
	<p style="text-align: center;">GROTON POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution	General Order Number
		ALL PERSONNEL	<b>6.09</b>
		Original Issue Date	Reissue/Effective Date
		05/02/19	05/12/19
Order Title:  <b>EYEWITNESS IDENTIFICATIONS</b>	Accreditation Standard:		Section
	POSTC:		6
		Section Title INVESTIGATIVE FUNCTIONS	
Rescinds: 340.07	 <b>Louis J. Fusaro, Jr., Chief of Police</b>		

*This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting*

### I. PURPOSE

The purpose of this directive is to establish the proper guidelines and procedures for obtaining reliable eyewitness identifications.

### II. POLICY

Groton Police Department (“Department”) personnel shall strictly adhere to this directive in order to maximize the reliability of identifications, minimize unjust accusations, and conform to established legal procedures.

### III. DEFINITIONS

Eyewitness: A person who observes another person at or near the scene of an offense.

Photo lineup: A procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator.

Live lineup: A procedure in which a group of persons, including the person suspected as the perpetrator of an offense and other persons not suspected of the offense, is presented to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator.

Show up: A procedure in which a single person suspected as a perpetrator of an offense and maybe others are presented one at a time, to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator. A show up is also known as a Field Identification and/or One on One Identification. Show ups typically occur

shortly after the commission of a crime and/or when a suspect is apprehended at or near the crime.

Field View: A procedure wherein the eyewitness views a group of people in a public place on the theory that the suspect may be among the group. A field view differs from a show up in that it may be conducted well after the commission of the crime may be conducted with or without a suspect in the group.

Identification procedure: Either a photo lineup, live lineup, or show up.

Filler: Either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

Sequential Photo Lineup or Live Lineup: Whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup or the persons participating in a live lineup shall be presented sequentially so that the eyewitness views one photograph or one person at a time.

Double Blind Procedure: The identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense.

Blind Administration (other than Folder Shuffle, below): The conduct of an identification procedure in which the administrator of the procedure is unaware of which photograph the witness is viewing during the procedure. This procedure is intended to ensure that the eyewitness does not interpret a gesture or facial expression by the officer (administrator) as an indication as to the identity of the suspect.

Folder Shuffle Method: When the conduct of the Double Blind Procedure is not practicable, the photo lineup shall be conducted by inserting each of the required photographs into separate, unmarked folders, shuffling them and allowing the eyewitness to remove the photographs, one at a time to view them. A computer program in which a software program is used to administer any lineup, wholly or in part, shall comport to the procedures contained within this policy. If the eyewitness is able to make an identification of a photograph that person should sign and date the identified photograph.

Lap: A single completed cycle to view all the photos in a photo lineup or all persons participating in a live lineup.

Confidence Statement: A statement from the victim/witness, in his or her own words, on how certain they are of the identification which is taken immediately after identification is made. The *Confidence Statement* should be recorded in writing and signed by the victim/witness or otherwise memorialized.

## IV. PROCEDURE

### **A. Photo and Live Lineup - General**

1. Prior to the identification procedure the eyewitness shall be instructed on the procedures below using the Groton Police Department Witness Instruction Form for Eyewitness Identification (*See Appendix A*):
  - a. That the eyewitness will be asked to view an array of photographs or a group of persons, and that each photograph or person will be presented one at a time;
  - b. That it is as important to exclude innocent persons as it is to identify the perpetrator;
  - c. That the persons in a photo lineup or live lineup may not look exactly as they did on the date of the offense because features like facial or head hair can change;
  - d. That the perpetrator may or may not be among the persons in the photo lineup or live lineup;
  - e. That the eyewitness should not feel compelled to make an identification;
  - f. That the eyewitness should take as much time as needed in making a decision;
  - g. That the police department will continue to investigate the offense regardless of whether the eyewitness makes an identification;
  - h. That, after the identification procedure, he/she will be asked how certain he/she was that the perpetrator was or was not in the lineup;
  - i. That even if the eyewitness is able to make an identification, he/she will be asked to finish the procedure by looking at all the photographs or all of the individuals until he/she has completed looking at each one;
  - j. That if there are other witnesses, the eyewitness must not indicate to them that he/she has or has not made an identification of a suspect;
  - k. That the officer administering the procedure either does not know whether any of the people in the photographic array or in the lineup were involved in the crime or does not know the sequence in which the eyewitness is viewing the photographs;

