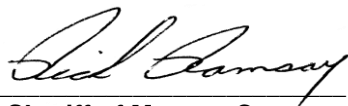


# MONROE COUNTY SHERIFF'S OFFICE

## General Order

<b>CHAPTER:</b> 034-E	<b>TITLE:</b> Show-Up/Photo Line-Up/Physical Line-Up	
<b>EFFECTIVE DATE:</b> November 23, 2010	<b>NO. PAGES:</b> 13	<b>REVIEWED/REVISED:</b> November 29, 2022
 <b>Sheriff of Monroe County</b>	<b>RESCINDS:</b>	

- I. **PURPOSE:** The purpose of this directive is to provide guidelines for preparing non-suggestive show-ups and lineups for the purposes of eyewitness identification or elimination of a suspect involved in an investigation [F.S. 92.70]. A show-up/line-up will be conducted in such a way that a witness in the case is not subjected to suggestive methods in order to ensure reliable and accurate identifications. All members must follow this policy when conducting a show-up/line-up.

Sworn members will be instructed in this policy initially through field training and periodically through refresher training. Sworn members will review and acknowledge that they understand the agency's policy regarding eyewitness identification.

II. **DEFINITIONS:**

**Show-up:** A single suspect viewed by a victim or witness immediately following the commission of a crime (within two hours) for the purpose of identifying or eliminating the suspect as the perpetrator.

**Line up:** Any procedure in which a witness to a crime or other incident is asked to identify a suspect from among a grouping of individuals.

**Photo Lineup:** A lineup in which a minimum of six photographs of individuals with similar features are presented to a victim or witness in order to eliminate or confirm the identity of a suspect.

**Physical Lineup:** A lineup of individuals often used when a suspect has not been identified but may be in custody.

**Fillers:** Individuals or photographs of individuals that resemble the suspect that are used to fill in a lineup. A minimum of five (5) fillers will be used with any simultaneous or sequential lineup. Individuals who are suspects in the same case may not be used as fillers.

**Sequential Lineup:** A photo lineup in which persons are presented to the witness one at a time, rather than in any sort of grouping.

**Simultaneous Lineup:** A photo lineup in which persons are presented to the witness at the same time, in a group.

**Live Lineup:** Live presentation of individuals, before an eyewitness, for the purpose of identifying or eliminating suspects. Live lineups may present the persons in the lineup simultaneously, or sequentially. Live lineups are sometimes called "physical lineups."

**Photo Array:** The group of photographs utilized in a photographic lineup. A photo array may be presented to the witness simultaneously or sequentially. The process of conducting a photographic lineup is often called the “photo array.”

**Functional Equivalent Procedures:** Procedures utilized when an Independent Administrator is not utilized, permitting the investigator to conduct a sequential photographic lineup in a manner that precludes him or her from knowing when the suspect is presented to the witness.

**Independent Administrator:** An investigator administering a line-up or photo array who has no knowledge of the suspect’s identity. (Sometimes referred to as a “Blind Administrator”).

**Blank Photo:** A sheet of paper the same size as the photos utilized in the photo line-up that is blank, with no photo showing. (Blank photos are utilized in sequential photo line-ups.)

### III. **SHOW-UP PROCEDURES**

- A. A show-up occurs when law enforcement officials show one suspect to one witness for the purpose of eyewitness identification within two hours of the incident. Courts recognize that show-up procedures can be suggestive but acknowledge show-ups have benefits for both public safety and innocent suspects.
- B. In situations in which law enforcement lacks probable cause to arrest but has temporarily detained a suspect who matches a general eyewitness description, show-ups allow law enforcement to conduct an eyewitness identification procedure rather than simply releasing a potentially guilty perpetrator.
- C. Show-ups benefit innocent suspects because they have the potential to immediately clear an innocent person from suspicion without suffering the indignity of arrest or further investigation. This procedure normally takes place during the preliminary investigation by the Uniform Patrol Division.
- D. The following procedures are designed to address those risks and outline the proper use of show-ups. The procedures apply regardless of whether other practices would be legally permissible. For instance, even if a given suspect consents to a show-up, a show-up still should not be conducted unless the investigating officer decides that the exigencies of the situation outweigh any possible risk of misidentification presented by conducting a show-up. Consent may legally authorize law enforcement to detain a suspect for a show-up, but it does nothing to remove the suggestiveness of the procedure.
  - 1. Prepare for the Show-up
    - a. Before the show-up is conducted, obtain a detailed description of the perpetrator from the witness. This description should be carefully documented.
    - b. Location of Suspect – The victim/witness shall be transported to the detained suspect (as opposed to transporting the suspect to the witness) to limit the potential legal impact of the suspect’s detention and to minimize the influence on the witness of seeing the suspect transported under custody.
    - c. Show ups should NOT be conducted at the district office or other law enforcement building or while the suspect is seated in a patrol vehicle.
  - 2. Conduct the Show-up: Review Show-Up Instructions with witness (form located in Outlook/Public Folders and at the end of this chapter). After reading the instructions, witness(es) will be asked to sign and date the instruction sheet. Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.

