



**Colorado Springs Police Department
General Order 850**

Section 8: Sequential Photographic Identifications -- Investigations and Evidence

Active Date: 01/02/2018

Supersedes Date: 11/18/2015

.01 Purpose

To establish procedures for conducting suspect identification by means of photographs.

.02 Cross Reference

[GO 740, Determining Probable Cause](#)

[GO 840, Identifications](#)

[GO 844, Live Identifications](#)

.03 Discussion

Eyewitnesses play a fundamental role in the United States criminal justice system. Eyewitness testimony can be crucial to identifying, charging and convicting a suspect in a criminal case. In some cases, eyewitness evidence may be the only evidence available. However, eyewitness evidence is not infallible. Well-intentioned witnesses can identify the wrong person or fail to identify the perpetrator of a crime. It is therefore imperative that law enforcement agencies conduct identification procedures in a manner that promotes reliability, fairness and objectivity of the witness' identification.

.04 Policy

When conducting photographic lineups, Department members will use the double-blind, sequential method as described in this policy. A functional equivalent method may be used when applicable and when approved by a supervisor.

.05 Definitions

PERPETRATOR: The person(s) who actually committed the crime.

SUSPECT: The person law enforcement officers believe to be the perpetrator.

FILLERS: Photographs of individuals not believed to be suspects (or perpetrators) who populate the photographic lineup.

PHOTOGRAPHIC LINEUP: A procedure in which a photograph of the suspect is placed among photographs of fillers with similar physical characteristics to allow a witness the opportunity to identify (or not to identify) the suspect as the perpetrator of a crime.

INDEPENDENT ADMINISTRATOR: The person who presents the photographic lineup to the witness for viewing. The independent administrator does not know the identity of the suspect. The independent administrator should be a sworn law enforcement officer or Civilian Criminal Investigator (CCI). In cases involving young children, a Forensic Interviewer assigned to the Crimes Against Children Unit may be used as an independent administrator.

DOUBLE BLIND SEQUENTIAL METHOD: A photographic lineup procedure in which an independent administrator presents the photographic lineup to the witness. The witness views the photographs in the lineup one at a time. Prior to viewing the photographs, the witness is told that the independent administrator does not know who the suspect is.

FUNCTIONAL EQUIVALENT METHOD (FE): A photographic lineup procedure used with supervisory approval when no independent administrator is available. The FE method assures that although the person presenting the photographic lineup to the witness knows the identity of the suspect, he/she does not know, and cannot see, where the suspect is in the order of photos displayed, and that the witness knows that the individual presenting the photographic lineup does not know the order of the photographs.

LERMS COMPUTER AIDED INVESTIGATION: An aspect of the Law Enforcement Records Management System (LERMS) which captures and stores the official digital photographs of persons arrested or otherwise officially handled by the CSPD. The LERMS Computer Aided Investigation system includes a computer-based photo lineup application that assists users in creating a photographic lineup of persons with similar physical characteristics comprised of official digital photos stored in the LERMS system.

.10 Composing Photographic Lineups- General

Fair composition of a photographic lineup enables a witness to provide a more accurate identification, or non-identification, of a perpetrator. Officers shall compose the lineup in a manner that ensures that the suspect does not unduly stand out from the fillers. When composing a photographic lineup officers shall:

- Include only one suspect in each photographic lineup.
- Select fillers who generally fit the witness's description of the perpetrator. When there is a limited/inadequate description of the perpetrator provided by the witness, or when the

description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features.

- If multiple photos of the suspect are available, select a photo that resembles the suspect description or appearance at the time of the incident.
- Include a minimum of five fillers per photographic lineup.
- Consider that complete uniformity of features is not required. Avoid using fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- Create a consistent appearance between the suspect and fillers with respect to any unique or unusual features (e.g. scars, tattoos) used to describe the perpetrator. It may be necessary to artificially add or conceal those features.
- Place suspects in different positions in each lineup, both across cases and with multiple witnesses in the same case.
- When showing a new suspect, avoid reusing fillers in lineups previously shown to the same witness.
- Ensure that no identification information or other information concerning previous arrest(s) will be visible to the witness.
- Examine the photographic lineup once completed to ensure that the suspect does not unduly stand out. Personnel not assigned to investigative units will have a supervisor approve the composition of the photographic lineup prior to the lineup being shown to a witness. Prior to showing a photographic lineup to a witness, detectives should also have the photographic lineup reviewed by another detective/officer when practical (preferably a supervisor).

