

Eyewitness Identification

604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (CRS § 16-1-109; CRS § 16-1-110).

604.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

604.2 POLICY

The Louisville Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy (CRS § 16-1-110).

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Detective Section supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- a. The date, time, and location of the eyewitness identification procedure.

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- b. The name and identifying information of the witness.
- c. The name of the person administering the identification procedure.
- d. If applicable, the names of all of the individuals present during the identification procedure.
- e. An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- f. An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification (CRS § 16-1-109).
- g. If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as they did on the date of the incident.
- h. An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness (CRS § 16-1-109).
- i. A signature line where the witness acknowledges understanding the identification procedures and instructions.
- j. A statement from the witness in the witness's own words describing how certain they are of the identification or non-identification. This statement should be taken at the time of the identification procedure.

The process and related forms should be reviewed at least annually and modified when necessary (CRS § 16-1-109).

[Model Policy and Forms for Eyewitness Identification.pdf](#)

604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case (CRS § 16-1-110). Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

604.6 PHOTOGRAPHIC AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness. Techniques to achieve this

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include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup (CRS § 16-1-109).

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (CRS § 16-1-109).

The member presenting the lineup to a witness should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

604.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- a. Obtain a complete description of the suspect from the witness.
- b. Assess whether a witness should be included in a field identification process by considering:
 1. The length of time the witness observed the suspect.
 2. The distance between the witness and the suspect.
 3. Whether the witness could view the suspect's face.
 4. The quality of the lighting when the suspect was observed by the witness.
 5. Whether there were distracting noises or activity during the observation.
 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 7. The length of time that has elapsed since the witness observed the suspect.
- c. If safe and practicable, the person who is the subject of the show-up shall not be handcuffed or in a patrol vehicle (CRS § 16-1-110).
- d. When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- e. The person who is the subject of the show-up should not be shown to the same witness more than once.
- f. In cases involving multiple suspects, witnesses shall only be permitted to view the subjects of the show-up one at a time (CRS § 16-1-110).

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- g. The person who is the subject of the show-up shall not be required to put on clothing worn by the suspect, to speak words uttered by the suspect, or to perform other actions mimicking those of the suspect (CRS § 16-1-110).
- h. If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

604.7.1 STATE FIELD IDENTIFICATION REQUIREMENTS

An officer conducting a field identification shall (CRS § 16-1-110):

- a. Transport each witness separately to the location of the field identification.
- b. Conduct the show-up in a well-lit location with an unobstructed view of the subject of the show-up.
- c. Separate eyewitnesses from one another at the location of the show-up.
- d. Provide verbal notification as required by CRS § 16-1-110(3)(d) to each witness prior to showing them the subject.
- e. Ask the witness about their level of confidence when an identification is made and document the response in the witness's own words.
- f. Use a body-worn camera to create a video of the entire show-up procedure.

Field identifications shall only be used (CRS § 16-1-110):

- a. When a crime has been reported and:
 - 1. An officer, acting on reasonable suspicion, has detained the suspect of the crime within minutes of the commission of the crime and near the location of the crime.
 - 2. A live or photo lineup is not available as a means of identification given the circumstances.
 - 3. A witness reasonably believes a subject can identified.
- b. To verify the identity of a person involved in an intimate relationship as defined in CRS § 18-6-800.3.
- c. To confirm the identity of a family member known to the witness.

If an eyewitness makes an identification at a show-up and the subject is arrested, additional attempts at identifying the subject shall be through a photographic or live lineup (CRS § 16-1-110).

604.8 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report (CRS § 16-1-109).

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

604.8.1 REPORTING TO COLORADO DIVISION OF CRIMINAL JUSTICE

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The following statistical data regarding field identifications shall be reported to the Colorado Division of Criminal Justice as required by CRS § 24-31-903 (see the Records Section Procedures Policy) (CRS § 16-1-109):

- a. Date, time, and location
- b. Gender, age, and race of the subject and any eyewitness
- c. Alleged crime
- d. Outcome of the show-up

604.9 PUBLIC ACCESS TO POLICY

This policy shall be made available to the public, without cost, upon request (CRS § 16-1-109).

