

# St. Joseph, Missouri Police Department



DIRECTIVE TYPE: SPECIAL ORDER		INDEX NUMBER: SO 0903
SUBJECT: Eyewitness Identification Procedures		
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		DISTRIBUTION: B (Commissioned Personnel)

## I. Policy

All personnel involved in eyewitness identification protocol must conduct them in a way that minimizes suggestiveness, non-biased instructions to the witness and provides accurate and reliable evidence. Adherence to these procedures can decrease the number of wrongful identifications and should help to ensure that reliable eyewitness evidence is given the weight it deserves in legal proceedings.

## II. Purpose

The purpose of this general order is to provide Department personnel with practices and procedures to increase the accuracy and reliability of eyewitness evidence through the use of photographic arrays, show-up identifications or facial composite or sketches for eyewitness identification of a suspect involved in a police investigation.

## III. Definitions

**Eyewitness:** Any person who can testify as to what they have seen and/or heard at a crime scene or in the area of the crime scene or other location.

**Filler:** A person or photograph of a person who is not suspected of an offense and is included in a line-up.

**Lineup Administrator:** The person who conducts the lineup.

**Photographic Lineup (Array):** A procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of the crime.

**Facial Composite or Sketch:** A non-photographic pictorial representation such as a free hand sketch, Faces, or other computer program generated image.

**Sequential Lineups:** Are conducted by displaying one photo or one person at a time to the witness. Showing a witness one photo or one person at a time, rather than simultaneously, permits the witness to make identification based on each person's appearance before viewing another photo or lineup member.

## IV. Procedures

### A. Photographic Lineups (Arrays)

1. The following procedures will result in the composition of a lineup in which a suspect does not unduly stand out:

Photo Lineups (Simultaneous or Sequential): Presenting a photo lineup, the investigator should:

- a. Include only one suspect in each identification procedure.
- b. Select fillers (non suspects) who generally fit the witness' description of the perpetrator. When there is a limited or 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.
- c. If multiple photos of the suspect are reasonably available to the investigator, select a photo that resembles the suspect's description or appearance at the time of the incident.
- d. Include a minimum of five fillers (non suspects) per identification procedure. Once the photos are selected, the investigator shall mark the back of each photo with sequential numbers and record the order in which they were shown on form, unless this is being done through the department's Aegis Record System.
- e. 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.
- g. Position the suspect randomly in each lineup, both across cases and with multiple witnesses in the same case.
- h. When showing a new suspect, avoid reusing fillers in lineups shown to the same witness.
- i. Ensure that no writings or information concerning previous arrest(s) will be visible to the witness.
- j. View the array, once completed, to ensure that the suspect does not unduly stand out.

- k. Present each photo/individual to the witness one at a time, removing those previously shown (**Sequential Lineups**).
  - l. Avoid saying anything or making any gestures to the witness that may influence the witness' selection.
  - m. Avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness' statement of certainty.
  - n. Preserve the photos in their original condition. Book lineup into evidence.
2. Use of video and or audio recording is not required.
  3. When multiple witnesses are involved, separate the witnesses and instruct them to avoid discussing details of the incident with other witnesses. Simultaneous and Sequential lineups will be conducted with only one witness at a time and without other persons or witnesses present.
  4. Instructing the witness prior to viewing the lineup
    - a. Instruct the witness without other persons present.
      - b. Instruct the witness that he/she will be asked to view a group of photographs.
      - c. Instruct the witness that it is just as important to clear innocent persons from suspicion as to identify guilty parties.
      - d. Instruct the witness that individuals depicted 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.
      - e. Instruct the witness that the person who committed the crime **may or may not** be in the lineup being presented.
      - f. Assure the witness that regardless of whether identification is made, the police will continue to investigate the incident.
      - g. Instruct the witness that the procedure requires the investigator to ask the witness to state, in his/her own words, how certain he/she is of any identification.
      - h. Instruct the witness that the photos/individuals will be viewed one at a time and that they are in random order (**Sequential Lineups**).
      - i. Advise the witness to take as much time as needed in making a decision about each photo/individual before moving to the next one.
      - j. All photos/individuals will be shown, even if identification is made. (**Sequential Lineups**).
      - k. 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.
      - l. Confirm that the witness understands the nature of the sequential procedure.

5. Obtain and document a statement of certainty if identification is made. This statement should be in the eyewitness's own words as to the eyewitness's confidence level that the person identified in a given lineup is the perpetrator. All identifications and non-identifications must be documented.
6. Words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator will be carefully avoided.
7. Documentation of the results
  - a. Document the date, time and location of the procedure.
  - b. Record both the identification and non-identification results in writing, including the witness' own words regarding how sure he/she is.
  - c. Ensure the results are signed and dated by the witness.
  - d. Ensure that the witness does not write on or mark any materials that will be used in other identification procedures.
  - e. The photo array and accompanying documentation shall be booked into evidence.

B. Facial Composites or Sketches

When there is no suspect, and the use of a photo lineup has been or is likely to be unsuccessful, a non-photographic pictorial representation such as a hand sketch, Faces composite or other computer program generated composite image may be used. Care must be taken not to unintentionally influence the description provided by a witness while developing such a composite image or sketch, and only those officers trained in the use of such techniques shall use them.

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Chris Connally                      Chief of Police

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Date