

INSTRUCTIONAL ORDER

April 2024

Immediately

V.3:03

Distribution: All Employees

Subject: PHOTO PACKS, LINE-UPS AND SHOW-UPS

Index as:	Blind Administrator Eyewitness Identification Procedures Field Show-up Independent Administrator	Line-ups Live Line-up Photographic Line-ups Photo Packs	Show-ups Street Identification (Show-ups)
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Accreditation Standards: 42.2.9, 42.2.10, CFA 15.13, 15.14

Cross Reference: G.O. III-06, Juvenile Procedures
III-40, Mobile Video Recording Systems (MVRS)
§§ 92.70 and 985.11, Florida Statutes
State v. Dorsey, 5 So.3d 702 (2d DCA 2009)

Replaces: I.O. V.3:03, Photo Packs, Line-Ups and Show-Ups (March 12, 2019)

This Order establishes procedures for conducting physical and photographic line-ups (photo packs) and also on-street identifications (show-ups) to identify suspects during the investigation of a criminal act. It consists of the following sections:

- I. Policy
- II. Definitions
- III. Factors Affecting the Reliability of Eyewitness Identification
- IV. Photo Pack Identification Procedures
- V. Physical or "Live" Line-Up Procedures
- VI. Field Show-Up Procedures
- VII. Training

I. POLICY

- A. Eyewitness identification procedures, including physical and photographic line-ups and/or on-street show-ups, are an acceptable investigative tool to aid in establishing probable cause for a suspect or the elimination of a suspect.
- B. These types of procedures should be considered as one piece of information to support other corroborative evidence accumulated during the investigation.
- C. Eyewitness identification procedures, particularly on-street identifications (show-ups), are subject to close review to ensure they are conducted fairly and without suggestion. The circumstances of the actual process and outcome must be thoroughly and accurately recorded in the police report.
- D. In all eyewitness identification situations where more than one eyewitness is available, the officer will make every effort to keep the eyewitnesses separated. The presentation of the suspect to the eyewitness, whether it be through a photo pack, a physical or "live" line-up, or a show-up, will be conducted separately.
- E. The investigator may elect to make an audio or video recording of the process. See III-40, Mobile Video Recording Systems (MVRS).

II. DEFINITIONS

- A. Field Show-up (On-street Identification) – A witness views a single suspect for the purpose of identifying the suspect as the perpetrator of the crime.
- B. Filler – Either a person or a photograph of a person who is NOT suspected of an offense and is included in an identification procedure.
- C. Independent or “Blind” Administrator – An investigator administering a line-up or photo array who has no knowledge of the suspect’s identity.
- D. Photographic Line-up (Photo Pack) – A selected group of photographs of persons presented sequentially to a witness, containing a single suspect and several “fillers” for the purpose of determining whether the witness is able to identify the suspect as the perpetrator of the crime.
- E. Physical or “Live” Line-up – A selected group of persons presented to a witness, containing a suspect and several “fillers” for the purpose of determining whether the witness is able to identify the suspect as the perpetrator of the crime.

III. FACTORS AFFECTING THE RELIABILITY OF EYEWITNESS IDENTIFICATION

- A. Place and manner in which the identification was conducted.
- B. Opportunity (*i.e.*, time, distance, lighting, attention, etc.) of the person to observe the offense.
- C. Any previous identification by the victim/witness of another person or the suspect.
- D. The accuracy of the victim/witness’ prior description of the suspect.
- E. Previous failure of the person to identify the suspect.
- F. Time lapse between the offense and the identification process.
- G. Level of certainty demonstrated by the victim/witness at the time of the identification.

IV. PHOTO PACK IDENTIFICATION PROCEDURES

- A. Policy
 - 1. A photo pack array will be conducted by an independent administrator. Exceptions to this requirement may be met by the law enforcement agency:
 - a. Administering the photo lineup to an eyewitness via an automated computer program such that the lineup administrator is prevented from seeing which photograph the eyewitness is viewing until after the procedure is completed.
 - b. Placing photographs in folders, randomly numbered, and shuffled and then presented to an eyewitness such that the lineup administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed.
 - c. Achieving neutral administration through any other procedure and which prevents the lineup administrator from knowing which photograph is being presented to the eyewitness during the identification procedure.
 - 2. A single photograph display is permissible when the full identity of the suspect is already known by the victim or a witness.
 - a. The sole purpose of a single photo display is for the officer’s assurance and confirmation that the known suspect is, in fact, one and the same known by the police.
 - b. Caution is necessary in the use of this procedure as the officer must evaluate the reliability of the identification.
 - c. A single photo display is also permissible when there exists no possibility of prosecution; *i.e.*, the defendant is deceased.

