




Clayton County Police Department PROCEDURES

Subject EYEWITNESS IDENTIFICATION		Procedure # E11	
Authorizing Signature 	Effective 06-08-2023	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Rescinds	Total Pages 8

I. PURPOSE

It is the purpose of this policy to establish guidelines for eyewitness identification procedures involving the utilization of lineups, to include live lineups, photographic lineups and show-up identifications, as investigative tools by sworn personnel of the Clayton County Police Department.

II. POLICY

It is the policy of the Clayton County Police Department (CCPD) that interviews, live lineups, photographic lineups and show-up identifications are to be conducted in compliance with departmental procedures, constitutional guidelines and applicable statutes. This procedure is in compliance with Title 17, Chapter 20 – Identification Procedures for Live Lineups, Photo Lineups, and Show-ups of the Official Code of Georgia Annotated (OCGA).

Eyewitness identification must be performed in a structured and professional manner to ensure the identification is as objective as possible and results are as reliable as possible. Eyewitness identification is only one (1) element of a successful criminal investigation. Officers must ensure they independently corroborate all facts and circumstances possible regarding the identification of any suspect.

III. DEFINITIONS

Filler: A person or photograph of an individual who is not a suspect in the crime under investigation and is made part of the live lineup or photographic lineup and presented to a witness.

Independent Administrator: A person who administers the lineup, did not compose the lineup, and has no knowledge of the actual suspect.

Live Lineup: An investigative identification procedure in which a suspect and fillers are displayed in person to a witness.

Person of Interest: An individual believed by law enforcement to be a possible suspect, victim, or witness, or other person with knowledge or involvement, in part or in whole, in a crime or incident being investigated by law enforcement.

Photographic Lineup: An investigative identification procedure in which an array of photographs is displayed to a witness for the purpose of determining if the witness is able to identify the suspect of a crime.

Sequential Identification: An investigative identification procedure whereby the witness views only one (1) member of the photographic lineup at a time.

Show-up Identification: An investigative identification procedure in which a witness is presented in person with a single suspect for the purpose of elimination or identification as the suspect.

Suspect: The individual believed by law enforcement to be the possible perpetrator in the crime being investigated.

Witness: For the purpose of this directive, witness means the victim and/or any witness to the crime.

IV. PROCEDURES

A. General

1. Officers/detectives (hereinafter referred to as officers) are responsible for conducting investigations objectively, and lineups and show-up identifications must be composed, utilized and administered in the same way. Live lineups, photographic lineups (hereinafter referred to as photo lineups) and show-up identifications (hereinafter referred to as show ups) are utilized for the purpose of determining whether or not a person identifies someone as a suspect in a crime being investigated.
2. Officers must take into consideration the preparation, presentation and preservation of lineups and show-ups. Only sworn personnel are permitted to compose, create or cause to be created, conduct and/or present lineups and show-ups.

B. Victim/Witness Identification of Suspect(s)

Essential to any officer's ability to conduct a criminal investigation is their competence, knowledge, and judgment when initiating and receiving information from an eyewitness involving their observation and identification of any suspect.

1. When interviewing witnesses regarding their observations in order to make an eyewitness identification of a suspect, officers must ensure first that the witness does not know the suspect. **If the witness is absolutely positive they know the suspect, the pretrial identification is not necessary.** However, if the witness does not know the suspect, sound methods of identification must be implemented. This information must be objective and reliable.

Officers shall ensure the witness has no preconceived notions regarding the identity of the suspect and that the recollections have not been tainted as a result of a prior action, event, information, or statements made by police, media or any other source.

2. Prior to any lineup or show-up, officers shall record a thorough description of the suspect from each eyewitness, taken separately for each eyewitness, in their own words.

3. Officers shall inquire about the following areas with the witness:
 - a. The opportunity of the witness to view the suspect at the time of the crime.
 - b. The witness' degree of attention during the crime.
 - c. The accuracy of the witness' prior description to police or others of the suspect before the observation and identification of the suspect.
 - d. The level of certainty demonstrated by the witness of any and all descriptions before and during the identification of any suspect.
 - e. The length of time between the crime and identification process.
4. Officers will document the information at the time it is given by the witness.
5. If multiple witnesses are involved in lineups and show-ups, each will be conducted independently with each witness and suspect. Witnesses shall not be allowed to confer with one (1) another until all identification presentations have been completed and statements taken. In cases where another person must be present (e.g., parents of a young child, medical staff), they will be cautioned to avoid making any statements or otherwise unduly influencing the procedure. They should also be situated in a manner in which they cannot view the photos.

