

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 02 Jul 13

SUBJECT: Revision and renaming of Training Bulletin I-T, LEGAL ASPECTS OF  
LINEUPS (28 Feb 03) to Training Bulletin I-T, DOUBLE BLIND  
SEQUENTIAL PHOTOGRAPHIC LINE-UPS.

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The purpose of this order is to revise the policy and procedure for conducting Photographic Line-ups. Photographic Line-Ups shall be conducted using the Double Blind Sequential (DBSL) method.

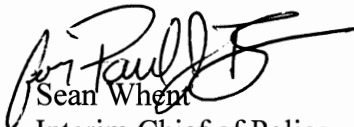
Additionally, a corresponding Information Bulletin is being published with background information regarding the change in line-up methodology.

The Evaluation Coordinator for this order shall be the Criminal Investigative Division Commander, who, without further notice, shall forward the required report to the Chief of Police on or by 02 Jan 14. The Evaluation Coordinator shall receive, review and document the acceptance or rejection of all comments and/or recommendations received prior to submitting his/her six-month evaluation report.

The Evaluation Coordinator shall forward a copy of the six-month evaluation report, along with the comments/recommendations received, without further notice, to the Bureau of Risk Management, who shall maintain the appropriate Departmental General Order archive folder.

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of

  
Sean Whelan  
Interim Chief of Police

Date Signed: 02 JUL 13

# TRAINING



# BULLETIN

Effective Date:  
02 Jul 13

Index Number: I-T  
Alpha Index: Double Blind Sequential Photo  
Line-ups

Evaluation Coordinator: CID Commander  
Automatic Revision Cycle: 3 Years

*"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."*

## DOUBLE BLIND SEQUENTIAL PHOTOGRAPHIC LINE-UPS

The purpose of this order is to set forth Department policy and procedure regarding the conducting of photographic (photo) line-ups using the Double Blind Sequential Line-up (DBSL) method.

### **EYEWITNESS IDENTIFICATION PROTOCOL**

The Oakland Police Department Model Protocol for Eyewitness Identification will be as follows:

Every effort shall be made to ensure the officer conducting a line-up does 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 shall document why it was not possible to follow this protocol and ensure they use extreme care not to communicate the identification of the suspect in anyway.

In all cases, show the witness the photos comprising the line-up *sequentially* not *simultaneously*.

Photo line-ups shall be presented to one witness at a time. Witnesses shall not be allowed to share information about the line-up, and they shall be isolated from one another when making identifications. Whenever a line-up is not presented to one witness at a time, witnesses have inadvertently been allowed to share information or are not isolated from one another when making an identification, members shall document the reason why this occurred in the appropriate report or case notes.

Whenever possible, the line-up procedure shall be video recorded. In rare circumstances, it may be audio recorded for evidentiary purposes however members shall document the reason why the procedure was not video recorded.

The line-up procedure, when conducted at a Police Department Facility with Audio/Video recording capabilities, shall be done in accordance with the Bureau of Investigations Policy 08-04 (Interview Room Audio/Video Recording Equipment).



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In the event the interview rooms are unavailable for Audio/Video recording (e.g., broken equipment, power outage, occupied, etc.), the member conducting the line-up procedure is unfamiliar with the equipment, or the line-up is conducted at a location without Audio/Video recording capabilities, members may use a Department issued Personal Digital Recording Device (PDRD) or other Audio/Video recording device to record the line-up procedure.

Members who have not been issued a PDRD or are unable to use their PDRD (broken, malfunctioning, full, etc.) shall document such in the appropriate report or case notes. Additionally, members shall take and document the following steps to obtain an Audio/Video recording device:

1. Check out a PDRD from ITU; and
2. Borrow a functional PDRD from an available member; and
3. Attempt to locate other Department Audio/Video recording devices

In the event no PDRD or other Audio/Video device is available, the investigator shall minimally use an audio recording device. If a witness does not want to be video or audio recorded that fact shall be documented in the appropriate report or case notes.