Attachments

Model Policy and Forms for Eyewitness Identification.pdf



The Colorado Best Practices Committee

Model Policy and Forms for Eyewitness Identification

Colorado Best Practices Committee

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Eyewitness Identification – Model Policy and Forms

Introduction

The State of Colorado has enacted a new law (effective July 1, 2015) creating requirements and guidelines for eyewitness identification procedures conducted by law enforcement agencies. The statute integrates certain scientifically researched practices into standard eyewitness identification procedures in order to improve their accuracy, strengthen public safety and protect the innocent.

The Colorado Best Practices Committee for Prosecutors (a joint committee of the Colorado District Attorneys' Council and the Colorado Attorney General's Office) is providing the following model policy and forms in an effort to assist agencies in complying with the law, develop consistency across agencies, and ensure the integrity of prosecutions.¹ The model policy was created with the understanding that available resources may vary among agencies.

Colorado law enforcement agencies can draft a new written policy on eyewitness identification procedures, or modify existing written policies to comply with the current statutory requirements. However, if an agency does not have a written policy on eyewitness identification procedures in place by July 1, 2016, the Colorado Best Practices Committee model policy automatically becomes that agency's policy pursuant to the new law.

Eyewitness identification is an important investigative tool for identifying individuals suspected of committing crimes. The purpose of this model policy is to set forth eyewitness identification protocols that will result in strong, reliable evidence while observing relevant constitutional and statutory protections. The safeguards incorporated into these protocols are intended to prevent the possibility of law enforcement personnel inadvertently or intentionally suggesting a positive identification to an eyewitness.

At this time, available scientific research has not determined whether simultaneous or sequential viewing of photo arrays and live lineups produces more reliable identifications. In late 2014, the National Academy of Sciences issued a report stating that, based on its review of all studies conducted on eyewitness identification, it could not recommend choosing one format over the other. In addition, the new Colorado law does not mandate either format. Accordingly, both simultaneous and sequential procedures are acceptable and each agency must make its own choice about simultaneous or sequential viewing. Consultation with local District Attorney's offices is recommended.

¹ These documents are the result of input from several law enforcement agencies in Colorado that graciously provided copies of their eyewitness identification policies, as well as the excellent language and formatting developed by the New York State Division of Criminal Justice Services for their model eyewitness identification policy.

I. Definitions

- a. **Eyewitness:** a person who observed another person at or near the scene of an offense.
- b. **Filler:** a person or photograph of a person who is not suspected of the offense in questions and is included in an identification procedure.
- c. **Showup:** an identification procedure in which an eyewitness is presented with a single suspect in person to determine if the eyewitness identifies the suspect as the perpetrator of an offense.
- d. **Photo Array (Photo Lineup):** an identification procedure in which a group of photographs, including a photo of the suspected perpetrator of an offense and photos of additional fillers, is shown to an eyewitness to determine if the eyewitness identifies the suspect as the perpetrator. The photographs may be displayed in either hard copy form or via electronic means.
- e. **Live Lineup:** a live identification procedure in which a group of people, including the suspected perpetrator of an offense and additional fillers, is shown to an eyewitness to determine if the eyewitness identifies the suspect as the perpetrator.
- f. **Administrator:** the person who is conducting an identification procedure.
- g. **Blind administrator:** the administrator of an identification procedure who does not know the identity of the suspect when it is viewed by the eyewitness.
- h. **Blinded administrator:** the administrator of an identification procedure who may know who the suspect is, but does not know in which position the suspect is placed in a photo array.
- i. **Confidence Statement:** a statement by an eyewitness immediately following an identification regarding his or her confidence in the identification's accuracy.

II. Photo Array (Photo Lineup)

A. **Creating the Photo Array**

Instructions to the officer/investigator creating the photo array:

- 1) Fillers should be similar in appearance to the suspect and to the eyewitness' original description of the suspect. Similarities should include gender, age, race, height, hair color, facial hair, clothing and distinctive physical features.
- 2) At least five fillers should be included in each photo array, in addition to the suspect. Administrators should not include fillers who are known to the eyewitness.
- 3) Only one suspect should be included in a photo array. If there is more than one suspect in an investigation, a separate photo array should be made for each suspect. Different fillers should be used in the separate arrays.
- 4) Photos used in an array should be of consistent size, quality, color and background. Photos should not contain stray markings or information about the subject. Any markings or identifying information should be covered. If one photo in the array is covered in any manner, all the photos should be similarly covered.