.12 Preparing Lineups Using the Digital Lineup System

Whenever practical, photo lineups should be composed using the Department's computer-based digital lineup system (LERMS Computer Aided Investigation), which contains a photo lineup application. This application permits the preparing officer to place the stored official digital photograph of the suspect into any one of six positions in a photo lineup, and then the officer to select five other fillers which the system has identified as having similar physical characteristics. Because descriptors are based on data input at the time each photo was taken, the fact that the computer selects certain non-suspect fillers for the photo lineup should not in and of itself be considered definitive that a particular photo is suitable for inclusion in the lineup. Although safeguards are designed into the system, prior to accepting a LERMS Computer Aided Investigation produced photo lineup as satisfactory, officers should double check the names and other identifying information associated with each photo to be certain that it does not contain duplicates.

LERMS Computer Aided Investigation photo lineups can only be composed when a digital photo of the suspect is on file in the department's LERMS Computer Aided Investigation system. If an officer wishes to compose a LERMS Computer Aided Investigation photo lineup, which includes a suspect who does not have an official photo already in the system, provisions exist for

having a custom photo taken of the suspect and a temporary subject jacket saved into the system until the photo lineup can be completed. This may be done when a suspect volunteers to submit to a photo, or when a court order is obtained for this purpose. Officers should pre-arrange the taking of the custom photo with a Records & ID Section supervisor. This custom photo and subject jacket will usually be deleted from the LERMS Computer Aided Investigation after the lineup has been composed.

Details on using the LERMS Computer Aided Investigation photo system and its various features can be found on the department's homepage under Patrol Software Support, from its printed user's manuals, or from the CSPD Information Technology Section.

.14 Other Photographic Lineups

When it is impractical to use the LERMS Computer Aided Investigation system, as in circumstances where no adequate LERMS Computer Aided Investigation photo exists for the suspect, officers may choose to compose a photo lineup from other sources, such as the Department of Revenue (driver's license), the Department of Corrections or other police agency's photos. When used, the same guidelines described above for similarity of photos and minimization of suggestiveness must be observed. Officers should be certain that photos used are of generally the same size, have similar background characteristics, and are otherwise similar with each other and the photo of the suspect. Whenever possible, photos of different types from different sources should not be co-mingled in the same lineup. Officers should not utilize photos which display names or booking information suggesting that the depicted persons were in custody, or should block such information on all photos before they are shown to witnesses. If a non LERMS Computer Aided Investigation generated photographic lineup is shown to a witness, the double blind sequential method (or functional equivalent with supervisory approval) will be used.

.16 Instructing the Witness Prior to Presenting a Photographic Lineup

Instructions given to a witness prior to viewing a photographic lineup can facilitate a reliable identification as well as reduce mistaken identifications. Prior to presenting a photographic lineup the officer/detective administering the lineup will give instructions to the witness to ensure that the witness understands that the purpose of the procedure is to exculpate the innocent as well as to identify the actual perpetrator.

The specific instructions to be read to each witness are shown on the Colorado Springs Police Departments Sequential Photo Display Form that is available on the departments home page under Forms / CSPD Forms - (officers should always print the form from this source as it will be the most up to date version). This form must be used whenever a LERMS Computer Aided Investigation generated photographic lineup is presented to a witness.

These same instructions (shown below) are also to be used in the event that a non LERMS Computer Aided Investigation generated photo lineup is presented to a witness.

1. I am about to show you some photos. The person who committed the crime may or may not be included. You will see only one photo at a time.

(Select One)

2a. I do not know whether the person being investigated is included in the photos.

