

TRAINING



BULLETIN

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Alpha Index: Double Blind Sequential Photo
Line-ups

Evaluation Coordinator: CID Commander
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"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."

DOUBLE BLIND SEQUENTIAL PHOTOGRAPHIC LINE-UPS

The purpose of this order is to set forth Department policy and procedure regarding the conducting of photographic (photo) line-ups using the Double Blind Sequential Line-up (DBSL) method. In accordance with new legislation (PC 859.7) please review the following document to ensure compliance with the new law going into effect January 2020.

EYEWITNESS IDENTIFICATION PROTOCOL

The Oakland Police Department Model Protocol for Eyewitness Identification will be as follows.

Every effort shall be made to ensure the officer conducting a line-up does not know the identity of the suspect ("blind administration"). In some cases, this will simply not be possible because no appropriate officer is available. In these cases, the investigating officer shall document why it was not possible to follow "blind administration" protocol, and instead shall conduct the line-up using "blinded administration." In "blinded administration," although the officer administering the line-up knows which photograph depicts the suspect, the officer does not know which numeric position the suspect occupies in the line-up, achieved by using one of the following procedures:

- The folder shuffle method, which refers to a system for conducting a photo lineup by placing one photograph in each folder, shuffling the folders, numbering the folders, and then presenting the folders sequentially so that the administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed.
- Any other procedure that achieves neutral administration and prevents the lineup administrator from knowing where the suspect or his or her photo, as applicable, has been placed or positioned in the identification procedure.

Regardless of the method used, in all cases officers must ensure that they use extreme care not to communicate the identification of the suspect in any way or relay information about the suspect's previous arrest record. Officers shall not validate or invalidate a witness's identification in any way.



Sequential Double Blind Photographic Line-ups, Index I-T

Before conducting the lineup, officers should ensure the witness has provided a description of the suspect.

In all cases, show the witness the photos comprising the line-up *sequentially* not *simultaneously*.

Photo line-ups shall be presented to one witness at a time. Witnesses shall not be allowed to share information about the line-up, and they shall be isolated from one another when making identifications. Whenever a line-up is not presented to one witness at a time, or witnesses have inadvertently been allowed to share information or are not isolated from one another when making an identification, members shall document the reason why this occurred in the appropriate report or case notes.

Whenever possible, the line-up procedure shall be video recorded. In rare circumstances, it may be audio recorded for evidentiary purposes; however, members shall document the reason why the procedure was not video recorded.

In the event the interview rooms are unavailable for Audio/Video recording (e.g., broken equipment, power outage, occupied, etc.), the member conducting the line-up procedure is unfamiliar with the equipment, or the line-up is conducted at a location without Audio/Video recording capabilities, members may use a Department-issued Personal Digital Recording Device (PDRD) or other Audio/Video recording device to record the line-up procedure.

Members who have not been issued a PDRD or are unable to use their PDRD (broken, malfunctioning, full, etc.) shall document such in the appropriate report or case notes. Additionally, members shall take and document the following steps to obtain an Audio/Video recording device:

1. Check out a PDRD from the PAB patrol desk; or
2. Borrow a functional PDRD from an available member; or
3. Attempt to locate other Department Audio/Video recording devices.

In the event no PDRD or other Audio/Video device is available, the investigator shall minimally use an audio recording device. If a witness does not want to be video or audio recorded that fact shall be documented in the appropriate report or case notes.

NOTE: It is recommended that members conduct tests of the PDRD or other Audio/Video recording devices and view the recordings to assess the device's recording capabilities before attempting to use it in a real-world setting. This will assist in locating positions and distances that will capture as much video and audio of the line-up process



as possible regardless of where the line-up is conducted. Tests shall not be done with actual witnesses.

