



PHOTOGRAPHIC LINEUPS & ONE-ON-ONE IDENTIFICATIONS

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I. POLICY

The department will investigate all reported crimes. Investigators/officers will use all legal investigative techniques available to them to identify the perpetrator(s) of a reported crime and to arrest those involved.

II. PURPOSE

The purpose of this policy is to provide guidelines on the preparation, use of, and storage of photographic lineups and one-on-one identifications. These procedures are to ensure that members of the department maintain consistency and to assure that when challenged in court, the lineup or one-on-one identification could not be construed as prejudicial to a defendant.

III. DEFINITIONS

A. Sequential Photographic Lineup

The supplying of six or more photographs, to a victim/witness, stacked on top of each other. The photograph of the suspect is secreted within this stack. This type of lineup can be shown to multiple victims and witnesses.

B. Simultaneous Photographic Lineup

1. Folder Form

The supplying of a folder with six or more photographs attached inside. This type of lineup is best used for only one victim or witness.

2. Sheet Form

This lineup is produced by a computer. Six photographs, one being the suspect, are printed on a single sheet of paper. The photographs of the five additional persons (fillers) are selected by the computer after certain facts are entered.

C. One-on-One Identification

An attempt to determine if a suspect is the perpetrator being sought, by means of having the victim(s)/witness (es) view the suspect in person without conducting a formal, multi-person lineup. **Note:** It is not necessary for the suspect to be able to see the victim/witness making the identification, but the victim/witness must be able to clearly see the suspect.

IV. COMMUNICATIONS PERSONNEL RESPONSIBILITIES

The information obtained from a witness is critical to the safety of those involved in an incident and may be important to the investigation. The manner in which facts are elicited from a caller can influence the accuracy of the information obtained.

- A. As the initial point of contact for the witness/victim, Communications personnel must obtain and disseminate, in a non-suggestive manner, complete and accurate information from the caller. This information can include the description/identity of the suspect.
- B. During a call for service, Communications personnel, after obtaining preliminary information and dispatching an officer, should:
 - 1. Assure the caller the police are on the way.
 - 2. When applicable, inquire about weapons.
 - 3. Ask open-ended questions (i.e., "What can you tell me about the car?"); augment with closed-ended questions (i.e., "What color was the car?")
 - 4. Avoid asking suggestive or leading questions (i.e., "Was the car red?")
 - 5. Ask if anything else should be known about the incident.
 - 6. Transmit information to the responding officer(s).
 - 7. Update the officer(s) as more information comes in.

V. PRELIMINARY INVESTIGATIONS

The preliminary investigation at the scene forms a sound basis for the accurate collection of information and evidence during the follow-up investigation.

- A. Preservation and documentation of the scene, including information from witnesses and physical evidence, are necessary for thorough preliminary investigation. The methods used by the preliminary investigating officer have a direct impact on the amount and accuracy of the information obtained throughout the investigation.
- B. After securing the scene and attending to any victims and injured persons, the preliminary investigating officer should:
 - 1. Identify the suspect(s).
 - a. Determine the location of the suspect(s).
 - b. Detain or arrest the suspect(s) if still present at the scene.
 - 2. Determine what crime or incident has occurred.
 - 3. Broadcast updated description of the incident, suspect(s) and/or vehicle(s), as applicable.
 - 4. Verify the identity of the witness(es).
 - 5. Separate witnesses and instruct them to avoid discussing details of the incident with other witnesses.
 - 6. Canvass the area for other witnesses.

VI. EYEWITNESSES

Information obtained from the witness(es) can corroborate other evidence (i.e., physical evidence, accounts provided by other witnesses) in the investigation. Therefore, it is important that this information be accurately documented in writing.

- A. The manner in which the preliminary investigating officer obtains information from a witness has a direct impact on the amount and accuracy of that information.
- B. When interviewing a witness, the preliminary investigating officer should:
 - 1. Inquire about the witness' condition.
 - 2. Establish a rapport with the witness.
 - 3. Use open-ended questions (i.e., "What can you tell me about the car?"); augment with closed-ended questions (i.e., "What color was the car?"). Avoid leading questions (i.e., "Was the car red?")
 - 4. Clarify the information received with the witness.
 - 5. Whenever possible, have the witness write a written statement.
 - 6. Document the information obtained from the witness, including the witness' identity, in a written report.
 - 7. Encourage the witness to contact investigators with any further information.

VII. PHOTOGRAPHIC LINEUPS

A. Investigative Procedures

In those cases where a suspect is developed and a photograph of the suspect is shown, the following procedures for preparing the lineup will be adhered to.

