

Rhode Island Police Chiefs Association
LINE-UP AND SHOW-UP PROCEDURES
(Eyewitness Identification)

MODEL POLICY

GENERAL ORDER

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340.10	LINE-UP AND SHOW-UP PROCEDURES	42.2.11; 42.2.12	
SUBJECT AREA		REFERENCE	DISTRIBUTION
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I. PURPOSE

To establish guidelines for conducting photographic and physical lineups, as well as field identifications or show-ups, when appropriate, during criminal investigations.

II. POLICY

The ANYTOWN Police Department recognizes that one of its primary responsibilities is to conduct investigations of crimes within its jurisdiction. Criminal incidents requiring preliminary or follow-up investigation may occur in widely scattered locations, at any time. Occasionally, criminal incidents require witness identification of suspects. Consequently, the department is establishing this policy to ensure that investigations requiring the use of lineups and/or show-ups are conducted in a manner that promotes the success of those investigations and ensures reliable witness identifications and testimony.

III. DEFINITIONS

A. **PRELIMINARY INVESTIGATION** - The activity that begins when officers arrive at the scene of an incident. The activity should continue until such time as a postponement of the investigation or transfer of responsibility will not jeopardize the successful completion of the investigation.

- B. **FOLLOW-UP INVESTIGATION** - An extension of the preliminary investigation. The purpose is to provide additional investigation to close a case, arrest an offender, and/or recover stolen property.
- C. **SIMULTANEOUS PHOTOGRAPHIC LINE-UP:** A non-suggestive array of photographs, including the suspect and five (5) individuals, who are similar in appearance and are presented all at the same time to a victim/witness for identification purposes.
- D. **SEQUENTIAL PHOTOGRAPHIC LINE-UP:** A non-suggestive array of photographs, including the suspect and five (5) individuals, who are similar in appearance that is presented one-at-a-time to a victim/witness for identification purposes.
- E. **PHYSICAL LINE-UP:** A non-suggestive display of individuals that includes the suspect and five (5) individuals who are similar in appearance that is presented to a victim/witness for identification. This line-up can also be referred to as a live line-up or a body line-up.
- F. **FIELD IDENTIFICATION/SHOW-UP:** An identification procedure in which the victim/witness is presented with a single suspect within a short time following the commission of a crime for the purpose of determining whether the victim/witness identifies the individual as the perpetrator or eliminates the individual as a suspect.
- G. **FILLERS:** Individuals or photographs of individuals that resemble the suspect that are used in a line-up. A minimum of five (5) fillers will be used with a photographic or physical line-up. Individuals who are suspected in the same case may not be used as fillers.
- H. **INDEPENDENT (BLIND) ADMINISTRATOR:** An officer who does not know the identity of the suspect who has been placed in a photographic or physical line-up and does not know which persons or photographs are the fillers.
- I. **INDEPENDENT (BLINDED) ADMINISTRATOR:** An officer who does not know the identity of the suspect who has been placed in a photographic or physical line-up but does not know which photograph in a sequential line-up the victim/witness is viewing at the time the victim/witness is viewing it or who does not know the number or position of the suspect in a simultaneous lineup at the time the victim/witness is viewing it. The administrator should not be able to see any photographs when the victim/witness is viewing them.

- J. **CONFIDENCE STATEMENT:** A statement from the victim/witness, in his or her own words, on how certain they are of the identification which is taken immediately after an identification is made. The “confidence statement” should be recorded in writing and signed by the victim/witness or otherwise memorialized. The time, date, place, and persons should also be included.

