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			Distribution: All
Title: Eyewitness Identification		Section: Field Situations	
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Review: Annual	Authority: Chief Michael A. Keller 		

I. Purpose

It is the purpose of this policy to establish guidelines for the use of eyewitness identifications involving showups, photographic lineups, and live lineups.

II. Policy

Eyewitness identification is a frequently used investigative tool. However, erroneous eyewitness identifications have been cited as the most frequent cause of wrongful convictions. As such, officers shall strictly adhere to the procedures set forth herein, in order to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms with contemporary eyewitness identification protocols.

III. Definitions

- A. Showup:** The presentation of one suspect to an eyewitness in a short time frame following commission of a crime to confirm or eliminate him or her as the perceived perpetrator. Showups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and setting with the crime (42.2.12a).
- B. Photo Lineup:** Simultaneous or sequential showing of photographs to an eyewitness for the purpose of identifying and eliminating suspects.
- C. Independent Administrator:** The officer administering a live lineup or photo lineup who has no knowledge of the suspect's identity.
- D. Functional Equivalent (FE) Procedures:** Used when an independent administrator is not available, FE procedures permit the investigative officer to conduct a photo lineup, using procedures that preclude him or her from knowing when the suspect is presented to the witness.
- E. Live Lineup:** Live presentation of individuals, before an eyewitness for the purpose of identifying and eliminating suspects.
- F. Sequential:** Presentation of photos in a photo lineup, or individuals in a live lineup to a witness one at a time rather than all at once.

IV. Regulations

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V. Procedures

A. Showups

The use of showups should be avoided whenever possible in preference for the use of a photo lineup or a live lineup. However, when circumstances require the prompt display of a suspect to a witness, the following guidelines shall be used to minimize potential suggestiveness.

1. Document the witness's description of the perpetrator prior to conducting the showup.
2. Use showups only when the suspect is detained within a reasonably short time frame following the offense (42.2.12a).
3. Do not use single suspect showups if probable cause to arrest the suspect has already been established.
4. Transport the witness to the location of the suspect whenever possible, rather than bringing the suspect to the witness (42.2.12b).
5. Do not conduct showups when the suspect(s) are in patrol cars, handcuffed, or physically restrained by police officers, unless necessary due to safety.
6. Do not take suspects to the witness's residence unless the residence is the scene of the crime (42.2.12b).
7. Caution the witness that the person he or she is about to see, may or may not be the perpetrator (42.2.12d).
8. Separate witnesses and do not allow communication between them before or after conducting the showup.
9. If one witness identifies the suspect, use a live lineup or photo lineup for remaining witnesses (42.2.12c).
10. Do not present the same suspect to the same witness more than once.
11. Do not require showup suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
12. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator (42.2.12f).
13. Ask the witness how certain he or she is of any identification that is made of a suspect. Document the exact words used by the victim without prompting the witness to elaborate (42.2.12e, f).
14. Remind the witness not to talk about the showup to other witnesses until police or prosecutors deem it permissible.
15. Videotape the identification process using an in-car camera or other recording device where available (42.2.12g).
16. Document the time and location of the showup, the officers present, and the outcome of the procedure (42.2.12g).

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B. Photographic Lineups

1. Creating a Photo Lineup (42.2.11a)
 - a. The photo lineup should consist of a minimum of six photographs. Use a minimum of five filler photos together with only one suspect. It is recommended that a filler be used as the lead photo. Number all photos.
 - b. Use contemporary photographs of individuals who are reasonably similar in age, height, weight and general appearance and are of the same sex and race, in accordance with the witness's description of the suspect. Do not mix color and black and white photos; use photos of the same size and basic composition; never mix mug shots with other snapshots; and do not include more than one photo of the suspect.
 - c. Cover any portions of mug shots or other photos that provide identifying information on the subject, and similarly cover other photos used in the lineup.
2. Conducting the Photo Lineup
 - a. An investigator or officer who is unaware of the identity of the suspect, acting as an independent administrator, should present the photos. No one who is aware of the suspect's identity may be present during the administration of the photo lineup.
 - b. If an independent administrator is not available, the investigative officer shall follow the FE procedures.
 - (1) Place the suspect and filler photos in separate folders. Include four blank folders, for a total of ten.
 - (2) Shuffle the folders before giving them to the witness.
 - (3) The officer administering the photo lineup should position themselves so that he or she cannot see inside the folders as they are viewed by the witness.
 - c. Whenever reasonably possible, videotape and audiotape the photo lineup identification procedure (42.2.11b).
 - d. Give the witness a copy of APD FORM 21 Sequential Lineup prior to presenting the photo array. Read the instructions aloud and allow the witness to read the instructions and initial their understanding of those instructions (42.2.11d).
 - e. Position the photos so that the witness does not know the number of photos that will be shown.
 - f. Show the photo lineup to only one witness at a time; separate witnesses so they will not be aware of the responses of other witnesses (42.2.11c).
 - g. Avoid multiple identification procedures in which the same witness views the same suspect more than once.
 - h. Do not comment on selections or outcomes of the procedures in any way (42.2.11f).



