

## Irene Jozefczyk

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**From:** 411 [411@cpda.org]  
**Sent:** Monday, January 08, 2007 11:00 PM  
**To:** 411@cpda.org  
**Subject:** North Carolina: Winston-Salem police to change method of conducting lineups

Monday, January 8, 2007

### **Winston-Salem police to change method of conducting lineups**

By Titan Barksdale  
JOURNAL REPORTER

Winston-Salem Police Chief Pat Norris and other department officers demonstrated today how the police department would use a new, computer-based photo identification lineup that a state commission says can help avoid wrongful identifications by witnesses to crimes.

Norris announced in May 2004 that the department would adopt recommendations from the N.C. Actual Innocence Commission. The change was announced not long after Darryl Hunt was exonerated in the 1984 murder of Deborah Sykes, a crime for which he served 18 years in prison. DNA testing led to the identification of a new suspect, who confessed to killing Sykes. Hunt had been identified based on questionable witnesses.

Yesterday, Norris said cited another well-known misidentification case, that of Ronald Cotton, as the type of case the new technology could help prevent. Cotton spent more than 10 years in prison after being convicted of raping a Burlington woman in July 1984. He was convicted of that crime, as well as a second rape, primarily based on eyewitness testimony of the victim in both.

Cotton was set free in 1995 after DNA evidence showed that another Burlington man had committed both crimes.

Until now, the Winston-Salem police have used lineups that were paper based, and witnesses had six photos in which to choose from. Witnesses viewing the new lineups will have eight photos to choose from, and will use a computer to make their selections.

Witnesses will view each photo separately on the computer screen to make their selections. The length of time a witness spent looking at each photo, the selected photo and other information is recorded in a computer-generated report as part of the process. If a witness fails twice to make a selection after viewing each photo in the lineup, the process ends.

Additionally, the officer administering the photo lineup will not know the identity of the suspect. The commission said that investigators who know the suspect's identity could inadvertently tip off a witness.

Officers in each division should complete training on the new procedure this month, Norris said.

## Irene Jozefczyk

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**From:** 411 [411@cpda.org]  
**Sent:** Tuesday, January 09, 2007 2:57 AM  
**To:** 411@cpda.org  
**Subject:** Second Article: Officials are hoping to reduce wrongful IDs

Monday, January 8, 2007

### **Winston-Salem police to change method of conducting lineups**

Tuesday, January 9, 2007

#### **Police to change lineups**

Officials are hoping to reduce wrongful IDs

By Titan Barksdale  
JOURNAL REPORTER

Chief Pat Norris of the Winston-Salem Police Department and other officers demonstrated yesterday how the police department would use a new, computer-based photo lineup that a state commission says can help avoid wrongful identifications by witnesses to crimes.

Norris announced in May 2004 that the department would adopt guidelines from the Chief Justice's Commission on Actual Innocence.

The announcement was made not long after Darryl Hunt was exonerated in the 1984 murder of Deborah Sykes, a crime for which he served 18 years in prison. DNA testing led to the identification of a new suspect, who admitted to killing Sykes.

Hunt had been identified based on questionable witnesses.

Yesterday at the Bryce A. Stuart building, Norris cited another misidentification case, that of Ronald Cotton, as the type of case the new technology could help prevent.

Cotton spent more than 10 years in prison after being convicted of raping a Burlington woman in July 1984. He was convicted of that crime and a second rape, mainly based on eyewitness testimony of the victim in both offenses.

Cotton was set free in 1995 after DNA evidence showed that another Burlington man had committed both crimes.

Until now, Winston-Salem police have generally used lineups that were paper based, and witnesses could choose from six photos. Witnesses viewing the new lineups can choose from eight photos and will use a computer to make their selections.

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If a witness fails twice to make a selection after viewing each photo in the lineup, the process ends.

Norris said that her department is one of the first police departments in the state to use the computer software for witness identification.

"The software does the whole procedure for us, so there is less human error involved," Norris said. "It will improve the reliability of eyewitness identification."

Additionally, the officer administering the photo lineup will not know the suspect's identity. The commission said that investigators who know the suspect's identity could inadvertently tip off a witness.

Mark Rabil, an assistant capital defender who helped defend Darryl Hunt, said that the changes should "make the process more scientific."

"They (photo lineups) are being done sequentially, and that compares their memory of the person they saw do something with the person in front of them," Rabil said. "When it's spread out, they compare one photo with the others and pick the best of the six or eight photos that are out there. That's why one photograph pops up after another under the changes."

So far, investigators have shown 12 photo lineups using the new computer software, which cost about \$10,000 Norris said. The robbery division has completed training. The remaining investigators should complete training on the new procedure this month, Norris said.

The commission's guidelines that prompted the changes were met with some opposition, however.

Norris, a member on the commission, announced the adoption of the guidelines in 2004, though some of her top investigators disagreed with them.

Police investigators criticized the commission in an internal memo that was circulated to other police chiefs. Norris later said that the memo - distributed before she became chief - was one opinion but was not the position of her department.

Lt. Brad Yandell also said that police will begin videotaping interrogations.

"The video rooms are being constructed, and we are not expecting to be fully operational until the end of February," Yandell said. "We do have the equipment, but it hasn't been installed."

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Previous Articles Related To This Case:

Sunday, March 20, 2005

**Keith's letter misleading, officials say**

Information in Hunt case comes as probe set to start

By Phoebe Zerwick

JOURNAL REPORTER (North Carolina)

A letter written by Forsyth County District Attorney Tom Keith to Mayor Allen Joines contains misleading information about the DNA evidence in the case against Darryl Hunt, who was wrongly convicted of murder 20 years ago.

Hunt was exonerated last year after a new round of DNA testing linked another man to the murder of Deborah Sykes, who was raped and stabbed to death on her way to work in August 1984.

Keith's letter comes to light just as the City Council is ready to launch a probe into Hunt's wrongful conviction and the failure of police 20 years ago to follow leads that might have helped them identify the real killer. Willard Brown, who pleaded guilty to the murder last December, and who admitted acting alone, had been a suspect in a similar rape downtown in 1985.

City officials say that they are counting on police and prosecutors involved in the case to be open and truthful with the committee.

DNA testing in 1994 excluded Hunt as the source of the semen evidence in the Sykes case. But Keith, writing to Joines in response to the city's request for information, refers to DNA test results that contradict the court record in the case.

Keith wrote that DNA testing in 1993 left open the possibility that Hunt was linked to the semen evidence. Keith

said that the test results showed that Hunt's genetic profile matched the semen evidence in six out of seven markers. He goes on to say that "the odds were astronomical" that it could be anyone other than Hunt, according to the letter to Joines, which is dated Jan. 25.

Keith's statement contradicts a 1994 report by Roche Biomedical Laboratories on the DNA test results. That report shows that Hunt's DNA was different from the semen sample in four out of eight markers.

In addition, Richard Guerrieri, the forensic scientist who handled the case, testified in 1994 that Hunt was absolutely ruled out as the source of the semen.

Keith's letter cites a conversation he said he had with Mark Nelson, a forensic scientist from the State Bureau of Investigation. Keith wrote that in 1993, Nelson told him and Hunt's attorney, Mark Rabil, that Hunt's DNA was a near match.

Keith said Friday that he is certain he and Nelson talked about DNA testing in Hunt's case some time before Guerrieri tested the evidence. Nelson's test, if it exists, is not found in court records and was not introduced at any of the hearings in 1993 or 1994.

Keith said that he mentioned the conversation with Nelson because he wants the citizens committee to realize that it needs to look beyond what's in the files.

"I'm not going to reconstruct what we did 10 or 12 years ago," he said. "The anecdote is an anecdote to show them that you need to go behind the files. Not that that is factually correct, but there is other information that you need."

Nelson is retired from the SBI and lives in Raleigh. He declined to comment.

Rabil, who represented Hunt for more than 18 years, said that he never spoke with Nelson, as Keith contended, about the DNA testing.

"I don't know where he (Keith) got confused, but there was certainly never anything like that imparted to me by the SBI," Rabil said. "The city, I think, is trying to get at the truth. I have no idea why the district attorney would be passing along this information, unless he's still trying to justify his actions which he already admitted were incorrect."

Hunt was arrested in September 1984, a month after Sykes was killed in a downtown park, two blocks from her job at The Sentinel, the city's afternoon newspaper.

His case attracted immediate attention from community activists, who believed that the police had railroaded Hunt, a 19-year-old black man. Hunt was convicted in 1985 and again in 1990, after he won a second trial on appeal. In 1994, as part of another round of appeals, Hunt's attorneys won an order to have the semen evidence in the case tested. The DNA testing ruled out Hunt and the two only other men ever named by authorities as suspects in the case. Despite that, the appellate courts all refused to give Hunt a third trial, saying that even if Hunt was not the rapist, he could have been the killer.

But neither police nor prosecutors ever reopened the case to try to find the man whose semen was recovered at the crime scene. Since Hunt's exoneration, many people have asked why.

"I don't want to really comment on what Keith said," said Robert Elliot, a member of the mayor's Committee on Racial Healing. "I think that has to be done in a more formal proceeding when the facts are aired and the right questions are asked, but I think we all have an interest in the truth coming out." The committee has held meetings over the past year on the Hunt case.

"I think there needs to be a tremendous amount of self-examination by everyone who was involved in the investigation and prosecution of Darryl Hunt," Elliot said. "There may have been reasons for what people did. I don't doubt that there were a lot of people involved in those decisions who were good public servants trying to do the right thing. But I'd think there is a tendency among people in power positions to become entrenched when they are questioned."

Keith said that the case was not reopened because police had exhausted their leads. He noted that his office agreed, at Rabil's request, to test two other suspects in the case.

"They had run out of everything they could possibly do and the SBI had run out of everything," Keith said. "They had done everything they could do."

Joines declined to comment on Keith's letter, but did say, "The primary (question) is why the investigation was not reopened after the DNA evidence came out."

Council member Vivian Burke, the chairwoman of the council's public-safety committee, said she hopes that the citizens committee will take a close look at Keith's letter as part of its review of the investigation.

"We don't want to talk about it before we get to the point of the committee thoroughly investigating," she said. "We don't want people bringing in their personal opinions when the fact is mistakes have been made."

The public-safety committee is expected to appoint its committee next month to look into why the case was not reopened in 1994 and other questions raised by Hunt's case.

The council, for example, has asked the committee and city manager's office to look into the investigation of the second downtown attack, which could have led to Brown's arrest sooner. The committee also is expected to look at the investigation of the beating death of Arthur Wilson. Hunt was charged with murder in that case, and acquitted by a jury. A second suspect in the Sykes case, Sammy Mitchell, was convicted in Wilson's death.

Burke and other city officials said that they are counting on police and prosecutors to provide the committee with the information that it will need to do its job.

"The fact is that we've agreed to appoint a committee to review it," said Council Member Wanda Merschel. "The minimum expectation is that the people involved will be honest and forthcoming."

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[View an updated timeline of events](#)

[This eight-part series](#) includes **interactive maps**, **audio** and **photo galleries** and numerous **documents** related to the case.