

# NEW CANAAN POLICE DEPARTMENT

## SUBJECT: CRIMINAL IDENTIFICATION TECHNIQUES

**Divisional Order Number: 13-02-09**

**File:**

### **I PURPOSE/POLICY**

The purpose of this Divisional Order shall be to establish guidelines and procedures that will ensure that the Department's criminal identification process is conducted professionally, efficiently and in compliance with all applicable statutory and legal mandates.

It is the policy of the New Canaan Police Department to use all available investigatory techniques in order to identify the perpetrator of a crime. That being said, the usage of the identification techniques will be based upon "best practices" which were designed to ensure neutrality, impartiality and consistency in identification processes.

### **II RESPONSIBILITY**

It is the responsibility of all Department personnel to adhere to this Divisional Order. It is the additional responsibility of the Supervisory and Command Staff to ensure its compliance.

### **III PROCEDURES (IDENTIFICATION PROCEDURES)**

#### **A. Definitions:**

1. **Eyewitness** – a person who observes another person at or near the scene of an offense;
2. **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;
3. **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. 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;
4. **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 a crime and may be conducted with or without the suspect in the group;

5. **Identification Procedure** – a photographic lineup or show-up;
  6. **Filler** – means a photograph of a person who is not suspected of an offense and is included in an identification procedure;
  7. **Sequential Photo Lineup** – means whenever a specific person is suspected as the perpetrator of an offense, the photographs included in a photo lineup shall be presented sequentially so that the eyewitness views one photograph at a time;
  8. **Double Blind Procedure** – means 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 is suspected as the perpetrator of the offense;
  9. **Blind Administration** – (other than Folder Shuffle, below) means 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;
  10. **Folder Shuffle Method** – means that 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;
  11. **Lap** – means a single completed cycle to view all the photos in a photo lineup;
  12. **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;
- B.** There are four recognized identification techniques that may be utilized by officers during the course of an investigation. These consist of; the Show-up (One-On-One Confrontation), Field View, Photographic Lineup and composite sketch. Because the New Canaan Police Department is not equipped to adequately conduct a live lineup, this technique will not be utilized, nor shall video and/or audio recordings be used.
1. The Show-up or One-On-One Identification. This identification technique should only be utilized when exigent circumstances warrant its use.
    - a. When deciding to utilize this type of identification, officers should consider the following factors;
      - 1) Availability of the victim/witness.

- 2) Practical alternative methods of identification (i.e. photo lineup).
  - 3) The need to quickly determine if they are on the wrong trail.
- b. Detaining a person who fits the description of a suspect in order to arrange for a show-up is lawful when the officer has reasonable suspicion that a suspect has committed a crime. If the eyewitness fails to make an identification and there is insufficient other evidence to establish probable cause, the suspect must be permitted to leave.
- c. If necessary, the show-up should occur as soon as possible after the incident as the more time that elapses, the more suggestive the identification will be when the suspect is detained at or near the crime scene, or under exigent circumstances such as the near death of the eyewitness or victim.
- d. When conducted, officers shall adhere to the following guidelines;
- 1) When a suspect is stopped under showup circumstances, he/she should be detained at the scene of the stop and the witness(es) transported to that location to view the suspect. Suspects should not be transported back to the scene of the crime, if avoidable. Avoid conducting show-ups at a location that may be suggestive. Suspects should never be transported to the Police Department absent probable cause to arrest. When possible, always transport the eyewitness to the suspect's location using a police vehicle.
  - 2) When a show-up is arranged in an emergency situation, where either the eyewitness or a victim is in imminent danger of death or is in critical condition in a hospital, and the circumstances are such that an immediate confrontation is imperative, the emergency identification procedure shall be conducted in a non-suggestive manner.
  - 3) Ensure that the show-up is 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 of a patrol vehicle, in a cell or in holding facility clothing.
  - 4) Document the eyewitness's description of the suspect thoroughly prior to the show-up.
  - 5) Prior to the show-up, officers must read and complete the **Witness Instructions-Show-up Identification Procedures** form (**APPENDIX II**).
  - 6) Officers are prohibited from providing feedback or indicating through words, gestures or nonverbal cues that may suggest that the individual being identified is the perpetrator or that they have evidence of the suspect's guilt.
  - 7) Show-ups should not be conducted with more than one witness present at a time. Each witness's identification should be conducted separately. Multiple witnesses should not be able to communicate or observe each other during the identification procedure. The same suspect should not be presented to the eyewitness more than once.

