



El Segundo Police Department

Training Section

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TRAINING BULLETIN

Training Subject: **Photo Lineups**

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The Department has implemented a new photo Identification procedure, replacing our past practice of doing a one page six pack, with a sequential photo lineup.

Refer attached Photo Lineup Admonition Form and Legal Aspects- Show Ups.



**EL SEGUNDO POLICE DEPARTMENT
PHOTO LINE-UP ADMONITION**
DR # _____

1. You are about to view a series of six photographs of similar appearing individuals.
2. The suspect who was involved in this crime may or may not be among these photographs.
3. You are under no obligation to make an identification.
4. The purpose of showing you these photographs is to eliminate the innocent persons from suspicion as well as to identify the person responsible.
5. Please do not discuss the case with other witnesses and do not indicate in any way that you have or have not identified someone.

WITNESS:

PRINT NAME

DATE

SIGN NAME

DATE OF BIRTH

Number of Photo Identified, if any: _____ **Initial:** _____

Date and Time Line-Up was Conducted: _____

Comments: _____

Officer Conducting Line-Up ID# _____

Legal Aspects

MAKING EYEWITNESS EVIDENCE MORE RELIABLE

IV. SHOW-UPS

A. Conducting Show-ups.

Principle: When circumstances require the prompt display of a single suspect to a witness, the inherent suggestiveness of the encounter can be minimized through the use of procedural safeguards.

Proposal: The investigator will employ procedures that avoid prejudicing the witness.

Procedure: When conducting a show-up, the investigator should:

1. Because of the potential identification contamination, careful consideration should be given to determine if the show-up is necessary to the investigation,
2. Prior to the show-up, determine and document a description of the perpetrator,
3. Consider transporting the witness to the location of the detained suspect to limit the legal impact of the suspect's detention,
4. When multiple witnesses are involved,
 - a. Separate witnesses and instruct them to avoid discussing details of the incident with other witnesses,
 - b. If a positive identification is obtained from one witness, consider using other identification procedures (e.g., lineup, photo array, etc.) for remaining witnesses,
5. Caution the witness that the person they are looking at may or may not be the perpetrator, and
6. Obtain and document a statement of certainty for both identification and non-identifications.

Legal Aspects

B. Recording Show-up Results.

1. Document the time and location of the procedure.
2. Record both identification and non-identification results in writing including the witness' own words regarding how certain they are.
 - a. Best to record on video / audio.

Summary: The use of a show-up can provide investigative information at an early stage, but the inherent suggestiveness of a show-up requires careful use of procedural safeguards.

V. LINEUPS

A. Composing Lineups.

Principles: Fair composition of a lineup enables the witness to provide a more accurate identification or non-identification.

Proposal: The investigator will compose the lineup in such a manner that the suspect does not unduly stand out.

Procedure: In composing a photo lineup, the investigator should:

1. Include only one suspect in each identification procedure,
2. Select fillers who generally fit the witness' description of the perpetrator, when there is a limited/inadequate description of the perpetrator provided by the witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features,
3. If multiple photos of the suspect are reasonably available to the investigator, select a photo that resembles the suspect description or appearance at the time of the incident,
4. Include a minimum of five fillers (non-suspects) per identification procedure,
5. 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,
6. Create a consistent appearance between the suspect and fillers with respect to any unique or unusual feature (e.g., scars, tattoos) used to describe the perpetrator by artificially adding or concealing that feature,

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7. Consider placing suspects in different positions in each lineup, both across cases and with multiple witnesses in the same case. Position the suspect randomly in the lineup,
8. When showing a new suspect, avoid reusing fillers in lineups shown to the same witness,
9. Ensure that no writings or information concerning previous arrest(s) will be visible to the witness,
10. View the spread, once completed, to ensure that the suspect does not unduly stand out, and
11. Preserve the presentation order of the photo lineup. In addition, the photos themselves should be preserved in their original condition.

