

	Marquette University Police Department	
	Policy and Procedure Manual Eyewitness Identification	
Policy: 5.5	Issued: May 1, 2015	Date Revised: N/A
WILEAG Standards: 6.3.7		IACLEA Standards: 13.2.4

5.5.00 **Purpose**

The purpose of this Policy is to provide Marquette University Police Department (MUPD) officers direction on the utilization of eyewitness identifications and comply with the requirements of Wisconsin Statute § 175.50(2).

5.5.10 **Policy**

It is the policy of the Marquette University Police Department to provide comprehensive, yet impartial investigations utilizing eyewitness identification as one of its components but not normally as the sole evidentiary aspect against an alleged offender.

5.5.15 **Scope**

This policy applies to all sworn MUPD employees.

5.5.20 **Definitions**

A. PHOTO ARRAY

The sequential showing of multiple photographs to an eyewitness for the purpose of obtaining an identification of a suspect.

B. SEQUENTIAL PRESENTATION

Photo arrays should be presented sequentially, 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 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 member actually is the suspect.

C. DOUBLE BLIND PROCEDURE

The individual conducting the photo array should not know which photo, or member of the lineup, is the suspect. This is sometimes referred to as a “double-blind procedure.” Use of a neutral, or independent administrator, helps to minimize unintentional influences, or signals, to the witness regarding who may or may not be the suspect and, therefore, serves to reduce incorrect identifications.

D. LIVE LINEUP

The presentation of a number of individuals, including a suspect, sequentially before an eyewitness.

E. SHOW-UP

The presentation of one suspect to an eyewitness within a short time following the commission of a crime.

5.5.25

Procedure for Photo Arrays

Consistent with the policy described previously, a double blind, sequential presentation is recommended for all photo arrays. However, if a simultaneous presentation is used, it is still important to follow a double-blind procedure, select non-suggestive fillers, and properly instruct the witness. The double-blind requirement may be met in different ways, and officers are encouraged to devise appropriate methods that accommodate this consideration.

A. Preparing the Array

While the photo array should be conducted by an independent administrator (someone who does not know the suspect’s identity), the array should be prepared by the investigating officer. The following steps shall be utilized:

1. The investigating officer should gather the photos.
2. In total, gather one suspect’s photo, a minimum of five filler (non-suspect) photos, and at least two blank photos.

a. Suspect's Photo

- i. If there are multiple suspects, include only one suspect's photo in the array.
- ii. If multiple photos of the suspect are available, choose the photo that most resembles the suspect's appearance at the time of the crime. If you do not know what the suspect looked like at the time of the crime, choose the photo that most resembles the description of the perpetrator.

b. Filler Photos.

- i. Whenever possible, include a minimum of five fillers in each array. Since increasing the number of fillers tends to increase the reliability of the procedure, include as many above the minimum as desired.
- ii. In general, fillers should resemble the witness's description of the perpetrator in significant features (such as face, profile, height, weight, age, build, posture, hair, and facial hair, etc., to the extent applicable to the photos being used).

c. Blank Photos

Set aside two blank photos, so that the administrator will know to place them at the end of the array.

Explanation: Research suggests witnesses should not know when they are viewing the last photo. Witnesses who believe they are viewing the last photo may feel a heightened need to make an identification. Blanks after the last photo will prevent the witnesses from knowing when they are looking at the last photo.

- d. Assess the Array. Make sure that no person stands out from the rest.

B. Prepare the Folders

1. Retrieve 8 Department Issued Photo Array Folders.

2. Place one filler photograph in a folder and set that folder aside.
3. Place the two blank photos in folders and set those folders aside.
4. Randomly place the other photos (of the suspect and remaining fillers) into the remaining empty folders, one photograph per folder.
5. Shuffle the folders you are holding, so that you no longer know which folder contains the suspect's photo.

Explanation: This ensures that you will not be in a position to unintentionally influence the witness's selection.

6. Place the single folder containing a filler, the one you set aside earlier, on the top of the pile.

Explanation: Witnesses are reluctant to identify someone in the first position and, if that person is the suspect, a failure to identify the perpetrator or a misidentification may result.

7. Place the folders with the blank photos, the ones you set aside earlier, at the bottom of your pile.

Explanation: You do not want the witness to know when he/she is viewing the last photo. Witnesses who believe they are viewing the last photo may feel a heightened need to make an identification.

