



GENERAL ORDER

Loudoun County Sheriff's Office

Chapter: Operations

Section: 411.2

Subject: Investigations

Topic: Suspect Photo Lineup and Show Up Procedure

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Reaffirmed:

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I. PURPOSE

The purpose of this policy is to establish procedures for the preparation and presentation of suspect photographic lineups and show-ups.

II. POLICY

The Loudoun County Sheriff's Office attaches the highest priority to the protection of the citizens of the County. Recognizing that innocent persons may occasionally be caught up in the criminal investigative process and be wrongly implicated in criminal matters, the clearing of innocent persons is equally important as arresting the guilty.

An identification obtained through a lineup or show-up should minimize the risk of misidentification and have stronger evidentiary value than one obtained without these procedures. Specifically, use of these procedures should maximize the reliability of identifications, reduce unjust accusations of innocent persons and establish evidence that is reliable and conforms to established legal procedure.

Periodic training, in accordance with DCJS standards, shall be given on this topic.

III. TERMINOLOGY

- A. **Photographic Line-up:** An identification procedure, in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness either in hard copy form or via computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.
- B. **Sequential Lineup:** A sequential lineup is a particular method of conducting a suspect lineup in which photographs are presented to the witness one at a time, rather than in any sort of grouping. An independent decision on each photo needs to be made before moving on to the next photo.
- C. **Blind Sequential Lineup:** A Blind Sequential Lineup is a particular method of conducting a suspect lineup in which the photographs are presented to the witness one at a time by a presenter who does not know the identity of the suspect.

- D. Show-up: An identification procedure in which an eyewitness is presented with a single suspect for the purpose of determining whether the eyewitness identifies this individual as the perpetrator.

IV. PROCEDURE

A. General Responsibilities

1. Sheriff's Office personnel shall strictly adhere to established procedures for conducting suspect photo and sequential suspect lineups in order to avoid the possibility of error or of undue suggestiveness to witnesses.
2. Sheriff's Office personnel shall report to their appropriate supervisor any known errors, flaws or non-conformance with established procedures in the conduct of a suspect lineup that they may observe or become aware of in order that corrective actions may be taken and safeguards established to protect the innocent.
3. Lineups that are comprised of a live suspect and live fillers (non-suspects) are currently not used by the Loudoun County Sheriff's Office. While these types of lineups are an acceptable practice in other agencies, the Sheriff's Office does not have the necessary facilities or equipment to hold them. These types of lineups should not be confused with on-scene show-ups, which are acceptable.
4. Juvenile lineups are generally not conducted by the Loudoun County Sheriff's Office due to difficulty in retrieving and utilizing juvenile non-suspect photographs as well as the exacerbation of the reliability issue when juveniles are involved either as suspects or witnesses. Requests for a juvenile lineup must be accompanied by a supervisor approval and will only be composed and conducted in extreme circumstances.

B. Composing a Lineup

1. The lineup must be compiled in such a manner that the suspect does not unduly stand out, however complete uniformity of features is not required.
2. Mixing color and black and white photographs should be avoided. Photos should be either all black and white or all color.
3. Any portion of a mug shot or another photograph that provides identifying information should be covered. Ensure that no writings or information concerning previous arrest(s) are visible to the witness. If it is necessary to block-out or cover a notation, such as a name on one photo, then similar

- blockings or covering marks should be placed on all photos so that they will appear alike.
4. Photographs of the same size and basic composition should be used. Never include more than one photo of the same individual or suspect.
 5. Include only one suspect in each identification procedure.
 6. Select photographs of fillers (non-suspects) who generally fit the witnesses' description of the offender. When there is a limited or inadequate description of the offender provided by the witness, or when the description of the offender differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features.
 7. Select a photograph that resembles the suspect's description or appearance at the time of the incident, if multiple photos of the suspect are reasonably available to the investigator.
 8. Photographs should be reasonably current/contemporary.
 9. Include a minimum of five fillers (non-suspects) per identification procedure.
 10. Create a consistent appearance between the suspect and fillers so that the photograph depicts individuals who are reasonably similar in age, height, weight, and general appearance, and are of the same sex and race. Avoid using 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.
 11. Place the suspect's photograph in different positions within each lineup when conducting more than one lineup for a case with multiple witnesses or suspects.
 12. Avoid reusing fillers in lineups shown to the same witness when showing a new suspect.
 13. Once completed, review the total lineup to ensure that the suspect does not unduly stand out.
 14. Assign each photo/person a lineup identification number. Record the identification number on each photograph. Refer to that photo/person only by that number. Place each individual photo in an envelope marked with the same number as on the photo.
 15. Record the presentation order of each lineup and ensure that a complete written record of the proceeding is made and retained. In addition, the lineup or photographs themselves should be preserved in their original condition.