(Independent Administrator)

OR

2b. I do not know the order of the photos. As you review the photos do not allow me to see any of the photos until the entire lineup process has been completed.

(Functional Equivalent-with supervisor approval)

3. Even if you identify someone during this procedure, I will continue to show you all of the photos.

4. Keep in mind that a photo may be an old one. Some things, like hair styles, beards and mustaches may be easily changed. Also, photos may not always depict the true complexion of a person-it may be lighter or darker than shown in the photo.

5. You should not feel you have to make an identification. It is just as important to clear the innocent as it is to identify the guilty. Whether or not you identify someone, the investigation will continue.

6. Take as much time as you need to look at each photo. You should avoid discussing this procedure or the results with any other potential witness in the case.

7. Do you understand the instructions I have read to you?

(Answer any questions the witness may have)

.20 Conducting the Photographic Lineup Procedure

Double Blind Sequential Method

The investigating officer will use the LERMS Computer Aided Investigation to compile six individual photographs (one of the suspect and five fillers). A separate copy of the lineup shall

be printed for each witness that will view the photos. LERMS will not print the photographs in random order, so officers should not always place the suspect photo in the same position but should vary the positioning for the suspect when building line-ups. When printing the photos the LERMS system will also print a photo number and page number based on what slot the photographs were placed in when the line-up was built. Using black ink, the investigating officer will number each folder the same as the photo it contains (e.g. folder #1 contains photo #1, folder #2 contains photo #2, etc.) The investigating officer will then give the photos to the designated independent administrator who will be presenting the photo lineup to the witness. The investigating officer must ensure that the independent administrator does not know the identity of the suspect.

Recognizing that the investigating officer may have already interviewed and established rapport with the witness, it is acceptable for the investigating officer to explain that Department procedures require another officer to show the photos, but that the investigating officer will be available to speak with the witness after the identification procedure is done. The investigating officer may remain in the area, but must be out of sight of the witness while the photographic lineup is being viewed.

The independent administrator will complete the information at the top of the CSPD Sequential Photo Display Form and then read the instructions on the form to the witness. The independent administrator will provide the photographs to the witness one at a time in the appropriate numerical order (1-6).

After each photograph is viewed, the administrator should tell the witness to place it back into the folder and hand it to the administrator. The administrator should take care to ensure that the witness does not know ahead of time how many photos they will be viewing.

The administrator must be careful not to give the witness any feedback during or after the photographic lineup procedure as this can artificially inflate the witness' confidence in his/her selection and skew further investigation. The administrator should document (in a supplement) any comments the witness makes while viewing the photos and any other relevant observations (e.g. physical reactions of the witness).

If the witness makes an identification, the administrator should ask the witness how sure he/she is of the identification and document the response in the administrator's supplement to the case. If the witness asks whether the administrator means a percentage or a scale of 1 to 10, the administrator should tell him or her to use whatever method seems right to him or her. Note: even if the witness makes an identification, the entire photographic lineup must be shown.

If the witness makes an identification, the administrator should have the witness sign the selected photograph. The witness should also write the date and time on the photo.

The administrator should not show the lineup more than once unless the witness requests it. If requested, the entire photographic lineup should be shown in the same order. The administrator must document the number of times the lineup was shown as well as what the witness said each time a photo was viewed. Do not show the photographic lineup to the witness more than twice.

Follow-up by the Investigating Officer

After the independent administrator has finished presenting the photographic lineup, the investigating officer may follow up with any supplemental interview as necessary. This is the time to gather as many additional facts as possible about the details of any identification made, including what it was about the photo (or photos) selected that made the witness pick it. In the case of multiple perpetrators, follow-up questions should be asked concerning what each person did.

However, it is critical that the investigating officer not provide the witness with any information that could artificially inflate the level of confidence the witness expresses in his or her selection. For example, the witness must not be told that he/she did a good job or that they picked the same person as other witnesses. If the witness asks if they picked the correct person, the investigating officer should explain why they cannot answer that question.