C. Conducting the Array

1. Videotape or Audio Tape the Identification Procedure. If practical, videotape or audio tape the entire identification procedure. Videotaping is preferable. For information on videotaping and audio taping procedures, see the Wisconsin Department of Justice's Physical Evidence Handbook, p. 42-44 & 53-56.
2. Restrict availability of other results to witness. Ensure that no writings or information concerning previous identification results are visible to the witness.
3. Seat the witness at a desk or table or otherwise provide a comfortable environment.
4. Position yourself close enough to the witness to verbally communicate with him/her but in a place where the witness will be

able to open a folder and look at the photo without your being able to see the photo.

Explanation: This will make it impossible for you to unintentionally communicate information to the witness about which folder contains the suspect's photo.

5. Give the witness a written copy of the following instruction sheet and read the instruction aloud:

The folders in front of you contain photos. In a moment, I am going to ask you to look at the photos. The person who committed the crime may or may not be included in the photos. Although I placed the photos into the folders, I have shuffled the folders so that right now I do not know which folder contains a particular photo. Even if you identify someone during this procedure, I will continue to show you all photos in the series.

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.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator. You will look at the photos one at a time and, since I have shuffled them, they are not in any particular order. When you open a folder, please open it in a manner that does not allow me to see the photo inside the folder. Take as much time as you need to look at each one. When you have finished looking at a photo, close the folder and hand it to me. I will then ask you, "Is this the person you saw [insert description of act here]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent compromising the investigation, you should avoid discussing this identification procedure or its results. Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

6. Witnesses should then be asked to read the following additional paragraph and sign and date below. Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the

investigating officer to document that the witness was appropriately instructed.

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the photographs, and I will follow the instructions provided on this form.

7. Give the Witness the Folders. Hand the witness the folders one at a time.
8. After a witness has looked at a photo and handed the folder back to you, ask the witness:

“Is this the person you saw [insert description of act here]?” If the witness answers “Yes,” ask the witness, **“In your own words, can you describe how certain you are?”**

9. Document the Witness’s Responses. As previously stated, videotaping or audio taping the entire identification procedure is recommended. Whether or not this is possible, document the witness’s response using the witness’s own words when possible.
10. After identification, a follow-up interview should assess any relevant factors that support the identification, such as: special facial features, hair, marks, etc.
11. Show every folder. Even if the witness makes an identification, hand the witness the next folder until you have gone through all the folders containing photographs. If a witness asks why he/she must view the rest of the photos despite already making an identification; tell the witness the procedure requires the officer to show the rest of the photos.

Explanation: Showing all photos in the series ensures that the photo array procedure will reveal as much information as possible. For instance, a witness may make an identification of an early photo, but then change his/her mind after viewing a later photo.

12. This change supplies important information about both the suspect and the witness.
13. Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way. Be aware that witnesses may perceive such things as

unintentional voice inflection or prolonged eye contact, in addition to off-handed words or phrases, as messages regarding their selection. Avoid casual conversation comments such as “very good.” Be polite but purposeful when you speak.

14. Requests for additional viewing. Only upon request of the witness, the witness may view one or more of the photos again after the first photo procedure has been completed. If this occurs, it must be thoroughly documented. The administrator should never suggest an additional viewing to the witness.

Explanation: Allowing a witness to view an array a second time converts the procedure from a sequential to a quasi-simultaneous array, thereby risking the benefits of the sequential procedure. In the interest of facilitating an identification, a witness who asks to see the array a second time may be permitted to do so, but because this may diminish the value of the identification it should not be offered without request.

15. Ensure that if the witness writes on, marks, or in any way alters identification materials, those items are not used in subsequent procedures.

D. Document Procedures and Results.

1. Have the Witness Sign and Date the Results. Once the procedure is completed, show the witness the written record of the results, and ask the witness to sign and date that record.
2. Preserve and place on evidence inventory, the photos in the order in which they were presented to the witness.
3. Document the procedure on an Incident Supplemental Report. The administrator should document:
 - a. The administrator’s name.
 - b. Date of the procedure.
 - c. Time of the procedure.
 - d. Location of the procedure.
 - e. Names of all persons present during the procedure.

f. If additional viewing occurred during the procedure.