B. Creating the Photo Pack

1. In preparing the photo pack, the investigator should obtain a series of similar photographs. At least six (6) photos are recommended for a photo pack.
 - b. A photo pack display will include “filler” photographs of persons having similar physical characteristics to that of the actual suspect. Such characteristics should include, but not be limited to, race, sex, age, hair style and facial hair, if any.
 - c. The actual photographs will be consistent in size, shape, color, and photographic quality.
 - d. Only one photograph of the suspect or any other individual will be in the photo pack.
 - e. Efforts should be made to obtain photos from a single source; i.e. official jail identity photos (mug shots), printed candid snapshots, and other personal/social media type of photos; understanding there may be limited exceptions to mixing “single source” photos.

2. Use of the FACENXT, the Records Management System (RMS), and Other Resources
 - a. FACENXT:
 - 1) Assemble the photo pack contents using the browser on any Department computer.
 - 2) Procedures for the use of the FACESNXT are outlined in G.O.V.3:03 Photo Packs, Line-Ups and Show-Ups_Attachment B.
 - 3) Upon completion of the photo pack, the officer will ensure at least one copy of the photo pack is printed using the “Print Photo Pack with Bio ID” print option, to memorialize the unique identification number of each photo.
 - b. Records Management System
 - 1) When using the Records Management System (RMS), the officer will assemble the photo pack contents using their RMS login.
 - 2) Instructions for creating a photo pack in RMS can be found in G.O. V3-03 Photo Packs Line-Ups and Show-Ups-Attachment A.
 - 3) Upon completion of the photo pack, the user will ensure at least one copy of the photo pack is printed to memorialize the personal identification of each photo.
 - c. The use of photographs from other sources is permitted, however the photo pack must meet the requirements outlined in this directive and section 92.70, Florida Statutes.
 - d. The general viewing of photographic files (mug shots) of known offenders, selected because of method of operation or physical description, can be useful to establish the identity of a suspect(s). However, this is not recommended because of the difficulty in reproducing the actual photographs used during this process in court, and the confusion that is created by a witness reviewing a large number of photographs.

3. Juvenile Photographs – The use of photographs of juvenile suspects is permissible without a Court Order when used according to this policy.
 - a. Juvenile photos may be taken and retained in certain circumstances, according to section 985.11, Florida Statutes. However, special consideration must be given to the confidentiality of juvenile photographs.
 - b. The law does not preclude the use of school year books or other photographic publications which are a matter of public record.
 - c. Juvenile photographs may also be obtained by voluntary consent or Court Order.
 - 1) If consent is sought, it must be provided in writing by both the juvenile and their parent(s) or guardian.
 - 2) The specific use of the photo obtained by consent must be stated in the permission document.
 - d. Handling the photograph after viewing:
 - 1) If a POSITIVE identification of the suspect is obtained, the photo pack including the juvenile’s photograph will be retained and handled as evidence.
 - 2) If a positive identification is NOT made, the photo pack and the juvenile’s photograph will be properly marked and turned over to the Property and Evidentiary Unit with this action noted in the report.
 - 3) When the case is disposed of, the photograph will be destroyed by the Property and Evidence Unit.

C. Administering the Photo Pack

1. While administering the photo pack, the Independent Administrator must be mindful of any words or actions which may influence the witness’ choice. The Independent Administrator will not say or do anything which might indicate that a particular photo depicts the suspect or that another victim or witness has identified the suspect through one of the photos.

2. Complete Photo Lineup Administrator Form_Form A and Witness Instruction Form:Photo Pack_Form B.
 - a. The instructions listed on Form B are to be read verbatim to the eyewitness.
 - b. The eyewitness will sign Form B to acknowledge having received a copy of the photo pack instructions. If the eyewitness refuses to sign the document acknowledging receipt of the instructions, the Independent Administrator must document the eyewitness' refusal, and must sign the acknowledgment document themselves.
 3. Display the photos sequentially and show the complete set of photos.
 4. The entire photo pack may be shown one (1) additional time.
 5. Show the photos to the eyewitness alone and away from other eyewitnesses.
 6. It is suggested that another officer witness the photo pack display whenever possible.
 7. Use a separate photo pack for each suspect.
 8. The eyewitness will be instructed to:
 - a. Check the applicable box on the Witness Instruction Form: Photo Pack_Form B.
 - b. Sign, date, and designate the photograph selected if a positive identification is made.
 - c. Sign Form B to acknowledge having received a copy of the photo pack instructions. If the eyewitness refuses to sign the document acknowledging receipt of the instructions, the Independent Administrator must document the eyewitness' refusal, and must sign the acknowledgment document themselves
 9. Regardless of whether or not an identification is made, an assessment of the witness' response, their confidence, the exact remarks they made during the process, the identifying numbers, and the manner and order in which the photos were displayed will be recorded within the *Incident Report*.
- D. Securing the photo pack after viewing – The entire photo pack (all photos used) and the Photo Pack with Bio ID will be preserved and secured as evidence.

