



Colorado Springs Police Department

Standard Operating Procedure

DL-1036-03 Live Line-ups

Section 1000 – Patrol Functions

Effective Date: 1/24/2022

Supersedes Date: N/A

.01 Purpose

The purpose of this directive is to outline the procedure for conducting live line-ups.

.02 Cross Reference

[GO 120 Treatment of the Public](#)

[GO 121 Fair and Impartial Policing](#)

[GO 504 Body Worn Cameras](#)

[GO 1005 Reporting Citizen Contacts](#)

[GO 1036 Identifications](#)

[DL-1002-01 Determining Probable Cause](#)

.03 Definitions

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.04 Procedure

Officers who utilize live line-up identifications should do so through the investigative unit assigned to the case. When this is impractical, or when no investigative unit has been assigned, the initiating officer will coordinate the live line-up identification with a supervisor, who will approve the format and procedures prior to the line-up being presented to witnesses.

It is recommended the district attorney's office be consulted when a live line-up is being considered.

Developing the Live Line-up

Recommendations when creating a live line-up:

- Fillers should be similar in appearance to the suspect and to the eyewitness' original description of the suspect. Similarities should include:
 - Gender
 - Age
 - Race
 - Height
 - Hair color
 - Facial hair
 - Clothing
 - Distinctive physical features (if applicable).
- Only one subject should appear per live line-up.
- At least five fillers should be included in each live line-up, in addition to the suspect. In no case, should less than four fillers be used. Administrators should not include fillers who are known to the eyewitness.
- If there is more than one subject, different fillers will be used in each live line-up that appear similar to the subject.
- If necessary, all members of the live line-up should be seated to minimize any height differences.
- The subject should be allowed to select their own position in the live line-up. Where the subject was previously positioned in a photo array should be avoided unless insisted upon by the suspect.
- All members of the live line-up should be instructed not to speak or gesture to one another during the procedure.
- All members of the live line-up should be instructed to remain still and look forward unless otherwise directed by an officer/investigator.

Required Assessments

In conducting a live line-up, officers will assess the following:

Suggestiveness

A blind administrator is recommended for all live line-ups

After the administrator instructs the eyewitness, they should stand outside the eyewitness' line of sight, while still being in position to observe and hear the eyewitness.

The officer/investigator monitoring the subject and fillers in the line-up room should remain out of view of the eyewitness to avoid any claims of inadvertent suggestion.

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The administrator should not comment, nod, or gesture (either positive or negative) whether the eyewitness picked the suspect.

Consulting the District Attorney's Office

There are circumstances where a suspect may have an attorney present during a live line-up. As such, officers/investigators should consult with the district attorney's office for guidance regarding a suspect's right to counsel.

When in attendance, a defense attorney will be instructed not to speak in the viewing room when the eyewitness is present.

Multiple Eyewitnesses

If there are multiple eyewitnesses, they must each view the line-up separately. The position of the suspect should be moved each time the line-up is shown to a different eyewitness. Eyewitnesses should be prevented from speaking to each other about the identification procedure.

Feedback

The administrator should explain they are not allowed to provide any feedback.

Communicating with the Eyewitness

Officers will adhere to the following procedures when communicating with the eyewitness:

- When contacting an eyewitness to arrange for viewing a live line-up, the officer/investigator should advise only that they intend to conduct an identification procedure.
- Avoid addressing whether a person is in custody or whether other supporting evidence about the suspect has been obtained (e.g., statements made, physical evidence obtained, whether other identifications have been made).
- When an eyewitness arrives to view the live line-up, they should be prevented from speaking to any other eyewitnesses about the identification procedure.

Live Line-Up Required Admonition

Prior to conducting a live line-up, the officer will state the following to each eyewitness:

*"You are being asked to view a line-up as part of an ongoing investigation into a crime that occurred on **(date)** at **(location)**, to see if you recognize anyone involved with the crime. You are not to assume I know who the suspect is or seek anyone's assistance in making an identification. The suspect may or may not be present in the line-up. Individuals presented in the line-up may not look exactly as they did on the date of the incident. Some features – like hairstyle or facial hair – are subject to change. You can ask the administering officer to have the line-up members move,*

...speak or change clothing. If one line-up member is asked, all the members will be asked to do the same. The investigation will continue, regardless of whether you make an identification. If you make an identification, I will ask you to identify your level of certainty.”

Eyewitness Identification

If an eyewitness makes or does not make an identification during a live line-up, the officer will ask the eyewitness whether they are:

- Confident in their identification/lack of identification
- Somewhat confident in their identification/lack of identification
- Not confident in their identification/lack of identification

Follow-up Questioning

After the live line-up process is completed, the investigating officer may ask additional follow-up questions, to include details of any identification made (e.g., did you recognize anyone, (if so) what number did you recognize, where did you recognize that person from, etc.). In the case of multiple suspects, follow-up questions should be asked concerning the role each played during the incident under investigation.

Documenting the Results

The officers involved in the line line-up process will be responsible for completing a supplement to the case detailing their involvement in the investigation. Such a report will contain, at a minimum, the following information:

- Witness identity and contact information (i.e., full name, DOB, race, ethnicity, sex, etc.)
- Names of all persons present when the live line-up was conducted
- Location, date, and time the live line-up was shown (e.g., 1140 South Chelton Rd, #635 - in the living room; 11/01/2015 at 3:11 pm)
- The names of any officers/investigators who escorted the eyewitness to and from the viewing room.
- The names of those present in the room (e.g., detectives, investigative personnel, etc.)
- Name, DOB, and position of each individual included in the live line-up
- The witness's level of confidence (e.g., Confident, Somewhat confident, Not confident)
- Anything the line-up members were asked to do and any actions taken by the line-up members of their own volition.
- Verbatim statements/comments made by the witness
- Physical reactions, if any, made by the witness when each photo is viewed
- Any other statements made by the witness regarding the case, to include any statements made during the follow-up questioning
- Any requests made by defense counsel and whether they were granted