- a. Present the Suspect – If possible and safe, have the witness view the suspect while the suspect is not restrained by handcuffs and while the suspect is not seated in a patrol car. When circumstances dictate that the suspect must be controlled and/or separated from the witness, take practical steps to minimize the suggestiveness of the procedure. The suspect may be asked to speak words uttered by the perpetrator or to perform other actions of the perpetrator.
  - b. Avoid suggestive words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
  - c. Question the Witness: - After the witness views the suspect, ask the witness, “Is this the person you saw [insert crime or description of act]?” If the witness answers “Yes,” ask the witness, “In your own words, can you describe how certain you are?” Note: Percentages are in keeping with this Order, however, additional descriptors are good.
3. Document the Witness’s Responses: Document the witness’s response to each question using the witnesses’ own words when possible. Audio/Video equipment should be utilized if available. If the witness identifies a suspect, the officer will not provide the witness any feedback regarding the individual selected or comment on the outcome of the procedure in any way. After identification, a follow-up interview should assess any relevant factors used by the witness in making the identification, such as; special facial features, hair, marks, etc.
4. Document Procedures and Results
  - a. Witness provides Sworn Statement: Once the procedure is completed, have the witness provide a sworn statement indicating who was identified and their level of certainty. Complete a supplement report detailing the date, time and location of show-up along with names of people present.
  - b. Photograph the suspect: Whenever possible, photograph the suspect at the time of the show-up.
5. Multiple Witnesses. Show-ups should not be conducted with more than one witness present at a time. If there are multiple witnesses and one witness makes an identification during a show-up, that identification should provide probable cause for an arrest, and the remaining witnesses should ordinarily be shown a photo lineup rather than a show-up.
6. Multiple Show-ups with Same Suspect and Same Witness. Avoid multiple identification procedures in which the same witness views the same suspect more than once. Should you decide to do more than one identification procedure you are likely to be called upon to clarify and/or justify the action.
7. Multiple-Suspects – If there are two suspects, the witness should view two separate show-ups, each conducted in accordance with these procedures. Two or more suspects should not be shown to the witness at the same time.

#### **IV. PHOTO ARRAY/LINEUP PROCEDURES**

- A. A photo lineup is the structured presentation of photographs for the purpose of identifying or eliminating the suspect as the perpetrator. Photo lineup is the preferred method of conducting a lineup for suspect identification or elimination. Line-ups will be conducted by an independent administrator. If one is not available, an alternative method will be used as outlined in FSS 92.70. [CFA 15.13 b,c] When composing a photo lineup, the following procedures will be followed:

1. The photo lineup will consist of a minimum of six photographs. A minimum of five filler photos shall be utilized together with only one photo of the suspect.
2. All photos and blanks used in a simultaneous photo array will be numbered.
3. Filler photographs used for photographic arrays shall be representative of the physical characteristics of the suspect in question in order to promote a fair and unbiased review by the witness.
4. The filler photo shall be used in the lead photo position in a simultaneous photographic lineup and in sequential photographic lineups administered by an independent administrator.
5. The investigating officer will ensure that no writings or information concerning previous arrests or identifications will be visible to the witness on any lineup.
6. All photos should be contemporary photographs of individuals who are reasonably similar in age, height, weight, and general appearance and are of the same sex and race in accordance with the witness's description of the subject.
7. Do not mix color and black and white photos. Use photos of the same size and basic composition.
8. Do not mix mug shot photos with other photos.
9. Do not include more than one photo of the same suspect.
10. Cover or crop any portion of a mug shot or other photo that provides identifying information on the subject or other persons included in the photographic lineup
11. The investigating officer will view the lineup once it is completed to ensure that the suspect does not unduly stand out and appears only once in the lineup.