1. That if the witness selects a person or photograph he/she will be asked to provide a statement about the identification. If the eyewitness does not recognize someone, he/she must say so; and
  - m. That if the eyewitness does not select someone, the police will continue to investigate
2. Any Individual Conducting or Assisting in the Identification Procedure:
    - a. Shall not say anything to the eyewitness regarding the position in the photo lineup or the live lineup of the person suspected as the perpetrator.
    - b. Shall not say anything to the eyewitness that might influence the eyewitness' selection of the person suspected as the perpetrator.
    - c. Shall not provide any information concerning a person the eyewitness identifies as the perpetrator.

## **B. Photo Lineup**

1. When Conducting Identification of Suspects by Photograph, the Following Procedures Should be Followed:
  - a. The identification procedure shall be conducted in such a manner that the person conducting the procedure does not know which person in the photo lineup or live lineup is suspected as the perpetrator of the offense, i.e. double blind procedure, except that, if it is not practicable to conduct a photo lineup in such a manner, the photo lineup shall be conducted by the use of a folder shuffle method, computer program, or other comparable method so that the person conducting the procedure does not know which photograph the eyewitness is viewing during the procedure.
  - b. The witness shall be shown a photo lineup that includes at least five fillers, in addition to the suspected perpetrator.
  - c. The photographs shall be either all color or all black and white.
  - d. There shall not be two different photographs of the same suspect in the group.
  - e. Witnesses should never be shown only a photograph of the suspect.
  - f. The photographs shall be presented sequentially so that the eyewitness

views one photograph at a time and the administrator shall record the order in which the folders were presented.

- g. Each witness should view the photographs alone so that other witnesses will not be influenced or open to suggestion. When possible the suspect should be placed in a different position in the sequence for each witness.
- h. The photographs shown to the witness should be selected to assure fairness and impartiality to the suspect. The fillers should generally fit the description, such as race, sex, facial features, profile, height, weight, build, clothing, etc. of the person suspected as the perpetrator, so that the person suspected as the perpetrator resembles his or her appearance at the time of the offense and does not unduly stand out.
- i. No writings or information concerning any previous arrest of the person suspected as the perpetrator shall be visible to the eyewitness.
- j. All photographs shown to witnesses should, if possible, be retained for any subsequent criminal proceedings.
- k. The person suspected as the perpetrator shall be the only suspected perpetrator included in the identification procedure.
- l. If the eyewitness has previously viewed a photo lineup in connection with the identification of another person suspected of involvement in the offense, the fillers included in the photographs in which the person suspected as the perpetrator is included shall be different from the fillers used in any prior lineups, and steps must be taken to ensure that the suspect does not stand out in the new lineup.
- m. Should the witness request a second “lap” the lineup will be presented in the same ordered sequence as the initial lap.

## 2. Administration of Double Blind Photographic Lineups

- a. No information regarding the identification of the suspect will be revealed to the person administering the lineup.
- b. The lineup administrator will conduct the lineup following the sequential protocol, numbering each photo with the order in which it was presented to the witness.
- c. The assigned investigator, or anyone with knowledge of the suspect, should not be allowed in the room at the time of the lineup administration.

- d. The lineup administrator should give instructions to the witness by verbally reading the Witness Instruction Form to the witness and determine if they understand. The witness will then be asked to sign and date the form.
- e. The lineup administrator will avoid any actions or comments that could be construed as an attempt to influence a witness to select a particular photo or to validate, invalidate or reinforce a selection that has been made by a witness.
- f. If the witness identifies someone, the lineup administrator will then ask the witness to describe in their own words how confident they are of the identification.
- g. Even if someone is identified, all of the photographs in the series will be shown.
- h. The lineup administrator shall not provide any feedback about the lineup results to the witness.
- i. Once the sequential lineup process is complete, the lineup administrator should generate a report with the results of the sequential lineup, initial the back of each photograph for lineup verification in court and preserve the photo lineup as evidence. The original photographs should be secured as any other evidence with the originals being maintained as evidence and one complete copy placed into the case file.
- j. Laps - The administrator should not offer nor suggest that the eyewitness engage in another “lap” or viewing of the photographs. If the eyewitness should request a second lap of the photographs, one additional lap is permissible but in any event should not exceed two laps. If a witness requests a second lap, the entire series of photographs must be viewed by the witness in the same order in which they were shown originally. The witness must not be permitted to view just one photograph of the selection even if he or she requests to see just one.

