The Allegheny County Chiefs of Police Association

EYEWITNESS IDENTIFICATION PROCEDURES

An Allegheny County Criminal Justice Advisory Board Project

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In Partnership With

The Allegheny County District Attorney's Office

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SUMMARY

In 2008, as the result of two high-profile wrongful convictions, and a wrongful identification and arrest, District Attorney Zappala asked the Allegheny County Chiefs of Police Association Executive Board to work in partnership with his office, the Criminal Justice Advisory Board, and the PA Human Relations Commission to develop a detailed comprehensive best practices Model Eyewitness Identification policy.

This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

Educational Training Videos that demonstrate examples of presenting a sequential photo array, the folder shuffle system and sequential line-ups are available for your officers to watch while on-duty at **NO COST** from the Norwood Police Department & Crossfire Training at:

Sequential Photo Array (copy & paste to your browser) http://www.youtube.com/watch?v=pcFy6T_s8OE

Folder Shuffle System (copy & paste to your browser) http://www.youtube.com/watch?v=5ZwN61Z9zoA

Sequential Line Ups (copy & paste to your browser) http://www.youtube.com/watch?v=HY8NzTCT97Q

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THE ALLEGHENY COUNTY CHIEFS OF POLICE ASSOCIATION

EYEWITNESS IDENTIFICATION PROCEDURES

I. Purpose

In order to implement the most reliable method for the collection of eyewitness evidence, this protocol is designed so that law enforcement officials conduct sequential photo arrays and lineups with non-suspect fillers chosen to minimize suggestiveness, non-biased instructions to eyewitnesses, and assessments of confidence immediately after identification. **If possible, the Eyewitness Identification Procedure and the witness' statement of certainty will be recorded** (See p.13, Section VI, subsection F).

Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

This protocol is designed to ensure that the highest quality evidence possible is obtained from eyewitnesses to identify and prosecute the guilty, and to exclude the innocent. For some of the procedures, there is no one right method of implementing the principles stated therein. Some methods will require more resources and effort than others. It is recognized that the ability to fully implement the protocol and the applicable procedures will vary among individual law enforcement agencies, depending on available resources, and that the procedures will often be tailored to meet individual circumstances. No one document can address all of the circumstances and/or exigencies that are encountered in the field. These procedures are not intended to be a comprehensive treatment of all factors involved in criminal investigation. Rather, it is a protocol and procedural guide outlining "best practice" procedures for eyewitness identification matters.

II. Protocol

1) Photo arrays and lineups should be constructed with non-suspect fillers chosen to minimize any suggestiveness that might point toward the suspect.

2) If adequate staffing is available and safety measures are not compromised, photo arrays and lineups are considered by some experts to be most reliable using a double blind procedure, in which the administrator is not in a position to unintentionally influence the witness's selection.

3) Witnesses viewing photo arrays and lineups should be instructed that the actual perpetrator may or may not be present.

4) Witnesses viewing photo arrays and lineups should view the suspect and fillers one at a time (sequentially) rather than all at once (simultaneously).

5) Eyewitnesses' confidence should be assessed immediately after identification. To protect against artificially inflated confidence levels, it is imperative that the witness's confidence in identification be recorded **immediately** after an identification procedure to prevent influence from information learned after the procedure.

6) Avoid multiple identification procedures in which the same witness views the same suspect more than once.

III. Definitions

1) Confidence Statement: A clear statement from the eyewitness, at the time of the identification and **in the eyewitness's own words** that indicates the eyewitness is sure that the person identified in the given lineup is the perpetrator. A numeric value of certainty is not required.

2) Eyewitness: A person whose identification by sight of another person may be relevant in a criminal proceeding.

3) Filler: A person or photograph who is not suspected of an offense and is included in the lineup.

4) Double Blind Lineup Administrator: An officer who is not participating in the investigation of the criminal offense and is unaware of which person in the lineup is the suspect.

