

HONOLULU POLICE DEPARTMENT

POLICY LAW ENFORCEMENT OPERATIONS

February 2, 2015

Policy Number 4.30

FIELD SHOWUPS, FIELD LINEUPS, PHOTOGRAPHIC LINEUPS, AND PHYSICAL LINEUPS

POLICY

Officers of the Honolulu Police Department (HPD) shall be guided by this directive when conducting field showups, field lineups, photographic lineups, and physical lineups.

PROCEDURE

I. DEFINITIONS

- A. Blind lineup: A photographic-lineup procedure where the lineup administrator has no knowledge of which person in the lineup is the suspect.
- B. Blinded lineup: A photographic-lineup procedure where the lineup administrator knows the identity of the suspect but does not know the order of the photographs being viewed by the witness.
- C. Field lineup: An investigative technique in the field used shortly after a crime has occurred. This involves arranging a number of individuals (including fillers) in a row for a live presentation for the purpose of identifying if any of the individuals committed the crime.
- D. Field showup: An investigative technique in the field used shortly after a crime has occurred. This involves the live presentation of an individual to a victim or witness for the purpose of confirming or eliminating the person as someone involved in the commission of the crime.
- E. Fillers: Individuals who are not suspected of the crime but who are used to fill out the remaining spots in a lineup.

PUBLIC VERSION

Security procedures and information redacted pursuant to HRS Section 92F-13(3).

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- F. Lineup administrator: A sworn officer of the HPD overseeing or conducting a witness identification procedure.
- G. Photographic lineup packet: A packet consisting of six photographs on separate pieces of paper placed in separate folders.
- H. Physical lineup: A criminal investigation technique utilized by investigators pursuant to a formal investigation. This process involves presenting a number of individuals (including fillers) for identification to a victim or witness in a structured setting.
- I. Sequential lineup: A method of photographic lineup administration where photographs are shown to the victim/witness one at a time, with an independent decision on each, before the next photograph is shown.

II. WITNESS STATEMENTS

- A. It is important that the officer take a full and detailed statement from the witness as to how the suspect was originally seen. The U.S. Supreme Court has held that even though an illegal lineup has been held, the witness may still make a valid, in-court identification if it can be shown by the prosecution that the identification made by the witness is the result of the original view of the suspect and was not the result of the illegal lineup.
- B. For this reason, the officer should question the witness carefully and document the:
 - 1. Opportunity of the witness to view the suspect at the time of the crime (length of time, lighting conditions, and distance);
 - 2. Witness' degree of attention during the crime;
 - 3. Similarity between the witness' description of the suspect who committed the crime and the person being viewed;

4. Degree of certainty demonstrated by the witness at the showup/lineup; and
 5. Date and time of the showup/lineup.
- C. Under no circumstances shall officers make statements to witnesses that would indicate who the suspect is or the officer's belief in the guilt of the suspect prior to, during, or after a witness views the showup/lineup.
- D. Before conducting any type of identification, the officer should explain the following to the witness:
1. The fact that a photograph is being shown or person is being viewed should not influence the witness' judgment;
 2. The suspect may or may not be included in the showup/lineup. Witnesses should not conclude nor be led to believe that any showup/lineup automatically includes the suspect;
 3. The witness should not feel compelled or obligated to make an identification. It is just as important to eliminate the innocent as it is to identify the guilty. Whether or not the witness identifies someone, the investigation will continue; and
 4. The witness is not to discuss the procedure or the results with any other potential witness in the case.
- E. When practical, each witness should view the showup/lineup separately to avoid influencing another's perception of the suspect. If not practical, each witness should be advised not to indicate in any way (e.g., speak or gesture) his or her opinion or observations.

III. FIELD SHOWUPS AND FIELD LINEUPS

- A. When identification is required, the suspect may be shown singly to witnesses through a field showup or with a group in a field lineup in the following circumstances:
 - 1. The suspect is detained in close proximity in time and place to the occurrence of a crime. When possible, the witness or victim should be brought to the suspect's location for identification to avoid undue infringement of the suspect's freedom; and/or
 - 2. The witness is in danger of death and it is feared that death may occur before an identification can be made. In this case, the suspect may be brought to the witness for identification.
- B. If there is a significant delay in locating the suspect, such as the next day or several hours, a photographic or physical lineup should be used instead of a field showup/lineup.
- C. A field showup is not necessary when the witness knows the suspect personally and has positively stated that the suspect is the person.