E. Procedures for Multiple Suspects of Multiple Witnesses

1. At no time should witnesses view a photo array at the same location, at the same time. This could compromise any identifications due to the influence of others.
2. No communication between witnesses. To the extent possible, prevent witnesses from conferring with each other before, during, and after the photo array procedure.
3. Separate instructions. Each witness should be instructed outside the presence of the other witnesses.
4. If you need to show the same suspect to a new witness, re-shuffle all but the lead filler and the two blank photos and renumber them accordingly.

Explanation: Placement in this way reduces any possibility that a subsequent witness identifies someone based on the position number communicated to them by a previous witness.

5. When showing a different suspect to the same witness, do not reuse the same fillers from a previous array shown to that witness.
6. Avoid multiple identification procedures in which the same witness views the same suspect more than once. Should you decide to do more than one identification procedure you are likely to be called upon to clarify and/or justify the action.

Explanation: Showing a witness the same suspect in more than one photo array can be highly suggestive and can influence the witness to pick out that suspect based on remembering the suspect from the first identification procedure, rather than from the crime. Also, two identification procedures (show-up, followed by a live lineup or photo array) are not better than just one. A witness viewing a second procedure with the same suspect may believe that presence in both procedures suggests that authorities believe the suspect is the actual perpetrator.

5.5.30 **Procedures for Live Lineups**

The principles described in this SOP apply equally to photo arrays and live lineups. Just as witnesses viewing photo arrays can be vulnerable to

unintentional suggestion, so can witnesses viewing live lineups; just as witnesses viewing photo arrays tend to identify the person in the array who looks most like the perpetrator, so do witnesses viewing live lineups. Unfortunately, while photo arrays can be conducted using the folder system, which can allow the investigating officer to conduct the array; live lineups cannot be conducted in that way. Live lineups should be conducted by an independent administrator, someone who does not know which person in the lineup is the suspect. This may impose a logistical burden because it will mean bringing in an additional person from outside the investigation to conduct the lineup. However, in those rare situations in which a live lineup is necessary, investigators should find another agency or officer or departmental employee who can briefly break away from his/her duties to assist with an investigation. If a lineup is absolutely necessary, and no independent administrator can be found, the investigating officer must take great care to avoid any unintentional cues to the witness.

A. Compose the Lineup

1. Number of Suspects. Include only one suspect at a time in each lineup.
2. Number of Fillers. Whenever possible, include a minimum of four fillers (non-suspects) per lineup. Since increasing the number of fillers tends to increase the reliability of the procedure, include as many above the minimum as desired.
3. Resemblance of Fillers to Suspect. In general, fillers should resemble the witness's description of the perpetrator in significant features (such as face, profile, height, weight, age, build, posture, hair and facial hair, specific articles of clothing, etc., to the extent applicable to the photos being used) or, in cases where a composite was used, fillers should resemble the composite. If a person who has never seen the perpetrator would be able to pick out the suspect from the lineup based on knowing only the description given by the eyewitness, then the fillers may not sufficiently resemble the description of the perpetrator.
4. Assess the Lineup. Make sure that no person stands out from the rest.
5. Filler as Lead Subject. Always lead lineups with a filler.

Explanation: Research suggests witnesses are reluctant to identify someone in the first position and, if that person is the suspect, a misidentification may result.

6. Limit Contact between Witnesses and Fillers. Take precautions to ensure that witnesses do not encounter suspects or fillers at any time before or after the identification procedure.

B. Conduct the Lineup.

1. Videotape or Audio Tape the Lineup.

If practical, videotape or audio tape the entire lineup procedure. Videotaping is preferable. For information on videotaping and audio taping procedures, see the Wisconsin Department of Justice's Physical Evidence Handbook, p. 42-44 & 53-56.

2. Availability of Other Results to Witness. Ensure that no writings or information concerning previous identification results are visible to the witness.
3. No Persons Present Who Know the Suspect's Identity. To the extent possible, ensure that no one who knows the suspect's identity is present during the lineup procedure except defense counsel (if present).
4. Witness's Knowledge of Number of Suspects. The witness should not know how many individuals will be shown.
5. Instruct the Witness. The lineup administrator should give the witness a written copy of the following instruction and should read the instruction aloud at the beginning of each identification procedure:

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. I do not know whether the person being investigated is included. Even if you identify someone during this procedure, I will continue to show you all individuals in the series.

Keep in mind that things like hair styles, beards, and mustaches can be easily changed. You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

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]?” Take your time answering the question.

If you answer “Yes,” I will then ask you, “Can you describe how certain you are?”