B. **Communicating with the Eyewitness**

Instructions for the officer/investigator communicating with the eyewitness:

- 1) When contacting an eyewitness to arrange for viewing a photo array, the officer/investigator should advise only that he/she intends to conduct a photo identification procedure.
- 2) Avoid addressing whether a person is in custody or whether other supporting evidence about the suspect has been obtained (such as statements, physical evidence, other identifications).
- 3) When an eyewitness arrives to view the array, he/she should be prevented from speaking to any other eyewitnesses about the identification procedure.

- 4) The administrator should provide the following or substantially similar instructions to an eyewitness before displaying a photo array:
 - a. The eyewitness is being asked to view a photo array as part of an ongoing investigation into a crime that occurred on ____ (date) at ____ (location), to see if the eyewitness recognizes anyone involved with the crime.
 - b. The eyewitness should not assume the administrator knows who the suspect is, or seek assistance from the administrator or anyone else present in making an identification.
 - c. The suspect may or may not be pictured in the array.
 - d. Individuals pictured in the photo array may not look exactly as they did on the date of the incident. Some features – like hairstyle or facial hair – are subject to change.
 - e. Photos do not necessarily depict the true complexion of a person; it may be darker or lighter than appears in the photo.
 - f. The eyewitness should pay no attention to any markings on the photos or any differences in the style/type of the photos.
 - g. If the eyewitness makes an identification, the eyewitness will be asked about his/her level of certainty. The administrator will ask the eyewitness to choose whether he/she is confident, somewhat confident or not confident about his/her identification.
 - h. The investigation will continue, regardless of whether the eyewitness makes an identification.

C. Administering the Photo Array

The following or substantially similar steps should be taken in administering the photo array:

- 1) When practicable, a blind administrator is recommended for all photo arrays (an administrator who does not know the identity of the suspect).
- 2) When use of a blind administrator is impractical, blinded administration of the photo array should be used (the administrator knows the identity of the suspect, but not what position the suspect occupies in the array).
- 3) Examples of methods for blinded administration may include, but are not limited to, the following:
 - a. The photo array is created by an officer other than the administrator and then placed in a folder. The administrator gives the folder to the eyewitness, who looks at the array

within the folder, so that the administrator cannot see the photos during the identification.

- b. The administrator makes multiple arrays, placing the suspect's photo in different positions in each. The same fillers may be used in the multiple arrays. The arrays are then placed in separate, closed folders and the witness selects which one to view. The eyewitness looks at the array within the folder, so that the administrator cannot see the photos while the eyewitness is viewing them.
- 4) During all photo array procedures, the administrator should stand out of the eyewitness' line of sight during the viewing of the array, but in a position where he/she can observe and hear the eyewitness.
- 5) If multiple eyewitnesses are viewing a photo array, they should be prevented from speaking to one another about the identification procedure. Each eyewitness must view the array separately and be admonished not to discuss the identification procedure with any other eyewitness.
- 6) The administrator should always remain neutral during the identification procedure, so as not to suggest a particular photo to the eyewitness.
- 7) If both practicable and available, administrators are encouraged to video record the photo array procedure and confidence statement. Audio recording is an acceptable alternative if video recording is not practicable.
- 8) After viewing the array, the administrator should ask the eyewitness the following questions. If the eyewitness' answers are unclear, the administrator should ask the eyewitness what he/she meant by the answers.
 - a. Do you recognize anyone?
 - b. If so, what number do you recognize?
 - c. From where do you recognize this person?
- 9) If the eyewitness makes an identification, in addition to recording or memorializing any spontaneous statements made by the eyewitness, the eyewitness should be asked about his/her level of certainty. The administrator should ask the eyewitness to choose which of the following statements best describes his/her level of certainty in the identification:

- I am confident that is the person I saw.
- I am somewhat confident that is the person I saw.
- I am not confident at all that is the person I saw.

- 10) The administrator should not comment, nod or make gestures (either positive or negative) on whether the eyewitness picked the suspect. If asked by the eyewitness, the administrator should explain he/she is not allowed to provide feedback.
- 11) Once the procedure is concluded and fully documented (see below), the administrator can talk to the eyewitness about the next steps in the case. The eyewitness should be instructed not to discuss the identification procedure with other eyewitnesses. Also, the administrator should not discuss any other identification procedures viewed by other eyewitnesses.