IV. CONDUCTING FIELD SHOWUPS AND FIELD LINEUPS

To ensure that field showups and field lineups are conducted in a fair and impartial manner and that any resulting identification be considered reliable, the following rules, which are listed on the Field Showup/Lineup Instructions and Results, HPD-284E form, have been established:

- A. Witnesses should be transported individually to the suspect's location and should not be allowed to hear others' accounts of the incident and/or identification.
- B. Each witness should be read the instructions on the Field Showup/Lineup, HPD-284F form, prior to viewing the suspect.

- C. Suggestive remarks or feedback shall not be made to the witness.
- D. Whenever possible, eliminate physical suggestions such as visible handcuffs to avoid influencing those viewing the suspect. Officers shall not dress the suspect in clothing that the suspect has discarded or removed.
- E. The officer should ask the witness, "Is this the person who (describe action)?"

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- 1. If the witness answers, "no," the witness may be released.
- 2. If the witness answers, "yes," ask, "Why did you identify the person as the person who (describe action)?"
- 3. Once the field showup/lineup has been viewed, the witness should be asked to complete, sign, and date the witness section of the HPD-284F form.

- F. Whenever practicable, a field lineup is preferred over a field showup. Also, whenever practicable:
 - 1. A field lineup should consist of at least five persons other than the suspect; and
 - 2. Participants in a field lineup should be approximately the same age, height, weight, and build as the suspect. If possible, participants should also share similar features with the suspect.

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- 3. When identification is made by a witness, ask the witness to identify the person by number counting from left to right as the witness faces the participants.

- G. Field showups/lineups shall be documented on the HPD-284E form and in the investigative report. Documented information in the investigative report shall include:
1. Basic personal and descriptive information of every person used in the showup or lineup, including (but not limited to) clothing, demeanor, and any injuries of those detained;
 2. Photographs of the showup/lineup;
 3. Location of the showup/lineup;
 4. Lighting and weather conditions during the showup/lineup;
 5. Approximate distance and circumstances the viewing took place between the suspect and the witness;
 6. The witness' verbatim statement of the identification or nonidentification of the suspect; and
 7. Results of the showup/lineup.
- H. At the conclusion of a field showup or lineup, a complete and detailed statement shall also be obtained on the Statement Form, HPD-252, from the witness making the positive identification.

V. PHOTOGRAPHIC LINEUP

The U.S. Supreme Court has held that the method used to identify suspects by means of photographs must be fair. Therefore, the HPD utilizes the blind or blinded sequential photographic lineup.

- A. Each witness should view photographs alone or under circumstances such that other witnesses will not be influenced or exposed to suggestion.
- B. The photographs shown to the witness should be selected to ensure fairness and impartiality to the suspect.

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- C. The fairness and impartiality of the identification by photographs will depend on the circumstances. As much as practical, filler photographs of persons who share similar facial features with, appear approximately the same age as, and have the same build as the suspect should be selected.
 - D. There should be a similarity in the format and type of photographs shown. The same procedure should be followed in the viewing of mug photographs.
 - E. Ask the witness, "Why did you identify the person as the person who (describe action)?" The reason shall be documented in the investigative report.
 - F. If the photographic lineup is being sent to a jurisdiction outside of the department, the lineup may be conducted based on that agency's policies, procedures, and/or laws.

VI. PHOTOGRAPHIC LINEUP

A. Blind Sequential Photographic Lineup

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The blind sequential photographic lineup shall be the preferred procedure for conducting the photographic lineup. Photographic lineups shall be conducted by a lineup administrator and not the assigned investigator.

