



Effective: 04/19/2010
Last Revised: 01/01/2020

**CSU FULLERTON POLICE DEPARTMENT
GENERAL ORDER NUMBER 3-15**

PHOTOGRAPHIC AND PHYSICAL LINE-UPS

SUBJECT: Photographic and physical line-ups.

PURPOSE: The purpose of this policy is to establish procedures for using photographic line-ups, physical line-ups and show-ups in eyewitness identification.

POLICY: It shall be the policy of this Department to conduct photographic, physical, and show-up type line-ups in a manner that reduces the risk of wrongful conviction and aids in the detection and apprehension of offenders. Officers will adhere to the established procedures in order to maximize the reliability of witness identifications, minimize the reliability of witness identifications, minimize unjust accusations of innocent persons, and to establish evidence that is reliable and conforms to established legal procedure.

PROCEDURE:

I. Definitions:

- A. Photographic Line-up: An identification procedure, in which an array of photographs, including a photograph of the suspect of an offense and additional photographs or fillers of other persons not suspected of the offense, is displayed to an eyewitness in hard copy form for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.
- B. Simultaneous Line-up: The simultaneous photo line-up consists of showing a group of similar photos to a witness all at the same time.
- C. Sequential Line-up: The sequential photo line-up consists of showing similar photographs one at a time.
- D. Blind Sequential Line-up: The administrator does not know the identity of the suspect. If the resources are not available, Simultaneous or Sequential Photographic Line-ups may be utilized.
- E. Filler: Either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.
- F. 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 perpetrator.

- G. Facial Composite: A non-photographic pictorial representation such as a free hand sketch, Identi-Kit, or other computer-program generated image.
- H. Physical Line-up: A physical line-up is placing a suspect among people non-suspected of committing the crime (fillers) and asking the eyewitness if he/she can identify the perpetrator.

II. Photographic Line-ups

A. Composing photographic line-ups. [CALEA 42.2.11a]

1. Include only one suspect in each identification procedure.
2. Select a photo of the suspect that resembles the suspect's appearance at the time of the incident.
3. Select fillers of the other persons that resemble the suspect in significant features.
4. Include a minimum of five fillers (non-suspects) per identification procedure.
5. Complete uniformity of features is not required, but avoid using fillers that to closely resemble the suspect.
6. If there is more than one witness, each witness will be shown the line-up separately. [CALEA 42.2.11c]
7. The suspect photo shall be placed in a different position in the grouping for each witness, and witnesses will not be permitted to communicate with each other until after the line-up procedure has been complete. [CALEA 42.2.11c]
8. If the witness has previously viewed a photo line-up in connection with the identification of another person suspected of involvement in the offense, the fillers in the line-up shall be different from the fillers used in any prior line-ups.

B. Instructing the Witnesses [CALEA 42.2.11d]

1. No officer who has knowledge of the suspect(s) associated to the incident shall administer the photo lineup to the witnesses
2. Each witness is to view any identification procedure separately. Witnesses shall not be permitted to communicate with each other until all identification procedures are completed, and should be instructed not to discuss their identifications with anyone else. [CALEA 42.2.11c]
3. Advise the witness that he/she will be asked to view a set of photographs that may or may not contain a picture of the person who committed the crime.
4. Advise the witness it is just as important to clear innocent persons from suspicion as to identify guilty parties.

5. Advise the witness that individuals depicted in line-up photos may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
6. Advise the witness that procedures require the officer to ask the witness to state in their own words, if they can identify the person involved in the crime being investigated.
7. If a photo is selected that officer or member of the police department is to ask the witnesses how confident they are in their selection

C. Avoiding Officer and Witness "Suggestion" [CALEA 42.2.11f]

1. Officers must not, by word or gesture, suggest opinions to any witness concerning the guilt or innocence of a suspect in any identification procedure. Witnesses making inquiries about an officer's opinion shall be informed of this restriction.
2. A witness who has taken part in an identification procedure must not be permitted to state conclusions within earshot of another person who is about to be, or has been, a viewer of the identification procedure.

D. Documenting the line-up results [CALEA 42.2.11g]

1. All information regarding any identification procedure shall be documented in the officer's written report, to include:
 - a. All identification and non-identification results.
 - b. Confidence or certainty statements made by the witness (these should be quoted). [CALEA 42.2.11e]
 - c. Names of all persons present.
 - d. Date, time, and location.
 - e. Any significant remarks made by an officer, lawyer, or suspect.
 - f. Utilize departmental forms if possible.
2. If identification is made, the witness will be told to circle the photo on a copy of the photographic line-up, write the date and time as well as initial next to the photo.
3. If identification is made, the officer shall complete the Department photographic line-up instruction page. If no identification is made, this fact must also be clearly documented.
4. Any and all photo lineups created, viewed, identified or not identified must be kept, and secured with the original report.
5. No person has a right to have a lawyer present at any photo line-up whether it takes place before or after an arrest.
6. The administration of the lineup to the witness shall be video and audio recorded.