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

Do you understand the way the lineup procedure will be conducted and the other instructions I have given you?

6. Witnesses should then be asked to read the following additional paragraph and sign and date below. Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the individuals who will be presented to me, and I will follow the instructions provided on this form.

7. Present Subjects One at a Time. 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 from the field of view.
8. Question the Witness. After each individual is shown, ask the witness:
“Is this the person you saw [insert description of act]?” If the witness answers “Yes,” ask the witness, **“In your own words, can you describe how certain you are?”** Whether or not this is possible, document the witness’s response using the witness’s own words when possible.

9. After an identification, a follow-up interview should assess any relevant factors that support the identification, such as: special facial features, hair, marks, etc.
10. Show Every Subject. Even if the witness makes an identification, show the witness the next subject until all subjects have been shown. If a witness asks why he/she must view the rest of the subjects despite already making an identification; simply tell the witness that the procedure requires the officer to show all the subjects.

Explanation: Showing all subjects in the series ensures that the lineup will reveal as much information as possible. For instance, a witness may make an identification of an early subject, but then change his/her mind after viewing a later subject. This change supplies important information about both the suspect and the witness.

11. Actions of Lineup Members. Ensure that any identification actions (e.g., speaking, moving, etc.) are performed by all members of the lineup.
12. 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. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-handed words or phrases, as messages regarding their selection. Avoid casual comments such as “very good.” Be polite but purposeful when you speak.
13. Request for Additional Viewing. Only upon request of the witness, the witness may view one or more of the subjects again after the lineup has been completed. If this occurs, it must be thoroughly documented. The lineup administrator should never suggest additional viewing.

Explanation: Allowing a witness to view a lineup a second time converts the procedure from a sequential to a quasi-simultaneous lineup, thereby risking the benefits of the sequential procedure. In the interest of facilitating identification, a witness who asks to see the lineup a second time may be permitted to do so, but because this diminishes the value of the identification it should not be offered without request.

C. Document Procedures and Results.

1. Have the Witness Sign and Date the Results. Once the procedure is completed, show the witness the written record of the results, and ask the witness to sign and date that record.
2. Photograph the Lineup Subjects. As stated above, video or audio taping the entire identification procedure is recommended. Whether or not this is possible, photo documentation of the suspect and fillers should be taken. Photo documentation can be of either the group or each individual, but should preserve the appearance of the suspect and fillers and the order of the lineup.
3. Document the procedure on an Incident Supplement Report. The administrator should document:
 - a. The administrator's name.
 - b. The procedure employed.
 - c. Date, time, and location of the procedure.
 - d. The number of fillers.
 - e. Names of persons present during the lineup.
 - f. If additional viewing occurred.

D. Procedures for Multiple Suspects or Multiple Witnesses.

1. No Communication between Witnesses. To the extent possible, prevent witnesses from conferring with each other before, during, and after the lineup procedure.
2. Separate Instructions. Each witness should be instructed outside the presence of the other witnesses.
3. Showing the Same Suspect to a New Witness. Place the suspect in different positions in each lineup. Position all other members of the lineup randomly.

Explanation: Placement in this way reduces the possibility that a second or third witness will identify someone based on the position number communicated to them by the first witness.

4. Multiple Lineups with Same Suspect and Same Witness. Avoid multiple identification procedures in which the same witness views the same suspect more than once. Should you decide to do more than one identification procedure you are likely to be called upon to clarify and/or justify the action.

Explanation: Showing a witness the same suspect in more than one identification procedure can be highly suggestive and can influence the witness to pick out that suspect based on remembering the suspect from the first identification procedure, rather than from the crime.

5. Showing a Different Suspect to the Same Witness. When showing a different suspect to the same witness, do not reuse the same fillers from a previous lineup show to that witness.

5.5.35 Procedure for Show-ups

A show-up occurs when law enforcement officials show one suspect to one witness for the purpose of eyewitness identification.

Although courts have recognized that show-up procedures can be suggestive, show-ups have benefits for both public safety and innocent suspects.

First, in situations in which police lack probable cause to arrest but have temporarily detained a suspect who matches a general eyewitness description, show-ups allow police to conduct an eyewitness identification procedure rather than simply releasing a potentially guilty perpetrator.

Second, show-ups benefit innocent suspects because they have the potential to immediately clear an innocent person from suspicion without suffering the indignity of arrest or further investigation.

