

Cocoa Beach Police Department

Standard Operating Procedure



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Subject: Line-ups, Show-ups, and Live Line-ups		Re-evaluation Date: 2022
Distribution: ALL PERSONNEL	Related : 15.13M, 15.14M	

This order consists of the following numbered sections:

1. Purpose
2. Scope
3. Definitions
4. Line-up Procedure
5. Show-Up Procedure
6. Live Line-ups
7. Training and Review
8. Appendices

1. PURPOSE

The purpose of this Standard Operating Procedure is to establish guidelines for the administration of photo line-ups, show-ups, and live line-ups, in an effort to promote accurate and reliable eyewitness identification and to minimize the possibility of erroneous identifications. Nothing herein is intended to create new rights of parties or grant a right or privilege not otherwise provided by law.

2. SCOPE

This applies to all sworn members of the Cocoa Beach Police Department.

3. DEFINITIONS

- A. PHOTO LINE-UP- a procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.
- B. SHOW-UP- the live presentation of a suspect to a witness or victim of a crime for the purpose of identifying or eliminating the suspect.
- C. LIVE LINE-UP- the live presentation of a group of persons to include the suspect, to a witness or victim of a crime for the purpose of identifying or eliminating the suspect.
- D. FILLER PHOTOS- photographs of persons other than the suspect, used to complete a photo array and bring the total number of photos in the array up to a minimum of six photos.
- E. INDEPENDENT ADMINISTRATOR- a person who is not participating in the investigation of a criminal offense and is unaware of which person in the lineup is the suspect.
- F. SIMULTANEOUS- Presentation of photos in a photo group or individuals in a line-up to a witness all at once rather than one-at-a-time (Sequentially).

4. LINE-UP PROCEDURE

- A. Creating a Photo Line-up (CFA 15.13MA)
 1. A photo line-up shall consist of a minimum of six photographs, one photo of the suspect and a minimum of five filler photos.
 - a. If there are multiple suspects in a case, only one suspect shall be included in each photo line-up.
 - b. If there are multiple suspects in a case, each line-up shall contain different filler photos.
 - c. If there are multiple eyewitnesses, individual line-ups will be created for each witness.
 2. All photographs used shall be of individuals who are reasonably similar in age and general appearance, and are of the same sex and race, in accordance with victim/witness description.

3. All photographs used shall have the same background and be of the same size and basic composition.
 - a. No particular photo shall stand out in the line-up.
 - b. No mix of color and black and white photos shall be used.
 - c. No identifying information (name, date of birth, etc) will be visible on the suspect or other persons included in the photo line-up.
- B. Conducting the Photo Line-up
 1. Simultaneous and Sequential photo presentations are authorized methods used by the Department for conducting photo line-ups. (CFA 15.13MF)
 2. An officer who is not involved in the investigation or who is not aware of the suspect identity should always be used to administer the line-up. (CFA 15.13MB)
 3. The preferred method of conducting line-ups is the simultaneous method. (CFA 15.13MF)
 4. Should a situation arise where an independent administrator is not available, the alternative method shall be employed also referred to as the Functional Equivalent Procedure; (CFA 15.13MC)
 - a. If an independent administrator is not practical (due to personnel shortages or no one available who does not know the identity of the suspect, for example) then the functional procedure should be used.
 - b. Place the suspect and five (5) filler photos in manila folders, including two blank photos, for a minimum of eight folders.
 - c. Shuffle the folders before giving them to the witness.
 - d. The witness will number the folders in the order they view them.
 - e. The administrator will read the instructions attached to the outside of the folder for the witness' convenience: the folder(s) should be closed when presented to the witness. (See Appendix A- *Photo Line-up Witness Instructions*). (CFA 15.13MD)
 - f. The entire photo line-up identification process, including the verbal instructions, the viewing of the photographs, and the identification or lack thereof should be audio or video recorded. If the line-up cannot be video or audio recorded, the member conducting the line-up will notate the reason in their written report. (CFA 15.13MG)
 5. Once the instructions have been read aloud the witness will sign the instruction page to ensure that the witness understands the instructions. The eyewitness shall acknowledge, in writing, having received a copy of the lineup instructions. If the eyewitness refuses to sign a document acknowledging receipt of the instructions, the lineup administrator must document the refusal of the eyewitness to sign a document acknowledging receipt of the instructions, and the lineup administrator must sign the acknowledgment document himself or herself. (CFA 15.13MD) The person administering the photographic line-up is to avoid any conduct that might directly or indirectly influence the witness's decision. The administrator shall be reasonably positioned in a manner to avoid a direct line of sight by the witness as they view the line-up. (CFA 15.13ME)
 6. In the event of multiple eyewitnesses, the photo line-ups will be shown to only one witness at a time, as described above. The witnesses shall be separated, so they will not be aware of the responses of other witnesses. (CFA 15.13ME)
 7. Once the witness has finished viewing the photo line-up and the folder is handed back, the person administering the line-up shall ask if there was a photo of the person observed by the witness.
 - a. If there is an identification made, the person administering the line-up shall ensure that the witness circles, signs and dates the selected photo and completes the Affidavit of Identification (See Appendix B- *Photo Line-up Identification Affidavit*).
 - b. If the witness refuses to sign the line-up after identification is made, the person administering the line-up shall circle, sign and date the selected photo and note the refusal.
 8. The person administering the photo line-up shall avoid providing any verbal or non-verbal feedback to the witness on the witness' identification process. (CFA 15.13ME)
 9. Following all photo line-ups and whether or not a positive identification is made, the folder (with the instructions attached), the photo line-up presented to the witness, and the recording shall be submitted into evidence to be maintained for the criminal case.
 10. Following all photo line-ups, regardless if a positive identification is made, the person administering the line-up shall complete a supplemental report which includes: (CFA 15.13MG)
 - a. The names of all persons present at the line-up
 - b. The date, time, and location of the line-up

