



SACRAMENTO POLICE DEPARTMENT GENERAL ORDERS



523.09 EYEWITNESS IDENTIFICATION 12-16-19

PURPOSE

The purpose of this order is to establish guidelines for conducting Photographic Lineups, Live Lineups and Field Show Ups.

POLICY

It shall be the policy of the Sacramento Police Department to conduct photographic lineups and live lineups in compliance with Penal Code 859.7, to help ensure the reliability and accuracy of suspect identifications.

PROCEDURE

A. DEFINITIONS

1. **BLIND ADMINISTRATION** – An administrator of an eyewitness identification procedure who does not know the identity of the suspect.
2. **BLINDED ADMINISTRATION** – An administrator of an eyewitness identification procedure who may know who the suspect is, but does not know where the suspect, or his or her photo, as applicable, has been placed or positioned in the identification procedure using the following:
 - a) An automated computer program that prevents the administrator from seeing which photos the eyewitness is viewing until after the identification procedure is completed.
 - b) The “folder shuffle method” is a process for conducting a photo lineup by placing photographs in folders, randomly numbering the folders, shuffling the folders and then presenting the folders sequentially so that the administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed.
 - c) Any other procedure that achieves neutral administration and prevents the lineup administrator from knowing where the suspect or his or her photos, as applicable, are placed or positioned in the identification procedure.
3. **EYEWITNESS** – A person whose identification of another person may be relevant in a criminal investigation.
4. **FIELD SHOW UP** – A procedure in which a suspect is detained shortly after the commission of a crime and who, based on his or her appearance, his or her distance from the crime scene, or other circumstantial evidence, is suspected of having just committed a crime. In these situations, the victim or an eyewitness is brought to the scene of the detention and asked if the detainee was the suspect.
5. **FILLER** – Either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure. The filler person or photograph should generally fit the description given by the eyewitness.
6. **IDENTIFICATION PROCEDURE**: Either a photo lineup or a live lineup.
7. **LIVE LINEUP** – A procedure in which a group of persons, including the person suspected as the suspect of an offense and other persons not suspected of the offense, are displayed to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the suspect.
8. **SEQUENTIAL LINEUP** – A procedure in which eyewitnesses are shown a series of six photographs, one containing the suspect and five fillers. The photographs are shown one at a time. All photographs will be shown even if an identification is made. If the eyewitness wishes to view the photographs again, he or she may do so one at a time, in a new random order.
9. **SIX PACK PHOTO LINEUP** – A procedure in which an array of six photographs, including a photograph of the person suspected as the suspect of the offense and five fillers, are displayed to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the suspect.



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B. INVESTIGATIVE CONSIDERATIONS

1. Nothing in this General Order is intended to affect the guidelines for field show up procedures.
2. Prior to conducting either a sequential lineup, six pack photo lineup or live lineup, eyewitnesses shall provide the description of the suspect(s) to the officer or detective.
3. In a photo lineup, writings or information concerning any previous arrest of the person suspected as the suspect shall not be visible to the eyewitness.
4. Only one suspected suspect shall be included in any identification procedure.
5. Identification procedures include a six-pack photo lineup, sequential lineup and live lineup. Upon selecting an identification procedure, the officer or detective may choose either the blind administration or the blinded administration procedure.
6. If applicable, officers or detectives shall state in writing why the blind administration procedure was not used
7. When applicable, eyewitnesses should read and sign SPD Form 606, Photographic Lineup Admonishment. At minimum, an eyewitness shall be instructed of the following prior to any identification:
 - a) The suspect may or may not be in the photographs you will view.
 - b) The eyewitness should not feel compelled to make an identification.
 - c) An identification or failure to make an identification will not end the investigation.
8. All eyewitnesses shall be separated when viewing an identification procedure.
9. Nothing shall be said to the eyewitness that might influence the eyewitness' identification of the person suspected of being the suspect.
10. If the eyewitness identifies a person he or she believes to be the suspect, all the following shall apply:
 - a) The officer or detective shall immediately inquire as to the eyewitness' confidence level in the accuracy of the identification and record in writing, verbatim, what the witness says.
 - b) Information concerning the identified person shall not be given to the eyewitness prior to obtaining the eyewitness' statement of confidence level and documenting the exact words of the eyewitness.
 - c) The officer or detective shall not validate or invalidate the eyewitness' identification.
11. An electronic recording shall be made that includes both audio and visual representations of the identification procedures. Whether it is feasible to make a recording with both audio and visual representations shall be determined on a case-by-case basis.
 - a) When it is not feasible to make a recording with both audio and visual representations, audio may be used. When audio recording without video recording is used, the officer or detective shall state in writing the reason that video recording was not feasible.
 - b) In the event a lineup was shown on the Mobile Data Computer (MDC), the lineup shall be forwarded to a department email. The lineup shall then be printed and booked into evidence.

Nothing in this section is intended to preclude the admissibility of any relevant evidence or to affect the standards governing the admissibility of evidence under the United States Constitution.

C. INTERPRETIVE SERVICES

1. Officers or detectives should make a reasonable effort to arrange for an interpreter before proceeding with the eyewitness identification if communication with a witness is impeded due to hearing or language barriers.
2. Officers or detectives should explain the identification process to the interpreter prior to the interpreter being permitted to discuss any matter with the witness. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

D. DOCUMENTATION

1. A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the report.



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E. SEQUENTIAL LINEUP

1. Six individual photographs are needed: one containing the suspect and five fillers. Each photograph will be assigned a number 1 through 6 and placed on the back of the photograph.
2. All six photographs will be placed in a random order which will be recorded on SPD Form 606.
3. After the SPD form 606 Photographic Lineup Admonishment has been read and signed, the eyewitness will then be handed the series of six individual photographs (sequential lineup). Eyewitnesses will be under no time constraint and may arrange or place the photos in any manner they choose.
4. All photographs will be shown regardless of an identification being made.
5. If the eyewitnesses wish to view the photographs again, he or she may do so, in a new random order that will be recorded on SPD Form 606.
6. If the eyewitness makes a selection, the eyewitness shall be asked as to their confidence level in the accuracy of the identification. This response shall be documented verbatim in the appropriate report.

