

	<b>Abilene Police Department Operating Procedures</b>		
	Subject: <i>Line-ups and Identifications</i>	Issued: 08/01/2020	TBP: 7.32

## **Purpose**

It is the purpose of this policy to establish procedures for photographic line-up and field identification. These procedures are established for the purpose of:

- A. Maximizing the reliability of eyewitness identifications;
- B. Minimizing the possibility of misidentification and the unjust accusation of innocent persons and
- C. The establishment of reliable evidence that conforms to current legal procedures and admissibility standards of legal proceedings.

## **Policy**

Eyewitness identification is a frequently used and necessary investigative tool. Officers should strictly adhere to the procedures set forth in policy. All eyewitness identifications shall be corroborated through independent evidence whenever possible. Arrests based solely on eyewitness identification should only be made with the approval of a supervising officer.

## **Definitions**

Sequential photographic line-up – presentation of photographs one at a time in a random order before an eyewitness for the purpose of identifying and eliminating suspects.

Simultaneous photographic line-up – presentation of photographs at the same time, arranged in random order, before an eyewitness for the purpose of identifying or eliminating suspects.

Independent administrator – a person who administers the line-up to the witness and does not know which member of the line-up is the suspect nor the order in which the suspect’s photo appears in the sequence. The independent administrator should not be directly involved in the investigation whenever possible.

Blind testing procedure – a photographic line-up procedure wherein the person administering the test, acting as an independent administrator, does not know the identity of the suspect.

Fillers – in photographic line-ups, photos of persons not suspected in the offense under investigation and used in the photo line-up. In live line-ups, people not suspected in the offense under investigation and used in the live line-up. Live line-ups are a distinct and separate process from field identification.

Field identification – the presentation of a single suspect to an eyewitness within three (3) hours following the commission of a crime.



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Primary investigating officer – the person designated as the investigator who has primary responsibility for the investigation of the crime at hand. For purposes of this policy, this designation may include any officer regardless of rank or title. This person may be the primary responding patrol officer, a detective or any other officer as deemed necessary by police supervision.

### **Photographic Line-up Procedures (TBP 7.32)**

Preparing photographic line-ups:

- A. Photographic line-ups must use a minimum of six (6) photographs.
- B. Photographs of individuals used as fillers are the same sex, race and reasonably similar in age, height and weight of the suspect.
- C. Officers should avoid the use of fillers that closely resemble the suspect. A witness familiar with the suspect should not find it difficult to distinguish the suspect from the fillers. Fillers should not so closely resemble the suspect that the witness' confidence in the identification is diminished.
- D. Photos of the same size and compositions should be used. Do not mix color photos with black and white. Do not mix photos of different types such as driver's license photos with mug shots. All photos should be from the same type source if possible.
- E. The identity of all fillers used in the photographic line-up should be known to the investigator preparing the line-up whenever possible and documented in the case file.
- F. Do not use more than one photo of the same suspect.
- G. If there is more than one suspect, the investigator shall prepare a separate line-up for each suspect.
- H. When it becomes clear during the course of the investigation that a photo line-up will be used, the lead investigator shall identify the independent administrator and ensure that the person does not have access to the suspect's photo prior to the administration of the photo line-up.

Presenting photographic line-ups:

- A. The presentation of a photographic line-up to a witness shall be conducted by an independent administrator in order to avoid actions or statements that could contaminate the witness' perception or judgment.
- B. The independent administrator should assess the photo line-up to ensure its compliance with this chapter.
- C. The administration of the photo line-up to the witness should be documented by the independent administrator utilizing video and audio recording equipment.
- D. The photographic line-up shall be administered to one witness at a time so they will not be aware of other response made by other witnesses.
- E. Any person conducting a photo line-up shall never influence or attempt to influence a witness in identifying a suspect.



