
	Florida State University Police Department	
Eyewitness Identifications/Show-Up, Photographic & Live Lineups		
Effective Date: 06/29/2020	General Order 810	Attachments: Lineup/Show-up Forms & Instructions-810-1, 810-2, 810-3
Rescinds/Amends: 810 (4/19/19), 810 (10/1/17), 14-18I (2/25/14), 11-18I (11/01/11)	Distribution: Department-Wide	References: CFA 15.13 & 15.14, Florida Statute 92.70
	Pages: 9	

Policy - Eyewitness Identifications

Officers/Investigators shall maximize the reliability of identifications, minimize unjust accusations against innocent persons, and establish evidence that is reliable and conforms to established legal procedure by following the guidelines established to ensure reliable eyewitness identification.

Purpose

The purpose of this General Order is to establish proper and consistent protocols pertaining to the administration of photographic lineups, field show-ups, and live lineups and ensure that they conform to established legal procedures.

Procedures

A. Show-Up Protocols

Any officer may arrange a “show-up” between a witness and a suspect whenever a potential suspect is located and detained within a reasonable length of time, in proximity to the location of the crime, and fits the specific description of the suspect given by the witness. [CFA 15.14A]

1. When conducting a show-up, the officer in charge of the show up shall ensure:
 - a. The show-up is conducted with only one witness at a time.
 - b. If there are multiple witnesses, they are not permitted to communicate with one another regarding the person to be viewed or the show-up process.
 - c. The witness is transported to the location where the person to be viewed has been stopped for the show-up.
 - d. The witness is advised the person being viewed may or may not be the person who committed the crime.
 - e. The witness is instructed to base any identification of the person to be viewed as the actual suspect on the person’s features, not by their clothing.
 - f. No statement clues, or unnecessary information is given to the witness that may influence their decision-making process. [CFA 15.14D]
 - g. If possible, the show-up will be recorded via the mobile audio video recording in-car camera system. [CFA 15.14F]

2. If possible, officers will not show the suspect handcuffed, or in the back seat of a patrol car. If the suspect is handcuffed, measures should be taken to conceal this fact from the witness when possible. [CFA 15.14B]
3. Suspects may not be required to put on clothing worn by the offender. However, they may be asked, but not required to speak words uttered by the suspect or perform other actions of the suspect. [CFA 15.14B]
4. The witness should be informed that the person detained may or may not be the suspect and the witness should not feel compelled to make identification. If the witness makes identification, do not confirm or corroborate the identification. Feedback may not be given to the witness as to the identification. [CFA 15.14D]
5. A suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the suspect is the suspect.
6. If an officer has reasonable suspicion to detain a suspect, the officer may use such force as is reasonably necessary to stop the suspect from leaving, or to cause the suspect to remain in the officers' presence. If probable cause to arrest develops during the detention, an arrest should be made.
7. Nothing in these guidelines prohibits the common procedure of transporting a witness in a patrol car to cruise the general area in which a crime has occurred in hopes of spotting the suspect and arranging a show-up identification procedure.
8. If the detained suspect is not identified by a witness as the suspect, and officers lack any other probable cause for an arrest, the suspect should be released after obtaining basic information. It is equally as important to clear innocent persons as it is to arrest guilty suspects.
9. All activities will be documented in the offense/incident report. The exact words used by the witness in any identification, including level of certainty regarding the identification will be documented. [CFA 15.14F]
10. Prior to allowing a witness to view a detained individual for the purpose of a show-up, the officer shall provide instructions to the witness to ensure the witness understands the purpose of the identification process is to exonerate the innocent as well as to identify the actual suspect. A Show-Up Instruction Form (810-2) is attached to this General Order and available on the FSUPD intranet. Officers conducting show-ups should make every effort to utilize this form when conducting Show-Ups. Each witness shall be read information relating to the procedures governing show-ups. No additional commentary by the officer should be made beyond reading of the standardized instructions. The standardized instructions should substantially relate the below information and shall be acknowledged, in writing where practical, by the witness(s): [CFA 15.14 C]
 - a. "In a moment, you will have the opportunity to view an individual. That person may or may not be the person who committed the (crime type). You should not guess or feel that you are obligated to identify anyone. It is just as important to exclude innocent persons from suspicion as it is to identify the person who committed the crime.

Understand that the FSUPD will continue to investigate the (crime type) regardless of whether you are able to make an identification of the person you are about to see. After you have observed this individual, I will ask you the following questions:

- 1) Is this the person you saw commit the (crime type or description of incident)?
- 2) If you answer "yes", I will then ask you to state, in your own words, your level of certainty.

Because this is an ongoing investigation, and in order to prevent compromising the investigation or its outcome, you should not discuss this process of your ability to make an identification with other witness(s). Do you understand the show-up procedures and instructions I have explained to you?"

