

Seattle Police Department Manual

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15.170 - CONDUCTING IDENTIFICATION PROCEDURES

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This policy applies to employees preparing and conducting identifications through procedures such as photomontages, lineups, and show-ups.

Identification obtained through a carefully choreographed procedure can strengthen the evidentiary value and minimize the potential effect of external influences on a witness's memory and confidence.

When circumstances require a prompt show-up of a single suspect to a witness, it can provide important investigative information at an early stage. Procedural safeguards can reduce the inherent suggestiveness of the encounter.

Preparing a complete and accurate record of the results of the identification strengthens the credibility of the results. This record is a critical part of the investigation and any subsequent court proceedings.

Definitions

Administrator - The individual conducting an identification procedure with a victim or witness.

Blind Presentation – An identification procedure in which the administrator does not know which photo or person in a lineup is the suspect. (Also known as “double-blind” presentation)

Blinded Presentation – An alternative to blind presentation in which the administrator knows which photo or person in a lineup is the suspect. In this presentation, specific procedures are employed to prevent the administrator from knowing which photo or person is being viewed by the victim or witness at any time.

Confidence Statement – A statement in the victim or witness's own words, articulating his or her level of confidence in the identification taken immediately after the identification has been made.

Fillers – Non-suspect photographs or persons in a lineup included with the suspect's photograph or suspect in an identification procedure.

Identification Procedure – Any procedure that includes the suspect and tests the witness's memory of a person involved with the crime, including a show-up, photomontage, lineup, mug-book search, and the production of a composite sketch.

Lineup – An identification procedure in which a group of persons, including a suspect, is displayed in order to determine whether the victim or witness recognizes a person involved with the crime.

Photomontage – An identification procedure in which a series of photographs of persons, including a suspect, is displayed in order to determine whether the victim or witness recognizes a person involved with the crime.

Show-Up – An identification procedure in which a single suspect is presented in order to determine whether the victim or witness recognizes a person involved with the crime. Typically includes the in-person presentation of a suspect in the field and occurs close in time and proximity to the incident under investigation.

POL-1 Preparing and Administering Photomontages and Show Ups

POL-2 Preparing and Conducting Lineups

POL-3 Using Other Identification Procedures

15.170 POL-1 Preparing and Administering Photomontages and Show-ups

1. Investigators Will Only Use One Type of Identification Procedure

Investigators may not administer a photomontage or show-up to a witness if that witness has already participated in any other identification procedure involving the same suspect.

Exception: Investigators may use additional identification procedures if directed by a prosecutor.

2. Investigators Will Not Use Single-Photo Identification

Investigators will not administer a single photo identification procedure unless there is a high level of familiarity between the witness and the suspect, and the investigator only needs to establish the identity of a known suspect.

3. Administrators Will Make an Effort to Avoid Suggesting There is a Specific Suspect

Administrators will make an effort to avoid saying anything to a victim or witness that would suggest that there is a specific suspect or interest for the crime at any time prior to an identification procedure.

During show-ups, officers will take reasonable steps to avoid creating the appearance that the suspect is in custody. This includes transporting the witness to the suspect's location instead of transporting the suspect.

4. Officers Will Make an Effort to Separate Multiple Witnesses

Before performing a show-up, it is preferable to separate witnesses and instruct them to avoid discussing details of the incident with other witnesses.

Officers will conduct show-ups with no more than one witness per car.

If one witness positively identifies the suspect, consider using other identification procedures (e.g., lineup or photomontage) for remaining witnesses.

5. Each Photomontage May Contain Only One Photo of One Suspect

If multiple photos of the suspect are available, investigators will choose the photo that most resembles the suspect appearance at the time of the incident.

If there are multiple suspects, investigators will prepare a separate photomontage with unique fillers for each suspect.

6. Investigators Will Select Fillers for Photomontages

When choosing fillers, investigators will consider what level of description of the suspect has been provided by the witness(es) and select fillers who generally fit that description.

When there is a limited or inadequate description of the suspect provided by the witness, or the description differs significantly from the suspect, investigators will select fillers who resemble the suspect in significant features.

