15-02 - Photographic Lineups

Los Angeles County Sheriff's Department

NEWSLETTER

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PHOTOGRAPHIC LINEUPS

When working in the capacity of a detective and/or handling an investigation, "suggestiveness" is a familiar term related to photographic lineups. The Supreme Court has ruled that lineups should not be unduly suggestive (Mason v. Brathwaite, 432 U.S. 98, 97 S. Ct. 2243, 53 L. Ed. 2d 140 [1977]). That is, a lineup should not be conducted in such a way as to highlight the suspect and elicit an identification of the suspect. If a lineup is unduly suggestive, any affirmative identification of a suspect ***may*** be excluded from his or her subsequent prosecution (Photo Lineup West's Encyclopedia of American Law, 2005).

Consider the following before, during, and after the identification process.

Before the Identification:

- Include only one suspect in each lineup.
- Check that the filler photographs are similar to the potential suspect's photograph. A filler is a person or photograph of a person who is not suspected of an offense.
- Check the photographs and/or backgrounds to make sure no particular characteristics of any of the photographs stand out.
- Create a consistent appearance between the potential suspect and fillers with respect to any feature (e.g., scars, tattoos, large earrings) used to describe the suspect by artificially adding or concealing that feature.
- Do not tell the victim or witness you have the suspect in custody and/or the suspect is one of the photographs in the lineup.
- Admonish each victim or witness about the lineup.

During the Identification:

- Only present the lineup to one victim or witness at a time.
- Avoid having the victim's or witness's attention drawn to the suspect because of a remark, non-verbal cue, and/or the photograph of the suspect "stands out."
- Document the victim or witness statement regarding the identification or non-identification results.
- Record each lineup conducted with the victim or witness, unless it is not practical to do so, or the process impedes the investigation.

After the Identification:

- Avoid making any remarks and/or non-verbal cues that the victim or witness has picked the right or wrong person.

Bottom Line:

When a lineup is created and/or conducted, the purpose is to maximize the reliability of the identification for solving crimes and convicting criminals, reduce the risk of identifying the wrong person, establish evidence that is reliable, conform to current legal procedures, and protect the Department from civil liability.

References:

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