

**I. PURPOSE**

To define policy and establish guidelines for conducting physical lineups, photographic lineups, and show ups.

**II. POLICY**

It is the policy of the Fairfax County Sheriff's Office that:

- A. Any identification procedure outlined below will be conducted to provide maximum investigative information while preserving the rights of the accused.
- B. Written policy and procedure regarding eyewitness identification processes are available to all personnel and are reviewed at least annually and updated if necessary.

**III. PROCEDURE**

A. Physical Lineups

- 1. The primary investigating deputy shall obtain permission from the appropriate Division Commander prior to conducting any physical lineup, and shall be responsible for coordinating all arrangements concerning the lineup. The Sheriff's Intelligence Unit Commander and/or Assistant Commander shall act as a liaison with the Police Department concerning all aspects of physical lineups and assist the primary investigating deputy.
- 2. Non-custodial participation by a suspect shall be by consent or a court order only. When a suspect in custody, i.e. inmate, does not consent to a lineup, a Commonwealth Attorney shall be consulted.
- 3. When an inmate is required to participate in a lineup related to an offense in which they are a suspect, their defense attorney shall be notified and informed of the pending lineup. The attorney will be allowed to attend the lineup solely for the purpose of observation.
- 4. A representative of the Commonwealth Attorney's Office shall be requested to attend the lineup.
- 5. The affected Squad Commander shall be notified and coordination established to minimize disruption of ADC activities.
- 6. Inmate records shall be reviewed to establish potential candidates for the lineup. These candidates shall be interviewed, and consent must be obtained for their participation.
- 7. A total of five inmates and two alternates will be selected.
- 8. The on-duty Shift Commander working the day of the lineup will designate personnel to provide transportation to the Lineup Room and on-going security. Transportation and security will be coordinated through the Sheriff's Intelligence Unit Coordinator and approved by a Confinement Branch Chief.

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9. Should there not be a sufficient number of inmates suitable for an impartial lineup, deputies and auxiliary deputies may be utilized with the approval of their supervisors.
10. The Sheriff's Intelligence Unit Coordinator shall coordinate the photographic records of all physical lineups. The Criminal Justice Academy will be contacted for videotaping at the discretion of the Chief, Classification & Records Branch. Photographic and video documentation shall be completed prior to the witness viewing the lineup.
11. The Fairfax County Police Department's Major Crimes Division will be notified by the Sheriff's Intelligence Unit Coordinator to reserve the Lineup Room. The room will be inspected prior to the lineup to ensure that equipment is functioning properly.
12. The primary investigating deputy shall maintain a list of all witnesses as well as the order the witnesses viewed the lineup. All witnesses shall be kept separated.
13. The investigating deputy shall determine the type of attire worn by the lineup participants. Clothing worn shall be similar in appearance and worn in the same manner by all participants. The investigating deputy shall be responsible for determining any words or phrases to be used by the participants during the lineup.
14. If possible, the deputies present with the witness during a physical lineup should stand behind or to the side of the witness to avoid unintended facial expressions or body language clues. Deputies shall not make any suggestions, gestures, or indications to directly or indirectly influence the witness' identification of the suspect. After the witness has viewed the suspect, deputies shall not indicate whether or not a correct identification was made.
15. If the witness is uncertain regarding their identification of a suspect, deputies may question them as to their level of certainty.
16. The primary investigating deputy shall document the witness' response and exact words during the lineup.
17. When possible, the primary investigating deputy should utilize blind administration procedures for conducting the lineup. Blind administration is accomplished by using a deputy who does not know the identity of the suspect to present the lineup to the witness. This can also be accomplished by utilizing procedures in which the administrator does not know which lineup participant is being viewed by the witness. The Blind Administration procedure ensures there is no inadvertent body language or gesture made by the administrator that may lead or cause a witness to make an incorrect identification.
18. Surveillance video, wanted posters or any other photographs of a possible suspect shall not be shown to an individual who may later be used as an eyewitness in a physical lineup.