No information on the identity of the suspect shall be revealed to the lineup administrator before or after the lineup. If the lineup administrator knows, deduces, or discovers the identity of the suspect, the lineup administrator shall notify the investigator as soon as practicable. A new lineup administrator must be located or a blinded photographic lineup shall be conducted. Also, a lineup administrator shall not conduct a blind sequential lineup if he or she has any information that would allow them to know the identity of the suspect.

1. The assigned investigator shall prepare a photographic lineup packet as follows:
 - a. The photographs to be used in the lineup shall be comprised of photographs that are consistent in size, shape, and color. None of the photographs should unduly stand out.
 - b. Each packet shall contain six photographs consisting of one photograph of the suspect and five filler photographs of persons not connected to the incident under investigation. Each photograph shall be on a separate piece of paper and placed in separate, identical folders.
 - c. The investigator shall write [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - d. The remaining five photographs shall be numbered by the lineup administrator. The lineup administrator shall randomly order these photographs and number them [REDACTED]
[REDACTED] corresponding to their sequential positions in the lineup and the numbered folders.
 - e. The investigator shall fill out the case information on the Sequential Photographic Lineup Instructions and Results, HPD-284C form, that is to be given to the lineup administrator.
2. The lineup administrator will receive a separate photographic lineup packet from the investigator for each suspect.

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3. If the witness is a child, a person with limited English proficiency, or a person with an intellectual disability, the Alternate Simplified Instructions for Sequential Photographic Lineup, HPD-284D form, may be used.

4. The investigator should be present prior to the administration of the lineup and explain to the witness that the HPD utilizes blind lineup procedures. The investigator should also introduce the witness to the lineup administrator and explain that the administrator does not know if the suspect is included in the lineup.

5. Administration of the Blind Lineup

- a. The assigned investigator or anyone with knowledge of the suspect shall not be in view of the witness during the lineup presentation.
- b. The lineup administrator shall give instructions to the witness by verbally reading the Sequential Photographic Lineup, HPD-284B form, and verify that the witness understands. The witness shall then be asked to initial the form.

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c. The lineup administrator shall present to the witness only one folder at a time. Once the witness has made a decision on a photograph in the folder, it should be taken back and the photograph shall be placed out of sight and the next folder shall be presented.

d. The lineup administrator will begin the process by presenting photograph #1 to the witness and asking, "Is this the person who (describe action)?"

- (1) If the witness answers, "no," take the photograph back and continue presenting the remaining photographs in the same manner.

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- (2) If the witness answers, "yes," the witness shall complete the Sequential Photographic Lineup, HPD-284B form.
 - (3) Have the witness sign and date the front of the photograph in the white border area.
 - (4) Even if identification is made, the administrator shall continue showing all remaining photographs in the same manner.
- e. While viewing the rest of the lineup, if another photograph is identified as that of the suspect, the lineup administrator shall ask for an explanation in the witness' own words why a different photograph was identified as the suspect.
 - f. After all photographs have been presented, repeat the lineup only if requested by the witness.

If the photographic lineup is to be repeated, all photographs must be presented again in the same sequence, even if the witness requests to see only a particular photograph again.
 - g. The lineup administrator shall record the results of the lineup and the responses to the questions on the HPD-284C form. The lineup administrator shall initial the front of each photograph for lineup verification in court.
 - h. The lineup administrator shall return the lineup packet to the assigned investigator along with the HPD-284B and HPD-284C forms.
 - i. The assigned investigator shall meet with the witness to answer any questions or conduct any further interviewing.

B. Blinded Sequential Photographic Lineup

1. When a blind lineup administrator is unavailable or it is impractical to conduct a blind sequential lineup, a blinded lineup shall be conducted. This alternative procedure must be preapproved by a supervisor and the justification must be documented.
2. The assigned investigator may serve as the blinded lineup administrator.
3. In a blinded lineup, the lineup administrator knows the identity of the suspect but cannot see and does not know the order of the photographs being presented to the witness.
4. The witness knows that the lineup administrator does not know the order of the photographs and is instructed not to let the lineup administrator see the photographs until the lineup is complete.
5. Administration of the Blinded Lineup
 - a. The assigned investigator shall prepare the lineup packet as described in section VI A 1 a through c above.
 - b. Prior to administering the lineup, the lineup administrator shall have another officer randomly order the [REDACTED] photographs and number them [REDACTED] corresponding to their positions in the lineup and numbered folders.
 - c. The officer shall return the five folders to the lineup administrator without allowing the lineup administrator to see any of the photographs.
 - d. Except for the lineup administrator, anyone with knowledge of the suspect shall not be in view of the witness when the lineup is presented.

