

## EYEWITNESS IDENTIFICATION

### LINE-UPS AND SHOW-UPS

1. **PURPOSE:** To establish uniform guidelines for conducting Photographic Line-ups and Show-ups to aid in the detection and apprehension of the guilty, to maximize the reliability of witness identifications, to minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms to established legal procedure.
2. **POLICY:** To utilize Photographic Line-ups and Show-ups when appropriate to assist with the identification of person(s) suspected to be involved in the commission of a crime.
3. **SCOPE:** This directive is applicable to all sworn personnel.
4. **RESPONSIBILITY:** All sworn personnel are responsible for complying with this directive.

5. **DEFINITIONS:**

**A. Photo Lineup:** An identification procedure, in which an array of photographs, including a photograph of the suspect of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as an offender.

**B. Show-up:** An identification procedure in which an eyewitness is presented with a single suspect within a short time following the commission of a crime for the purpose of determining whether the eyewitness identifies this individual as the offender.

**C. Filler:** Either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

**D. Blind Administrator:** A third person to administer the lineup without the benefit of knowledge of the identity of the possible suspect or fillers in the lineup.

**E. Physical Lineup:** A physical, or live lineup is an identification procedure in which a suspect is placed in a live group setting which is shown to a witness.

6. **PROCEDURES:**

**A. AVOIDING OFFICER AND WITNESS "SUGGESTION":** Officers must not, by word or gesture, suggest opinions to any witness concerning the guilt or innocence of a suspect in any identification procedure. This is best accomplished using a Blind Administrator, when practical. Witnesses making inquiries about an officer's opinion shall be informed of this restriction. A witness who has taken part in an identification procedure must not be permitted to state conclusions within earshot of another person who is about to be, or has been, a viewer of the identification procedure.

**B. MULTIPLE WITNESSES / SUSPECTS:** Each witness is to view any identification procedure separately. Witnesses shall not be permitted to communicate with each other until all identification procedures are completed, and should be instructed not to discuss their identifications with anyone else.

since this could jeopardize “new” witness identifications. When there are multiple suspects, each identification procedure shall include only one suspect.

**C. VIDEO AND/OR AUDIO RECORDING & DOCUMENTATION:** Whenever practical, Investigators are encouraged to video and/or audio record any witness identification procedure from start to finish. Video and audio recordings may be stored on appropriate media based on the size of the video or audio file. All information regarding any identification procedure shall be documented in the Investigator’s written report, to include:

1. All identification and non-identification results.
2. Confidence or certainty statements made by the witness (these should be quoted).
3. Names of all persons present.
4. Date, time, and location.
5. Names of all persons and/or photos used, and source of the photos.
6. Any significant remarks made by an investigator, lawyer, or suspect.

**D. WHEN IDENTIFICATION PROCEDURES MAY BE UNNECESSARY**

The use of an identification procedure may be unnecessary under the following conditions:

1. When the witness knows the identity of the suspect before the offense occurred or learned the suspect’s identity without police assistance after the offense. A single photograph of the suspect named by the witness may be shown to the witness for confirmation that the person named is the offender, or a photo lineup can be performed to establish additional probable cause.
2. When the witness would be unable to recognize the suspect of the offense, such as when a suspect’s face is completely covered during the commission of a crime.

**E. SIMULTANEOUS PHOTO LINEUP:** The simultaneous photo lineup consists of showing a group of similar photos to a witness all at the same time. Witnesses should be advised the offender may or may not be present in the photo lineup. All simultaneous photo lineups shall be done using the following guidelines:

1. A minimum grouping of six (6) photos must be used to create the photo lineup, and must include five (5) filler photos with one (1) suspect.
2. The photo of the suspect must be contemporary, shall resemble as much as possible their appearance at the time of the offense, and shall reasonably resemble the witness’s description of the offender.
3. Although filler photos need not be exact matches, all filler photos should resemble the suspect photo as much as possible, including height, weight, age, race and skin tone, facial features, hair color and length, scars, tattoo, eyeglasses, etc.
4. If there is more than one suspect, each suspect photo will be placed in a grouping of six, separately from any other suspect, and the grouping will be changed so that the suspect’s photos are not always in the same position in the grouping.
5. If there is more than one witness each witness will be shown the lineup separately, the suspect photo shall be placed in a different position in the grouping for each witness, and witnesses will not be permitted to communicate with each other until after the lineup procedure has been completed.
6. If the witness has previously viewed a photo lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup shall be different from the fillers used in any prior lineups.

