



NCIP Releases Report Detailing Lack of Compliance with Eyewitness ID Laws

SANTA CLARA, Calif., April 24, 2024 – The Northern California Innocence Project (NCIP) released its latest report today entitled “[Blind Acceptance](#)”, a groundbreaking review of law enforcement eyewitness identification policies in California. The report shows that most law enforcement agencies are failing to adhere to California Penal Code Section 859.7, a law that was passed in 2018 and enacted in 2020.

“Our society’s ability to prevent tragic eyewitness mistakes and wrongful convictions depends on police following the best practices enshrined in this law,” stated NCIP Executive Director Todd Fries, in an [op-ed published in the Los Angeles Times today](#). More than half of NCIP’s exoneration cases involved eyewitness error, including Miguel Solorio, who spent 25 years wrongfully incarcerated and was declared factually innocent in December 2023.

The research, funded in part by a grant from the van Löben Sels/RembeRock Foundation, began with a goal of gauging law enforcement’s compliance with the eyewitness identification law. The research team, led by Fries, consisted of staff, students, and volunteers from across the four California-based Innocence Projects known as the California Innocence Coalition. The team analyzed eyewitness identification policies from 475 law enforcement agencies in California to see if the agencies had incorporated required evidence-based eyewitness identification practices into their policy manuals.

One of the research team’s key findings is that Lexipol, a for-profit company hired by a vast majority of police departments to produce policy manuals, has developed an eyewitness identification policy that is not in adherence with the law. This master policy, contrary to the law, substitutes the word “should” in place of “shall,” which wrongly implies that compliance with the required best practices are discretionary rather than mandatory. More than 90% of California police agencies (including 88% of those included in the study) use Lexipol policies and 90% of the study sample adopted the eyewitness identification master policy with little to no substantive changes.

In addition, the research team found that more than half of California law enforcement agencies studied are using admonishment forms that fail to comply with the requirements of the law, including the three legally mandated pre-lineup instructions. Years of scientific research have shown that providing a witness with these instructions reduces the risk of misidentification by decreasing the pressure on the witness.

Before the enactment of this law, NCIP and the California Innocence Coalition had spent more than a dozen years educating the law enforcement community on eyewitness identification best practices, and on advocating for legislative reform.

In a foreword to the report, Senator Scott Wiener, who co-authored the 2018 bill in the California State Legislature, outlined the importance of compliance with enacted laws. “I believe that this report, and other reports like it that study the impact of enacted legislation on intended communities, are crucial in ensuring that the policies we pass are effective. As the Northern California Innocence Project seeks to do here, we must make absolutely certain to do everything in our power to ensure that the innocent are not wrongfully sent behind bars.”

“Blind Acceptance” offers several recommendations to bring law enforcement agencies into compliance with the law, including Lexipol revising its eyewitness identification master policy; educating lawyers and judges to challenge identifications used in court that did not comply with legal mandates; and amending current law to strengthen it and provide a remedy for law enforcement’s failure to comply.

About the California Innocence Coalition

The California Innocence Coalition (CIC) consists of four innocence projects in California: NCIP, the Loyola Project for the Innocent, the Los Angeles Innocence Project, and The Innocence Center. CIC's three-part mission is to craft and pass legislation to prevent wrongful convictions from occurring, create avenues of relief for those wrongfully incarcerated, and empower exonerated people once they come home. Since 2016, CIC has co-sponsored over a dozen pieces of legislation passed into law.

About the Northern California Innocence Project (NCIP)

NCIP is a non-profit clinical program of Santa Clara University School of Law whose mission is to promote a fair, effective, and compassionate criminal justice system and protect the rights of the innocent. Since its inception in 2001, NCIP has processed over ten thousand requests for inmate assistance, investigated hundreds of cases, pursued litigation or collaborative resolution in dozens, and obtained the freedom of 36 wrongfully convicted people. Learn more at www.ncip.org.

Media Contacts

Carla Spain | NCIP External Relations | (510) 725-1572 | cspain@scu.edu
Deborah Lohse | Santa Clara University Media Communications | (408) 554-5121 | dlohse@scu.edu

###