### 3. Blind Folder Shuffle Procedure

- a. When implementation of the Double Blind Photographic procedure is not practicable due to lack of manpower resources, limited number of officers on duty, a major crime where many officers are aware of the identity of the suspect or any other such circumstance, a Blind Folder Shuffle must be used.

- b. The photograph of the suspect and the five or more fillers are each placed into separate, unmarked folders and shuffled by the administrator, who will number each folder according to the sequence in which they were shown to the witness.
- c. The eyewitness should be instructed to remove each photograph, one at a time and view the single photograph. At no time should the lineup administrator be able to determine which particular photograph is being viewed by the witness at a particular time.
- d. If the blind method is not practicable, then the administrator must position himself or herself so as not to be able to give cues, consciously or unconsciously to the eyewitness such as his or her standing somewhere behind the eyewitness.
- e. When the eye witness concludes viewing a particular photograph, it should be placed back in the folder and returned to the administrator before viewing the next one.
- f. Even if the eyewitness identifies a suspect part way through the entire series, he/she should be instructed to continue viewing the remaining photographs.
- g. If the eyewitness requests a second lap, the folders should be shown to the witness in the same manner and in the same sequence as the first lap.

### **C. Live Lineups**

#### **1. In Order to Assure a Fair Lineup, the Following Procedures Should be Followed:**

- a. Before a suspect participates in a lineup, he or she must be informed of his/her right to have an attorney present at a lineup and of his/her right to be provided with an attorney without costs if he/she is unable to afford such legal counsel. Unless a knowing and voluntary waiver is made, in writing if possible, no lineup may proceed without an attorney present.
- b. A suspect cannot be compelled to participate in a lineup without probable cause to arrest. If the suspect refuses to participate in a lineup, the officer should contact his/her State's Attorney office.
- c. At least four (4) fillers who fit the description of the suspect as provided by the eyewitness(s) shall be included in the live lineup, in

addition to the suspected perpetrator.

- d. There should be similarity between the accused and other persons in the lineup with regard to height, body type, and coloration of hair and skin.
- e. There should be a similarity in dress between the accused and the other persons in the lineup.
- f. If the accused is to wear particular clothing as a demonstration, the others in the lineup must be requested to wear the same clothing.
- g. If the accused is requested to speak or make gestures or movements for identification purposes, the other persons in the lineup must be asked to speak the same words, or perform the same gestures or movements, in the same manner.
- h. If more than one witness is to make an identification from the lineup, each witness must do so separately, and no witness should be allowed to speak to another witness until all the witnesses complete their identification.
- i. No one must indicate to a witness, in any manner, which of the persons in the lineup is the accused or which person the police believe to be guilty.
- j. All line up participants shall be out of view of the eyewitnesses at the beginning of the identification procedure.
- k. The person suspected as the perpetrator shall be the only suspected perpetrator included in the identification procedure.
- l. All persons in the lineup should carry cards that identify him or her by number only and they should be referred to only by that number.
- m. The administrator of the lineup should carefully instruct the eyewitness by reading directly from the instruction form. The eyewitness should be asked to sign the form indicating that they understand the instructions and the administrator will sign and date the form.
- n. If the eyewitness makes an identification of a suspect, a statement must be taken as to the certainty of that identification.



