



DEPARTMENT NOTICE

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Photo Lineup and Live Lineup Guidelines

Senate Bill 923, enacted January 1, 2020, requires all law enforcement agencies and prosecutorial entities adopt regulations for conducting photo lineups and live lineups with eyewitnesses. Current cold show admonishment procedures are not affected.

Valid eyewitness identifications are an important piece of evidence for solving crimes and securing rightful convictions. Compliance with the best practices improves the reliability of the identification, whereas failing to comply with the recommendations increases the risk of misidentification and may make identifications more likely to be rejected in court.

Guidelines for Composing a Photo Lineup

- 1) Include only one suspect in each identification procedure.
- 2) Select fillers who generally fit the witness' description of the suspect. When there is a limited/inadequate description of the suspect provided by the witness, or when the description of the suspect differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features.
- 3) If multiple photos of the suspect are reasonably available to the Investigator, select a photo that resembles the suspect description or appearance at the time of the incident.
- 4) Include a minimum of five fillers (non-suspects) per identification procedure.
- 5) Complete uniformity of features is not required. Avoid using fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- 6) Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual features (e.g., scars, tattoos) used to describe the suspect by artificially adding or concealing that feature.
- 7) Consider placing the suspect in different positions in each lineup, both across cases and with multiple witnesses in the same case.
- 8) When showing a new suspect, avoid reusing fillers in lineups shown to the same witness.

- 9) Arrange the six (photos or live subjects) in random order and record the order on the SFPD Identification form 546.

Guidelines for Conducting a Photo Lineup or Live Lineup

The investigator conducting the identification procedure shall use “**blind administration**” or “**blinded administration**” during the identification procedure.

“**Blind administration**” means the administrator/investigator conducting the lineup procedure does not know the identity of the suspect.

“**Blinded administration**” means the administrator/investigator conducting the lineup procedure may know who the suspect is, but does not know where the suspect has been placed or positioned in the identification procedure through the use of any of the following:

1. An automated computer program that prevents the investigator from seeing which photo the eyewitness is viewing until after the identification procedure is complete.
 2. The folder shuffle method, which refers to a system for conducting the photo lineup by placing the photographs in folders, shuffling the folders, randomly numbering the folders and then presenting the folders sequentially so that the administrator/investigator cannot see or track which photograph is being presented to the eyewitness until after the photo lineup is completed.
- If blind administration was not used by the investigator, the investigator shall document in writing the reason the lineup was not conducted using blind administration.

Prior to conducting the identification procedure, and as close in time to the incident as possible, the eyewitness shall provide a description of the suspect. This is usually accomplished when the reporting officer interviews the victim/witness for the police report.

- 1) Writings or information concerning any previous arrest of the person suspected as the perpetrator shall not be visible to the eyewitness.
- 2) All eyewitnesses shall be separated when viewing an identification procedure.

- 3) Nothing shall be said to the eyewitness that might influence the eyewitness' identification of the suspect. (i.e. statements that evidence was recovered from a person or admissions of guilt or responsibility)
- 4) An electronic recording shall be made that includes both audio and visual representations of the lineup procedure. When audio recording without video recording is used, the investigator shall state in writing the reason that video recording was not feasible. (Chronological or supplemental report)
- 5) The photo or live line up should be conducted sequentially not simultaneously.
- 6) If the eyewitness wishes to view the photos/persons again, they may do so one at a time, in a new random order.

Prior to any identification procedure, the investigator shall read verbatim the witness admonition on SFPD 546 to the eyewitness.

If the eyewitness identifies a person they believe to be the perpetrator, all of the following shall apply:

- (a) The investigator shall immediately inquire as to the eyewitness' confidence level in the accuracy of the identification and record in writing, verbatim, what the eyewitness says. A question such as "Please tell me in your own words why you selected that photo and how confident are you?" will suffice.
- (b) Information concerning the identified person shall not be given to the eyewitness prior to obtaining the eyewitness' statement of confidence level and documenting the response verbatim.
- (c) The investigator shall not validate or invalidate the eyewitness' identification.



WILLIAM SCOTT
Chief of Police

Per DB 20-081, sworn members are required to electronically acknowledge receipt and review of this Department Notice in HRMS. Any questions or clarification regarding this policy should be made to sfpd.writtendirectives@sfgov.org who will provide additional guidance about the directive.