F. SIX PACK PHOTO LINEUP

1. Six individual photographs are needed: one containing the suspect and five fillers. The suspect photograph should be randomly placed within the lineup.
2. After the SPD form 606 Photographic Lineup Admonishment has been read and signed, the eyewitness will be given the six pack photo lineup.
3. If the eyewitness makes a selection, the eyewitness shall be asked as to their confidence level in the accuracy of the identification. This response shall be documented verbatim in the appropriate report.

G. FIELD SHOW-UP CONSIDERATIONS

1. Field show-ups, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impractical to conduct a photo lineup or live lineup. When initiating a field show up, the officer should observe the following guidelines:
 - a) Obtain a description of the suspect from the witness.
 - b) An electronic recording shall be made that includes both audio and visual representations of the identification procedures. Whether it is feasible to make a recording with both audio and visual representations shall be determined on a case-by-case basis.
 1. When it is not feasible to make a recording with both audio and visual representations, audio may be used. When audio recording without video recording is used, the officer or detective shall state in writing the reason that video recording was not feasible.
 - c) Assess whether a witness should be included in a field show up process by considering:
 1. The length of time the witness observed the suspect.
 2. The distance between the witness and the suspect.
 3. Whether the witness could view the suspect's face.
 4. The quality of the lighting when the suspect was observed by the witness.
 5. Whether there were distracting noises or activity during the observation.
 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 7. The length of time that has elapsed since the witness observed the suspect.
 - d) If safe and practical, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
 - e) When feasible, officers should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness. When practical, ensure the victims/witnesses view the suspect from a concealed location (back of squad car, etc.)
 - f) All eyewitnesses shall be kept separated.
 - g) The Field Show-up Admonishment SPD 605 card shall be read verbatim to the witness prior to the field show-up.
 - h) Nothing shall be said to the eyewitness that might influence the eyewitness' identification of the person suspected of being the suspect.
 - i) The officer shall not validate or invalidate the eyewitness' identification.



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- j) The person who is the subject of the show-up should not be shown to the same witness more than once.
- k) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- l) The subject of the field show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect, or to perform other actions mimicking those of the suspect. Nothing in this section precludes a scheduled live lineup from using scripts and/or props. (Section I)

H. REQUESTING A LIVE LINEUP

1. Sacramento County Main Jail (SCMJ)

- a) Physical lineup requests shall be made to the Lineup Officer assigned to the SCMJ Intelligence Unit at least 24 hours in advance. The Lineup Officer may be reached at (916) 874-7659 or via email at mjintel@sacsheriff.com.
- b) Physical lineups are generally scheduled between 0800 hours and 1500 hours, Tuesday through Friday. Exceptions may be made with the approval of the Sacramento County Sheriff Watch Commander.

2. Juvenile Hall

- a) Requests for physical lineups should be coordinated between the District Attorney's office and the investigating officer. Requests shall be made to the Juvenile Intake Officer at least one (1) week in advance.
- b) All physical lineups shall be conducted at Juvenile Hall, unless directed by the District Attorney's office.

I. PREPARING FOR A LIVE LINEUP

1. After the physical lineup has been scheduled, the investigating officer shall provide the Lineup Officer or Juvenile Hall Intake Officer with:

- a) The suspect's full name and XREF number.
- b) The number of participating victims and witnesses.
- c) Scripts and/or planned props (hats, coats, glasses, etc.).

2. The investigating officer shall:

- a) Notify the Deputy District Attorney so that they may be present to oversee the physical lineup.
- b) Ensure that the District Attorney's office notifies the suspect's attorney of the scheduled lineup unless the suspect waives in writing the right to have their attorney present. The suspect's attorney may be present to observe the lineup but shall not interfere.
- c) Arrange for attendance of any victims and/or witnesses.

J. CONDUCTING THE LIVE LINEUP

The investigating officer shall be present to oversee the lineup and to ensure that all admonishments are properly given to the victim/witness.

- 1. Photographs of the lineup participants shall be taken at the SCMJ by the Lineup Officer.
- 2. Photographs of juvenile lineup participants shall be taken at Juvenile Hall by either the investigating officer or Crime Scene Officer or detectives (CSI).

K. LIVE LINEUP PARTICIPANTS

- 1. A suspect who is not currently in custody shall not participate in a lineup without his or her consent or a valid court order.
- 2. Upon obtaining an out-of-custody suspect's consent or a valid court order, the suspect may be escorted into a detention facility for the limited purpose of participating in a lineup.
- 3. An out-of-custody suspect who consents to participating in a lineup will be required to sign a "Consent to Participate in a Physical Lineup" form at the detention facility.
- 4. The Lineup Officer/Juvenile Intake Officer will provide four (4) "filler" inmates that resemble the suspect.

L. LIVE LINEUP REFUSAL OR CANCELLATION



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1. The investigating officer shall notify the Lineup Officer/Juvenile Hall Intake Officer if it is necessary to cancel a lineup.
2. At the direction of a detention facility commander, lineups may be refused or cancelled.