

# PROCEDURE MANUAL

## 07-21



MICHIGAN STATE POLICE

## Eyewitness Identification

**Purpose:** This manual provides guidance for eyewitness identification, including photographic and corporeal lineups, as well as conducting show-ups.

**Effective Date:** October 29, 2024

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## Definitions:

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**Administrator:** The person conducting the photo or live lineup.

**Blind Administrator:** The administrator does not know the identity of the suspect.

**Corporeal Lineup:** A procedure where the suspect or offender is presented in person before the eyewitness along with five fillers in a sequential order.

**Eyewitness:** A person who observes another person at or near the scene of the offense, or otherwise involved in the offense. Throughout this directive the eyewitness can be interchanged with witness/victim.

**Filler:** A person or a photograph of a person who is included in the lineup but is not suspected of the offense. The “fillers” are selected based on the similarity of height, weight, complexion, hair, age, as well as other unique physical features to the described offender.

**Photo Lineup:** A photographic collection including the suspected offender and five fillers presented to the eyewitness in a sequential order.

**Sequential Order:** The presentation of the offender and filler photographs and/or live persons one at a time. During a sequential presentation the administrator shall display only one photograph and/or live person at a time before the eyewitness. At no time will two or more photographs and/or live persons be presented to the eyewitness. The sequential order process ensures the eyewitnesses recollection of the person(s) they observed at the time of the offense, as opposed to the comparison of the offender and fillers.

**Show-up:** The process of presenting a single suspect to an eyewitness shortly after a crime has occurred, for the purpose of identification or elimination as the perpetrator.

**Simultaneous:** The presentation of the offender and filler photographs and/or live persons simultaneously. During a simultaneous presentation, the eyewitness can observe the offender and five fillers at the same time, allowing for direct comparison of subjects rather than relying solely on memory.

## Section 1: Lineup and Identification Procedures

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### 1.1 Selecting an Administrator

- a. As a best practice, the officer in charge (OIC) should attempt, whenever practical, to select a blind administrator to present the photo lineup or administer the corporeal lineup. If the OIC deviates from this practice the reason for the deviation should be documented in the report.
- b. The administrator shall not provide any feedback to the witness/victim during the lineup or identification.

### 1.2 Pre-Viewing Protocol

Prior to displaying any photographs or live subjects to the eyewitness, the administrator shall follow the following procedure:

- a. If available, provide the eyewitness the opportunity to review their original suspect/offender description as documented in the original report.
- b. Read the “pre-viewing statement to the witness” as written on the DD-016 and complete the DD-016.
- c. Multiple eyewitnesses shall be separated during the identification process, allowing only one to view the suspect(s)/ subject(s) at a time. Eyewitnesses should be prevented from speaking to each other during the process.
- d. When practical, the photo or corporeal lineup shall be video recorded. When video is not practical, the lineup shall be audio recorded. If video or audio recording is not performed, specific documentation should be made in the incident report as to why the lineup was completed without video or audio preservation of the outcome.

### 1.3 Administrator Procedures

When practical, presentation of the photo lineup or the administration of the corporeal lineup should be performed by a blind administrator. The administrator shall adhere to the following procedure:

- a. The photographs and live subjects shall be numerically identified for reference and identification purposes.
- b. Photographs or live subjects shall be presented to the eyewitness individually, without allowing the witness to observe more than one person or photograph at a time. The simultaneous procedure used in suspect identification in the past through the presentation of a “six pack” shall not be used. At no time, even upon witness/victim request, shall two photographs be presented for comparison simultaneously.
- c. Upon request, the witness/victim may review the photographs or live subjects on more than one occasion; however, the administrator shall ensure the witness/victim reviews all the photographs and live subjects with each examination in the same order as the first preview. The witness may not view selected photographs and/or live subjects without reviewing the entire selection of photographs and/or subjects, even if the witnesses/victims insist on reviewing only selected photos or subjects.

- d. If the witness/victim makes a suspect identification the witness shall indicate their selection by signing their name and recording the date on the selected photograph. Corporeal lineups shall be identified verbally by the witness/victim.

#### 1.4 Basic Procedures for Photo or Corporeal Lineups

- a. Lineups shall contain a minimum of six subjects, consisting of one suspect and five or more fillers.
- b. Fillers shall be similar in age, height, weight, and general appearance in accordance with the witness' description of the suspect.
- c. Suspects shall be placed in different positions in the lineup across cases, as well as when presented to different witnesses in the same case.
- d. If more than one suspect exists, multiple lineups shall be conducted with only one suspect present in each.
- e. Witnesses shall be advised of the following before each lineup:
  - i. The suspect may or may not be present in the lineup
  - ii. It is as important to clear an innocent person as it is to identify a guilty person
  - iii. Subjects present may not appear exactly as they did at the time of the incident
  - iv. There is no requirement or pressure to make an identification during the lineup
  - v. The lineup procedure should not be discussed with others while the investigation is ongoing.

#### 1.5 Preservation of Suspect Identification

The outcome of every lineup shall be preserved by documenting the identification or nonidentification by the witness/victim in the incident report, property entry, and master file.

- a. Incident Report Documentation
  - i. A heading of "Identification of Suspect" shall be included in the incident report, detailing the method and outcome of either identification or nonidentification.
  - ii. As a part of the lineup documentation, the OIC shall include an evaluation of the confidence expressed by the witness/victim in making an identification.
- b. Property Entry
  - i. Video and/or audio of the lineup procedures are considered evidence and shall be entered into property and documented in the report.
  - ii. Original photographs presented as lineups shall be entered into property and documented in the report.
  - iii. Property entries shall be maintained until any criminal charges have been adjudicated, the applicable appeal periods have been exhausted, and the prosecutor is consulted prior to destruction.
- c. Master File

- i. Additional documents obtained during this process, including a completed DD-016, shall be preserved in the master file.

## Section 2: Show-Ups

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### 2.1 Use of Show-Ups

The use of show-ups should be avoided, as they may be perceived as unnecessarily suggestive and could impact later identifications. A live lineup or photo array procedure is the preferred method for witnesses to provide suspect identification. However, if circumstances require expedient identification or ruling out of the suspect through a show-up, the following guidelines shall be followed to minimize suggestiveness and enhance reliability.

- a. Show-ups may not be used where probable cause to arrest the suspect has already been established.
- b. Show-ups are only to be considered when a short time has passed since the commission of the crime being investigated, with the suspect in close proximity.
- c. Supervisory approval shall be obtained prior to conducting a show-up.
- d. Enforcement members shall obtain and document a thorough description of the suspect from each witness prior to conducting a show-up.
- e. Suggestive language or conduct shall be avoided before and during the show-up. No feedback shall be provided at any time on the witness results.
- f. Witnesses shall be transported to the suspect, not the suspect to the witnesses.
- g. Show-ups shall not be conducted with more than one witness or suspect at a time. If more than one suspect or witness is involved, each should be separated to eliminate communication before, during, or after the show-up.
- h. Members shall document the date and time the show-up was conducted in the incident report, along with the level of confidence displayed by the witness.

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**Review Responsibility:** Field Services Bureau; Special Investigation Division

**Accreditation Standards:** CALEA Standard 42.2.9, 42.2.10