5) Live Lineup: A non-suggestive display of individuals that includes the suspect and five (5) individuals who are similar in appearance, and who are presented one at a time to a witness for identification purposes; this is often referred to as a physical or body lineup.

6) Photo Array: A procedure where photographs are displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of the crime.

7) Sequential Photo Array: An array of photographs, including the suspect and seven (7) fillers who are similar in appearance, that are presented one at a time to an eyewitness for identification purposes.

8) Showup: The presentation of only one suspect to an eyewitness.

IV. Photo Arrays

A procedure where photographs are displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of the crime.

A. Composing the Array

Though complete uniformity of features is not required, the person composing the photo array should ensure the array is comprised so the suspect does not unduly stand out.

1) ***Number of Suspects.*** Include only one suspect at a time in each identification procedure.

2) ***Photo of Suspect.*** If multiple photos of the suspect are reasonably available, select a photo resembling the suspect's description or appearance at the time of the incident.

3) ***Number of Fillers.*** Except in extraordinary circumstances, include a minimum of seven (7) fillers (photos of nonsuspects) per identification procedure.

4) ***Resemblance of Fillers to Suspect.*** Fillers should resemble the witness' description of the suspect in significant features (e.g., face, height, weight, age, etc.) or, in cases where a composite is used, based on the filler's resemblance to the composite. If the suspect was described as having an unusual identifying mark, all fillers should have similar markings or all photos should include similar coverings over the described area. When there is an inadequate description of the suspect, or when there is a suspect whose appearance differs from the description of the suspect, fillers should resemble the suspect in significant features. For example, if a suspect is identified through fingerprints and the suspect's appearance differs from the witnesses' description of the perpetrator, fillers should be chosen who resemble the suspect in appearance. View the entire photo array (out of the witness's presence) to ensure that no person unduly stands out.

5) ***Information on Previous Arrests.*** Ensure that no writings or information concerning a previous arrest will be visible to the witness.

6) ***Filler as Lead Photo.*** Always lead photo arrays with a filler (give the array administrator one filler photograph to be used as the first photo shown). Research suggests witnesses are reluctant to identify someone in the first position and, if that person is the suspect, a misidentification may result.

7) ***Arrangement of Other Photos.*** Give the photo array administrator the lead filler photo (photo number one), two blank photos (numbered 9 and 10), and the suspect photo and remaining filler photos. Do not tell the administrator which photo is the suspect. Have the administrator mix the unnumbered photos and number them 2 to 8. (This assumes 7 fillers. These numbers and the numbers for the blank photos will, of course, change if a different number of fillers is used). Photos 9 and 10 are blank and are not shown to the witness but are used so the witness does not know when he or she is viewing the last photo.

8) ***Positioning of Suspect When Multiple Arrays Used.*** Have the administrator remix photos 2 to 8 and renumber them accordingly, in each subsequent photo array when there are multiple witnesses for the same case. Placement in this way reduces the possibility that a subsequent witness identifies someone based on the position number communicated to them by a

previous witness. Effective separation of witnesses, as recommended in B.1., below, will prevent inappropriate communication between witnesses.

9) ***Reuse of Fillers for Same Witness***. When showing a new suspect, avoid reusing the same fillers previously used in arrays shown to the same witness.

B. Conducting the Array

The identification procedure must be conducted in a manner that promotes the accuracy, reliability, fairness, and objectivity of the witness identification. If possible, the procedure and the witness' statement of certainty will be recorded (See p.13, Section VI, subsection F).

