
	GAITHERSBURG POLICE DEPARTMENT		
	Eyewitness Identification Composites, Show-Ups, Photo Arrays, & Live Line Ups		
	GENERAL ORDER	604.11	
Effective	04/09/2014	42.2.1, 42.2.2, 55.2.3, 55.2.4, 81.1.1, 81.2.6	
Authorized by: Mark P. Sroka CHIEF OF POLICE		SIGNATURE	DATE

I. DEPARTMENT POLICY

It is the policy of this department to follow guidelines for obtaining accurate eyewitness identification, consistent with the Annotated Code of Maryland, Public Safety Article § 3-505.

II. PURPOSE

Eyewitness Identification is one of many tools used by law enforcement in the investigation of crime. This investigative tool is vigorously challenged by defense attorneys. Therefore, it is critical that eyewitness identification be conducted in a professional, structured manner, and supported by written documentation and physical evidence.

III. DEFINITIONS

- A. **Composite Images** – Renderings or recollections of a witness, describing a suspect’s appearance. Composites may be completed by an artist, computer program, or Identi-Kit which features a variety of different facial features.
- B. **Show-Up** – This is the display of a single suspect to a witness in an effort to obtain an identification. In the event that there are multiple suspects, it is important to ensure that the suspects are separated. The show-ups are will be conducted separately and in a timely manner.
- C. **Photo Array** – A display of a photograph of the suspect, along with filler photos of other individuals whose physical characteristics are similar to the suspect’s description and/or appearance at the time of the incident.
- D. **Live Line Up** – A live display of the suspect, along with other individuals whose physical characteristics are similar to the suspect.

IV. Initial Report of the Crime/First Responder

- A. **Investigating the Scene**

1. The preliminary investigation at the scene forms a sound basis for the accurate collection of information and evidence during the follow-up investigation.
2. Preservation and documentation of the scene, including information from witnesses and physical evidence, are necessary for thorough preliminary investigation. The methods used in the preliminary investigation have a direct impact on the amount and accuracy of the information obtained throughout the investigation.
3. After securing the scene and attending to any victims and injured persons, the responding officers shall:
 - Identify any suspects;
 - Determine the location of any suspects;
 - Detain or arrest any suspects if still present at the scene;
 - Determine what crime or incident has occurred;
 - Broadcast an updated description of the incident, suspects, and/or vehicles, as applicable;
 - Verify the identity of witnesses;
 - Separate witnesses and suspects. Instruct them to refrain from discussing details of the incident with other witnesses; and obtain written or audibly recorded statements.
 - Canvass the area for other witnesses.

B. Obtaining Information from Witnesses

1. Information obtained from witnesses can corroborate other evidence (e.g., physical evidence, accounts provided by other witnesses) in the investigation. Therefore, it is important that this information be accurately documented in writing.
2. The manner in which the preliminary investigating officer obtains information from a witness has a direct impact on the amount and accuracy of that information.
3. When interviewing a witness, officers shall:
 - Establish a rapport with the witness;

- Inquire about the witness' condition;
- Use open-ended questions (e.g., "What can you tell me about the car?"); augment with closed-ended questions (e.g., "What color was the car?");
- Avoid leading questions (e.g., "Was the car red?");
- Clarify the information received with the witness;
- Whenever possible, have the witness write a written statement;
- Whenever possible, audibly record the witness statement in accordance with the State of Maryland Laws and Regulations. (Request permission to record the interview.);
- Document the information obtained from the witness, including the witness identity, in a written report;
- Encourage the witness to contact investigators with any further information;
- Encourage the witness to avoid contact with the media or exposure to media accounts concerning the incident; and
- Instruct the witness to avoid discussing the details of the incident with other potential witnesses.