D. Documenting the Photo Array

Administrators should document the following or substantially similar information using appropriate forms or notes:

- 1) Where the procedure took place, who was present, the date and time it was administered.
- 2) Any statements, comments or physical reactions of the eyewitness while viewing the array.
- 3) Each eyewitness should complete a standard form that records their identifying information and the results of the procedure after viewing the array. The eyewitness should sign and date the array itself, or a copy supplied to document the identification procedure.
- 4) The eyewitness' confidence statement, including any spontaneous statements, should be documented word for word.
- 5) Preserve the photo array in the original form that was shown to each eyewitness. A copy of the photo array should be included with the case report.

III. Live Lineups

Consultation with the appropriate prosecuting attorney's office is recommended whenever a live lineup is being considered.

A. **Creating the Live Lineup**

Instructions to the officer/investigator creating the live lineup:

- 1) Fillers should be similar in appearance to the suspect and to the eyewitness' original description of the suspect. Similarities should include gender, age, race, height, hair color, facial hair, clothing and distinctive physical features.
- 2) At least five fillers should be included in each live lineup, in addition to the suspect. In no case, should less than four fillers be used. Only one suspect should appear per live lineup. Administrators should not include fillers who are known to the eyewitness.
- 3) If necessary, all members of the live lineup should be seated to minimize any height differences.
- 4) If there is more than one suspect, different fillers should be used in each live lineup.
- 5) The suspect should be allowed to select his/her own position in the live lineup. Where the suspect was previously identified in a photo array, that number should be avoided unless insisted upon by the suspect.
- 6) All members of the live lineup should be instructed not to speak or gesture to one another during the procedure. All members of the live lineup should be instructed to remain still and look forward unless otherwise directed by an officer/investigator.

B. **Communicating with the Eyewitness**

Instructions for the officer/investigator communicating with the eyewitness:

- 1) When contacting an eyewitness to arrange for viewing a live lineup, the officer/investigator should advise only that he/she intends to conduct an identification procedure.
- 2) Avoid addressing whether a person is in custody or whether other supporting evidence about the suspect has been obtained (such as statements, physical evidence, other identifications).

- 3) When an eyewitness arrives to view the live lineup, he/she should be prevented from speaking to any other eyewitnesses about the identification procedure.
- 4) The administrator should provide the following or substantially similar instructions to an eyewitness before viewing a live lineup:
 - a. The eyewitness is being asked to view a lineup as part of an ongoing investigation into a crime that occurred on ____ (date) at ____ (location), to see if the eyewitness recognizes anyone involved with the crime.
 - b. The eyewitness should not assume the administrator knows who the suspect is, or seek assistance from the administrator or anyone else present in making an identification.
 - c. The suspect may or may not be present in the lineup.
 - d. Individuals presented in the lineup may not look exactly as they did on the date of the incident. Some features – like hairstyle or facial hair – are subject to change.
 - e. The eyewitness can ask the administering officer to have the lineup members move, speak or change clothing. If one lineup member is asked, all the members will be asked to do the same.
 - f. If the eyewitness makes an identification, the eyewitness will be asked about his/her level of certainty. The administrator will ask the eyewitness to choose whether he/she is confident, somewhat confident or not confident about his/her identification.
 - g. The investigation will continue, regardless of whether the eyewitness makes an identification.

C. Administering the Live Lineup

- 1) A blind administrator is recommended for all live lineups (an administrator who does not know the identity of the suspect).
- 2) After the administrator instructs the eyewitness, he/she should stand outside the eyewitness' line of sight, while still being in position to observe and hear the eyewitness.
- 3) If there are multiple eyewitnesses, they must each view the lineup separately. The position of the suspect should be moved each time the lineup is shown to a different eyewitness. Eyewitnesses should be prevented from speaking to each other about the identification procedure.