1) ***Instruction.*** Whenever practicable, the witness should be given standard instructions before viewing the suspect (Appendix A). Witnesses will be given a written copy of the instructions in Appendix A and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.
2) ***Separation of Witnesses.*** Separate all witnesses. Each witness should be given identification procedure instructions without the presence of other witnesses. Witnesses should not be allowed to confer with one another before, during, or after the procedure. Each and every witness should be presented photographs in a different and documented order as stated above.
3) ***Presence of Persons Aware of Suspects Identity.*** Ideally, no one should be present during the photo array procedure that knows the suspect's identity except counsel, if applicable. It is recognized that, in practice, this recommendation is sometimes not feasible.
4) ***Initial Instructions to Witness.*** The photo array administrator should give identical instructions at the beginning of each identification procedure (See Appendix A). Witnesses will be given a written copy of the instructions in Appendix A and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.
5) ***Influencing the Witness.*** The administrator should avoid making any comments during the identification procedure and should be aware that witnesses may perceive things like unintentional voice inflection or prolonged eye contact as messages regarding their selection.
6) ***Availability of Other Results to Witness.*** Ensure that no writings or information concerning previous identification results are visible to the witness.
7) ***Awareness of Witness of Number of Photos.*** The witness should not know how many photos will be shown.
8) ***Presentation of Photos.*** Present each photo to the witness separately, in a previously determined order, removing those previously shown. Hand the first photo to the witness for viewing. When the witness is done viewing the photo, have the witness hand the photo back. The second photo is then handed to the witness and the process is repeated through photo number 8. Show all photos to the witness, even if an identification is made before the procedure is completed.

9) ***Commenting on Selection and Outcome.*** Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way.

10) ***Request for Additional Viewing.*** If the eyewitness requests to see one or more of the photos again after viewing the entire array, the officer will present the **entire array** (one additional time) to the eyewitness. If this occurs, it must be thoroughly documented. The second viewing should occur only if the witness requests it and only after the first procedure is completed; it should never be at the suggestion of the lineup administrator.

11) ***Alteration of Materials by Witness***. Ensure that the witness does not write or mark any materials that will be used in other identification procedures.

C. Sequential Presentation

Photos should be presented sequentially (one at a time), rather than simultaneously. Sequential presentation requires each photo to be presented to the witness separately, in a previously determined order, removing each photo after it is viewed (simultaneous presentation presents all photos or individuals at the same time). Sequential presentation reduces the occurrence of misidentifications that result from a witness making relative judgment identifications by comparing members of the array to determine which one looks most like the suspect, rather than focusing on whether a particular array photograph actually is the suspect.

D. Folder Shuffle Method

1. The "Folder System" was devised to allow for blind photo array administration in circumstances where limited personnel resources are available. Should the investigating officer of a particular case be the only law enforcement personnel available to conduct a photo array, the following procedures are recommended:

2. Obtain one (1) suspect photograph that resembles the description of the perpetrator provided by the witness.

3. Obtain seven (7) filler photographs that match the description of the perpetrator, but do not cause the suspect photograph to unduly stand out.

4. Obtain ten (10) file folders (Two (2) of the folders will not contain any photos and will serve as "dummy folders").

    a. Affix one (1) filler photograph to the inside of the first folder and label it "#1".

    b. The individual administering the lineup should affix the suspect photograph to the inside of the next folder. It is imperative that this folder is NOT yet numbered.

    c. Affix the other six (6) filler photographs (one each) into the empty folders. It is imperative that these folders are NOT yet numbered.

    d. Shuffle the folders (with the exception of folder #1) so that the administrator is unaware of which folder the suspect is in.

e. Label the remaining folders #2 through #8.

f. The remaining folders (Folders #9 & 10) will contain a page with the following text: "THIS FOLDER INTENTIONALLY LEFT BLANK". [This is done so that the witness does not know when he has seen the last photo.

g. The administrator should provide instructions to the witness (Appendix A).

h. Without looking at the photo in the folder, the administrator is to hand each folder to the witness individually. The witness must view the photo in the folder and then return it to the administrator before being presented with the next folder.

E. Documenting and Recording Procedures and Results

1) ***Preserving Presentation Order and Photos.*** After the photos have been viewed, they should be marked, denoting the order in which presented to the witness, and retained in their original condition for possible later use. (See 3 below)

2) ***Documenting Procedure.*** The photo array administrator will document: his or her name; the procedure employed; the number of photos shown; sources of all photos used; names of persons present during the array; and the date, time, and location of the procedure. If, pursuant to a request, additional viewing occurs, that procedure should be thoroughly documented.