C. Show-ups

Show-ups normally take place during the Uniform Patrol Division's preliminary investigation. Show-ups shall be conducted in accordance with the following procedures:

1. Show-ups are used to guide officers in determining whether to focus on a particular person as a suspect. Show-ups are also used to permit the speedy release of an innocent person detained. [CALEA 42.2.10(a)]
 - a. Show-ups can only be used during a short window of time between the actual commission of the crime and the location of the suspect(s).
 - b. The duration of time between when the witness views the suspect at the crime, views the suspect at the latter location, or show-up must be reasonable to ensure accuracy and reliability of the identification.
2. Prior to conducting any show-up, the officer(s) involved must brief their immediate supervisor on the facts and circumstances of the incident. Officer(s) must obtain approval from their supervisor to conduct the show-up.
3. The show-up will only be conducted for one (1), single intended witness at a time, with no other intended witnesses present. [CALEA 42.2.10(c)]
4. All witnesses intended on being used for a show-up shall not be permitted to communicate prior, during or following the show-up.
5. The show-up shall not be conducted, if the suspect to be presented:
 - a. Was previously presented to the same intended witness during the same or a related investigation;
 - b. Is currently detained in a holding, jail or prison cell; or

- c. Is currently wearing inmate clothing, unless the incident or alleged crime occurred or was committed in such clothing.
 6. When practicable, an officer who has no knowledge of the actual suspect or crime, should administer the show-up.
 7. Officers will determine whether the witness should be transported to the suspect location or the suspect should be transported to the witness location. [CALEA 42.2.10(b)] If there are multiple witnesses, they should be transported separately, one (1) at a time.
 8. When conducting show-ups officers shall ensure the following:
 - a. There is proper lighting and distance in the show-up procedure;
 - b. The witness is not exposed to any suggestive conduct, comments or actions regarding the identification of the suspect;
 - c. The show-up is video and/or audio recorded using the officer's body-worn camera (BWC) and/or in-car camera (ICC) system, when possible; and
 - d. The meeting is secure and that safety measures are in place before the show-up is conducted.
 9. If possible, officers should not show the suspect handcuffed or in the back seat of a police vehicle. If the suspect is handcuffed, officers should take measures to conceal this fact from the witness. **Note: Officer and witness safety is paramount, when determining whether a suspect can be viewed safely outside the police vehicle.**
 10. Prior to conducting and/or presenting a show-up, the officer who is conducting and/or presenting the show-up will read the instructions that are listed on the *CCPD Show-up Summary Form* verbatim to the witness, and the officer shall answer any questions that the witness may have. [CALEA 42.2.10(d)]
 11. The officer who is conducting and/or presenting the show-up is prohibited from providing any feedback, before, during or following presentation, to the witness. This does not restrict the case officer or detective from discussing the case privately and away from the officer who administered the show-up, but after it was conducted and/or presented. [CALEA 42.2.10(f)]
 12. If the witness does not volunteer information about certainty of the identification, then the witness should be asked to state certainty in their own words. Officers should ask, "How certain are you?" The response shall be documented in the report. [CALEA 42.2.10(e)]
 13. Once the show-up is completed, the witness shall fill out all applicable sections of the *CCPD Show-up Summary Form* and sign the document. The officer who administered the show-up will fill out all applicable sections of the form and sign the document.
 14. Show-ups shall be documented in a report articulating the specific facts, circumstances, statements, and conduct of the witness and suspect. [CALEA 42.2.10(g)]
- D. Composition of a Photo Lineup [CALEA 42.2.9 (a)]

A photo lineup may be constructed using mug shots, DDS/DMV photos, photographs clarified using digital software, or photographs from other agencies that provide similar photographs of every individual to be utilized. Sequential lineups may be used when officers must rely on photographs from outside sources that cannot be properly image edited by trained CCPD

personnel. These sources may include yearbook photographs, adult correctional center mugshots, social media or other sources.

