

POLICE DEPARTMENT HANOVER PARK, ILLINOIS



DIRECTIVE: 492-I

REFERENCE STANDARDS: 42.2.11 42.2.12

SUBJECT:

Eyewitness Identification

PURPOSE:

The purpose is to facilitate reliable identification testimony by eyewitnesses. Eyewitness evidence can be critical in identifying, charging, and ultimately convicting suspected criminals. It can also aid in eliminating innocent persons from an investigation. It is essential that members of the Police Department obtain accurate and reliable eyewitness evidence through sound protocols and practices. An identification achieved through procedures outlined in this policy should minimize the risk of misidentification and increase the evidentiary value of eyewitness identifications.

POLICY:

It shall be the policy of the Hanover Park Police Department to carryout eyewitness identification procedures in a manner that is consistent with applicable rules of evidence, court rulings and state and federal laws.

DEFINITIONS:

Eyewitness - A person viewing the line-up whose identification by sight of another person may be relevant in a criminal proceeding.

Fillers – A person or a photograph of a person who is not suspected of an offense and is included in a line-up.

Independent Administrator – A lineup administrator who is not participating in the investigation of the criminal offense and is unaware of which person in the line-up is the suspected perpetrator.

Lineup – Includes a photo lineup or physical lineup.

Lineup Administrator – The person who conducts a lineup.

POLICE OPERATIONS MANUAL

Dir.#: 492-I

Issued: 12/23/2014

Eff: 01/01/2015

Rev: 09/20/2018

VILLAGE OF HANOVER PARK

Rescinds: N/A New

Auth:

Photo Lineup – A procedure in which photographs are displayed to an eyewitness for the purpose of determining if the eyewitness is capable of identifying the perpetrator of a crime.

Live Lineup - A procedure in which a group of persons is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime, but does not include a show-up.

Sequential Lineup – A physical or photo line-up in which each person or photograph is presented to an eyewitness separately, in a predetermined order, and removed from the eyewitnesses view before the next person or photograph is presented, in order to determine if the eyewitness is able to identify the perpetrator of a crime.

Show Up – A procedure in which a suspected perpetrator is presented to an eyewitness at, or near, a crime scene for the purpose of obtaining an immediate identification.

Simultaneous Lineup – A physical or photo lineup in which a group of persons or array of photographs is presented simultaneously to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

I. COMPOSING PHOTO AND PHYSICAL LINEUPS (42.2.11a)

A. The following procedure will be utilized for the development of photo or live lineups.

1. Only one suspect shall be used in each identification procedure. If more than one suspect exists, then an individual lineup shall be created for each suspect, utilizing different fillers for each lineup.
2. Fillers should generally fit the eyewitness description of the suspect. In the event that the eyewitness provides limited or inadequate descriptions of the suspect or when the description of the suspect differs significantly from the actual appearance of the suspect, fillers should be selected that resemble the actual suspect's features.
3. A reasonable effort shall be made to "harmonize" lineups. A consistent appearance between the suspect and fillers should be created with respect to any unique or unusual features (i.e., race, sex, age, scars, tattoos, glasses, facial hair, hairstyle, and hair color) however; absolute uniformity of features is not required.
4. A random pattern as to position of the suspect shall be utilized. Suspects shall be placed in different positions in each lineup, with regards to different cases and / or eyewitnesses in the same case. This also applies to the fillers that are used. Fillers shall be placed in different positions as it applies to different cases and / or eyewitnesses in the same case.

5. In the event that multiple photographs of the suspect are reasonably available to the investigator or officer, the most recent available photograph should be selected that resembles the suspect description or appearance at the time of the incident.
6. If there are multiple suspects in a case and an eyewitness is being shown different lineups for purposes of identifying different perpetrators, each lineup must have different fillers.
7. For all photo lineups, a minimum of 5 fillers should be selected and displayed for each identification procedure. The identity of persons utilized in photographs should be documented. Any variance from this minimum shall be approved by the State's Attorney.
8. For all live lineups, when practical, 5 fillers should be selected and displayed for each identification procedure. In no event should less than 3 fillers be utilized. The identity of all persons utilized in a live lineup should be documented. Any variance from this minimum shall be approved by the State's Attorney.
9. No personal, criminal history or identification numbers should be visible to eyewitnesses. In the event that suspect photos have such information imbedded in them, the information should be blacked out. All photos in such a lineup shall have the same "blackout" appearance as to not single out any one photo from another.
10. Individuals portrayed in photo lineups should be identified by a number (i.e., 1, 2, 3, 4, 5, and 6).
11. In photo lineups the background should either be consistent in all photos or have an equally different amount of backgrounds as to not single out any one photo from another.
12. When possible, unless it is not practical or the witness refuses, participants in live lineups shall be photographed and the live lineup photographed or lineup procedure otherwise video recorded and preserved as evidence. Identifiers of all participants will be documented. Photo lineups shall be preserved in their presentation order and original condition.

