**Model Policy on Eyewitness Identification**

**Preparing a Photo Array**

1. When assembling a photo array, officers should endeavor to use a current and accurate photograph of the suspect. Filler photographs should be selected based on their similarity to the witness’s description of the suspect, not to the appearance of the suspect. Nothing about the suspect’s photo should make him or her stand out.
2. An array should contain seven fillers, but in no event less than five, and only one suspect photograph.
3. If the suspect has a unique or unusual feature, such as facial scars or severe injuries, the officer preparing the array should create a consistent appearance between the suspect and fillers by adding the feature to the fillers or by covering the area on every photograph.
4. Once the array has been assembled, the officer should examine it to ensure that nothing about the suspect’s photo makes the suspect unduly stand out.

**Showing a Photo Array**

1. The showing of a photo array must be conducted in a manner that promotes reliability, fairness and objectivity.
2. Whenever practicable, officers should videotape or audiotape the showing of a photo array.
3. Each witness must view the photographs independently and out of the presence and hearing of the other witnesses.
4. Officers must avoid suggestive statements that may influence the judgment or perception of the witness.
5. It is preferable that a second officer who is unaware of which photograph depicts the suspect, known as a blind administrator, should actually show the photographs to the witness. This technique, called double-blind administration, is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect. It also allows the prosecution to demonstrate to the judge or jury that it was impossible for the officer showing the photographs to indicate to the witness, intentionally or unintentionally, which photograph the witness should select.
6. If it is not practicable to use double-blind administration, a blinded technique such as the folder shuffle should be used. In all cases, officers shall employ techniques that ensure that no officer present for the showing of an array can tell when the witness is viewing a photograph of the suspect.
7. The investigating officer or the second officer (the administrator) should carefully instruct the witness by reading from a departmental Photo Array Instruction Form, and the witness should be asked to sign the form indicating that the witness understands the instructions. The investigating officer and the administrator should also sign and date the form.
8. When the double-blind technique is used, the officer should explain to the witness that the officer showing the array does not know the identity of the people in the photographs.
9. The officer shall show the photographs to the witness one at a time and ask the witness whether or not the witness recognizes the person.
10. When the witness signals for the next photograph, the officer should move the first photograph so that it is out of sight and ask the witness whether they recognize the next photograph. The procedure should be repeated until the witness has viewed each photograph.
11. If the witness identifies a photograph, the officer should ask the witness how certain they are of the identification.
12. If the witness identifies a photograph before all the photographs have been viewed, the officer should remind the witness that the officer is required to show the rest of the photographs.
13. Witnesses who ask to see a photo or line-up participant additional times should be shown the entire array or lineup. The order of the photographs should be shuffled before the array is shown for a subsequent time and before any additional showing.
14. The photo array should be preserved as evidence in the same order as when the identification was made.
15. If more than one witness is to view an array and a witness has already marked one of the photos, a separate unmarked array shall be used for each subsequent witness.
16. When an officer is showing a photographic array or lineup to a subsequent witness in the same investigation, officers should shuffle the order to demonstrate that there could be no collusion between the two witnesses.
17. If there are two or more suspects of a particular crime, officers must present each suspect to witnesses in separate line-ups. Different fillers should be used to compose each line-up.

**Photo Array Instruction Form (double-blind)**

1. You are being asked to view a set of photographs.
2. You will be viewing the photographs one at a time and in random order.
3. Please look at all of them. I am required to show you the entire series.
4. Please make a decision about each photograph before moving on to the next one.
5. The person you saw may or may not be in the set of photographs you are about to view.
6. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
7. The officer showing the photographs does not know whether any of the people in the array are the person you saw.
8. If the person you saw is in this line-up, the person may not appear exactly as he/she did on the date of the incident because features such as head and facial hair are subject to change.
9. Regardless of whether or not you select a photograph, the police department will continue to investigate the incident.
10. If you select a photograph, the procedure requires the officer to ask you to state, in your own words, how certain you are.
11. If you do select a photograph, please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
12. Regardless of whether you select a photograph, please do not discuss the procedure with any other witnesses in the case or the media.
13. Do you have any questions before we begin?

