

**CITY OF OCONOMOWOC POLICE DEPARTMENT  
POLICIES & PROCEDURES**

DATE: February 3, 2021

HISTORY: June 14, 2006

SUBJECT: Show-ups, Photographic Line-ups, and  
Facial Composites

POLICY NUMBER: 06-016

**I. PURPOSE**

To establish guidelines for the use of eyewitness identification procedures involving photo arrays, show-ups, and facial composites.

**II. DEFINITIONS**

- A. Show-up: the presentation of one suspect to an eyewitness in a short time frame following the commission of a crime.
- B. Photo Lineup: the showing of multiple photographs (array) to an eyewitness for the purpose of obtaining an identification.
- C. Composite Drawing: the graphic presentation of an eyewitness's memory of a face, as recorded by a composite artist.

**III. GENERAL**

- A. Eyewitness identifications are among the most important methods used to apprehend and convict criminals, subsequently officers must remember to be both fair and reliable to be considered valid.
- B. A suspect photograph or composite drawing shall not be deliberately displayed to more than one witness at a time.
- C. Any witness who has taken part in the identification procedure shall not be permitted to state conclusions within earshot of another person who is about to be, or has been, a viewer.
- D. Actions which suggest the guilt of the suspect to viewers are to be avoided. The witness's recollection unaided by outside influence is paramount to this procedure.
  - 1. Officers shall not by word, gesture, or other means suggest opinions to any witness that the suspect committed the crime.
  - 2. Officers shall not take any action or cause any action to be taken that would unduly assist a witness in making a positive identification.
  - 3. Witnesses making an inquiry about an officer's opinion shall be advised of this restriction.
  - 4. During any presentation, it is acceptable for an officer to inform a witness to keep in mind that things such as hair styles/color, beards, mustaches, etc. can change and that complexion make look slightly different in photographs.
- E. Officers shall ensure that the witness does not write on or mark any materials that will be used in other identification procedures.

- F. Officers shall ensure that no materials indicating previous identification results are available to the witness.
- G. An eyewitness identification procedure may be unnecessary whenever witnesses or victims:
  - 1. Would not be able to recognize the suspect of the offense being investigated.
  - 2. Knew the identity of the suspect before the offense, i.e., personal acquaintance, relative, coworker, neighbor, etc.
  - 3. Learned the identity of the suspect after the offense without law enforcement assistance, i.e., suspect photograph observed in the media.
- H. Photographic presentations shall be conducted by an officer, who does not know the identity of the suspect.

#### **IV. SHOW-UPS**

- A. Some courts have held that the use of show-ups is inherently suggestive. Therefore, the use of show-ups should be secondary to the use of photo arrays. When conducting a show-up, the following should be considered:
  - 1. An officer may use a show-up when the suspect is detained or arrested, matches the description of the suspect, and is located in close proximity in time and location of the offense.
  - 2. If there are multiple witnesses, the show-up should be conducted with one witness at a time.
  - 3. Whenever practical, the witness should be transported to the location of the detained suspect.
    - a. Show-ups should not be conducted at the police station or other law enforcement facility.
  - 4. Prior to viewing the show-up, the witness should be told that the suspect may or may not be the perpetrator.
    - a. The witness should also be told that the accompanying officer does not know if the suspect is the perpetrator or not
  - 5. If possible and safe, have the witness view the suspect
    - a. While the suspect is not restrained by handcuffs
    - b. While the suspect is not being restrained by the officer
    - c. While the suspect is not seated in squad car
  - 6. Avoid any suggestive comments or actions that may suggest to the witness that the suspect is the true perpetrator.
  - 7. If the witness makes an identification, immediately ask the witness to state, in his/her own words, his/her degree of confidence in the identification.
    - a. Do not give any feedback about the identification.
  - 8. The officer should take detailed notes of the witness's description of the suspect prior to the show-up, and statements made by the witness confirming the identification.
- B. If officers plan on making an arrest with or without a show-up, they should conduct a photo array and avoid conducting a show-up.
  - 1. Consideration should be given to the future availability of the witness.

