

## ■ PANEL'S RECOMMENDATIONS

# N. Carolina looks at its lineups

State plans to change how the police use them to avoid bad convictions.

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RALEIGH, N.C.—In an effort to make criminal convictions more accurate, North Carolina is pursuing changes in the way the police identify suspects, including showing people in a lineup one at a time.

The state's Actual Innocence Commission, an interagency task force created last year by the state's Republican chief justice, is issuing recommendations to all law enforcement agencies that it hopes will help to prevent the conviction of innocent people.

It will urge statewide law enforcement training organizations to teach the new methods, which are not mandatory.

The move is a response to high-profile blunders in North Carolina and elsewhere that have shown that crime-victim and witness identification of suspects in police lineups and courtroom testimony isn't as reliable as most people think, and shouldn't be tolerated, commission members said.

North Carolina joins New Jersey, New York City, Seattle, Indianapolis and a handful of other local governments in retooling police-lineup methods in the hope of improving the accuracy of convictions. The same procedures will be tested soon in Chicago and Minneapolis.

"With these revisions in place, I think we can anticipate substantially fewer misidentifications and, as a consequence, substantially fewer convictions of innocent people," Chief Justice Beverly Lake Jr. said. "I think it will give impetus to improve standards throughout the country."

Traditional police procedures can contribute to convicting the wrong people, experts say. Showing a group of suspects together in one lineup, for example, can encourage the witness to pick the one who most resembles the perpetrator, even if the perpetrator is not among them. And police personnel conducting lineups sometimes inadvertently influence the witness to pick the police's suspect.

North Carolina's guidelines include:

- Show the witness the suspect and the not-guilty "fillers" one at a time in live lineups or photos instead of as a group. And show all of them, even if the witness picks one early. Research indicates that witnesses make mistakes only one-third as often with sequential lineups as with simultaneous reviews.

- Ensure that the staffer showing the witness the lineup or photos does not know who the suspect is, to avoid pressuring the witness or giving unintended hints.

- Tell the witness that the suspect might or might not be in the lineup or in the photos.

- Use at least eight photos or six people in a lineup.

Commission member Jim Coleman, a criminal defense lawyer and Duke University law professor, said he expects the new procedures will improve suspect identifications, while reducing the number of cases in which identification becomes a contested issue.

"The number of identifications done under procedures that we now know are suspect is tremendous," Coleman said.

"That doesn't mean they're all innocence cases. But the older the case, particularly, the greater the chance that they got the wrong guy."

### No new rights

The commission included a disclaimer that the recommendations do not create new legal rights, an effort to head off court challenges in cases in which police agencies don't follow the guidelines. But some disagreement remained.

Commission member Don Stephens, senior resident Superior Court judge in Raleigh's Wake County, thinks defense

lawyers will try to use the recommendations to undermine prosecutions.

Commission member Rich Rosen, a criminal defense lawyer and University of North Carolina law professor, said, "We can't not do something because someone's going to use it."

A survey of North Carolina's law enforcement agencies this year found that their suspect-identification practices vary widely, said Chris Mumma, the commission's executive director. "We have



BEVERLY LAKE JR.: *The chief justice hopes changes will provide national impetus for lineup reform.*

competing objectives," Mumma said. "You have efficiency and expediency. But we're also concerned about accuracy."

It will be some time before law enforcement adopts the new methods, commission members said.

"What we need is buy-in from law enforcement across the state to improve the accuracy of identification procedures," said Democrat Attorney General Roy Cooper, a member of the commission. "None of us has an authority to tell them what to do." ■