



NORTH MIAMI POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES



PHOTO LINEUP, SHOW-UP & LIVE LINEUP 400.19

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APPROVED:


Chief of Police

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CFA: 15.13, 15.14

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I. PURPOSE

To establish guidelines for the administration of photo lineups, show-ups, and live lineups, to promote accurate and reliable eyewitness identifications and to minimize the possibility of erroneous identifications.

II. POLICY

To employ the most reliable procedures for eyewitness identification and ultimately mitigate the potential misidentification of innocent persons. A copy of this policy will be filed with the State Attorney's Office.

III. SCOPE

This policy applies to all sworn members of the Department.

IV. DEFINITIONS

Photo Lineup: A procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.

Show-Up: The live presentation of a suspect to a witness or victim of a crime for the purpose of identifying or excluding the suspect.

Live Lineup: A procedure in which a group of people is displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.

Independent Lineup Administrator: A person who is not participating in the investigation of a criminal offense and is unaware of which person in the lineup is the suspect. An independent administrator will conduct all photo and live lineups, unless other legal alternatives are needed. **CFA 15.13 B**

Language Clarification:

- Should: Indicates a general or expected action, absent a rational basis for failing to conform.
- Shall or Will: Indicates a mandatory action.

V. CREATING PHOTO LINEUPS

A. CREATING A PHOTO LINEUP: **CFA 15.13A**

A photo lineup, created by the lead investigator or designee, shall consist of a minimum of six photographs, one photo of the suspect and a minimum of five filler photographs. The photographs will be randomly numbered, and whether affixed side by side or in a stack, the photographs will be shuffled and placed in a folder that will include a witness standard instruction form (Attachment A).

The Independent Lineup Administrator assisting the lead investigator will then present the photo lineup to the eyewitness such that the Independent Lineup Administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed. **CFA 15.13B**

Other considerations:

1. If there are multiple suspects in a case, only one suspect shall be included in each lineup.
2. If there are multiple suspects in a case, each lineup shall contain different filler photos.
3. If there are multiple eyewitnesses, individual lineups will be created for each witness.
4. All photographs used shall be of individuals who are reasonably similar in age and general appearance, and are of the same sex and race, in accordance with the victim/witness description.
5. All photographs used shall have the same background and be of the same size and basic composition. In addition:
 - a. No particular photo shall stand out in the lineup;
 - b. No mix of color and black and white photos shall be used; and
 - c. No identifying information (name, date of birth, etc.) about the subject shall appear on any photo.

VI. CONDUCTING THE PHOTO LINEUP

- A. Before presenting a photo lineup, to ensure its neutral administration, the Independent Lineup Administrator, via the standard instructions form, shall instruct the eyewitness that: **CFA 15.13D, E, F**
 1. The subject might or might not be in the lineup;
 2. The eyewitness should not feel compelled to make an identification;
 3. It is as important to exclude innocent persons as it is to identify the subject; and
 4. The investigation will continue with or without an identification.
- B. In cases where there are no investigators available to serve as an Independent Lineup Administrator, an officer from another unit (i.e. Uniform Patrol), with no knowledge of the suspect's identity, will serve as

the Independent Lineup Administrator and show the photo lineup.

CFA 15.13C

- C. If possible, the entire photo lineup identification process, including the verbal instructions, the viewing of the photographs, and the identification or lack thereof will be audio or video recorded.
- D. Once the instructions have been read aloud, the witness will sign and receive a copy of the standard instructions page. When the witness begins his or her review, the person administering the lineup will take all reasonable precautions to avoid giving any unintentional cues to the witness. **CFA 15.13D, I**
- E. In the event of multiple eyewitnesses, the photo lineups will be shown to only one witness at a time, as described above. The witnesses shall be separated, so they will not be aware of the responses of other witnesses.
- F. Once the witness has finished viewing the photo lineup, and the folder is returned to the Independent Lineup Administrator, the administrator will ask the eyewitness whether the lineup contained a photo of the person observed by the witness and will do the following: **CFA 15.13E**
 - 1. If an identification made, the Independent Lineup Administrator shall ensure that the witness has initialed and dated the selected photo.
 - 2. If the witness refuses to sign the photo lineup, the Independent Lineup Administrator shall note the refusal and sign the lineup accordingly.
 - 3. The Independent Lineup Administrator shall not comment on the selections or the outcome of the lineup in any way and shall remain neutral.
 - 4. The witness statement shall be documented immediately following the lineup process, using their response and exact words in any identification. **CFA 15.13H**
- F. Following all photo lineups, the witness standard instructions, the photo lineup presented to the witness, and the recording shall be stored in the case file.
- G. Following all photo lineups (and live lineups, where applicable), whether or not a positive identification is made, the Independent Lineup Administrator shall complete a supplemental report, which includes:

CFA 15.13 G, H

1. A description of the procedure used;
3. The date, time, and location of the lineup;
4. Whether an identification was made; and
5. The response and exact words used by the witness in any identification.

VII. SHOW-UP PROCEDURES

A. When a show-up is permissible: **CFA 15.14A**

1. Any member may arrange a “show-up” between a witness and a suspect whenever a potential suspect who matches the description given by the witness is located.
2. Show-ups may be preferable while the memory of the witness is fresh and the suspect is readily available.
3. If a member has reasonable suspicion to detain a suspect under the above circumstances, the member may use such force as is reasonably necessary to stop the suspect from leaving. If probable cause to arrest develops during the detention, an arrest should be made.

B Conducting a Show-Up:

1. A suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the person detained is the suspect.
 - a. Description: Officers in contact with the witness shall obtain a detailed description of the suspect before the suspect is shown to the witness. The witness must advise the officer that they will be able to recognize the person who committed the crime prior to the show-up.
 - b. Prior to the show-up, the officer shall read the standard instructions to the witness from his/her instructional card (Appendix B) to ensure that the witness understands the purpose of the identification process is to exonerate the innocent, as well as to identify the actual suspect.

