

DEPARTMENT GENERAL ORDER 09-03

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 07-49
SOP 502.14.00

DATE: April 17, 2009

PHOTOGRAPHIC / PHYSICAL LINE-UPS

I. PURPOSE.

The identification of criminal suspects is a primary objective in the course of criminal investigations. As such, the following text will establish guidelines in regard to the compilation and use of photographic and physical line-ups by department personnel.

II. PHOTOGRAPHIC LINE-UPS.

A. GENERAL INFORMATION:

In those instances where identification of a suspect is sought and circumstances preclude a physical line-up, a photo line-up may be utilized as a substitute. The composition of the line-up will adhere to the following requirements as much as possible:

- A minimum of six photographs shall comprise a photo line-up.
- All photographs used will be either black and white or color.
- Photographs selected will be required to be as non-prejudicial and neutral as possible in both their appearance and relation to one another.
- Photographs will be arranged in a manner that the suspect does not unduly stand out.

B. METHODS.

The preferred method of constructing a photo line-up is by using the IRIS System as provided by the REJIS Administration. In the event a photograph of a suspect is

located in the IRIS System, the investigating detective can create a photo line-up by choosing the automatic photo line-up option in the program. The computerized system will then build the line-up from data contained in the memory. The photo line-up will also be saved in the IRIS database after being labeled with the department's report number.

A second method of constructing a photo line-up is through the use of stored digital photographs and a computer system loaded with the Adobe Photoshop Program. The investigating detective will then create the photo line-up using the program and will save the line-up in the department's main computer system, identified by report number.

In the event there are multiple individuals involved in a case, photo line-ups will be shown to victims and/or witnesses on an individual basis. Should an identification be made, the investigating officer shall have the identifying individual circle the suspect's photo and initial same. The photo line-up will then be initialed and dated by the officer and entered into evidence.

Contingent upon circumstances, the investigator may (at his/her discretion) prepare a video or audio recording of a witness being shown a photo line-up, if such recording strengthens the case(s) under investigation.

Each witness will be given instructions regarding identification procedures prior to the photo line-up being administered. This will include the statement that the photographic line-up may or may not contain a photograph of the suspect in the case.

Witnesses will not be permitted to confer with one another prior to the photo line-up being administered.

The investigator administering the photographic line-up shall not prejudice witnesses toward one photo over another, nor shall the investigator provide any feedback to the witnesses at the conclusion of the photo line-up.

Where no identification is made or a case is disposed of, the photo line-up will be disassembled and destroyed as necessary.

C. DOCUMENTATION.

A supplemental report will be written in regard to the presentation of a photo line-up. The investigating officer will list the names of those victims/witnesses who viewed the photographic line-up, and the results of the exercise. The reporting officer will also include identifying the level of confidence expressed by the witnesses (e.g. Positive ID, Tentative ID, or Negative ID) within the narrative of the report.

III. PHYSICAL LINE-UPS.

A. LEGAL REQUIREMENTS:

In those instances where a suspect has been taken into custody and charged with a felony offense, the arresting officer may wish to obtain a pre-trial identification of the suspect on the part of the victim and/or witnesses via a physical line-up.

Should a physical line-up be desired, the Criminal Investigations Division will generally be responsible to make the necessary arrangements to conduct such line-ups at the St. Louis County Justice Center. Department policy shall guarantee each suspect involved in the line-up protection from self-incrimination, the right to counsel (as appropriate) and due process of law. Justice Center personnel will then manage the line-up.

The suspect must be told in advance of any line-up in which he is to take part. The suspect shall also be clearly informed of his right to have an attorney present during the line-up. Should he request his own private attorney, the suspect shall be responsible to notify counsel of the time and place in the most expeditious manner. Where the suspect is indigent or lack's an attorney for other reasons, the Public Defenders Office will be notified and requested to provide the necessary legal counsel.

If counsel fails to report at the scheduled time or deems his presence unnecessary, the line-up shall proceed as planned.

The suspect's attorney shall be an observer only. He shall not question witnesses or participants, nor disturb the proceedings in any way. The attorney's name should also be recorded on the line-up form and in the police report documenting the event.

A suspect has no legal right to refuse participation in a line-up; however, he may be permitted to select his position in the line-up. In the case of a refusal, reasonable force may be used to compel the suspect to participate. In those cases where sufficient evidence does not exist to justify an arrest, the suspect shall be required to submit his voluntary consent prior to being placed in a line-up. Should consent be withheld, no line-up will be held until circumstances change.

B. LINE-UP PROCEDURES:

Every effort will be made to request a line-up at reasonable hours and at the convenience of victims/witnesses unless exigent circumstances prevent such arrangements.

As necessary, transportation will be provided for victims and witnesses.

Victims/Witnesses shall not view the suspect prior to the line-up, nor shall they be allowed to collaborate in the identification process either before or during the process. To ensure the integrity of the line-up, victims/witnesses will be required to view the line-up separately.

Whenever possible formal line-ups will present at least four other persons beside the suspect to be viewed by the victim and/or witnesses.

All persons in the line-up should resemble one another within a reasonable "range", with distinct similarities in age, sex, race, physical appearance, and dress.

Any questions asked, any statements made, particular movements, or any directions issued to any one participant, must be repeated for each of the participants.

The investigator in charge of conducting the line-up shall ensure that no investigatory questioning of the suspect takes place during the line-up.

The investigator conducting the line-up will instruct victims/witnesses of their responsibilities related to the line-up, explain how the process will generally proceed, and that the suspect may or may not be in the line-up. That while an absolute certain identification is the ideal result being sought, if, due to the passage of time, they are unable to make an absolute certain identification, they should advise their level of confidence in their identification (e.g. Positive ID, Tentative ID, Negative ID).

The investigator shall not provide any feedback to the victims/witnesses at the conclusion of a physical line-up. They should also be counseled not to discuss the identification process as it may negatively influence future judicial proceedings.

The line-up will routinely be photographed, and a line-up form documenting the date, time, identity of the participants, legal counsel, victims/witnesses, and attending officers shall be completed by Justice Center personnel. If investigators desire to have the line-up participants speak, an audio recording shall also be made to accompany the photographic record. A video record of physical line-ups will generally not be accomplished unless exigent circumstances would warrant such an undertaking.

The results of a physical line-up will be documented in a supplemental report, and photographs of the proceeding and any other recordings will be returned to this department and entered into evidence.

BY ORDER OF:

THOMAS J. BYRNE
Chief of Police

TJB:dld
CALEA Reference: 42.2.2