


HAVERFORD TOWNSHIP POLICE DEPARTMENT OPERATIONS MANUAL		
Issue Date February 2021	Review Date February 2022	Directive Number 2.9.1
Accreditation Index: 2.9.1a, 2.9.1b, 2.9.1c, 2.9.1d, 2.9.1e, 2.9.1f, 2.9.1g, 2.9.1h, 2.9.1i, 2.9.1j		Rescinds: Directive 2.9.1 of November 2019
Section: Two – Law Enforcement Functions		Chapter: Nine – Eyewitness Identification
Chief of Police: <i>John F. Viola</i>		

SUBJECT: EYEWITNESS IDENTIFICATION

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for the use of eyewitness identifications involving photographic lineups, show ups, and composites.

II. POLICY

It is the policy of the Haverford Township Police Department for officers to maximize the reliability of identifications, minimize unjust accusations against innocent persons, and establish evidence that is reliable and conforms to established legal procedure by following established guidelines to ensure reliable eyewitness identification.

III. DEFINITIONS

Emergency/Exigent Circumstances: emergency circumstances such as when a witness is in danger of imminent death or blindness, or the suspect is in danger of imminent death, and time or location limitations prevent the use of guidelines regarding line ups and show ups. A supervisor and/or an Assistant District Attorney should make the determination if exigent circumstances apply and normal procedures should be disregarded.

Eyewitness: a person whose identification by sight of another person may be relevant in a criminal proceeding.

Filler: a person or photograph of a person who is not suspected of an offense and is included in a lineup.

Independent Administrator: a lineup administrator who is not participating in the investigation of the criminal offense and is unaware of which person in the lineup is the suspect.

Lineup: a photo lineup or physical lineup.

Lineup Administrator: the person who conducts the lineup.

Show Up: a procedure in which a person or group of people is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

Photo Lineup: a procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

Physical Lineup: an identification procedure, in which a group of individuals, including the suspect of the offense and other individuals not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect.

IV. GENERAL RULES FOR EYEWITNESS IDENTIFICATION PROCEDURES

- A. **Avoiding Officer and Witness Suggestion:** 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. 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.
- B. **Multiple Witnesses/Suspects:** Each witness is to view any identification procedure separately. Witnesses shall not be permitted to communicate with each other until all identification procedures are completed, and should be instructed not to discuss their identifications with anyone else. When there are multiple suspects, each identification procedure shall include only one suspect.
- C. **Video and/or Audio Recording:** Whenever practical, officers are encouraged to video and/or audio record any witness identification procedure from start to finish and submit it as evidence.
(PLEAC 2.9.1 e)

- D. **Documentation:** All information regarding any identification procedure shall be documented in the officer's written report, to include:
1. All identification and non-identification results
 2. Confidence or certainty statements made by the witnesses (these should be quoted)
 3. Names of all persons present
 4. Date, time, and location
 5. Names of all persons and/or photos used, and source of the photos.
 6. Any significant remarks made by an officer, lawyer, or suspect.
(PLEAC 2.9.1 j)

V. **CREATING AND CONDUCTING LINEUPS: GENERAL**

- A. Conduct the lineup as soon as possible after the occurrence of the incident
- B. Include only one suspect in each lineup.
- C. The lineup shall be composed so that the fillers generally resemble the eyewitness's description of the perpetrator, while ensuring the suspect does not unduly stand out from the fillers.
- D. Include a minimum of six subjects to include one suspect plus remaining filler subjects of the same race and sex and having a substantial degree of similarity to the suspect and/or matching the description provided by the witness.
(PLEAC 2.9.1 d)
- E. When more than one witness is identifying the suspect, position the suspect randomly in the lineup.
- F. Lineups shall be conducted by an Independent Administrator
(PLEAC 2.9.1 i)
- G. In cases involving multiple victims or witnesses, assure the lineup shall be completed in private by each witness or victim.
(PLEAC 2.9.1 f)
- H. Instructions will be read from the "Eyewitness Identification Instructions" form. The eyewitness shall acknowledge the receipt of the instructions in writing. If the eyewitness refuses to sign, the lineup administrator shall note the refusal of the eyewitness to sign and also sign the acknowledgement.
(PLEAC 2.9.1 g)

- I. If the witness makes a suspect identification, immediately assess the confidence level of the witness and document the witness statement in the incident report.
(PLEAC 2.9.1 h)
- J. Use caution in giving any indication to the witness that the correct suspect has been identified.

VI. PHOTO LINEUPS.

- A. The photo lineup consists of showing a group of similar photographs to a witness either simultaneously or sequentially. In addition to the general information in Section V, the following procedures shall be adhered to when conducting photographic lineups:
 - 1. Create a consistent appearance between the suspect and filler photographs with regard to any unique or unusual features (i.e. scars, tattoos) used to describe the suspect by artificially concealing the feature(s) if necessary.
 - 2. Avoid reusing fillers in lineups when showing photographs of a new suspect to the same witness.
 - 3. Ensure the photographs are either all in color or all in black and white.
 - 4. Have the witness circle the suspect photograph he/she identifies, if any, and write their initials and date next to the photograph.
 - 5. Any and all photo lineups created, viewed, identified, or not identified, must be kept and submitted as evidence.
 - 6. No person has a right to have a lawyer present at any photo lineup whether it takes place before or after an arrest.

