



## Policy 1009

Subject

### **DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES**

Date Published

**1 August 2016**

Page

**1 of 10**

*By Order of the Police Commissioner*

### **POLICY**

**Reliability, Fairness and Objectivity.** It is the policy of the Baltimore Police Department (BPD) to adhere to proper guidelines in the conducting of investigative photographic arrays. The identification procedure shall be conducted in a manner that promotes the reliability, fairness, and objectivity of the victim's/witness' identification. The outcome of all identification procedures shall be documented. No member of the BPD will influence or attempt to influence the identification of a subject in the showing of a photographic array.

### **GENERAL**

The double-blind/sequential presentation is the required method to be utilized for all photographic arrays.

**NOTE:** Any deviation from this policy must be approved by a permanent-rank lieutenant or above.

### **DEFINITIONS**

**Double-Blind** — The double-blind method of photographic array presentation involves the presentation of the array by an officer or investigator who does not know which photograph depicts the potential suspect. Using this method reduces legal challenges based upon the suggestiveness of the array presentation. The double-blind method helps to prevent any unintentional influence on the victim/witness by the administrator of the photographic array. This procedure will ensure an objective process. Circumstances beyond the control of the investigator, such as out-of-jurisdiction or hospitalization, might inhibit the use of the double-blind photo array presentation. Non-double-blind presentations must be the exception - not the rule - and approved by a permanent-rank lieutenant or above.

**Fillers** — Photographs of individuals who resemble the description of the suspect that are used to complete a photo array. A minimum of five (5) filler photos must be used in all photographic array presentations. Individuals who are suspects in the same case may not be used as fillers.

**Folder Shuffle Method** — The folder shuffle method is an acceptable alternative to the use of a blind administrator and is to be used only when an independent administrator is not available. An example would be the showing of an array to a victim/witness who is located out-of-jurisdiction or confined to a hospital. (See Appendix A.)

<b>Policy 1009</b>	<b>DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES</b>	<b>Page 2 of 10</b>
--------------------	--	---------------------

**Independent Administrator** — An independent administrator is an officer who does not know the identity of the suspect in a particular photo array. An independent administrator must be used to administer a double-blind sequential photographic array.

**NOTE:** When possible or practical use a different independent administrator when showing a photographic array to a separate victim/witness in the same investigation.

**Instructions** — A series of instructions must be read aloud by the administrator of the photographic array to the victim/witness. These instructions are designed to deter the victim/witness from feeling compelled to make a selection. Additionally, these instructions are designed to deter the victim/witness from seeking feedback from the administrator during the identification procedure.

**Presentations** — If more than one witness or victim will be shown a photographic array in connection with an investigation, each person must be shown a separate photographic array, and each time the suspect should be placed in a different position. The array should be shown one photograph at a time, and each photographic array must consist of at least six (6) individual photographs.

**NOTE:** Members shall be aware of the overall environment, for example, the place where the photographic array is conducted and/or surroundings that could influence or distract the victim/witness. Examples of locations that might not be conducive include rooms displaying wanted photos or areas that have other distractions.

**Sequential** — The sequential method of photographic array presentation involves showing array photographs to victims/witnesses one photograph at a time. Each photograph in the array must be shown, even if the victim/witness has identified a suspect earlier in the presentation of photographs. For identification purposes, each photograph must be tracked by a State Identification Number (SID) or other unique number and the order which they were shown must be documented.

## **REQUIRED ACTION**

### **Member**

#### Preparing the Photo Array (Double-Blind Sequential)

Whenever members of the BPD show a photographic array during the investigative process, the following shall apply:

1. The double-blind and sequential method, as described above, must be utilized. The primary investigator will prepare the photographic array. The photo array must be presented by an independent administrator who has no knowledge of the suspect's identity. In addition, if there is a witnessing officer/investigator who is present when the photographic array is shown, they cannot have knowledge of the suspect's identity.
  - 1.1. The independent administrator need not be of the same Command as the primary investigator.
  - 1.2. The primary investigator must not in any way indicate to the independent administrator the identity of the suspect.

