

	SECTION:	OPERATIONS	OPR-229A
	CHAPTER:	FIELD PROCEDURES	
	DIRECTIVE:	EYEWITNESS IDENTIFICATIONS	

229A.01 PURPOSE

To establish a policy for the preparation and presentation of photographic and in-person lineups.

229A.02 DEFINITIONS

Lineup - A lineup is any procedure in which a victim or witness to a crime or other incident is asked to identify a suspect from among a group of persons in order to determine or confirm the identity of the suspect. Such procedures involve either actually viewing of persons (in live show-ups) or viewing of photographs (in a photo lineup).

Photo Lineup - 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.

Simultaneous Lineup - A method of administration where six (6) photographs are shown to the victim/witness. When such photographs are presented simultaneously, this type of array is referred to as a "six pack." When, as in this instance, photographs are displayed together, this is referred to as a simultaneous procedure.

Blind Administrator - The person administering the line-up has no knowledge of which person in the photo/live line-up is the suspect.

Blinded Administration - This is a lineup procedure in which the administrator may know the identity of the suspect, but by virtue of the use of procedures and/or technology to accomplish this purpose, does not know which lineup member is being viewed by the eyewitness.

Confidence Statements - A statement by the victim/witness', articulating their level of confidence in the identification taken at the time the identification is made.

- I am confident that is the perpetrator.
- I am somewhat confident that is the perpetrator.
- I am not confident at all that that is the perpetrator.

DEFINITIONS (con't)

Fillers - Non-suspect photographs or line-up members.

Folder Shuffle Method - A method requiring the lineup administrator to place the photograph of the suspect in six different positions in simultaneous lineup procedure. Place lineups in individual folders with one lineup per folder. The folders are then "shuffled" before being one folder is presented to the witness.

Show-up - A show-up is a lineup procedure in which an eyewitness is presented with a single live suspect for the purpose of determining whether the eyewitness identifies this individual as the perpetrator.

229A.03 GENERAL RESPONSIBILITIES

Department personnel shall adhere to established procedures for conducting suspect lineups in order to avoid the possibility of error or of undue suggestiveness to witnesses.

Department personnel shall receive training in lineup procedures to establish uniformity and consistency of such procedures and to establish a high level of competence in carrying out this important aspect of a criminal investigation.

Department personnel shall report 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 to their supervisor in order that corrective actions may be taken and safeguards established to protect the innocent.

229A.04 PROCEDURES

Prior to a photo or live lineup, the investigating officer should record as complete a description as possible of the perpetrator provided by the eyewitness and in the eyewitness's own words.

This statement should also include information regarding conditions under which the eyewitness observed the perpetrator including location, time, distance, obstructions, lighting, weather conditions and other impairments, including, but not limited to alcohol, drugs, stress, the presence of a weapon and any other relevant conditions.

The eyewitness should also be asked if s/he needs glasses or contact lenses and whether s/he was wearing them at the time of the offense.

229A.05 SHOW-UP PROCEDURE

Show-ups should only be performed using a live suspect and only in exigent circumstances that require the immediate display of a suspect to an eyewitness.

Investigators should not conduct a show-up with a single photograph; if investigators want to determine if an eyewitness can make an identification using a photo, a photo lineup should be employed.

The eyewitness should be transported to a neutral, non-law enforcement location where the suspect is being detained for the purposes of a show-up.

The eyewitness should be provided with the following instructions:

- The perpetrator may or may not be the person that is presented to the eyewitness;
- The eyewitness should not feel compelled to make an identification;
- The investigation will continue regardless of whether an identification is made;

The procedure requires the investigator to ask the eyewitness to state, how certain s/he is of the identification s/he has made:

- I am confident that is the perpetrator.
- I am somewhat confident that this is the perpetrator.
- I am not confident at all that this is the perpetrator.

The eyewitness should not discuss the identification procedure with other eyewitnesses involved in the case and should not speak to the media.

If there are multiple eyewitnesses, only one eyewitness at a time should participate in the show-up procedure, independent of the others. If a positive identification is made, and an arrest is justified, additional eyewitnesses should be shown live or photo lineups.

If identification is made, the officer should seek and document a clear statement from the eyewitness, at the time of the identification, as to the eyewitness's confidence level that the person identified is the perpetrator.

- I am confident that is the perpetrator.
- I am somewhat confident that is the perpetrator.
- I am not confident at all that this is the perpetrator.

**SHOW-UP PROCEDURE
(con't)**

Investigators should photograph a suspect at the time and place of the show-up to preserve a record of his or her appearance at the time of the show-up. If equipped with a video recording device officers are encouraged to video record the show-up procedure. This assists in demonstrating the show-up was conducted at a neutral location and without any additional suggestion.

