



WEBER COUNTY SHERIFF'S OFFICE

POLICY AND PROCEDURES

EYEWITNESS IDENTIFICATION

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29.21.1 Purpose

It is the purpose of this section to describe the manner in which this Office identifies suspects through a photo lineup, physical lineup and show-ups.

29.21.2 Rationale

Adherence to lawful and reasonable procedures in the identification of criminal suspects. This process provides a more accurate identification or non-identification of a suspect in a criminal case.

29.21.3 Definitions

Photo Lineup:

A procedure, in which a photograph of the suspect is included among photographs of other persons not suspected of the offense. All of the photographs are then displayed to an eyewitness for the purpose of determining whether the eyewitness can identify the perpetrator of the crime.

A photo lineup can be conducted using actual photographs or by compiling digital photographs on a computer or other accepted composition methods.

Physical Lineup:

An identification procedure, in which a group of persons, including the suspect of an offense, are displayed to an eyewitness for the purpose of determining whether the eyewitness can identify the perpetrator.

Filler:

Either a person or a photograph of a person who is NOT suspected of an offense and is included in an identification procedure.

Show-up:

An identification procedure in which an eyewitness is presented with a single suspect within a short time following the commission of a crime for the purpose of determining whether the eyewitness identifies the individual as the suspect of the crime being committed.

29.21.4 Policy

It is the policy of this Office to establish and adhere to procedures in conducting photographic lineups, physical lineups and show-ups.

29.21.5 Procedure: Photographic or Physical Lineups

A. In composing a lineup, the Investigator should:

1. Include only one suspect or suspect photo in each identification procedure.
2. Select fillers who generally fit the witness' description of the perpetrator.
 - i. When there is a limited or inadequate description of the perpetrator provided by the witness, or when the description differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features i.e. height, weight, skin tone, hair color, etc.
3. Select a photo resembling the suspect description of appearance at the time of the incident. If only booking photos are available to the Investigator, only booking photos should be used as fillers.
4. Include a minimum of five fillers per identification process.
5. Position the suspect randomly in the lineup when showing it to multiple witnesses or in multiple cases.
6. Avoid reusing fillers shown to the same witness, when showing a new suspect.
7. Ensure no writing or information concerning the case of previous arrest(s) is visible to the witness.
8. Have the witness circle, initial and date the photo they believe to be the perpetrator.
9. Preserve the presentation order of the photo lineup.

- i. In the extreme case that a physical lineup is conducted, the process shall be documented through the use of video and audio recording.
- B. Witnesses should be advised by the investigating deputy at the beginning of the lineup that he/she should NOT feel compelled to make identification. If identification is made, the deputy should not confirm or sustain the identification.
- C. When presenting a lineup, the investigator should:
 1. Provide viewing instructions to the witness prior to presenting the lineup.
 2. Confirm the witness understands the nature of the lineup procedure.
 3. Avoid saying anything to the witness that may influence his/her selection.
 4. Avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness' statement of certainty, if identification is made.
 5. Document any results and witness statements of certainty.
 6. Document in writing the lineup procedures such as:
 - i. Identification information.
 - ii. The source of all photos used.
 - iii. Names and birthdates of all persons present in the lineup.
 - iv. Date, time, and location of the identification procedure.
 7. Instruct the witness not to discuss the identification procedure or its results with other witnesses involved in the case and discourage contact with the media.
 8. In the extreme case that a physical lineup is performed, it is recommended that the suspect and filler individuals are placed in one of the two interview rooms located in the Investigation Section. The victim/witness should be brought to the monitoring room where viewing the individuals is accomplished privately.

The victim/witness should be moved to another location prior to bringing individuals in the lineup out of the viewing area.

9. All physical Lineups shall be recorded (video and audio) and the original recording media shall be placed into evidence.
 10. If using a photo lineup, the exact set of photographs used to identify or eliminate a suspect in the lineup shall be placed into evidence.
- D. Lineups should not be conducted with more than one witness present at a time. If there is more than one witness the investigating deputy should:
1. Conduct a separate lineup for each witness.
 2. Not allow witnesses to communicate with each other before or after any lineup regarding the identification of the suspect, and;
 3. Not present the suspect to the same witness more than once.
- E. Witness confidence:
1. The investigator must assess witness confidence immediately following the lineup identification.
 2. The investigator must make note in their report documenting confidence statements made by the witness.
 3. Investigators should NOT praise or congratulate the witness for picking out the suspect to avoid convincing the witness when they may actually have doubt.
- F. When conducting an identification procedure, the investigator should:
1. Record both identification and elimination results in writing, including the witness' own words regarding how sure he/she is about the identification.
 2. Ensure the witness does not write on or mark any materials that will be used in other identification procedures.

29.21.6 Procedure: Show-ups

A suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the person is the actual suspect. When conducting the show-up, deputies will use the following guidelines:

- A. Deputies at the scene in contact with the witness shall obtain a detail description of the suspect before the detained person is shown to the witness. The witness must advise the deputies that he/she will be able to recognize the person who committed the crime prior to the show-up.
- B. The suspect should not be taken to the Sheriff's Office for the show-up. The suspect should be detained at the place he/she was located, in the least restrictive manner possible that will ensure the suspect remains with the deputy. The witness should be transported to the suspect's location unless exigent circumstances exist.
- C. If possible, do not show the suspect handcuffed, or in the back seat of a patrol vehicle. If the suspect is handcuffed, take measure to conceal this fact from the witness when possible. Detained persons may not be required to put on clothing reported to have been worn by the offender. However, they may be asked, but not required, to speak words uttered by the suspect, or perform other actions by the suspect. Miranda Warnings should be provided to the suspect prior to repeating any statements alleged to have been uttered by the suspect.
- D. Explain to the witness the person detained may or may not be the suspect and the witness should not feel compelled to make an identification. If the witness makes the identification, do not confirm or corroborate the identification.
- E. Show-ups should not be conducted with more than one witness present at a time. If there is more than one witness, the show-ups must be conducted separately for each witness, and witnesses should not be permitted to communicate before or after any show-up regarding the identification of the suspect. The same suspect should not be presented to the same witness more than once.
- F. Assess witness confidence immediately following the show-up identification. Make note of the witness confidence, remarks for report documentation.
- G. If there are multiple suspects, the suspects must be separated and subjected to separate show-up procedures.
- H. The suspect(s) should be video taped and photographed in the field for documentation.
- I. In emergency circumstances, such as when a witness is in danger of imminent death or blindness, or when a suspect is in danger of imminent death an immediate show-up may be arranged if medical authorities permit. In these situations, time and location limitations contained in the preceding guidelines can be disregarded. If there is any doubt about an emergency show-up, deputies should contact a supervisor and/or prosecutor immediately for guidance.

- J. Nothing in these guidelines prohibits the common procedure of transporting a witness in a patrol vehicle to cruise the general area in which a crime has occurred in hopes of spotting the suspect(s) and arranging a show-up identification procedure.
- K. No person has a right to have a lawyer present at any show-up procedure.
- L. If the detained person is not identified by a witness as the perpetrator, and deputies lack any other probable cause for an arrest, the suspect should be released after obtaining basic information.