<b>Policy 1009</b>	<b>DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES</b>	<b>Page 3 of 10</b>
--------------------	--	---------------------

2. Utilize the BPD Navigator to obtain a photograph of the subject in the investigation.

**EXCEPTION:** If a photograph (for array purposes) cannot be obtained through the BPD Navigator, other sources may be utilized. Any photographs obtained from other sources or jurisdictions must include five (5) additional filler photographs from the same source, and each of the photos must have the same general physical appearance such as size, finish, background, and quality of photography.

**NOTE:** Consideration must be given to the age of the photograph. The most recent photograph of the suspect is not necessarily the best photograph to use if the suspect's appearance has changed since the time of the incident. Select a photograph which resembles the suspect's description or appearance at the time of the incident as provided by the victim's/ witness' description.

- 2.1. Complete uniformity of features is not required. The primary investigator should avoid using fillers that so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish from the filler(s).
- 2.2. The primary investigator will ensure that no writings or information concerning previous arrests are visible to the independent administrator or victim/witness.
- 2.3. The primary investigator will view the photo array to ensure that the suspect does not unduly stand out and appears only once in the sequential array.
- 2.4. When showing arrays of different suspects to the same victim/witness, the primary investigator will not utilize the same filler photographs presented in any previous photo arrays shown to the same victim/witness.
3. All individual filler photographs must be chosen for their similarity to the victim's/witness' description of the subject's physical characteristics. These characteristics shall include age, race, sex, complexion, facial hair, hair color and style, scars, visible tattoos, glasses, etc.
4. The individual photographs for the array must be printed and each photograph placed into a plain non-descript folder numbered "1" through "6". It is recommended that a filler photo be placed into the first folder shown in the array.

#### Presentation Of The Photo Array

1. All photographic array folders must be shown individually to each witness or victim.
  - 1.1. Prior to showing the array, victim/witness instructions must be read to the victim/witness by the independent administrator and initialed by the victim/witness. The independent administrator must complete Form 480/13. (See Appendix B.)
  - 1.2. The independent administrator must instruct the victim/witness that upon viewing the entire photo array, the victim/witness will be asked if they recognize anyone, and if so, the circumstance(s) from which the victim/witness recognizes the individual.
  - 1.3. The victim/witness will be directed to view the entire photo array. To the extent possible, the photo array will be placed in such a way that the independent

<b>Policy 1009</b>	<b>DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES</b>	<b>Page 4 of 10</b>
--------------------	--	---------------------

administrator is not holding or touching the photo or its folder while the victim/witness is viewing the photo array's folder.

- 1.4. The victim/witness may look at an individual photo array folder for as long as the victim/witness wishes. The independent administrator must not provide any feedback.

**NOTE:** If multiple victims/witnesses are involved, separate the victims/witnesses and give each victim/witness instructions regarding the photo array without the other victim/witness present. Victims/witnesses should not be allowed to confer with one another before, during, or after the procedure.

2. The independent administrator will administer the photographic array by following the instructions and completing Form 481/13. (See Appendix B.)

**NOTE:** The independent administrator will not inform the victim/witness how many photographs will be shown in the photo array or the number of times the array can be shown. The victim/witness will be allowed to view the photo array a second time, if they request to do so. No victim/witness will be allowed to view the photo array more than twice under any circumstance.

3. If the victim/witness indicates they recognize someone in the photo array, the independent administrator will ask the victim/witness to describe the circumstances in which they recognize the individual. The independent administrator will document the victim's/witness' responses for the investigative case file on Form 481/13. When conducting a sequential photo array, the independent administrator must show the victim/witness all of the photographs, even if the victim/witness makes identification during the presentation. Advise the victim/witness to:

- 3.1. Place his/her signature on the sheet containing the photograph in the appropriate location.

- 3.2. Note all comments as to the identification of the subject on Form 481/13.