**B. Photo lineup Instructions:**

1. The independent administrator will advise the witness that they will be asked to view a group of photographs and advise them that the person of interest may or may not be present in the photo lineup.
2. The witness will be instructed that the photos are not in any particular order and that they can take as much time as they need to examine the photos.
3. Advise the witness that it is as important to eliminate innocent parties from consideration as it is to identify the perpetrator.
4. The independent administrator will advise the witness that individuals presented in these photographs may not appear exactly as they did on the date of incident because features such as hairstyles, beards and mustaches are subject to change and that complexions may look slightly different in photographs.
5. The witness should be notified that they should not feel they have to make an identification and that they can take as much time as needed to view the photographs. If the witness identifies someone, the independent administrator will advise the witness that they will document the witness's exact words regarding the identification.
6. The witness will be advised that the investigation will continue with or without an identification by them.

7. Instruct the witness not to discuss the lineup or its results with other witnesses and will discourage the witness from discussing the case with the media.
8. Each witness will acknowledge they received a copy of the line-up instructions.
9. If there are two suspects from the same offense, do not use the same fillers used in previous lineups shown to the same witness.

**C. Sequential Photo Array/Lineup**

1. In extenuating circumstances, a sequential lineup may be authorized by the Division Commander or Detective Sergeant. Regardless of the method used, the procedures established for photo array/lineup will be followed.
2. Once instructions have been read and acknowledged by the witness, the investigating officer will show the witness all of the photographs in the lineup, even if the witness makes an identification early in the process.
3. Only if the witness makes the request, the entire photo array may be repeated once but must be in the same sequence as originally presented. The entire sequence will be presented even if the witness requests to see only one of a few photos.
4. If the sequential photo lineup is administered by an independent administrator, at least two blank photos should be introduced following the sixth photo. This prevents the witness from knowing he or she has viewed the last actual photo.
5. If an Independent Administrator is not utilized in a sequential photo array, blank photos shall be included in the group by placing the suspect and filler photos in folders. The investigating officer will include two blank photos for a minimum of eight folders and shuffle the folders before giving them to the witness.
6. The investigator administering the photo lineup shall position themselves away from the witness and in a position that he or she cannot see inside the folders as they are viewed by the witness.
7. When a sequential photo array is not presented by an independent administrator, the photos and blanks should not be numbered until after the folders have been shuffled and the witness has been presented the sequence.
8. If the nature of the photographs will not allow for a simultaneous presentation and an independent administrator is not used, the investigating officer may present the sequential lineup and must exercise extreme caution to avoid inadvertent signaling to the witness of the "correct" response.
9. In a sequential photo array/lineup, the witness should not only mark the "identification" photo as the one selected, but also initial the other photos used, indicating he/she did not pick them. This makes it clear which photos were actually viewed by the witness.

**D. Multiple Witnesses**

1. If multiple witnesses are involved, a photographic lineup shall be presented to only one witness at a time.

2. If multiple witnesses are being presented a lineup at generally the same time and place, they shall be kept separate to assure that they are not aware of the responses of the other witnesses and do not have an opportunity to discuss the lineup procedure.
3. Suspects should be placed in different positions in each lineup, both across cases and with multiple witnesses in the same case.
4. When the Functional Equivalent Procedure is used in a sequential photographic lineup, placement of the suspect will be random in each lineup by reason of shuffling of the folders.

