

## SCRANTON POLICE DEPARTMENT POLICY

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*Policy Subject:*  
**Eyewitness Identification**

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### **I. PURPOSE**

To provide the officers of the City of Scranton Police Department with guidelines for eyewitness identifications using show-ups, photo arrays, and line-ups.

### **II. POLICY**

It is the Policy of the City of Scranton Police Department to strive to conduct eyewitness identifications using contemporary protocols. Eyewitness identification procedures as set forth in this policy will maximize the reliable and confident identification of persons responsible for criminal activity while minimizing the potential for the misidentification of innocent persons.

### **III. DEFINITIONS**

*Blind Administrator* – An officer administering a line-up or photo array with little or no knowledge of the investigation or the suspect.

*Line-Up* – A live presentation of individuals to an eyewitness for the purpose of identifying or eliminating suspects.

*Show-Up* – The presentation of a suspect to an eyewitness within a short period of time, generally one hour, after the commission or report of a crime for the purpose of identifying or eliminating the suspect as the perpetrator.

*Sequential* – Presentation of photos or individuals in a live line-up to a witness one at a time rather than all at once.

*Photo Array* – Showing photographs to an eyewitness for the purpose of identifying or eliminating a suspect.

*Fillers* – Non-suspects who generally fit the description of the suspect.

## IV. PROCEDURES

### A. Show-ups

1. A show-up identification may be used when police officers lack probable cause to arrest but have temporarily detained a suspect who matches a general description provided by a victim and/or witness. The location of the suspect allows a reasonable inference that the suspect could have gotten there within the time frame it took police to receive the call, respond to the call, and immediately conduct a search of the surrounding area. Show-ups allow officers to identify rather than release a potential suspect or to eliminate a detained person in order to continue an investigation or search for the suspect.
2. Officers should follow the steps outlined below prior to the show-up.
  - a. When multiple witnesses are present, separate witnesses and instruct them not to speak to each other before or after the show-up.
  - b. Obtain a thorough description of the suspect from each witness prior to the eyewitness identification.
  - c. Ensure all officers avoid suggestive words or conduct that may imply the detained suspect is or may be the perpetrator while preparing the presentation or in the company of the witnesses.
  - d. Witnesses should be transported to the location of the detained suspect in a police vehicle. The suspect should not be transported to the location of the witness. Multiple witnesses shall be transported to the location in separate vehicles.
  - e. The suspect should be presented as neutral as possible; outside of a police vehicle, not flanked by numerous officers and not handcuffed unless required for officer safety.
3. Officers should follow the steps outlined below while conducting the show-up.
  - a. Audio and video record the eyewitness identification if possible.
  - b. Take measures to protect the identity of the eyewitness. This can include leaving the witness inside a patrol car for the entire show-up process, using lights to illuminate the suspect, the use of garments by the witnesses.
  - c. Officers should instruct the eyewitness of the following:
    - 1) In a moment I am going to show you an individual. The individual may or may not be the person who was involved in the crime.
    - 2) It is just as important to clear innocent persons from suspicion as to identify guilty persons. Regardless of whether you make an identification, we will continue to investigate the incident.
    - 3) If you see the individual who committed the crime or was present at the scene of the crime please advise me of such. If not, please advise me of such.

- 4) If you pick an individual, I am going to ask you why you selected that individual and from where you recognize the person. I will also ask you to describe your certainty about the identification.
- 5) Do you understand these instructions?
- d. When the show-up is complete, officers should follow the steps outlined below.
  - 1) Witnesses shall be returned to the location from which they were transported.
  - 2) Witnesses should be reminded not to speak with other witnesses regarding the identification procedure.
  - 3) Officers shall document all aspects of the show-up, the officers present, description of the suspect given by the witnesses prior to the show-up, the specific statements made by the witnesses during the identification process and the level of certainty reported by the witness.