IV. PROCEDURES

A. PHOTOGRAPHIC LINE-UPS:

1. Members of the ANTOWN Police Department may use a Simultaneous Photo Line-up or a Sequential Photo Line-up as previously described. See the “*Guidelines for Simultaneous and Sequential Line-ups*” attached to this policy. The photographs in these line-ups may be constructed using Records Management System mug shots (RMS), DMV photos, photographs clarified using digital software or from other agencies that provide similar photographs of every individual to be utilized. Unless it is not practicable, a line-up shall be conducted by a Blind Administrator. When it is not practicable to use a Blind Administrator, a Blinded Administrator shall be used. When composing a photographic line-up, Department personnel shall adhere to the following procedures to ensure that the suspect does not unduly stand out and to ensure reliability:
 - a. Line-ups should be assembled and conducted in a manner that promotes reliability, fairness, and objectivity in the identification process and in a manner that ensures that they are non-suggestive.
 - b. Each victim/witness should view the line-up separately from any other victim/witness.
 - c. One suspect should appear in each individual line-up.
 - d. In addition to the suspect, a line-up should contain at least five (5) fillers.
 - e. Line-ups should be composed so that fillers generally resemble the eyewitness’s description of the perpetrator while ensuring that the suspect does not unduly stand out from the fillers.
 - f. All fillers selected should resemble the victim/witness description of the perpetrator (i.e., face, weight, build, skin tone, etc.) including any unique or unusual features (i.e., scars, tattoos, etc.).
 - g. Suspect and fillers should be similar in appearance, fitting the description of the perpetrator as given by the victim/witness. Line-up administrators should avoid using fillers who so closely resemble the suspect that even someone familiar with the suspect might find it difficult to distinguish the suspect from the fillers.

- h. When there is a limited or inadequate description of the perpetrator provided by the victim/witness or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should then resemble the suspect in significant features, taking into account any unique or unusual features such as scars, marks or tattoos.
- i. When conducting multiple line-ups of more than (1) suspect in an investigation with a single victim/witness, each filler should be used only once.
- j. When conducting a single line-up in an investigation with multiple victims/witnesses, each filler should be arranged in a different position from the previous line-up.
- k. Only one victim/witness should view the line-up at a given time. If the victim/witness requests a second viewing of the sequential line-up, the line-up administrator could initiate a second “viewing” viewing of the sequential line-up with the photos shown in the same order.
- l. The suspect and fillers should be randomly placed in a line-up, not systematically changed.
- m. Line-up administrators should ensure that no writings or information concerning previous arrests or identifications will be visible to the victim/witness during the line-up.
- n. Photographs of juveniles shall not be used as fillers in line-ups containing adult suspects. Photographs of adults may be used as fillers in line-ups containing juvenile suspects provided that they meet the appearance, content, and reliability criteria as set forth in this section.
- o. The person composing the line-up should view the line-up once it is completed to ensure that the suspect does not duly stand out and appears only once in the line-up.
- p. If the victim/witness indicates that he/she recognized or identifies someone in the line-up, law enforcement personnel should ask the circumstances from which the victim/witness recognizes the individual and how certain he /she is of his/her identification and a “confidence statement” should be taken from the victim/witness. If conducting a sequential line-up, law enforcement should show the victim/witness the entire line-up even if she/he makes an identification during the presentation.
- q. The victim/witness should be asked to state in their own words how certain they are of their identification. A “confidence statement” should be recorded in writing and signed by the victim/witness.