**E. Investigator Responsibilities:**

1. Whenever practicable, the lineup presentation should be audio or video recorded. Video recording is preferred.
2. A witness instruction form will be read aloud to the witness and the witness will be asked to sign the form acknowledging how the lineup will be administered. If extenuating circumstances exist where a variance in the instruction process exists, the investigating officer is required to document the reasons for variance.
3. Prior to beginning the review, the investigating officer will ask the witness if they understand how the procedure will be conducted and if they have any questions. No additional commentary shall be made by the investigating officer/administrator beyond reading the standardized instructions.
4. Whenever practicable, the investigating officer will use an independent administrator to conduct the photo array or live lineup. The independent administrator shall include a statement in the instructions that the administrator does not know whether the person being investigated is included in the group to be viewed.
5. Once instructions for the lineup are given, the investigating officer should position themselves away from the witness's immediate vicinity and away from the witness's direct line of sight. This helps to minimize the opportunity for inadvertent behavior that might influence the witness's decision and provides the witness with a more relaxed opportunity to view the lineup.
6. The witness may look at the lineup for as long as the witness wishes; however, the investigating officer may not provide any feedback regarding the photographs.
7. After the witness has had an opportunity to view the photo lineup, the investigating officer will ask if they recognize anyone and if so, the circumstances from which the witness recognizes the individual.
8. If the witness identifies a suspect, the independent administrator shall avoid inadvertent signaling to the witness either verbally or via body language of the "correct" response.
9. If the witness identifies anyone in the lineup, the witness will be asked to put their initials next to or on the photograph, indicating the individual they identified. The witness should complete any portions of the witness form.
10. For proper and accurate presentation in future court proceedings, the investigating officer will document all lineup procedures on a supplement report, including the source of the photos used, the date and time the lineup was conducted, the names of all persons present when the lineup was shown, the level of certainty expressed by the witness and any comment made by the witness during the entire process shall be carefully documented word-for-word. Any non-verbal communication or action of the witness shall also be documented.

11. If a witness makes a positive identification, the original lineup will be entered into evidence and a copy maintained with the case file. If positive identification was not made, the lineup will be maintained with the case file.

12. The entire photo array, all forms utilized, together with the documentation about the process shall be maintained in the investigative case file.

**V. PHYSICAL LINEUP:** The Monroe County Sheriff's Office does not routinely conduct physical lineups. In the event that the need for a physical lineup would occur, the photo lineup procedures set forth above will be followed and the physical lineup will be coordinated with the Detective Sergeant of the member's command. All physical lineups will be conducted in accordance with legal guidelines and case law.

**MONROE COUNTY SHERIFF'S OFFICE**  
**Photo Line-ups: Instructions**

**Case Number:** \_\_\_\_\_

**Line-up ID#** \_\_\_\_\_

**NAME OF WITNESS:** \_\_\_\_\_

**Type of photo-line up:** ☐ Simultaneous ☐ Sequential

☐ All photographs shown once

☐ All photographs shown twice

**Person administering the photo line-up:**

☐ Independent Administrator (does not know the identity of the suspect; the preferred method)

Name: \_\_\_\_\_

☐ Investigating Officer (knows the identity of suspect; must use the functional equivalent procedure)

Name: \_\_\_\_\_

**Instructions (read BEFORE showing photo array):**

*If a simultaneous or sequential photo array is being utilized by an investigator/officer who DOES know identity of the suspect, the Functional Equivalent Procedure (FEP) **shall** be used.*

One of 4 different witness photo array forms will be used: 1) Simultaneous photo line-up with independent administrator, 2) Sequential photo line-up with independent administrator, 3) Simultaneous photo line-up using the functional equivalent procedure, and 4) Sequential photo line-up using the functional equivalent procedure.

Make certain you are using the proper form. Fill out the case information at the top of the form. Verbally read the instructions to the witness. Have the witness read the instructions and write their initials at the bottom of the instructions. Their initials merely acknowledge that they understand the directions.

In sequential photo displays, show the photos one at a time.

In simultaneous photo displays, present the folder to witness and display the entire photo array at one time.

In a sequential display, after all photos have been displayed and *ONLY* if the witness requests it, the entire display may be repeated **once**. In any repeat, ALL photos must be displayed in the same sequence, even if the witness only requests to see only one or a few photos again.

**During the process, avoid using statements, clues, casual comments or providing unnecessary or irrelevant information that in any manner may influence the witness's decision-making process or perception. This includes after-the-fact confirmation to a witness that he or she identified the suspect.) Be careful not to provide any feedback to a witness indicating the witness has, or has not, identified the suspect.**

During the process, document the witness's exact words, and note any non-verbal communication.

Ask the witness to complete the witness portion of the photo array form and sign it. If any selection is made, have the witness sign, date, and designate the photo selected. Have the witness initial and date the other photos and indicate not selected.