II. EYEWITNESS INSTRUCTIONS AND IDENTIFICATION PROCEDURE

- A. The following procedures shall be followed in the administration of viewing a photo or live lineup.
 1. In instances involving multiple eyewitnesses, each eyewitness shall be separated as soon as possible to prevent conferring with one another and instructed to avoid

discussing details of a case or results of identification with other eyewitnesses.
(42.2.11c)

2. Eyewitness shall view all lineups separately to avoid any degree of improper suggestiveness by other eyewitnesses. To the extent it is possible; the suspected perpetrator shall be placed in a different position in the lineup or photo array for each different eyewitness.
3. All lineups involving suspects who are minors will be performed with a juvenile officer present in accordance with 705 ILCS 405/5-410(2) (f) and Juvenile Procedures. A lineup administrator, not acting as a juvenile officer, shall be used in cases involving juveniles.
4. Personnel of the Hanover Park Police Department may utilize simultaneous photographic lineups for all practical purposes of conducting lineups with witnesses pursuant to the guidelines set forth in 725 ILCS 5/107A-2; however a sequential photographic lineup, in which photographs are randomly numbered, shuffled, and then presented to an eyewitness such that the lineup administrator cannot see or know which photograph(s) are being presented to the eyewitness until after the procedure is completed, can be utilized if no independent administrator is available or at the direction of their supervisor. The on-duty supervisor shall determine the appropriate method to be used in the eyewitness identification.
5. When using a computer program which allows the eyewitness to choose between simultaneous and sequential lineup, the eyewitness' preference shall dictate which type of lineup will be conducted.
6. All lineups must be conducted using one of the following methods:
 - a. By an independent administrator, unless it is not practical.
 - b. Using a sequential procedure in which photographs are randomly numbered, shuffled and then presented to an eyewitness such that the lineup administrator cannot see or know which photograph(s) are being presented to the eyewitness until after the procedure is completed.
 - c. Using a simultaneous procedure in which an array of photographs is presented simultaneously to an eyewitness such that the lineup administrator cannot see or know which photograph(s) are being presented to the eyewitness until after the procedure is completed.
 - d. By means of an automated computer program or other device which can automatically display a photo lineup to an eyewitness in a manner that prevents the lineup administrator from seeing which photograph(s) the eyewitness is viewing until after the lineup is completed.

- e. Any other procedure which prevents the lineup administrator from knowing the identity of the suspected perpetrator or seeing or knowing the persons or photographs being presented to the eyewitness until after such procedure is completed.
- 7. There shall not be anyone else present who knows the suspected perpetrators identity during lineup administration except the eyewitness and the suspected perpetrator's legal counsel if required by law.
- 8. Prior to viewing any lineup, eyewitnesses shall be read instructions provided on the appropriate Lineup Advisement Form. (Appendices A & B as applicable). The document shall be signed by the eyewitness and submitted with the officer's reports. If the eyewitness refuses to sign the form, the refusal shall be documented by the administrator by writing "refused" on the signature line where the eyewitness is supposed to sign. (42.2.11d)
- 9. For purposes of accurately documenting all statements made by the eyewitness and the procedures being followed, and whenever practical unless it is not practical or the witness refuses to be recorded, the administration of any lineup will be audio/video recorded. Eyewitnesses will be instructed that an audio/video recording of the lineup procedure will be made. If the eyewitness refuses, said refusal will be documented using the appropriate form. (Appendix C). All recordings shall include the persons in the lineup and the witnesses simultaneously. (42.2.11b)
- 10. Either the simultaneous or sequential methods may be utilized for photo and live lineups.
- 11. If the sequential lineup format is utilized, all persons or photographs must be viewed by the eyewitness even if the eyewitness identifies a perpetrator before all persons or photographs are presented. The lineup administrator may present a person or photograph to the eyewitness an additional time, but only after the eyewitness has first viewed each person or photograph one time, AND only solely at the eyewitnesses' request.
- 12. Administering personnel shall not provide any verbal or non-verbal cues to any eyewitness that may influence the eyewitness's selection.
- 13. In instances where identification is made, personnel shall not report to the eyewitness any feedback regarding whether or not they have selected the individual suspected of the crime or otherwise "validate" their identification until after the lineup is completed. (42.2.11f)
- 14. Any statements made by eyewitnesses related to the identification or non-identification during a lineup will be accurately documented pursuant to 725 ILCS 5/107A-2(g). (42.2.11e)

