know who the suspect is.

Blinded Photo Array Procedure – A procedure wherein the person who administers the photo array knows who the suspect is, but each photo is presented so that the administrator cannot see or track which photograph is being presented to the witness.

Folder Shuffle Method – A method of administering a photo array such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed. This method is employed when a blind procedure is not possible.

Fillers – Non-suspect photographs or persons. Fillers are selected to both fit the description of the perpetrator provided by the witness and to

ensure that no individual or photo stands out.

Sequential Live Lineup or Photo Array – An identification procedure in which the persons in the live lineup or the photographs in the photo array are displayed one-by-one (sequentially).

Witness Certification Statement – A written statement that is read out loud to the witness or victim describing the procedures of the identification process.

Other areas addressed in the policy are dealing with witnesses who have a limited proficiency of the English language, the possible need for interpreters, and handling illiterate persons. Research and studies have found that when these new lineup procedures are implemented and used, the probability of an erroneous identification is drastically reduced, leading to more successful outcomes in criminal cases and the successful apprehension of the "true" suspects.

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Line-ups and Children

In stark contrast to the success adult witnesses have had with sequential line-ups, research dealing with children has found the exact opposite. Sequential line-ups have not been found to reduce false identification when administered to children. There are a number of explanations as to why: the social demands of the retrieval process, the assumption that the suspect must be in the line-up, using a more liberal decision-making foundation, and the implicit pressure on the child to have to choose someone.

Because of the pressures children face, research was conducted utilizing a "mystery man/wildcard", both in line-ups where the suspect was present and where he was not. This strategy is to include a picture of a silhouette with a question mark (?) between the two rows of three pictures. The child is then asked to point to the "mystery man/wildcard" if they do not see the suspect in the line-up. The conclusions were

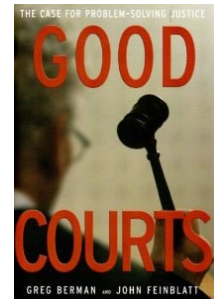
eye-opening. In line-ups where the suspect was absent, false identifications were reduced from 75% to 40% for witnesses as young as 5 years of age. The "mystery man/wildcard" provides children an option to reject the line-up without being negative or, in their mind, disappointing the adult administering the line-up. The child is also better able to conform to the pressure they feel to have to choose someone and to make a "positive" response. In line-ups where the suspect was present, the "mystery man/wildcard" did not have an adverse effect on correct identifications. A 2009 study found that when a silhouette (mystery man) was used, accuracy in suspect-present line-ups was 71% and in suspect-absent line-ups it was 76%. In all, children's confidence was found to be higher after having viewed a line-up with a "mystery man/wildcard". Regarding success rates, another study found that in 8-11 year olds, the use of a "mystery man/wildcard" increased correct rejections from 46% to 71% of the time and in 5-7 year olds, the "mystery man/wildcard" was

effective at increasing correct rejections from 29% to 84%.

Conclusion

Erroneous/false identifications of suspects have plagued the criminal justice system for some time and now, through the use of DNA, have been brought to the public light. This exposure has been seen countless times, prisoners being released after serving an average of 12 years in prison for crimes DNA testing cleared them of having committed. Because of this, line-up procedures have been revised and these new practices have been mandated to all Texas law enforcement agencies. The use of these new techniques and practices should begin to lead the law enforcement community to our ultimate goal: positively identify those responsible for crimes and hold them accountable, while ensuring the innocent are exonerated and cleared.

Featured Book



Good Courts: The Case for Problem- solving Justice

Public confidence in American criminal courts is at an all-time low. Victims, communities, and even offenders view courts as unable to respond adequately to complex social and legal problems including drugs, prostitution, domestic violence, and quality-of-life crime. Even many judges and attorneys think that the courts produce assembly-line justice.

This book is a quick read and does a good job in presenting an overview of problem-solving courts. The authors put forward fundamental reforms to restore accountability and legitimacy to our criminal justice system. This is a recommended read for those interested in problem solving rather than merely processing cases.

