Eyewitness misidentification is

the single greatest contributing

cause of wrongful convictions

established by DNA nationwide,

playing a role in 71% of

convictions overturned

through DNA testing.

# The National Symposium on Eyewitness Identification

**June 27 – 29, 2016**
**Yale Law School**

# National and State Speakers

## National

Attorney Matt Alsdorf, Director of Criminal Justice, Laura and John Arnold Foundation

Senator Charles Bethel, Georgia General Assembly

Chief William Brooks, Executive Board Member of the International Association of Chiefs of Police (IACP); Member of National Academy of Sciences Eyewitness Identification Panel; Chief of Police, Norwood Police Department, Massachusetts

Rebecca Brown, Director of Policy, Innocence Project

Dr. Jennifer Dysart, Ph.D., Associate Professor of Psychology, John Jay College of Criminal Justice

Chief Justice Ralph Gants, Supreme Judicial Court, Massachusetts

Police Chief Michael Gauldin (retired), Burlington, North Carolina

Captain Francis Healy, Advisor to the Police Commissioner, Philadelphia Police Department, Pennsylvania

Attorney Michael N. Herring, Commonwealth's Attorney, Richmond, Virginia

Attorney Karen Newirth, Senior Staff Attorney, Strategic Litigation Department, Innocence Project

Chief Justice Stuart J. Rabner, Supreme Court, New Jersey

Attorney Barry Scheck, Co-Director, Innocence Project

Chief Richard Smith, Vice President at Large, International Association of Chiefs of Police (IACP); Chief of Police, Wakefield Police Department, Massachusetts

Jennifer Thompson, Founder and President of Healing Justice, Inc. and co-author of "Picking Cotton: Our Memoir of Injustice and Redemption"

Justice Martha Walters, Supreme Court, Oregon

Gary Wells, Distinguished Professor and the Stavish Chair in the Social Sciences, Iowa State University

## State

Justice David Borden, Appellate Court and Chair of the Connecticut Eyewitness Identification Task Force

Attorney Richard Colangelo, States Attorney, Stamford, Connecticut

Senator Eric Coleman, Deputy President Pro Tempore, State Senate, Connecticut

Mayor Toni Harp, Mayor of New Haven, Connecticut

Attorney Kevin Kane, Chief State's Attorney, Connecticut

Senator Martin Looney, President Pro Tempore, State Senate, Connecticut

Chief Duane Lovello, Darien Police Department, Connecticut

Major Patrick J. O'Hara, Commanding Officer, Eastern District Headquarters, Connecticut State Police Former Commandant, Connecticut State Police Training Academy

Justice Richard Palmer, Supreme Court, Connecticut

Ron Schack, Ph.D., Director, The Charter Oak Group, LLC

Attorney Susan Storey, Chief Public Defender, Connecticut

Senator Gary Winfield, Assistant Majority Leader, State Senate, Connecticut

# The National Symposium on Eyewitness Identification

## Core Elements

**The Impact of Misidentification:** Guest speakers will explore the tragic human costs of wrongful conviction; participants will hear from a detective involved in a wrongful conviction case predicated on misidentification, a crime victim who misidentified her perpetrator, and a wrongfully convicted person.

**The Science of Misidentification:** National experts who specialize in eyewitness identification will educate participants about the latest research in this area. Psychologists will explain how memory works and how memory is easily contaminated in the criminal justice setting. They will also describe the science behind the recommended modifications to police practice.

**Evidence-based Police Practices:** Law enforcement leaders from large metropolitan areas and small towns will describe: how they implemented best practices in their respective jurisdictions; the mechanisms they used to consider and implement changes; and how the new practices have been working from a practical perspective.

**The Bench and the Bar:** Leaders from the Judiciary and the Bar will discuss the latest trends in eyewitness identification cases, highlighting recent court decisions.

**Approaches to Adoption and Implementation:** Representatives from leading jurisdictions will describe a variety of models for the successful adoption and implementation of evidence-based practices, including: inter-agency collaboration; legislation; the Judiciary; and voluntary adoption models. Approaches to law enforcement training will also be addressed.

**Emerging Issues:** Examples of emerging areas of interest will be explored and will include, but are not limited to: videotaping; composites; show-ups; and, dispatcher training.

