

DALTON POLICE DEPARTMENT

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<i>Subject</i> Lineups and Pretrial Identifications		
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I. Policy

It is the policy of the Dalton Police Department that pretrial identifications be carefully arranged to avoid the danger of erroneous or suggestive identifications and to ensure the admission in court of accurate identification evidence.

II. Definitions

- A. *Photographic Lineup* – The presentation to the victim or witness of several photographs, which includes the suspect’s photograph, as an investigative aid in establishing the identity of the suspect of a crime.
- B. *Physical Lineup* – The presentation to the victim or witness of several persons, with similar characteristics, one of whom is the suspect, for the purpose of identifying the suspect of a crime.
- C. *Show-up* – The presentation of the suspect alone to the victim or witness soon after the commission of a crime.
- D. *Witness Identification* – The establishment of a suspect's identity, witnessed by a person at or near the scene of a crime, through evidence of physical characteristics and appearance or by some mark on or peculiarity of the accused.

III. Show-up Procedures

- A. Reasons for show-ups:
 - 1. Guides the Officer / Investigator in determining whether or not to look further for the perpetrator.
 - 2. The accuracy and reliability of identification is likely to be greater at that time.
 - 3. Permits speedy release of an innocent person who is being detained.

B. Witness Preparation

1. The witness shall be taken to the location of the suspect. ~~Do not move~~ The suspect shall not be moved to the location of the witness.
2. The witness shall be instructed that the person that committed the crime may or may not be present.
3. Prior to the show-up, the witness shall be asked to give a detailed description of the perpetrator, which shall be documented in an incident or supplemental report.
4. The witness shall be told that he / she is under no obligation to identify anyone.
5. If there is more than one witness, they shall be instructed not to talk with one another.

C. Conducting the Show-up

1. The show-up shall be conducted as soon as possible following the offense.
2. When possible, avoid exhibiting a suspect at the scene in handcuffs or other restraints. Suspects shall not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator, or perform other actions of the perpetrator during the show-up.
3. If more than one person is to view the suspect, they shall do so one at a time and out of the presence of the other witnesses.
4. An Officer / Investigator who is not assigned as the primary in the case shall conduct the show-up.
5. The identification shall be recorded using audio and / or video equipment, such as an in-car camera system.
6. Any feedback by the Officer / Investigator during the show-up is prohibited in order to maintain the integrity of the process. Also, the witness shall not be coached, by word or gesture, by the Officer / Investigator.
7. If the witness identifies the subject as the perpetrator, the Officer / Investigator shall document the witness' level of certainty following the show-up by quoting ~~their~~ his / her remarks and documenting any other relevant observations in a report.
8. Regardless of if a witness identifies the subject as the perpetrator or not, the time, date, location of the show-up, and the name of the subject viewed shall be documented in a report.

IV. **Photographic Lineup Procedures**

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A. Witness Preparation

1. The witness shall not be shown a photograph or image of the suspect before the photographic lineup is shown.
2. The witness shall not be informed that the suspect's picture is in the array.
3. Prior to the lineup, the witness shall be asked to give a detailed description of the perpetrator, which shall be documented in a report.
4. The witness shall be told that he / she is under no obligation to identify anyone.
5. If there is more than one witness, they shall be instructed not to talk with one another until after the entire process is completed.

B. Conducting the Lineup

1. A minimum of six photographs shall be used in a photographic array, one being a photograph of the suspect. The photographs shall be of the same kind, size, and appearance.
2. The subjects in the photographs shall be of the same sex gender, general age, and race, have similar characteristics, and, whenever possible, wearing similar clothing.
3. If there is more than one witness, photographs shall be displayed to only one witness at a time. Other witnesses shall not be present when the identification is being attempted.
4. Identifying information on photographs, such as booking photos, shall be covered up.
5. The suspect is not entitled to be represented by counsel at a photographic identification, regardless of when it takes place.
6. Unless extenuating circumstances exist, an Officer / Investigator who is not familiar with the case and is unaware of the identity of the suspect shall conduct the photographic lineup.
7. The identification shall be recorded using audio and / or video equipment.
8. Any feedback by the Officer / Investigator during the presentation of the lineup is prohibited in order to maintain the integrity of the process. Also, the witness shall not be coached, by word or gesture, by the Officer / Investigator.
9. Regardless of whether the suspect is identified or not, each lineup shall contain the name of the witness, the name of the Officer / Investigator showing the lineup, and the date of the lineup.