This video is available in the [SAFVIC Library](#) for SAFVIC Instructors only.

Featured Agency



Wise Hope Shelter & Crisis Center

Wise County Domestic Violence Task Force was formed by a group of concerned citizens in 1998. In 1999, it obtained 501(c) 3 status and began services with part-time volunteers. Fast-forward to 2013 and the organization now does business as Wise Hope Shelter & Crisis Center to better reflect our services to the community. We now have 15 employees in 3 facilities. Outreach/Administrative Office in Decatur, safe shelter in Bridgeport, and The Hope Chest, our resale shop where donations are utilized for helping clients begin anew and all sales benefit our programs.

Our goals are to provide safety through free and confidential services for victims and survivors of domestic violence and sexual assault and to facili-

tate the identification of victims such violence for the purpose of providing or referring the victim to needed services. We strive to reduce the trauma and burden on victims so they can make life-transforming decisions to be self-supporting, self-sufficient and violence free. Our vision is for Wise County to be a safe community without violence.

Outreach Office

Wise Hope Crisis Center is located in Decatur and provides services to our non-residential clients. Office Hours are Monday-Friday 9-5 and by appointment. We provide a 24-hour crisis hotline, information and referral to other needed services, legal advocacy, counseling, support groups, emergency transportation and support and advocacy through every step of a client's journey.

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"Piecing together the tools needed to effectively investigate and prevent sexual assault, family violence, stalking, & human trafficking."

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Safe Shelter

We at Wise Hope Shelter are more than excited about all of the positive transitions happening here. We are undergoing small renovations to better assess the needs of our clients. In the past 18 months, from the support of our funders and our generous community we have been able to add a computer room, support group/meeting room; children's play area and completely renovate the kitchen among other small renovations. Our goal is to not only provide a safe place to stay for victims of domestic violence and sexual assault, but to assist them by offering basic life skill classes/programs on a continual basis. These are classes that they are able to attend even after they exit our residential program and begin their journey free of violence. Even though they are here for a short time, our goal is to help restore their confidence and give them the tools they need to gain back not only their lives but their self-worth. Every week we have goal groups and individual meetings to discuss what it is that the clients want for themselves. Often times this is something they have never been allowed to think about. All we ask is that they take it one day at a time to accomplish one task at a time. And if they make the decision to return back to their abuser, they are aware of our services and will be better prepared the next time they leave!

Community Education

The largest part of our community education efforts center around the seven week program done in area schools. Using videos, hand-outs, and fun, interest-building activities for grades K-12, the goal of the program is to educate and equip today's students with the tools and ideologies necessary to recognize, eliminate, and reduce the factors that perpetuate violence in order to keep it from occurring in the first place. Achieving this, it is believed, will create healthy norms and thereby healthy schools and communities.

A modified version of this program is available on an individual basis. Referrals from CPS, county and district attorneys and judiciary, and adult probation make up this class to give a better understanding of healthy verses unhealthy behavior patterns and to recognize negative situations that often lead to harm for those involved, adults and children, and to encourage life changes that help in leaving an unhealthy environment.

To reach Wise Hope Shelter & Crisis Center call the 24 hour hotline at 940-626-4855.

Featured Agency



2013 Texas Academy for Victim Assistance Advanced Academy

Challenging Ourselves in a Challenging Field

July 22 - 23, 2013

Center for Child Protection Conference Center
Austin, Texas

TAVA provides an opportunity for attendees to study and interact with other victim service providers and have meaningful dialogue about the challenges of providing consistent, high-quality, professional services to crime victims, their families, and communities.

Who Should Attend

The academy invites victim service providers and advocates from nonprofit groups, law enforcement, prosecution, adult corrections, juvenile justice, and allied professionals who assist victims of crime.

It is strongly recommended that participants have foundation level training in victim service such as: prior TVSA Conference, State or National Academy, or formal online or in-person training provided by one of the TVSA's partner agencies.

Registration Fee
\$150

Hotel
[Hilton Garden Inn Austin Downtown/Convention Center](#)
Group rate: \$145/night

For additional information please visit www.txvsa.org.