- r. No person has a right to have a lawyer present at any photo line-up whether it takes place before or after an arrest.
2. Department members shall instruct the witness using the standardized instructions form entitled, "*Photographic Line-Up Instructions*" or, if unavailable, similar documented verbal instructions. All instructions shall be read to the witness viewing the line-up and Department members shall inform persons viewing a line-up of the following when applicable:
- a. Prior to showing the line-up, Department personnel will ask the victim/witness if he/she understands how the procedure will be conducted and inquire if he/she has any questions.
 - b. Instruct the victim/witness to place the date and time, and their initials next to the photograph of the individual that they have identified.
 - c. Department personnel shall preserve the presentation of the line-up in its original condition, including a photograph of each participant, whether or not identification is made.
 - d. Department personnel shall not provide the victim/witness with any feedback, in any manner, regarding his/her identification, or lack thereof. Department personnel shall not comment in any manner, verbally or by physical gesture, regarding the individual selected or on the outcome of the process.
 - e. Department personnel are prohibited from showing a photographic line-up to more than one victim/witness at a time. If multiple victims/witnesses are involved, department personnel will separate the victims/witnesses and give each individual instruction regarding the line-up without the other present. Victims/witnesses should not be allowed to confer with one another before, during or after the procedure. Department personnel shall instruct the victim/witness not to discuss the line-up or its results with other witnesses.
 - f. Prior to presenting the line-up to the victim/witness, do not show the victim/witness any photographs of the suspect and do not allow the victim/witness to see the suspect (i.e. in an office or holding cell).
 - g. Any photographic line-up that Department personnel shows to a victim/witness, regardless of whether or not the victim/witness makes an identification, will become part of the case file. Department personnel shall document how the proceeding was conducted and the results in their case file. Department personnel shall document each victim/witness' identification or lack thereof, including the exact words used by each witness viewing the line-

up. If a sequential line-up was conducted, Department personnel will include documentation as to the order in which the photographs were shown to the victim/witness.

- h. The time and place of the administration of the identification procedure and the names of the administrator (blind or blinded) of the identification procedures shall be documented. The names of the victim/witness viewing it, and any other persons present, as well as the name of the law enforcement personnel responsible for constructing the line-up shall be documented.
- i. Unless it is not practicable, an Independent Blind Administrator shall present the photographic line-up. When it is not practicable to use an Independent Blind Administrator, an Independent Blinded Administrator shall present the physical line up.

B. PHYSICAL LINE-UPS

1. A physical line-up can be used where an individual who is a suspect is in custody or, if the suspect is not in custody, the suspect may be asked to voluntarily participate in a line-up. A physical line-up shall only be conducted in a room designated for such use. In the rare instance, a physical line-up is used, Department personnel shall adhere to the following procedures when constructing and conducting a physical line-up:

- a. Line-ups should be assembled and conducted in a manner that promotes reliability, fairness, and objectivity in the identification process and in a manner that ensures that they are non-suggestive.
- b. Each victim/witness should view the line-up separately from any other victim/witness.
- c. Only one suspect should appear in each individual line-up.
- d. In addition to the suspect, a line-up should contain at least five (5) fillers.
- e. Line-ups should be composed so that fillers generally resemble the eyewitness's description of the perpetrator while ensuring that the suspect does not unduly stand out from the fillers.
- f. All fillers selected should resemble the victim/witness description of the perpetrator (i.e., face, weight, build, skin tone, etc.) including any unique or unusual features (i.e., scars, tattoos, etc.).
- g. Suspect and fillers should be similar in appearance, fitting the description of the perpetrator as given by the victim/witness. Line-up administrators should avoid using fillers who so closely

resemble the suspect that even someone familiar with the suspect might find it difficult to distinguish the suspect from the fillers.

- h. When there is a limited or inadequate description of the perpetrator provided by the victim/witness or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should then resemble the suspect in significant features, taking into account any unique or unusual features such as scars, marks or tattoos.
- i. When conducting multiple line-ups of more than one (1) suspect in an investigation with a single victim/witness, each filler should be used only once.
- j. When conducting a single line-up in an investigation with multiple victims/witnesses, each filler should be arranged in a different position from the previous line-up.
- k. Only one victim/witness should view the line-up at a given time.
- l. The suspect and fillers should be randomly placed in the line-up, not systematically changed.
- m. Line-up administrators should ensure that no writings or information concerning previous arrests or identifications will be visible to the victim/witness during the line-up.
- n. Juveniles shall not be used as fillers in line-ups containing adult suspects; however, adults may be used as fillers in line-ups containing juvenile suspects provided that they meet the appearance, content, and reliability criteria as set forth in this section.
- o. The person composing the line-up should view the line-up once it is completed to ensure that the suspect does not duly stand out and appears only once in the line-up.
- p. If the victim/witness indicates that he/she recognized or identifies someone in the line-up, law enforcement personnel should ask the circumstances from which the victim/witness recognizes the individual and how certain he/she is of his/her identification and a "confidence statement" should be taken from the victim/witness.
- q. The victim/witness should be asked to state in their own words how certain they are of their identification. The "confidence statement" should be recorded in writing and signed by the victim/witness or otherwise memorialized. The time, date, place, and persons present should also be included in the confidence statement.