**The Tool Kit will contain at minimum:**

- Police roll call training video
- Resource Guide from each Symposium Session on disc
- Model Policies for small and large jurisdictions
- Connecticut Police Training Materials and Police Pocket Cards
- Examples of legislative proposals
- Examples of model policies, state-level and agency-level



**Guidelines for an Effective Show-Up:**

- A show-up should be conducted shortly after the commission of the crime or the witness' observation of the suspect. A person should only be detained when the officer has reasonable suspicion to believe the person could be a suspect.
- Barring special circumstances, the witness should be transported to the suspect's loc... witness to a show-up, attemp... hearing radio transmissions... conversations related to the su...
- A suspect should only be view... of the presence and hearing of... witnesses should not be allow...
- Minimize suggestiveness. Un... officers or others, show-ups... suspect is seated in the rear... any other enclosure associat... handcuffed, he should be tur... visible to the witness.
- Do not tell the witness when... the suspect said anything... whether the suspect was fo... to the crime.
- Once a witness has positive... up, do not conduct additiona...
- If the witness fails to mak... an identification, and prob... mediately developed, the ...

**Officer's Field Card Witness Instructions for Show-Up Identifications**

**Instructions to be Read Aloud to the Witness:**

1. You are going to be asked to view some people (even if only one person is shown).
2. The person you saw may or may not be among the people you are about to view.
3. It is just as important to clear innocent persons from suspicion as it is to identify the guilty.
4. Regardless of whether you identify someone, we will continue to investigate the incident.
5. If you identify someone, I will ask you to state, in your own words, how certain you are.
6. If you do select someone, please do not ask us questions about the person you have selected, because we cannot share that information with you at this time.
7. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case or the media.
8. Do you have any questions before we begin?

# Symposium Agenda

## Monday Evening

**5:30 p.m. – 7:30 p.m.**
Reception and Welcoming Address at
The Study at Yale hotel

## Tuesday Morning

**8:00 a.m. – 8:30 a.m.**
Continental Breakfast

**8:30 a.m. – 8:45 a.m.**
Welcome

**8:45 a.m. – 9:15 a.m.**
### Overview and Importance of Eyewitness Reform
Retired Justice David Borden, Chair of the Connecticut Eyewitness Identification Task Force and
a panel of select Task Force members (police, prosecution, defense, judiciary) on the importance
and impact of eyewitness identification reform from their professional perspectives.

**9:15 a.m. – 10:15 a.m.**
### KEYNOTE ADDRESS
### The Impact of Wrongful Conviction
Jennifer Thompson, Founder and President of Healing Justice, Inc. and co-author of "Picking
Cotton: Our Memoir of Injustice and Redemption", (co-authored by Ronald Cotton).

**10:15 a.m. – 10:30 a.m.**
Break/Snack

**10:30 a.m. – 11:45 a.m.**
### The Science of Misidentification
This interactive session will include a prominent psychologist, and researcher who specialize
in eyewitness misidentification and a leading law enforcement expert on the same. Issues to be
explored include how memory works, how memory is easily contaminated in a criminal justice
setting, and the science behind the recommended modifications to police practice.

*Moderator:*
Attorney Matt Alsdorf, Director of Criminal Justice, Laura and John Arnold Foundation

*Panelists:*
Chief William Brooks, Executive Board Member of the International Association of Chiefs of
Police (IACP); Member of National Academy of Sciences Eyewitness Identification
Panel; Chief of Police, Norwood Police Department, Massachusetts;
Gary Wells, Distinguished Professor and the Stavish Chair in the Social Sciences,
Iowa State University

> **"The Connecticut Eyewitness Identification Task Force along with its sponsors and partners is honored to host the first national symposium on eyewitness identification reform and to have the opportunity to bring leaders throughout the country together to discuss the most recent advances in the field and most promising models for reform."**
>
> JUSTICE DAVID BORDEN
> Chair, Connecticut Eyewitness Identification Task Force

## Tuesday Morning (continued)

**11:45 a.m. – 12:30 p.m.**

**The Impact of Wrongful Conviction on Police, Prosecutors and Exonorees**

This session will feature the many faces of wrongful conviction, including: a police detective and prosecutor involved in wrongful conviction cases predicated on misidentification; a crime victim who misidentified her perpetrator; and a death row exoneree. The panelists will share how these cases have changed their professional and personal lives.