#### B. Photo Arrays

1. A photographic line-up or photo array is a structured presentation of 6-8 photographs consisting of the suspect and 5-7 fillers. The photo array is shown to the witness for the purpose of identifying or eliminating the suspect as the perpetrator.
2. Officers should follow the steps outlined below prior to the photo array.
  - a. Obtain a thorough description of the suspect from each witness prior to the eyewitness identification.
  - b. Include only one (1) suspect in each identification presentation. If there are multiple suspects separate photo arrays shall be done for each suspect with separate fillers.
  - c. Select fillers who generally fit the witness's description of the perpetrator. Complete uniformity is not required.
  - d. A consistent appearance between the suspect and filler photographs should be used with regard to size, background, etc. so that no single photograph shall be easily distinguished from the others.
  - e. Document any alterations made to any photographs. Record the source of the photographs (CPIN, JNET, etc.) and identifying information for the fillers.
  - f. The preferred method is to print photographs individually, not in grid format, so that only one photograph can be viewed at a time. Number each photograph sequentially. The suspect photograph should not be the first photograph. Place the photographs in a file folder to be given to the blind administrator.
    - 1) Consider placing the suspect(s) in different positions within the photo array with multiple suspects or witnesses. Position the suspect randomly in the array before numbering.

- 2) If a blind administrator cannot be used and the investigating officer will administer the photo array to a witness, the “folder shuffle method” should be used. The photographs of fillers and the suspect photograph will be placed individually in file folders (one folder for every photograph). A known filler folder will be placed to the side as well as two file folders containing a blank piece of paper that is the same size as the paper on which the photographs are printed. The remaining folders, containing the fillers and suspect, will then be randomly shuffled. Once shuffled, the known filler folder will be placed on top of the stack and the two blank folders will be placed on the bottom. It is important that when the investigator presents the array that he/she is positioned in the room so that the photographs cannot be viewed while the witness views the array.
3. Officers should follow the steps outlined below while administering the photo array.
  - a. If there are multiple witnesses, separate the witnesses or schedule staggered times for the array presentation to avoid communication between witnesses.
  - b. When possible, officers should use video and audio recordings to document the photo array presentation for major crimes listed in Policy 17-003 Recording Custodial and Non-Custodial Interviews.
  - c. Prior to the presentation of the array, the investigator shall read the following in the presence of the witness and the blind administrator.
    - 1) In a moment I am going to show you a series of photographs. The person who is involved in the crime may or may not be included. You will be shown all the photographs and you may take your time looking at them. Even if you identify someone during this procedure, you will be shown all the photos in the series.
    - 2) You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as it is to identify guilty parties.
    - 3) Do not look to anyone in the room for guidance during the procedure.
    - 4) Individuals present in the series may not appear exactly as they did on the date of the incident because features such as head and facial hair styles are subject to change. Also, photographs may not always depict the true complexion of a person; it may be lighter or darker than shown in the photo.
    - 5) When you have looked at all of the photos, I am going to ask you the following questions:
      - a) Do you recognize anyone?

- b) If you do, what is the number of the person you recognized?
- c) From where do you recognize the person?
- d) How certain are you of your selection?
- 6) Do not discuss with other witnesses what you see, say, or do during this procedure.
- d. The investigator will then sign and the witness shall then initial the Photo Array and Live Line-Up Form SPD 08-008 indicating the instructions were read and the witness understands the instructions.
- e. The investigator should then leave the room and the administrator will then present the photo array in the following manner:
  - 1) Open the folder so that the photographs are out of view from the witness.
  - 2) Hand the witness the photographs one at a time, giving the witness as much time as they chose to look at the photograph.
  - 3) When the witness is finished looking at a photograph, place it face-down and then hand the witness the next photograph.
  - 4) If the witness identifies a photograph part-way through the procedure, have him/her sign and date the photograph and then give the certainty statement as presented on the Photo Array Form. Remind him/her that all photographs must be viewed.
  - 5) Continue this procedure until all photographs have been viewed.
  - 6) If the witness has not made an identification part-way through the array, once all photos have been presented ask the questions listed above in C5., which are also printed on the Photo Array Form.
  - 7) Document any identifying statements made by the witness on the form.
  - 8) If not already done so, have the witness sign and date the selected photograph.
  - 9) The administrator and witness will then sign the Photo Array Form.
  - 10) The administrator will again instruct the witness not to discuss what he/she observed or said during the identification procedure.
- f. If a witness asks to see more than one specific photo a second time, the entire array should be shown one additional time. The array should be inspected first to ensure the witness did not make any marks on the array during the first presentation. The second presentation shall be documented in the investigating officer's report.
- g. Care should be taken by the administrator to remain neutral. Do not comment on the identification before, during, or after the identification procedure other than the prescribed questions.

