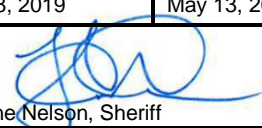




DESCHUTES COUNTY SHERIFF'S OFFICE

Policy Title: Eyewitness Identification	Effective Date: June 28, 2016	Policy Number: 7.41	
Accreditation Reference:	Review Date: June 28, 2019	Supercedes: May 13, 2013	Pages: 4
Attachments:	 L. Shane Nelson, Sheriff		

I. PURPOSE

The purpose of this policy is to provide procedures for obtaining objective results when preparing and conducting photo lineups and showups.

II. POLICY

It is the policy of this agency that eyewitness identifications be conducted in a manner most likely to assess witnesses' true and reliable recollections and in compliance with state and federal constitutional provisions. Notwithstanding the recommendations of this policy, if a deputy believes an alternative method of presentation is appropriate to the investigation, the alternative method may be employed; however, justification for the alternative and a description of the method(s) shall be described in the case reports.

III. DEFINITIONS

Blind Presentation is when the presenter does not know who the suspect is.

Blinded Presentation is the equivalent of a blind presentation, conducted when the presenter knows who the suspect is.

Confidence Statement is a witness' statement, not a scaled assessment, of his confidence that his selection is the suspect; taken immediately after a pick has been made.

Photo Lineup is a presentation of photographs of persons.

Presenter is the deputy presenting a lineup.

Showup is a presentation of a live person in the field that is close in time and proximity to the incident under investigation.

Sequential is a presentation of photographs one at a time, retrieving one photo before presenting another.

Simultaneous is a presentation at the same time of photographs arrayed together, either manually constructed or computer generated.

IV. PHOTO LINEUP

When a photo lineup is used for suspect identification, it is recommended that a blind or blinded, sequential presentation be made; nevertheless, there may be instances when a simultaneous lineup is used. In such instances, the reason(s) for using a simultaneous lineup shall be documented in the case report.

V. DEVELOPMENT OF A PHOTO LINEUP

- A. Deputies should obtain a thorough suspect description from each witness before presenting the photo lineup.
- B. A photo lineup shall consist of no fewer than six photographs, including one of the suspect.
- C. All photos should be similarly sized and none should be easily distinguished from the others.
- D. Filler photographs (not of a suspect) should generally fit the description of the suspect.
- E. When there is limited or insufficient suspect description or when the suspect description differs significantly from the available photograph(s) of the suspect, the filler photographs should resemble the suspect photograph, not the description.
- F. The photos shall be numbered and shall be loose or in individual folders.
- G. When conducting a single lineup for multiple witnesses, the photographs should be renumbered for each witness.

VI. PRESENTATION OF PHOTO LINEUP

A. Instructions to Witnesses

Prior to a presentation, the presenter shall read the witness instructions from the *Eyewitness Identification* form, ensuring and documenting that the witness understands the instructions.

B. Blind Presentation

- 1. In a blind presentation, the identity of the suspect is not known to the presenter.
- 2. The presenter shall present the photos to the witness sequentially, with one photo replacing another so that no two are presented at the same time.
- 3. The presenter shall present each photo to the witness, even if the witness identifies a previous photo as the suspect.
- 4. If the witness requests, the presenter may present the photos again, but each photo must be presented and the photos must be presented sequentially.

C. Blinded Presentation

If the presenter knows who the suspect is, an extra measure should be taken to prevent the presenter from knowing which photo is being shown to the witness.

- 1. The photos shall be placed in identical folders, with the folders shuffled and numbered, and each photo shall be presented such that only the witness can see the photo; the presenter is thus “blinded” to the process and cannot be suggestive.
- 2. The presentation shall continue as in B2-4 above.

D. Post-Presentation, Interview and Documentation

- 1. Following the presentation of a photo lineup, the presenter should avoid any words or actions that might identify the suspect or hinder further investigation.

2. If the witness picked a photo, the presenter shall ask how certain the witness is that the photo is of the suspect and ask why that photo was picked. The witness's response, commonly referred to as a "confidence statement," shall be carefully documented on the *Eyewitness Identification* form and more completely in the case report.
3. The presenter shall ask the witness to affirm the confidence statement on the *Eyewitness Identification* form.
4. Log the photo lineup into evidence.

VII. DOCUMENTATION

- A. Instructions to witnesses shall be read from the *Eyewitness Identification* form. The form shall include the witness' affirmation of his confidence statements.
- B. In addition to documentation in the case report(s) and on *Eyewitness Identification* forms, when it is reasonable and practical presenters should record the presentations.
- C. Lineups, forms, and recordings shall be treated as evidence, with copies of the lineups and forms included in the case file, whether or not the witnesses made identifications.
- D. If a photo lineup is developed electronically, the lineup shall be printed for documentation.
- E. As noted elsewhere in this policy, the reason for any photo presentation other than a blind or blinded sequential photo lineup shall be documented.
- F. See also Post-Presentation Interview and Documentation.

VIII. WITNESSES WITH LIMITED ENGLISH PROFICIENCY

If a witness to a criminal offense does not fluently speak the English language or otherwise has difficulty communicating (e.g., hearing impaired), deputies should make reasonable efforts to arrange for an interpreter before proceeding with an eyewitness identification.

Before the interpreter is permitted to discuss any matter with the witness, the investigating presenter should explain the process that will be utilized to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

IX. DUPLICATION

It is recommended that a suspect or suspect photo not be presented to a witness more than once. If this does occur, the reason(s) why shall be documented in the case report.

X. SHOWUPS

If a photo lineup cannot be conducted because circumstances require the prompt display of a suspect to a witness, i.e., the suspect is detained in the field, a showup will be conducted as follows:

- A. Obtain a thorough description of the suspect from each witness prior to the showup.
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- B.** Ensure all deputies avoid suggestive words or conduct that would influence the witness' statement.
- C.** If possible, avoid unnecessarily tarnishing the suspect with handcuffs, presenting him from the backseat of a patrol car, etc.
- D.** Transport the witness to the suspect, not the suspect to the witness.
- E.** Separate witnesses to avoid communication between them.
- F.** Read the instructions from the *Eyewitness Identification* form, ensuring and documenting that the witness understands the instructions.
- G.** Document the witness' statement on the *Eyewitness Identification* form.
- H.** If possible, record the presentation.