*OMAG POLICE DEPARTMENT*

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| Policy Title  Eyewitness Identification | Policy Number | Effective Date  May 1, 2014 |
| Topics  Purpose, Witness Instructions, Photo Lineups, Live Lineups, Show-up, Documentation, Forms | Standard References | Number of Pages  4 |
| Issued By  , Chief of Police | Special Instructions  See Forms: Photo Lineup, Live Lineup, Show-up |  |

**I. PURPOSE**

Eyewitness identification is an important tool for investigating and prosecuting criminal cases. The following policy is based upon the Oklahoma Justice Commission’s recommendations for maximizing the reliability of the identification process and minimizing the risk of erroneous identifications. These best practices are designed not only to reduce erroneous identifications but also to enhance the reliability and objectivity of eyewitness identification testimony.

**II. PROCEDURES**

A. **Witness Instructions**

Prior to the presentation of the photo array, live lineup or show-up procedure, the law enforcement official shall read the witness instructions on the corresponding form in Section III, and document that the witness understands the instructions.

B. **Photo Lineups**

*Organizing the Photo Array*

When an independent administrator is conducting the identification process, the photo array shall consist of a minimum of six persons, one of whom is the suspect. The photos shall be placed in alphabetical order so no one can be accused of placing the suspect in a specific position in the process. All photos shall be numbered on the back.

1. Photos of the individuals shall be contemporary. The suspect shall not stand out in the identification process. The persons shall be reasonably similar in age, height, weight and general appearance, same sex and race. They shall be wearing similar clothing and there shall be no factors in the process that would draw extra attention to the suspect.
2. Do not mix color and black and white photos. Use photos of the same size and basic composition. Never mix mug shots with snapshots.
3. Non-suspect fillers shall be selected who resemble a description of the perpetrator provided by the witness including witness’s description of significant features (face, body build, etc.).
4. Cover any portion of mug shots or other photos that provide identifying information on the subject and similarly cover other photos used in the array the same way.
5. No more than one suspect shall be placed in a given identification procedure.

*Administering the Photo Array*

Photo array or live lineup procedures shall be conducted by an independent administrator, officer, or investigator who is not aware of which member of the photo array is the suspect.

1. Prior to the presentation, the witness shall be read and sign that he/she understands the instructions on the Photo Lineup Form in Section III.
2. The witness shall be shown one photograph at a time in a sequential manner, and asked to make a decision on each one before viewing the next.
3. The witness shall be asked to make a decision on each photograph before being shown the next picture. Even if an identification is made, the witness shall be shown the remaining photographs.
4. If an identification is made, the witness shall be asked to state, in his or her own words, their level of confidence in the selection. The statement of confidence shall be documented on the Photo Lineup Form in Section III, and signed by the witness immediately following the presentation.

Ideally, no one in law enforcement who is aware of the suspect’s identity shall be present during the administration of the identification process. However, if an independent administrator or investigator is not available to conduct the identification process, the following “folder shuffle method” shall be followed.

1. Place the suspect and non-suspect filler photos in six separate identical folders. Include four blank identical folders for a total of ten.
2. Affix one filler photo to Folder #1 and number the folder.
3. Place the suspect photograph and the other four filler photographs into Folders #2-6 and shuffle the photographs so the administrator is unaware of which folder the suspect is in, and then number the remaining folders, including Folders #7-10, which will remain empty (this is done so that the witness does not know when he has seen the last photo).
4. Prior to the presentation, the witness shall be read and sign that he/she understands the instructions on the Photo Lineup Form in Section III.
5. The officer administering the array shall position himself or herself so that he or she cannot see inside the folders as they are viewed by the witnesses. This prevents the officer from unintentionally influencing the witnesses’ selection.
6. The witness shall view one folder at a time in a sequential manner, and asked to make a decision on each one before viewing the next.
7. Show the photo array to one person at a time so that they will not be aware of the responses orally or inferentially of other witnesses.
8. Avoid multiple identification procedures in which the same witness views the same suspect more than once.
9. If an identification is made, the witness shall be asked to state, in his or her own words, their level of confidence in the selection. The statement of confidence shall be documented on the Photo Lineup Form in Section III, and signed by the witness immediately following the presentation.

**C. Live Lineups**

*Organizing the Live Lineup*

Determine when a live lineup is appropriate by considering the availability of witnesses and lookalikes.

1. Include only one suspect in each identification procedure, with a minimum of four fillers.
2. Select fillers who generally fit the witness’s description of the suspect. No participant shall stand out in the lineup.
3. When conducting more than one lineup due to multiple witnesses, consider placing the suspect in different display positions.
4. When showing a new suspect, avoid reusing fillers in lineups shown to the same witness.

*Administering the Live Lineup*

The live lineup procedure shall be conducted by an independent administrator, officer, or investigator who is not aware of which member of the lineup is the suspect.

1. Prior to the presentation, the witness shall be read and sign that he/she understands the instructions on the Live Lineup Form in Section III.
2. Begin with all lineup participants out of view of the witness.
3. Present each individual to the witness separately, in a previously determined order.
4. Present each participant to the witness, even if the witness identifies a previous participant as the suspect. Witnesses may view the lineup a second time if they request to do so.
5. Any identifying actions, such as speech, gestures, or other movements, shall be performed by all eyewitness participants.
6. If an identification is made, the witness shall be asked to state, in his or her own words, their level of confidence in the selection. The statement of confidence shall be documented on the Live Lineup Form in Section III, and signed by the witness immediately after the presentation.

**D. Show-Up**

The use of show-ups shall be avoided whenever possible. The use of a photo array or lineup is preferred. The single suspect show up shall not be used if probable cause to arrest the suspect has already been established.

*Administering the Show-Up*

1. Prior to any show-up, document the witness’s description of the perpetrator.
2. Use show-up only when the suspect is detained within a reasonably short time frame following the offense.
3. Prior to the presentation, the witness shall be read and sign that he/she understands the instructions on the Show-up Form in Section III.
4. Bring the witness to the location of the suspect whenever possible, rather than bringing the suspect to the witness.
5. Do not conduct the show-up when the suspect is in patrol car and unless necessary to safety, avoid handcuffs or other physical restraints.
6. Do not call the person “suspect” when you are conducting the show-up.
7. Separate multiple witnesses. Do not allow communications before or after conducting the show-up. Instruct them not to talk to other witnesses regarding identification at any time.
8. If the witness identifies the suspect, proceed with other witnesses through photo array or lineup as probable cause already exists to arrest.
9. Do not present the same suspect to the witness more than once.
10. The suspect shall not be required to put on any clothing worn by, speak words uttered by, or perform other activities of the perpetrator.
11. If an identification is made, the witness shall be asked to state, in his or her own words, their level of confidence in the selection. The statement of confidence shall be documented on the Show-up Form in Section III, and signed by the witness immediately after the procedure.

E. **Documenting the Procedure**

Law enforcement shall preserve the identification procedure, including the photo array, together with full information about the identification process and its outcome by recording the identification process, and all results and statements made by the witness. The witness shall sign identification procedures.

1. Whenever possible, preserve the identification process by video and audio tape.
2. If identification is a show-up, use in-car camera, camera, or other recording to preserve if possible.
3. Record or have the witness write down what factors caused him or her to identify the suspect.
4. Document exact words used by the witness without prompting the witness to elaborate. However, if the witness elaborates, write down exact words used by the witness.
5. Ensure a complete, written record of the identification process. Names of persons whose photos are used in the array shall be numbered and a copy kept for preservation of the lineup and detailed notes shall be taken with regards to the identification process, including date and time of identification process and any identification of one or more fillers in the process.