



Rhode Island State Police

General Order - 76B

<i>Section:</i>	Law Enforcement Operations - Investigations
<i>Article:</i>	76 - Criminal Process
<i>Title:</i>	Photographic Line-ups, Physical Line-ups & Show-ups
<i>Special Instructions:</i>	

I. PURPOSE

To provide Division members with guidelines and procedures to follow when preparing and conducting non-suggestive photographic line-ups, physical line-ups, and field identifications or show-ups, during criminal investigations.

II. POLICY

The Division recognizes that criminal incidents requiring preliminary or follow-up investigation may occur in widely scattered locations, at any time. Occasionally, criminal incidents require witness identification of suspects. As such, the Division is establishing this policy to ensure that investigations requiring the use of line-ups are prepared or composed so that the suspect in the case does not unduly stand out from the other photographs or individuals, and to ensure that all line-ups and show-ups are conducted in such a manner that ensures reliable and accurate identifications. All personnel must adhere this policy when preparing and/or conducting photographic or physical line-ups and show-ups.

III. DEFINITIONS

SIMULTANEOUS PHOTOGRAPHIC LINE-UP: An array of photographs, including the suspect and five (5) individuals who are similar in appearance that is presented to a victim/witness for identification purposes.

SEQUENTIAL PHOTOGRAPHIC LINE-UP: An array of photographs, including the suspect and five (5) individuals who are similar in appearance that is presented one at a time to a victim/witness for identification purposes.

PHYSICAL LINE-UP: A non-suggestive display of individuals that includes the suspect and five (5) individuals who are similar in appearance that is presented to a victim/witness for identification. This line-up can also be referred to as a live line-up or a body line-up.

FIELD IDENTIFICATION/SHOW-UP: An identification procedure in which the victim/witness is presented with a single suspect within a short time following the commission of a crime for the purpose of determining whether the victim/witness

identifies the individual as the perpetrator or eliminates the individual as a suspect.

FILLERS: Individuals or photographs of individuals that resemble the suspect that are used in a line-up. A minimum of five (5) fillers will be used with a photographic or physical line-up. Individuals who are suspected in the same case may not be used as fillers.

INDEPENDENT ADMINISTRATOR: An officer who does not know the identity of the suspect who has been placed in a photographic or physical line-up by the case investigator. **Also referred to as a Blind Administrator.**

IV. PROCEDURES

A. PHOTOGRAPHIC LINE-UPS:

42.2.11a

1. A photographic line up may be constructed using Records Management System mug shots (RMS), DMV photos, photographs clarified using digital software or other agencies that provide similar photographs of every individual to be utilized. When composing a photographic line-up Division personnel shall adhere to the following procedures to ensure that the suspect does not unduly stand out and to ensure reliability:
 - a. Only one suspect, based upon the description of the victim/witness, shall be included in each line-up.
 - b. Simultaneous line-ups will be constructed using similar content or source-type photographs.
 - c. Sequential line-ups will be used when Division personnel must rely on photographs from outside sources that cannot be properly image edited by trained Division personnel. These sources may include yearbook photographs, Adult Correctional Center Mug shots or other sources providing photographs that are not compatible with conducting a simultaneous line-up.
 - d. The photographs of the suspect and fillers shall be similar in appearance fitting the description of the victim/witness. When there is a limited or inadequate description of the perpetrator provided by the victim/witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features, taking into account any unique or unusual features such as scars, marks or tattoos.

- e. Complete uniformity of features is not required. Division personnel should avoid using fillers who are so indistinguishable from the suspect such that even someone familiar with the suspect would not be able to tell them apart.
 - f. Photographs should be randomly placed in the line-up, not systematically arranged. To the extent possible, photographs of the suspect should be placed in different positions in each line-up when line-ups will be shown to multiple victims/witnesses in the same case.
 - g. Division personnel will ensure that photographs of the suspects or fillers do not contain any writing or information concerning previous arrests or identifications.
 - h. When showing a line-up with a different suspect, Division personnel shall not use the same filler used in a previous line-up shown to the same witness.
 - i. Photographs of juveniles shall not be used as fillers in line-ups containing adult suspects. Photographs of adults may be used as fillers in line-ups containing juvenile suspects provided that they meet the above appearance, content and reliability criteria set forth in this section.
 - j. Division personnel will view the line-up once it is completed to ensure that the suspect does not unduly stand out and appears only once in the line-up.
 - k. Division personnel shall preserve the presentation line-up. In addition, photographs should be preserved in their original condition.
2. Personnel shall conduct photographic line-ups in a manner that promotes reliability, fairness and objectivity in the identification process. Photographic line-ups shall be conducted in a manner that ensures that they are non-suggestive.
- a. Instruct witness using the Division standardized instructions form entitled, "*Photographic Line-up Instructions*" or, if unavailable, similar documented verbal instructions.
 - b. Prior to showing the line-up Division personnel will ask the victim/witness if he/she understands how the procedure will be conducted and inquire if he/she has any questions.