- c. The sources of the photographs and the identities of the filler photos used
 - d. Whether identification was made
 - e. Any comments made by the witness during the entire process shall be carefully documented word-for-word with the investigator's discernment of the witness' level of confidence in the identification as expressed by the witness. (CFA 15.13MH)
 - f. Any non-verbal communication or action of the witness shall also be noted
 - g. The reason or basis for any deviation from the photo line-up guidelines
5. **SHOW-UP PROCEDURE**
- A. When a Show-Up is Permissible (CFA 15.14MA)
 - 1. Any officer may arrange a "show-up" between a witness and a suspect whenever a potential suspect who matches the description given by the witness is located and detained within a reasonable length of time.
 - 2. Show-ups may be preferable while the memory of the witness is fresh and the suspect is readily available.
 - 3. If an officer has reasonable suspicion to detain a suspect under the above circumstances, the member may use such force as is reasonably necessary to stop the suspect from leaving. If probable cause to arrest develops during the detention, an arrest should be made.
 - 4. When conducting a show-up, officers should avoid any conduct that might directly or indirectly influence the witness(s) decision, and avoid any comments or actions that suggest the witness did or did not identify the suspect. (CFA 15.14MD)
 - B. Conducting a Show-Up
 - 1. A suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the person detained is the suspect.
 - a. Description
 - 1) Officers in contact with the witness shall obtain a detailed description of the suspect before the suspect is shown to the witness. The witness must advise the officer that they will be able to recognize the person who committed the crime prior to the show-up.
 - 2) Prior to the show-up, the officer shall provide instructions from the Show-Up Witness Instruction Affidavit (See Appendix C- *Show-Up Witness Instruction Affidavit*) to the witness to ensure the witness understands that the purpose of the identification process is to exonerate the innocent as well as to identify the actual suspect. (CFA 15.14MC)
 - b. Location
 - 1) A suspect shall not be taken to the Department for a show-up. The suspect shall be detained at the place he/she was located, in the least restrictive manner possible that will ensure the suspect remains with the officer. Officer safety is crucial, so officers shall take the proper precautions.
 - 2) The witness shall be transported in a Department vehicle to the suspect's location for the show-up, and care should be used to shield the witness from being seen by the suspect.
 - c. Avoiding Suggestiveness (CFA 15.14MB)
 - 1) If possible, officers will not show the suspect handcuffed, or in the back seat of a patrol car. If the suspect is handcuffed, measures should be taken to conceal this fact from the witness when possible.
 - 2) The witness shall be informed that the person detained may or may not be the suspect, and the witness should not feel compelled to make identification. If the witness makes identification, the officer shall not confirm or corroborate the identification. Feedback shall not be given to the witness as to the identification. (CFA 15.14MD)
 - d. Multiple Witnesses
 - 1) Show-ups shall not be conducted with more than one witness present at a time.
 - 2) If there is more than one witness, the show-up shall be conducted separately for each witness, and witnesses shall not be permitted to communicate before or after any show-up regarding the identification of the suspect.
 - 3) The same suspect shall not be presented to the same witness more than once.
 - e. Suspect
 - 1) If there are multiple suspects, only one suspect shall be viewed at a time.
 - 2) The suspect does not have the right to have a lawyer present at any show-up.