7. If identification is made, the witness will be told to write their initials and the date/time next to it.
8. If identification is made, the Investigator shall assess witness confidence immediately following the identification, and clearly document witness confidence by quoting the witnesses remarks in the police report. If no identification is made, this fact must also be clearly documented.
9. Any and all photo lineups created, viewed, identified or not identified must be kept, and secured with the investigator's case file.
10. No person has a right to have a lawyer present at any photo lineup, whether it takes place before or after an arrest.

**F. SEQUENTIAL PHOTO LINEUP:** The sequential photo lineup consists of showing a group of similar photos individually to a witness. Prior to presenting the photo lineup, the witness should be read the instructions outlined on the Eyewitness Identification Form which advises the offender may or may not be present in the photo lineup. Once the form has been read to the witness, they should be asked, "do you understand these instructions?" and their response documented on the appropriate line. Once their response is documented, the witness should sign their legal government name on the bottom of the form prior to being presented with the sequential photo lineup. All sequential photo lineups shall be done using the following guidelines:

1. A minimum grouping of six (6) individual photos must be used to create the photo lineup, and must include five (5) filler photos with one (1) suspect.
2. The photo of the suspect must be contemporary, shall resemble as much as possible their appearance at the time of the offense, and shall reasonably resemble the witness's description of the offender.
3. All filler photos should resemble the suspect photo as much as possible, including height, weight, age, race and skin tone, facial features, hair color and length, scars, tattoo, eyeglasses, etc.
4. Each photo will be placed in a separate folder, the folders will then be shuffled, and then each folder will be numbered, from one (1) to six (6).
5. If there is more than one suspect, each suspect photo will be placed in the grouping of six folders separately from any other suspect, and the grouping will be changed so that the suspect's photos are not always in the same numbered folder in the grouping.
6. If there is more than one witness each witness will be shown the lineup separately, the suspect photo shall be placed in a different numbered folder in the grouping for each witness, and witnesses will not be permitted to communicate with each other until after the lineup procedure has been completed.
7. If the witness has previously viewed a photo lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup shall be different from the fillers used in any prior lineups.
8. After explaining the procedure to the witness, the investigator will give the witness one folder at a time, starting with number one, and give the witness sufficient time to look at each photo. When done viewing each folder, it should be handed back to the investigator before viewing the next one.
9. If an identification is made, the investigator shall assess witness confidence immediately following the identification, and clearly document witness confidence by quoting the witnesses remarks in the police report. If no identification is made, this fact must also be clearly documented.

10. Any and all photo lineups created, viewed, identified or not identified must be kept, and secured with the investigator's case file.

11. No person has a right to have a lawyer present at any photo lineup whether it takes place before or after an arrest.

**G. METHOD UTILIZED:** Investigators may utilize either method of Photographic Lineup during the identification process.

## **H. SHOW-UP:**

### 1. WHEN SHOW-UPS ARE PERMISSIBLE

a. An officer may arrange a "show-up" between a witness and a suspect whenever a potential suspect is located and detained within a reasonable length of time, in proximity to the location of the crime, and fits the specific description of the offender given by the witness.

b. If an officer has reasonable suspicion to detain a suspect under the above circumstances, the officer may use such force as is reasonably necessary to stop the suspect from leaving, or to cause the suspect to remain in the officers' presence. If probable cause to arrest develops during the detention, an arrest should be made.