42.2.11g

42.2.11d

- 42.2.11g c. Instruct the victim/witness to place the date and time, and their initials next to the photograph of the individual that they have identified.
- 42.2.11e d. If the victim/witness indicates that he/she recognizes or identifies someone in the line-up, Division personnel shall ask the circumstances from which the victim/witness recognizes the individual and how certain he/she is of his/her identification. If conducting a sequential line-up, Division personnel shall show the victim/witness all of the photographs, even if he/she makes an identification during the presentation.
- 42.2.11f e. Division Personnel shall not provide the victim/witness with any feedback, in any manner, regarding his/her identification, or lack thereof. Division personnel shall not comment in any manner, verbally or by physical gesture, regarding the individual selected or on the outcome of the process.
- 42.2.11c f. Division personnel are prohibited from showing a photographic line-up to more than one victim/witness at a time. If multiple victims/witnesses are involved, Division personnel will separate the victim/witnesses and give each individual instructions regarding the line-up without the other present. Victims/Witnesses should not be allowed to confer with one another before, during or after the procedure. Division personnel should instruct the victim/witness not to discuss the line-up or its results with other witnesses.
- g. Prior to presenting the line-up to the victim/witness, do not show the victim/witness any photographs of the suspect and do not allow the victim/witness to see the suspect (i.e. in an office or holding cell).
- 42.2.11g h. Any photographic line-up that Division personnel shows to a victim/witness, regardless of whether or not the victim/witness makes an identification, will become part of the case file. Division personnel shall document how the proceeding was conducted and the results in their case file. Division personnel shall document each victim/witness' identification or lack thereof, including the exact words used by each witness viewing the line-up. If a sequential line-up was conducted, Division personnel will include documentation as to the order in which the photographs were shown to the victim/witness.
- i. When circumstances warrant, Division personnel may consider using an independent administrator to present the photographic line-up.

B. PHYSICAL LINE-UPS

A physical line-up can be used where an individual who is a suspect is in custody or if the suspect is not in custody, the suspect may be asked to voluntarily participate in a line-up or required to participate through the use of a non-testimonial order. A physical line-up shall only be conducted in a room of a Division facility designated for such use. In the rare instance a physical line-up is used, Division personnel shall adhere to the following procedures when constructing and conducting a physical line-up:

42.2.11a

1. Construct physical line-up with a high degree of fairness and integrity to ensure they are non-suggestive and reliable:
 - a. Only one (1) suspect shall appear in each individual line-up.
 - b. The suspect and fillers shall be randomly placed in the line-up. To the extent possible, Division personnel should place the suspect in different positions in each line-up when line-ups will be shown to multiple victims/witnesses.
 - c. Suspects and fillers shall be similar in appearance and manner of dress, taking into consideration any unique or unusual features such as scars, marks or tattoo.
 - d. Complete uniformity of features is not required. Division personnel should avoid using fillers who are so indistinguishable from the suspect such that even someone familiar with the suspect would not be able to tell them apart.
 - e. Division personnel shall ensure that no writings or information concerning previous arrests or identifications will be visible to the victim/witness on any line-up.
 - f. When showing a line-up with a different suspect, Division personnel shall not use the same fillers used in a previous line-up shown to the same victim/witness.
2. Conduct physical line-up with the same degree of fairness and integrity to ensure they are non-suggestive and reliable.
 - a. Instruct the witness using the Division standardized instructions form entitled, "*Physical Line-up Instructions*" or, if unavailable, similar documented verbal instructions.