Witness Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**If an identification is made:**

Please tell me how certain you are.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Photo Array Instruction Form**

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2. You will be viewing the photographs one at a time and in random order.
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4. Please make a decision about each photograph before moving on to the next one.
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6. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
7. If the person you saw is in this line-up, the person may not appear exactly as he/she did on the date of the incident because features such as head and facial hair are subject to change.
8. Regardless of whether or not you select a photograph, the police department will continue to investigate the incident.
9. If you select a photograph, I am required to ask you to state, in your own words, how certain you are.
10. If you do select a photograph, please do not ask me about the person you have selected, as no information can be shared with you at this stage of the investigation.
11. Regardless of whether you select a photograph, please do not discuss the procedure with any other witnesses in the case or the media.
12. Do you have any questions before we begin?

Witness Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**If an identification is made:**

Please tell me how certain you are. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**In-person Line-ups**

1. Line-ups should be conducted under the direction of a supervisor, and when feasible, after consultation with the prosecutor with jurisdiction over the case.
2. Prior to arrest, unless a suspect consents, the suspect cannot be detained and compelled to participate in a line-up without a search warrant. If a suspect has been arrested and refuses to participate in a line-up, the prosecutor may apply for a court order to compel the suspect to cooperate.
3. Before any suspect who has been arraigned or indicted is shown to eyewitnesses in a line-up, or other live identification procedure, the suspect must be informed of their right to have an attorney present at the line-up and to be provided with an attorney at no cost if they are unable to afford legal counsel. Unless a valid waiver is voluntarily and knowingly made, in writing if possible, no such identification may proceed without the presence of the suspect’s attorney.
4. Officers must select a group of at least five fillers who fit the description of the offender as provided by the witness(es). Because the line-up should be administered by an officer who does not know the identity of the suspect, the fillers selected should not be known to the officer administering the line-up. In selecting line-up fillers, abide by the guidelines for photo array fillers as described above. If counsel for the suspect is present, counsel may offer reasonable suggestions about the composition or arrangement of the individuals in the line-up. Any suggestions offered by counsel, whether or not incorporated into the line-up, should be documented and included in the written report of the line-up.
5. The suspect should be viewed by one witness at a time and out of the presence or hearing of other witnesses. Witnesses who have viewed the suspect should not be permitted to communicate with those who have not, until the identification procedure is completed.
6. All persons in the line-up should carry cards that identify them only by number and should be referred to only by their number. As with photo arrays, each witness must view the line-up independently, out of the presence and hearing of the other witnesses.
7. When the double-blind technique is used, the investigating officer should explain to the witness that a second officer (the line-up administrator) will be conducting the line-up, and that the administrator does not know the identity of the people participating.
8. The investigating officer must carefully instruct the witness by reading from a departmental Line-up Instruction Form, and the witness should be asked to sign the form indicting that they understand the instructions. The officer should also sign and date the form.
9. When the double-blind technique is used, the investigating officer must leave the room while the line-up administrator conducts the line-up.
10. The line-up should be conducted so that the suspect and fillers do not actually line up, but rather so that they are displayed to the witness one at a time. This can be accomplished by having them enter the room individually and leave before the next one enters.
11. The procedure for showing the participants to the witness and for obtaining a statement of certainty is the same as for photo arrays. Whenever practicable, the police should videotape or audiotape a line-up.
12. Counsel representing the suspect may be afforded a reasonable amount of time to confer with their client prior to the line-up. Once the line-up has commenced, attorneys should function primarily as observers, and should not be permitted to converse with the line-up participants, or with the witnesses, while the line-up is underway. The concept of blind administration requires that no one be present who knows the identity of the suspect. For this reason, any attorney who knows the suspect should leave the room before the line-up begins. An attorney who does not know the suspect may attend the line-up on behalf of defense counsel or the prosecutor.
13. During a line-up, each participant may be directed to wear certain clothing, to put on or take off certain clothing, to take certain positions, or to walk or move in a certain way. If the participants are asked to wear an article of clothing, the police must guard against circumstances where the article only fits the suspect. All line-up participants shall be asked to perform the same actions.
14. Line-up participants must not speak during the line-up. If identification of the suspect’s voice is desired, a separate procedure must be conducted. (See section on Voice Identification below).
15. After a person has been arrested, they may be required to participate in a line-up regarding the crime for which they were arrested. After arrest, a suspect may lawfully refuse to participate in a line-up only if they have a right to have counsel present (post arraignment/indictment) and counsel is absent through no fault of the suspect or their attorney.
16. If there are two or more suspects of a particular crime, officers must present each suspect to witnesses in separate line-ups. Different fillers should be used to compose each line-up.