B. Photographic Lineups

1. Creating a Sequential Photographic Lineup

- a. Include only one suspect in each identification procedure.
- b. A minimum of six photographs will be used per lineup.
- c. The suspect's photograph shall be the most recent or best photo available.
- d. Photographs used will be similar in appearance, with similar backgrounds, and shall not contain agency identification numbers.
- e. Photos used in the lineup shall be copies, not originals, in the event the lineup is retained by the court as evidence.
- f. The photographic lineup is considered evidence and should be handled as such.
- g. If conducting more than one lineup due to multiple witnesses, place the suspect in different positions in each lineup.
- h. Never reuse fillers in lineups shown to the same witness when adding a new suspect to the group of photographs.
- i. Select and identify the lineup sequence, i.e. Photographs 1-6 or A-F.
- j. Review the photographic lineup ensuring the suspect does not stand out.
- k. A witness shall not be shown any photographs or video of the suspect's image prior to the administration of a photo lineup.

2. Instructing the Witness Prior to Viewing Lineup

***The investigating deputy shall read to the witness the "Photographic Lineup Instruction Form" (Attachment 1 TO SOP 033b) which includes the below instructions.***

- a. Instruct the witness that he/she will be asked to view a set of photographs.
- b. Instruct the witness that it is just as important to clear innocent persons from suspicion as to identify guilty parties.
- c. Instruct the witness that individuals depicted in the photographic lineup may not appear exactly as they did at the time of the alleged incident because features such as head and facial hair are subject to change.
- d. Instruct the witness that the person who committed the crime may or may not be present in the set of photographs shown.

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- e. Assure the witness that regardless of whether identification is made, the Sheriff's Office or Police Department will continue to investigate the incident.

3. Presenting a Sequential Lineup

- a. Provide viewing instructions as stated in Section III., B., 2. of this SOP.
- b. Advise the witness six individual photographs will be shown, one at a time.
- c. Advise the witness the photographs are in a random order.
- d. Advise the witness to take as much time as needed in making a decision about each photograph before moving to the next one.
- e. All individual photographs will be shown to the witness even if identification is made.
- f. Assure that the witness understands the nature of the sequential procedure.
- g. Present each photograph to the witness separately, in a previously determined order, removing the photographs previously shown. Do not lay out all six photographs after the witness has reviewed each photograph. The witness may go back to each picture individually to review.
- h. Avoid statements to the witness that may influence their selection.
- i. If identification is made, avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness' statement of certainty.
- j. Record any identification results as outlined in Section III., B., 4. of this SOP.
- k. Instruct the witness not to discuss the identification procedure or its results with other witnesses involved in the case.
- l. If possible, the person presenting the photographic lineup should stand behind or to the side of the witness to avoid unintended facial expressions or body language indications. Deputies shall not make any suggestions, gestures, or indications to directly or indirectly influence the witness' identification of the suspect. After the witness has identified the suspect, deputies shall not indicate whether or not a correct identification was made.
- m. When possible, the primary investigating deputy should utilize blind administration procedures for conducting the lineup. Blind administration is accomplished by using a deputy who does not know the identity of the suspect to present the lineup to the witness. This can also be

accomplished by utilizing procedures in which the administrator does not know which lineup participant is being viewed by the witness. The Blind Administration procedure ensures there is no inadvertent body language or gesture made by the administrator that may lead or cause a witness to make an incorrect identification.

4. Recording Identification Results
  - a. Record both identification and non-identification results in writing, including the witness' own words regarding his/her level of certainty utilizing the Sequential Lineup Worksheet (**Attachment 2 TO SOP 033b**).
  - b. Ensure positive results are signed and dated by the witness by having the witness initial and date the back of the identified photograph.
  - c. Ensure that no materials indicating previous identification results are visible to subsequent witnesses.
  - d. The investigating deputy should maintain all original photographs shown to the witness for court proceedings.
  - e. Record the names of all persons present at the showing of the lineup.
  - f. The date and time of the identification procedure should be documented.
  - g. Preserve the presentation order of the photographic lineup. In addition, the photographs should be preserved in their original condition.

