

CHIEF OF DETECTIVES

NOTICE
8.6

November 22, 2019

TO: All Concerned Personnel

FROM: Chief of Detectives

SUBJECT: PHOTOGRAPHIC IDENTIFICATION OF A SUSPECT

PURPOSE: The purpose of this Notice is to establish and implement additional photographic line-up procedures necessary to comply with the newly adopted California Penal Code Section 859.7.

BACKGROUND: On September 30, 2018, California Senate Bill No. 923 was approved. This Bill added California Penal Code Section 859.7. This Bill requires all law enforcement agencies to adopt regulations for conducting photographic line-ups and live line-ups with eyewitnesses, commencing on January 1, 2020.

Note: This Bill does not affect existing Department field show-up procedures.

This Notice revises the photographic line-up policies and procedures outlined in the Department Manual Section 4/738.05, "Photographic Identification of a Suspect," and updates the Photographic Identification Report (Form 15.50.04), and the Photographic Show-up Admonition, to comply with the new law.

Live line-ups for adult suspects will continue to be conducted by Robbery-Homicide Division, as outlined in 4/735.05, "Scheduling and Location of Formal Show-Ups for Adult Suspects." Robbery-Homicide Division will adapt changes to the live line-up procedures that will adhere to the standards set forth by PC 859.7.

Juvenile live line-up guidelines are set forth in Chapter 12 of the Juvenile Manual and are the responsibility of the LAPD Court Liaison Officer. The Court Liaison Officer shall adhere to the standards set forth by PC 859.7.

Note: Non-investigative sworn personnel should seek the advice of a detective prior to showing a photographic line-up.

For the purposes of this Notice, the following definitions apply:

- **Blind administration** means the administrator of an eyewitness identification procedure does not know the identity of the suspect.

- **Blinded administration** means the administrator of an eyewitness identification procedure may know the identity of the suspect, but does not know where the suspect's photograph has been placed or positioned in the identification procedure.
- **Line-up administrator** means any sworn member of the Department assigned the task of showing a photographic line-up.

PROCEDURE: In addition to existing Department photographic line-up procedures, the following additional requirements must be met when conducting a photographic line-up.

The employee conducting the identification procedure shall use a **blind administration** or a **blinded administration**.

Although a blind administration is the preferred method to be used when conducting a photographic line-up, a blinded administration of photographic line-ups may be appropriate in certain cases. Two examples in which a blinded administration may be appropriate include:

- When the eyewitness has been so traumatized by the events of a crime, that the introduction of another investigator to conduct the blind administration may cause unreasonable emotional hardship to the eyewitness.
- The eyewitness refuses to meet with another sworn member to conduct a photographic line-up using blind administration.

Note: In the event that a blind administration is not used, the investigator shall state in writing the reason the presentation of the photographic line-up was not conducted using blind administration.

I. BLIND ADMINISTRATION

INVESTIGATING OFFICER'S RESPONSIBILITIES. An investigating officer who intends to conduct a photographic line-up using a blind administration shall:

- Obtain the suspect's photograph. If practicable, the photograph should resemble his or her appearance at the time of the offense and not unduly stand out;
- Assemble a photographic line-up containing the photograph of the suspect and five others that generally fit the eyewitness' description of the suspect;
- Only one suspected perpetrator shall be included in any identification procedure;
- Redact, or otherwise remove, all markings such as dates or booking numbers;
- Assemble the six photographs on a sheet of paper or print individual photographs, numbered one through six;
- A separate copy of the line-up should be made for each eyewitness participating in the photographic line-up;

- Use a sworn member of the Department that does not know the identity or placement of the suspect to act as the Line-up Administrator;
- Attempt to obtain facts to corroborate an identification made by an eyewitness.

LINE-UP ADMINISTRATOR'S RESPONSIBILITIES. Any sworn member of the Department assigned the task of showing a photographic line-up shall:

- Ensure the suspect and the position of the suspect's photograph is not known to him/her;
- Separate all eyewitnesses taking part in the identification procedure;
- Record the procedure;
 - An electronic recording shall be made that includes both audio and visual representations of the identification procedures;
 - Whether it is feasible to make a recording with both audio and visual representations shall be determined on a case-by-case basis;
 - When it is not feasible to make a recording with both audio and visual representations, audio recording may be used;
 - When audio recording without video recording is used, the investigator shall state in writing the reason that video recording was not feasible;
- Read the Photographic Show-up Admonition printed on the Photographic Identification Report, Form 15.50.04, to the eyewitness;
- Have the witness sign the admonition acknowledgement;
- Show the photographic line-up to the eyewitness;
- Nothing shall be said to the eyewitness that might influence the eyewitness' identification of the suspect;
- If the eyewitness identifies a person he or she believes to be the suspect, all of the following shall apply:
 - Direct the eyewitness to circle the specific photograph, initial the photographic line-up and record the date and time;
 - Direct the eyewitness to write comments regarding his/her identification in the Statement of Witness portion of the Photographic Identification Report;
 - Direct the eyewitness to sign the Photographic Identification Report and record the date and time;
 - Immediately inquire as to the eyewitness' confidence level of the identification and record in writing, verbatim, what the eyewitness says;
 - Information concerning the identified person shall not be given to the eyewitness prior to obtaining the eyewitness' statement of confidence level and documenting the exact words of the eyewitness;
 - The sworn member of the Department shall not validate or invalidate the eyewitness' identification.

II. BLINDED ADMINISTRATION

INVESTIGATING OFFICER'S RESPONSIBILITIES. An investigating officer who intends to show a photographic line-up through a blinded administration shall:

- State in writing why the presentation of the photographic line-up was not conducted using a blind administration;
- Use another sworn employee to assemble the photographic line-up and place it in a sealed envelope;
- Not know the position of the suspect prior to showing the photographic line-up;
- Continue with the line-up administrator's procedures, as described above;
- Present the eyewitness with the sealed envelope containing the photographic line-up.

Note: The Investigating Officer should make reasonable efforts to avoid viewing the photographic line-up until the eyewitness has finished viewing the photographic line-up.

III. COMMANDING OFFICER'S RESPONSIBILITY. Commanding Officers whose personnel conduct a photographic procedure shall be responsible for compliance with this Notice.

Should you have any questions regarding this Notice, please contact, Robbery-Homicide Division at (213) 486-6840.

APPROVED:



KRIS E. PITCHER, Deputy Chief
Chief of Detectives



BOB GREEN, Deputy Chief
Chief of Staff
Office of the Chief of Police

Attachment

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