**229A.06 FOLDER SHUFFLE
METHOD**

The "Folder System" is used to address concerns surrounding limited personnel resources while allowing for blind administration. Should the investigating officer of a particular case be the only law enforcement personnel available to conduct a photo lineup, the following instructions are recommended:

- Obtain one (1) suspect photograph that resembles the description of the perpetrator provided by the witness.
- Obtain five (5) filler photographs that match the description of the perpetrator, but do not cause the suspect photograph to unduly stand out.
- Obtain six (6) file folders.

The individual administering the lineup should:

- Place the photograph of the suspect in six different positions in a simultaneous lineup (six pack) procedure.
- Place one lineup in six individual folders, one lineup per folder. The folders are then "shuffled" before one folder is presented to the witness.
- Shuffle the folders so that the administrator is unaware of which position the suspect is located in the lineup.

**229A.07 LINEUP
PROCEDURES
(BOTH PHOTO
AND LIVE)**

The investigator in charge should select an individual to serve as the blind administrator if possible. The blind administrator should not know which member of the lineup is the "true" suspect. The blind administrator should be thoroughly familiar with this procedure.

Alternatively, a 'blinded' administrator may be used, namely an individual who knows the suspect's identity but is not in a position to see which members of the line-up are being viewed by the eyewitness. This can be accomplished, for instance, through the use of the folder shuffle method or via laptop technology.

Assure that law enforcement 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

**LINEUP PROCEDURES
(BOTH PHOTO AND LIVE)
(con't)**

where the process is being conducted.

A photo should be composed so the fillers generally resemble the eyewitness's description of the perpetrator, while ensuring that the lineup is comprised in such a manner that the suspect does not unduly stand out from the fillers. However, complete uniformity of features is not required. Avoid reusing filler photos/ live lineup members. If the eyewitness has previously viewed a photo or live lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup should be different from the fillers used in prior lineups.

When there are multiple suspects, each identification procedure should include only one suspect. Avoid mixing color and black and white photos. Photos should be either all black and white or all color.

Cover any portions of mug shots or other photographs that provide identifying information. Ensure that no writings or information concerning previous arrest(s) will be visible to the witness. If it is necessary to block-out or cover a notation, such as a name on one photo, then similar blocking-out or covering marks should be placed on all photos so that they will appear alike.

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.

Select 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.

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 investigator.

Ensure that the photos are reasonably contemporary and include a minimum of five fillers (non-suspects) per photo identification procedure.

Create a consistent appearance between the suspect and fillers so that the photos depict individuals who are reasonably similar in age, height, weight and general appearance, and are of the same sex and race.

**LINEUP PROCEDURES
(BOTH PHOTO AND LIVE)
(con't)**

However, 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. If there are multiple eyewitnesses, each eyewitness should view the lineup independently and separately.

Record the presentation order of each lineup and ensure a complete record of the identification proceeding is made and retained. The record should include: all identification and non-identification results obtained during the procedure and signed by the eyewitness, including the eyewitness's confidence statement; the names of all of the persons present at the identification procedure, the date and time of the identification procedure, and the sources of all photos or persons used in the identification procedure. In addition, the photos themselves should be preserved in their original condition.

Conducting the Identification Procedure

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.

Assure that all law enforcement 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.

When presenting the lineup, the person administering the lineup should use the approved simultaneous procedure (6 pack) for Eyewitness identification.

Use 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.

Assure the witness prior to the lineup that regardless of whether identification is made, the police will continue to investigate the incident.

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, photos do not always depict the true complexion of a person, which might be lighter or darker than shown in the photo. Be careful not to imply or lead the witness

**LINEUP PROCEDURES
(BOTH PHOTO AND LIVE)
(con't)**

to believe that the suspect's appearance has actually changed in any way.

Instruct the witness that the procedure – only if identification is made - requires the investigator to ask the witness to state, in his/her own words, how certain he/she is of any identification at the time that the identification is made.

Present the photo lineup to the witness, as documented on the lineup worksheet. Avoid saying anything to the witness that may influence the witness' selection.

If identification is made, avoid reporting or confirming to the witness any information regarding the individual he or she has selected, until the entire process (including obtaining a confidence statement and obtaining required signatures and paperwork) has been completed.

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.

**229A.08 RECORDING
IDENTIFICATION
RESULTS**

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.

When documenting the identification procedure, the person administering the lineup should record both identification and non-identification results, including a statement of confidence, in the eyewitness's own words. If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure.

- I am confident that is the perpetrator.
- I am somewhat confident that is the perpetrator.
- I am not confident at all that that is the perpetrator.

If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person before the administrator obtains the eyewitness's confidence statement about the selection. After the eyewitness'

**RECORDING
IDENTIFICATION RESULTS
(con't)**

confidence statement is obtained, the administrator shall not tell the eyewitness information about how accurate they were in their identification or provide additional information about the defendant.

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.

Ensure that the results are signed and dated by the witness and the person administering the lineup and that no materials indicating previous identification results are visible to the witness.

Officers are encouraged to video record the identification/confidence statement procedure. Audio recording is an acceptable alternative if video recording is not practical.

RECORDING

**IDENTIFICATION RESULTS
(con't)**