



## Prosecuting Attorneys Association of Michigan

### **BEST PRACTICES RECOMMENDATION EYEWITNESS IDENTIFICATION AND PROCEDURES**

In order to ensure that identification procedures are conducted in a fair and reliable manner, PAAM recommends:

- All law enforcement agencies should adopt clear, written policies and training on photo array and live lineup administration. In addition, agencies should provide their officers with training on the variables that affect eyewitness identification, on practices for minimizing contamination, and on effective eyewitness identification protocols.
- To the extent practicable, considering the size of the agency as well as personnel and staffing issues, all law enforcement agencies should adopt blind or blinded administration of both photo arrays and live lineups as a preferred practice. However, because a fair and impartial identification procedure can be conducted by an investigator familiar with the case, a blind administrator is not required.
- Law enforcement agencies should adopt and use a standard set of easily understood instructions when engaging a witness in an identification procedure.
- Law enforcement should document a witness' level of confidence verbatim at the time of an identification.
- The identification procedure should be documented. To the extent practicable, considering the costs and availability of appropriate technology, video recording of eyewitness identification procedures is preferred.

It is significant to note that these recommendations do *not* recommend or require that a sequential or simultaneous method of conducting eyewitness identifications be adopted.

While the 2012 policy-writing guide produced by the State Bar of Michigan's Eyewitness Identification Task Force recommended a sequential method of conducting eyewitness identification procedures, the science underlying that recommendation is unsettled. According to a subsequent 2014 report by the National Academy of Sciences, the Academy specifically chose *not* to endorse sequential identification procedures as preferred over simultaneous identification procedures. The Academy report states "... the relative superiority of competing identification procedures (i.e., simultaneous versus sequential lineups) is unresolved." Some research has suggested that accurate identifications are lost using a sequential procedure and that simultaneous presentation is better at identifying the guilty and excluding the innocent. The Academy recommends further social science research in this area. As the science further develops, current practices will need to be reevaluated.

Based on the unsettled nature of the underlying science, PAAM makes no recommendation as to which identification procedure is preferred. Either sequential or simultaneous identification procedures can be adopted by local police agencies and prosecutors. Whichever procedure is adopted, however, the recommendations identified by PAAM will help ensure that identification procedures will be conducted in a fair and reliable manner. PAAM recommends that as additional research in this area is conducted, current practice should be reevaluated.

A best practices recommendation by the Prosecuting Attorneys Association of Michigan (PAAM) is the product of careful consideration of experienced prosecuting attorneys. However, it is only a recommendation. A best practices recommendation may or may not be feasible or desirable to implement in every jurisdiction. There may be other methods in local jurisdictions to reach the same or similar objectives.

Date approved by PAAM: April 17, 2015