Functional Equivalent Method (FE)

The double blind sequential method is the preferred method of presenting a photographic lineup to a witness and should be used whenever possible. However, when no independent administrator is available, an alternative functional equivalent (FE) method can be used when approved by a supervisor. This method allows the investigating officer, who knows the identity of the suspect, to present the photographic lineup to the witness.

It is imperative that the investigating officer presenting the photo lineup does not know, and cannot see, which sequential photo display folder contains the suspect's photo.

The investigating officer will complete and print the photographic lineup using the same procedures as in the double blind sequential method. However, the investigating officer will not number the folders. Instead, the investigating officer must have another officer add a number (1-6) in Black ink to each photograph (different from the LERMS produced photo number) and place the photos into an appropriately numbered folder. Officers should not concern themselves with trying to cut off or white out the existing LERMS page or photo numbers, but should simply add an additional and different number to each photo and envelope) This must be done outside the presence of the investigating officer. Officers involved with the showing of a functional equivalent line-up must communicate to ensure proper documentation of the process is completed in supplemental reports.

When presenting the photo lineup to the witness, the investigating officer will complete the information at the top of the CSPD Sequential Photo Display Form and will read the witness the alternate functional equivalent instructions as shown on the form.

From this point, the procedure for presenting the photographic lineup to the witness is the same as the double blind sequential method. However, the presenting officer must ensure that he/she does not see the photos contained in each folder until the process of showing the lineup to the witness is complete. If the witness makes an identification, the presenting officer should instruct

the witness to make the appropriate notations on the photo. Once the identification process is complete, a follow-up interview with the witness may be conducted as appropriate.

.24 Recording the Presentation of the Photographic Lineup

If practical, officers should consider making an audio/video recording of the presentation of the photographic lineup to the witness. This can be an effective method of documenting the words and actions of the witness when viewing the photo lineup.

.30 Evidence

The completed sequential photo display form and instructions should be placed into evidence by the investigating officer along with each photograph used in the photographic lineup and its accompanying sequential photo display folder. This will be done even if the witness does not identify the perpetrator of the crime. If an audio/video recording of the presentation of the lineup to the witness was made, the audio/video recording should also be placed into evidence.

.34 Documenting the Identification Results

In addition to completing the required information on the sequential photo display form, the officers involved with the photographic lineup process are responsible for completing a case report supplement containing at a minimum the following information:

- Witness identity and contact information (i.e. full name, DOB, Race, Sex, last 4 of SSN, etc.)
- Names of all persons present when the photo lineup is shown
- Location, date and time lineup is shown (e.g., 1140 South Chelton Rd, #635-in the living room; 11/01/2015 at 3:11 pm)
- Name, DOB and position of each individual included in the sequential photo lineup
- Specific comments, if any, made by the witness when each photo is viewed
- Any other statements made by the witness regarding the case
- Notate if the photos were shown once or twice

Note: If the Functional Equivalent method is used, officers will document in their supplement the name of the supervisor who approved the Functional Equivalent method.

.36 Additional Considerations

Circumstances may exist that preclude showing of a photographic lineup using the procedures previously outlined in this policy. Generally, this will be when the witness is only able to give a

description of the perpetrator and the investigating officer has been unable to develop a named suspect for inclusion in a photographic lineup. Under such circumstances, it may be appropriate to use an alternate photographic identification process (e.g. having the witness look through a high school yearbook). It may also be appropriate to use the LERMS Computer Aided Investigation to conduct an alternative photographic identification process. The investigating officer can query the LERMS Computer Aided Investigation system for photographs matching certain descriptive characteristics as given by the witness. The witness is then allowed to view these photographs one at a time on a desktop or laptop computer monitor. If this process is used, the officer showing the photographs must ensure that the witness cannot see any identification information or criminal record information associated with each photo. This may be accomplished by simply covering a portion of the screen with a piece of paper.

Prior to using an alternative photographic identification process, it is highly recommended that officers discuss the case and the appropriateness of such a process with a supervisor.

Officers should avoid showing a witness a single suspect photograph unless an established relationship exists between the witness and the suspect. Showing a single suspect photo to a witness should only be done after consultation with a supervisor.