42.2.11d

- b. Prior to showing the line-up, Division personnel will ask the victim/witness if he/she understands how the procedure will be conducted and inquire if he/she has any questions.
- 42.2.11f c. Division personnel shall not provide the victim/witness with any feedback, in any manner, regarding his/her identification, or lack thereof. Division personnel shall not comment in any manner, verbally or by physical gesture regarding the individual selected or on the outcome of the process.
- 42.2.11b
42.2.11g d. If practical, audio and video tape the entire line-up procedure. Minimally, Division personnel shall take a photograph of each line-up prior to its presentation, documenting the order in which the participants are presented, their clothing and general appearance.
- e. If it is necessary for the participants to perform any physical action(s) (speak a phrase, walk, gesture, assume a position, wear certain clothing, etc.), each participant must perform the same action(s).
- 42.2.11e f. If the victim/witness indicates that he/she recognizes or identifies someone in the line-up, Division personnel shall ask the circumstances from which the victim/witness recognizes the individual and how certain he/she is of his/her identification.
- g. If, after viewing the entire line-up, the victim/witness requests to see a specific individual, Division personnel shall present the entire line-up to the witness again, in the same order it was originally presented.
- 42.2.11c h. Division personnel are prohibited from allowing a victim/witness to view a physical line-up more than one at a time. If multiple victims/witnesses are involved, Division personnel will separate the victims/witnesses and give each individual instruction regarding the line-up without the other present. Victims/Witnesses should not be allowed to confer with one another before, during or after the procedure. Division personnel should instruct the victim/witness not to discuss the line-up or its results with other victims/witnesses.
- i. Prior to presenting the line-up to the victim/witness, do not show the victim/witness any photographs of the suspect and do not allow the victim/witness to see the suspect (i.e. in an office or holding cell).
- 42.2.11g j. Division personnel shall document how the proceeding was conducted and the results in their case file. Division personnel shall document each

victim/witness' identification or lack thereof, including the exact words used by each witness viewing the line-up.

C. FIELD IDENTIFICATION/SHOW-UP

42.2.12a A show-up occurs when law enforcement officials show one suspect to one witness for the purpose of eyewitness identification. Courts recognize that show-up procedures can be suggestive, but acknowledge show-ups have benefits for both public safety and innocent parties. The following procedures apply regardless of whether other practices would be legally permissible. For instance, even if a given suspect consents to a show-up, a show-up still should not be conducted unless the investigating Division personnel decides that the exigencies of the situation outweigh any possible risk of misidentification presented by conducting a show-up. Consent may legally authorize Division personnel to detain a suspect for a show-up, but it does not remove the suggestiveness of the procedure. Show-ups may be conducted, subject to the following conditions:

1. In situations in which probable cause to arrest does not exist, but Division personnel have temporarily detained a subject who matches a general eyewitness description, Division personnel may conduct a show-up for the following reasons:
 - a. To identify a potential suspect, or
 - b. To immediately clear an innocent person from suspicion.
2. Division personnel may detain suspects where he/she is located, in the least restrictive manner possible that will ensure the presence of the suspect and the safety of Division personnel for reasonable time to confer or refute whether the subject is the perpetrator:
 - a. Division personnel should not display a suspect detained in a cruiser or patrol car.
 - b. If possible and safe, Division personnel should not restrain or handcuff the suspect unless the handcuffs can be concealed. When circumstances dictate that a suspect must be controlled and/or separated from the victim/witness, Division personnel must take practical steps to minimize the suggestiveness of the procedure.
 - c. Show-ups should not occur at a barracks, police station, or other law enforcement building.

42.2.12b

3. Whenever practical, transport the victim/witness to the suspect (as oppose to transporting the suspect to the victim/witness). Division personnel shall notify his/her supervisor that he/she is transporting a victim/witness for the purpose of an eyewitness identification.

42.2.12d

4. Prior to the show-up, Division personnel shall provide the following instructions to the victim/witness and ask the victim/witness if he/she understands same:

- a. that the suspect being detained may or may not be the perpetrator;
- b. that it is just as important to clear an innocent person from suspicion as to identify guilty parties;
- c. that the victim/witness should not feel compelled to make an identification; and
- d. regardless of whether an identification is made, the investigation will continue.

42.2.12f

5. Avoid suggestive words or conduct of any type that may suggest to the victim/witness that the individual is or may be the perpetrator.

42.2.12f

6. If the victim/witness makes an identification, Division personnel shall not confirm or corroborate the identification. Division personnel shall discreetly advise the detaining Division personnel or officer of the victim/witness's response or identification.

42.2.12c

7. If the victim/witness indicates that he/she recognizes or identifies the suspect, Division personnel shall ask the circumstances from which the victim/witness recognizes the individual and how certain he/she is of his/her identification.