- 8) When an eyewitness makes an identification, a statement should be obtained from the eyewitness which includes their level of certainty of the identification.
2. Employing a procedure known as Field View may be appropriate depending on the facts of an investigation. When utilizing a Field View, the eyewitness may be accompanied to a public location where the suspect may or may not be present. The witness is permitted to view a group of people in an effort to identify a suspect or suspects. In this case, the officer 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.
  3. When a specific person is suspected as the perpetrator of an offense, photographs may be utilized as a method of identification by means of a photo lineup. In these cases, the photographs included in the photo lineup shall be presented sequentially so that the eyewitness views only one photograph at a time and in such a manner that the person conducting the procedure does not know which person in the photo lineup is suspected as the perpetrator of the offense (i.e. Double Blind procedure). If that is not practicable, the photo lineup shall be conducted using the folder shuffle method, computer program or other comparable method whereby it ensures that the person conducting the procedure does not know which photograph the eyewitness is viewing during the procedure.
    - a. When preparing a photo lineup, officers must adhere to the following guidelines;
      - 1) The suspect and filler photographs should resemble the witness's description in significant features such as race, sex, facial features, profile, height, weight, build, specific item of clothing, etc. to the extent applicable to the photo being used of the suspect.
      - 2) If multiple photographs of the suspect are available, lineup administrators should select the photograph that most resembles the suspect description or appearance at the time of the incident.
      - 3) Attention should be paid to unusual identifying marks described by a witness that are visible on the suspect's photo. In these cases, photos containing a similar feature should be included when possible or the area of the feature may be covered on all photographs to be included.
      - 4) A minimum of five fillers must be used in addition to the suspect. All photos should be of similar and no single photo should unduly stand out from the others and no information concerning any previous arrest of the suspect shall be visible to the witness.
      - 5) If multiple suspects are involved, a separate photo lineup must be prepared for each suspect. In these cases, the person administering the lineup must ensure that different filler photographs are used for each individual lineup. If an eyewitness has previously viewed a photo lineup with the suspect's photo or with the suspect in it, steps must be taken to ensure that the suspect does not stand out in the new lineup.
      - 6) In cases where multiple witnesses will be viewing photo lineups, separate photo lineups should be prepared for each witness. The person administering the lineup may use the same filler photographs for each witness. When possible, the suspect's photograph should be placed in a different position.

- a) Multiple witnesses should never view photo arrays together. Every effort should be made to prevent communication between witnesses once one witness has viewed a photographic lineup.
- 7) The administrator shall record the order in which the folders were presented. Should the witness request a second “lap,” the lineup will be presented in the same ordered sequence as the initial lap.
- b. The administration of Double Blind photographic lineups shall be as follows;
  - 1) No information regarding the identification of the suspect will be revealed to the person administering the lineup.
  - 2) The lineup administrator will conduct the lineup following the Sequential protocol, numbering each photo with the order in which it is presented to the witness.
  - 3) The assigned investigator or anyone with knowledge of the suspect should not be allowed in the room at the time of the lineup administration.
  - 4) The lineup administrator should give instructions to the witness by verbally reading the **Witness Instruction-Photographic Identification Procedures** form (**APPENDIX I**) to the witness and determine that they understand it. The witness will then be asked to sign and date the form. Said administrator will avoid any actions, gestures and/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.
  - 5) The administrator should not offer nor suggest that the eyewitness engage in another “lap,” or viewing of the photographs. If a second lap is requested by the witness, only one additional lap is permissible (i.e. a maximum of two viewings) and then the entire series must be viewed by the witness in the same order that they were shown originally. Under no circumstances may a witness view one photograph, even when such a request is made by the witness.
  - 6) If the witness identifies a suspect, the administrator must ask the witness to describe in their own words how confident they are of the identification. All photographs in the series must be shown to the witness, regardless of whether an identification has been made.
  - 7) Once the sequential process is completed, the administrator shall not provide any feedback about the lineup results to the witness. He/she shall initial the back of each photograph and preserve the photo lineup as evidence. One completed copy should remain in the case file. The administrator shall document the process in both an Incident/Arrest Report and using the **Identification Procedure Record and Form (APPENDIX III)** as referenced below.
- c. The administration of Blind Folder Shuffle photographic lineups shall be as follows;
  - 1) The Blind Folder Shuffle photographic procedure will be utilized when the use of the Double Blind procedure is not practicable. Use of this technique is appropriate in the following circumstances;