#### **D. Attorney's Role**

1. The purpose of an attorney's presence is not to interfere with the conduct of the photo lineup or live lineup, but to observe the procedures used by the law enforcement officers, so that in any subsequent court proceedings the accused will have a lawyer as a witness to any unfair suggestive procedures that may have been employed during the photograph or live lineup.
2. The lawyer's role at a photo or live lineup is limited to observing the identification procedure, and advising the client, when in custody.
3. The attorney shall initial photocopies of all photographs used in the photo lineup.
4. Under no circumstances may a lawyer interfere with the conduct of the lineup procedures.
5. The attorney may not properly advise a client to refuse to participate in a lineup, a voice test, a handwriting sample, to wear certain clothing, to assume a stance, to walk, to gesture, or to cooperate in other similar physical demonstrations.
6. The officer in charge of the case shall ensure that attorneys witnessing the identification procedures are provided with a document outlining the attorney's role at the photo or live lineup.

#### **E. Responsibilities of the Officer in Charge of the Case**

1. The officer in charge of the case must advise the accused of the right to have an attorney present at the lineup.
2. The officer in charge of the case must find out if the accused has an attorney. If so, the officer in charge of the case must contact that attorney and advise the attorney of the time and place of the lineup.
3. The officer in charge of the case shall ensure that attorneys witnessing lineups are provided with a document outlining the attorney's role at lineups.

#### **F. Refusal of Detainee to Stand in a Line Up**

1. If a detainee refuses to stand in a lineup, the following procedures shall be followed:
  - a. A determination shall be made as to the availability of a photograph of the detainee suitable for use in photograph identification.

- b. Photograph identification can be used in lieu of a lineup if the subject refuses to participate in a lineup and, by the subject's action, would seek to destroy the value of the identification.
- c. Regardless of whether a photograph is available or not, the Patrol Unit Lieutenant shall be contacted for the number of the on-duty assistant state's attorney. The state's attorney contacted shall be informed if a photograph of the detainee is available or not and shall be informed that the detainee refuses to participate in a lineup. Department members and detention personnel shall be guided by the advice of the state's attorney.

### **G. Administration of Show Ups**

1. Generally, no detainees shall be taken back to the scene of a crime to have the complainant identify the suspect. They should never be transported to a police station absent probable cause to arrest. Suspects should be detained at the scene of the stop and the witness(es) transported to that location to view the suspect.
2. A single confrontation for identification between an accused and an eyewitness, not as part of a lineup, should only be employed where there is good and sufficient justification for not setting up a formal lineup.
3. Exceptional circumstances, which would justify a one-on-one confrontation, are:
  - a. Where the accused requests an immediate confrontation in order to clear the accused. In such cases it should be made clear to the accused that the accused does not have to confront the eyewitness but that police will accommodate the request if that is what the accused desires.
4. If the police deem a confrontation inadvisable at that time, there is no duty on the part of the police to arrange such a confrontation merely because it is requested by the accused.
5. Show up identification procedures are employed soon after a crime has been committed, when a suspect is detained at or near the crime, or under exigent circumstances. When exigent circumstances necessitate the employment of an immediate confrontation, the procedure shall be conducted in a non-suggestive manner.
6. Every showup must be as fair and non-suggestive as possible. If the suspect is handcuffed, he/she should be positioned so that the handcuffs are not visible to the eyewitness. Unless necessary for the safety of the officers or others the

suspect should not be viewed when he/she is inside a police car, in a jail cell or in jail clothing.

7. Detaining a person who fits the description of a suspect in order to arrange a showup is lawful when the officer has reasonable suspicion that a suspect has committed a crime.
8. A suspect should be viewed by one eyewitness at a time out of the presence and hearing of other eyewitnesses. Witnesses who have viewed a suspect should not be permitted to communicate with those who have not.
9. Officers must not say nor do anything that would convey to the eyewitness that they have evidence of the suspect's guilt.
10. If an eyewitness makes identification, a statement should be obtained from the eyewitness including the level of certainty of that identification.

#### **H. Field Views**

1. Employing a procedure known as Field View may be appropriate depending on the facts of an individual investigation.
2. The eyewitness may be accompanied to a public location where the suspect may or may not be present and is then permitted to view a group of people in an effort to identify a suspect. The officer or investigator may not direct the eyewitness's attention to any particular person, make any suggestions to the eyewitness or otherwise attempt to influence the witness's ability to observe the group.