PROCEDURE

1. Assemble the suspect's photo and at least five fillers in the normal manner. The fillers used should generally fit the witness's description of the suspect. The photograph of the suspect should, if feasible, resemble his or her appearance at the time of the offense and not unduly stand out. If you have multiple suspects you will need to assemble a different group of photos using new fillers for each suspect. Arrange the six in random order. Numerically mark the back of each photo. Record this order on the Photo Line-up Waiver Statement Form (TF-3173).
2. Admonish the witness as follows:
 - a. You will be shown a series of individual photos.
 - b. The person who committed the crime may or may not be included.
 - c. Even if you identify someone during this procedure, I will continue to show you all of the photos in the series.
 - d. The investigation will continue whether or not you make an identification.
 - e. Keep in mind that things like hair styles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.
 - f. You should not feel you have to make an identification.
 - g. It is just as important to exclude innocent persons as it is to identify the perpetrator.
 - h. The photos will be shown to you one at a time.
 - i. Take as much time as you need to look at each one.
 - j. If wish to see a photo again you will be shown all of the photos again.
3. Conduct the sequential line-up as follows:
 - a. Confirm that the witness understands the nature of the sequential



Sequential Double Blind Photographic Line-ups, Index I-T

procedure.

- b. Present each photo to the witness separately, in a previously determined and random order.
 - c. After viewing the photo have the witness initial each photo.
 - d. Remove each photo before presenting the next one.
 - e. Record all results (positive, tentative and non-identification) in writing, including the witness' own words.
 - 1) In the case of a tentative or positive identification, ask the witness why he/she believes the photo selected is/may be the suspect.
 - a) Ask the witness about their level of confidence in the accuracy of their identification, or of the certainty of their selection. For example, 'extremely confident,' 'somewhat confident,' 'highly confident,' and 'not very confident.' Record in writing, verbatim, the witness's reply on the photo line-up waiver statement form.
 - b) Obtain a qualitative description (e.g., similar or same chin, eyes, etc.).
 - c) **Do not** obtain a quantitative identification (e.g., scale 1-10 or % value).
 - f. Ask the witness to sign and date the photo when a positive or tentative identification has been made. Ask the witness to also write the results of the positive or tentative identification on the photo. Examples:
 - This is the person who (hit, robbed, shot, etc.) me.
 - This is possibly the person who (hit, robbed, shot, etc.) me because she has similar eyes.
- If the witness refuses to write the results, or sign and/or date the photo, document this in the appropriate report or case notes.
- g. Document, in writing, the line-up procedure including:
 - 1) Identification information and source of all photos used; and
 - 2) Names of all persons present at the lineup; and



- 3) Date and time of the procedure. |
- h. If more than one witness is to view the same line-up, ensure the witnesses have been separated from one another during the line-up process to prevent them from communicating with one another.
- i. If more than one witness is to view the same line-up, ensure the order of the photos in the line-up sequence changes between each witness. **This step shall be documented.** This will prevent the possibility of witnesses telling each other which number was picked.
- j. Witnesses should be instructed to avoid discussing the details of the incident or the line-up with other witnesses.
- k. Have the witness fill in, initial, sign and date the Photo Line-up Waiver Statement Form (TF-3173), as appropriate.
4. Members who are not familiar with or who do not regularly conduct photo line-ups shall consult with experienced Criminal Investigations Division (CID) personnel to familiarize themselves with the process prior to conducting a line-up. |

DISPOSITION OF LINE-UP EVIDENCE

1. All Members

Members shall submit all Photo Line-up Waiver Statement Forms and the photographs used in the line-up to the Property & Evidence Unit (PEU), as specified in DGO H-3 (DEPOSITING PROPERTY AND EVIDENCE), as soon as practicable.

2. Members assigned to the Criminal Investigation Division (CID)

Members assigned to CID shall make copies of all Photo Line-up Waiver Statement Forms and photographs used in a line-up, prior to submitting the originals to PEU, and keep the copies in the investigative case file.

3. Members not assigned to CID

All members not assigned to CID shall make copies of all Photo Line-up Waiver Statement Forms and photographs used in a line-up prior to submitting the originals to PEU. Members shall write the RD# on all copies and include them in



Sequential Double Blind Photographic Line-ups, Index I-T

the appropriate case envelope. The case envelope shall be placed in the report receptacle at the PAB or EMM.