- 4) The officer/investigator monitoring the suspect and fillers in the lineup room should remain out of view of the eyewitness to avoid any claims of inadvertent suggestion.
- 5) If both practicable and available, administrators are encouraged to video record the live lineup procedure and confidence statement. Audio recording is an acceptable alternative if video recording is not practicable. If the procedure is not video recorded, the lineup should be preserved by photograph.
- 6) After an eyewitness views the lineup, the administrator should ask him/her the following questions. If the eyewitness' answers are unclear, the administrator should ask the eyewitness what he/she meant by the answers.
 - a. Do you recognize anyone?
 - b. If so, what number do you recognize?
 - c. From where do you recognize this person?
- 7) If the eyewitness makes an identification, in addition to recording or memorializing any spontaneous statements made by the eyewitness, the eyewitness should be asked about his/her level of certainty. The administrator should ask the eyewitness to choose which of the following statements best describes his/her level of certainty in the identification:
 - I am confident that is the person I saw.
 - I am somewhat confident that is the person I saw.
 - I am not confident at all that is the person I saw.
- 8) The administrator should not comment, nod or make gestures (either positive or negative) on whether the eyewitness picked the suspect. If asked by the eyewitness, the administrator should explain he/she is not allowed to provide feedback.
- 9) There are circumstances where a suspect may have an attorney present during a live lineup. Consult with the appropriate prosecuting attorney's office for guidance regarding a suspect's right to counsel. When in attendance, a defense attorney should be instructed not to speak in the viewing room when the eyewitness is present.

D. Documenting the Live Lineup

Administrators should document the following or substantially similar information using appropriate forms or notes:

- 1) Where the procedure took place, who was present in the viewing room and the lineup room, the date and time it was administered. Document the names of any officers/investigators who escorted the eyewitness to and from the viewing room.
- 2) Any statements, comments or physical reactions of the eyewitness while viewing the lineup.
- 3) Anything the lineup members were asked to do, such as speak, move or change clothing.
- 4) Any requests made by defense counsel and whether they were granted.
- 5) Each eyewitness should complete a standard form that records their identifying information and the results of the procedure after viewing the lineup.
- 6) The eyewitness' confidence statement, including any spontaneous statements, should be documented word for word.
- 7) If a video recording is not made, preserve a photograph of the lineup.

IV. Showups/Field Identifications

A showup (field identification) is an identification procedure used when a suspect has been detained soon after the commission of an offense because he/she resembles the description of the perpetrator provided by an eyewitness. The eyewitness is then allowed to view the suspect so that a positive or negative identification to be made.

The following or substantially similar procedures should be followed by officers/investigators using a showup procedure:

- 1) The eyewitness should be transported to view the suspect whenever possible, rather than have the suspect transported to the eyewitness' location. Detentions for the purpose of a showup procedure are typically seizures based upon reasonable suspicion. Without probable cause to arrest a suspect, transporting him/her to the eyewitness' location might be considered an unlawful arrest. Suspects do not have the right to refuse to participate in a showup.
- 2) The officer transporting an eyewitness to view a showup should not discuss the suspect or whether other supporting evidence about the suspect has been obtained (such as statements, physical evidence, other identifications).
- 3) The administrator of the showup should instruct the eyewitness that:
 - a. He/She is being transported to view a person fitting their description of the suspect for the purpose of making a positive or negative identification.
 - b. The person involved in the crime(s) may or may not be the detained suspect.
 - c. If the eyewitness makes an identification, the eyewitness will be asked about his/her level of certainty. The administrator will ask the eyewitness to choose whether he/she is confident, somewhat confident or not confident about his/her identification.
 - d. The eyewitness can ask the administering officer to have the detained suspect put on or remove outer garments, repeat words or make gestures.
 - e. The investigation will continue, regardless of whether the eyewitness makes an identification.
- 4) The eyewitness should be transported to a position at a distance that allows him/her a clear view of the suspect. If prudent under the circumstances of the case, the eyewitness should not be visible to the suspect.
- 5) When there are multiple eyewitnesses for a showup procedure, they should each be transported to view the suspect in separate vehicles. Eyewitnesses should be prevented from speaking to each other about the identification

procedure. When the procedure is over, eyewitnesses should be admonished not to discuss the identification procedure with any other eyewitness.