- e. The lineup shall be conducted in such a manner that the lineup administrator cannot see the photographs the witness is viewing.
- f. The witness shall be told that the administrator does not know the order of the photographs. The witness shall be instructed not to let the administrator see the photographs until the lineup is complete.
- g. The blinded lineup administrator shall administer the lineup in accordance with section VI A 5 b through i above.
- h. If the witness shows the lineup administrator the photograph, the administrator shall continue with the blinded sequential lineup. At the end of the lineup, the administrator shall document the facts and circumstances surrounding the witness showing the administrator the photograph.

C. Exception to the Blind and Blinded Sequential Photographic Lineup

The only exception to the blind and blinded sequential photographic lineup would be the confirmation photograph. If the suspect is known to the victim or witness (i.e., relative, friend, or acquaintance), then a single confirmation photograph may be used. The investigator shall obtain prior approval from his or her supervisor before showing a confirmation photograph.

- 1. The photograph shall not have any identifiable information on it, such as a name or personal information.
- 2. When showing the victim or witness the photograph, the investigator shall not offer any identifiable information. The investigator shall ask, "Who is this person in the photograph? Is this the person who committed the offense?"

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D. Multiple Witnesses and/or Multiple Suspects

1. If multiple witnesses will be shown lineups containing the same suspect, a separate lineup packet must be assembled for each witness.
2. The same administrator may be used to present the packets to different witnesses and use the same photographs if the following occurs:
 - a. The administrator mixes the photographs for each packet and no two packets may have the same sequence of photographs;
 - b. The first photograph shall not be the suspect;
 - c. The witnesses do not have time to communicate in any manner with each other; and
 - d. The lineups can be completed in a reasonable and timely manner.
3. If any of subsection VI D 2 a through d above cannot be accomplished, then multiple administrators are needed to complete the blind sequential lineup.
4. If the same witness views multiple lineups, there shall be a separate lineup packet for each suspect. Each lineup packet shall be comprised of different filler photographs.

E. Use of the Appropriate HPD Form

1. The Sequential Photographic Lineup, HPD-284B form, shall be utilized in the identification of suspects. Witnesses shall complete the forms by describing in their own words how certain they are of the identification of the suspect(s).
2. The Photographic Lineup, HPD-284A form, shall be used by outside agencies that assist the HPD by conducting photographic lineups but do not utilize blind or blinded lineup procedures.

F. Report Writing and Evidence Submission

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1. At the conclusion of the sequential lineup, the administrator shall complete a follow-up report documenting the actions taken by the administrator.
 2. Copies of the administrator's follow-up report, original photographs, and original signature forms used for the sequential lineup shall be given to the investigator to submit with the closing report.
 3. The administrator's original follow-up report, a copy of all of the photographs, and a copy of the signature forms used for the sequential lineup shall be submitted to the Records and Identification Division.
 4. If a digital audio recording is made of the sequential lineup, the administrator shall make two copies of the digital audio recording. The administrator shall submit one copy into evidence and the second copy to the investigator. The investigator shall submit the digital audio recording for transcription.

VII. PHYSICAL LINEUP SITUATIONS

A physical lineup may be conducted when a suspect is in custody, and it is desirable to have witnesses view the suspect for the purpose of identification. Physical lineups will be administered by the Criminal Investigation Division. Suspects shall not be shown singly to victims or witnesses. Exceptions to this requirement are outlined in section III A above.

- A. Physical lineups may be conducted if there are several witnesses available or if seeing the suspect's entire body or hearing the suspect's voice may aid in identification.
- B. If a particular witness is unable to attend the scheduled physical lineup, a photographic lineup may be substituted instead.

- C. In no case should lineup witnesses be shown photographs of the suspect either immediately prior to or after the physical lineup.