- b. The witness should sign and date the instructional Show-Up Form in which the witness should acknowledge, the following:

"I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to observe the individual which will be presented to me, and I will follow the instructions provided on this form."
- c. If the witness refuses to sign the form or is unable to sign the form, the officer shall document the circumstances within the offense or supplement report, indicating the instructional statement was provided to the witness.
- d. Upon viewing the individual, the words and actions of the witness shall be documented for proper and accurate presentation during court proceedings, to include how the witness answered the questions relayed during the instructional phase. [CFA 15.14F] In circumstances where a selection is made by a witness, a confidence statement will be obtained from the witness; the witness will be asked to describe, in their own words, their level of certainty in the selection. [CFA 15.14E]

B. Photo Lineup

1. Preparing the Photo Array
 - a. Methods of Presentation:
 - 1) Simultaneous Method: Presentation of photos in a photo group to a witness all at once. A minimum of five filler photographs will be utilized together with only one photo of the suspect. This method may only be used when an independent administrator is utilized. (See Section 2 of this General Order)
 - 2) Sequential Method: Presentation of photos in a photo group to a witness one-at-a-time. When using the sequential method, a photograph of the suspect, five filler photographs and two blank photographs will be placed in separate folders, for a minimum of eight folders.
 - b. Photographic lineups shall consist of contemporary photographs which are the same size and basic composition of individuals who are reasonably similar in age, height, weight, and general appearance and are of the same sex and race, consistent with the witness's description of the subject. [CFA 15.13A]
 - c. When creating a photographic lineup: [CFA 15.13A]
 - 1) Do not mix color and black and white photographs;
 - 2) Do not mix mug shot photographs with other photographs;
 - 3) Do not include more than one photograph of the same suspect; or
 - 4) Cover or crop any portion of a mug shot or other photograph that provides identifying information on the subject or other persons included in the photographic line up.
 - d. A photographic lineup will be prepared so there is a consistent appearance between the subject and the fillers with respect to any unique or unusual feature used to describe the perpetrator. Examples of unique features include scars, tattoos, facial hair, eyewear etc. [CFA 15.13A]

- e. Officers will randomly change the suspect position in each photographic or live line-up both in cases involving multiple witnesses as well as other unrelated cases. The practice of commonly assigning a suspect to a specific position is prohibited. [CFA 15.13A]
 - f. The lead officer investigating a crime or higher authority will determine which method (sequential or simultaneous) will be utilized. This method should be the same whether the witness is required to view multiple photographic lineups or if multiple witnesses in a reported crime are shown photographic lineups. [CFA 15.13 F]
 - g. All photographs used in a simultaneous lineup and folders in a sequential lineup will be numbered prior to being presented to the witness.
2. Photographic Lineup Administration
- a. Photographic lineups will be administered by an independent administrator. The independent administrator will be an officer or investigator who is not participating in the investigation of the offense and is unaware of which person in the lineup is the suspect. [CFA 15.13B] Either a sequential or simultaneous photo lineup may be used if utilizing an independent administrator. In lieu of using an independent administrator, a photo lineup using a Functional Equivalent Procedure described below may be utilized. [CFA 15.13C]
 - b. When an independent administrator is not utilized to administer the lineup and a photographic lineup is administered by an officer or investigator who is participating in the investigation of the offense or who knows the identity of the suspect, a Functional Equivalent Procedure utilizing the sequential or other approved alternate method will be utilized. To follow the sequential method, the officer will: [CFA 15.13C]
 - 1) Place the suspect, filler photographs and two blank photographs in separate folders for a minimum of eight folders;
 - 2) Randomly number each folder and shuffle the folders before giving them to the witness;
 - 3) Present the folders to the eyewitness in such a manner that the lineup administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed;
 - 4) The officer administering the sequential photographic lineup shall position himself or herself away from the witness and in a position that he or she cannot see inside the folders as they are viewed by the witness.
 - 5) In lieu of the above described sequential method, an automated computer program that can automatically administer the photo lineup directly to an eyewitness and prevent the lineup administrator from seeing which photograph the eyewitness is viewing until after the procedure is completed may also be utilized.
 - c. Prior to administering each photographic lineup, the administrator will read to the witness standard lineup instructions directly from the applicable photographic lineup instruction form. The Report of Photographic Lineup Form/Instruction Form (810-1) is attached to this General Order and available on the FSUPD intranet. Specific instructions to the eyewitness will at a minimum include: [CFA 15.13D]
 - 1) The perpetrator might or might not be in the lineup;
 - 2) The lineup administrator does not know the suspect's identity (when conducted by an independent administrator);