16. Ensure that not more than one witness views each lineup at a time and that they do not speak with one another during line up proceedings.

C. Conducting the Identification Procedure

1. It is the policy of the Loudoun County Sheriff's Office that only blind sequential photo lineups be utilized to identify suspects. The identification procedure should be conducted in a manner that promotes the accuracy, reliability, fairness and objectivity of the witness' identification. These steps are designed to ensure the accuracy of identification or non-identification decisions.
2. Assure that all law enforcement and/or prosecutorial personnel present and involved in the case are knowledgeable about the procedure so that they will not interfere or influence any witness during the process. Unnecessary personnel should be removed from the location where the process is being conducted.
3. When presenting the lineup, the person administering the lineup should use the approved standard instructions for witnesses prior to the lineup that the offender might or might not be among those in the photo array or live lineup, and therefore, the witness should not feel compelled to make identification.
4. Prior to the lineup, assure the witness that regardless of whether identification is made, the Sheriff's Office will continue to investigate the incident.
5. Instruct the witness that if the offender is seen in the lineup, he/she might not appear exactly the same as on the date of the incident because features such as clothing, head or facial hair can change. Additionally, photographs do not always depict the true complexion of a person, which may be lighter or darker than shown in the photo.

Be careful not to imply or lead the witness to believe that the suspect's appearance has actually changed in any way.

[Note: For example, saying to a witness that the suspect's appearance could be different, for example if he/she has gotten a tattoo, may imply to the witness that the police know the suspect got a tattoo. If there is uncertainty about a suspect's identity, this could lead the witness to pick out someone in the lineup with a tattoo simply for that reason.]

6. Provide the following additional viewing instructions to the witness:
 - a. Photographs/persons are in random order; and

- b. Take as much time as needed in making a decision about each photo/person.
 - c. The presenter does not know who the perpetrator is.
 7. Advise the witness that the procedure requires the investigator to have the witness state, in his/her own words, how certain he/she is of any identification.
 8. Avoid saying anything to the witness that may influence his or her selection.
 9. If identification is made, avoid reporting or confirming to the witness any information regarding the individual he/she has selected, until the entire process (including all required signatures and paperwork) has been completed.
 10. Instruct the witness not to discuss the identification procedure or its results with other witnesses involved in the case and discourage contact with the media as it may hinder the investigation.
 11. Blind Administrator: Should only be persons not familiar with the identity of the suspect so as to ensure impartiality and eliminate any possible bias. The Blind Administrator may also be referred to as a "Presenter."
- D. Recording Identification Results
 1. When conducting an identification procedure, the person administering the lineup shall preserve the outcome of the procedure by documenting any identification or non-identification results obtained from the witness. A complete and accurate record of the outcome of the identification procedure is crucial. This record can be a critical document in the investigation and any subsequent court proceedings.
 2. When documenting the identification procedure, the person administering the lineup should record both identification and non-identification results, including the witness's own words.
 3. Document in writing the photo lineup procedures, including identification information and sources of all photos used, names of all persons present at the lineup, and date and time of the identification procedure.
 4. Ensure that the results are signed and dated by the witness and the person administering the lineup.
 5. Ensure that no materials indicating previous identification results are visible to the witness.

6. Ensure that the witness does not write on or mark any materials that will be used in other identification procedures.

E. Show-ups

1. When circumstances require the prompt display of a single suspect to a witness or victim, a show-up may need to be conducted.
2. When conducting a suspect show-up the witness should be transported to the location of the detained suspect to limit the legal impact (time) of the suspect's detention. The location must be a neutral, non-law enforcement location.
3. Factors that shall be considered are;
 - a. The time and distance of the witness from the crime
 - b. The physical/mental condition of the witness
 - c. The ability of the witness to visually make identification from a vehicle
 - d. Any safety concerns related to taking the witness to the location of the suspect
4. Keep the witness in the car.
5. Caution the witness that the person that he/she is not compelled to make an identification and that the investigation will continue regardless of whether an identification is made or not.
6. The investigator will ask the witness to state, in his/her own words, how certain they are of the identification that they made.
7. Only one witness at a time should participate in the show-up procedure (independent of other witnesses).
8. Ask only if the witness can identify the person who committed the crime. Do not single out any one suspect.
9. Have back-up ready to make an arrest should a positive identification be made.
10. Document a statement of certainty for identifications and non-identifications, including the time and location of the procedure.

11. Once an arrest is made as a result of a show-up, additional witnesses should be shown only photo line-ups for identification and not participate in identifying the arrestee through a show-up.

12. Investigators should photograph a suspect at the time and place of the show-up to preserve a record of his/her appearance at the time of the show-up.