- r. Department personnel shall photograph the line-up to preserve the presentation of the line-up.
2. Department members shall provide instructions to the witness using the standardized instructions form entitled, "*Physical Line-up Instructions*" or if unavailable, a similar documented form containing verbal instructions. All instructions shall be read to the witness viewing the line-up and Department members shall adhere to the following procedures.
 - a. Prior to showing the line-up, Department personnel will ask the victim/witness if he/she understands how the procedure will be conducted and inquire if he/she has any questions.
 - b. If the victim/witness indicates that he/she recognized or identifies someone in the line-up, law enforcement personnel should ask the circumstances from which the victim/witness recognizes the individual and how certain he/she is of his/her identification.
 - c. Department personnel shall not provide the victim/witness with any feedback, in any manner regarding his/her identification, or lack thereof. Department personnel shall not comment in any manner, verbally or by physical gesture, regarding the individual selected or on the outcome of the process.
 - d. Department personnel are prohibited from showing a physical line-up to more than one victim/witness at a time. If multiple victims/witnesses are involved, Department personnel will separate the victim/witnesses and give each individual instruction regarding the line-up without the other present. Victims/Witnesses should not be allowed to confer with one another before, during or after the procedure. Department personnel should instruct the victim/witness not to discuss the line-up or its results with other witnesses.
 - e. Prior to presenting the line-up to the victim/witness, do not show the victim/witness any photographs of the suspect or the line-up and do not allow the victim/witness to see the suspect (i.e., in an office or holding cell).
 - f. Any physical line-up that Department personnel show to a victim/witness, regardless of whether or not the victim/witness makes identification, will become part of the case file. Department personnel shall document how the proceeding was conducted and the results in their case file. Department personnel shall document each victim/witness' identification or

lack thereof, including the exact words used by each witness viewing the line-up.

- g. Unless it is not practicable, an Independent Blind Administrator shall present the physical line-up. When it is not practicable to use an Independent Blind Administrator, an Independent Blinded Administrator shall present the physical line-up.

A. FIELD IDENTIFICATION/SHOW-UP

A show-up occurs when law enforcement officials show one suspect to one witness for the purpose of eyewitness identification. Courts recognize that show-up procedures can be suggestive, but acknowledge show-ups have benefits for both public safety and innocent parties. Show-ups may be conducted, subject to the following conditions:

1. In situations in which probable cause to arrest does not exist, but Department personnel have temporarily detained a subject who matches a general eyewitness description, Department personnel may conduct a show-up for the following reasons:
 - a. To identify a potential suspect, or
 - b. To immediately clear an innocent person from suspicion.
2. Department personnel may detain subjects/suspects where he/she is located in the least restrictive manner possible that will ensure the presence of the subject/suspect and the safety of Department personnel for reasonable time to confer or refute whether the person is the perpetrator.
 - a. Department personnel should not display a subject/suspect detained in a cruiser or other police vehicle.
 - b. If possible and safe, Department personnel should not restrain or handcuff the suspect unless the handcuffs can be concealed. When circumstances dictate that a suspect must be controlled and/or separated from the victim/witness, Department personnel must take practical steps to minimize the suggestiveness of the procedure.
 - c. Show-ups should not occur at a police station, or other law enforcement building.
3. Whenever practical, Department personnel should transport the victim/witness to the suspect (as opposed to transporting the suspect to the victim/witness). Department personnel shall notify his/her

supervisor that he/she is transporting a victim/witness for the purpose of eyewitness identification.