VII. PHYSICAL LINEUPS

- A. In addition to the general information provided in Section V, the primary/investigating detective/officer shall be responsible for:
 - 1. Scheduling the physical lineup on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and all witnesses.
 - 2. Fulfill the necessary legal requirement for transfer of the subject to the lineup location should he be incarcerated at a detention center, make timely notice to the detention center concerning the pickup and make arrangements for picking up the prisoner.

3. Make arrangements to have a minimum of five other persons act as “fill-ins” at the lineup who are of the same race, sex, and approximate height, weight, age, and physical appearance and who are similarly clothed.
- B. Conducting the Identification
1. The Independent Administrator conducting the lineup shall:
 - a. Ensure that the prisoner has been informed of his/her right to counsel if formal charges have been made against him/her, and also ensure that he/she has the opportunity to retain counsel or request that one be provided.
 - b. Obtain a written waiver on the Advice of Rights Form should the prisoner waive his/her right to counsel.
 - c. Allow counsel representing the accused sufficient time to confer with his client prior to the lineup and observe but not interfere in the manner in which the lineup is conducted.
 2. Individuals shall be presented to witnesses sequentially, with each individual presented to the witness separately, in a previously determined order, and removed after being viewed before the next individual is presented.
 3. If there are multiple eyewitnesses, the suspect shall be placed in a different position in the lineup for each eyewitness and each eyewitness shall view the lineup independently of other eyewitnesses.
 4. No writings or information concerning any previous arrest, indictment, or conviction of the suspect shall be visible or made know to the eyewitness.
 5. In a live lineup, any identifying actions, such as speech, gestures, or other movements, shall be performed by all lineup participants.

VIII. CONDUCTING SHOW-UPS

- A. An officer may arrange a show-up between a witness and a suspect whenever a potential suspect is located and detained within a reasonable length of time in proximity to the location of the crime and fits the specific description of the perpetrator given by the witness.
(PLEAC 2.9.1 a)

- B. If an officer has reasonable suspicion to detain a suspect under the above circumstances, the officer may use force as reasonably necessary to stop the suspect from leaving, or to cause the suspect to remain in the officer's presence. If probable cause to arrest develops during the detention, an arrest should be made.
- C. **Conducting the Show-Up:** a suspect cannot be detained for longer than a reasonable period of time to confirm or refute the whether the suspect is the perpetrator. When conducting a show-up, officers will use the following guidelines:
1. Officers at the scene and in contact with the witness will obtain a detailed description of the perpetrator before the suspect is shown to the witness. The witness must advise the officers that he/she will be able to recognize the person who committed the crime prior to the show-up.
 2. A suspect should not be taken to the police station for a show-up. The suspect should be detained at the place he/she was located in the least restrictive manner possible that will ensure that the suspect remains with the officer. The witness should be transported to the suspect's location for the show-up. Suspects should not be transported to the witness's location unless exigent circumstances exist.
(PLEAC 2.9.1 b)
 3. When possible, the suspect should not be shown handcuffed or in the back seat of a patrol car. If the suspect is handcuffed, measures will be taken to conceal this fact from the witness when possible. Suspect may not be required to put on clothing worn by the perpetrator. The suspect may be asked to speak words uttered by the perpetrator or perform other actions of the perpetrator. The witness will be advised that the person detained may or may not be the perpetrator and the witness should not feel compelled to make an identification. If the witness makes an identification, do not confirm or corroborate the identification.
(PLEAC 2.9.1 c)
 4. Show-ups should not be conducted with more than one witness present at a time. 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 identification of the suspect. The same suspect should not be presented to the same witness more than once.
 5. The witness confidence will be immediately assessed following the show-up identification. Witness confidence and comments will be noted in the incident report.

6. When there are multiple suspects, the suspects must be separated and subjected to separate show-up procedures.
7. Suspects may be photographed in the field as documentation.
8. In emergency/exigent circumstances, such as when a witness is in imminent danger of death or blindness, or the suspect is in danger of imminent death, and immediate show-up may be arranged. In these situations, time and location limitations may be disregarded. When in doubt, a supervisor and/or an Assistant District Attorney should make the determination to disregard normal procedures.
9. Nothing in these guidelines prohibits the common procedure of transporting a witness in a patrol car to cruise the general area in which a crime has occurred in hope of spotting the perpetrator and arranging a show-up identification procedure.
10. No person has a right to have a lawyer present at any show up procedure.
11. If the detained suspect is not identified by a witness as the perpetrator and the officer lacks any other probable cause for an arrest, the suspect will be released after obtaining basic information.

BY ORDER OF THE CHIEF OF POLICE