

	<p>GLASTONBURY POLICE DEPARTMENT GENERAL ORDER</p>	<p>NUMBER 42-11</p>
<p>CHAPTER 42</p>		
<p>TITLE: EYEWITNESS IDENTIFICATION</p>		
<p>EFFECTIVE: 03/12/2022</p>	<p>ISSUED: MSP</p>	<p>REVIEW: ANNUAL</p>
<p>RECINDS: GO Dated 05/01/2013</p>		

The purpose of this general order is to establish policies and procedures for eyewitness identification in accordance with Connecticut Public Act 12-111.

It is the policy of the Glastonbury Police Department to ensure proper identification procedures are followed to minimize any chance of misidentification. Officers conducting identification procedures will ensure audio and/or video recording is employed in accordance with department policy, POST policy, and law. Identification procedures are only one component of a comprehensive investigation which will include other factors substantiating probable cause to believe the identified subject was in fact the perpetrator before an arrest will be made. In evaluating the dependability of an eyewitness identification officers should consider 1) the witness' opportunity to view the criminal during the crime; 2) the length of time between the crime and subsequent identification; 3) the level of certainty demonstrated by the witness at the identification; 4) the accuracy of the witness' prior description of the suspect; and 5) the witness' degree of attention during the crime.

Definitions

Eyewitness: means a person who observes another person at or near the scene of an offense.

Photo lineup: means a procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator.

Live lineup: means a procedure in which a group of persons, including the person suspected as the perpetrator of an offense and other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator.

Showup: means a procedure in which a single person suspected as a perpetrator of an offense and maybe others are presented one at a time, to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator. Showup is also known as a Field Identification and/or One on One Identification.

Showups typically occur shortly after the commission of a crime and/or when a suspect is apprehended at or near the crime.

Field View: means a procedure wherein the eyewitness views a group of people in a public place on the theory that the suspect may be among the group. A field view differs from a showup in that it may be conducted well after the commission of the crime and may be conducted with or without a suspect in the group.

Identification Procedure: means a photo lineup, a live lineup, a showup, or field view.

Filler: means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

Sequential Photo Line-up or Live Line-up: means whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time.

Double Blind Procedure: means that the identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense.

Blind Administration (*other than Folder Shuffle, below*): means the conduct of an identification procedure in which the administrator of the procedure is unaware of which photograph the witness is viewing during the procedure. This procedure is intended to ensure that the eyewitness does not interpret a gesture or facial expression by the officer (administrator) as an indication as to the identity of the suspect.

Folder Shuffle Method: means that when the conduct of the Double Blind Procedure is not practicable, the photo lineup shall be conducted by inserting each of the required photographs into separate, unmarked folders, shuffling them and allowing the eyewitness to remove the photographs, one at a time to view them. A computer program in which a software program is used to administer any lineup, wholly or in part, shall comport to the procedures contained within this policy. If the eyewitness is able to make an identification of a photograph that person should sign and date the identified photograph.

Lap: means a single completed cycle to view all the photos in a photo lineup or all persons participating in a live lineup.

Confidence Statement: means a statement from the victim/witness, in his or her own words, on how certain they are of the identification which is taken immediately after identification is made. The Confidence Statement should be recorded in writing and signed by the victim/witness or otherwise memorialized.

Photographic Lineup Construction

1. The suspect and filler photographs should resemble the witness's description in significant features such as race, sex, facial features, profile, height, weight, build, specific item of clothing, etc. to the extent applicable to the photo being used of the suspect.

2. If multiple photographs of the suspect are available, lineup administrators should select the photograph that most resembles the suspect description or appearance at the time of the incident.
3. Attention should be paid to unusual identifying marks described by the witness that are visible on the suspect's photo. In these cases, photos containing a similar feature should be included when possible or the area of the feature may be covered on all photographs to be included.
4. All photos should be of the same size and no single photo should unduly stand out from the others.
5. If the eyewitness has previously viewed a photo lineup or live lineup with the suspect's photo or with the suspect in it, steps must be taken to ensure that the suspect does not stand out in the new lineup.
6. A minimum of five fillers must be used in photo lineups.
7. In a photo lineup, no information concerning any previous arrest of the suspect shall be visible to the eyewitness.
8. If multiple suspects are involved, a separate photo lineup must be prepared for each suspect to be presented to the witness.
9. In cases where one witness will view multiple lineups containing different suspects, the person administering the lineup will ensure that different filler photographs are used in each individual photo lineup.
10. In cases where multiple witnesses will be viewing photo lineups, separate photo lineups should be prepared for each witness. The person administering the lineup may use the same filler photographs for each witness. When possible, the suspect should be placed in a different position.
11. In the case of multiple witnesses, every effort should be made to prevent communication between witnesses once one witness has viewed a photographic lineup.
12. The administrator shall record the order in which the folders were presented.
13. Should the witness request a second "lap," or completed viewing cycle of the photo lineup, the lineup will be presented in the same ordered sequence as the initial lap.

