
**ADMINISTRATIVE DIRECTIVE – 111.010
EYEWITNESS IDENTIFICATION PROCEDURES**

EFFECTIVE DATE: January 12, 2009

REVISION DATE: August 28, 2018

REVIEW DATE:

AFFECTS: All Sworn Personnel

CALEA STANDARDS: 42.2.11; 42.2.12

I. PURPOSE

The purpose of this administrative directive is to establish guidelines for the use of photographic and live line-up identification and field identification procedures. This directive shall be reviewed not later than September 1 of each even-numbered year and modified as appropriate.

II. POLICY

Constitutional safeguards must be observed in the process of identifying the perpetrator(s) of a crime. Eyewitness identification is a frequently used investigative tool. As such, officers shall strictly adhere to the procedures set forth in this directive in order to maximize the reliability of identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms with established legal procedures.

Officers shall consider the totality of the circumstances when employing a specific identification procedure.

Factors to be considered include:

- The opportunity of the witness to view the perpetrator at the time of the crime;
- The witness's degree of attention;
- The accuracy of the witness's prior description of the perpetrator;
- The level of certainty demonstrated by the witness in the identification process; and
- The length of time between the crime and the confrontation or identification process.

III. DEFINITIONS

- A. Show-up – In a show-up, a single suspect is viewed by a victim or witness immediately following the commission of a crime (generally within one hour) for the purpose of identifying or eliminating the suspect as the perpetrator. This procedure normally takes place during the preliminary investigation by the Patrol Division.
- B. Double Blind Procedure – The person presenting the line-up to the witness does not know which or if any of the photos belongs to the suspect.

IV. PROCEDURES

A. Show-ups

Some courts have suppressed identification evidence based on the use of show-ups. Due to this fact, it is preferable to arrest a subject if probable cause exists and then utilize a photographic line-up. However, when circumstances require the use of show-ups, a supervisor shall be present and the following guidelines shall be followed. A show-up shall only be used when a suspect is detained within a reasonably short period of time following the offense and is found in relatively close proximity to the offense location. Patrol officers are to consult with Criminal Investigative Services Division detectives prior to utilizing a show-up if time permits (for all felony offenses). All show-ups must be captured on the motor vehicle digital recorder and/or the body worn camera (where practical). If the officer is unable to video or audio record the show-up the officer must articulate the reason in detail in the report.

1. Prior to conducting a show-up, the officer shall:

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- a. Determine and document, prior to the show-up, a description of the perpetrator. Show-ups shall not be conducted when the suspect is in a cell or dressed in jail clothing.
 - b. Officers may handcuff or keep the suspect handcuffed during the show-up if the officer is able to articulate the reason why it was necessary. This must be explained in detail in the officer's report.
 - c. Transport the witness to the location of the detained suspect to limit the legal impact of the suspect's detention. The person stopped is to be detained for only that reasonable amount of time necessary to complete the procedure.
 - d. When multiple witnesses are involved, separate the witnesses and instruct them to avoid discussing the details of the incident with one another. If a positive identification is obtained from one witness through a show-up, use a photo line-up for the remaining witnesses.
 - e. Caution the witness that the person he/she is looking at may or may not be the perpetrator.
 - f. The same suspect shall not be presented to the same witness more than once.
 - g. Show-up suspects shall not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator or to perform other actions of the perpetrator.
 - h. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator shall be scrupulously avoided.
 - i. Instruct the witness that a statement of certainty will be needed for both identifications and non-identifications.
2. When conducting a show-up, the officer shall:
- a. Document the show-up on the Show-up Viewing Form (FM603.030).
 - b. Read the instructions to the witness from the Show-up Viewing Form.
 - c. Document the time and location of the procedure.
 - d. Document the distance the person fitting the description is from the crime scene at the time he/she is stopped.
 - e. Record both identification and non-identification results in writing, including the witness's own words regarding how certain he/she is.
 - f. In the event the witness does not identify the person detained, the officer detaining the potential suspect should record the identity of the person detained on a Field Interview Card or other appropriate report.
 - g. The motor vehicle digital recorder and/or the body camera recordings shall be submitted into evidence.
- B. Use of In-Car Imaging
- The use of computerized images from driver's licenses or other sources may be useful in confirming the identity of a suspect personally known to the victim or witness prior to the commission of the crime. It shall not be used in place of a line-up or show-up because it does not have the safeguards against misidentification that are built into those procedures. To avoid undue influence, an image shall not be shown to the victim or witness when a subsequent line-up or show-up is likely.
- C. Photo Line-up

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A photo line-up is the structured presentation of six photographs containing a recent photograph of the suspect plus photographs of other persons of similar appearance to be shown to a victim or witness for the purpose of identifying or eliminating the suspect as the perpetrator. For logistical reasons, a photo line-up is the preferred method of conducting a line-up for suspect identification or elimination. Photo line-ups shall be presented double-blind so that the officer presenting the line-up to the witness does not know the suspect's photo. The officer or any other personnel that knows the suspect is not to be in the room during the line-up viewing. Preferably, photo line-ups will be conducted at a department Facility where it can be video/audio recorded. When circumstances prevent a witness from coming to a department Facility, or when the video equipment is out of service, an audio recording of the line-up proceeding will be made.