7. Investigators Will Create a Consistent Appearance Between the Suspect and the Fillers in Photomontages

Complete uniformity of features is not required. However, investigators will add or conceal any unique or unusual feature, such as a tattoo or scar that was used to describe the suspect.

This will apply to all of the photos in a photomontage, and concealing such a significant feature during a lineup.

Exception: Though a consistent appearance is important, investigators will 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.

8. Investigators Shall Use a Minimum of Five Fillers for Each Photomontage

Investigators shall not reuse fillers in photomontage presentations to the same witness.

9. Investigators Shall Position the Suspect or Suspect Photo Randomly in Photomontages

This applies to each photomontage, both across cases and with multiple witnesses in the same case.

10. Investigators Shall Have Coworkers Review Photomontages Before Presentation

Before presenting a photomontage to a witness, the investigator will present the photomontage to one or more coworkers who are unfamiliar with the subject to determine if they are able to select the subject.

11. Administrators Will Conduct Photomontages Using Either Blind or Blinded Presentation

12. Administrators May Use Either Sequential or Simultaneous Photomontages

There are typically two ways to conduct a photomontage:

- Simultaneous - all six photos at the same time
- Sequential - one photo at a time

Both are accepted practices.

13. Administrators Shall Provide Witness Instructions Before Presenting a Photomontage or Show-Up

Before presenting a photomontage or a show-up, the administrator will instruct the witness that:

- The witness will view a person, persons, or a group of photos
- The witness should not feel that he or she has to make an identification

- It is just as important to clear innocent persons from suspicion as to identify guilty parties
- The person or photo of the person who committed the crime may or may not be present
- Regardless of whether or not an identification is made, the police will continue to investigate the incident
- Additional instructions for sequential photomontages:
 - Individual photos will be viewed one at a time.
 - The people in the photos are in random order.
 - A victim or witness may take as much time as needed making a decision about each photo before moving to the next.
 - All photos will be presented, even if an identification is made.

14. Administrators Will Ask the Witness for a Confidence Statement

If a witness makes an identification, the administrator will ask the witness to describe, in his or her own words, how confident he or she is in the identification.

Administrators will make an effort to avoid providing any feedback to a victim or witness regarding their decision.

15. Administrators Shall Video Record and Document Results of the Identification

Administrators shall video record the identification procedure. Video recording of a photomontage presentation will commence at the presentation of the admonishment.

The person recording must advise all persons in attendance if audio will be recorded, per Washington State law. If there is an objection by anyone present, videotaping is no longer an option.

If recording is not practical, the investigator must note the reason(s) in the case file.

The investigator shall preserve the outcome of the identification procedure by documenting any identification or non-identification results obtained from the witness.

15.170 POL-2 Preparing and Conducting Lineups

1. Investigators Will Only Use One Type of Identification Procedure

Investigators may not show a lineup to a witness if that witness has already participated in any other identification procedure involving the same suspect.

Exception: Investigators may use additional identification procedures if directed by a prosecutor.

2. Investigators Will Select Fillers for Lineups

When choosing fillers, investigators will consider what level of description of the suspect has been provided by the witness(es) and select fillers who generally fit that description.

When there is a limited or inadequate description of the suspect provided by the witness, or the description differs significantly from the suspect, investigators will select fillers who resemble the suspect in significant features.

If there are multiple witnesses or multiple cases, investigators will document the range of the physical attributes and work within those parameters.

3. Investigators Will Create a Consistent Appearance Between the Suspect and the Fillers for Lineups

Complete uniformity of features is not required. However, investigators will uniformly conceal any unique or unusual feature, such as a tattoo or scar that was used to describe the suspect.

Exception: Though a consistent appearance is important, investigators will 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.

4. Investigators Shall Use a Minimum of Five Fillers for Each Lineup

Investigators shall not reuse fillers in lineup presentations to the same witness.

5. Investigators Shall Position the Suspect Randomly in Lineups

This applies to each lineup, both across cases and with multiple witnesses in the same case.

6. Investigators May Honor a Suspect's or his Attorney's Request to be in a Particular Position

Washington State law does not require law enforcement investigators to honor defense requests regarding the positioning of a subject in identification procedures.

State vs. Favro, 5 WN APP#311 (1971)

"Counsel for the accused is a silent observer at the proceedings who can later recall his observations for purposes of cross-examination and act in the capacity of a witness to what transpired. The goal is to detect any unfairness in the confrontation between the witness and the accused and to insure that any suggestion made at that time by the law enforcement officer, either intentionally or unintentionally, is observed..."

The attorney's recourse to what they may consider improper or unlawful will be the court in which their client is charged. The attorney will not badger or question witnesses, officers, or detectives.

The sergeant will note any objections raised, or lack of objections, in the follow-up report.

Attorney access to the subject holding area to talk with their client and to advise the suspect's position in the lineup is not a legal obligation of the Department. If the person in charge of the procedure deems it advisable to allow such access, it will be brief.

If counsel causes any undue delay or disruption as a result of being afforded this consideration or if a security problem exists, the privilege will be revoked immediately. The defense counsel will then be allowed to witness the lineup as a silent observer only.

7. Administrators may use Either Sequential or Simultaneous Lineups

There are typically two ways to conduct a lineup:

- Simultaneous - all six subjects at the same time

- Sequential - one subject at a time

Both are accepted practices.

If a witness wishes to see any part of the lineup repeated, the entire line must be repeated.

If props such as hats or glasses are used, each subject will don the prop(s) then pass the prop(s) along to the next subject. This continues until all the subjects have performed the instructed task(s).

8. Administrators May Have Lineup Participants Briefly Speak or Perform a Task

Using witness statement and reports, investigators will determine what, if anything, participants will briefly say or do during the lineup.

9. Investigators Will Assemble Lineup Staff

The lineup staff consists of the following:

- A supervisor
- The lead detective
- A minimum of two other detectives in the lineup room
- Photographer to photograph or video the lineup process
- Minimum of two detectives in the lineup holding room
- Detectives available to assist with the post lineup interviews
- TASER-trained officers. (optional) Typically inmates are cooperative, but always consider officer safety when dealing with individuals suspected of a crime

10. Administrators Shall Provide Witness Instructions before Presenting a Lineup

Before presenting a lineup, the administrator will instruct the witness that:

- The witness will view a group of subjects.
- The witness should not feel that he or she has to make an identification.
- It is just as important to clear innocent persons from suspicion as to identify guilty parties.
- The person who committed the crime may or may not be present.
- Regardless of whether or not an identification is made, the police will continue to investigate the incident.
- Additional instructions for sequential lineups:
 - Individual persons will be viewed one at a time.
 - The people in the group are in random order.
 - A victim or witness may take as much time as needed making a decision about each person before moving to the next.
 - All persons will be presented, even if an identification is made.

11. Administrators Will Ask the Witness for a Confidence Statement

If a witness makes an identification, the administrator will ask the witness to describe, in his or her own words, how confident he or she is in the identification.

12. Investigator Shall Video Record and Document Results of the Identification

Administrators shall video record the lineup procedure. If recording is not practical, the investigator must note the reason(s) in the case file.

The investigator shall preserve the outcome of the identification procedure by documenting any identification or non-identification results obtained from the witness.

15.170 POL-3 Using Other Identification Procedures

The department recognizes that alternate identification procedures exist that may assist in an investigation.

1. Investigators May Use Other Identification Procedures After Training

Investigators may use alternate techniques such as composites and “mug book searches” after receiving training in the proper administration of these procedures.

Alternate techniques will not be used with a witness who has already participated in any identification procedure involving the same suspect.

15.170 PRO-1 Preparing and Administering a Photomontage

Investigator

1. **Chooses** one suspect photo for each montage.
2. **Selects** fillers (minimum of five).
3. **Positions** the suspect or suspect photo randomly in each photomontage, both across cases and with multiple witnesses in the same case.
4. **Presents** the photomontage to at least one coworker unfamiliar with the case to determine if he or she is able to select the suspect.
5. **Documents** the order of the photos used in the photomontage.