Despite these benefits, show-ups have risks, as well.

First, show-ups can be suggestive, in the sense that they are likely to convey the impression to witnesses that the police think they have caught the perpetrator and want confirmation.

In addition, research shows that show-ups produce a greater risk for innocent suspects than properly conducted photo arrays and lineups. However, the reason for the risk is somewhat surprising.

Eyewitnesses make identifications at an equal or lesser rate for show-ups than for photo arrays. Show-ups are riskier for innocent suspects because

some eyewitness errors made during photo arrays are harmless identifications of fillers known to be innocent, while all false identifications during show-ups result in false evidence against innocent suspects.

Researchers have pointed out another advantage, lineups and photo arrays have over show-ups:

1. They provide a test of a given eyewitness's reliability. If an eyewitness viewing a photo array identifies an innocent filler, the police can conclude that the witness is not useful for future identification procedures. However, if an eyewitness viewing a show-up incorrectly states that the suspect is not the perpetrator; the police are likely to continue to rely upon that eyewitness for other identification procedures despite the witness's unreliability. This can have negative consequences if the unreliable witness is later shown a photo array or lineup and identifies an innocent person.
2. The Wisconsin Supreme Court recently weighed these risks and benefits and implemented a rule for the admissibility of evidence obtained using show-ups.

According to *State v. Dubose*, show-up identification evidence will be necessary. A show-up will not be deemed necessary unless the police lacked probable cause to make an arrest or, as a result of other exigent circumstances, could not have conducted a lineup or photo array. Furthermore, the admissibility of show-up identification evidence will turn on whether police conducting a show-up utilized appropriate safeguards to minimize the suggestiveness of the procedure. Specifically, factors such as whether the show-up was conducted in a squad car and whether the witness was given a non-biased instruction before the show-up will be relevant to whether show-up identification evidence is admissible.

Before conducting a show-up, officers should consider the fact that properly conducted photo arrays and lineups are more reliable than show-ups and decide whether a show-up, instead of a photo array or lineup, is necessary and appropriate under the circumstances. It is not possible to list all the factors that figure in to this decision, nor is it possible to devise a precise formula for when show-ups are appropriate. However, certain factors are clearly relevant.

For instance, law enforcement officers should consider the proximity—both geographic and temporal—of the suspect to the crime. Show-ups should generally be avoided if they cannot be conducted close in time and place to the crime. In any case, if officers plan to make an arrest

with or without a show-up, they should consider conducting a photo array or lineup after the arrest instead of a show-up.

Officers should consider exigent circumstances such as the future availability of witnesses. If a witness will be unavailable in the future, a show-up may be necessary. Otherwise a proper lineup or photo array will ordinarily be more appropriate as it avoids the inherent suggestiveness of the show-up.

The use of a show-up can provide investigative information at an early stage, but the inherent suggestiveness of a show-up requires careful use of procedural safeguards. The following procedures are designed to address those risks and outline the proper use of show-ups. The procedures apply regardless of whether other practices would be legally permissible. For instance, even if a given suspect consents to a show-up, a show-up still should not be conducted unless the investigating officer decides that the exigencies of the situation outweigh any possible risk of misidentification presented by conducting a show-up. Consent may legally authorize police to detain a suspect for a show-up, but it does nothing to remove the suggestiveness of the procedure.

Finally, the density of the University population on campus and the likelihood that University faculty, staff, and students may have had some contact in the past, including passing someone regularly on the street or in a University building or residence hall. This means that show-ups may be more likely to produce inaccurate identifications. Consequently, show-ups of University faculty, staff, or students requires the advance approval of the Shift Commander.

A. Prepare for the Show-up.

1. Document the Witness's Description.

Before the show-up is conducted, it is important the witness be asked to give a detailed description of the perpetrator, and this description should be carefully documented.

2. Location of Suspect.

Whenever practical, transport the witness to the location of the detained suspect (as opposed to transporting the suspect to the witness) to limit the potential legal impact of the suspect's detention and to minimize the influence on the witness of seeing the suspect

transported under custody. Show-ups cannot be conducted at a police station or other law enforcement building.

3. Videotape or Audio Tape the Procedure.

If practical, videotape or audio tape the entire show-up procedure. Videotaping is preferable. For information on videotaping and audio taping procedures, see the Wisconsin Department of Justice's Physical Evidence Handbook, p. 42-44 & 53-56.