- 1. The lineup will consist of at least six photographs.
- 2. The photographs used are to be unmarked and, where practicable, of the same type and size.
- 3. The photographs should be of persons of the same race, skin tone, approximate build, age, and dress as the suspect. Other characteristics such as head hair and facial hair should also be similar to that of the suspect.
- 4. When two or more suspects are being considered, the investigating officer will show a separate lineup for each suspect. Investigating officers WILL NOT place two suspects in the same lineup.

B. Showing the Lineup

- 1. The investigating officer will require that all victims and witnesses view the photographic lineup separately. The officer should make sure that any statements, or identification of the suspect, are made out of the presence of other witnesses.
- 2. The investigating officer SHOULD NOT mention or tell the victims or witnesses that a suspect has been developed and that the suspect's photograph is in the lineup.
- 3. Before presenting the lineup, the investigating officer should record in his/her notes the information relating to the location where the lineup is being presented, information relating to the items in the area where the lineup is being viewed (such as desk, table, chairs, counter top), and the lighting conditions in the area.
- 4. Before the victim/witness views the lineup, the investigating officer should make the following type of statement, "I have a photographic lineup that I would like you to view. Please look at it and tell me if anyone looks familiar to you. Keep in mind that hairstyles, beards and mustaches may be easily changed. Also, photographs may not always depict the true complexion of a person."
- 5. The investigating officer should record the exact time the lineup is presented to the victim/witness. Along with the time, the position that the suspect is secreted in the lineup needs to be recorded. The investigating officer should give the lineup to the victim/witness and should never hold it for them.

6. The investigating officer should record any oral statements made by the victim/witness while they view the lineup. The investigating officer should also record the demeanor, conduct and/or any other relevant observations pertaining to the victim/witness' level of confidence when making, or not making, an identification.

7. If identification is made, OR IS NOT MADE, the investigating officer should record any remarks made by the victim/witness.

8. If an identification is made, the investigating officer will ask the victim/witness to turn over the photograph of the person they identified, and date and sign their name on the back of it. NO comments should be made to the victim/witness by the investigating officer pertaining to the identification.

9. The exact time that the lineup is returned to the investigating officer should be recorded.

10. If audio and/or video taping equipment is available, the investigating officer may utilize the equipment within the constraints of the law to document the showing of the lineup to the victim/witness. However, using this equipment is not required.

C. Multiple Victims and Witnesses

1. After each victim/witness is interviewed and views the lineup, they should be instructed not to discuss their statements, feelings, or any part of the conversation they had with the investigating officer with any other persons involved in the case.

2. Before the investigating officer interviews the next victim/witness in the case they should change the position of the suspect's photograph in the lineup. The new position of the suspect's photograph is then recorded in the officer's notes. *This is for a sequential photographic lineup only.*

D. Storage of the Lineups

All lineups that are shown become part of the official investigative report and file. They need to be secured as evidence and be available on demand to the investigative officer's supervisor and the States Attorney's Office.

VIII. ONE-ON-ONE IDENTIFICATIONS

A. Use of One-on-One Identifications

A one-on-one identification may be used by any officer investigating any reported crime, in the following situations:

1. When a possible suspect is located in close proximity to the location the perpetrator was last seen, a short time after the crime.
2. When there is some characteristic of the suspect's appearance so unique that:
 - a. It is unlikely that someone else other than the perpetrator would have the same characteristic; and
 - b. It would be extremely difficult to include the suspect in a lineup of any kind due to the inability to locate other subjects with a similar appearance.

B. Investigative Procedures

1. If a suspect has been located a reasonable distance from where the offense occurred or where the suspect was last seen, within a reasonable time period, and the victim/witness states that they would be able to identify the perpetrator if seen again, an attempt should be made to have the victim/witness do so. Reasonableness will be determined by the circumstances.

2. Unless the suspect is already under arrest for something else, the officer should explain to the suspect the reason why he is being detained. The victim/witness should then be taken to the location where the suspect is being detained for the one-on-one identification. If the victim/witness refuses to go, the suspect should be transported to the victim/witnesses location. Any transportation provided to a victim, witness or suspect must be provided by a sworn law enforcement officer.