- a) due to a lack of manpower resources;
  - b) there is a limited number of officers on duty;
  - c) it involves a major crime where many officers are aware of the identity of the suspect;
  - d) any other such circumstance
- 2) The photograph of the suspect and 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.
  - 3) The lineup administrator should give instructions to the witness by verbally reading the **Witness Instruction-Photographic Identification** form to the witness and determine that they understand it. The eyewitness should then 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 a witness at a particular time.
  - 4) If the blind method is not practicable, then the administrator must position him/herself so as not to be able to give cues, consciously or subconsciously to the eyewitness, such as standing behind the eyewitness.
  - 5) When the witness concludes viewing a particular photograph, it must be placed back in the folder and returned to the administrator before viewing the next photograph. Even if the witness identifies a suspect part way through the series, he/she should be instructed to continue viewing the remaining photographs. If the eyewitness requests a second lap, the folders should be shown to the witness in the same manner and sequence as the first lap.
- d. Upon conclusion of any of the aforementioned identification procedures, the administrator/officer must complete applicable sections of the **Identification Procedure Record and Form**. Information contained in the form includes all identification and non-identification results obtained during the identification procedure, the date and time of the procedure as well as other data.
  - e. In addition, the following information should be recorded and retained as part of the Incident/Arrest report.
    - 1) A statement signed by the eyewitness including the eyewitness's own words regarding how certain he/she is of the identification/selection (i.e. a confidence or certainty statement).
    - 2) The names of all persons present during the identification procedure.
    - 3) In a photo lineup, the photographs presented to the eyewitness or copies thereof.
    - 4) In a photo lineup, identification information on all persons whose photographs were included in the lineup and the sources of all photographs used.

- f. The Records Unit shall maintain a separate and distinct record by year of all **Identification Procedure Record and Forms** completed by the department in order to facilitate analysis and reporting by outside agencies.
4. The composite sketch, "identikit and/or facial composite software may be utilized by officers in order to assist in the identification of a suspect. When utilizing these methods, officers must be mindful of two common influences which could potentially influence the accuracy and reliability of this identification procedure. They are;
    - a. Eyewitness descriptions that rely on information learned outside of the incident. (I.e. media, other witnesses etc.) and;
    - b. eyewitness descriptions that are influenced by information that is unintentionally or inadvertently provided by the officer or technician creating the composite;
    - c. In order to mitigate these two influences, officers should when practical, apply the Double Blind procedures when utilizing these methods of identification.

#### **IV DISTRIBUTION**

This division order will be reproduced in electronic and traditional media. All sworn personnel shall have access to the general orders through a read-only file on their individual domain of the department's computer network. Printed copies will also be placed in locations throughout headquarters so that they are accessible to all personnel.

#### **V EFFECTIVE DATE**

This division order was approved by the New Canaan Police Commission on May 15, 2013 and was effective on May 15, 2013.

Per Order,

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Edward J. Nadriczny  
Chief of Police

**NEW CANAAN POLICE DEPARTMENT**  
**WITNESS INSTRUCTIONS-PHOTOGRAPHIC IDENTIFICATION PROCEDURES**  
**APPENDIX I**

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 and each photograph 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 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;
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 to make an identification, you will be asked to finish the procedure by looking at all of the photographs 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 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 with any information about the person you have selected;
13. If you select a 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: \_\_\_\_\_

Confidence Statement (level of confidence in the identification, if any):

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WITNESS INSTRUCTIONS-PHOTOGRAPHIC IDENTIFICATION PROCEDURES (Cont.)  
APPENDIX I

Date of Procedure: \_\_\_\_\_ Time of Procedure: \_\_\_\_\_

Identification Procedure Administrator Signature: \_\_\_\_\_

Names of All Present: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NEW CANAAN POLICE DEPARTMENT**  
**WITNESS INSTRUCTIONS-SHOW-UP IDENTIFICATION PROCEDURES**  
**APPENDIX II**

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 some people;
3. It is just as important to clear innocent persons from suspicion as it is to identify the guilty;
4. Regardless of whether you identify someone, we will continue to investigate the incident;
5. If you identify someone, I will ask you to state, in your own words, how certain you are (*of the identification*);
6. If you do select someone, please do not ask us questions about the person you have selected, because we cannot share that information with you at this time;
7. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case or the media;
8. Do you have any questions before we begin?

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

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

Confidence Statement (level of confidence in the identification, if any):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of Procedure: \_\_\_\_\_ Time of Procedure: \_\_\_\_\_

Identification Procedure Administrator Signature: \_\_\_\_\_

**NEW CANAAN POLICE DEPARTMENT**  
**IDENTIFICATION PROCEDURE RECORD AND FORM**  
 APPENDIX III

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

Identification Procedure Administrator Signature: \_\_\_\_\_

**Identification Procedure**

**Circle Procedure Used**

1. Photographic Lineup    2. Show-up    3. Field View

**Answer all that apply**

Date of Identification Procedure: \_\_\_\_\_ Time of Procedure: \_\_\_\_\_

Date of Crime: \_\_\_\_\_ Time of Crime: \_\_\_\_\_

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

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

Was the witness a victim of a 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*) \_\_\_\_\_