

MAR 07 2014

SENATE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A TASK FORCE TO ESTABLISH STATEWIDE
PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS FOR EYEWITNESS
IDENTIFICATION AND INTERROGATION OF SUSPECTS IN CRIMINAL
INVESTIGATIONS.

1 WHEREAS, the integrity of the State's criminal justice
2 process is enhanced and preserved by adherence to best practices
3 in gathering evidence; and
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5 WHEREAS, the goal of a police investigation is to apprehend
6 the person or persons responsible for the commission of a crime
7 to protect the public safety and welfare; and
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9 WHEREAS, more accurate eyewitness identification and
10 confession evidence increases the ability of police and
11 prosecutors to convict the guilty and protect the innocent; and
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13 WHEREAS, mistaken eyewitness identification has been
14 demonstrated to have contributed to a wrongful conviction in
15 approximately 75 percent, and false confessions have contributed
16 to 25 percent, of the 312 exonerations that have been recorded
17 since 1989; and
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19 WHEREAS, over the past 30 years a large body of peer-
20 reviewed, scientific research and practices have emerged showing
21 that simple systemic changes in administering eyewitness
22 identification procedures can greatly improve the accuracy of
23 eyewitness identification; and
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25 WHEREAS, model policies and procedures to improve the
26 accuracy of eyewitness identifications and confession evidence,
27 such as those recommended by the American Bar Association and
28 the International Association of Chiefs of Police, are readily
29 available for review; and



1 WHEREAS, the people of Hawaii would benefit from the
2 improvement in the accuracy of eyewitness identifications and
3 confession evidence; now, therefore,
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5 BE IT RESOLVED by the Senate of the Twenty-seventh
6 Legislature of the State of Hawaii, Regular Session of 2014, the
7 House of Representatives concurring, that a task force be
8 convened to establish statewide procedural and administrative
9 requirements for eyewitness identification and interrogation of
10 suspects in criminal investigations; and
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12 BE IT FURTHER RESOLVED that the Chief Justice of the Hawaii
13 Supreme Court convene and chair the task force, consisting of
14 the following members or their designees:
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- 16 (1) The Attorney General;
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- 18 (2) The Public Defender;
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- 20 (3) One chief of police selected by the county chiefs of
21 police for the counties of Hawaii, Maui, and Kauai,
22 and the City and County of Honolulu;
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- 24 (4) One prosecutor selected by the county prosecutors for
25 the counties of Hawaii, Maui, and Kauai, and the City
26 and County of Honolulu;
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- 28 (5) The Chief Executive Officer of the Office of Hawaiian
29 Affairs;
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- 31 (6) The Director of the Hawaii Innocence Project;
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- 33 (7) Head of the Honolulu Police Department's Training
34 Division; and
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- 36 (8) An individual with expertise in relevant social
37 sciences, as demonstrated by teaching, publication,
38 and other scholarly application; and



1 BE IT FURTHER RESOLVED that eyewitness identification
2 procedures recommended by the task force include requirements
3 for:

- 4
- 5 (1) "Live lineups", in which a group of persons, including
6 the suspect and other persons not suspected of the
7 offense, is presented to an eyewitness for the purpose
8 of determining whether the eyewitness identifies the
9 suspect from the group as the perpetrator;
- 10
- 11 (2) "Photo lineups", in which an array of photographs,
12 including a photograph of the suspect and photographs
13 of other persons not suspected of the offense, is
14 presented to an eyewitness either in hard copy form or
15 via computer or other electronic means for the purpose
16 of determining whether the eyewitness identifies the
17 suspect from the array of photographs as the
18 perpetrator; and
- 19
- 20 (3) "Showups", in which an eyewitness is presented in-
21 person with a single suspect for the purpose of
22 determining whether the eyewitness identifies the
23 individual as the perpetrator; and
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25 BE IT FURTHER RESOLVED that the procedural and
26 administrative requirements recommended by the task force for
27 eyewitness identification include, at minimum:

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- 29 (1) Use of blind administration of lineups;
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- 31 (2) Specific instructions to the eyewitness, including the
32 directive that the perpetrator may or may not be
33 present in the eyewitness identification procedure;
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- 35 (3) Ensuring that non-suspect members or photos match the
36 description of the perpetrator provided by the
37 eyewitness;
- 38
- 39 (4) Taking a confidence statement from the person viewing
40 a lineup in the person's own words at the time the
41 identification is made; and



1 (5) Identifying the means by which an eyewitness
2 identification procedure is recorded or documented,
3 including the following information:
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5 (A) All identification and non-identification results
6 obtained during an eyewitness identification
7 procedure, signed by the eyewitness;
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9 (B) The names of all persons present at an eyewitness
10 identification procedure, including the name of
11 the person administering the procedure; and
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13 (C) The date and time of an eyewitness identification
14 procedure; and
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16 BE IT FURTHER RESOLVED that the procedural and
17 administrative requirements recommended by the task force for
18 interrogation include:
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20 (1) Administering Miranda warnings;
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22 (2) Identifying the cases in which electronic recording is
23 appropriate;
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25 (3) Ensuring that statements reasonably likely to elicit
26 incriminating responses made by individuals in custody
27 are electronically recorded; and
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29 (4) Properly documenting statements and confessions; and
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31 BE IT FURTHER RESOLVED that the task force also consider
32 whether the existing legal framework for evaluating eyewitness
33 and confession evidence is consistent with generally accepted
34 social science research and practice; and
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36 BE IT FURTHER RESOLVED that the task force offer guidance
37 on how Hawaii courts can most effectively combat unnecessarily
38 suggestive eyewitness identification procedures or unrecorded
39 custodial interrogations, thus minimizing the risk of a wrongful
40 conviction, including the consideration of suppression or use of
41 appropriate jury instructions; and
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43 BE IT FURTHER RESOLVED that the task force work with law
44 enforcement officials in developing training programs for law



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1 enforcement officers and recruits relative to eyewitness
2 identification procedures; and

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4 BE IT FURTHER RESOLVED that the task force submit a report
5 of its findings and recommendations to the Legislature no later
6 than 20 days prior to the convening of the Regular Session of
7 2015; and

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9 BE IT FURTHER RESOLVED that certified copies of this
10 Concurrent Resolution be transmitted to the Chief Justice of the
11 Hawaii Supreme Court; Attorney General; Public Defender; county
12 chiefs of police for the counties of Hawaii, Maui, and Kauai,
13 and the City and County of Honolulu; head of the Honolulu Police
14 Department's Training Division; county prosecutors for the
15 counties of Hawaii, Maui, and Kauai, and the City and County of
16 Honolulu; Chief Executive Officer of the Office of Hawaiian
17 Affairs; Director of the Hawaii Innocence Project; and Director
18 of the University of Hawaii at Manoa's College of Social
19 Sciences Public Policy Center.

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22 OFFERED BY:

Will Eyo