Live Lineup Construction:

1. A suspect cannot be compelled to participate in a line-up without probable cause to arrest. If the suspect refuses to participate in a lineup, the officer should contact their State's Attorney Office.
2. Before a suspect participates in a lineup, they must be informed of the right to have an attorney present at the lineup and of the right to be provided with an attorney without cost, if they are unable to afford such legal counsel. Unless a knowing and voluntary waiver is made, in writing if possible, no procedure may proceed without an attorney present.
3. Four fillers should be selected who fit the description of the suspect as provided by the eyewitness(s).
4. All persons in the lineup should carry cards that identify them by number only, and they should be referred to only by that number.
5. The lineup should be conducted so that the suspect and fillers are not viewed by the eyewitness as a group, but rather are displayed to the eyewitness one at a time.
6. During a lineup, each participant may be directed to wear certain clothing, to put on or take off certain clothing, to take certain positions, or to walk, talk, or move in a certain way. All lineup participants shall be asked to perform the same actions.

Showing of Photographic Lineups and Live Lineups:

1. The administrator of the lineup shall carefully instruct the eyewitness by reading from the GPD Witness Instructions Identification Procedures form. The eyewitness should be asked to sign the form indicating that they understand the instructions, and the administrator should sign and date the form.
2. Whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating in a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time.
3. The identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense, i.e. double blind procedure, except that if it is not practicable to conduct a photo lineup in such a manner, the photo lineup shall be conducted by the use of a folder shuffle method, computer program, or other comparable method so that the person conducting the procedure does not know which photograph the eyewitness is viewing during the procedure.
4. If the eyewitness makes an identification of a suspect, a statement must be taken as to the certainty of that identification. An Identification Procedure Record and Form shall be completed by the Police Officer(s) conducting the identification procedure upon conclusion of the procedure

Lineup Eyewitness Instructions:

Prior to the identification procedure, a GPD Witness Instructions Identification Procedures form shall be completed and the eyewitness shall be instructed:

1. That the eyewitness will be asked to view an array of photographs or a group of persons, and that each photograph or person will be presented one at a time.
2. That it is just as important to exclude innocent persons as it is to identify the perpetrator.
3. That the persons in a photo lineup or live lineup may not look exactly as they did on the date of the offense because features like facial or head hair change.
4. That the perpetrator may or may not be among the persons in the photo lineup or live lineup;
5. That the eyewitness should not feel compelled to make an identification.
6. That the eyewitness should take as much time as needed in making a decision.
7. That the police will continue to investigate the offense regardless of whether the eyewitness makes an identification.
8. Prior to the identification procedure, the eyewitness should be instructed that, after the identification procedure, they will be asked how certain they were that the perpetrator was or was not in the lineup.
9. That even if the eyewitness is able to make an identification, they will be asked to finish the procedure by looking at all the photographs or all of the individuals until they have completed looking at each one;
10. If there are other witnesses, the eyewitness must not indicate to them that they have or have not made an identification of a suspect;
11. The officer administering this procedure either does not know whether any of the people in the photographic array or in the lineup were involved in the crime or does not know the sequence in which the eyewitness is viewing the photographs;

12. If the eyewitness selects a person or photograph they will be asked to provide a statement about the identification. If the eyewitness doesn't recognize someone, they must say so;
13. If the eyewitness does not select someone, the police will continue to investigate;

Officer's Instructions during Line-ups:

While conducting the photo or live lineup, nothing shall be said to the eyewitness about the suspect or their location in the lineup.

1. Nothing shall be said to the eyewitness that might influence the eyewitness's selection of the person suspected as the perpetrator.
2. In a live lineup, any identification actions, such as speaking or making gestures or other movements, shall be performed by all lineup participants.
3. In a live lineup, all lineup participants shall be out of view of the eyewitness at the beginning of the identification procedure.
4. Only one suspect may be present in a single lineup.
5. If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person.
6. An Identification Procedure Record and Form shall be completed by the Police Officer(s) conducting the identification procedure upon conclusion of the procedure.

Conducting and Administering of Showups:

1. Showup identification procedures are employed soon after a crime has been committed, when a suspect is detained at or near the crime, or under exigent circumstances such as the near death of the eyewitness or victim.
2. Every showup must be as fair and non-suggestive as possible. If the suspect is handcuffed, they should be positioned so that the handcuffs are not visible to the eyewitness. Unless necessary for the safety of the officers or others, the suspect should not be viewed when they are inside a police cruiser, in a cell, or in jail clothing.
3. Detaining a person who fits the description of a suspect in order to arrange a showup is lawful when the officer has reasonable suspicion that a suspect has committed a crime.
4. If the eyewitness fails to make a positive identification and sufficient other evidence is not developed to establish probable cause to arrest, the suspect must be permitted to leave.
5. When a suspect is stopped under showup circumstances, he or she should be detained at the scene of the stop and the witness(es) transported to that location to view the suspect.
6. Suspects should not be transported back to the scene of the crime if avoidable or to any other location barring exigent circumstances such as an unruly crowd. They should never be transported to a police station absent probable cause to arrest.
7. Officers must not say nor do anything that would convey to the eyewitness that they have evidence of the suspect's guilt.
8. A suspect should be viewed by one eyewitness at a time out of the presence and hearing of other eyewitnesses. Witnesses who have viewed a suspect should not be permitted to communicate with those who have not.

