


Fort Collins Police Services

Policy Manual

 FORT COLLINS POLICE	POLICY	610
	TITLE	Eyewitness Identification

610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this Agency employ eyewitness identification techniques (CRS §§ 16-1-109 & 110).

610.2 POLICY

This agency will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crimes and exonerating the innocent.

610.2.1 PROCEDURES

Generally, officers should consider the following factors before asking a person to provide eyewitness identification in a criminal case:

- (a) The eyewitness' opportunity to view the perpetrator during the crime;
- (b) The length of time between the crime and the subsequent identification;
- (c) The level of certainty demonstrated by the witness at the identification;
- (d) The accuracy of the eyewitness' prior description of the criminal;
- (e) The eyewitness' degree of attention during the crime;
- (f) The length of time the witness observed the suspect;
- (g) Environmental factors present during the crime, such as:
 - 1. The distance between the witness and the suspect.
 - 2. The quality of the lighting when the suspect was observed by the witness.
 - 3. Whether there were distracting noises or activity during the observation.
 - 4. Any other circumstances affecting the witness' opportunity to observe the suspect.

610.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification (either in-person, photographic, or field) if communication from a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matters with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

610.4 EYEWITNESS IDENTIFICATION FORM

The Criminal Investigations Division Lieutenant shall be responsible for the development and maintenance of an eyewitness identification form consistent with this policy.

POLICY	610
TITLE	Eyewitness Identification

The process and any related forms or reports should provide:

- (a) The date, time, and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.
- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all the individuals present during the identification procedure.
- (e) An admonishment to the witness that the suspect may or may not be among those presented and that the witness is not obligated to make an identification.
- (f) An admonishment to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (g) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

The process and related forms should be reviewed at least annually and modified when necessary.

610.5 EYEWITNESS IDENTIFICATION

Officers are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Officers should avoid mentioning that:

- (a) The individual was apprehended near the crime scene.
- (b) The evidence points to the individual as the suspect.
- (c) Other witnesses have, or failed to identify, the individual as the suspect.

To avoid undue influence, witnesses will view suspects on a show-up or a lineup individually and outside the presence of other witnesses. Witnesses shall be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded, and the recording should be retained according to current evidence procedures.

Show-up procedures shall be video recorded and include the suspect's appearance at the time of the show-up, the location and conditions of the show-up, the required admonition given to the eyewitness prior to the show-up, and the eyewitness' confidence statement after the show-up.

610.5.1 PHOTOGRAPHIC ARRAY CONSIDERATIONS

When practicable, the person presenting the array should not be directly involved in the investigation of the case (double-blind) and should not know which photograph is the suspect. When this is not possible, the employee presenting the array must take the utmost care not to communicate the identity of the suspect in any way.

Other filler photographs of persons used in any array, preferably using at least 5 filler photos, should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out. In cases involving multiple suspects, a separate photographic array should be conducted for each suspect using different filler photos. The suspects should be placed in a different order within each array.

POLICY	610
TITLE	Eyewitness Identification

The employee presenting the array to a witness should do so sequentially and not simultaneously (i.e., show the witness one person at a time). The witness should view all persons in the photographic array.

The order of the photograph of the suspect and the fillers should be randomized before being presented to each witness.

610.5.2 FIELD IDENTIFICATION

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where circumstances make it impracticable to conduct a photographic or live lineup identification. A field elimination or show-up identification should not be used when independent probable cause already exists to arrest a suspect. In such cases, a live or photographic lineup is the preferred course of action if eyewitness identification is contemplated.

All the following conditions (a-e) must be met per CRS § 16-1-110 to conduct a show-up:

- (a) A crime has been reported.
- (b) An officer with reasonable suspicion has detained a subject within minutes of the commission of the crime.
- (c) The detention was near the location of the crime.
- (d) A live line-up or photo array are not practical options for identification.
- (e) The eyewitness reasonably believes they can identify the subject.

A show-up may be used to verify the identity of an intimate relationship, as defined in CRS § 18-6-800.3, related to a domestic violence case or to confirm the identity of a familial subject such as a parent, child, or sibling known to the eyewitness.

610.3 FIELD IDENTIFICATION ADMONITION

Prior to conducting a show-up, officers will verbally communicate the following to the witness. The admonition must be recorded.

- (a) That the person they will see may not have committed a crime.
- (b) That the reason for the show-up is for different reasons, including to eliminate a person from the investigation, which is just as important as identifying someone involved in criminal activity.
- (c) The investigation will continue regardless of the witness's ability to identify a person.
- (d) Details of the investigation cannot be discussed with the witness.
- (e) Request the eyewitness does not discuss what they saw, said, or did during the show-up procedure with any other eyewitnesses.

610.5.4 FIELD IDENTIFICATION PROCEDURES

When initiating a field identification, the officer shall observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering the parameters outlined in Section 610.2.1, above.

POLICY	610
TITLE	Eyewitness Identification

- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness. Officers will only transport one witness at a time to the show-up.
- (e) Officers will avoid factors that might influence the witness such as suggestive comments, radio traffic, visible computer data, or any other information concerning the suspect.
- (f) The show-up location must be as well-lit as practicable with an unobstructed view of the suspect.
- (g) A person should not be shown to the same witness more than once.
- (h) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.
- (i) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (j) If a witness positively identifies an individual as the perpetrator, the officer shall ask the witness if they are confident, somewhat confident, or not confident in their identification. This statement shall be video/audio recorded and be in the witness's own words.
- (k) If a witness positively identifies an individual as the perpetrator, officers should not conduct any further field identifications with other witnesses for that suspect. In such instances, officers should document the contact information for any additional witnesses for identification through a live lineup or photo array, or other follow up, if necessary.

610.6 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification shall be documented in the case report. Witness comments of how certain he/she is of the identification or non-identification shall be quoted in the report.

- (a) If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.
- (b) If a field identification (show-up) is utilized, the following data related to those identification techniques shall be collected:
 - (1) The date, time, and location of the show-up;
 - (2) The gender, age, and race of the subject and eyewitness in the show-up, as determined by the law enforcement officer's perception or the subject's identification or retrieved from a database accessible by law enforcement;
 - (3) The alleged crime; and
 - (4) The outcome of the show-up.