

BLOOMINGTON POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

EYEWITNESS IDENTIFICATION

Reviewed by: Lt. Gregory Scott	Effective Date: January 28, 2015
Authorized by: Asst. Chief Gary Sutherland	Revision Date: February 26, 2016

PURPOSE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (725 ILCS 5/107A-2).

DEFINITIONS

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.

POLICY

This 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.

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.

EYEWITNESS IDENTIFICATION FORM

The Criminal Investigations 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 and any related forms or reports should provide (725 ILCS 5/107A-2):

- a) The date, time and location of the eyewitness identification procedure.
- 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 admonishment that the perpetrator may or may not be among those presented and that the witness is not obligated to make identification. Also the witness shall be instructed not to assume that the member conducting the lineup knows which person may be the perpetrator.
- f) An admonishment that the investigation will continue regardless of whether an identification is made by the witness.
- g) Notice that an audio and video recording of the lineup will be made when feasible. Advise that the recording will be of the persons in the lineup and the witness.
- h) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

The process and related forms should be reviewed at least annually and modified when necessary to ensure compliance with 725 ILCS 5/107A-2 and applicable judicial decisions.

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. 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 shall view suspects or a lineup individually and outside the presence of other witnesses (725 ILCS 5/107A-2). Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses. Witnesses should be separated or monitored and the lineup administrator shall ensure that all eyewitnesses are monitored to prevent them from conferring with one another while waiting to view the lineup and during the lineup (725 ILCS 5/107A-2).

Whenever feasible, the eyewitness identification procedure shall be audio and/or video recorded and the recording should be retained according to current evidence procedures. If the witness refuses to allow a recording of the process, the refusal shall be recorded and the member shall document in the report that no recording was made and the reason (725 ILCS 5/107A-2).

PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

Members presenting a lineup shall also ensure that:

- The member presenting the photo lineup takes the utmost care not to communicate the identity of the suspect in any way.
- When practical, the employee presenting a photo lineup to a witness should not know which photograph or person is the suspect.
- When using photo lineups, the Bloomington Police Department will utilize a single page lineup style consisting of up to six images, including the suspect, on the single page. Other persons or photos used in any lineup should bear similar characteristics to the suspect to avoid causing him/her 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. The witness should view all persons in the lineup.
- Only one suspect is presented in a photo lineup and a minimum of five filler photos is utilized.
- No writings or information related to the persons presented is visible or made known to the witness.
- If the witness requests to view the lineup again, he/she may do so.
- If the witness identifies a person as the perpetrator, he/she shall not be provided with any information concerning the person until after the lineup is completed.
- If an automated computer program is available to display the lineup to an eyewitness, the person administering the lineup cannot view the lineup until after completion of the lineup process.
- In a live lineup, where practical, there should be five filler subjects used. In no case should less than three subjects be used.

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 officer should contact the appropriate prosecuting attorney before proceeding.

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 identification. 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 officer 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 should not be handcuffed or in a patrol vehicle.
- d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.
- e) A person should not be shown to the same witness more than once.
- f) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.
- g) A person in a field identification should 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.
- h) If a witness positively identifies an individual as the perpetrator, officers should not conduct any further field identifications with other witnesses for that suspect. In such instances officers should document the contact information for any additional witnesses for follow up, if necessary.

DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification shall be documented in the case report (725 ILCS 5/107A-2). If a live lineup is utilized, a photograph or other visual recording shall be included in the case report (725 ILCS 5/107A-2).

Witness comments of how certain he/she is of the identification or non-identification should be quoted in the report. Also, if practicable, an audio or video recording of the witness statements shall be made.

If a photographic lineup is utilized, the actual photographic lineup presented to the witness shall be included in the case report. The officer administering the lineup for another officer should also complete a supplement report detailing their involvement in presenting the lineup. On the rare occasion that a second officer is not available to present the lineup to the victim/witness, the officer showing the lineup should explain the reason(s) clearly and thoroughly in the report.

In instances where audio and video recording of the presentation of a lineup is not possible, the reasons should be clearly documented in the officer's report.