#### **I. Written Record**

1. A written record of the identification procedure shall be carefully made on the Identification Procedure Record and Form. (*See Appendix B*) The record shall include the following:
  - a. All identification and nonidentification results obtained during the identification procedure, signed by the eyewitness, including the eyewitness's own words regarding how certain he or she is of the selection.
  - b. The names and addresses of all persons present at the identification procedure.
  - c. The date and time of the identification procedure.
  - d. In a photo lineup, the photographs presented to the eyewitness or

copies thereof.

- e. In a photo lineup, identification information on all persons whose photograph was included in the lineup and the sources of all photographs used.
- f. In a live lineup, identification information on all persons who participated in the lineup
- g. In addition to written record, all live lineups shall be photographed. The name, rank, and assignment of the officer taking the photograph shall be entered on the identification record and become a permanent part of the file. The officer in charge of the case shall be responsible for the photographing of lineups conducted at all other locations.
- h. The Groton Police Department shall maintain as a separate and distinct record a set copies of Standard Identification Forms and records completed. The form shall be retained by calendar year for the purpose of facilitating analysis and reporting by outside persons or agencies tasked with same.

## APPENDIX A

### Town of Groton Police Department

#### WITNESS INSTRUCTIONS – IDENTIFICATION PROCEDURES

Agency Case Number: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_ Location: \_\_\_\_\_

1. Please listen carefully as these instructions are read aloud to you. Each one of the instructions is equally important. You have been given a copy of these instructions to read along with the officer if you wish.
2. You will be asked to view an array of photographs or a group of persons, and each photograph or person will be presented one at a time;
3. It is just as important to exclude innocent persons as it is to identify the perpetrator;
4. The persons in the photographic lineup or live lineup may not look exactly as they did on the date of the offense because features like facial or head hair can change;
5. The perpetrator may or may not be among the persons in the photographic lineup or live lineup;
6. You should not feel that you must make an identification;
7. You should take as much time as needed in making a decision;
8. If you are able to make an identification of someone, you will be asked to describe in your own words how certain you are of that identification;
9. Even if you are able make an identification, you will be asked to finish the procedure by looking at all the photographs or all of the individuals until you have completed looking at each one;
10. If there are other witnesses, you must not indicate to them that you have or have not made an identification of a person;
11. The officer administering this procedure either does not know whether any of the people in the photographic array or in the lineup were involved in the crime or does not know the order in which you are viewing the photographs;

12. If you do select someone, the officer will not be able to provide you any information about the person you have selected;
13. If you select a person or photograph you will be asked to provide a statement about this process and the results. If you don't recognize anyone in the lineup, please say so;
14. Whether or not you select someone, the police will continue to conduct an appropriate investigation into this matter.

I, \_\_\_\_\_, acknowledge that the above instructions have been read to me by \_\_\_\_\_, and I fully understand those instructions.

Eyewitness Signature: \_\_\_\_\_

Date of the procedure: \_\_\_\_\_ Time of the procedure: \_\_\_\_\_

Identification Procedure Administered by:

Signature: \_\_\_\_\_

Names of All Persons Present:

**APPENDIX B**

Town of Groton Police Department

**IDENTIFICATION PROCEDURE RECORD AND FORM**

Groton Police Department Case Number: \_\_\_\_\_

Date: \_\_\_\_\_ Procedure Administrator: \_\_\_\_\_

**Identification Procedure**

*Circle Procedure Used*

**1. Photographic Lineup 2. Live Lineup 3. Show-up 4. Field View**

Answer all that apply

Date of Identification Procedure \_\_\_\_\_

Time of Identification Procedure (*Military*) \_\_\_\_\_

Date of Crime \_\_\_\_\_

Time of Crime (*Military*) \_\_\_\_\_

Was an identification made by a witness? Y N Not Sure

Did the witness request and receive a second lap? Y N

Was the witness a victim of the crime? Y N

Was a "filler" identified by the victim or witness? Y N N/A

Was the procedure Double Blind, Blind or Blind Shuffle? (*Circle Applicable Procedure*) N/A

Was the procedure sequential? Y N N/A

Number of photographs used in the procedure: \_\_\_\_\_ N/A

Type of Crime (*Circle*) (*If more than one applies, circle all that apply.*)

Homicide / Home Invasion / Sexual Assault / Assault / Robbery / Burglary / Narcotics / Larceny / Motor Vehicle / Other (*specify*) \_\_\_\_\_