



# Tulsa Police Department

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**Policy #** 104B

**Policy Name** Eyewitness Identification

**Approved by** Dennis Larsen, Chief of Police

**Effective Date** 02/06/2025

**Approved Date** 02/06/2025

**Previous Date** 11/21/2019

## PURPOSE OF CHANGE:

Update documentation procedures.

## POLICY:

It is the policy of the Tulsa Police Department to provide its personnel with the laws, regulations, standards, and practical guidelines for obtaining eyewitness identification. Eyewitness identification evidence is often crucial in identifying offenders as well as exonerating the innocent. Officers shall adhere to the procedures for conducting eyewitness identifications set forth herein, in order to maximize the reliability of identifications, minimize erroneous identifications and gather evidence that conforms to federal and state laws.

It is the purpose of this policy to establish guidelines for eyewitness identification procedures involving show-ups, photo arrays, and live lineups. Erroneous eyewitness identifications have been cited as the factor most frequently associated with wrongful convictions. Therefore, in addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence that either supports or eliminates the suspect identification.

**SUMMARY:** Procedures for preparing and conducting eyewitness identifications.

**APPLIES TO:** All sworn police personnel

## DEFINITIONS:

BLIND ADMINISTRATOR – the administrator of an eyewitness identification has a lack of knowledge as to the identity of the suspect.

BLINDED ADMINISTRATION – the administrator of an eyewitness identification may know the identity of the suspect but not the position in which the suspect is placed in a photo array when it is viewed by the eyewitness.

EYEWITNESS – a person who observed another person at or near the scene of an offense.

FILLER – a person or a photograph of a person included in an identification procedure who is not suspected of the offense in question.

LIVE LINEUP – an eyewitness identification procedure in which a group of persons, including the suspected perpetrator of an offense and other persons who are not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.

PHOTO ARRAY – an identification procedure in which an array of photographs, including the suspected perpetrator of an offense and additional photographs of other persons who are not suspected of the offense, is displayed to an eyewitness either in hard copy form or via electronic means 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 in person for the purpose of determining whether the eyewitness identifies the individual as the perpetrator.

## **PROCEDURES:**

### **A. CONDUCTING A SHOW-UP**

1. A show-up should be conducted within a reasonable time frame following the commission of a crime.
2. Determine that the description of the perpetrator closely matches that of the detainee prior to conducting the show-up.
3. Transport the witness separately to the location of the detained suspect to limit the legal impact of the suspect's detention. The person stopped is to be detained for only that reasonable amount of time necessary to complete the procedure.
4. When multiple witnesses are involved, separate the witnesses and instruct them to avoid discussing the details of the incident with one another. Transport the witnesses in separate patrol vehicles so they cannot talk or influence each other.
5. Caution the witness that the person they are looking at may or may not be the perpetrator.
6. Obtain the witnesses' level of confidence for the suspect being the perpetrator.
7. The same detainee must not be presented to the same witness more than once.
8. Detainees must not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator, or to perform other actions of the perpetrator.
9. Officers must avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
10. Officers should document the show-up and the results.

### **B. CONDUCTING PHOTO ARRAY LINE-UP**

1. Preparing the photo array:
  - a. Ensure that witnesses do not discuss the identification procedure with each other. Allow only one witness at a time to view the photo array.
  - b. Include only one suspect photo and five filler photos in each identification procedure.
  - c. Select fillers who match the witness' 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.
  - d. If multiple photos of the suspect are reasonably available to the investigator, select a photo that resembles the suspect description or appearance at the time of the incident.
  - e. When showing a new suspect, avoid reusing the fillers from the other arrays shown to the same witness.
  - f. View the spread, once completed, to ensure that the suspect does not unduly stand out.

- g. Use a blind administration or a blind administrator. For blind administration the administrator can place the suspect photo and the filler photos in separate folders and shuffle the folders (mixing up the order) so that the administrator does not know which folder holds the suspect's photo, or for blind administrator method utilize another police personnel who does not know the identity of the suspect to administer the array.
2. Instructions to witness prior to viewing a photo array:
- a. That they will be asked to view a set of photographs.
  - b. That it is just as important to clear innocent persons from suspicion as to identify guilty parties.
  - c. That individuals depicted in lineup photos may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
  - d. Assure the witness that regardless of whether an identification is made, the police will continue to investigate the incident.
  - e. The witness will be asked to state, in his or her own words, their level of certainty in the selection.
  - f. That the witness is not to discuss the identification procedure or its results with other witnesses involved in the case. Also, discourage them from giving information to the media.
  - g. Confirm that the witness understands the nature of the lineup procedure.
3. Presenting and reporting the results of a photo array:
- a. Avoid saying anything to the witness that may influence the witness' selection.
  - b. Ensure that you are not aware of the suspect's photo location in the array.
  - c. Ensure that no writings or other information concerning previous arrest(s) are visible to the witness.
  - d. Avoid reporting to the witness any information regarding the individual they have selected or any information concerning individuals not selected.
  - e. The photo array and results should be documented in the report.
  - f. Turn the photo array in to the property room as evidence.

## C. CONDUCTING LIVE LINE-UP

1. Preparing live lineups:
- a. Live lineups will not be conducted without prior approval from a Captain or above.
  - b. Ensure the witnesses do not discuss the identification procedure with each other. Allow only one witness at a time to view the lineup.
  - c. Include only one suspect in each identification procedure.
  - d. Select fillers who match the description of the perpetrator provided by the eyewitness and make sure the suspect does not noticeably stand out.
  - e. Consider placing suspects in different positions in each lineup, both across cases and with multiple witnesses

in the same case. Position the suspect randomly unless, where local practice allows, the suspect or the suspect's attorney requests a particular position.

- f. Include a minimum of four fillers (non-suspects) per identification procedure. Identify the fillers in the incident report.
  - g. When showing a new suspect, avoid reusing fillers in lineups shown to the same witness.
  - h. Personnel will utilize a blind administrator to give the lineup.
2. Instructions to witnesses prior to viewing a live lineup:
- a. That they will be asked to view a group of individuals.
  - b. That it is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
  - c. That individuals present in the lineup may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
  - d. That the person who committed the crime may or may not be present in the group of individuals.
  - e. Assure the witness that regardless of whether an identification is made, the department will continue to investigate the incident.
  - f. That the procedure requires the officer to ask the witness to state, in their own words, how certain they are of any identification.
  - g. That the witness is not to discuss the identification procedure or its results with other witnesses involved in the case and discourage contact with the media.
  - h. Confirm that the witness understands the nature of the lineup procedure.
3. Presenting and reporting the results of a live lineup:
- a. The administrator will be a blind administrator, meaning they will not know which individual is the suspect.
  - b. Avoid saying anything to the witness that may influence the witness' selection.
  - c. Ensure that no writings or other information concerning the suspect are visible to the administrator or witness.
  - d. Ensure that any identification actions (e.g., speaking, moving) are performed by all members of the lineup.
  - e. Avoid reporting to the witness any information regarding the individuals.
  - f. Record any identification or non-identification results in the incident report. Include the witness' own words regarding their certainty of an identification.
  - g. Also include in the incident report the names of all persons present at the live lineup and the date, time, and location of the live lineup.
  - h. Use video or audio recording or photography to document the live lineup. This documentation should be of a quality that represents the lineup clearly and fairly. Turn the original photo or video in at a property room as evidence.

**REGULATIONS:**

1. All photo arrays shall be conducted using a blind administration or blind administrator technique.
2. All live lineups will utilize a blind administrator to conduct the lineup.
3. Document the procedures utilized in the incident report.

**REFERENCES:**

Oklahoma state bill 798