- 3) The eyewitness should not feel compelled to make an identification;
 - 4) It is as important to exclude innocent persons as it is to identify the perpetrator; and
 - 5) The investigation will continue with or without an identification.
- d. The eyewitness shall acknowledge, in writing on the Report of Photograph Lineup/Instruction Form having received a copy of the lineup instructions. If the eyewitness refuses to sign a document acknowledging receipt of the instructions, the lineup administrator must document the refusal of the eyewitness to sign a document acknowledging receipt of the instructions, and the lineup administrator must sign the acknowledgment document himself or herself [CFA 15.13I].
 - e. In circumstances involving the need for multiple witnesses to view a photographic lineup; the administrator will ensure the lineup is presented to only one witness at a time.
 - f. Witnesses being presented a lineup at generally the same time and place shall be kept separated from one another to prevent them from discussing the lineup procedure and each witness presented a lineup will be directed not to discuss the identification or results with any other witnesses.
 - g. Officers administering the lineup will scrupulously avoid any conduct that might directly or indirectly influence a witness's decision.
 - h. After reading the witness standard lineup instructions from the applicable photographic lineup form, the administrator will step away from the witness's immediate vicinity and if possible position himself or herself out of the witness's direct line of sight. [CFA 15.13 E]
 - i. If the witness identifies a suspect in the photo lineup, the witness will be instructed to write his or her initials on the photograph in the array they have selected. The witness will be instructed to complete the Report of Photographic Lineup and indicate whether they observed the person that committed the crime in the lineup and if so, which photo number/folder number the selected person was in. [CFA 15.13G]. The witnesses' response and exact words in any identification, including level of certainty regarding the identification will be documented. [CFA 15.13H]
 - j. In a sequential lineup, after all photographs have been displayed and only if the witness requests it, the entire photo array may be repeated only once and in the same sequence as originally presented. The entire sequence will be presented even if the witness only requests to see one photograph again. The officer will document any verbal or non-verbal communication made by the witness during the identification process.
 - k. The administrator will not provide any verbal or non-verbal feedback to the witness concerning the witness's identification process. This includes, but is not limited to, comments such as "Good Job" or "You picked our suspect" or non-verbal actions that confirm or deny whether the witness selected the suspect.

C. Live Lineup

1. The Florida State University Police Department does not have a dedicated facility for conducting live lineups. As a result, live lineups are seldom, if ever, utilized. However, in the unusual event a live lineup is required, approval from the Support Services Captain shall first be obtained. Once approved it shall be the responsibility of the Investigations Lieutenant to identify a temporary location, such as the Leon County Jail, which is properly equipped and furnished prior to conducting a live lineup.

2. When planning an approved live lineup, the officer/investigator in charge of the case shall ensure:
 - a. The Leon County Jail (LCJ) shift commander is contacted as soon as practical to make arrangements for the lineup facility and the individuals to participate in the lineup.
 - b. LCJ representative is furnished with a photograph and full description of the suspect in advance of the lineup to assist in the selection of individuals to participate in the lineup.
 - c. Prior to conducting the live lineup, the supervising investigator shall contact the State Attorney's Office to provide an explanation of the unusual event requiring a live lineup. If the right to counsel has been attached, the counsel representing the accused is entitled to have sufficient time to confer with his or her client prior to the lineup, and to observe the lineup itself.
 - d. The lineup is scheduled on a date and time convenient for all concerned parties (e.g., SAO, defense counsel, witnesses, LCJ).
3. Live lineups will be administered only by an independent administrator. [CFA 15.13B, C]
4. Live lineups shall utilize a minimum of six persons, including the suspect, who are reasonably similar in age, height, weight, and general appearance and are the same sex and race, in accord with the witness's description of the subject. [CFA 15.13A]
5. When using live lineups different numbers will be assigned to each subject in the lineup to be used for identification purposes. All subjects should be dressed similarly. [CFA 15.13A]
6. Live lineups will be conducted by video or in a room with a one-way glass window so the suspect cannot see the witness. The live lineup may be conducted sequentially or simultaneously at the discretion of the lead investigator. If the witness is required to view multiple live lineups, the same lineup method will be used each time. [CFA 15.13F]
7. All individuals participating in the live lineup must be instructed to conduct themselves so as not to single out the actual suspect. All individuals, including the suspect may be instructed to say specific words or phrases, make gestures, or assume a particular pose. If this is required of any individual in the lineup, it will be done by all individuals in the lineup.
8. Prior to conducting the lineup, keep the lineup subjects out of view of any witnesses.
9. Suspects should be placed in different positions in each lineup, both across cases and with multiple witnesses in the same case. The suspect should be positioned randomly in the lineup. [CFA 15.13A]
10. The case officer should view the lineup, once completed, to ensure the suspect does not unduly stand out.
11. The administrator and others present during the live lineup shall scrupulously avoid any conduct that might directly or indirectly influence a witness's identification. [CFA 15.13E]
12. If there are multiple witnesses, the lineup shall be presented to only one witness at a time. The suspect should be placed in different positions for each witness viewing the lineup. Do not allow the witnesses to confer with one another about their identification before, or after the viewing of the lineup. A witness shall be directed to not discuss the identification procedures of the results with any other witness [CFA.15.13D]
13. Prior to conducting the lineup, the administrator will provide the witness with a copy of the instructions for the lineup and read them aloud to the witness. The administrator will receive written acknowledgement by the witness they received a copy of the instructions. [CFA 15.13I] A Live Lineup Instruction Form (810-3) is attached to this General Order and available on the FSUPD

intranet. Officers conducting Live Lineups should make every effort to utilize this form or a similar form when conducting the lineup. Specific instructions to the eyewitness will at a minimum include: [CFA 15.13D]

- a. The perpetrator might or might not be in the lineup;
 - b. That the lineup administrator does not know the suspect's identity;
 - c. The eyewitness should not feel compelled to make an identification;
 - d. It is as important to exclude innocent persons as it is to identify the perpetrator; and
 - e. The investigation will continue with or without an identification.
14. After reading the instructions ask the witness if he or she understands the instructions, or do they have any questions. The witness shall sign and date the instructions. [CFA 15.13D]
15. Any comments made by a witness during the entire process should be carefully documented in an offense incident/supplement report by the officer conducting the live lineup.

D. Lineup Documentation

1. Officers shall utilize the appropriate standardized instruction forms when administering lineups and document in an offense incident/supplement report any actual variance from the standardized instructions.
2. Immediately following an eyewitness identification, the officer will ask the witness to state, in his or her own words, how certain he or she is of the identification. The officer will precisely document in an offense incident/supplement report the witness's response and exact words. [CFA 15.13G, H]
3. To assist in the documentation of the identification, officers shall either video or audio record the identification process when conducting photographic or live lineups. In the event an officer is unable to video or audio record the identification process, the reason as to the circumstances which precluded video or audio recording shall be documented in an offense incident/supplemental report.
4. If identification is made, the officer will document in an offense incident/supplement report the precise photograph and person selected. The applicable photo array witness form and the photographs used in a photographic lineup will be retained as evidence.
5. If identification is not made, the officer will document in an offense incident/supplement report that the lineup was conducted, and no identification was made. The applicable photo array witness form and the photographs used in a photographic lineup will be retained as evidence.
6. Physical lineups shall be preserved as evidence through the use of video and/or audio recording. If a recording device is not available, still photographs of the lineup may be used.

E. Training

1. Agency members who create and/or administer photographic and/or live lineups shall be trained on the contents of this general order and any other related information as specified by the Investigation Lieutenant, or designee. [CFA 15.13J]
2. Agency members who create and/or administer photographic and/or live lineups shall receive periodic refresher training. [CFA 15.13J]
3. Any patrol officer who becomes involved in a case whereas there is a real potential of a photographic and/or live lineup may be utilized, will review this general order with the shift supervisor or an investigator prior to administering any type of lineup.

Glossary

Administrator – Officer, investigator, or other personnel authorized by a law enforcement agency to administer a photo lineup or live lineup.

Blank photos – A sheet of paper the same size as the photographs utilized in the photo lineup that is blank, with no photo showing (Blank photographs are utilized in sequential photo lineups.)

Eyewitness – A person whose identification by sight of another person may be relevant in a criminal investigation or proceeding.

Filler Photographs – Photographs of persons other than the suspect, used to complete a photo array and bring the total number of photographs to a minimum of six photographs.

Functional Equivalent Procedures (FEP) – Procedures utilized when an independent administrator is not utilized, permitting the member to conduct a sequential photographic lineup in a manner that precludes him or her from knowing when the suspect is presented to witness.

Independent Administrator – also referred to as a “Blind Administrator”. A member administering a lineup or photo array who is not participating in the investigation of a criminal offense and is unaware of which person in the lineup is the suspect.

Live Lineup – Live presentation of individuals, before an eyewitness, for the purpose of identifying or eliminating suspects. Live lineups are sometimes called “physical lineups”.

Photo Array – The group of photographs utilized in a photographic lineup. A photo array maybe presented to the witness simultaneously or sequentially. The process of conducting a photographic lineup is often called the “photo array”.

Photographic Lineup – Showing photographs to an eyewitness for the purpose of identifying or eliminating suspects. Photographic lineups may be presented simultaneously or sequentially. The group of photographs used in a photographic lineup is often referred to as a “photo array”.

Sequentially – Presentation of photographic in a group or individuals in a lineup to a witness one-at-a-time rather than all at once (simultaneously).

Simultaneously – Presentation of photographs in a group or individuals in a lineup to a witness all at once rather than one-at-a-time (sequentially).

Attachments

Report of Photographic Lineup/Instruction Form

Show-Up Instruction Form

Live Lineup Instruction Form

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Approved: *Terri S. Brown*
Terri S. Brown, Chief

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