- 6) When there are multiple suspects detained, the suspects should be distanced from each other sufficiently so that the eyewitness views each suspect one at a time.
- 7) Whenever practicable, the suspect should not be handcuffed or in a patrol vehicle at the time of the showup.
- 8) Video recording of showup procedures is recommended using dashboard cameras, body-worn cameras or other available recording devices. When video recording is not practicable, audio recording is an acceptable alternative.
- 9) The administrator should not comment, nod or make gestures (either positive or negative) about the eyewitness' identification of the suspect.
- 10) The administrator of a showup identification should document the procedure using appropriate forms and/or notes to record the following or substantially similar information:
 - a. The name and identifying information of the eyewitness.
 - b. Where the procedure took place, who was present, the date and time it was administered.
 - c. The circumstances leading to the showup procedure.
 - d. Physical circumstances of the showup - including lighting, weather, approximate distance between the eyewitness and suspect, whether the suspect was handcuffed, physical description of the suspect and the length of time between the suspect's detention and the identification.
 - e. Any statements, comments or physical reactions of the eyewitness(es) during the identification procedure.
 - f. The eyewitness' confidence statement, including any spontaneous statements, should be documented word for word.
 - g. Each eyewitness should complete a standard form about the results of the procedure after viewing the suspect.

FORMS

PHOTO ARRAY - WITNESS INSTRUCTIONS

- ☐ As part of the ongoing investigation into a crime that occurred on _____ (date) at _____ (location) you will view a photo array.
- ☐ It consists of six photographs of individuals. Each photograph has a number underneath the photograph.
- ☐ Take whatever time you want to view the photo array.
- ☐ The photographs may or may not include the person(s) involved the crime that you were a victim of or witness to.
- ☐ Do not assume that I know who the suspect is.
- ☐ I want you to focus on the photo array and not look to me or anyone else in the room for guidance about make an identification during the procedure.
- ☐ Individuals presented in the photo array may not appear exactly as they did on the date of the incident because features, such as hairstyles and facial hair, are easily changed.
- ☐ Photographs may not always depict the true complexion of a person; it may be lighter or darker than shown in the photo.
- ☐ Pay no attention to any markings that may appear on the photos, or any other difference in the type or style of the photographs.
- ☐ After you have had an opportunity to view the photo array, I will ask you if you recognize anyone. If you do, I will ask you the number of the person you recognize and from where you recognize the person. I will also ask you about your level of certainty in your identification.
- ☐ If you believe one of the photographs is the person involved in this crime, I will ask you to please sign and initial the appropriate photo and mark the appropriate number in the space provided on the Photo Array Form.
- ☐ The investigation will continue regardless of whether or not you make an identification.
- ☐ **DO NOT discuss with other witnesses what you see, say or do during this procedure.**

WITNESS SIGNATURE:

The above instructions have been read to me.

_____ Date: _____ Time: _____

PHOTO ARRAY
ADMINISTRATOR FORM – CONFIDENCE STATEMENT

Witness: _____ Administrator: _____

Instructions to the administrator showing the photo array:

- Remain neutral. Do not comment on the identification before, during or after the identification procedure.
- Provide the photo array in a closed envelope or folder when handing it to the eyewitness.
- Stand out of the eyewitness' line of sight, where practical, but still observe and listen to the eyewitness as he/she views the photo array.
- Where practicable and appropriate, video record the entire procedure. When video recording is not practicable, audio recording is an acceptable alternative.
- Complete the Case Information Sheet that accompanies this form.

After the eyewitness has viewed the photo array, ask the following questions:

☐ Did you recognize anyone in the photo array? _____

- If the answer to the preceding question is negative, STOP and go to the signature line.
- If the answer is positive, proceed to the next question:

☐ If so, what is the number of the person you recognized? _____

☐ From where do you recognize that person? _____

Confidence Statement:

Please choose which of the following statements best describes your level of certainty in your identification:

- ☐ I am confident that is the person I saw.
- ☐ I am somewhat confident that is the person I saw.
- ☐ I am not confident at all that is the person I saw.

Date: _____ Time: _____ Witness Signature: _____

PHOTO ARRAY CASE INFORMATION SHEET
[DO NOT SHOW THIS FORM TO WITNESS]

Complaint or Case Report #: _____ Crime Date & Location: _____

Photo Array Date: _____ Time: _____ Location: _____

Crime Committed: _____ Witness' Name: _____

Was Witness Transported? Yes ☐ No ☐

Transporting Officer: _____

Rank: _____ Command: _____ ID #: _____

Photo Array Administrator: _____

Rank: _____ Command: _____ ID #: _____

Investigating Officer: _____

Rank: _____ Command: _____ ID #: _____

Interpreter Present? Yes ☐ No ☐ Name: _____ Language: _____

Was the procedure recorded? Video Only ☐ Audio & Video ☐ Audio Only ☐ No ☐

The original photo array MUST BE preserved.