2. **CONDUCTING THE SHOW-UP:** A suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the suspect is the offender. When conducting a show-up, officers will use the following guidelines:

a. Description: Officers at the scene and in contact with the witness will obtain a detailed description of the offender before the suspect is shown to the witness. The witness must advise the officers that they will be able to recognize the person who committed the crime prior to the show-up.

b. Location: A suspect should not be taken to the police station for a show-up. The suspect should be detained at the place he/she was located, in the least restrictive manner possible that will ensure the suspect remains with the officer. The witness should be transported to the suspect's location for the show-up, and reasonable care should be used to shield the witness from being seen by the suspect. This may not be possible in all circumstances. Suspects will not be transported to the witness's location unless exigent circumstances exist.

c. Minimize Suggestiveness: If possible, do not show the suspect handcuffed, or in the back seat of a patrol car. If the suspect is handcuffed, take measures to conceal this fact from the witness when possible. Suspects may not be required to put on clothing worn by the offender. However, they may be asked but not required to speak words uttered by the offender, or perform other actions of the offender. The witness will be advised that the person detained may or may not be the offender and the witness should not feel compelled to make an identification. If the witness makes identification, do not confirm or corroborate the identification.

d. Multiple Witnesses: Show-ups should not be conducted with more than one witness present at a time. If there is more than one witness, the show-up must be conducted separately for each witness, and witnesses should not be permitted to communicate before or after any show-up regarding the identification of the suspect. The same suspect should not be presented to the same witness more than once.

- e. Witness Confidence: Assess witness confidence immediately following the show-up identification. Make note of witness confidence remarks for report documentation.
- f. Multiple Suspects: If there are multiple suspects, the suspects must be separated and subjected to separate show-up procedures.
- g. Photographing Suspects: Consideration should be given to photographing the suspect(s) in the field as documentation.
- h. Emergency / Exigent Circumstances: In emergency circumstances, such as when a witness is in danger of imminent death or blindness, or when a suspect is in danger of imminent death, an immediate show-up may be arranged if medical authorities permit. In these situations, time and location limitations contained in the preceding guidelines can be disregarded. If there is any doubt about an emergency show-up, officers should contact a supervisor and/or the investigator immediately for guidance.
- i. Right to a Lawyer: No person has a right to have a lawyer present at any show-up procedure.
- j. Release After Show-up: If the detained suspect is not identified by a witness as the offender, and officers lack any other probable cause for an arrest, the suspect should be released after obtaining basic information. It is equally as important to clear innocent persons as it is to arrest guilty offenders.

**I. PHYSICAL LINEUP PROCEDURE:** The physical lineup consists of showing a group of similar live individuals to a witness. Instructions provided to the witness prior to presentation of a physical lineup will likely improve the accuracy and reliability of any identification obtained from the witness and can facilitate the elimination of innocent parties from the investigation. Prior to presenting a physical lineup, the investigator shall provide instructions to the witness to ensure the witness understands the purpose is to exonerate the innocent as well as to identify the actual perpetrator.

All physical lineups shall be done using the following guidelines:

1. A minimum grouping of six (6) individual must be used to create the physical lineup, and must include five (5) fillers with one (1) suspect.
2. All filler individuals should resemble the suspect as much as possible, including height, weight, age, race and skin tone, facial features, hair color and length, scars, tattoo, eyeglasses, etc.
3. If there is more than one suspect, each suspect will be placed in a grouping of six, separately from any other suspect, and the grouping will be changed so that the suspect's are not always in the same position in the grouping.
4. If there is more than one witness each witness will be shown the physical lineup separately, the suspect shall be placed in a different position in the physical line-up for each witness, and witnesses will not be permitted to communicate with each other until after the lineup procedure has been completed
5. Instruct the witness that he/she will be asked to view a group of people.
6. Instruct the witness that it is just as important to clear the innocent person from suspicion as to identify the guilty parties.
7. Instruct the witness that individuals in the physical lineup may not appear exactly as they

did on the date of the incident because features such as head and facial hair are subject to change.

8. Instruct the witness that the person who committed the crime may or may not be in the physical lineup being presented.
9. Assure the witness that regardless of whether or not identification is made, the Department will continue to investigate the incident.
10. Instruct the witness that the procedure requires the investigator to ask the witness to state in his/her own words how certain he/she is of any identification.
11. In cases with multiple witnesses or victims, the viewing of each physical lineup should be completed privately by each witness or victim to avoid cross contamination of identification or information.
12. If an identification is made, the investigator shall assess witness confidence immediately following the identification, and clearly document witness confidence by quoting the witnesses remarks in the police report. If no identification is made, this fact must also be clearly documented.
13. If audio or video recording is used during the physical line-up, the media used is to be treated as evidence and should be handled consistent with department policy and procedure.