3) ***Recording Results.*** The photo array administrator will preserve the outcome of the procedure by documenting any identification or nonidentification results obtained from the witness. Preparing a complete and accurate record of the outcome of the identification procedure is crucial. The record can be a critical document in the investigation and any subsequent court proceedings.

a. ***Recording results and witness certainty***. Each of the witness' responses to the question: "Is this the person you saw [*insert description of act here*]?" should be documented with a reference to the number of the photo being presented and the exact response given. If the witness answers "no" to the question, the next photo is shown.

b. ***Witness signing of results***. Ensure identification results are signed and dated by the witness. Specifically, have the witness sign and date the photo identified.

V. Live Lineup Procedure

Below are procedural guidelines for that rare occasion when there is no other method to have an eyewitness attempt to identify the perpetrator of a crime, a defendant or his/her counsel request, or a Judge orders a "Live Lineup."
(See page 14, Section VII-Legal Issues, subsection B, Right to Counsel)

Refer to Appendices B and B1 for specific procedures.

A. Composing the Lineup

Though complete uniformity of features is not required, the person composing the live lineup should ensure the lineup is comprised so the suspect does not unduly stand out.

1) ***Number of Suspects.*** Include only one suspect at a time in each identification procedure.

2) ***Number of Fillers.*** Include a minimum of five fillers (nonsuspects) per identification procedure.

3) ***Resemblance of Fillers to Suspect.*** Fillers should resemble the witness' description of the suspect in significant features (e.g., face, height, weight, age, build, etc.) or, in cases where a composite is used, based on the filler's resemblance to the composite. If the suspect was described as having an unusual identifying mark, all fillers should have similar markings or all lineup members should have similar coverings over the described area. When there is an inadequate description of the suspect, or when there is a suspect whose appearance differs from the description of the perpetrator, fillers should resemble the suspect in significant features. For example, if a suspect is identified through fingerprints and the suspect's appearance differs from the witnesses' description of the perpetrator, fillers should be chosen who resemble the suspect in appearance. View the entire lineup (out of the witness's presence) to ensure that no person unduly stands out.

4) ***Filler as Lead Person.*** Always lead lineups with filler. Research suggests witnesses are reluctant to identify someone in the first position and, if that person is the suspect, a misidentification may result.

5) ***Positioning of Suspect When Multiple Lineups Used.*** Place the suspect in different positions in each lineup when there are multiple witnesses for the same case. Position all other members of the lineup randomly. (Placement in this way eliminates the possibility that a second or third witness identifies someone based on the position number communicated to them by the first witness.)

6) ***Reuse of Fillers for Same Witness.*** When showing a new suspect, avoid reusing the same fillers previously used in lineups shown to the same witness.

B. Conducting the Lineup

The identification procedure should be conducted in a manner that promotes the accuracy, reliability, fairness, and objectivity of the witness identification. The recommendations below are designed to enhance the accuracy of identification or nonidentification decisions by the witness.

1) ***Instruction.*** Whenever practicable, the witness should be given standard instructions before viewing the suspect (Appendix B). Witnesses will be given a written copy of the instructions in Appendix B and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

2) ***Separation of Witnesses.*** Separate all witnesses. Each witness should be given identification procedure instructions without the presence of other witnesses. Witnesses should not be allowed to confer with one another either before, during, or after the procedure.

3) ***Presence of Persons Aware of Suspect's Identity.*** Ideally, no one should be present during the lineup procedure who knows the suspect's identity except counsel, if applicable. It is recognized that, in practice, this recommendation may not be feasible.

4) ***Initial Instructions to Witness.*** The lineup administrator should give the identical instruction at the beginning of each identification procedure (See Appendix B). Witnesses will be given a written copy of the instructions in Appendix B and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

5) ***Influencing the Witness.*** The administrator should avoid making any comments during the identification procedure and should be aware that witnesses may perceive things like unintentional voice inflection or prolonged eye contact as messages regarding their selection.