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- i. Ask the witness to describe his or her certainty about any identification that is made. Document the witness's response (42.2.11e).
- j. Ask the witness to complete and sign APD FORM 21 Sequential Lineup form.
- k. Preserve the photo lineup and Sequential Lineup form together with a written report about the identification process (42.2.11g).

C. Live Lineups

The basic principles for conducting a photo lineup apply equally to live lineups.

1. Creating the Live Lineup (42.2.11a)
 - a. Use a minimum of six persons who are reasonably similar in age, height, weight and general appearance and are of the same sex and race.
 - b. If there is more than one suspect, include only one in each lineup.
2. Conducting the Live Lineup
 - a. An independent administrator shall conduct the live lineup whenever reasonably possible. Other than the suspect's attorney, who should attend the lineup, no one who is aware of the suspect's identity may be present during the administration of the lineup.
 - b. If an independent administrator is unavailable, the investigating officer must take all reasonable precautions to avoid giving any unintentional clues to the witness (42.2.11f).
 - c. Present a copy of the Sequential Lineup form and read it aloud to the witness before conducting the lineup. Have the witness read and initial the instructions indicating they understand the instructions (42.2.11d).
 - d. Present each individual one at a time to a single witness. In the case of multiple witnesses, present the lineup to each witness separately (42.2.11c).
 - e. Whenever possible, preserve the lineup and identification process by videotape and audiotape. If not possible, take and preserve a still photograph of each individual in the lineup and document all persons present during the lineup (42.2.11b).
 - f. Upon completion of the lineup, ask the witness to sign and date the record of results on the Sequential Lineup form (42.2.11e).
3. The primary investigating officer is responsible for the following:
 - a. Scheduling the lineup on a date and at a time convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and all witnesses.
 - b. Fulfilling the necessary legal requirements for transfer of the subject to the lineup location should he or she be incarcerated at a detention center. The officer shall make arrangements for picking up the prisoner, to include a timely notice to the detention center concerning the pickup.
 - c. Making arrangements to have persons act as fill-ins at the lineup who are of the same race, sex, approximate height, weight, age, and physical appearance and who are similarly clothed.



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- d. Avoid the use of fill-ins who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- e. Creating a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g. scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature.
- f. Placing suspects in different positions in each lineup, both across cases and with multiple witnesses in the same case.
- g. Ensuring that the prisoner has been informed of his or her right to counsel if formal charges have been made against him or her and that he or she has the opportunity to retain counsel or request that one be provided.
- h. Obtaining a written waiver on the prescribed departmental form should the prisoner waive his or her right to counsel.
- i. Allowing counsel representing the accused sufficient time to confer with his or her client prior to the lineup and to observe the manner in which the lineup is conducted.
- j. Ensuring that all persons in the lineup are numbered consecutively and are referred to only by number.
- k. Ensuring that a complete written record and videotape recording, if possible, of the lineup proceedings are made and retained (42.2.11g).
- l. Ensuring the witnesses are not permitted to see or be shown any photos of the accused immediately prior to the lineup.
- m. Ensuring that only one witness views the lineup at a time and the witnesses are not permitted to speak with one another during lineup proceedings.
- n. Scrupulously avoiding the use of statements, clues, and casual comments or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision making process or perception (42.2.11f).