9. If an eyewitness makes an identification, a statement should be obtained from the eyewitness including the level of certainty of that identification.
10. When a showup is arranged in an emergency situation, where either an eyewitness or a victim is in imminent danger of death or in critical condition in a hospital, and the circumstances are such that an immediate confrontation is imperative, the emergency identification procedure shall be conducted in a non-suggestive manner.

Conducting Field Views:

Employing a procedure known as Field View may be appropriate depending on the facts of an individual investigation. The eyewitness may be accompanied to a public location where the suspect may or may not be present and is then permitted to view a group of people in an effort to identify a suspect. The officer or investigator may not direct the eyewitness's attention to any particular person, make any suggestions to the eyewitness or otherwise attempt to influence the witnesses' ability to observe the group.

Documentation:

1. Identification information on all persons whose photograph was included in the lineup, and the sources of all photographs used, shall be documented by the officer or photo technician preparing the lineup. This information will include the identity, location, and source of the photographs used.
2. If a live lineup is used, identification information on all persons who participated in the lineup shall be documented.
3. A statement signed by the eyewitness including the eyewitness's own words regarding how certain they are, i.e., a confidence or certainty statement, must be taken for all positive identifications.
4. The identification procedure utilized, the names of all persons present at the identification procedure, along with the results and reasons for conducting the identification should be documented in the case report.
5. A GPD Witness Instructions Identification Procedures form shall be completed before any identification procedure is conducted.
6. A GPD Identification Procedure Record and Form shall be completed at the conclusion of any identification procedure.
7. The photographs themselves shall be forwarded to Glastonbury Police Records as an original document. If an arrest is to be made, a copy of the lineup will be produced to accompany the case to court.

Procedures and Best Practices:

1. Administration of Double Blind Photographic Lineups:
 - a. No information regarding the identification of the suspect will be revealed to the person administering the lineup.
 - b. The lineup administrator will conduct the lineup following the Sequential protocol, numbering each photo with the order in which it was presented to the witness.
 - c. The assigned investigator or anyone with knowledge of the suspect should not be allowed in the room at the time of the lineup administration.
 - d. The lineup administrator should give instructions to the witness by verbally reading the Witness Instruction Form to the witness and determine if they understand. The witness will then be asked to sign and date the form.

- e. The lineup administrator will avoid any actions or comments that could be construed as an attempt to influence a witness to select a particular photo or to validate, invalidate or reinforce a selection that has been made by a witness.
- f. If the witness identifies someone, the lineup administrator will then ask the witness to describe in their own words how confident they are of the identification.
- g. Even if someone is identified, all of the photographs in the series will be shown.
- h. The lineup administrator shall not provide any feedback about the lineup results to the witness.
- i. Once the sequential lineup process is complete, the lineup administrator should generate a report with the results of the sequential lineup, initial the back of each photograph for lineup verification in court and preserve the photo lineup as evidence. The original photographs should be secured as any other evidence with the originals being maintained as evidence and one complete copy placed into the case file.
- j. The administrator should not offer nor suggest that the eyewitness engage in another "lap," or viewing of the photographs. If the eyewitness should request a second lap of the photographs, one additional lap is permissible but in any event should not exceed two laps. If a witness requests a second lap, the entire series of photographs must be viewed by the witness in the same order in which they were shown originally. The witness must not be permitted to view just one photograph of the selection even if he or she requests to see just one photograph.

2. Blind Folder Shuffle Procedure

When implementing the Double Blind Photographic procedure is not practicable due to lack of manpower resources, limited number of officers on duty, a major crime where many officers are aware of the identity of the suspect or any other such circumstance, a Blind Folder Shuffle must be used.

The photograph of the suspect and the five or more fillers are each placed into separate, unmarked folders, and shuffled by the administrator, who will number each folder according to the sequence in which they were shown to the witness.

The eyewitness should be instructed to remove each photograph one at a time and view the single photograph. At no time should the lineup administrator be able to determine which particular photograph is being viewed by the witness at a particular time.

If the blind method is not practicable, the administrator must be in a position so as not to be able to give cues, consciously or subconsciously, to the eyewitness such as by standing somewhere behind the eyewitness. When the eyewitness concludes viewing a particular photograph, it should be placed back in the folder and returned to the administrator before viewing the next one.

Even if the eyewitness identifies a suspect part way through the entire series, they should be instructed to continue viewing the remaining photographs. If the eyewitness requests a second lap, the folders should be shown to the witness in the same manner and in the same sequence as the first lap.