6) ***Awareness of Witness of Number of Individuals.*** The witness should not know how many individuals will be shown.

7) ***Presentation of Individuals.*** Begin with all lineup participants out of the view of the witness. Present each individual to the witness separately, in a previously determined order, removing those previously shown.

8) ***Identification Actions of Participants.*** Ensure that any identification actions (e.g., speaking, moving, etc.) are performed by all members of the lineup.

9) ***Commenting on Selection and Outcome.*** Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way.

10) ***Request for Additional Viewing.*** If the eyewitness requests to see a specific individual after viewing the entire lineup, the officer will present the entire lineup (one additional time) to the eyewitness. If this occurs, it must be thoroughly documented. The second viewing should occur only if the witness requests it and only after the first procedure is completed; it should never be at the suggestion of the lineup administrator.

C. Sequential Presentation

Live lineups should be presented sequentially (one at a time), rather than simultaneously. Sequential presentation requires each individual to be presented to the witness separately, in a previously determined order, asking each viewed individual to leave after he/she is viewed. (Simultaneous presentation presents all individuals at the same time). Sequential presentation reduces the occurrence of misidentifications that result from a witness making relative judgment identifications by comparing members of the lineup to determine which one looks most like the suspect, rather than focusing on whether a particular individual in the lineup actually is the suspect.

D. Documenting and Recording Procedures and Results

1) ***Preserving Lineup and Presentation Order.*** Document the lineup by photo or video. The documentation should represent the lineup clearly and fairly. Photo documentation can be of either the group or each individual, but should preserve the presentation order of the lineup.
2) ***Documenting Procedure.*** The lineup administrator will document: his or her name; the procedure employed; the number of individuals shown; specific words, conduct, or gestures required of lineup participants; names of persons present during the lineup; and the date, time, and location of the procedure. If, pursuant to a request, additional viewing occurs (see B. 9., above), that procedure should be thoroughly documented.
3) ***Recording Results.*** The lineup administrator will preserve the outcome of the procedure by documenting any identification or nonidentification results obtained from the witness. Preparing a complete and accurate record of the outcome of the identification procedure is crucial. The record can be a critical document in the investigation and any subsequent court proceedings.

    a. ***Recording results and witness certainty***. Each of the witness' responses to the question: "Is this the person you saw [*insert description of act here*]?" should be documented with a reference to the number of the individual being presented and the exact response given. If the witness answers "no" to the question, the next individual is shown.

    b. ***Witness signing of results.*** Ensure identification results are signed and dated by the witness. (See Appendix B)

VI. Show Up

Presenting one suspect to an eyewitness for the purpose of a positive identification, shortly after the occurrence of a crime.

A. Show-Up Procedure

It is recognized that, although show-ups are inherently more suggestive than the eyewitness identification procedures previously recommended, under some circumstances the use of show-ups is appropriate. It is difficult to identify all these circumstances but generally, although not exclusively, they arise when circumstances require the prompt display of a suspect to a witness and the suspect matching the description of the perpetrator is located in close proximity in time and place to the crime.

If used in appropriate circumstances and with appropriate procedures, show-ups can be a reliable means for both identifying and excluding suspects. In particular, their use in close proximity in time to the crime can be advantageous: the witness's memory is fresh and the suspect's appearance is ordinarily unchanged. However, because of the suggestiveness of the procedure, it is important to adhere to some basic procedural components when a show-up is utilized.

B. Documenting Description

A description of the suspect by a witness will be documented before the show-up procedure is commenced.

C. Location of Suspect

If practical, transport the witness to the location of the detained suspect to limit the legal impact of the suspect's detention and to minimize the influence on the witness of seeing the suspect transported under custody.

A show up should not be conducted of a suspect who is in a detention/jail cell or of a suspect who is handcuffed/shackled.

