



CITY OF AKRON, OHIO
POLICE DIVISION
KENNETH R. BALL II, CHIEF OF POLICE

NUMBER P-2020-065	EFFECTIVE DATE July 23, 2020	RESCINDS P-2010-065 issued July 6, 2010
SUBJECT Conducting Photo Lineups and Live Identification		ISSUING AUTHORITY Chief Kenneth R. Ball II

I. POLICY

The purpose of this policy is to provide Department personnel with direction on the utilization of photographic lineups or live identifications that is in compliance with Ohio law. It is the policy of the Akron Police Department to conduct identification procedures in a manner that promotes reliability, fairness, and objectivity of the victim's/witness' identification.

II. DEFINITIONS

- A. Administrator - The person conducting a photo lineup or live lineup.
- B. Blind administrator - The administrator does not know the identity of the suspect. Blind administrator includes an administrator who conducts a photo lineup through the use of a folder system or a substantially similar system.
- C. Blinded administrator - The administrator may know who the suspect is, but does not know which lineup member is being viewed by the eyewitness. Blinded administrator includes an administrator who conducts a photo lineup through the use of a folder system or a substantially similar system.
- D. Eyewitness - A person who observes another person at or near the scene of an offense.
- E. Filler - Either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.
- F. Live Identification – Also known as “Show-Up” identification. Presentation of a live person or persons in the field who is/are close in time and proximity to the incident under investigation.
- G. Photo lineup - An identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator of the offense.
- H. Perpetrator - The person who committed the offense.

- I. Suspect - The person believed by law enforcement to be the possible perpetrator of the offense.

III. PROCEDURE

A. PHOTO LINEUP REQUIREMENTS

1. Unless impracticable, a blind administrator shall conduct the photo lineup.
2. When it is impracticable for a blind administrator to conduct the photo lineup, a blinded administrator should conduct the photo lineup and the administrator shall state in writing the reason for that impracticability.
3. When it is impracticable for either a blind or blinded administrator to conduct the photo lineup, the administrator shall state in writing the reason for that impracticability.
4. If a blind administrator is conducting the photo lineup, the administrator shall inform the eyewitness that the suspect may or may not be in the lineup and that the administrator does not know who the suspect is.
5. When a photo lineup is shown to an eyewitness, the binder system will be used to administer the showing of this photo lineup.
6. The administrator conducting the lineup shall, upon completion of the photo array, meet with the investigator to complete the Akron Police Department Photo Array Instruction Form.
7. The administrator shall tag the completed Akron Police Department Photo Array Instruction Form.
8. The administering of the photo array, as well as the reading of the photo array witness instructions to the eyewitness are encouraged to be audio or video recorded.
9. The empty binders for showing of photo arrays will be located at the DB desk of the Detective Bureau.

- B. BINDER SYSTEM - A system for conducting a photo lineup that satisfies all of the following:

1. The investigating officer uses **one suspect photograph** that resembles the description of the suspected perpetrator of the offense provided by the eyewitness, **five filler photographs** of persons not suspected of the offense that match the description of the suspected perpetrator but do not cause the suspect photograph to unduly stand out, and an empty binder.

2. The investigating officer places **one filler photograph** into the empty protective sheet #1. This ensures that the suspect photograph will never be placed in the number one position of the binder.
3. The administrator shuffles the five remaining photographs so that the administrator is unaware of which protective sheet will contain the suspect photograph. The administrator then places the suspect photograph and the other four filler photographs into five remaining empty protective sheets.
4. The administrator will read the Akron Police Department Photo Array Witness Instruction sheet to the eyewitness. The instruction sheet can be found in the I-Drive Templates folder. This sheet provides instructions to the eyewitness as to the lineup procedure and informs the eyewitness that a photograph of the alleged perpetrator of the offense may or may not be included in the photographs the eyewitness is about to see and that the administrator does not know which, if any, of the photographs contained in the binder contains the photograph of the alleged perpetrator. The administrator will instruct the eyewitness that the investigation will continue regardless of the result of the view of this photo array.
5. The administrator also shall instruct the eyewitness that the administrator does not want to view any of the photographs and will not view any of the photographs and that the eyewitness may not show the administrator any of the photographs. The administrator shall inform the eyewitness that if the eyewitness identifies a photograph as being the person the eyewitness saw, the eyewitness shall identify the photograph only by the number of the photograph's corresponding cover sheet.
6. The administrator hands the eyewitness the binder without looking at the photographs in the binder. Each time the eyewitness has viewed a photograph, the eyewitness indicates whether the photograph is or is not of the person the eyewitness saw.
7. If the eyewitness indicates that they are able to identify the perpetrator, they will be asked to state the degree of the eyewitness's confidence in this identification as expressed in a percentage. The eyewitness will remove the photo from the binder, write that percentage number on the back of the photo and sign the photo. The eyewitness will then place the photograph back into the binder. The eyewitness will then return the binder and the photograph it contains to the administrator.
8. The administrator follows the steps specified in this procedure for a second viewing if the eyewitness requests to view the binder for a second time. The eyewitness is not permitted to have more than two viewings of the photographs in the binder.
9. The administrator documents and records the results of the first viewing as described above. If the eyewitness requests a second viewing of the photo array, the results must be recorded a second time. The administrator should not view any of the photographs until the array is completed or the eyewitness identifies a photograph as being of the person the eyewitness saw.

10. The documentation shall be made on the second page of the Akron Police Department Photo Array Instruction Sheet, and the documentation shall include:
 - a. The date, time, and location of the lineup procedure.
 - b. The name of the administrator.
 - c. The names of all of the individuals present during the lineup.
 - d. The number of photographs shown to the eyewitness.
 - e. Copies of each photograph shown to the eyewitness.
 - f. The order in which the photographs were presented to the witness.
 - g. The source of each photograph that was used in the procedure.
 - h. A statement of the eyewitness's confidence in the eyewitness's own words as to the certainty of the eyewitness's identification of the photograph as being of the person the eyewitness saw that is taken immediately upon the reaction of the eyewitness to viewing the photograph.
 - i. Any additional information the administrator considers pertinent to the lineup procedure.
11. The administrator shall not say anything to the eyewitness or give any oral or nonverbal cues as to whether or not the eyewitness identified the **suspect photograph** until the administrator documents and records the results of the procedure described above and the photo lineup has concluded.

C. LIVE IDENTIFICATION

1. Live identification shall only be conducted when the suspect or suspects have been detained within a reasonably short timeframe following the offense and there does not yet exist probable cause to arrest them for the incident being investigated. If probable cause exists to arrest the suspect(s) for the incident being investigated, a photo lineup should be used.
2. Whenever possible, the eyewitness should be transported to the location of the suspect. **A person who is not under arrest may not be transported elsewhere without their consent** but may be detained for a reasonable amount of time.
3. All presentations should be recorded on BWC, if available.

4. Officers should avoid suggestive words or conduct. The suspect(s) should not be handcuffed, physically restrained or secured inside of a cruiser unless it is not safe to do so.
5. The eyewitness should be advised the person stopped may not be involved, is not under arrest for the incident being investigated, and they should not feel compelled to make an identification.
6. If the eyewitness does make a positive identification, they should be asked to state the degree of the eyewitness's confidence in this identification as expressed in a percentage.
7. If there are multiple eyewitnesses, they should be separated and each should be transported individually and not informed of the results of any other identification.

By Order Of,

Kenneth R. Ball II
Chief of Police

Date _____