V. Composite Images

A. Developing and Using Composite Images

1. The use of composite images provides a depiction that may be used to develop investigative leads.
2. The individual preparing the composite shall select and employ the composite technique in such a manner that the witness' description is reasonably depicted.
3. The individual preparing the composite shall:
 - Assess the ability of the witness to provide a description

of the perpetrator;

- Select the procedure to be used from those available (e.g., Identi-Kit type, artist, or computer-generated images);
 - Unless part of the procedure, avoid showing the witness any photos immediately prior to development of the composite;
 - Select an environment for conducting the procedure that minimizes distractions;
 - Conduct the procedure with each witness separately; and
 - Determine with the witness whether the composite displays characteristics that are similar to those of the perpetrator.
4. Composite images should not be used as stand-alone evidence and does not rise to the level of probable cause.

B. Instructing the Witness

1. Providing instructions to the witness can improve their comfort level and can result in information that may assist the investigation.
2. Providing instructions to the witness prior to conducting the procedure can facilitate the witness' recollection of the suspect.
3. The officer conducting the composite procedure shall:
 - Instruct each witness without other persons present;
 - Explain the type of composite technique to be used;
 - Explain to the witness how the composite will be used in the investigation; and
 - Instruct the witness to think back to the event and their frame of mind at the time.

C. Documenting Composites

1. Documentation of the procedure and its outcome improves the strength and credibility of the results obtained from the witness and can be an important factor in the investigation and any subsequent court proceedings.
2. The person conducting the procedure shall preserve the outcome of the procedure by accurately documenting the type of procedure employed and the results.
3. The officer conducting the procedure shall:
 - Document the procedure employed (e.g., identikit-type, artist, or computer-generated image) in writing;
 - Document the results of the procedure in writing, including the witness' own words regarding how certain they are of any identification; and
 - Document items used and preserve composites generated.

VI. Procedures for Interviewing Witnesses by the Follow-Up Investigator

A. Pre-Interview Preparation and Decisions

1. Pre-interview preparation will enable the investigator to elicit a greater amount of accurate information during the interview, which may be crucial to the investigation.
2. The investigator shall review all available witness and case information and arrange an efficient and effective interview.
3. Prior to conducting the interview, the investigator shall:
 - Review available information;
 - Plan to conduct the interview as soon as the witness is physically and emotionally capable;
 - Select an environment that minimizes distractions while maintaining the comfort level of the witness;
 - Ensure resources are available (e.g., notepad, tape recorder, camcorder, interview room);

- Separate the witnesses; and
- Conduct a preliminary history on each witness prior to the in-depth interview. To include law enforcement contacts.

B. Initial Contact with the Witness

1. Establishing a cooperative relationship with the witness likely will result in an interview that yields a greater amount of accurate information.
2. Investigators shall conduct themselves in a manner conducive to eliciting the most information from the witness.
3. Upon meeting with the witness, but prior to beginning the interview, the investigator shall:
 - Develop a rapport with the witness;
 - Inquire about the nature of the witness' prior law enforcement contact related to the incident;
 - Volunteer no specific information about the suspect or case.

C. Conducting the Interview

1. Interview techniques can facilitate witness memory and encourage communication both during and following the interview.
2. The investigator shall conduct a complete, efficient, and effective interview of the witness and encourage post-interview communication.
3. During the interview, the investigator shall:
 - Encourage the witness to volunteer information without prompting;
 - Encourage the witness to report all details, even if they seem trivial;
 - Ask open-ended questions (e.g., "What can you tell me about the car?"); augment with closed-ended, specific questions (e.g., "What color was the car?");

- Avoid leading questions (e.g., “Was the car red?”);
- Caution the witness not to guess;
- Ask the witness to mentally re-create the circumstances of the event (e.g., “Think about your feelings at the time”);
- Encourage non-verbal communications (e.g., drawings, gestures, objects);
- Avoid interrupting the witness;
- Encourage the witness to contact investigators when additional information is recalled;
- Instruct the witness to avoid discussing details of the incident with other potential witnesses;
- Encourage the witness to avoid contact with the media or exposure to media accounts concerning the incident; and
- Thank the witness for their cooperation.

D. Recording Witness Recollections

1. The investigator shall provide complete and accurate documentation of all information obtained from the witness.
2. Complete and accurate documentation of the witness statement is essential to the integrity and success of the investigation and any subsequent court proceedings.
3. During, or as soon as reasonably possible after the interview, the investigator shall:
 - Document witness statements (e.g., written notes, video, audio); whenever possible a written statement shall be prepared; and
 - Review written documentation; ask the witness if there is anything they wish to change, add, or emphasize.