4. Department personnel should instruct the victim/witness, prior to the show-up, that the suspect being detained may or may not be the perpetrator and that the victim/witness should not feel compelled to make an identification.
5. Department personnel should refrain from using words or conduct of any type that may suggest to the victim/witness that the individual is or may be the perpetrator.
6. If the victim/witness makes identification, Department personnel should not confirm or corroborate the identification. Department personnel should discreetly advise the detaining authority or officer of the victim/witness response or identification.
7. If the victim/witness indicates that he/she recognizes or identifies the suspect, Department personnel shall ask the circumstances from which the victim/witness recognizes the individual and how certain he/she is of his/her identification and the statement of the victim/witness in response should be documented.
8. In the case of multiple victims/witnesses, show-ups should not be conducted with more than one victim/witness at a time. When feasible, after one witness makes an identification during a show-up, that identification should provide probable cause for an arrest, and the remaining witnesses should ordinarily be shown a photo line-up rather than participate in a show-up.
9. In the case of multiple suspects, the victim/witness should view each suspect in separate show-ups conducted in accordance with these procedures.
10. Whenever possible, department personnel should photograph the suspect at the time of the show-up.
11. Department personnel should document each victim/witness's identification or lack thereof in a report in their case file.

B. ATTACHMENTS

1. Photographic Line-Up Instruction Form
2. Physical Line-up Instruction Form
3. Guidelines for Simultaneous & Sequential Line-Ups

References: "Eyewitness Evidence – A guide for Law Enforcement," U.S. Department of Justice, Office of Justice Programs, *National Institute of Justice*, October 1999.

"Eyewitness Identification: Photographic Line-Ups, Physical Line-ups & Show-Ups," General Order, Rhode Island State Police

"Final Report: Task Force to Identify & Recommend Policies & Procedures to Improve the Accuracy of Eyewitness Identifications," RIGL 12-1-16, December 2010

"Line-up and Show-Up Procedures," General Order, Warwick Police Department

"Witness Identification," General Order, Cumberland Police Department

By order of:

John J. Smith
Chief of Police

ANYTOWN POLICE DEPARTMENT
Photographic Line-Up Instructions

Witness: _____
(Print Name)

Case Number: _____

I, _____ (Name of Officer/ Administrator) am going to show you a group of photographs of individuals for identification purposes. This procedure is designed to clear the innocent as well as to ensure the accurate and reliable identification of the guilty. The perpetrator may or may not be present in this group of photographs. You do not have to identify anyone and regardless of whether or not you make identification, the investigation will continue. The fact that the photographs are being shown to you should not cause you to believe or guess that the guilty person has been caught.

Please keep in mind that persons depicted in the photographs may not appear exactly as they did on the date of the crime as features such as head and facial hair are subject to change. Also, photographs do not always depict the true complexion of a person who may be lighter or darker than shown in the photograph. You should study only the person shown in each photograph and pay no attention to variations in color, type or style of the photograph.

While viewing the photographs displayed, please keep in mind the following:

1. The photographs will contain persons of similar description and in similar poses.
2. There is no significance to the order in which the photographs appear.
3. During the process, no one is to give you any hints or suggestions, or attempt to influence your identification in any way.
4. You must view all of the photographs prior to making a final identification.
5. If you make identification, your choice will be documented in writing.
6. If you make identification, you must state in your own words how certain you are of such identification. A confidence statement will be recorded in writing that will include the time, date, place and persons present.

Please do not talk to anyone other than the officer/administrator while viewing the photographs. Please do not speak to any other victim/witness about the identification procedure or indicate in any way to any other victim/witness that you have or have not made identification.