When composing a photo lineup, officers shall adhere to the following procedures to ensure that the suspect does not unduly stand out and to ensure reliability:

1. A photo lineup should consist of at least six (6) photographs. A minimum of five (5) filler photographs should be utilized with one (1) photo of the suspect. A filler photograph should be used in the lead position of the photo lineup. The identification data of all fillers and the suspect should be documented.
2. Photographs selected should generally fit the witness's description of the suspect at the time of the crime, especially with respect to any unique or significant features. If multiple photos of the suspect are available, select a photo that most closely resembles the suspect's description or appearance at the time of the crime or incident being investigated, with consideration given to the age of the photo.

Complete uniformity of features is not required. Photographs must merely match the description of the suspect as given by the witness viewing the lineup, as long as the suspect does not unduly stand out. Officers shall use persons of the same race, gender, general physical characteristics (e.g. facial hair, head hair) and similar in age and size.

3. Photographs of juveniles shall not be used as fillers in lineups containing adult suspects. Photographs of adults may be used as fillers in lineups containing juvenile suspects provided that they meet the appearance content as specified in this directive.
4. Do not include more than one (1) photo of the suspect in a photo lineup.
5. Only one (1) suspect will be included in each photo lineup.
6. All photos in a single presentation will be either all color or all black and white, the same size, and none must unduly stand-out from the others.
7. Any prior arrest information of the suspect/fillers shall not be visible to the witness. Cover/crop any portion of a photo that provides identifying information on the suspect or fillers included in the photo lineup. If it is necessary to cover/block-out any text or other features shown on a photo, similar markings must be placed on all photos for uniformity.
8. In cases where multiple witnesses will be viewing photo lineups, separate lineups should be prepared for each witness. Officers creating lineups may use the same filler photographs for each witness. When possible, the suspect should be placed in a different position.
9. Number all the photos used in the photo lineup. This should be done prior to the presentation of the photo lineup.
10. Ensure the witness is prevented from seeing any suspect in custody.
11. Photo lineups are considered evidence, so the photo lineup presented should be preserved according to departmental policy.

E. Live Lineups

Because of the complexities involved in live lineups, the CCPD does not routinely utilize this technique for the purpose of identifying or eliminating suspects. Some of the basic principles

that apply to photo lineups also apply to live lineups. Hence, live lineups shall be conducted in accordance with the following procedures:

1. Prior to conducting a live lineup, officers must brief their immediate supervisor on the facts and circumstances of the crime. If approved, the supervisor shall notify the appropriate Division Commander. The Clayton County District Attorney's Office must be consulted prior to conducting any live lineup.
2. There should be at least six (6) persons in the live lineup. A minimum of five (5) fillers and one (1) suspect. All persons in the live lineup should be of the same general age and race and have similar characteristics. Clothing worn by each person should be similar. If possible, officers should not be used in live lineups. The names and addresses of all persons participating in the live lineup should be preserved. Juveniles shall not be used as fillers in live lineups containing adult suspects.
3. All fillers and the suspect of live lineups should be instructed to remain quiet, still and look forward unless otherwise directed by an officer.
4. The witness should be prevented from seeing the suspect prior to the live lineup. Witnesses should not be shown a photograph of the suspect before the live lineup.
5. If more than one (1) person is to view a live lineup, the witnesses should do so one (1) at a time and out of the presence of the other.
6. No actions should be taken or statements made to a witness to suggest that a suspect is standing in any particular place.
7. As few persons as possible should be allowed in the room when the live lineup is conducted.
8. Prior to the live lineup, the witness should give a detailed description of the suspect. Officers shall document the description provided by the witness before the live lineup.
9. The live lineup should be recorded.
10. Statements by persons in a live lineup should not be requested unless a witness suggests it. If statements are made, all participants should repeat the same words. Any movements or statements should be made by each person in the live lineup, one (1) at a time.
11. If counsel is present, they should be allowed to make suggestions.