**In-Person Line-up Instruction Form (double-blind)**

1. You are being asked to view a group of people.
2. You will be viewing them one at a time in random order.
3. Please look at all of them. The officer is required to show you the entire group.
4. Please make a decision about each person before moving onto the next one.
5. The person who you saw may or may not be one of the people you are about to view.
6. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
7. The officer who will be administering the line-up does not know whether any of the people in the line-up are the person you saw.
8. If the person you saw is in this line-up, the person may not appear exactly as he/she did on the date of the incident because features such as head and facial hair are subject to change.
9. Regardless of whether or not you select someone, the police department will continue to investigate the incident.
10. If you select someone, the procedure requires the officer to ask you to state, in your own words, how certain you are.
11. If you do select someone, please do not ask the officer questions about the person you have selected.
12. Regardless of whether you select someone, please do not discuss the procedure with any other witnesses in the case or the media.
13. Do you have questions before we begin?

Witness Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**If an identification is made:**

Please tell me how certain you are.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**In-Person Line-up Instruction Form**

1. You are being asked to view a group of people.
2. You will be viewing them one at a time in random order.
3. Please look at all of them. I am required to show you the entire series.
4. Please make a decision about each person before moving onto the next one.
5. The person who you saw may or may not be one of the people you are about to view.
6. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
7. If the person you saw is in this line-up, the person may not appear exactly as he/she did on the date of the incident because features such as head and facial hair are subject to change.
8. Regardless of whether or not you select someone, the police department will continue to investigate the incident.
9. If you select someone, the procedure requires the officer to ask you to state, in your own words, how certain you are.
10. If you do select someone, please do not ask me about the person you have selected.
11. Regardless of whether you select someone, please do not discuss the procedure with any other witnesses in the case or the media.
12. Do you have questions before we begin?

Witness Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**If an identification is made:**

Please tell me how certain you are.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**In-Person Voice Identification**

1. Although considerably less common than visual identifications, voice identifications may be helpful to criminal investigations where the victim or witness was blind, the crime took place in the dark, the subject was masked, the witness’s eyes were covered by the perpetrator, or the witness was never in the same room with the perpetrator but heard the perpetrator’s voice. If officers wish to conduct a voice identification procedure with a witness who also saw the subject, they should first consult with a supervisor, and when feasible, the prosecutor with jurisdiction over the case.
2. As with any in-person identification or confrontation, if the suspect has been arraigned or indicted, the suspect has a right to have counsel present during the voice identification procedure.
3. Where voice identification is attempted, the following procedures should be employed to the extent possible.
4. As in a line-up, there should be at least six people whose voices will be listened to by the witness; one-on-one confrontations should be avoided. Because line-ups should be administered by an officer who does not know the identity of the suspect, the fillers should not be known to the officer administering the procedure;
5. The suspect and other participants must not be visible to the witness. This can be done by using a partition, or by similar means;
6. All participants, including the suspect, shall be instructed to speak the same words in the same order;
7. The line-up participants should speak in a normal tone of voice;
8. When both a visual and voice line-up are conducted, the witness should be informed that the line-up participants will be called in a different order and by different numbers;
9. If there are two or more suspects of a particular crime, officers must present each suspect to witnesses in separate line-ups. Different fillers should be used to compose each line-up.
10. As with any identification procedure, police officers should avoid any words or actions that suggest to the voice witness that a positive identification is expected, or who they expect the witness to identify.
11. The investigating officer should carefully instruct the witness by reading from a departmental Voice Identification Line-up Instruction Form, and the witness should be asked to sign the form indicating that he/she understands the instructions. The officer should also sign and date the form. Whenever practicable, officers should videotape or audiotape the procedure.
12. When the double-blind technique is used, officers should adhere to the principles of blind administration as described above. As is the case with photo arrays and line-ups, the investigating officer should leave the room while the administrator conducts the procedure.

**In-Person Voice Identification Instruction Form (double-blind)**

1. You are being asked to listen to several people speak.
2. You will be hearing them one at a time and in random order.
3. Please listen to all of them. I am required to present you the entire series.
4. Please make a decision about each person before moving on to the next one.
5. The person you heard may or may not be one of the people you are about to hear.
6. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
7. The officer administering this procedure does not know whether any of the people are the person you heard.
8. Regardless of whether or not you select a person, the police department will continue to investigate the incident.
9. If you select someone, the procedure requires the officer to ask you to state, in your own words, how certain you are.
10. If you do select someone, please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
11. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case.
12. Do you have any questions before we begin?

Witness Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**If an identification is made:**

Please tell me how certain you are.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Voice Identification Instruction Form**

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4. Please make a decision about each person before moving on to the next one.
5. The person you heard may or may not be one of the people you are about to hear.
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Officer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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