15. The lineup administrator shall make an official report of all lineups, which shall include all of the following information: (42.2.11g)
 - a. Whether or not identification is made, the witness (unless refused) and administrator shall sign a report that includes the results of the lineup, including all statements made by the eyewitness during the lineup as to the perpetrators identity. (Appendix D)
 - b. The names of all persons who viewed the lineup.
 - c. The names of all law enforcement officers and counsel (if applicable) present during the lineup.
 - d. The date, time, and location of the lineup.
 - e. Whether a live lineup or photo lineup, and how many persons or photographs were presented.
 - f. Source of all persons or photos used.
16. When a live lineup is utilized, all participants must be out of view of eyewitnesses prior to the lineup. Following eyewitness instruction, eyewitnesses should be allowed to view all participants. Eyewitnesses should then be removed from the viewing area before participants are removed.
17. In the event that a live lineup is utilized, participants may be asked to perform actions such as speaking specified words/phrases or performing certain motions/actions. In such instances, all such words/phrases and motions/actions should be performed by each individual in the physical lineup.
18. When the sequential live lineup format is utilized, all lineup participants should begin out of view of any potential eyewitnesses. Each individual should be presented separately in a previously determined random order. Even if identification is made, all participants should be brought forth for viewing. Each subsequent participant should be removed entirely from view before the next participant is brought forward for viewing.
19. If any of the procedures are deemed impractical, then the reasons for such impracticality must be documented in the officer's reports.
20. If an electronic recording of a photo or live line-up exists, the case officer shall be responsible for transferring that recording to a data disk and placing that disk into evidence.

III. SHOW-UP PROCEDURES

- A. A show-up for field identification is justified when doubts as to a suspect's identification need to be promptly resolved and when the show-up can be conducted in a manner which is prompt and is not unduly suggestive. A show-up should not be conducted unless: (42.2.12a)
 - 1. A crime has been committed.
 - 2. A suspect has been located within a reasonable period of time.
 - 3. The witness had reasonable opportunity to observe the suspect during the crime.
 - 4. The witness has given a reasonably detailed description of the suspect and the suspect fits that general description.
- B. Witnesses should be transported to the location of the suspect by a police employee in a department vehicle (42.2.12b).
- C. When multiple witnesses are involved, separate the witnesses and instruct them to avoid discussing the details of the incident with one another. The witnesses must not have any contact with each other during the process of multiple witnesses viewing a suspect. Instructions shall be given separately to each witness. (42.2.12c)
- D. Each witness who views a suspect shall be instructed that: (42.2.12d)
 - 1. The suspect might not be involved in the crime and the witness is not obligated to make an identification.
 - 2. The fact that the police have detained a suspect, and that they may be handcuffed, should not influence your judgment.
 - 3. The witness should not infer or guess that the suspect committed the crime or that the officers administering the show-up know the suspect is the offender.
 - 4. It is just as important to free innocent persons from suspicion as it is to identify the guilty party.
- E. Avoid saying or doing anything in the presence of a witness that may influence the witness's identification. (42.2.12f)
- F. If identification is made, avoid reporting to the witness any information regarding the individual he/she selected prior to the witness making any statement of certainty. (42.2.12e) (42.2.12f)
- G. Record either identification or non-identification results in a case report, including the witness's own words regarding how sure he/she is. The show-up process and results shall be documented separately for each witness. (42.2.12c) (42.2.12e) (42.2.12g)

IV. FREEDOM OF INFORMATION ACT

- A. Pursuant to 725 ILCS 5/107A-2(k) Any electronic recording made during a lineup that is compiled by any law enforcement agency, as required by this statute, shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, and the recording shall not be transmitted to any person except as necessary to comply with this statute.