

# SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 91.3

## LINE-UP PROTOCOL

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### **91.3.1 Introduction**

Valid eyewitness identifications are crucial to solving crimes and convicting criminals. Law enforcement agencies nationwide and the U.S. Department of Justice are always looking to improve the process of obtaining reliable identification. There are two small but significant changes that add reliability to the eyewitness identification process. Complying with these new procedures will ensure better results. It will mean more guilty people are properly identified. Failure to comply with these new procedures will make even good identifications more likely to be rejected in court.

First, ideally, the officer conducting any photo or live line-up should not know the identity of the suspect; the officer who doesn't know the suspect from the fillers cannot influence the process. Second, line-ups will be conducted sequentially and not simultaneously. The officer will show the witness only one photo or one person at a time.

### **91.3.2 Protocol**

Continue applying current protocol for eyewitness identification with the following two exceptions.

One, wherever possible, the officer conducting a line-up should not know the identity of the suspect. It is recognized that in some cases this will simply not be possible because no other appropriate officer is available. In these cases, the investigating officer can conduct the line-up using extreme care not to communicate the identification of the suspect in any way. While it is not fatal to a case for the investigating officer to conduct his or her own line-up, the case will be stronger and less vulnerable to courtroom second-guessing if it is done by an officer who does not know the identity of the suspect.

Therefore, wherever possible, an officer who does not know the identity of the suspect should conduct the interview.

Two, in all cases, show the witness the photos or persons comprising the line-up *sequentially* not *simultaneously*.

#### Conducting a Sequential Line-Up:

First, comport with current training and policies concerning line-ups while making the following changes.

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Second, assemble the suspect or suspect's photo and at least five fillers in the normal manner. If it is a live line-up then secure the suspect and at least five fillers in the normal manner. Make sure the witness cannot see either the suspect or the fillers. Arrange the six in random order. Record this order. Third, admonish the witness in compliance with current training and policies:

- He/she will be asked to view a set of individual photographs.
- It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
- Individuals may not appear exactly as they did on the date of the incident as head and facial hair are subject to change.
- The person who committed the crime may or may not be shown.
- Assure the witness that regardless of whether an identification is made, the police will continue to investigate the incident.
- The procedure requires that the investigator ask the witness to state, in his or her own words, how certain he or she is of any identification.
- In addition, instruct the witness that:
- Photos/persons will be viewed one at a time.
- Photos/persons will be presented in random order.
- The witness may take as much time as needed in making a decision about each person before moving on to the next one.
- The witness should identify the person who committed the crime, if present.
- All persons will be presented, even if an identification is made.
- If the witness wishes to view the photos/persons again, he or she may do so.

Fourth, conduct the sequential line-up as follows (use of our 'Sequential Line-Up Report Form' is encouraged):

- Confirm that the witness understands the nature of the sequential procedure.
- Present each photo/person to the witness separately in a previously determined and random order.
- Remove each photo/person before presenting the next one.
- Record both positive identification and non-identification results in writing, including the witness' own words regarding how sure he/she is.
- Ask the witness to sign and date the results.
- Document, in writing, the lineup procedure, including:
- Identification information and source of all photos/persons used;
- Names of all persons present at the lineup;
- Date and time of procedure.