1. In composing a line-up, the officer shall:
 - a. Ensure that each photo is individually numbered.
 - b. Include only one suspect in each identification procedure.
 - c. Select fillers (non-suspects) who generally fit the witness's description of the perpetrator including age, height, weight, and overall general appearance. When there is a limited/inadequate description of the perpetrator provided by the witness, or when the description provided differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features.
 - d. Select a photo 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 officer.
 - e. Include a minimum of five fillers per identification procedure.
 - f. Consider that complete uniformity of features is not required. 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.
 - g. Avoid mixing color and black and white photos, use photos of the same size and basic composition, and never mix mug shots with other snapshots or include more than one photo of the same suspect, whenever possible.
 - h. Cover any portions of mug shots or other photographs that provide identifying information on the subject, and similarly cover those used in the line-up.
 - i. Show the line-up to only one witness at a time.
 - j. Never make suggestive statements that may influence the judgment or perception of the witness.
 - k. Preserve the line-up together with full information about the identification process, for future reference, including the presentation order of the photo line-up (if applicable). In addition, the photos themselves should be preserved in their original condition and placed into evidence with a photocopy included in the case file.
 - l. Consider placing suspects in a different position in each line-up, both across cases and with multiple witnesses in the same case. Position the suspect randomly in the line-up.
 - m. Avoid reusing fillers in line-ups shown to the same witness when showing a new suspect.
 - n. Ensure that no writings or information concerning the previous arrest(s) will be visible to the witness.

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- o. View the line-up, once completed, to ensure that the suspect does not unduly stand out
2. When presenting a photo line-up, the officer shall:
 - a. Provide viewing instructions as outlined within the department Line-up Viewing Form (FM603.029) and make sure each witness is instructed outside the presence of all other witnesses.
 - b. Confirm that the witness understands the nature of the line-up procedure.
 - c. Avoid saying anything or providing any verbal or non-verbal feedback to the witness that may influence the witness's selection.
 - d. Determine whether the witness has seen the suspect, either in person or in the media, at any time since the crime occurred.
 - e. Record any identification results and have the witness sign the photo, and the witness's statement of certainty
3. Document in writing the photo line-up procedures, including:
 - a. Identification information and/or sources of all photos used.
 - b. Names of all persons present at the photo line-up.
 - c. Date and time of the identification procedures.
 - d. 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.
4. When documenting an identification procedure, the officer shall:
 - a. Record both identification and non-identification results in writing, including the witness's own words regarding how sure he/she is.
 - b. Ensure that the results are signed and dated by the witness.
 - c. Ensure that no materials indicating previous identification results are visible to the witness.
 - d. Ensure that the witness does not write on or mark the materials that will be used in other identification procedures.

D. Live Line-ups

Live line-ups are generally impractical due to logistical reasons because they must be conducted at the county jail, may necessitate the presence of the suspect's attorney, and require the procurement of at least four persons (generally prisoners or police officers) similar in appearance to the suspect. Therefore, they are discouraged as a suspect identification technique. If a live line-up is necessary in a particular case, the procedure must be coordinated with the Prosecutor's Office.

E. Training

All sworn personnel will receive training regarding show-ups and line-ups during initial recruit training. Additionally, new detectives and new supervisors will receive training on show-ups and line-ups during orientation and will be documented in the New Sergeant Training Checklist (FM608.009) and the Detective Training Checklist (FM601.260). Retraining will be provided as necessary. All training and training materials shall be reviewed not later than December 31 of each odd-numbered year and modified as appropriate.

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F. Special Considerations

1. Illiterate Persons, Hearing or Speech Impaired Persons or Persons Who Possess Limited English Proficiency.

Given the diversity of communities, police officers may encounter persons who do not speak English or who possess limited English proficiency in the course of a criminal investigation. When presented with this situation, officers should carefully consider the ethical and legal ramifications of how to handle the case when there is a language barrier.

- a. Using an Interpreter

- b. Unless the officer speaks the victim's or witness's language fluently, an interpreter shall be used for persons who do not speak English. The interpreter shall sign the Witness Instruction Statement on obtaining consent of a non-English speaking person to assist in the eyewitness identification process. Law enforcement personnel should consider arranging for an interpreter if a person interviewed:

- (1) Is unable to communicate in English;
- (2) Has a limited understanding of English;
- (3) Is deaf, hearing impaired, or speaking impaired; or
- (4) Is otherwise physically challenged to communicate in English.

2. Review and Explain Forms

If the person is unable to read, the officer, in the presence of the witness, shall provide, read, and explain any forms, as well as obtain consent and acknowledge that consent on the Line-up Viewing Form and/or the Show-up Viewing Form.