**NOTE:** It is recommended that members conduct PDRD or other Audio/Video recording devices tests and view the recordings to assess the device's recording capabilities before attempting to use it in a real world setting. This will assist in locating positions and distances that will capture as much video and audio of the line-up process as possible regardless of where the line-up is conducted. Tests shall not be done with actual witnesses.

### **PROCEDURE**

1. Assemble the suspect's photo and at least five fillers in the normal manner. If you have multiple suspects you will need to assemble a different group of photos using new fillers for each suspect. Arrange the six in random order. Numerically mark the back of each photo. Record this order on the Photo Line-up Waiver Statement Form (TF-3173).
2. Admonish the witness as follows:
  - a. You will be shown a series of individual photos.
  - b. The person who committed the crime may or may not be included.



- c. Even if you identify someone during this procedure, I will continue to show you all of the photos/person in the series.
  - d. The investigation will continue whether or not you make an identification.
  - e. Keep in mind that things like hair styles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.
  - f. You should not feel you have to make an identification.
  - g. It is just as important to exclude innocent persons as it is to identify the perpetrator.
  - h. The photos will be shown to you one at a time.
  - i. Take as much time as you need to look at each one.
  - j. If wish to see a photo again you will be shown all of the photos again.
3. Conduct the sequential line-up as follows:
- a. Confirm that the witness understands the nature of the sequential procedure.
  - b. Present each photo to the witness separately, in a previously determined and random order.
  - c. After viewing the photo have the witness initial each photo.
  - d. Remove each photo before presenting the next one.
  - e. Record all results (positive, tentative and non-identifications) in writing, including the witness' own words.
    - 1) In the case of a tentative or positive identification, ask the witness why he/she believes the photo selected is/may be the suspect. If the person is not certain of their identification:
      - a) Obtain a qualitative description (e.g., similar or same chin, eyes, etc.)
      - b) **Do not** obtain a quantitative identification (e.g., 60 % sure this is the suspect)



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- f. Ask the witness to sign and date the photo when a positive or tentative identification has been made. Ask the witness to also write the results of the positive or tentative identification on the photo. Examples:
    - This is the person who (hit, robbed, shot, etc.) me.
    - This is possibly the person who (hit, robbed, shot, etc.) me because she has similar eyes.

If the witness refuses to write the results, sign and/or date the photo, document this in the appropriate report or case notes.
  - g. Document, in writing, the lineup procedure including:
    - 1) Identification information and source of all photos used; and
    - 2) Names of all persons present at the lineup; and
    - 3) Date and time of procedure
  - h. If more than one witness is to view the same line-up, ensure the witnesses have been separated from one another during the line-up process to prevent them from communicating with one another.
  - i. If more than one witness is to view the same line-up, ensure the order of the photos in the line-up array changes between each witness. **This step shall be documented.** This will prevent any possibility of witnesses telling each other which number was picked.
  - j. Witnesses should be instructed to avoid discussing the details of the incident or the line-up with other witnesses.
  - k. Have the witness fill in, initial, sign and date the Photo Line-up Waiver Statement Form (TF-3173), as appropriate.
5. Members who are not familiar with or who do not regularly conduct photo line-ups shall consult with experienced Criminal Investigations Division (CID) personnel to familiarize themselves with the process prior to conducting a line-up.



## **DISPOSITION OF LINE-UP EVIDENCE**

1. All Members

Members shall submit all Photo Line-up Waiver Statement Forms and the photographs used in the line-up to the Property & Evidence Unit (PEU), as specified in DGO H-3 (DEPOSITING PROPERTY AND EVIDENCE), as soon as practicable.

2. Criminal Investigations Division (CID)

Members assigned to CID shall make copies of all Photo Line-up Waiver Statement Forms and photographs used in a line-up, prior to submitting the originals to PEU and keep them in the investigative case file.

3. Members not assigned to CID

All members not assigned to CID shall make copies of all Photo Line-up Waiver Statement Forms and photographs used in a line-up prior to submitting the originals to PEU. Members shall write the RD# on all copies and include them in the appropriate case envelope. The case envelope shall be placed in the report receptacle at the PAB or EMM.