*Moderator:*

Chief William Brooks, Executive Board Member of the International Association of Chiefs of Police (IACP); Member of National Academy of Sciences Eyewitness Identification Panel; Chief of Police, Norwood Police Department, Massachusetts

*Panelists:*

Police Chief Michael Gauldin (retired), Burlington, North Carolina;

Attorney Michael N. Herring, Commonwealth's Attorney, Richmond, Virginia;

Jennifer Thompson, Founder and President of Healing Justice, Inc. and co-author of "Picking Cotton: Our Memoir of Injustice and Redemption" (with Ronald Cotton)

## Tuesday Afternoon

**12:30 p.m. – 1:30 p.m.**

**LUNCHEON AND KEYNOTE ADDRESS**

Chief Justice Ralph Gants, Supreme Judicial Court, Massachusetts

**1:30 p.m. – 2:30 p.m.**

**Promising Policies and Practices: Police, Prosecution, Legislative and Defense Perspectives**

Representatives from leading jurisdictions will describe the variety of models currently being used in the successful adoption and implementation of evidence-based practices including: inter-agency collaboration, voluntary adoption models, legislation, and commissions/task forces.

*Moderator:* Rebecca Brown, Policy Director, Innocence Project

*Panelists:*

Senator Charles Bethel, Georgia, Georgia State Senate;

Ryan Brackley, First Assistant District Attorney, 20th Judicial District, Boulder, Colorado;

Major Patrick J. O'Hara, Commanding Officer, Eastern District Headquarters, Connecticut State Police Former Commandant, Connecticut State Police Training Academy;

Police Chief Michael Gauldin (retired), Burlington, North Carolina;

Susan Storey, Chief Public Defender, Connecticut

**2:30 p.m. – 2:45 p.m.**

Break/Snack

# Symposium Agenda

**2:45 p.m. – 4:00 p.m.**
**P L E N A R Y   S E S S I O N S**

### Effecting Reform through the Judiciary

This interactive session will focus on trends in the Judiciary related to eyewitness identification. Topics to be discussed include: Effective Gatekeeping of Eyewitness Identification Evidence; Expert Testimony; In Court Identifications; Suppression of Identifications; Model Jury Instructions

*Moderators:*
Attorney Barry Scheck, Co-Director, Innocence Project;
Attorney Karen Newirth, Senior Staff Attorney, Strategic Litigation Department, Innocence Project

*Panelists:*
Chief Justice Ralph Gants, Supreme Judicial Court, Massachusetts;
Justice Richard Palmer, Supreme Court, Connecticut;
Chief Justice Stuart J. Rabner, New Jersey Supreme Court;
Justice Martha Walters, Oregon Supreme Court

### Implementing Policies and Procedures in the Field

This interactive session will provide an opportunity for leaders in policing from both large, metropolitan areas and small towns to discuss how best practices in their respective jurisdictions are being implemented.

*Moderator:*
Chief William Brooks, Executive Board Member of the International Association of Chiefs of Police (IACP); Member of National Academy of Sciences Eyewitness Identification Panel; Chief of Police, Norwood Police Department, Massachusetts

*Panelists:*
Attorney Richard Colangelo, State's Attorney, District of Stamford, Connecticut;
Chief Duane Lovello, Darien, Connecticut;
Captain Francis Healy, Advisor to the Police Commissioner, Philadelphia Police Department, Pennsylvania;
Major Michael Smathers, Charlotte Mecklenburg Police Department, North Carolina

**4:00 p.m. – 4:45 p.m.**
### Strategies for the Adoption and Implementation of Reforms

Attendees will have the opportunity to caucus by professional affiliation or jurisdiction to discuss strategies for the adoption and implementation of reforms of greatest interest. Panelists from Symposium sessions will be in attendance to answer questions in their areas of expertise. Facilitators will be available to help guide planning and next steps.

**4:45 p.m. – 5:00 p.m.**
Attendees will briefly reconvene, coupon books for dinner/entertainment will be distributed.

## Wednesday Morning

**8:00 a.m. – 8:30 a.m.**
Continental Breakfast

**8:30 a.m. – 8:45 a.m.**
Welcome and Overview of the Morning

**8:45 a.m. – 9:45 a.m.**
**Emerging Issues**
Emerging issues in eyewitness identification reform will be presented and discussed. Among them are: law enforcement investigative procedures; recommendations for composites/sketches and/or show-up identifications; and dispatcher training.