B. Conduct the Show-up.

1. Instruct the Witness. Witnesses should be given a written copy of the following instruction and the instruction should be read aloud:

In a moment, I am going to show you an individual. That person may or may not be the true perpetrator. I do not know if the person is the true perpetrator. You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

After you have observed the individual, I will ask you "Is this the person you saw [insert description of act]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, and in order to prevent compromising the investigation, you should avoid discussing this identification procedure or its results. Do you understand the way this procedure will be conducted and the other instructions I have given you?

2. Witnesses should then be asked to read the following additional paragraph and sign and date below. (Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.)

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to observe the individual who will be presented to me, and I will follow the instructions provided on this form.

3. Present the Suspect. If possible and safe, have the witness view the suspect while the suspect is not restrained by handcuffs or by the officer, and while the suspect is not seated in a squad car. When circumstances dictate that the suspect must be controlled and/or separated from the witness then take practical steps to minimize the suggestiveness of the procedure.
4. Avoid Suggestive Words or Conduct. Words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator must be carefully avoided.
5. Question the Witness. After the witness views the suspect, ask the witness:

“Is this the person you saw [insert description of act]?” If the witness answers “Yes,” ask the witness, **“In your own words, can you describe how certain you are?”**

6. Document the Witness’s Responses. Record the witness’s responses to each question. Whether or not video or audio recording is possible, document the witness’s response using the witness’s own words when possible.
7. After an identification, a follow-up interview should assess any relevant factors that support the identification, such as; special facial features, hair, marks, etc.

C. Document Procedures and Results.

1. Have the Witness Sign and Date the Results

Once the procedure is completed, show the witness the written record of the results, and ask the witness to sign and date that record.

2. Photograph the Suspect

Whenever possible, photograph the suspect at the time of the show-up.

3. Document the Procedure

The administrator should document:

- a. The administrator’s name

- b. The procedure employed
 - c. Date, time, and location of the procedure
 - d. Names of persons present during the show-up
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, that identification should provide probable cause for an arrest, and the remaining witnesses should ordinarily be shown a photo array or lineup rather than a show-up.
 5. Multiple Show-ups with Same Suspect and Same Witness. Avoid multiple identification procedures in which the same witness views the same suspect more than once. Should you decide to do more than one identification procedure you are likely to be called upon to clarify and justify the action.

D. Multiple Suspects.

If there are two suspects, the witness should view two separate show-ups, each conducted in accordance with these procedures. Two or more suspects should not be shown to the witness at the same time.

5.5.40

Photo Collection Displays

- A. Collections of photos/images of previously arrested persons may be useful in cases in which a suspect has not yet been determined and other reliable sources have been exhausted. This technique may provide investigative leads, but results should be evaluated with caution. Avoid individual photos/images that are suggestive or cause any one to stand out unnecessarily.
- B. Collections of photos must be objectively compiled to yield investigative leads that will be admissible in court. Individuals should be selected who are uniform with regard to physical characteristics such as race, age, gender, etc.

Marquette University Police Department Eye Witness Form-Photo Array

In a moment, I am going to show you a series of folders which contain photos. The person who committed the crime may or may not be included. I do not know whether the person being investigated is included.

Even if you identify someone during this procedure, I will continue to show you all photos in the series.

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.

You should not feel you need to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

The folders 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 folder, I will ask you "Is this the person you observed [insert description of act here]? Take your time answering the question.

If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

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

Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

Yes: _____ No: _____

I have read these instructions, or they have been read to me. I understand the instructions and I am prepared to review the photographs that will be presented to me. I will follow the instructions provided on this form.

Witness/Victim: _____

Officer: _____

Date: _____ Location: _____

Marquette University Police Department Eye Witness Form – Show-Ups

In a moment, I am going to show you an individual. That person may or may not be the true perpetrator. I do not know if the person is the true perpetrator.

You should not feel you need to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

After you have observed the individual, I will ask you “Is this the person you observed [insert description of act]?”

Take your time answering the question. If you answer “Yes,” I will then ask you, “In your own words, can you describe how certain you are?”

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

Do you understand how this procedure will be conducted and do you understand the other instructions I have given you?

Yes: _____ No: _____

I have read these instructions, or they have been read to me. I understand the instructions and I am prepared to observe the individual who will be presented to me. I will follow the instructions provided on this form.

Witness/Victim: _____

Officer: _____

Date: _____ Location: _____