C. Show-Ups

1. Circumstances necessary to conduct a show-up:
  - a. A show-up may be conducted when a suspect is observed that reasonably matches the description broadcasted by witnesses or responding officers.
  - b. Show-ups should only be performed using a live suspect.
  - c. If a positive identification can be made of the suspect through other investigative means i.e. surveillance video comparison, statements or evidence on person etc., a show-up should not be conducted.
  - d. If probable cause already exists to arrest the suspect, a show-up shall not be conducted. If the arrest is for something other than the original offense being investigated, other investigative means must then be used to determine if the arrestee is also the suspect in the original case. Options include assembling a photographic lineup.
  - e. Surveillance video, wanted posters or any other photographs of a possible suspect shall not be shown to an individual who may later be used as an eyewitness.

- f. A show-up must occur within a reasonable period after the offense.
2. Procedures for conducting a show-up:
    - a. Witnesses shall be transported to the location of the suspect in a law enforcement vehicle. When multiple witnesses are involved, they shall be transported separately.
    - b. Suspects shall not be transported to the victim.
    - c. If the case involves multiple suspects, they should be presented to the witness one at a time if possible.
    - d. While deputy safety is paramount, deputies shall consider the manner in which the suspect is being presented to reduce the suggestiveness of the show-up. Considerations shall be given to the numbers of deputies/officers present, use of handcuffs and lighting conditions etc. Deputies shall not make any suggestions, gestures or indications to directly or indirectly influence the witness' identification of the subject. After the witness has viewed the suspect, deputies shall not indicate whether or not a correct identification was made.
    - e. Deputies shall utilize radio discipline during the show-up so as not to inadvertently convey any information to a witness or suspect.
    - f. Deputies shall utilize standard instructions on the "Show-up Instruction Form (SOP 33b Attachment 3)" and document the witness' response in a supplement.
    - g. Deputies should photograph the suspect at the time and place of the show-up to preserve a record of their appearance at the time of the show-up.
  3. Show-up instructions for the witness:

**Deputies shall utilize the "Show-Up Instruction Form" which includes the following instructions.**

- a. Inform the witness, "We have stopped an individual whom we would like you to observe. Can you come with me briefly?" and transport them to the suspect's location.
- b. "In a moment you are going to have the opportunity to view the person(s) who may or may not have committed the crime being investigated."
- c. "The individual may or may not be wearing the same clothing that was being worn at the time of the incident."
- d. "You should not guess or feel like you have to make identification. It is just as important to exclude innocent persons as it is to identify the persons who committed the crime. This procedure is important to the

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investigation whether or not you identify someone.”

- e. “After you have observed the individual, I will ask you:”
  - 1. *“Do you see the person(s) who committed the crime being investigated?”*
  - 2. *If the witness is unsure of their identification, ask them, “How certain are you?”*
- f. “Because you are involved in an ongoing investigation, in order to prevent compromising the investigation, you should avoid discussing the identification procedure or results with other witnesses or victims.”
- g. “Do you understand the way this procedure will be conducted and the other instructions I have given you?”

4. Show-Up Documentation

- a. Deputies shall document the show-up utilizing the “Show-Up Instruction Form” (SOP 33b Attachment 3) and an ADC 108.
- b. Deputies shall document the witness’ exact responses during the show-up.
- c. Deputies shall notify DPSC of the “Show-Up”, with all pertinent information, via radio or telephone.
- d. If an in-car cruiser recording system is available, the show-up shall be documented utilizing the system.

D. Training

- 1. Training regarding this policy and procedure will be coordinated with the Criminal Justice Academy and the Fairfax County Police Department’s Major Crimes Division.

**03/21/2014  
DATE APPROVED**

  
**STACEY A. KINCAID  
SHERIFF**

**04/03/2014  
EFFECTIVE DATE**

**Revised: January 2015**