## **V. PHOTO LINEUPS**

### **A. Photo Selection and Arrays**

1. Photos selected for a photo lineup must be significantly similar in general appearance.
  - a. Select fillers (non-suspects) who generally fit the description of the suspect.
  - b. Fillers should resemble the witness's description of the subject's significant features.
    1. Sex, race, age, facial profile, facial hair, etc.
  - c. When there is a limited or inadequate description of the perpetrator provided by the witness, or when the description provided differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features.
  - d. Photographs used in the lineup shall be of a similar nature and composition, i.e., color, size, mug shot, snapshot.
    1. Do not mix mug shots with other styles of photographs.
  - e. View the array when completed to ensure that the suspect does not unduly stand out.
2. Photo arrays should consist of at least five photos
  - a. In the event of multiple suspects, the number of photos should be increased to a minimum of seven.
    1. Officers may also prepare separate photo arrays for each suspect.
3. Begin the photo array with a filler.
  - a. The suspect shall not be positioned as the first photo in the lineup.
4. When presenting the lineup to more than one witness, the placement of the suspect(s) should be changed.
5. If possible, avoid reusing the same fillers in lineups shown to the same witness when showing a new suspect.
6. Ensure that no writings or information concerning previous arrest(s) will be visible to the witness.
7. Preserve/record the order of the lineup for each presentation made.

### **B. Double Blind Procedure**

1. Whenever possible, photographic presentations shall be conducted by an officer, who does not know the actual identity of the suspect.

### **C. Photographic lineups shall be presented to the witness sequentially, that is showing one photograph at a time to each viewer rather than simultaneously.**

### **D. Witnesses shall be provided with the following instructions prior to viewing a photo array:**

1. The suspect may or may not be among those in the photo array, and they should not be compelled to make an identification.
2. Photos are to be viewed one at a time.
3. The photos are in random order.
4. Take as much time as needed in deciding about each photo before moving on to the next one.
5. The investigation will continue even if an identification is not made.

6. All photos will be viewed, even if an identification is made prior to viewing all of the photographs.
  7. Officers shall ensure that witnesses are provided with the same instructions concerning the identification procedure.
- E. Confirm that the witness understands the procedure and begin to present the photographs to the witness one at a time.
  - F. Avoid any actions or statements that may influence the witness's selection in any way.
  - G. After completing the photo array, the witness may view the photos for a second time.
    1. If the suspect is identified in the second viewing, it should be noted in the officer's report.
  - H. If the witness selects a suspect, have the witness initial, date and time the photograph.
    1. If the photo array is going to be shown to additional victims, it will be necessary to replace the marked photograph.
  - I. If an identification is made, avoid saying anything to the witness concerning their selection until they have completed a written statement.
  - J. Instruct the witness not to discuss the identification procedure, or its results with other witnesses involved in the case and discourage contact with the media.
  - K. When completed, all photo arrays shall be processed as evidence.

## **VI. FACIAL COMPOSITES**

- A. Facial composites can be used if there is an eyewitness description, but there is:
  1. No specific suspect
  2. No visual likeness of a known suspect.
- B. Prior authorization for a composite drawing must be obtained from the Chief of Police or his designee.

## **VII. DOCUMENTATION**

- A. A written statement should be obtained from a witness involved in a show-up or lineup identification.
  1. The signed statement should include, in the witness's own words, how certain they feel about the individual they have identified as the suspect.
- B. A completed record of each identification procedure will be made.
- C. Show-ups
  1. Officers shall note in their incident or supplement report the following:
    - a. The time, location, and identity of those present (including persons viewed other than the suspect).
    - b. Statements made by a witness viewing the show-up.
    - c. Any pertinent remarks made by an officer, attorney, or the suspect.

D. Lineups

1. Officers shall note in their incident or supplement report the following:
  - a. Identification and source of all photos used.
  - b. Names of all persons present at the photo lineup.
  - c. Dated and time of presentation.

**VIII. EXCEPTIONS TO THIS POLICY MAY BE AUTHORIZED ONLY BY THE CHIEF OF POLICE**

This policy is effective immediately  
and will supersede any directives or understandings in conflict