P.O. 245 Eyewitness Identification of Suspects			
Effective From:	12/01/2025	Effective To:	Current

P.O. 245 – Eyewitness Identification of Suspects

1. PURPOSE
   i) It is the purpose of this policy to establish guidelines for eyewitness identification procedures involving show-ups, photo arrays, and line-ups. It is important that law enforcement officers employ procedures and appropriate investigative steps that are in accordance with due process and uncover evidence that supports or eliminates the suspect identification.
2. POLICY
   i) Officers should make every effort to adhere, unless compelling reasons exist, to the procedures for conducting eyewitness identifications set forth herein, in order to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols. This policy recognizes that the sequential and simultaneous approaches are both valid methods of conducting an identification procedure and does not recommend one over the other.
3. DEFINITIONS
   i) Show-up – The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate them as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.
   ii) Line-up – The process of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.
   iii) Photo Array – A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating a suspect.
   iv) Administrator – The law enforcement official conducting the identification procedure.
   v) Blind Presentation – The administrator conducting the identification procedure does not know the suspect's identity.
   vi) Blinded Presentation – The administrator may know the identity of the suspect, but does not know which line-up or photo array member is being viewed by the eyewitness at any given time.
   vii) Confidence Statement – A statement in the witness's own words taken immediately after identification is made stating their level of certainty in the identification.
   viii) Filler – A live person, or photograph of a person, who is not considered a suspect, but is included in an identification procedure.
   ix) Sequential – Presentation of a series of photographs or individuals to a witness one at a time.
   x) Simultaneous – Presentation of a series of photographs or individuals to a witness all at once.
4. PROCEDURES
   i) Show-ups
      a) The use of show-ups should be avoided whenever possible in preference to the use of a line-up or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness, the following guidelines should be followed whenever possible to minimize potential suggestiveness and increase reliability:
         1) Document the witness's description of the perpetrator prior to conducting the show-up.
         2) Conduct a show-up only when the suspect is detained within a reasonably

contemporaneous time frame after the commission of the offense and within a close physical proximity to the location of the crime.

3) Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
4) Transport the witness to the location of the suspect whenever possible, rather than bringing the suspect to the witness.
5) If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
6) Do not take a suspect to the witness's residence unless it is the scene of the crime.
7) Caution the witness that the person they are about to see may or may not be the perpetrator. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
8) Do not conduct the show-up with more than one witness present at a time.
9) Separate witnesses and do not allow communication between them before or after conducting a show-up.
10) If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
11) Do not present the same suspect to the same witness more than once.
12) Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions performed by the perpetrator.
13) Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
14) It is permissible to ask the witness to provide a confidence statement.
15) Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
16) Videotape the identification process using an in-car camera or other recording device where available.
17) Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

ii) Basic Procedures for Conducting a Line-up or Photo Array

a) The following guidelines should be followed when conducting a Line-up or Photo Array identification:

1) Whenever possible, a blind presentation should be utilized. In cases where a blind presentation is not feasible, a blinded presentation should be used.
2) The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
3) Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
4) Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
5) 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 on the fillers.
6) If there is more than one suspect, include only one in each line-up or photo array.
7) During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
8) Place suspects in different positions in each line-up or photo array. This should be done both when there is a common suspect in multiple cases and when there are multiple witnesses in the same case.

9) Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
10) The witness should be given a copy of the following or similar instructions prior to viewing the line-up or photo array, and the administrator shall read the instructions aloud before the identification procedure:
    (i) *You will be asked to look at a series of individuals.*
    (ii) *The perpetrator may or may not be present in the identification procedure.*
    (iii) *It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.*
    (iv) *I don't know whether the person being investigated is included in this series.*
    (v) *Individuals present in the series may not appear exactly as they did on the date of the incident because features such as head hair and facial hair are subject to change.*
    (vi) *You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.*
    (vii) *The individuals are not configured in any particular order.*
    (viii) (If presenting the line-up or photo array sequentially): *If you make an identification, I will continue to show you the remaining individuals or photos in the series.*
    (ix) *Regardless of whether you make an identification, we will continue to investigate the incident.*
    (x) *Since this is an ongoing investigation, you should not discuss the identification procedures or results.*
11) The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
12) Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once unless a more recent photo is subsequently obtained in good faith.
13) Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
14) Following identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
15) The administrator shall ask the witness to complete and sign a line-up or photo array form.
16) Line-up and photo array procedures should be video and audio recorded, unless doing so is not feasible.
17) Officers shall utilize the Photo Line-Up Form to provide instructions, document the witness's response, and the witness's signature verifying the information on the form. A copy of the form and all photos shown to the witness should be included with the case file, and the original shall be secured as evidence.

iii) Photographic Arrays
  a) Creating a Photo Array
    1) Use contemporary photos if possible.
    2) Do not mix color and black-and-white photos.
    3) Use photos of the same size and basic composition.
    4) Never mix mug shots with other photos.
    5) Do not include more than one photo of the same suspect.
    6) Cover any portions of mug shots or other photos that provide identifying information on the subject – and similarly cover other photos used in the array.
  b) Conducting the Photo Array

1) For both sequential and simultaneous procedures, the photo array should be preserved, together with full information about the identification process as part of the case file.
2) The following are additional considerations that apply solely to sequential photo arrays:
    (i) If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures:
        (1) Place the suspect and at least five filler photos in separate folders. Include two additional folders, each containing a blank sheet of paper, for a total of eight (or more depending on the number of fillers used).
        (2) The administrator will take one folder containing known fillers and place it to the side. This will be the first photo in the series. The administrator should separately set aside the two blank folders, which will be added to the end of the sequence. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo and precede the two blank folders. The stack of photos is now ready to be shown to the witness.
        (3) The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
    (ii) The witness should be asked if he or she recognized the person in the photo before moving on to the next photo. If an identification is made before all the photos are shown, the administrator should tell the witness that they must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
    (iii) If possible, the array should be shown to the witness only once. If, upon viewing the entire array, the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

iv) Line-ups
    a) Conducting the Line-up
        1) If a blind administrator is unavailable, the administrator shall take all reasonable precautions to avoid giving any unintentional cues to the witness.
        2) Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.
    b) The primary investigating officer is responsible for the following:
        1) Scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and any witnesses.
        2) Ensuring compliance with any legal requirements for transfer of the subject to the line-up location if he or she is incarcerated at a detention center.
        3) Making arrangements to have persons act as fillers.
        4) Ensuring that the subject's right to counsel is scrupulously honored and that they are provided with counsel if requested.
        5) Obtaining proper documentation of any waiver of the suspect's right to counsel.
        6) Allowing counsel representing the suspect sufficient time to confer with their client prior to the line-up and to observe the manner in which the line-up is conducted.

v) Administering a line-up to a witness who is illiterate or has limited English language proficiency.
    a) If a line-up is administered to an illiterate person or a person who lacks proficiency with the English language, the following procedures should be implemented:
        1) Another person proficient in the English language should be allowed to assist the witness in understanding what has been explained to them and, to be certain that the witness's confidence statement is accurately recorded.
        2) The translator or other person assisting the witness should be unaware of the identity of the suspect or suspects.
        3) A report should be made detailing the procedure used to administer the line-up to the illiterate or non-English-speaking witnesses.