- 3.3. If the victim/witness identifies a suspect, the independent administrator will not provide the victim/witness any feedback regarding the individual selected or comment on the outcome of the procedure in any way.

- 3.4. If identification is made, the victim/witness will be asked to write in his or her own words why they identified that suspect.

4. Always advise the victim/witness not to discuss the identification procedure or its results with other victims/witnesses involved with the case and discourage media contact.

- 4.1. If the photographic array will be shown to additional victims/witnesses, the primary investigator will prepare a separate photographic array and move the order of the subject photograph in each photographic array prepared.

5. Make a copy of the completed Photographic Array Forms and retain them in the investigative case folder.

**NOTE:** These procedures must be followed for all photographic arrays whether or not identification

<b>Policy 1009</b>	<b>DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES</b>	<b>Page 5 of 10</b>
--------------------	--	---------------------

was made.

6. The primary investigator must submit to the Evidence Control Unit (ECU) all original, completed photographic arrays and associated forms, including the original numbered folders containing shown photographs and Forms: 480/13 (Appendix B), 481/13 (Appendix C) and 482/13 (Appendix D).

#### Reporting Results Of Photo Array

1. The primary investigator must prepare a Form 482/13 for each photographic array shown and submit it to ECU. This report must include the date, time, and location of the photographic array, and identify each photograph by the SID number or another unique identifier in the order shown and the date the photos were taken.
  - 1.1. Document the ECU number on a Supplement Report (Form 007).
2. If any questions arise concerning the procedure or the showing of a photographic array, consult with supervisory personnel for guidance.

#### **Supervisors**

Ensure the above procedures are followed by members of the BPD. If there are questions concerning the procedure or the showing of a photographic array, consult with the State's Attorney's Office or the Legal Affairs Section of the BPD.

#### **APPENDICES**

- A. Folder Shuffle Method
- B. Photographic Array Form, 480/13
- C. Photographic Array Action Form, 481/13
- D. Photographic Array Information Sheet, 482/13

#### **RESCISSION**

Remove from files and destroy/recycle Policy 1009, *Double-Blind/Sequential Photographic Array Procedures*, dated 22 October 2013.

#### **COMMUNICATION OF POLICY**

This Policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

<b>Policy 1009</b>	<b>DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES</b>	<b>Page 6 of 10</b>
--------------------	--	---------------------

## **APPENDIX A**

### **Folder Shuffle Method**

An acceptable alternative to a blind administrator may be used only when an independent administrator is not available, for example; a victim/witness is located out-of-jurisdiction or confined to a hospital.

1. Use one photograph that resembles the description of the suspect as provided by the victim/witness; five (5) filler photographs that match the description but do not cause the suspect photograph to unduly stand out, and eight (8) folders. Two (2) of the folders will not contain any photos and will serve as dummy folders.
2. Insert one (1) filler photo into Folder #1.
3. The individual administering the photo array should place the suspect photograph and the other five (5) filler photographs into numbered Folders #2-6, then shuffle the photograph folders so that they are unaware of which folder contains the suspect. Place Folder #1 on top of the shuffled folders. Numbered Folders #7-8, which are empty, will be placed at the end of the array.
4. All photographic array folders must be shown individually to each victim/witness.
  - 4.1. Instructions must be read to the victim/witness by the administrator and initialed by the victim/witness prior to showing the array. (See Appendix B.)
  - 4.2. The administrator must instruct the victim/witness that upon viewing the photo array, the victim/witness will be asked if they recognize anyone and, if so, the circumstance wherein the victim/witness recognizes the individual.
  - 4.3. The victim/witness will be directed to view the entire photo array. To the extent possible, the photo array will be placed in such a way that the administrator is not holding or touching the photo or its folder while the victim/witness is viewing that folder.
  - 4.4. The victim/witness may look at an individual photo array folder for as long as the victim/witness wishes. The administrator must not provide any feedback.

**NOTE:** If multiple victims/witnesses are involved, separate the victims/witnesses and give each victim/witness individual instructions regarding the photo array without the other victims/witnesses present. Victim/witnesses should not be allowed to confer with one another before, during or after the procedure.