If the witness makes an identification, the original photo array must be entered into evidence. A copy of the photo array, this instruction form and the photo array form must be maintained in the case file.

After the witness has completed the witness portion of the photo array form, complete the administrator portion of the form. A separate investigative report or supplement report must be completed pursuant to agency requirements.



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

**Read to witness before the photo line-up and then the witness read and initial below:**

1. You will be asked to view a series of photos of individuals.
2. It is just as important to clear innocent persons from suspicion as to identify guilty parties.
3. The suspect may or may not be present in the group of photographs.
4. Individuals presented in the series 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.
5. You should not feel you have to make an identification. If you do identify someone, I will have you designate the photograph of the person you have identified.
6. Regardless of whether you make an identification, we will continue to investigate the incident.
7. The photos will be shown to you one at a time and are not in any particular order. I do not know the order of the photos. There are some blank photos in the series. This is part of the normal process. Take as much time as you need to examine each photo. If you make an identification, I will continue to show you the remaining photos in the series.
8. Since this is an ongoing investigation, you should not discuss the identification procedures or results.

**Initial here if you understand the above instructions:**

**Have the witness complete this portion AFTER viewing the photo line-up.**

The photo line-up I was shown consisted of \_\_\_\_\_ photos.

Check **one** of the boxes:

☐ I am unable to select any photo as being the person who\_\_\_\_\_

(describe how, why, or where you witnessed the incident. For example, robbed the store)

☐ I have selected photo # \_\_\_\_\_ as the person who \_\_\_\_\_

(describe how, why, or where you witnessed the incident. For example, robbed the store)

Witness signature \_\_\_\_\_

Date \_\_\_\_\_

Signature witnessed by:

---

Person administering photo line-up

Date \_\_\_\_\_



**OFFENSE NUMBER:**\_\_\_\_\_

**MONROE COUNTY SHERIFF'S OFFICE**  
**Show-ups: Instructions and witness admonition**

In a moment you are going to have the opportunity to view a person or persons who may or may not be the person(s) who committed the crime being investigated.

You should not guess or feel like you have to make identification. It is just as important to exclude innocent persons, as it is to identify the person who committed the crime. This procedure is important to the investigation whether or not you identify someone.

After you have observed the individual, I will ask you:

- “Do you see the person(s) who [*Insert Crime or description of act*]?” Take your time answering the question.
- If you answer “Yes”, I will then ask you, “In your own words, can you describe how certain you are?”

Because you are involved in an ongoing investigation, in order to prevent compromising the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way this procedure will be conducted and the other instructions I have given you?

The following statement should be signed and dated by the witness.

“I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to observe the individual who will be presented to me, and I will follow the instructions provided on this form.”

Witnesses Signature \_\_\_\_\_ Date \_\_\_\_\_

Investigator Signature /ID Date

*If a witness declines to sign, write refused on the signature line, documenting that the witness was appropriately instructed.*

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

**Date:**\_\_\_\_\_ **Time:**\_\_\_\_\_ **Display ID#**\_\_\_\_\_

1. You will be asked to view a group of photos of individuals.
2. It is just as important to clear innocent persons from suspicion as to identify guilty parties.
3. The suspect may or may not be present in the group of photographs.
4. Individuals presented in the group 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.
5. You should not feel you have to make an identification. If you do identify someone, I will have you designate the photograph of the person you have identified.
6. Regardless of whether you make an identification, we will continue to investigate the incident.
7. The photos will be shown to you simultaneously and are not in any particular order. Take as much time as you need to examine the photos
8. Since this is an ongoing investigation, you should not discuss the identification procedures or results.

**Initial here if you understand the above instructions:** \_\_\_\_\_

**Have the witness complete this portion AFTER viewing the photo line-up.**

The photo line-up I was shown consisted of \_\_\_\_\_ photos.

Check **one** of the boxes:

☐ I am unable to select any photo as being the person who \_\_\_\_\_

(describe how, why, or where you witnessed the incident. For example, robbed the store)

☐ I have selected photo # \_\_\_\_\_ as the person who \_\_\_\_\_

(describe how, why, or where you witnessed the incident. For example, robbed the store)

Witness signature \_\_\_\_\_

Date \_\_\_\_\_

Signature witnessed by:

Person administering photo line-up

Date \_\_\_\_\_