E. Assessing the Accuracy of Individual Elements of a Witness Statement

1. The investigator shall review the individual elements of the witness statement to determine the accuracy of each point.
2. Point-by-point consideration of the accuracy of each element of a witness statement can assist in focusing the investigation. This technique avoids the common misconceptions that the accuracy of an individual element of a witness description predicts the accuracy of another element.
3. After conducting the interview, the investigator shall:
 - Consider each individual component of the witness statement separately;
 - Review each element of the witness statement in the context of the entire statement; look for inconsistencies within the statement.
 - Review each element of the statement in the context of evidence known to the investigator from the other sources (e.g., other witness statements, physical evidence).

F. Maintaining Contact with the Witness

1. Maintaining contact and rapport with the witness often leads to recovery of additional information.
2. The investigator shall maintain open communications to allow the witness to provide additional information.
3. During post-interview, follow-up contact with the witness, the investigator shall:
 - Re-establish rapport with the witness;
 - Ask the witness if they have recalled any additional information;
 - Follow interviewing and documentation procedures previously mentioned; and
 - Provide no information from other sources.

VII. Field Identification Procedure (Show-Up)

A. Conducting Show-Ups

1. The use of a show-up can provide investigative information at an early stage, but the inherent suggestiveness of a show-up requires careful use of procedural safeguards and must be done in a timely manner, in accordance with established case law.
2. The investigator/officer shall employ procedures that avoid prejudicing the witness.
3. When conducting a show-up, investigators/officers shall:
 - Determine and document, prior to the show-up, a description of the suspect;
 - Transport the witness to the location of the detained suspect to limit the legal impact of the suspect's detention;
 - When multiple witnesses are involved:
 - a. Separate witnesses and instruct them to avoid discussing details of the incident with other witnesses;
 - b. Conduct the show-up, one suspect at a time, not together; and
 - c. If a positive identification is obtained from one witness, consider using other identification procedures for remaining witnesses.
 - Caution the witness that the person they are looking at may or may not be the suspect;
 - Restraints will only be used when necessary to effect a lawful detention; and
 - Obtain and document a statement of certainty for both identifications and non-identifications.

B. Recording Show-Up Results

1. When conducting a show-up, the investigator shall adhere to the following procedure:
 - Document the time and location of the show-up;

- Record both identification and non-identification results in writing, including the witness' own words regarding how certain they are.

VIII. Procedures for Eyewitness Identification of Suspects

A. Composing Photo Arrays

1. The investigator shall compose the photo array in such a manner that the suspect does not unduly stand out.
2. In composing a photo array, the investigator shall:
 - Include only one suspect in each photographic array;
 - Select fillers who generally fit the witness descriptions of the suspect. When there is a limited/inadequate description of the suspect provided by the witness, or when the description of the suspect differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features;
 - If multiple photos of the suspect are reasonably available to the investigator, select a photo that resembles the suspect description or appearance at the time of the incident;
 - Include a *minimum* of five fillers (non-suspects) per identification procedure;
 - Consider that complete uniformity of features is not required. Avoid using fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers;
 - Create a consistent appearance between the suspect and fillers with respect to any unique or unusual feature (e.g., scars, tattoos) used to describe the suspect by artificially adding or concealing that feature;
 - Consider placing suspects in different positions in each photo array, both across cases and with multiple witnesses in the same case. Position the suspect randomly in the photo array;
 - When showing a new suspect, avoid reusing fillers in photo

arrays shown to the same witness;

- Ensure that no writings or information concerning previous arrests will be visible to the witness;
- View the spread, once completed, to ensure that the suspect does not unduly stand out; and
- Preserve the presentation order of the photo array. In addition, the photos themselves should be preserved in their original condition.