5. The administrator will administer the array by following the instructions and completing Forms 480/13, 481/13, and 482/13.

**NOTE:** The administrator will not inform the victim/witness how many photographs will be shown in the photo array or the number of times the array can be shown. The victim/witness will be allowed to view the photo array a second time, if they request to do so. No victim/witness will be allowed to view the photo array more than twice under any circumstance.

<b>Policy 1009</b>	<b>DOUBLE-BLIND/SEQUENTIAL PHOTOGRAPHIC ARRAY PROCEDURES</b>	<b>Page 7 of 10</b>
--------------------	--	---------------------

6. Without looking at the photo in the folder, the administrator is to place each folder in front of the victim/witness one at a time. Each time the victim/witness has viewed a folder, the Victim/witness should indicate whether or not this is the person the victim/witness saw, and return the photo to the administrator. The order of the photos should be preserved in a facedown position, in order to document the presentation at the conclusion of the process. (See Appendix D.)
    - 6.1. If the victim/witness requests to see the presentation again or an individual photograph, the administrator after documenting the order of the initial presentation will shuffle the entire series of eight (8) folders in the presence of the victim/witness. The array will be shown in its entirety and the procedure documented on an additional Form 482/18 indicating the order in which the array was presented. The administrator will also document in the "comment" section of the form that this is the second presentation of the series of the photographic array. If a selection is made, the administrator will follow the procedures as stated below in #7.
  7. If the victim/witness indicates they recognize someone in the photo array, the administrator will ask the circumstances in which the victim/witness recognizes the individual. The administrator will document the victim's/witness' responses for the investigative case file on Form 481/13. (See Appendix C.) When conducting a photographic array, the administrator will show the victim/witness all of the photographs, even if the witness makes identification during the presentation. Advise the victim/witness to:
    - 7.1. Place his or her signature, in the appropriate location on the sheet containing the photograph.
    - 7.2. Note all comments regarding the identification of the subject on Form 481/13.
    - 7.3. If the victim/witness identifies a suspect, the administrator will not provide the victim / witness any feedback regarding the individual selected or comment on the outcome of the procedure in any way.
    - 7.4. If identification is made, the witness/victim will be asked to write in his or her own words why they identified that suspect.
  8. Always advise the victim/witness not to discuss the identification procedure or its results with other victims/witnesses involved with the case and discourage media contact
  9. Make a copy of the completed Photographic Array Forms and retain in the investigative case folder.
- NOTE:** These procedures must be followed for all photographic arrays whether or not identification was made.
10. The primary investigator must submit all original completed photographic arrays and associated forms, to include original numbered folders containing shown photographs, and Forms 480/13, 481/13 and 482/13 to ECU.

**APPENDIX B**

## Photographic Array Form 480/13

Photographic Array  
Form  
Form 480/13POLICE DEPARTMENT  
BALTIMORE, MARYLAND**PHOTOGRAPHIC ARRAY FORM****CASE INFORMATION**

CC Number:		Crime Date and Location:	
Photo Array Date/ Time/ Location:			
Offense Type:		Witness' Name:	
Primary Investigator:		Sequence No.	Assignment:
Administrator Investigator:		Sequence No.	Assignment:

**STATEMENT TO VIEWER**

An officer conducting a photographic array will read the following instructions to the victim/witness prior to showing the photo array:

- \_\_\_\_\_ As part of the ongoing investigation into the crime that occurred on \_\_\_\_\_ at \_\_\_\_\_ you will be shown a series of photographs.
- \_\_\_\_\_ I am not involved in this investigation other than showing these photographs and I do not know the identity of the suspect. (Omit this when conducting a photo shuffle.)
- \_\_\_\_\_ The person who committed the crime may or may not be in the set of photographs you are about to view.
- \_\_\_\_\_ The individuals you view may not appear exactly as they did on the date of the incident. Features such as head / facial hair are subject to change. Photographs may not always depict the true complexion of a person; it may be lighter or darker than shown in the photo.
- \_\_\_\_\_ Pay no attention to any markings and/or color defects that may appear on the photos, or any other difference in the type or style of the photographs.
- \_\_\_\_\_ You must look at all of the photographs contained in the folders.
- \_\_\_\_\_ After you have had an opportunity to view the photographs I will ask you the following three questions:
1. Do you recognize anyone?
  2. If you do, what is the number of the person you recognize?
  3. What role, if any, does this person play in this investigation?
- \_\_\_\_\_ Do not discuss with other witnesses what you see, say or do during this procedure.

Regardless of whether or not you select someone, the Baltimore Police Department will continue to investigate this incident.

The above instructions have been read to me. I have been given the opportunity to ask questions and I understand the procedure:

Victim/Witness Initials: \_\_\_\_\_ Date/Time: \_\_\_\_\_.



**APPENDIX C**

## Photographic Array Action Form 481/13

Photographic Array Action  
Form  
Form 481/13**POLICE DEPARTMENT  
BALTIMORE, MARYLAND****PHOTOGRAPHIC ARRAY ACTION FORM****CASE INFORMATION**

Witness Name		Administrator Name	
Primary Officer	Others (Police Officers, Interpreter, etc...)	CC Number	

**INSTRUCTIONS**

Instructions to the Administrator showing the Photographic Array:

1. Remain neutral. Do not comment on the identification before, during or after the identification procedure.
2. Place one folder at a time in front of the witness? Do not hold or touch the photo while it is being viewed. Upon completion of the viewing close the folder and place the next photograph in the closed folder in front of the witness.
3. In the event that the witness makes identification, document their remarks and advise them they must view the entire array of photographs and show the remaining photos. Do not provide feedback regarding the selection of a suspect or comment on the outcome of the procedure in any way.
4. If the witness is vague in their identification, such as "I think it is #3" or "It looks like #3", the administrator should say: "You said, I think it is #3. What do you mean by that?" The witness' answer must be documented.
5. If the witness would like to view the photographs a second time, present the photos in the same order as previously shown. Do not show the photos more than twice. (This would not apply to the Folder Shuffle Method.)
6. For the Folder Shuffle Method the entire series of photos are shuffled prior to a second presentation.
7. If identification is made after the showing, have the victim/witness document their identification, by signing the front of the photo and writing in his or her own words why they have identified the suspect.
8. Document the folder number and SID or unique number for all identifications.
9. At the conclusion of the showing, document the order in which the photographs were shown on Form 482/13:

**VICTIM/WITNESS STATEMENT**

1. Record words and gestures of the witness:

**AFFIRMATION**

"I SWEAR AND AFFIRM THAT I PRESENTED THE INDIVIDUAL PHOTOS OF THIS PHOTO ARRAY AND HAVE NO KNOWLEDGE OF THE SUBJECT'S IDENTITY IN THE CASE." SIGNATURE IS NOT APPLICABLE TO FOLDER SHUFFLE METHOD.

Administrator's Signature: \_\_\_\_\_

**APPENDIX D**

Photographic Array Information Sheet, Form 482/13

Photographic Array  
Information Sheet  
Form 482/13POLICE DEPARTMENT  
BALTIMORE, MARYLAND  
PHOTOGRAPHIC ARRAY INFORMATION SHEET**THIS FORM MUST NOT BE SHOWN TO THE WITNESS OR  
INDEPENDENT ADMINISTRATOR. THE PRIMARY INVESTIGATOR  
SHOULD FILL OUT THE AREA BELOW.****FOLDER POSITION**

Position	SID/Unique #	Date of Photo
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

The original photographic array MUST be preserved.

**CASE INFORMATION**

Suspect's Name and Date of Birth:		Suspect's Position in the Photo Array:
Was any photo altered? Y/N	If yes, which photo?	CC Number:
Describe Alteration:		
Comments:		
Signature of Investigator:		Date: