

COVINGTON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

Subject: LINE-UPS AND SHOW-UPS

Date of Issue: 02-10-2011

Number of Pages: 6

Policy No. I075

Review Date:

Distribution: ALL

Revision Date:

I. Purpose

To establish procedures for using photographic lineups, physical line-ups or show-ups as part of eyewitness identification.

II. Statement of Policy

It is the policy of the Covington Police Department to conduct photographic lineups and show-ups that adhere to the procedures set forth in this department order to reduce the risk of wrongful conviction and to aid in the detection and apprehension of the guilty. Officers shall adhere to the procedures set forth in this General Order to maximize the reliability of witness identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms to established legal procedure.

III. Definitions

Photographic Line-up: An identification procedure, in which an array of photographs, including a photograph of the suspect of an offense and additional photographs or fillers of other persons not suspected of the offense, is displayed to an eyewitness in hard copy form for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.

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 this individual as the perpetrator.

Physical Line-up: A physical line-up is the placing of a suspect among people not suspected of committing the crime (fillers) and asking the eyewitness if he/she 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.

IV. Procedures

A. Photographic line-ups:

1. Composing Photographic Line-ups:
 - a. include only one suspect in each identification procedure.
 - b. select a photo of the suspect that resembles the suspect's appearance at the time of the incident.
 - c. select filters of the other persons that resemble the suspect in significant features.
 - d. include a minimum of five filters (non-suspects) per identification procedure. Complete uniformity of features is not required and avoid using filters that too closely resemble the suspect.
 - e. if there is more than one witness, each witness will be shown the line-up separately and witnesses will not be permitted to communicate with each other until after the line-up procedure has been completed. If the witness has previously viewed a photo line-up in connection with the identification of another person suspected of involvement in the offense, the filters in the line-up shall be different from the filters used in any prior line-ups.
2. Instructing the witnesses
 - a. when showing a photographic line-up to a witness, the following admonition shall be given: "You will be asked to look at several photographs. Do not assume that the guilty person's picture is included among them. It may or may not be one of these. You are not obligated to choose any of the photos. Try not to judge on the basis of hairstyle or length or any other characteristic, which may have changed since these photos were taken. Look at all of the photos and tell me if you can identify the person who you saw. Please do not tell any other witnesses that you have or have not been able to identify anyone. You understand that you are under no obligation to choose a photo."
3. Avoiding officer and witness "suggestion"
 - a. officers must not, by word or gesture, suggest opinions to any witness concerning the guilt or innocence of a suspect in any identification procedure. Witnesses making inquiries about an officer's opinion shall be informed of this restriction.
 - b. a witness who has taken part in an identification procedure must not be permitted to state conclusions within earshot of another person who is about to be, or has been, a viewer of the identification procedure.
 - c. Witness Confidence: assess the level of certainty the witness has in his identification of the suspect. In the report, the officer should record statement by the witness regarding the identification ("that's him/her", etc.). Have the witness describe how he/she knows it's the right person.

B. Show-Up Procedures

1. When Show-ups are permissible:
 - a. an officer may arrange a “show-up” between a witness and a suspect when there is reasonable suspicion to believe the suspect committed a crime and that the detention occurs soon after the crime was committed.
2. Guidelines for conducting the show-up:
 - a. Detention: a suspect cannot be detained for longer than a reasonable period of time to confirm or refute whether the suspect is the perpetrator.
 - b. Description: officers at the scene and in contact with the witnesses will obtain a detailed description of the perpetrator before the suspect is shown to the witness. The witness must advise the officers that they will be able to recognize the person who committed the crime prior to the show-up.
 - c. Location: the courts require that the suspect be inconvenienced as little as possible during a detention and show-up. Generally, this means that the witness should be brought to the suspect. The suspect should not be taken to the witness if there is any reasonable alternative.
 - d. Minimize Suggestiveness: if at all possible, avoid any indications that the suspect is in custody (handcuffs, placement in the back seat of the patrol car, spread eagle position, etc.). However, you may do whatever is reasonable for your safety. If the suspect is handcuffed, take measures to conceal this fact from the witness when possible. Avoid saying anything to the witness just prior to the identification that might be considered suggestive (we think we caught the guy, suspect has victim’s property, referring to the person to be observed as a suspect, etc.). Additionally, avoid saying anything suggestive after the identification (you picked the right or wrong person, etc.). This could have a corrupting effect on all subsequent identifications and result in their suppression.
 - e. Multiple Witnesses: Show-ups should not be conducted with more than one witness present at a time. Witnesses should not hear others’ accounts because they may be influenced by that information. If there is more than one witness, the show-up 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. Multiple Suspects: if there are multiple suspects, the suspects must be separated and subjected to separate show-up procedures.
 - g. Witness Confidence: assess the level of certainty the witness has in his identification of the suspect. In the report, the officer

should record statements by the witness regarding the identification ("that's him/her", etc.). Have the witness describe how he/she knows it's the right person.

- h. Emergency/Exigent Circumstances: 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, officers should contact a supervisor for guidance.
 - i. Right to a Lawyer: no person has a right to have a lawyer present at any show-up procedure.
- C. Documenting Line-up and Show-up Results. All information regarding identification procedures should be documented in the officer's report:
- 1. Photographic Line-ups
 - a. identify the person preparing the photographic line-up.
 - b. note the date of the photograph used for the suspect photograph.
 - c. document the names of all persons and/or photographs used (print an internal and public line-up for the file). Also, the source of the photo, i.e. digital mugshot, DMV, or other.
 - d. read the witness the admonishment and/or have them read it. Have the witness sign the document.
 - e. document how they made their choice, such as pointed at the photograph or said the number.
 - f. note how long the witness looked at the photograph before making the identification.
 - g. have the witness describe how he/she knows it's the right person. (Do not suggest percentages.)
 - h. confidence and certainty statements made by the witness (should be quoted.)
 - i. record identification and non-identification results.
 - j. document time, date and location of identification.
 - k. does the witness wear glasses or contacts and did they have them on at the time of the line-up.
 - 2. In Field Show-Ups
 - a. document what were the lighting conditions, i.e. spotlight, flashlight, daytime.

- b. note distance of the witness to the detained person.
- c. document where the witness was during the identification, i.e. backseat of patrol car.
- d. estimate how long the witness looked at the suspect before making the identification.
- e. document anyone else present during the In Field Show-Up.
- f. was the clothing identified and taken into evidence?
- g. document time, date, and location of identification.
- h. record identification and non-identification results.
- i. confidence and certainty statements made by the witness (should be quoted.)
- j. does the witness wear glasses or contacts and did they have them on at the time of the show-up?

3. Additional Information

- a. always have the person you are showing the line-up to circle the photograph and sign their name under the photograph. This will assist the witness for court.
- b. write whom the line-up was shown to on the top of the actual photographic line-up (ex. – “shown to Bill Jones 10/10/09.”). Write officers name and badge number on the bottom of the photographic line-up.
- c. If you are recording the interview, say the line-up number (if applicable), so it will be on the audiotape.
- d. photo copy the line-up and place the original into Property and Evidence. The original will be needed for court.

D. Procedures for Physical Line-Ups:

1. Under most circumstances, physical line-ups will be conducted at the Newton County Sheriff's Office. The Sheriff's Office will handle setting up the line-up. Whenever practical, the Sheriff's Office Identification Section will make the audio, photograph/video of the line-up for future reference.

This SOP supersedes any SOP previously issued.

BY ORDER OF THE CHIEF OF POLICE:

Stacey L. Cotton

Stacey L. Cotton
Chief of Police