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- F. The following instructions shall be given to each witness prior to viewing a photo line-up:
1. You will be asked to view a collection of photographs.
  2. The person who committed the crime may or may not be present in the photo line-up.
  3. You do not have to identify anyone.
  4. Regardless of whether you make an identification, we will continue to investigate this incident.
  5. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
  6. While you examine the images, think back to the event and what you observed.
  7. Persons in the photographs may not appear exactly as they may have on the date of the incident because features change such as facial hair, head hair, etc.
  8. At the conclusion of this procedure, I will ask you to state why you are certain of your identification or why you feel that you could not identify anyone.
- G. The independent administrator shall use the Line-up Viewing Form to document the identification regardless of outcome. If a positive identification is made, the witness should also circle the appropriate photograph and note the date/time on the photo line-up.

### Responsibility of investigating officers:

- A. Primary investigating officers:
1. Prepare the photo line-up and place it in a folder for the independent administrator.
  2. Document the identifying information on all filler photos whenever possible.
  3. Preserve the photo line-up, documentation and recordings of the administration for evidence.
  4. If the witness is illiterate, arrange for the independent administrator to ensure the witness understand the instructions provided by this policy.
  5. If the witness is hearing impaired and utilizes sign language to communicate, arrange for an interpreter/translator to be present that can be utilized by the independent administrator. If an interpreter is used, that person and subsequent translation must be observable on the audio/video recording.
  6. If the witness is non-English speaking, arrange for an interpreter/translator to be present that can be utilized by the independent administrator. If an interpreter issued, that person and subsequent translation must be observable on the audio/video recording.
  7. If translators/interpreters are utilized, the primary investigating officer must ensure said translator/interpreter is unaware of the identity of the suspect to maintain the independent administration of the photo line-up.



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### B. Independent administrator responsibilities:

1. Provide the witness with the Line-up Viewing Form and explain the instructions listed at the top of the form.
2. While explaining the instructions to the witness, ensure that the line-up is not visible (preferably contained in a folder).
3. Regardless of whether the line-up to be given is being administrated in a sequential fashion or a simultaneous fashion, ensure the photographs are numbered and order of presentation is documented.
4. Ensure the witness looks at all photographs regardless of when or if the identification is made.
5. Complete the remainder of the Line-up Viewing Form.
6. Return all files, photographs, line-ups and forms to the primary investigating officer.

### **Field Identification Procedures (TBP 7.32)**

When an officer develops a suspect in reference to a specific offense, they may employ a one-on-one identification where the victim and/or witness may observe the suspect for identification purposes. When conducting a one-on-one identification, the officer should consider:

- A. The witness's opportunity to view the offender during the offense (a complete description of the suspect should be obtained from the witness prior to identification);
- B. The witness's degree of attention;
- C. The accuracy of the witness's prior description of the criminal and
- D. The length of time between the crime and the field identification (three (3) hours is generally accepted in Department operations as the time frame in which one-on-one identifications should be conducted).

When a suspect is being detained on reasonable suspicion and they refuse to cooperate in a one-on-one identification, the witness should be taken to the suspect's location in order to participate in the identification process.

Officers should conduct all eyewitness identification procedures in a fair and impartial manner in order to avoid suggestiveness and influence on witnesses.

A complete video and audio record of the identification procedure should be made.

Field identification should only be conducted with one witness present at a time. If the field identification is conducted for more than one witness, it should be done separately. The witnesses should be separated and not permitted to communicate before or after the field identification until the results are documented. No witness should be able to observe another witness during the presentation of the suspect.

The same suspect should not be presented to the same witness more than once.



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Field identification should not be conducted when the suspect is handcuffed or otherwise restrained unless safety concerns dictate otherwise.

Suspects should not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator or to perform other actions of the perpetrator.

Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator should be avoided.

Supervisory approval should be obtained before conducting a field identification.

The following should be given to each witness prior to conducting a field identification or one-on-one procedure:

- A. You will be asked to view a person.
- B. The person who committed the crime may or may not be the person presented.
- C. You do not have to identify anyone.
- D. Regardless of whether you make an identification, we will continue to investigate this incident.
- E. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
- F. While you examine the person, think back to the event and what you observed.
- G. At the conclusion of this procedure, I will ask you to state why you are certain of your identification or why you feel you could not identify anyone.

### **Live Line-up Procedures (TBP 7.32)**

Live line-up procedures will be addressed in the policies of the Criminal Investigation Division.