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10. If the suspect is identified, the witness shall indicate which photograph is of the suspect by a notation on the lineup. The Officer / Investigator shall document the witness' level of certainty following the lineup by quoting his / her remarks and documenting any other relevant observations in the report.
11. Regardless of whether the suspect is identified or not, each lineup shall be submitted into evidence.

V. **Physical Lineup Procedures**

A. Witness Preparation

1. The witness shall not be shown a photograph or image of the suspect before the lineup.
2. If there is more than one witness, they shall be instructed not to talk with one another until after the entire proceeding is completed.
3. The witness shall be told that he / she is under no obligation to identify anyone.
4. Prior to the lineup, the witness shall be asked to give a detailed description of the perpetrator, which shall be documented in a report.
5. Before entering the lineup location, the witness shall be given a copy of the lineup form on which the identification can be marked and signed.
6. No actions shall be taken or statements made to a witness to suggest that a suspect is standing in any particular place.

B. Conducting the Lineup

1. The Officer / Investigator in charge shall explain the lineup procedure to the suspect by advising him / her that he / she will be required to stand in the lineup to allow a witness an opportunity to make an identification for a specified offense. The suspect shall also be advised that he / she has a right to an attorney of choice to be present at the lineup. If he / she cannot afford one, one will be appointed. The Officer / Investigator shall obtain a written or recorded waiver should the suspect waive his / her right to counsel.
2. The suspect's attorney has a right to be present during the lineup, to speak with his / her client prior to the proceedings, and to advise the suspect that he / she may take any position in the lineup and may change position prior to summoning a new witness. However, Officers have the authority to remove argumentative defense attorneys from the lineup room if their actions impede the Officer's efforts to conduct the proceeding effectively.

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3. There shall be at least six persons in the lineup, including the suspect. They shall all be of the same ~~sex~~ gender, general age, and race, have similar characteristics, and wearing similar clothing. Each person shall be given a number for identification.
4. Any movements or statements shall be made by each person in the lineup, one at a time. If statements are made, all participants shall repeat the same words. **The suspect shall be informed that non-compliance with the lineup may be used against him / her in court.**
5. If more than one person is to view the lineup, they shall do so one at a time and out of the presence of the other witnesses.
6. As few persons as possible shall be allowed in the room when the lineup is being conducted.
7. A suspect has no legal right to refuse to participate in a lineup.
8. The names and addresses of all persons participating in the lineup shall be documented in a report.
9. At least two photographs shall be taken of the lineup. One shall be a frontal view and the other a profile view. All persons in the lineup shall be included in a single photograph.
10. Unless extenuating circumstances exist, an Officer / Investigator who is not familiar with the case and is unaware of the identity of the suspect shall conduct the lineup.
11. The ~~identification~~ **viewing of the lineup by the witness and his / her comments regarding the lineup** shall be recorded using audio and / or video equipment.
12. Any feedback by the Officer / Investigator during the proceeding is prohibited in order to maintain the integrity of the process. Also, the witness shall not be coached, by word or gesture, by the Officer / Investigator.
13. Regardless of whether the suspect is identified or not, each lineup form shall contain the name of the witness, the name of the Officer / Investigator showing the lineup, and the date of the lineup.
14. If the suspect is identified, the witness shall indicate which person is the suspect by a notation on the lineup form. The Officer / Investigator shall document the witness' level of certainty following the lineup by quoting his / her remarks and documenting any other relevant observations in the report.
15. Regardless of whether the suspect is identified or not, each lineup form shall be submitted into evidence.

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This policy supersedes any previous policies issued.

BY ORDER OF

CHIEF OF POLICE

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