Investigator or Administrator

6. **Video records** the photomontage.
 - Video recording of a photomontage presentation will commence at the presentation of the admonishment.
 - The detective must advise all persons in attendance if audio will be recorded, per Washington State law. If there is an objection by anyone present, videotaping is no longer an option.

7. **Provides** viewing instructions to the witness.

Suggested instructions to witnesses viewing photomontages:

“In a moment I am going to show you a group of photographs. You will be given the opportunity to observe all of the photographs.

This group of photographs may or may not contain a picture of the person who committed the crime now being investigated.

You should not feel that you have to make an identification. It is just as important to clear innocent persons from suspicion as to identify guilty parties

Take as much time as you need to look at any or all of the photos, and tell me what you think.”

Additionally, with sequential photomontages:

“The photos will be presented one at a time and in random order.

If you recognize anyone before I have finished showing you all of the photos, tell me. However, I will continue showing you the remainder of the photos. Please, examine them as well.

I will ask you to state in your own words how certain you are of the identification you made.”

8. **Confirms** that the witness understands the nature of the photomontage procedure

9. **Avoids** saying anything to the witness that may influence his or her selection

10. **Avoids** letting the witness know anything regarding the individual until after he or she has made a statement of certainty, if identification is made

11. **Instructs** the witness not to discuss the identification procedure or its results with other witnesses involved in the case and discourage contact with the media.

Investigator

12. **Documents** identification or non-identification in writing, including the witness's own words regarding certainty.

13. **Documents** (in writing) the photomontage procedures, including:

- Identification information and sources of all photos used
- Names of all persons at the photomontage presentation
- Date and time of the identification procedure
- Identification results and witness statement of certainty

14. **Obtains** witness signature and date on results.

15. **Ensures** that no materials indicating previous identification results are visible to the witness.

16. **Protects** materials that will be used in other identification procedures from markings.

15.170 TSK-1 Conducting a Show-up

When conducting a show-up, the **administrator** performs the following:

1. **Documents** a description of the suspect prior to the show-up.
2. **Attempts** to obtain the suspect's cooperation in the show-up procedure by requesting the suspect's voluntary participation in the show-up.
3. **Video records** the suspect from the view of the witness and the witness as he or she views the suspect.
4. If video recording is not practical, **audio records** as a second option, if possible, and makes note of the non-verbal behavior of the witness during the viewing.
5. **Transports** the witness to the location of the suspect.
6. **Provides** instructions to the witness.

Suggested instructions witnesses participating in a show-up:

"In a moment I am going to ask you to view some people.

The person who committed the crime may or may not be one of the people you are about to view.

You should not feel you have to make an identification. It is just as important to clear innocent people from suspicion as it is to identify the perpetrator.

The investigation will continue whether or not you make an identification.

If you identify someone, I will ask you to state, in your own words, how certain you are.

If you do select someone, please do not ask me about that person, as I am unable to share any information at this stage of the investigation.

Regardless of whether or not you select a person, please do not discuss this procedure with any other witnesses in this case or with the media. Keeping the results of this procedure to yourself is necessary to preserve the integrity of the

Do you have any questions before we begin?"

7. **Obtains** a confidence statement for both identifications and non-identifications.

8. **Documents** the circumstances of the show-up to include:

- Time
- Location
- Distance
- Lighting
- Weather conditions
- If suspect has changed his or her appearance since the time of the crime

9. **Documents** the suspect's cooperation or lack of cooperation.
10. **Documents** both identification and non-identification results in writing, including facts such as:
 - The witness's own words regarding how certain he or she is
 - How quickly the witness identified the individual(s)
 - Paraphrase what the witness said and asked

