



Advisory Commission on
Wrongful Convictions
November 9, 2005
Attorney Conference Room
Supreme Court Building

MINUTES

The following members were in attendance: Assistant Professor James Adcock, Attorney James Bergenn, Attorney John Hogan, Representative Michael Lawlor, Chief of Police Robin Montgomery, Timothy Palmbach, Judge Joseph Pellegrino, Attorney Judith Rossi (for Chief State's Attorney Christopher Morano), Attorney Hope Seeley and Attorney Gerard Smyth (Chief Public Defender).

- I. Judge Joseph Pellegrino welcomed everyone. The people in attendance introduced themselves.
- II. The minutes from the May 17th meeting were approved.
- III. Representative Michael Lawlor provided a brief review of *State v. Seri* and an update on the pending federal civil case against the New Haven police and the prosecutor involved. The civil case is currently in the discovery stage. Representative Lawlor recommended that the students continue to monitor the *Seri* case.
- IV. University of New Haven students made presentations regarding "Tunnel Vision" based on three cases:
 - a) David Milgaard, Saskatchewan, Canada, January, 1969
 - b) Marvin Lamont Anderson, Ashland, Virginia, July 1982
 - c) Evan Zimmerman, Eau Claire, Wisconsin, February, 2000

One suggestion was made to include in the training for new officers (POST) information on "Tunnel Vision."

Another suggestion was made to identify all errors from these three cases, to rank them by significance and to determine whose performance/nonperformance within the criminal justice system would have contributed to these results and who potentially could be held accountable.

A motion to have the students continue to monitor the *Seri* case was unanimously approved.

V. Attorney Judith Rossi reported on law enforcements' efforts to develop and implement best practices. The Law Enforcement Council has developed a uniform protocol to be used by all state and local police departments in Connecticut for eyewitness identifications. These procedures have been incorporated into POST.

- a) witnesses must be informed that the perpetrator may or may not be in the array
- b) witnesses must also be informed that the procedure is to clear the innocent as well as to identify the perpetrator
- c) witnesses must be informed that the investigation will continue whether or not the witness identifies anyone

The Law Enforcement Council did not adopt the sequential or double blind procedures but instead instructed police officers to stand behind the witness to reduce the possibility of the officer's body language influencing the witness. Attorney Rossi explained that it would be very difficult for small police departments to implement the double blind procedure and that it would be virtually impossible to implement this procedure in show-up identifications.

A question was asked if the double blind procedure could be required for law enforcement agencies with many officers. Attorney Rossi agreed to bring this suggestion to the council.

The Commission members agreed that the students should find out if there is any research on whether having officers stand behind the witness improves eye witness identification.

The students will also do the following for the three cases discussed:

- a) list the areas where matters could have been handled better
- b) list each of the personnel who bore any responsibility for each issue
- c) identify the existing checks and balances in the system, such as employment consequences, professional liability insurance and professional discipline

VI. The next meeting will take place sometime during the week of February 13, 2006.