42.2.12c

8. In the case of multiple victims/witnesses, show-ups should not be conducted with more than one victim/witness at a time. When feasible, after one witness makes an identification during a show-up, that identification should provide probable cause for an arrest, and the remaining witnesses should ordinarily be shown a photo line-up rather than participate in a show-up. If show-ups are conducted separately for multiple victims/witnesses, the victims/witnesses should not be permitted to communicate before or after the show-up regarding the identification of the suspect.

9. In the case of multiple suspects, the victim/witness should view each suspect in separate show-ups conducted in accordance with these procedures.

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

11. Show-up suspects should not be required to put on clothing worn by the perpetrator, speak words uttered by the perpetrator, or perform other actions mimicking those of the perpetrator.

42.2.12g

12. Whenever possible photograph the suspect at the time of the show-up.

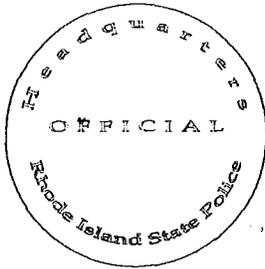
42.2.12g

13. Division personnel shall document how the proceeding was conducted and the results in their case file. Division personnel shall document each victim/witness' identification or lack thereof, including the exact words used by each witness viewing the line-up.

42.2.11d

D. ATTACHMENTS

1. Photographic Line-up Instruction Form
2. Physical Line-up Instruction Form



By Order of Colonel Doherty

Brendan P. Doherty
Brendan P. Doherty
Colonel
Superintendent

RHODE ISLAND STATE POLICE

Photographic Line-up Instructions

Witness: _____
(Print Name)

Case Number: _____

I _____ (Name of Trooper/ Administrator) am going to show a group of photographs of individuals for identification purposes. This procedure is designed to clear the innocent as well as to ensure the accurate and reliable identification of the guilty. The perpetrator may or may not be present in this group of photographs. You do not have to identify anyone, regardless of whether or not you make an identification the investigation will continue. The fact that the photographs are being shown to you should not cause you to believe or guess that the guilty person has been caught.

Please keep in mind that persons depicted in the photographs may not appear exactly as they did on the date of the crime as features such as head and facial hair are subject to change. Also, photographs do not always depict the true complexion of a person who may be lighter or darker than shown in the photograph. You should study only the person shown in each photograph and pay no attention to variations in color, type or style of photograph.

While viewing the photographs displayed please keep in mind the following:

1. The photographic display will contain pictures of persons of similar description and in similar poses.
2. There is no significance to the order in which the photographs appear.
3. During the process, no one is to give you any hints or suggestions, or attempt to influence your identification in any way.
4. You must view all of the photographs prior to making an identification.
5. If you make an identification, it will be done in writing.
6. If you make an identification you must state in your own words how certain you are of such identification.

Please do not talk to anyone other than the trooper/administrator while viewing the photographs. Please do not indicate in any way to other witnesses that you have or have not made an identification.

I acknowledge that the above photographic line-up instructions have been read to me and fully understand the instructions. Witness: _____

(Signature)

(Date)

Trooper/ Administrator: _____

(Signature)

(Date)

RHODE ISLAND STATE POLICE

Physical Line-up Instructions

Witness: _____ Case Number: _____
(Print Name)

I _____ (Name of Trooper/ Administrator) am going to show a group of individuals for identification purposes. This procedure is designed to clear the innocent as well as to ensure the accurate and reliable identification of the guilty. The perpetrator may or may not be present in this group of photographs. You do not have to identify anyone, regardless of whether or not you make an identification the investigation will continue. The fact that these individuals are being shown to you should not cause you to believe or guess that the guilty person has been caught.

Please keep in mind that the individuals in the physical line-up may not appear exactly as they did on the date of the crime as features such as head and facial hair are subject to change.

While viewing the physical line-up please keep in mind the following:

7. There is no significance to the order in which the individuals appear.
8. During the process, no one is to give you any hints or suggestions, or attempt to influence your identification in any way.
9. You must view all of the individuals prior to making an identification.
10. If you make an identification, it will be done in writing.
11. If you make an identification you must state in your own words how certain you are of such identification.

Please do not talk to anyone other than the trooper/administrator while viewing the physical line-up. Please do not indicate in any way to other witnesses that you have or have not made an identification.

I acknowledge that the above physical line-up instructions have been read to me and fully understand the instructions. Witness: _____

(Signature)

(Date)

Trooper/ Administrator: _____

(Signature)

(Date)

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