3. Before the victim/witness views the suspect, the officer should instruct the victim/witness similar to the following: “Understand that although this person has been detained, it does not necessarily mean that he was the one who committed the offense. Please look at the person and tell me if you recognize this person as being involved.”
4. Upon completion of the one-on-one identification process, the investigating officer is prohibited from providing any feedback to the victim/witness regarding the results of the identification.
5. If the suspect is in custody and handcuffed, the handcuffs should be behind the back and not visible to the victim/witness to avoid prejudicing the victim/witness identification. If possible, only one officer should be near the suspect when the viewing is done.
6. All victims/witnesses should view the suspect(s) separately.
7. All statements made by the victim/witness should be recorded in the officer’s notes. This information is then included in the incident report (or supplement report if the officer conducting the lineup is not the officer conducting the investigation).
8. Determine whether the victim/witness normally wears corrective lenses, and, if so, whether they were wearing them during the incident, and whether they are wearing them at the time of the viewing of the suspect.
9. The investigating officer should record the demeanor, conduct and/or any other relevant observations pertaining to the victim/witness’ level of confidence when making, or not making, an identification.

C. Special Considerations

1. No specific rules exist regarding what constitutes a reasonable amount of time between when the incident occurred and when the one-on-one identification takes place, or under what conditions the lineup should be conducted. Certainly, the closer together the crime and the identification occur, the more difficult it is to challenge a resulting identification at trial, but in the case of *William Neil vs. Archie Biggers*, heard by the U.S. Supreme Court in 1972, a one-on-one identification that took place in a police station seven months after the crime was committed was upheld. The Supreme Court stated in the case of *Simmons vs. United States* (1968), “each case must be considered on its own facts.” These cases, plus the case of *Coleman vs. Alabama* (1970), established some general guidelines to consider in determining whether a one-on-one identification will be admissible in court. There must be a balance between the suspect’s rights and the immediate need to make an identification to prevent the escape of a guilty party.
2. Consider the following circumstances when attempting to determine whether to do a one-on-one identification:
 - a. What was the level of certainty of the victim/witness that they could identify the perpetrator if seen again?
 - b. How thorough was the description of the perpetrator by the victim/witness?
 - c. How suggestive would it be to do a one-on-one identification?
 - d. Is it possible to do a one-on-one identification under conditions that would not be suggestive?
 - e. If some time has passed since the crime was committed, has the victim/witness previously identified anyone else as the perpetrator?
 - f. How long were the victim/witness and perpetrator in contact?
 - g. What were the lighting conditions at the time?
 - h. Is there some characteristic of the suspect’s appearance so unique that:
 1. It is unlikely that someone else would have the same characteristic; and

2. It would be extremely difficult to include the suspect in a lineup of any kind other than a one-on-one due to the inability to locate other subjects with a similar appearance.
- i. How much opportunity did the victim/witness have to view the perpetrator at the time of the crime, and what was the victim/witness's degree of attention?
- j. Do not use a less reliable procedure where a more reliable one may be available.
- k. Remember that an illegal identification made during the investigation will taint any later in-court identification by the victim or witness.

IX. REPORTING REQUIREMENTS

The following information must be included in the Incident Report:

- A. How, when, and where the suspect was located, and the reasonable suspicion that led to the suspect being detained.
- B. Who located and detained the suspect.
- C. Date, time, lighting conditions, weather (if significant), and the names of all officers present when the victim/witness observed the suspect for identification.
- D. Condition of the suspect at the time of the viewing, i.e., was he/she standing, sitting, handcuffed, not handcuffed, injured, bleeding, intoxicated, etc.
- E. Clothing that the suspect was wearing when the identification was made.
- F. Any statements made by the suspect(s), their willingness or unwillingness to return to the scene, and any statements relating to what they had been doing before they were detained.
- G. A brief description of where the victim/witness viewed the suspect. Was the victim/witness inside the police car, inside a business looking out through a window, or did the victim/witness view the suspect face to face? Who was with the victim/witness at the time of the viewing? What was the approximate distance from the victim/witness to the suspect during the viewing?
- H. Any statements made by the victim/witness during the viewing, whether or not identification was made.
- I. If identification is made, determine and record why the victim/witness is making the identification and what it is about the suspect that the victim/witness recognizes. This information enhances the case and should be noted by the investigating officer and included in the incident report.
- J. If there are multiple victims and witnesses, each should be instructed not to discuss the incident with the others while the investigation is being conducted. This avoids influencing anyone else's statement or identification of the suspect.
- K. If a possible suspect is detained and viewed by the victim/witness, and identification is **not** made, the above steps and information are still to be included in the incident report. The possible suspect's information (name, DOB, etc) should still be included also.
- L. This information must be reported to the State's Attorney's Office before trial to give the defense time to view the evidence.

X. PROPONENT UNIT: CID Major Crimes Section.

XI. CANCELLATION: This Index Codes cancels Index Code 1822, dated 03-24-09.