Attach a copy of the photo array to this form and provide the information below.

Position	Name
1	..
2	
3	
4	
5	
6	

Suspect's Name: _____ D.O.B.: _____ Position: _____

Was any photo altered? Yes ☐ No ☐ If yes, which? _____

Describe the alteration: _____

Record the words and gestures of the witness during the identification procedure and confidence statement: _____

Signature of Administrator: _____ Date: _____ Time: _____

LIVE LINEUP - WITNESS INSTRUCTIONS

- ☐ As part of the ongoing investigation into a crime that occurred on _____ (date) at _____ (location) you are about view a lineup.
- ☐ You will look through a one-way mirror and see six people in the lineup. They will not be able to see you. There will be a number associated with each person in the lineup.
- ☐ Take whatever time you want to view the lineup.
- ☐ The person(s) involved in the crime that you were a victim of or witness to may or may not be present in the lineup.
- ☐ Do not assume that I know who the suspect is.
- ☐ I want you to focus on the lineup and not look to me or anyone else in the room for guidance about make an identification during the procedure.
- ☐ Individuals presented in the lineup may not appear exactly as they did on the date of the incident because features, such as hairstyles and facial hair, are easily changed.
- ☐ You may ask me to have members of the lineup speak, move or change clothing. If one member is asked to speak, move or change clothing, then all the lineup members will be asked to do the same.
- ☐ After you have had an opportunity to view the live lineup, I will ask you if you recognize anyone. If you do, I will ask you the number of the person you recognize and from where you recognize the person. I will also ask you about your level of certainty in your identification.
- ☐ The investigation will continue regardless of whether or not you make an identification.
- ☐ **DO NOT discuss with other witnesses what you see, say or do during this procedure.**

WITNESS SIGNATURE:

The above instructions have been read to me.

Date: _____ Time: _____

LIVE LINEUP
ADMINISTRATOR FORM – CONFIDENCE STATEMENT

Witness: _____ Administrator: _____

Instructions to the administrator conducting the live lineup:

- Remain neutral. Do not comment on the identification before, during or after the identification procedure.
- After instructing the eyewitness, stand out of the eyewitness' line of sight, where practical, but still observe and hear the eyewitness.
- Where practicable and appropriate, video record the entire procedure. When video recording is not practicable, audio recording is an acceptable alternative.
- A photo should be taken of the live lineup when a video recording of the procedure is not made.
- Introduce by name all individuals present in the viewing room to the eyewitness.
- If there is a need to have a lineup member speak, move, change clothing or some other activity, then all lineup members must do the same activity.
- Complete the Case Information Sheet that accompanies this form.

After the eyewitness has viewed the live lineup, ask the following questions:

- ☐ Did you recognize anyone in the lineup? _____
- If the answer to the preceding question is negative, STOP and go to the signature line.
 - If the answer is positive, proceed to the next question:
- ☐ If so, what is the number of the person you recognized? _____
- ☐ From where do you recognize that person? _____

Confidence Statement:

Please choose which of the following statements best describes your level of certainty in your identification:

- ☐ I am confident that is the person I saw.
- ☐ I am somewhat confident that is the person I saw.
- ☐ I am not confident at all that is the person I saw.

Date: _____ Time: _____ Witness Signature: _____

LIVE LINEUP CASE INFORMATION SHEET
[DO NOT SHOW THIS FORM TO WITNESS]

Complaint or Case Report #: _____ Crime Date & Location: _____

Live Lineup Date: _____ Time: _____ Location: _____

Crime Committed: _____ Witness' Name: _____

Was Witness Transported? Yes ☐ No ☐

Transporting Officer: _____

Rank: _____ Command: _____ ID #: _____

Lineup Administrator: _____

Rank: _____ Command: _____ ID #: _____

Investigating Officer: _____

Rank: _____ Command: _____ ID #: _____

Security Officer: _____

Rank: _____ Command: _____ ID #: _____

Deputy District Attorney Present: Yes ☐ No ☐ Name: _____

Interpreter Present? Yes ☐ No ☐ Name: _____ Language: _____

Was the procedure recorded? Video Only ☐ Audio & Video ☐ Audio Only ☐ No ☐

Lineup photograph taken? Yes ☐ No ☐

Position	Name
1	..
2	
3	
4	
5	
6	

Suspect's Name: _____ D.O.B.: _____ Position: _____

Record the words and gestures of the witness during the identification procedure and confidence statement: _____