*Moderator:*
Jennifer Dysart, Ph.D., Associate Professor of Psychology, John Jay College of Criminal Justice

*Panelists:*
Attorney Matt Alsdorf, Director of Criminal Justice, Laura and John Arnold Foundation;
Attorney Barry Scheck, Co-Director, Innocence Project;
Ron Schack, Ph.D., Director, The Charter Oak Group, LLC;
Gary Wells, Distinguished Professor and the Stavish Chair in the Social Sciences, Iowa State University

**9:45 a.m. – 10:00 a.m.**
Break/Snack

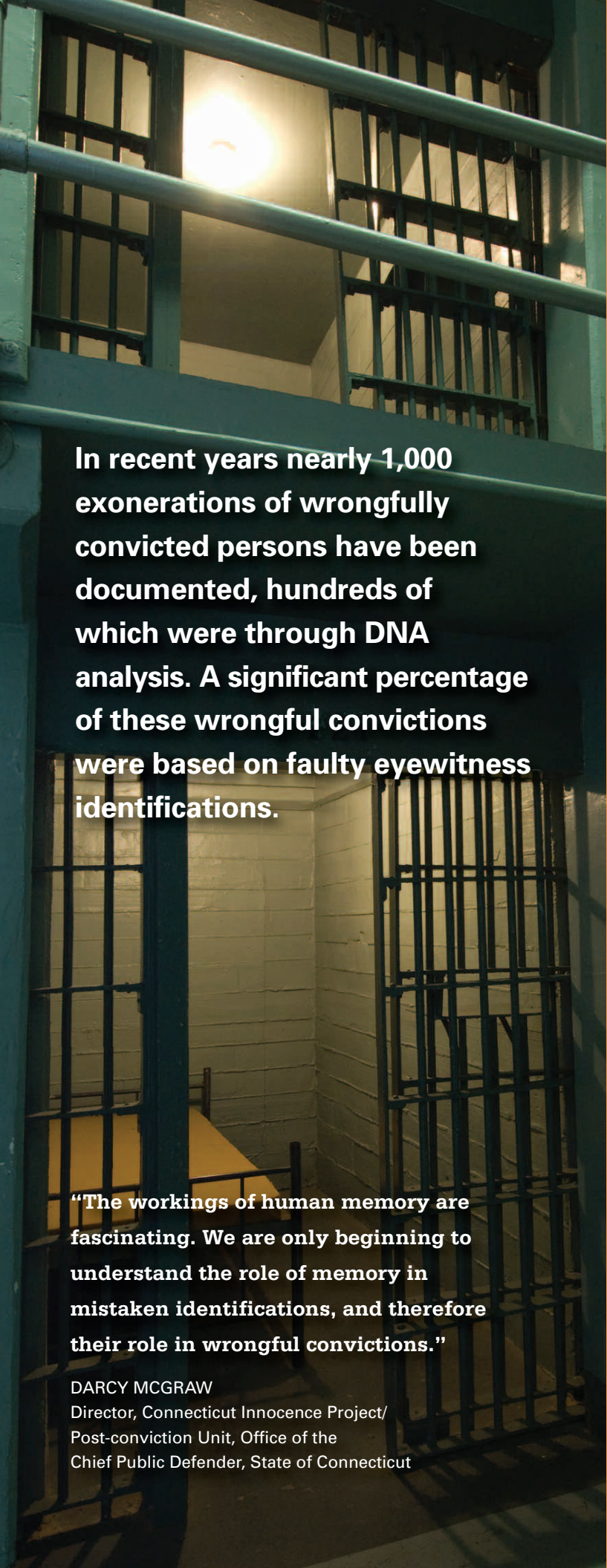**10:00 a.m. – 11:00 a.m.**
KEYNOTE
**"A Call to Action"**
Chief Richard Smith, Vice President at Large,
International Association of Chiefs of Police (IACP);
Chief of Police, Wakefield Police Department, Massachusetts

**11:00 a.m. – 11:30 a.m.**
Evaluations, Distribution of Tool Kits, and Close

**"Connecticut law enforcement is committed to continuously improving its approaches to public safety. When we studied the scientific basis to modify current police practice in eyewitness identification, law enforcement became the driving force for change in our state."**

THOMAS E. FLAHERTY
Executive Director POST
(Police Officer Standards and Training Council)
and former Chief of Police in Milford

In recent years nearly 1,000 exonerations of wrongfully convicted persons have been documented, hundreds of which were through DNA analysis. A significant percentage of these wrongful convictions were based on faulty eyewitness identifications.

"The workings of human memory are fascinating. We are only beginning to understand the role of memory in mistaken identifications, and therefore their role in wrongful convictions."

DARCY MCGRAW
Director, Connecticut Innocence Project/
Post-conviction Unit, Office of the
Chief Public Defender, State of Connecticut

For further questions or information on the Eyewitness Identification Task Force please contact:

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Sherry Haller, *Executive Director*