

Model Policy

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<i>Subject</i> Showups, Photographic Identifications, and Lineups		
<i>Reference</i>		<i>Special Instructions</i>
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I. PURPOSE

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

II. POLICY

Eyewitness identification is a frequently used investigative tool. As such, officers shall strictly adhere to the procedures set forth here 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 procedure.

III. DEFINITIONS

Showup: The presentation of one suspect to an eyewitness in a short time frame following commission of a crime.

Photo Array: Simultaneous or sequential showing of photographs to an eyewitness for the purpose of identifying and eliminating suspects.

Lineup: Simultaneous or sequential presentation of individuals, before an eyewitness for the purpose of identifying and eliminating suspects.

IV. PROCEDURES

A. Showups

Many courts have suppressed identification evidence based on the use of showups because of the inherent suggestiveness of the practice. Therefore, the use of showups should be avoided whenever possible in preference for the use of a photo array or lineup. However, when exigent circumstances require the use of showups, the following guidelines should be followed.

1. Single suspect showups shall not be used if there is probable cause to arrest the suspect.
 2. A complete description of the suspect should be obtained from the witness prior to conducting a showup.
 3. Whenever possible, the witness should be transported to the location of the suspect rather than bringing the suspect to the witness.
 4. Showups should not be conducted when the suspect is in a cell, handcuffed or otherwise restrained, or dressed in jail clothing.
 5. Showups should not be conducted with more than one witness present at a time. If the showup is conducted separately for more than one witness, the witnesses should be separated and should not be permitted to communicate before or after the showup.
 6. The same suspect should not be presented to the same witness more than once.
 7. Showup suspects should 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.
 8. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator should be scrupulously avoided.
- ### B. Photographic Identifications
1. Photographic identifications must use a minimum of six photographs shown to a witness or in an array.
 2. When reasonably possible, an investigator or officer who is unaware of the identity of the suspect should be used to present the photos.
 3. Principles for conducting lineups generally apply to photo identifications. In particular, officers shall employ the following guidelines.

- a. Use photographs of individuals who are reasonably similar in age, height, weight and general appearance and of the same sex and race.
 - b. Read the instructions in IV.C.3 of this policy to the witness prior to presenting the photo array.
 - c. If the array is exhibited sequentially, present photographs randomly.
 - d. Instruct the witness to indicate if he or she can identify the suspect.
 - e. Do not mix 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.
 - f. Cover any portions of mug shots or other photographs that provide identifying information on the subject, and similarly cover those used in the array.
 - g. Show the photo array to only one witness at a time; if separate presentation is not practical, separate witnesses so that they will not be aware of the response of other witnesses.
 - h. Do not make suggestive statements that may influence the judgment or perception of the witness.
 - i. Preserve the photo array, together with full information about the identification process, for future reference.
 - j. Whenever reasonably possible, videotape and audiotape the photo display identification procedure.
 - k. Ensure that positive identifying information exists for all individuals portrayed.
 - l. Ensure that photos are reasonably contemporary.
- C. Lineups
1. Whenever possible, police personnel administering or present during a lineup should be unaware of which member of the lineup is the suspect in order to avoid actions or statements that could contaminate witness perception or judgment.
 2. A minimum of six persons shall be used who are reasonably similar in age, height, weight and general appearance and of the same sex and race.
 3. Instructions given to the witness prior to viewing a lineup or photo array can facilitate an identification or nonidentification based on his or her memory. Inform the witness of the following:
 - a. *You will be asked to view a group of individuals.*
 - b. *It is just as important to clear innocent persons from suspicion as to identify guilty parties.*
 - c. *Individuals present in the lineup (or photos) may not appear exactly as they did on the date of the incident because features such as head hair and facial hair are subject to change.*
 - d. *The person who committed the crime may or may not be present in the group of individuals.*
 - e. *You do not have to identify anyone.*
 - f. *Regardless of whether you make an identification, we will continue to investigate the incident.*
 4. Include only one suspect in each lineup should there be more than one suspect.
 5. In the case of multiple witnesses, present the lineup to each witness separately.
 6. Whenever possible, preserve the lineup and identification process by videotape and audiotape whenever possible. If not possible, take and preserve a still photograph of the lineup. Document all persons present during the lineup.
 7. The primary investigating officer shall be responsible for the following:
 - a. Schedule the lineup on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel and all witnesses.
 - b. Fulfill the necessary legal requirements for transfer of the subject to the lineup location should he or she be incarcerated at a detention center, making timely notice to the detention center concerning the pickup and make arrangements for picking up the prisoner.
 - c. Make arrangements to have persons act as fill-ins at the lineup who are of the same race, sex and approximate height, weight, age and physical appearance and who are similarly clothed.
 - d. 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.
 - e. Create 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. Place suspects in different positions in each lineup, both across cases and with multiple witnesses in the same case.
 - g. Ensure that the prisoner has been informed of his or her right to counsel if formal charges have been made against him or her, and also ensure that he or she has the opportunity to retain counsel or request that one be provided.
 - h. Obtain a written waiver on the prescribed departmental form should the prisoner waive his or her right to counsel.

- i. Allow counsel representing the accused sufficient time to confer with his or her client prior to the lineup and observe the manner in which the lineup is conducted.
- j. Advise the accused that he or she may take any position in the lineup that he or she prefers and may change positions prior to summoning a new witness.
- k. Ensure that all persons in the lineup are numbered consecutively and are referred to only by number.
- l. Ensure that a complete written record and videotape recording of the lineup proceedings is made and retained.
- m. Ensure that witnesses are not permitted to see nor are they shown any photographs of the accused immediately prior to the lineup.
- n. Ensure that not more than one witness views the lineup at a time and that they are not permitted to speak with one another during lineup proceedings.
- o. Scrupulously avoid using statements, clues, casual comments or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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