B. Instructing the Witness Prior to Viewing a Photo Array

1. Prior to presenting a photo array, the investigator shall provide instructions to the witness, using a *GPD Photographic Array Information Sheet*, to ensure that the witness understands the purpose of the identification procedure.
2. Prior to presenting a photo array, the investigator shall:
 - Instruct the witness that they will be asked to view a set of photographs;
 - Instruct the witness that it is just as important to clear innocent persons from suspicion as to identify the guilty parties;
 - Instruct the witness that individuals depicted in array photos 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;
 - Instruct the witness that the person who committed the crime may or may not be in the set of photographs being presented;
 - Assure the witness that regardless of whether an identification is made, the police will continue to investigate the incident; and
 - Instruct the witness that the procedure requires the investigator to ask the witness to state, in their own words, how certain they are of any identification.

C. Conducting the Identification Procedure

1. The investigator shall conduct the photo array in a manner conducive to obtaining accurate identification or non-identification decisions.
2. The identification procedure should be conducted in a manner that promotes the reliability, fairness, and objectivity of the witness identification.
3. When conducting simultaneous photo arrays, the investigator shall:
 - Provide viewing instructions to the witness as outlined above in subsection B;
 - Consider having another investigator/officer conduct the display of the photographic array to the witness/victim.
 - Confirm that the witness understands the nature of the photo array procedure;
 - Avoid saying anything to the witness that may influence the witness' selection;
 - If an identification is made, avoid reporting to the witness any information regarding the individual they have selected prior to obtaining the witness' statement of certainty;
 - Record any identification results and witness statements of certainty as outlined below in subsection D;
 - Document the following photo array information on a *GPD Photo Array Information Sheet*:
 - a. Name, address, telephone number and date of birth of the victim/witness viewing the photo array;
 - b. Name of the investigator presenting the photo array;
 - c. Location the photo array was shown;
 - d. Names of all persons present during the photo array;
 - e. Date, time and location of the incident;
 - f. Condition of the victim/witness at the time of the photo array; and

- g. Date and time of the identification procedure.
 - Document in writing, the identification information and source of all photos used during the photo array; and
 - Instruct the witness not to discuss the identification procedure or its results with other witnesses involved in the case and discourage contact with the media.
4. When presenting a sequential photo array, the investigator shall:
- Provide viewing instructions to the witness as outlined above in subsection B;
 - Provide the following *additional* viewing instruction to the witness:
 - a. Individual photographs will be viewed *one at a time*;
 - b. The photos are in random order;
 - c. Take as much time as needed in making a decision about each photo before moving to the next one; and
 - d. All photos are shown, even if an identification is made.
 - Confirm that the witness understands the nature of the sequential procedure;
 - Present each photo to the witness separately, in a previously determined order, removing those previously shown;
 - Avoid saying anything to the witness that may influence the witness' selection;
 - If an identification is made, avoid reporting to the witness any information regarding the individual they have selected prior to obtaining the witness' statement of certainty;
 - Record any identification results and witness' statement of certainty as outlined below in subsection D;

- Document the following photo array information on a *GPD Photo Array Information Sheet*:
 - a. Name, address, telephone number and date of birth of the victim/witness viewing the photo array;
 - b. Name of the investigator presenting the photo array;
 - c. Location the photo array was shown;
 - d. Names of all persons present during the photo array;
 - e. Date, time and location of incident;
 - f. Condition of the victim/witness at the time of the photo array; and
 - g. Date and time of the identification procedure.
- Document in writing, the identification information and source of all photos used during the photo array; and
- Instruct the witness not to discuss the identification procedure or its results with other witnesses involved in the case and discourage contact with the media.

D. Recording Identification Results

1. The investigator shall preserve the outcome of any identification procedure by documenting any identification or non-identification results obtained from the witness.
2. When conducting an identification procedure, the investigator shall:
 - Record both identification and non-identification results in writing, including the witness' own words regarding how sure they are;
 - Ensure results are signed and dated by the witness;
 - Ensure that no materials indicating previous identification results are visible to the witness; and
 - Ensure that the witness does not write on or mark and

materials that will be used in other identification procedures.

E. Live Lineups

1. The Gaithersburg Investigative Section will coordinate live lineups with investigators from the Montgomery County Police Department in a manner that complies with the Annotated Code of Maryland, Public Safety Article, § 3-505.