V. PHYSICAL OR "LIVE" LINE-UP PROCEDURES

- A. When there is a need for a physical line-up to further an ongoing investigation, the investigator will, after approval of the respective Division Commander, contact the Office of the State Attorney.
- B. Under the direction of the assigned State Attorney:
 1. Arrangements will be made with the Pinellas County Sheriff's Office to use their room equipped for this purpose.
 2. While the State Attorney will determine how the line-up will be conducted, the independent administrator will be mindful of the statutory requirements set forth in section 92.70, Florida Statutes.
- C. Prior to the presentation of a live line-up, an eyewitness will:
 - a. Be instructed by an independent administrator that:
 - 1) The perpetrator might or might not be in the lineup;
 - 2) The independent administrator does not know the suspect's identity, except that this instruction need not be given when a specified and approved alternative method of neutral administration is used;
 - 3) The eyewitness should not feel compelled to make an identification;
 - 4) It is important to exclude innocent persons as it is to identify the perpetrator;
 - 5) The investigation will continue with or without an identification, and
 - b. The eyewitness will acknowledge, in writing, to having received a copy of these lineup instructions. If the eyewitness refuses to sign the document acknowledging receipt of the instructions, the lineup administrator must document the eyewitness' refusal, and must sign the acknowledgment document themselves.
- D. Regardless of whether or not an identification is made, the witness' response, their confidence, the exact remarks they made during the process will be documented in the *Incident Report*.

VI. FIELD SHOW-UP PROCEDURES

- A. A field show-up may be useful when a potential suspect is located and detained within a reasonable length of time, in proximity to the location of the crime, and fits the description of the perpetrator provided by the witness.
- B. Due to the inherent suggestiveness of the procedure, courts will closely review the circumstances and conduct of on-street show-ups; however, subjects may be detained for a reasonable period of time to further the investigation.
 1. When conducting a show-up, officers should be aware of a number of factors, as articulated in State v. Dorsey, 5 So.3d 702 (FLA. 2d DCA 2009), which may later affect the usefulness of the procedure, including the:
 - a. Witness' opportunity to view the suspect at the time of the crime;
 - b. Witness' degree of attention;
 - c. Accuracy of the witness' prior description of the suspect;
 - d. Level of certainty demonstrated by the witness at the show-up; and
 - e. Length of time between the crime and the show-up.
 2. While conducting the show-up, the officer must be mindful of any words or actions which may influence the witness' choice. Do not say or do anything which might indicate the status of the detained person or that another victim or witness has identified or not identified the person.
 3. When conducting a show-up, officers should:
 - a. Ensure a full description is obtained, broadcast, and that the witness has indicated they will be able to recognize the offender.
 - b. Detain the suspect in the least restrictive manner possible where they were located to ensure the suspect remains with the officer. Suspects should not be transported to the witness unless exigent circumstances exist.
 - c. Transport the witness to the suspect's location. If there are multiple witnesses, they should be transported and view the suspect separately. Witnesses should not be permitted to communicate prior to the conclusion of the on-scene investigation.
 - d. Separate multiple suspects and, if necessary, conduct separate show-up procedures.
 - e. Minimize suggestiveness that may indicate this is, in fact, the offender. Try to avoid the suspect appearing in handcuffs or in the rear of a cruiser; avoid words or conduct of any type that may indicate to the witness that the perpetrator is in custody. The suspect cannot be required to put on clothing worn by the perpetrator or to speak words uttered by the perpetrator.
 - f. Not present the same suspect to the witness more than once.
 - g. Read the instructions from the Witness Instruction Form_Field Show-up_Form C.
 4. Persons detained for a show-up, and for whom there is insufficient probable cause to arrest, should be promptly released after obtaining basic information to document the procedure.
 5. Details of the show-up process and the identity of persons involved will be accurately reported in the officer's report and Witness Instruction Form_Field Show-up_Form C, including an assessment of the witness' response, confidence and exact remarks they made during the process.

VII. TRAINING

- A. All officers will receive training regarding this Order prior to conducting a photographic or live line-up or field show-up.
- B. Officers will be provided additional or refresher training at least every three (3) years.
- C. Accurate and complete documentation of the course content and training dates for all officers will be maintained.

Anthony Holloway
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