F. Presenting Live-Lineups and Photo Lineups

1. The conduction and/or presentation of any live or photo lineup to a witness shall be audio and video recorded, when equipment is available. [CALEA 42.2.9(b)]
2. A lineup will only be conducted for one (1), single intended witness at a time, with no other intended witnesses present. [CALEA 42.2.9(c)]
3. With respect to a **live lineup**, an officer who **did not** compose the lineup and has no knowledge of the suspect (i.e., independent administrator), shall administer the live lineup.
4. With respect to a **photo lineup**:
 - a. An officer who **did not** compose the lineup and has no knowledge of the suspect (i.e., independent administrator), shall administer the photo lineup; or

- b. An officer who **does** know the identity of the suspect will create the photo lineup in a manner in which photographs are placed in folders or created/printed on paper using a computer, randomly shuffled, and then presented to the witness so that the other officer conducting and/or presenting the photo lineup cannot physically see which photograph is being viewed by the witness until the photo lineup procedure is complete.
5. Prior to conducting and/or presenting a **live or photo lineup**, the officer who is conducting and/or presenting the lineup will read the instructions that are listed on the *CCPD Lineup Summary Form* verbatim to the witness, and the officer shall answer any questions that the witness may have. [CALEA 42.2.9 (d)]
6. The officer who is conducting and/or presenting the **live or photo lineup**, is prohibited from providing any feedback, before, during or following presentation, to the witness. This does not restrict the case officer or detective from discussing the case privately and away from the officer who administered the lineup, but after it was conducted and/or presented. [CALEA 42.2.9(f)]
7. If a photograph is selected/identified by the witness, the officer shall instruct the witness to circle the photograph number and write their initials on the photo lineup.
8. Once the lineup is completed, the witness shall fill out all applicable sections of the *CCPD Lineup Summary Form* and sign the document. The officer who administered the lineup will fill out all applicable sections of the form and sign the document.
9. Lineups shall be documented in a report articulating the specific facts, circumstances, statements, and conduct of the witness and suspect.

G. Documentation [CALEA 42.2.9 (g)]

1. Lineup and Show-up Summaries

With respect to all live lineups, photo lineups and show-ups, an officer conducting a **lineup or show-up** shall utilize a *CCPD Lineup Summary* or *Show-up Summary Form* at the time, and if an identification of an individual or photograph is made, and in the witness's own words without necessarily referencing a numeric or percentage standard, obtain a clear statement from the witness as to the witness's confidence level that the individual or photograph identified is the suspect or photograph of the suspect. [CALEA 42.2.9(e)]

See *Appendix A* of this procedure for the *CCPD Lineup Summary Form*.

See *Appendix B* of this procedure for the *CCPD Show-up Summary Form*.

These are the only forms authorized for use by officers of this Department following the construction and/or presentation of lineups and/or show-ups in which a witness attempted to identify or identified an individual or photograph as the suspect.

The *CCPD Lineup Summary Form* and *CCPD Show-up Summary Form* are available for use in the Departmental Forms/CID Forms link on the CCPD's Intranet site: <http://ccpd/>.

2. General Reporting

The following reporting requirements pertaining to lineups and show-ups are in addition to all field reporting procedures outlined in CCPD SOP *D9: Field Reporting*.

- a. At any time a lineup or show-up is utilized by an officer during an investigation, regardless of the results, the action shall be documented in the corresponding *Incident Report(s)*, *Supplemental Report(s)* and/or investigative case file.
- b. For lineups and show-ups, officers shall document any of the following that applies:
 - 1) The name of the officer who created the lineup and/or caused it to be created;
 - 2) The name of all officer(s) involved in administering the lineup or show-up;
 - 3) Date, time and location the lineup or show-up was conducted or presented;
 - 4) The identification results, whether positive or negative, for each suspect presented and all witnesses;
 - 5) Full identity of the suspect, and fillers that were presented;
 - 6) For show-ups only, the name and employee number of the approving supervisor;
 - 7) For show-ups only, estimated distance from the incident or crime scene the suspect was found prior to the show-up; and
 - 8) For show-ups only, known evidence suggesting that the subject presented is a suspect.

V. CANCELLATION

This procedure amends and supersedes the following standard operating procedure: *E11: Line-ups & Show-ups*, dated June 1, 2016.