III. Show-Up Procedures

A. When Show-ups are permissible [CALEA 42.2.12a]:

1. An 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 perpetrator given by the witness.
2. If an officer has reasonable suspicion to detain a suspect under the above circumstances, 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.

B. Guidelines for Conducting the Show-up

1. Detention: A suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the suspect is the perpetrator.
2. Description: Officers at the scene and in contact with the witness will obtain a detailed description of the perpetrator before the suspect is shown to the witness. The witness must advise the officers that they will be able to recognize the person who committed the crime prior to the show-up.
3. Location: A suspect should not be taken to the police station for a show-up. The suspect should be detained at the place he/she was located, in the least restrictive manner possible that will ensure the suspect remains with the officer. The witness should be transported to the suspect's location for the show-up. Suspects should not be transported to the witness's location unless exigent circumstances exist. [CALEA 42.2.12b]
4. Minimize Suggestiveness: If possible, do not show the suspect handcuffed, or in the back seat of a patrol car. If the suspect is handcuffed, take measures to conceal this fact from the witness when possible. Suspects may not be required to put on clothing worn by the perpetrator. However, they may be asked but not required to speak words uttered by the perpetrator, or perform other actions of the perpetrator. Advise the witness per departmental Field Identification. Advise the witness that the person detained may or may not be the perpetrator, and the witness should not feel compelled to make identification. If the witness makes identification, do not confirm or corroborate the identification. [CALEA 42.2.12f]
5. Multiple Witnesses: Show-ups should not be conducted with more than one witness present at a time. If there is more than one witness, the show-up must be conducted separately for each witness, and witnesses should not be permitted to communicate before or after any show-up regarding the

identification of the suspect. The same suspect should not be presented to the same witness more than once. [CALEA 42.2.12c]

6. **Witness Confidence:** At the direction of the Orange County District Attorney's Office, witness confidence should only be expressed as an affirmative or negative selection avoiding percentages of confidence. [CALEA 42.2.12c]
7. **Multiple Suspects:** If there are multiple suspects, the suspects must be separated and subjected to separate show-up procedures.
8. **Photographing Suspects:** Consideration should be given to photographing the suspect(s) in the field as documentation.
9. **Emergency / Exigent Circumstances:** In emergency circumstances, such as when a witness is in danger of imminent death or blindness, or when a suspect is in danger of imminent death, an immediate show-up may be arranged if medical authorities permit. In these situations, time and location limitations contained in the preceding guidelines can be disregarded. If there is any doubt about an emergency show-up, officers should contact a supervisor and/or the prosecutor immediately for guidance.
10. **Cruising Area of Offense:** 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 perpetrator and arranging a show-up identification procedure.
11. **Right to a Lawyer:** No person has a right to have a lawyer present at any show-up procedure.
12. **Release After Show-up:** If the detained suspect is not identified by a witness as the perpetrator, and officers lack any other probable cause for an arrest, the suspect should be released after obtaining basic information.

C. **Instructing witness prior to viewing show-up:** Officers will read the Field Identification Advisement to the witnesses. [CALEA 42.2.12d]

IV. **Documenting Show-up Results** [CALEA 42.2.12g]

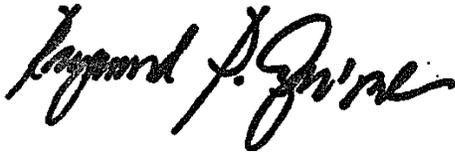
- A. All information regarding identification procedures shall be documented in the officer's written report:
 1. Identification and non-identification results.
 2. Confidence or certainty statements made by the witness (these should be quoted).
 3. Names of all persons present.
 4. Date, time, and location.
 5. Names of all persons and/or photos used, and source of the photos.
 6. Any significant remarks made by an officer, lawyer, suspect, or witness.

- B. Utilize any necessary departmental forms if possible.
- V. Video and/or Audio Recording and Documentation [CALEA 42.2.11b]
- A. Whenever practical, officers are encouraged to video and/or audio record any witness identification procedure from start to finish.
 - B. Video and audio recordings should be downloaded and attached to the case in RIMS.
- VI. Facial and Composite and Sketches
- A. When there is no suspect, and the use of a photo line-up has been or is likely to be successful, a non-photographic pictorial representation such as a free hand sketch, Identi-kit composite, or other computer-program generated composite image may be used.
 - B. Care must be taken not to unintentionally influence the description provided by a witness while developing such a composite image or sketch, and only those officers trained in the use of such techniques shall use them.

REVIEWED:

P.Launi

APPROVED:

A handwritten signature in black ink, appearing to read "Raymund P. Aguirre". The signature is written in a cursive, flowing style.

Raymund Aguirre
Chief of Police