I acknowledge that the above photographic line-up instructions have been read to me and fully understand the instructions.

Witness: _____
(Signature) (Date)

Officer/Administrator: _____
(Signature) (Date)

DRAFT

ANYTOWN POLICE DEPARTMENT
Physical Line-Up Instructions

Witness: _____
(Print Name)

Case Number: _____

I _____ (Name of Officer/Administrator) am going to show you a group of individuals for identification purposes. This procedure is designed to clear the innocent as well as to ensure the accurate and reliable identification of the guilty. The perpetrator may or may not be present in this group of individuals. You do not have to identify anyone and regardless of whether or not you make identification the investigation will continue. The fact that the photographs are being shown to you should not cause you to believe or guess that the guilty person has been caught.

Please keep in mind that persons depicted in the physical line-up may not appear exactly as they did on the date of the crime as features such as head and facial hair are subject to change.

While viewing the photographs displayed, please keep in mind the following:

1. The line-up will contain persons of similar description and in similar poses.
2. There is no significance to the order in which the individuals appear.
3. During the process, no one is to give you any hints or suggestions, or attempt to influence your identification in any way.
4. You must view all of the individuals prior to making a final identification.
5. If you make identification, your choice will be documented in writing.
6. If you make identification, you must state in your own words how certain you are of such identification. A confidence statement will be recorded in writing that will include the time, date, place and persons present.

Please do not talk to anyone other than the officer/administrator while viewing the physical line-up. Please do not speak to any other victim/witness about the identification procedure or indicate in any way to any other victim/witness that you have or have not made identification.

I acknowledge that the above physical line-up instructions have been read to me and fully understand the instructions.

Witness: _____
(Signature) (Date)

Officer/Administrator _____
(Signature) (Date)

DRAFT

ANYTOWN POLICE DEPARTMENT

Guidelines for Simultaneous & Sequential Photographic Line-Ups

A. SIMULTANEOUS PHOTOGRAPHIC LINE-UP

The simultaneous photo line-up consists of showing a group of similar photos to a witness all at the same time. The "*Photographic Line-Up Instructions*" form shall be read to the witness. All simultaneous photo line-ups shall be conducted in accordance with Department policy.

B. SEQUENTIAL PHOTOGRAPHIC LINE-UP

The sequential photo line-up consists of showing a group of similar photos one-at-a-time to a witness. The "*Photographic Line-Up Instructions*" form shall be read to the witness. All sequential photo line-ups shall be conducted in accordance with Department policy in addition to the following guidelines.

1. Each photo will be placed in a separate folder, the folders will then be shuffled, and each folder will be numbered, from one (1) to six (6).
2. If there is more than one suspect, each suspect photo will be placed in the grouping of six folders separately from any other suspect, and the grouping will be changed so that the suspect's photos are not always in the same numbered folder in the grouping.
3. If there is more than one witness, each witness will be shown the line-up separately, the suspect photo shall be placed in a different numbered folder 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 completed.
4. 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.
5. After explaining the procedure to the witness, give the witness one folder at a time, starting with number one, and give the witness sufficient time to look at each photo. When done viewing each folder, it shall be handed back to the officer before viewing the next one.

6. If identification is made, the officer shall assess witness confidence immediately following the identification, and clearly document witness confidence by quoting the witnesses remarks in the police report. If no identification is made, this fact must also be clearly documented.
7. Any and all photo line-ups created, viewed, identified or not identified must be kept, and secured with the officer's case.
8. No person has a right to have a lawyer present at any photo line-up whether it takes place before or after an arrest.

C. BLIND AND BLINDED ADMINISTRATION

- a. All line-ups, regardless of the type of line-up being used, shall be administered, when practicable, by an Independent Blind Administrator. When it is not practicable to use an Independent Blind Administrator, an Independent Blinded Administrator shall present the line-up.

Officer/Administrator _____
(Signature)

(Date)