D. Conducting the Procedure

1) ***Instruction.*** **Whenever practicable,** the witness should be given standard instructions before viewing the suspect (Appendix C). Witnesses will be given a written copy of the instructions in Appendix C and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

2) ***Suggestive Words or Conduct.*** Words or conduct of any type that may suggest to the witness that the individual is or may be the suspect should be carefully avoided. The suspect should not be presented to a witness more than one time, nor should the suspect be asked to wear clothing that is the same or similar to clothing worn by the perpetrator. Likewise, suspects should not be asked to speak words uttered by or recreate actions used by the perpetrator.

3) ***Confidence Statement.*** If a positive identification is made, the witness should be asked: "without using a number or percentage, in your own words, tell me how certain you are?" The witness should not be compelled to answer this question.

4) ***Multiple Witnesses.*** Show-ups should not be conducted with more than one witness present at a time. If there are multiple witnesses and one witness makes an identification during a show-up, consider reserving the remaining witnesses for a sequential photo array or sequential live lineup identification procedure, as previously outlined.

E. Documenting the Procedure

A person conducting the procedure will document: his or her name; the date and time of the procedure; the procedure employed, including the location of the procedure and whether the witness was transported to the suspect or vice versa; the appearance of the suspect, by taking a photo or video if possible; specific instructions or information provided to the witness; specific words, conduct, or gestures required of the suspect; and names of persons present during the procedure.

F. Recording Results

If shown at the station, the Eyewitness Identification Procedure (array) and the witness' statement of certainty will be recorded.

If the Eyewitness Identification Procedure (array) and the witness statement of certainty is made in the field, an audio and video recording should be made (i.e. MVR, BWC, Go Pro Camera or Department issued smart phone). The video should then be included with other video evidence in the case.

A person conducting the procedure will document each of the witness's responses regarding the identity of the suspect and, if a positive identification is made, the witness's response concerning the degree of certainty. The witness's statements should be recorded verbatim, or as close to verbatim as possible. Identification results should be signed and dated by the witness.

VII. Legal Issues

A. The Identification Standard

The importance of conducting fair and taint-free eyewitness identifications has been reviewed by courts across the United States throughout the years. Both the Pennsylvania Supreme Court and the United States Supreme Court have addressed the issue of witness identification, specifically as to the requisite standard governing photographic identifications.

A photographic identification procedure must be conducted so as not to be "impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification." Simmons v. United States, 390 U.S. 377,384, 88 S. Ct. 967 (1968). The Commonwealth bears the burden of establishing that any identification testimony to be offered at trial is free from taint of initial illegality.[1] Commonwealth v. Moore, 633 A.2d 1119, 1125 (Pa. 1994), citing Commonwealth v. Turner, 314 A. 2d 496 (Pa. 1974). Every identification procedure will be analyzed based upon the facts surrounding and/or leading up to the circumstances of the case.

B. Right To Counsel

Under Pennsylvania law, the Sixth Amendment's right to counsel attaches for the showing of photo arrays and live line-ups occurring after an arrest, but does not apply for prompt, on-the-scene show ups or the showing of photo arrays prior to an arrest. Right To Counsel also does not attach if a suspect is in custody for a different matter, or a separate incident, such as a different crime or a parole/probation violation if he is not under arrest for the offense for which identification is sought.

[1] In making this determination, the trial court should consider: "the manner in which the identification procedure was conducted, the witness' prior opportunity to observe, the existence of any discrepancies between the witness' description and the defendant's appearance, any previous identification, any prior misidentification, any prior failure of the witness to identify the defendant, and the lapse of time between the incident and the court identification." Commonwealth v. Moore, citing Commonwealth v. Fowler, 352 A. 2d 17 (Pa. 1976).

VIII. CONCLUSION

Appellate courts, when reviewing the fairness of eyewitness identification, will analyze the identification procedure used based upon the circumstances leading up to and/or surrounding the actual identification of a suspect or suspects.

By understanding the recommendations in this protocol, police departments can implement procedures that can help them ensure that eyewitness identifications are less likely to be construed as tainted and, therefore, inadmissible as evidence in a criminal proceeding.