- h. If a blind administrator is not used, the investigator will present the folders prepared using the “folder shuffle method” one at a time in a similar presentation as described above. It is important that the investigator position himself/herself so that the photograph being viewed by the witness cannot be seen by the investigator, thereby preventing the investigator from unknowingly reacting to the suspect photograph when it is viewed.
4. The entire original array shall be entered into evidence. A copy of the photo array and the Photo Array Form shall be entered into Central Records. The investigating officer may make a copy of the array for the case file.
5. The investigating officer will document in his/her report the photo array procedure, information pertaining to the identification of fillers and location of photographs obtained, any alterations made to the photographs, those present for the presentation of the array, any identifications made to include statements by the witness(es), as well as any other pertinent information.

### C. Line-ups

1. At times, a physical line-up may be shown to the witness for the purpose of identifying or eliminating the suspect as the perpetrator.
2. A physical line-up may require a defendant’s legal counsel to be present. Consult with the District Attorney’s Office when necessary.
3. The same basic principles and procedures apply for physical line-ups as for photographic line-ups.
4. The physical line-up should be conducted in an interview room equipped with a two-way mirror so that the witness positioned in the adjacent room would be able to see the line-up while the participants in the line-up would not be able to see the witness.
5. Two blind administrators should be used for the line-up, if possible. One administrator will be in the line-up room and give instructions to the participants in the line-up. The second administrator will be in the witness room and give instructions to and record statements given by the witness. If blind administrators are unavailable, the officers administering the line-up must take all reasonable precautions to remain neutral and avoid giving any unintentional cues to the witness.
6. Officers should follow the steps outlined below prior to the physical line-up.
  - a. Obtain a thorough description of the suspect from each witness prior to the eyewitness identification.
  - b. Include only one (1) suspect in each identification presentation. If there are multiple suspects separate line-ups shall be done for each suspect with separate fillers.
  - c. Select fillers who generally fit the witness’s description of the perpetrator. Complete uniformity is not required.

- d. A consistent appearance between the suspect and fillers should be used with regard to clothing.
  - e. The suspect and fillers will be presented individually to the witness so that only one person can be viewed at a time. Each person will hold a number during the line-up process. The suspect should not be first in the sequence. Consider giving the suspect the option for his/her place in the line-up, with the exception of being first. Consider placing the suspect(s) in different positions within the line-up with multiple suspects or witnesses.
  - f. The investigator should demonstrate to the suspect and fillers the line-up procedure in the presence of the blind administrator of the line-up.
    - 1) The participants will be instructed to hold the number card in front of their abdomen area.
    - 2) They will be instructed to enter the room when the administrator calls their number.
    - 3) The participants will be instructed to follow the directions of the administrator when told to face the glass (two-way mirror), face right, face left, face the glass, and then exit the room.
7. Officers should follow the steps outlined below while administering the line-up.
- a. If there are multiple witnesses, separate the witnesses or schedule staggered times for the array presentation to avoid communication between witnesses.
  - b. When possible, officers should use video and audio recordings to document the photo array presentation for major crimes listed in Policy 17-003 Recording Custodial and Non-Custodial Interviews. If possible, an alternative recording device should be used to record the room in which the witness will view the line-up.
  - c. Prior to the presentation of the line-up, the investigator shall read the following in the presence of the witness and the second blind administrator.
    - 1) In a moment I am going to show you a series of individuals. The person who is involved in the crime may or may not be included. You will be shown all the persons and you may take your time looking at them. Even if you identify someone during this procedure, you will be shown all the persons in the series.
    - 2) You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as it is to identify guilty parties.
    - 3) Do not look to anyone in the room for guidance during the procedure.
    - 4) Individuals present in the series may not appear exactly as they did on the date of the incident because features such as head and facial hair styles are subject to change.