VIII. WARNING OF CONSTITUTIONAL RIGHTS

- A. Before a suspect is placed in a physical lineup, he or she shall be advised of the constitutional rights concerning lineups through the use of the Warning Person to be Viewed in Lineup of Right to Have an Attorney Present, HPD-284 form.
- B. If the suspect requests to have an attorney present during the physical lineup, arrangements must be made to have the attorney view the lineup.
- C. If the suspect requests to have an attorney present during the physical lineup but cannot afford to hire one, the investigating officer shall call the Office of the Public Defender for the appointment of an attorney.
- D. If problems arise, the Department of the Prosecuting Attorney should be consulted. Examples of circumstances where consultation might be necessary:
 - 1. An attorney refuses to attend the physical lineup; or
 - 2. An attorney fails to appear within a reasonable time.

IX. CONDUCTING THE PHYSICAL LINEUP

In order to ensure that a physical lineup is conducted in a fair and impartial manner and that any resulting identification be considered reliable, the following rules have been established:

- A. The lineup shall consist of at least five persons other than the suspect.
- B. The participants in the lineup should be approximately the same age, height, weight, and build as the suspect. If possible, the participants should also share similar features with the suspect.

- C. The participants in the lineup should be dressed in a fashion similar to the suspect.
- D. Police are not required to furnish the suspect with clothes for the lineup. If clothing similar to that observed to have been worn by the offender at the time of the offense is found in the possession of the suspect, the suspect may be made to wear those items in the lineup. However, a much stronger identification will result if the suspect is not wearing clothes worn during the commission of the offense.
- E. Photographs and a video recording of the physical lineup shall be made and submitted into evidence.

X. COMPELLING SUSPECT TO PARTICIPATE

- A. Officers may compel a suspect to be viewed by a witness. This does not violate any constitutional right and is a legitimate investigative technique.
- B. Reproducing the appearance of the suspect at the time of the offense is a legitimate police technique (e.g., masking parts of the suspect's face, covering scars, etc.).
- C. The suspect may be compelled to repeat certain phrases used during the commission of the offense. Moreover, having the suspect speak for identification, assume a stance, walk, or make a particular gesture are proper techniques of investigation.
- D. If the suspect refuses to speak or otherwise cooperate, the suspect should be advised (out of the presence of the witnesses who are to view the lineup) that unwillingness to cooperate shall be recorded for presentation at trial.
- E. If the suspect is compelled to do or say anything, then each participant in the physical lineup must do or say the same thing to ensure fairness and impartiality.

XI. LEGAL REPRESENTATIVE

- A. If an attorney arrives for the physical lineup, he or she must be given an opportunity to confer with the suspect. The attorney's role is one of an observer, and he or she has no authority to tell officers what to do or otherwise disrupt the conduct of the lineup. If witnesses wish to talk to the suspect's attorney, they are within their rights to do so.
- B. The suspect's attorney may be denied presence during the taking of statements from witnesses after the physical lineup.
- C. Problems arising with the suspect's attorney should be referred to the Department of the Prosecuting Attorney. If the attorney is uncooperative, officers should not argue. However, the attorney should be informed that his or her objections will be noted in the officer's report and that the lineup will proceed despite the objections.

XII. REPORT REQUIREMENTS

The following data concerning the physical lineup shall be submitted as part of the official investigative report:


- A. Evidence of notification to the suspect's attorney and, if applicable, refusal or failure to appear;
- B. A list of names and physical descriptions of all participants in the lineup;
- C. An official photograph of the lineup and a video recording;
- D. Evidence of any order by the police directing those in the lineup to walk, assume a position, or speak;
- E. The level of confidence expressed by the witness;
- F. The results of the lineup; and
- G. Any other procedures relevant to the proceedings at the lineup.

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XIII. JUVENILES

Identification of juvenile suspects shall be conducted in accordance with the procedures that govern adults.
Exceptions are noted in Policy 4.33, HANDLING JUVENILES.


LOUIS M. KEALOHA
Chief of Police

Post on bulletin
board for one week

Policy first issued
March 29, 2002