APPENDIX A

APPENDIX A
ACCPA Checklist for SEQUENTIAL PHOTO ARRAYS

☐ Read the following instructions to the witness:

In a moment, I am going to show you a series of photos. The person who committed the crime may or may not be included. Even if you identify someone during this procedure, I will continue to show you all the photos in the series. Keep in mind that things like hairstyles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel you have to make an identification. This procedure is important to the investigation whether or not you identify someone. Regardless of whether you identify any suspect as the perpetrator, the police investigation is still ongoing.

☐ Explain the photo array process to the witness:

- I'll show you a series of photos one at a time, in no particular order.
- Take as much time as you need to look at each one.
- After each photo, I'll ask you if that is the person who_____ *(describe the act witnessed).*
- If you answer "yes," to confirm, I will then ask you, "without using a number or percentage, in your own words, tell me how certain you are?"
- ☐ Obtain witness's signature on the back of this form, acknowledging their receipt of these instructions.

☐ Show each photo to the witness. Ask the witness, "Is that the person you saw _____ *(insert the act witnessed*). "

☐ If a suspect is identified, immediately obtain a confidence statement: Ask the witness: "without using a number or percentage, in your own words, tell me how certain you are ?" Document the witness's statement verbatim on the rear of this form and in your investigative report.

☐ Whether or not an identification is made, continue to show all photos to the witness.

I have received instructions regarding the photo array process. I understand the instructions and I will follow them as I review the photos.

NAME

SIGNATURE DATE

I have indicated that photo # _____ is the person who (describe the act witnessed) _____

_____

Witness Initials _____

Witness Confidence Statement:

_____

_____

_____

_____

Witness Initials _____

APPENDIX B

APPENDIX B

ACCPA Checklist for SEQUENTIAL LINEUPS

☐ Read the following instructions to the witness:

In a moment, I am going to show you a series of individuals. The person who committed the crime may or may not be included. Even if you identify someone during this procedure, I will continue to show you all the individuals in the series. Keep in mind that things like hairstyles, beards, and mustaches can be easily changed and that complexion colors may look slightly different depending upon environmental/lighting conditions.

You should not feel you have to make an identification. This procedure is important to the investigation whether or not you identify someone. Regardless of whether you identify any suspect as the perpetrator, the police investigation is still ongoing. Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

☐ Explain the lineup process to the witness:

-The individuals will be shown to you one at a time and are not in any particular order.

-Take as much time as you need to look at each one.

- After each individual, I will ask you "Is this the person you saw _____ [insert description of act here]?"

- If you answer "yes," to confirm, I will then ask you, “without using a number or percentage, in your own words, tell me how certain you are?”

☐ Obtain witness’s signature on the back of this form, acknowledging their receipt of these instructions.

☐ Show each individual to the witness. Ask the witness, “Is that the person you saw _____ (*insert the act witnessed*). “

☐ If a suspect is identified, immediately obtain a confidence statement: Ask the witness: “without using a number or percentage, in your own words, tell me how certain you are?” Document the witness’s statement verbatim on the rear of this form and in your investigative report.

☐ Whether or not an identification is made, continue to show all individuals to the witness.

I have received instructions regarding the lineup process. I understand the instructions and I will follow them as I review the individuals.

NAME

SIGNATURE DATE

I have indicated that individual # _____ is the person who (describe the act witnessed)

Witness Initials _____

Witness Confidence Statement:

Witness Initials _____

APPENDIX B-1

REQUEST FOR LINE UP

Police Officer Instructions:

- **Contact the Allegheny County District Attorney's Office and request the assistance of a Deputy District Attorney prior to conducting the Lineup.**
- If the suspect **has been arrested**, **indicted or formally charged**, under Pennsylvania law, **Counsel** for the suspect **is required** to be notified and should be present at post-arrest, pretrial lineups in which the suspect is exhibited to identifying witnesses.
- If the suspect has not been not been arrested.
  - Have the suspect answer and initial the below questions.
  - Have the suspect sign the form in the certification box below.
  - Have a witness sign the form in the certification box.
  - Verify that the forgoing procedure was followed with your signature, date and time
  - Have suspect verify with his initials the date and time upon completion of these procedures and this form.
  - Please read the following Statement of Procedure to the suspect.