Signature of Administrator: _____ Date: _____

LIVE LINEUP – DEFENSE COUNSEL SHEET

Suspect's Attorney Present? Yes ☐ No ☐

Defense Attorney: _____ Telephone: _____

The Defense Attorney was instructed **not** to speak while in the viewing room with the witness? Yes ☐ No ☐

If Defense Attorney makes requests about the live lineup, record the request and whether the request was agreed to or refused:

1. Request: _____

Agreed ☐ Refused ☐

2. Request: _____

Agreed ☐ Refused ☐

3. Request: _____

Agreed ☐ Refused ☐

4. Request: _____

Agreed ☐ Refused ☐

SHOWUP - WITNESS INSTRUCTIONS

- ☐ You are being transported to view a person fitting your description of the person(s) involved in the crime that you were a victim of or witness to, for the purpose of making a positive or negative identification.
- ☐ *[Whenever practicable or when necessary under the circumstances of case]*
You will be able to view the person, but he/she will not be able to see you.
- ☐ Take whatever time you want to view the person.
- ☐ The suspect may or may not be the person you will see.
- ☐ I want you to focus on the person and not look to me or anyone else for guidance about making an identification.
- ☐ You may ask me to have the person speak, move or change outer clothing.
- ☐ After you have had an opportunity to view the person, I will ask you if you recognize him/her. If you do, I will ask you from where you recognize the person. I will also ask you about your level of certainty in your identification.
- ☐ The investigation will continue regardless of whether or not you make an identification.
- ☐ **DO NOT discuss with other witnesses what you see, say or do during this procedure.**

WITNESS SIGNATURE:

The above instructions have been read to me.

_____ Date: _____ Time: _____

SHOWUP
ADMINISTRATOR FORM – CONFIDENCE STATEMENT

Witness: _____ Administrator: _____

Instructions to the administrator conducting the showup:

- Remain neutral. Do not comment on the identification before, during or after the identification procedure.
- After instructing the eyewitness, stand out of the eyewitness' line of sight, where practical, but still observe and hear the eyewitness.
- Where practicable and appropriate, video record the entire procedure. When video recording is not practicable, audio recording is an acceptable alternative.
- If the eyewitness requests, the detained person may be asked to speak, move, or add/remove outer clothing.
- Complete the Case Information Sheet that accompanies this form.

After the eyewitness has viewed the live lineup, ask the following questions:

- ☐ Did you recognize the person you viewed? _____
- If the answer to the preceding question is negative, STOP and go to the signature line.
 - If the answer is positive, proceed to the next question:
- ☐ If so, from where do you recognize that person? _____
-

Confidence Statement:

Please choose which of the following statements best describes your level of certainty in your identification:

- ☐ I am confident that is the person I saw.
- ☐ I am somewhat confident that is the person I saw.
- ☐ I am not confident at all that is the person I saw.

Date: _____ Time: _____ Witness Signature: _____

SHOWUP CASE INFORMATION SHEET
[DO NOT SHOW THIS FORM TO WITNESS]

Complaint or Case Report #: _____

Crime Date: _____ Time: _____ Location: _____

Showup Date: _____ Time: _____ Location: _____

Crime Committed: _____

Witness' Name: _____

Was Witness Transported? Yes ☐ No ☐

Transporting Officer: _____

Rank: _____ Command: _____ ID #: _____

Showup Administrator: _____

Rank: _____ Command: _____ ID #: _____

Investigating Officer: _____

Rank: _____ Command: _____ ID #: _____

Interpreter Present? Yes ☐ No ☐ Name: _____ Language: _____

Was the procedure recorded? Video Only ☐ Audio & Video ☐ Audio Only ☐ No ☐

Suspect's Name: _____ D.O.B.: _____

Conditions during showup:

Weather: _____

Lighting: _____

Approximate distance between witness and suspect: _____

Suspect handcuffed? Yes ☐ No ☐ Suspect in patrol vehicle? Yes ☐ No ☐

Record the words and gestures of the witness during the identification and confidence statement: _____

Signature of Administrator: _____ Date: _____ Time: _____