

PALM BEACH GARDENS POLICE DEPARTMENT

EYEWITNESS IDENTIFICATIONS

POLICY AND PROCEDURE 4.2.2.17

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PURPOSE: To provide guidelines for the use of eyewitness identifications involving line-ups, show-ups, and photographic identifications.

SCOPE: This policy and procedure applies to all members.

REVIEW RESPONSIBILITY: Investigations Bureau Major

POLICY: Eyewitness identification is a frequently used investigative tool. As such, officers shall adhere to these procedures in order to maximize the reliability of identifications, minimize unjust accusations against innocent persons, and to establish evidence that is reliable and conforms to established legal procedure.

PROCEDURES

1. PHYSICAL LINE-UPS

- a. The Palm Beach County State Attorney's Office does not require the use of or rely solely on physical lineups for eyewitness identification.

2. SHOWUPS

- a. A show-up can be used whenever a suspect is apprehended within close proximity to the crime, within a reasonable timeframe and fits the specific description of the suspect given by the witness.
- b. Officers at the scene and in contact with the witness will obtain a detailed description of the suspect, prior to the witness viewing the suspect.
- c. The witness must advise the officers that they will be able to identify the person suspected of committing the crime prior to the show-up.
- d. The following guidelines should be followed:
 - i. The suspect should be detained at their location, in the least restrictive manner possible that will ensure the suspect remains with the officer. Transport of the suspect to the witness should only occur under exigent circumstances.
 - ii. The witness should be transported to the suspect's location for the show-up, and care taken to shield the witness from being seen by the suspect.
 - iii. Show-ups should not be conducted when the suspect is in a cell, handcuffed or dressed in jail clothing.
 - iv. Show-ups should not be conducted with more than one witness present at a time. If the show-up is conducted separately for more than one witness, the witnesses should not be permitted to communicate regarding the identification of the suspect before or after the show-up.
 - v. The same suspect should not be presented to the same witness more than once.

- vi. Show-up suspects should not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator, nor to perform other actions of the perpetrator.
- vii. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator shall be avoided.
- e. If longer than a reasonable timeframe has transpired from the time that the crime was committed and the time a show-up would occur then a photographic identification will be used.
- f. Documenting the show-up and results
 - i. The officer conducting the show-up shall include the following in their report:
 - 1. All persons present, the location, lighting, weather conditions, and approximate distance from which the viewing took place.
 - 2. Identification or non-identification of the suspect by the witness(es).
 - 3. Quoted confidence or certainty statements made by the witness, their conduct or other relevant observations.
 - 4. Witness statements and officer supplements should also be taken from those involved in the show-up.
 - 5. A description of the suspect(s) clothing, demeanor and any injuries.

3. PHOTOGRAPHIC IDENTIFICATIONS

- a. When preparing the photo array the suspect's photo should not stand out from the others.
 - i. If there are multiple suspects in a case, then each suspect may only be included in their individual photo array. Fillers should be changed in cases with multiple suspects.
 - ii. Photographic identifications must use multiple photographs shown to a witness either one at a time or simultaneously in a book or array.
 - iii. Use at least six photographs of individuals who are reasonably similar in age, weight, and general appearance and are of the same sex and race.
 - iv. Avoid mixing color and black and white photographs and never mix mug shots with other snapshots.
 - v. Never include more than one photograph of the same suspect in the photo array.
 - vi. Use photographs of the same size and basic composition. Should the original photographs vary in size or composition and need to be cropped or resized to uniform composition and dimensions, ensure the process does not significantly alter the appearance of the suspect(s).
 - vii. Cover any details in the photographs that may identify any of the individuals in the photo array. There should be nothing in the photographs that would make the suspect's photo stand out.
 - viii. Mark each photograph used in the photo array with a number corresponding to its position. This will facilitate verbal identification by the witness.
- b. Conducting the Photo Array
 - i. When conducting a photo array officers will refrain from making suggestive comments or remarks before, during and after the viewing. Nothing should be done to influence or distract the witness from viewing the photos.
 - ii. Prior to showing the photo array, the following should be read to each witness:

"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may have changed. Also, photographs may not always depict the true complexion of a person; it may be lighter or darker than shown in the photo. Take a few minutes to relive the entire incident in your mind before you view the line-up. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. The investigation will continue whether or not identification is made by you. Do not tell other witnesses that you have or have not identified anyone."

- iii. Show the photo array to only one witness at a time.

- iv. If there are multiple witnesses, it is suggested that the suspect be placed in a different location in each of the multiple arrays displayed to each witness.
- v. Do not allow witnesses to confer with one another about their identification either before, during, or after the viewing. The witness should not be told whether he/she has picked a "right" or "wrong" photograph, nor should he/she be asked questions relative to the photographs that might in any manner suggest who the suspect may or may not be.
- vi. Never make suggestive statements that may influence the judgment or perception of the witness.
- vii. The officer conducting the photo identification procedure shall ensure that the witness making the identification circles the selected photograph and initials next to it. A marked array shall not be viewed by other witnesses. Each witness will attempt identification using the same process.
- viii. A Photograph Line-up Form shall be completed immediately after identification. The form shall be signed by the victim/witness and by a witness/Police Officer.
- c. Documenting the line-up and results
 - i. The officer conducting the photo identification procedure will complete a supplement report using the appropriate department forms (complaint, sworn statement, etc.) and may include audio and/ or video recording of the proceedings. The record should include, but is not limited to:
 - 1. All persons present during the viewing;
 - 2. All photographs used and from where they were obtained;
 - 3. Whether identification was or was not made;
 - 4. If an identification was made, the number of the selected photograph; and
 - 5. Witness comments of certainty and/or confidence.
 - ii. Once a suspect identification has been made, the photo array shall be preserved, together with full information about the identification process. The identifying document shall be placed in an evidence bag, sealed with evidence tape and placed into evidence.
 - 1. Photo arrays and instructions used when no identification is made shall also be placed in evidence.
 - iii. If the photo array viewing is audio and/or video recorded, a copy of the recording should be placed into evidence.
- d. Facial composites and sketches
 - i. A non-photographic pictorial representation such as a free hand sketch, Faces composite, or other computer program generated image may be used when there is no suspect and a photo line-up has been or is likely to be unsuccessful.
 - ii. Care must be taken not to influence the description provided by the witness while developing the composite image or sketch.
 - iii. Facial composites and sketches should only be used by officers familiar with the use of those techniques.

4. GLOSSARY

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

Filler: A photograph of a person who is NOT suspected of an offense and is included in an identification procedure.

Photo Line-up: An identification procedure, in which an array of photographs, including a photograph of the suspect of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect.

Physical Lineup: An identification procedure, in which a group of persons, including the suspect of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect.

Show-up: An identification procedure in which an eyewitness is presented with a single suspect within a short time following the commission of a crime for the purpose of determining whether the eyewitness identifies this individual as the suspect.

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APPROVED:



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