B. Composing a live lineup, the investigator should:

1. Include only one suspect in each identification procedure,
2. Select fillers who generally fit the witness' description of the perpetrator. When there is a limited/inadequate description of the perpetrator provided by the witness, or when the description of the perpetrator provided by the witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features,
3. Consider placing suspects in different positions in each lineup, both across cases and with multiple witnesses in the same case. Position the suspect randomly unless, where local practice allows, the suspect or the suspect's attorney requests a particular position,
4. Include a minimum of five fillers (non-suspects) per identification procedure,
5. When showing a new suspect, avoid reusing fillers in lineups shown to the same witness,
6. 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, and
7. Create a consistent appearance between the suspect and fillers with respect to any unique or unusual feature (e.g., scars, tattoos) used to describe the perpetrator by artificially adding or concealing that feature.

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Summary: The previous will result in a photo or live lineup in which the suspect does not unduly stand out. An identification obtained through a lineup composed in this manner may have stronger evidentiary value than one obtained without these procedures.

C. Instructing the Witness Prior to Viewing a Lineup.

Principle: Instructions given to the witness prior to viewing a lineup can facilitate an identification or non-identification based on his/her own memory.

Proposal: Prior to presenting a lineup, the investigator will provide instructions to the witness to ensure the witness understands the purpose of the identification procedure is to exculpate the innocent as well as to identify the actual perpetrator.

Procedure: Prior to presenting a photo lineup, the investigator should:

1. Instruct the witness that he/she will be asked to view a set of photographs,
2. Instruct the witness that it is just as important to clear innocent persons from suspicion as it identify guilty parties,
3. Instruct the witness that individuals depicted in lineup photos may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change,
4. Instruct the witness that the person who committed the crime may or may not be in the set of photographs being presented,
5. Assure the witness that regardless of whether an identification is made; the police will continue to investigate the incident, and
6. Instruct the witness that the procedure requires the investigator to ask the witness to state, in their own words, how certain they are of any identification.

D. Prior to presenting a live lineup, the investigator should:

1. Instruct the witness that he/she will be asked to view a group of individuals,
2. Instruct the witness that it is just as important to clear innocent persons from suspicion as to identify guilty parties,
3. Instruct the witness that individuals present in the lineup may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change,

Legal Aspects

4. Instruct the witness that the person who committed the crime may or may not be present in the group of individuals,
5. Assure the witness that regardless of whether an identification is made, the police will continue to investigate the incident, and
6. Instruct the witness that the procedure requires the investigator to ask the witness to state, in his/her own words, how certain they are of any identification.

Summary: Instructions provided to the witness prior to presentation of a lineup will likely improve the accuracy and reliability of any identification obtained from the witness and can facilitate the elimination of innocent parties from the investigation.

E. Conducting the Identification Procedure.

Principle: The identification procedure should be conducted in a manner that promotes the reliability, fairness, and objectivity of the witness' identification.

Proposal: The investigator will conduct the lineup in a manner conducive to obtaining accurate identification or non-identification decision.

Procedure: When presenting a simultaneous lineup, the investigator should:

1. Provide viewing instructions to the witness as outlined in subsection C (pg.18), "Instructing the Witness Prior to Viewing a Lineup,"
2. Confirm that the witness understands the nature of the lineup procedure,
3. Avoid saying anything to the witness that may influence the witness's selections,
4. If identification is made, avoid reporting to the witness any information regarding the individual they have selected prior to obtaining the witness' statement of certainty,
5. Record any identification results and witness' statement of certainty as outlined below in subsection I (pg.23), "Recording Identification Results,"
6. Document in writing the photo lineup procedures, including:
 - a. Identification information and sources of all photos used,
 - b. Names of all persons present at the photo lineup, and
 - c. Date and time of the identification procedure.

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7. 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.
- F. When presenting a **sequential photo lineup**, the investigator should:
1. Provide viewing instructions to the witness as outlined in subsection C, (pg.18) “Instructing the Witness Prior to Viewing a Lineup,”
 2. Provide the following additional viewing instructions to the witness:
 - a. Individual photographs will be viewed one at a time,
 - b. The photos are in random order,
 - c. Take as much time as needed in making a decision about each photo before moving to the next one, and
 - d. All photos will be shown, even if identification is made; or the procedure will be stopped at the point of an identification (consistent with jurisdictional/departmental procedures).
 3. Confirm that the witness understands the nature of the sequential procedure.
 4. Present each photo to the witness separately, in a previously determined order, removing those previous shown.
 5. Avoid saying anything to the witness that may influence the witness’ selection.
 - a. **Watch your body language.**
 6. If an identification is made, avoid reporting to the witness any information regarding the individual they have selected prior to obtaining the witness’ statement of certainty.
 7. Record any identification results and witness’ statements of certainty as outlined in subsection I (pg.23), “Recording Identification Results.”
 8. Document in writing the photo lineup procedures, including:
 - a. Identification information and sources of all photos used,
 - b. Names of all persons present at the photo lineup, and
 - c. Date and time of the identification procedure.