- 3) If the detained person is not identified by witness as the suspect and officers lack any other probable cause for an arrest, the person shall be released after obtaining his/her information. It is equally important to clear innocent persons as it is to arrest guilty suspects.
- f. Documentation (CFA 15.14MF)
 - 1) Witness statements shall be obtained immediately following the show-up process.
 - 2) All activities will be documented in an incident report to include any comments made by the witness during the entire process which shall be carefully documented word-for-word with the investigator's discernment of the witness' level of confidence in the identification as expressed by the witness. (CFA 15.14ME)
6. **LIVE LINE-UPS PROCEDURE**
 - A. When a live line-up is permissible

Live line-ups shall only be conducted at the request and under the direction of the State Attorney's Office.
 - B. Conducting a live line-up

Upon the request and under the direction of the State Attorney's Office the investigating officer shall adhere to the following guidelines:

 - 1) Live lineups shall utilize a minimum of six persons, including the suspect, who are reasonably similar in age, height, weight, and general appearance and are of the same sex and race, in accord with the witness's description of the subject. (CFA 15.13MA)
 - 2) The person preparing a live lineup should create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature. (CFA 15.13MA)
 - 3) If there are multiple witnesses to view a live lineup, the following shall be considered:
 - a) A witness presented a lineup shall be directed to not discuss the identification procedures or the results with any other witness. (CFA 15.13ME)
 - b) A live lineup shall be presented to only one witness at a time. If multiple witnesses are being presented a lineup at generally the same time and place, they shall be kept separate to assure that they are not aware of the responses of the other witnesses and do not have an opportunity to discuss the lineup procedure. (CFA 15.13ME)
 - c) Suspects should be placed in different positions in each lineup. Both across cases and with multiple witnesses in the same case. (CFA 15.13ME)
 - 4) All live lineups must conform with specific legal requirements. If the right to counsel has attached, the counsel representing the accused is entitled to have sufficient time to confer with his or her client prior to the lineup, and to observe the lineup itself. Any waiver of right of consul must conform with the requirements of law.
 - 5) Once the instructions have been read aloud the witness will sign the instruction page to ensure that the witness understands the instructions. The eyewitness shall acknowledge, in writing, having received a copy of the lineup instructions. If the eyewitness refuses to sign a document acknowledging receipt of the instructions, the lineup administrator must document the refusal of the eyewitness to sign a document acknowledging receipt of the instructions, and the lineup administrator must sign the acknowledgment document himself or herself. (CFA 15.13MI) (See Appendix D- *Live Line-Up Witness Instructions*). The person administrating the line-up is to avoid any conduct that might directly or indirectly influence the witness's decision. The administrator shall be reasonably positioned in a manner to avoid a direct line of sight by the witness as they view the line-up. (CFA 15.13ME)
 - 6) In any lineup, no person aware of the suspect's identity other than the investigator who is administering the lineup and (in the case of a live lineup where the right to counsel has attached) the suspect's attorney may be present. (CFA 15.13MAE)
 - 7) When conducting a live lineup, documentation should include as a minimum a photograph of the simultaneous live lineup, or each person utilized in a sequential live lineup. The photo(s) should be retained in the investigative file. (CFA 15.13MG)

- 8) If an identification is made, documentation of the person selected shall be made through the use of an affidavit of identification. (See Appendix E- *Live Line-up Identification Affidavit*). (CFA 15.13MG)

7. **TRAINING AND REVIEW**

- A. All officers will receive initial and periodic training on this Standard Operating Procedure. (CFA 15.13MJ)
- B. Officers are required to read, sign, know, and comply with this Standard Operating Procedure. If they have any questions regarding this procedure, or fail to fully understand its contents, they will seek further guidance from the Shift Supervisor or the Training Coordinator.

8. **APPENDICES**

- A. [Photo Line-up Witness Instructions](#)
- B. [Photo Line-up Identification Affidavit](#)
- C. [Show-Up Witness Instruction Affidavit](#)
- D. [Live Line-Up Witness Instructions](#)
- E. [Live Line-Up Identification Affidavit](#)



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