15.170 PRO-2 Conducting a Lineup

Investigator

1. **Contacts** the Robbery Unit to reserve a lineup room.
2. **Verifies** that the suspect is in the King County Jail (KCJ-Seattle).
 - If they are at the Regional Justice Center (RJC-Kent), contact staff at that facility to have the suspect(s) transported to KCJ.
3. **Advises** the suspect's attorney or Public Defender Association (206-447-3900) of the pending lineup. This is usually done the day before the lineup is to take place.
4. **Determines** where the suspect is located in the jail.
 - Consider calling the jail early and requesting staff transport the suspect to Intake & Release (ITR) located on the third floor.
5. **Obtains** lineup chains from the Robbery Unit.
6. **Proceeds** through the tunnel to KCJ, along with at least one other officer and the chains.
 - The elevator to the tunnel is located outside the interview rooms near the Homicide Unit (7th Floor HQ building)
 - The tunnel is located on the lower level (LL) of the HQ building.
 - Detectives going to KCJ need to be *unarmed* and readily identifiable in police clothing. A pre-programmed prox-card is required for access.
7. **Advises** SMC Marshalls that SPD is there to pick a lineup.
8. **Proceeds** to the jail, pushing the silver button near each door to alert KCJ staff that a request for entry is being made.
9. **Takes** the elevator to the 3rd floor and inform the ITR desk:
 - That an SPD lineup is to be conducted,
 - Advise them of the crime being investigated, and
 - Give a description of the suspect.

KCJ staff will advise where in this facility possible “fillers” may be located. Staff will take into account the type of crime (misdemeanor/felony) and the level of violence.

SPD doesn't typically combine misdemeanor and felony inmates, and officers should be aware that there are degrees of violence, even among felony suspects. The most violent of offenders are not intermingled with felony suspects arrested for a lesser degree of violence.

10. **Contacts** the corrections officer in the wing the suspect is housed in and **requests** 'fillers' for the lineup, providing the general description of persons needed for the lineup.

Staff will provide an inmate book with photos and descriptions of all prisoners in that wing of KCJ. To encourage participation among inmates, officers can offer cigarettes, soft drinks, coffee, candy bars, etc.

11. **Selects** fillers (minimum of five).

12. **Handcuffs** line up participants to the chain and transport them to the 3rd floor to be checked out at the ITR desk.

13. Once scanned by KCJ staff, **takes** the elevator to the 2nd floor, back through the tunnel to SPD HQ, 7th floor.

14. **Secures** participants (unhandcuffed) in the holding room next to the elevator.

This is the time for the inmates to consume food, beverages or cigarettes while the victim and witnesses are organized and briefed in the lineup room. Printed instructions are available in the Robbery Unit office.

15. **Provides** defense attorneys access to their client and a private interview room if requested.

16. **Briefs** all the participants on the lineup procedure and advise them on expected behavior, including what they will say or wear.

17. **Instructs** the fillers to do nothing to attract attention to themselves or others during the lineup presentation.

18. **Provides** a number that the participants will wear around their necks (#1-6) once the order of the lineup has been decided. Position the suspect randomly in each lineup, both across cases and with multiple witnesses in the same case.

The suspect or their attorney may be allowed to decide where in the lineup the suspect will be.

19. **Documents** the lineup order on an SPD Lineup Information Sheet, (form 9.30.1).

20. **Briefs** the “Line” on any last details. The lineup supervisor is usually a Robbery or Homicide sergeant and will conduct the lineup.

21. **Photographs** all lineup participants, including suspect and fillers.

- At minimum, facing front, half right, and half left.

- Additional photos may be taken throughout the lineup process at the discretion

of the case detective.

21a. **Video records** the lineup.

- Video recording will commence once the "Line" enters the lineup room. Only record the "Line".

- The detective must advise all persons in attendance if audio will be recorded, per Washington State law. If there is an objection by anyone present, videotaping is no longer an option.

Lineup Supervisor

22. **Begins** the lineup.

23. **Returns** the participants to the holding room after the lineup.

Investigator

24. **Conducts** witness interview(s) using the SPD Lineup Identification Sheet, (form 9.30).

25. **Records** identification or non-identification in writing, including the witness's own words regarding certainty.

26. **Obtains** witness signature and date on results.

27. **Instructs** all witnesses not to discuss the identification procedure or its results with other witnesses involved in the case and **discourages** contact with the media.

28. **Returns** the inmates to KCJ.

- No food, beverages, or cigarettes are allowed to be taken back into jail. Verify that all items are consumed beforehand.

29. **Checks** the inmates back into KCJ at the ITR on the 3rd floor before the inmates are returned to their respective floors.

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