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- G. **When presenting a simultaneous live lineup**, the investigator or lineup administrator should:
1. Provide viewing instructions to the witness as outlined in subsection C, (pg.18) “Instructing the Witness Prior to Viewing a Lineup,”
 2. Instruct all those present at the lineup not to suggest in any way the position or identity of the suspect in the lineup,
 3. Ensure that any identification actions (e.g., speaking, moving) are performed by all members of the lineup,
 4. Avoid saying anything to the witness that may influence the witness’ selections,
 5. If an identification is made, avoid reporting to the witness any information regarding the individual they have selected prior to obtaining the witness’ statement of certainty,
 6. Record any identification results and witness’ statement of certainty as outlined in subsection I (pg.23), “Recording Identification Results,”
 7. Document the lineup in writing, including:
 - a. Identification information of lineup participants,
 - b. Names of all persons present at the lineup, and
 - c. Date and time of the identification procedure was conducted.
 8. Document the lineup by photo or video. This documentation should be of the lineup clearly and fairly, and
 9. 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.
- H. **When presenting a sequential live lineup**, the lineup administrator should:
1. Provide viewing instructions to the witness as outlined in subsection C (pg.18), “Instructing the Witness Prior to Viewing a Lineup,”

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2. Provide the following additional viewing instructions to the witness:
 - a. Individuals will be viewed one at a time,
 - b. The individuals will be presented in random order,
 - c. Take as much time as needed in making a decision about each individual before moving to the next one,
 - d. If the person who committed the crime is present, identify them, and
 - e. All individuals will be presented, even if an identification is made; or the procedure will be stopped at the point of an identification (consistent with jurisdictional/departamental procedures).
3. Begin with all lineup participants out of the view of the witness,
4. Instruct all those present at the lineup not to suggest in any way the position or identity of the suspect in the lineup,
5. Present each individual to the witness separately, in a previously determined order, removing those previously shown,
6. Ensure that any identification actions (e.g., speaking, moving) are performed by all members of the lineup,
7. Avoid saying anything to the witness that may influence the witness' selection,
8. If an identification is made, avoid reporting to the witness any information regarding the individual they have selected prior to obtaining the witness' statement of certainty,
9. Record any identification results and witness' statement of certainty as outlined in subsections I (pg.23), "Recording Identification Results,"
10. Document the lineup procedures and content in writing, including:
 - a. Identification information of lineup participants,
 - b. Names of all persons present at the lineup, and
 - c. Date and time the identification procedure was conducted.
11. Document the lineup by photo or video. This documentation should be of a quality that represents the lineup clearly and fairly. Photo documentation can be of either the group or each individual, and

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12. 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.

Summary: The manner in which an identification procedure is conducted can affect the reliability, fairness, and objectivity of the identification. Use of the above procedures can minimize the effect of external influences on a witness' memory.

I. Recording Identification Results.

Principle: The record of the outcome of the identification procedure accurately and completely reflects the identification results obtained from the witness.

Proposal: When conducting an identification procedure, the investigator will preserve the outcome of the procedure by documenting any identification or non-identification results obtained from the witness.

Procedure: When conducting an identification procedure, the investigator should:

1. Record both identification and non-identification results in writing, including the witness' own words regarding how sure they are,
2. Ensure results are signed and dated by the witness,
3. Ensure that no material indicating previous identification results are visible to the witness, and
4. Ensure that the witness does not write on or mark any materials that will be used in other identification procedures.

Summary: Preparing a complete and accurate record of the outcome of the identification procedure improves the strength and credibility of the identification or non-identification results obtained from the witness. This record can be a critical document in the investigation and any subsequent court proceedings.

Legal Aspects

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