CFA 15.14C

C. Location:

1. A suspect shall not be taken to the Department for a show-up. The suspect shall be detained at the place he/she was located, in the least restrictive manner possible that will ensure the suspect remains with the officer. Officer safety is crucial, so officers shall take the proper precautions.
2. The witness shall be transported in a Department vehicle to the suspect's location for the show-up, and care should be used to shield the witness from being seen by the suspect.

D. Avoiding Suggestiveness: **CFA 15.14B, D**

1. If possible, officers will not show the suspect handcuffed, or in the back seat of a patrol car. If the suspect is handcuffed, measures should be taken to conceal this fact from the witness when possible.
2. The witness shall be informed that the person detained may or may not be the suspect, and the witness should not feel compelled to make an identification.
3. Officers must avoid any conduct that might directly or indirectly influence the witness' decision, and avoid any comments or actions that suggest the witness did or did not identify the suspect when the show-up is completed.

E. Multiple Witnesses:

1. Show-ups should not be conducted with more than one witness present at a time.
2. If there is more than one witness, the show-up shall be conducted separately for each witness, and witnesses shall not be permitted to communicate before or after any show-up regarding the identification of the suspect.
3. The same suspect should not be presented to the same witness more than once.
 - a. If there are multiple suspects, only one suspect shall be viewed at a time.

- b. The suspect does not have the right to have a lawyer present at any show-up.
- c. If the detained person is not identified by a witness as the suspect and officers lack any other probable cause for an arrest, the person shall be released after obtaining his/her information. It is equally important to clear innocent persons as it is to arrest guilty suspects.

F. Documentation: **CFA 15.14E,F**

- 1. The witness statement shall be documented immediately following the show-up process. The exact words used by the witness in any identification, including their confidence level, shall be fully documented.
- 2. All activities will be documented by way of the officer's body-worn camera and in the offense report, including taking note of the witness' response and exact words.

VIII. LIVE LINEUPS

- A. Live lineups of individuals, before a victim/witness, for the purpose of identifying or eliminating suspects, must conform to specific legal requirements.
- B. Live lineups will be used as a last resort or upon the recommendation of the Miami-Dade State Attorney's Office (SAO). In either case, consultation will be maintained with the SAO's to ensure that all legal requirements are followed, to include:
 - 1. The creation, composition, and utilization of persons used will be done in consultation with the SAO's office. **CFA 15.13A**
 - 2. Conducted by an Independent Lineup Administrator. **CFA 15.13B**
 - 3. The lead investigator will consult with the SAO for alternatives pursuant to FSS 92.70 if an Independent Lineup Administrator is not available. **CFA 15.13C**
 - 4. The Independent Lineup Administrator will utilize the witness standard instructions form. **CFA 15.13D**

5. The Independent Lineup Administrator will ensure the neutral administration of the lineup and shall not comment on the selection or the outcome of the lineup in any way. **CFA 15.13E**
6. The method of presenting the lineup will be done in consultation with the SAO. **CFA 15.13F**
7. The Independent Lineup Administrator will document the procedure and outcome of the lineup on a Supplemental Report. **CFA 15.13G**
8. The Independent Lineup Administrator will document the witnesses' response and exact words if an identification is made. **CFA 15.13H**
9. The Independent Lineup Administrator will ensure that the witness received a copy of the lineup instructions. **CFA 15.13I**
10. If the right to counsel is attached, counsel representing the accused is entitled to have sufficient time to confer with his or her client prior to the live lineup, and to observe the live lineup itself. Any waiver of right of counsel must conform to legal requirements.

IX. TRAINING

Members conducting eyewitness identifications will receive documented initial training on this policy prior to conducting any line-ups.

Members conducting eyewitness identifications will also receive documented periodic refresher training on this policy.

Training documentation will be forwarded to the Training Unit. **CFA 15.13J**

Appendix A

PHOTO LINEUP/WITNESS INSTRUCTIONS

Case# _____ **Witness Name:** _____

Administrator: READ ALOUD AND SIGN BEFORE SHOWING PHOTO LINEUP

1. You will be asked to view a group of photos of individuals.
2. The person of interest may or may not be in this photo lineup and the photos are not in any particular order.
3. You should not feel that you have to make an identification.
4. Take as much time as you need to look at each photograph.
5. Individuals presented in these photographs may not appear exactly as they did at the time of the incident because features such as head and facial hair are subject to change.
6. It is important to exclude innocent persons from suspicion.
7. The investigation will continue whether or not an identification is made.
8. After viewing all the photographs, if you can make an identification, please circle, initial, and date the photograph of the person you have identified and close the folder.
9. After viewing all the photographs, if you cannot make an identification, you may, if you wish, inform me of any photograph that you believe most resembles the person you saw.
10. Since this is an ongoing investigation, you should not discuss this photo lineup or the results.

I, _____, hereby acknowledge that the above instructions have been read aloud to me and that I understand how this Photo Lineup procedure will be administered. I also acknowledge that I have received a copy of the Lineup witness instructions.

Witness Signature _____ Date/Time _____

Administrator Signature _____ Date/Time _____

Appendix B

Show-Up Instructions

READ ALOUD PRIOR TO CONDUCTING THE SHOW-UP

1. You will be asked to view an individual.
2. The individual detained may or may not be the suspect.
3. Take as much time as you need to look at the individual.
4. It is important to exclude innocent individuals from suspicion.
5. The investigation will continue whether or not an identification is made.
6. After viewing the individual, if you can make an identification, please tell me.
7. After viewing the individual, if you cannot make an identification, please tell me.