STATEMENT OF PROCEDURE

The arrangement of a lineup has been requested. Individuals possessing similar physical characteristics will be presented to witness(es) for a potential identification.

RIGHT TO COUNSEL FOR AN ACCUSED

Before this procedure is implemented, you have the right for legal counsel to be present during this procedure. If you cannot afford legal counsel, but desire to have legal counsel present, this procedure will be delayed and/or rescheduled so that appointed legal counsel may be present during this procedure.

Do you understand the statement of procedure?
(Please indicate by writing your initials on the appropriate line.)

_____Yes _____No

Do you understand your right to legal counsel?
(Please indicate by writing your initials on the appropriate line.)

_____Yes _____No

Do you wish to waive or give up your right to be represented by legal counsel during this procedure? (Please indicate by writing your initials on the appropriate line.)

_____Yes _____No

Verification

I HEREBY CERTIFY THAT THE ABOVE STATEMENT OF PROCEDURE AND RIGHT TO COUNSEL INFORMATION WAS READ TO _____ BEFORE HE WAS PLACED IN THE LINE-UP AND THAT HIS RESPONSES WERE AS INDICATED ABOVE.

SIGNATURE OF OFFICER: _____ DATE: _____

SIGNATURE OF DEFENDANT: _____ TIME: _____

INITIAL VERIFICATION OF DEFENDANT_____

POLICE DEPARTMENT

LINE-UP

TO BE COMPLETED BY POLICE DEPARTMENT:

DATE: _____ **TIME:** _____

OFFICERS CONDUCTING LINE-UP	**OFFICERS WITNESSING LINE-UP**
_____	_____
_____	_____
_____	_____
_____	_____

ATTORNEY PRESENT? ☐ Yes ☐ No

If yes, name, address & telephone of attorney: _____
Name

_____ _____
Address Telephone Number

DATE & TIME OFFENSE COMMITTED: _____

NAME OF WITNESS: _____

WITNESS INSTRUCTIONS: Individuals will appear before you wearing numbers on their chests and backs. If you identify an individual, circle the number below that is the same number of the individual you identified. If you do not identify any individual, do not circle any number. Please sign your name at the bottom of this page when the line-up procedure has been completed.

1. _____	**3.** _____	**5.** _____	**7.** _____
2. _____	**4.** _____	**6.** _____	**8.** _____

_____
WITNESS SIGNATURE

APPENDIX C

APPENDIX C
ACCPA Checklist for SHOWUPS

INSTRUCTIONS FOR SHOW-UPS

☐ Read the following instructions to the witness:

In a moment, I am going to show you an individual. The person may or may not be the suspect.

You should not feel you have to make an identification. This procedure is important to the investigation whether or not you identify someone. Regardless of whether you identify any one as the perpetrator, the police investigation is still ongoing.

After you observe the individual, I will ask you "Is this the person you saw _____ [insert description of act here]?" Take your time answering the question.

If you answer "yes", to confirm, I will then ask you, "without using a number or percentage, in your own words, tell me how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results**.**

☐ Obtain witness's signature on the back of this form, acknowledging their receipt of these instructions.

☐ Show each individual to the witness. Ask the witness, "Is that the person you saw _____(*insert the act witnessed*). "

☐ If a suspect is identified, immediately obtain a confidence statement: Ask the witness: "without using a number or percentage, in your own words, tell me how certain you are ?"

Document the witness's statement verbatim on the rear of this form and in your investigative report.

I have received instructions regarding the show-up process. I understand the instructions and I will follow them as I review the individuals.

_____

NAME

_____ _____

SIGNATURE DATE

I have indicated that the individual shown to me is the person who (describe the act witnessed)

_____

_____

Witness Initials _____

Witness Confidence Statement:

_____

_____

_____

_____

Witness Initials _____