- 5) When you have looked at all of the persons, I am going to ask you the following questions:
  - a) Do you recognize anyone?
  - b) If you do, what is the number of the person you recognized?
  - c) From where do you recognize the person?
  - d) Without using a numerical scale, how certain are you of your selection?
- 6) Do not discuss with other witnesses what you see, say, or do during this procedure.
- d. The investigator will then sign and the witness shall then initial the Photo Array and Live Line-Up Form SPD 08-008 indicating the instructions were read and the witness understands the instructions.
- e. The investigator should then leave the room.
- f. The administrators will then present the line-up in the following manner:
  - 1) The administrator in the line-up room will instruct each participant to enter the room sequentially, stand facing the direction instructed and then exit the room.
  - 2) Continue this procedure until all persons have been viewed.
  - 3) If the witness identifies an individual part-way through the procedure, the administrator in the witness room will have him/her give the certainty statement as presented on the Line-up Form. Remind him/her that all persons must be viewed.
  - 4) If the witness has not made an identification part-way through the array, once the entire line-up has been presented ask the questions listed above in C5, which are also printed on the Line-Up Form.
  - 5) Document any identifying statements made by the witness on the form.
  - 6) The administrator and witness will then sign the Line-Up Form.
  - 7) The administrator will again instruct the witness not to discuss what he/she observed or said during the identification procedure.
- g. If a witness asks to see an individual in the line-up a second time, the entire line-up should be shown one additional time. The line-up will be shown in the same method. The second presentation shall be documented in the investigating officer's report.
- h. Care should be taken by the administrator to remain neutral. Do not comment on the identification before, during, or after the identification procedure other than the prescribed questions.
8. The investigating officer will document in his/her report the line-up procedure, information pertaining to the identification of fillers and from where they were selected, those present for the presentation of

the line-up, any identifications made to include statements by the witness(es), as well as any other pertinent information.

By the Order of:

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Chief Carl R. Graziano  
Superintendent of Police  
Scranton Police Department

**Attachments:**  
**Photo Array and Live Line-up Form SPD: 08-008**

# SCRANTON POLICE DEPARTMENT

## Photo Array and Live Line-Up Form

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**Before conducting the photo array, the following should be read to each witness.  
Replace "persons" for "photographs" when conducting a live line-up.**

1. In a moment I am going to show you a series photographs (persons). The person who is involved in the crime may or may not be included. You will be shown all the photographs (persons) and you may take your time looking at them. Even if you identify someone during this procedure, you will be shown all the photos (persons) in the series. **[Have person sign and date photo if identification is made, then give certainty statement.]**
2. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as it is to identify guilty parties.
3. Do not look to anyone in the room for guidance during the procedure.
4. Individuals present in the series may not appear exactly as they did on the date of the incident because features such as head and facial hair styles are subject to change. **[Omit the following if live line-up]** Also, photographs may not always depict the true complexion of a person; it may be lighter or darker than shown in the photo.
5. When you have looked at all of the photos (persons), I am going to ask you the following questions:
  - a) Do you recognize anyone?
  - b) If you do, what is the number of the person you recognized?
  - c) From where do you recognize the person?
  - d) How certain are you of your selection?
6. Do not discuss with other witnesses what you see, say, or do during this procedure.

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**Incident #:** \_\_\_\_\_

**Date/Time of Line-Up:** \_\_\_\_\_

**Witness Name:** \_\_\_\_\_

**Witness Signature:** \_\_\_\_\_

**Administrator Name:** \_\_\_\_\_

**Administrator Signature:** \_\_\_\_\_

**Investigator Name:** \_\_\_\_\_

**Investigator Signature:** \_\_\_\_\_

**Identification Made:** YES \_\_\_\_\_ NO \_\_\_\_\_ **Photo (Person) Selected #** \_\_\_\_\_

a) Do you recognize anyone? \_\_\_\_\_

b) If you do, what is the number of the person you recognized? \_\_\_\_\_

c) From where do you recognize the person? \_\_\_\_\_

\_\_\_\_\_

d) How certain are you of your selection? \_\_\_\_\_

\_\_\_\_\_