

# **CITY OF ANDERSON POLICE DEPARTMENT**

## **Anderson, South Carolina**

<b>DIRECTIVE TYPE</b> General Order	<b>EFFECTIVE DATE</b> October 29, 2010	<b>NUMBER</b> 1610
<b>SUBJECT</b> Eyewitness Identifications		
<b>REVISED</b>		
<b>REFERENCE</b> CALEA	<b>AMENDS/SUPERSEDES</b> All Others	
<b>DISTRIBUTION</b> All Personnel	<b>RE-EVALUATION DATE</b> Annual	<b>NO.</b> <b>PAGES 4</b>

### **I. PURPOSE**

To establish the policy and procedures for line-ups and show-ups used during criminal investigations conducted by the City of Anderson Police Department.

### **II. POLICY**

Department members will follow established guidelines for the use of eyewitness identifications involving show-ups and photographic line-ups used during criminal investigations of criminal offenses in accordance with federal, state, and local laws.

### **III. DEFINITIONS**

- A. Filler Photographs - Also referred to as "fillers". Photographs of individuals, not suspects, used in a photographic display.
- B. Live Line-Up - A live display of the suspect along with other individuals, whose physical characteristics resemble the suspect's description or appearance at the time of the incident.
- C. Photographic Array - The showing of multiple photographs to an eyewitness for the purpose of obtaining identification.
- D. Photographic Line-Up - A display of the suspect along with filler photographs of other individuals whose physical characteristics resemble the suspect's description or appearance at the time of the incident.
- E. Show-Up - The presentation of one suspect to an eyewitness in a short time frame following the commission of a crime.

## IV. PROCEDURES

### A. Show-Ups

Courts have suppressed identification evidence based on the use of show-ups due to inherent suggestiveness of the practice. Therefore, the use of show-ups will be avoided whenever possible. Show-ups are typically justified when other means of identification are impractical or unavailable and no other evidence exists to hold the suspect. Show-ups are practical only when a crime is freshly committed and circumstances are such that the subject can reasonably be associated with the incident. When exigent circumstances require the use of show-ups, the following guidelines will be followed: (CALEA 42.2.12a)

1. Show-ups will not be conducted when the suspect is in a cell, shackled (handcuffs are permitted), or dressed in jail clothing.
2. Show-ups will not be conducted with more than one witness present at a time. If the show-up is conducted separately for more than one witness, the witnesses will not be permitted to communicate before or after the show-up regarding the identification of the suspect. (CALEA 42.2.12 c)
3. The same suspect will not be presented to the same witness more than once.
4. Show-up suspects will not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator, or to perform other actions of the perpetrator.
5. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be involved in the incident will be strictly avoided. The officer will not provide feedback to the witness regarding status of the suspect or the identification. (CALEA 42.2.12 f)
6. The officer conducting a show-up will instruct the witness that the subject being presented is not necessarily the suspect of the incident and that the witness is not compelled to either positively or negatively identify the subject as the suspect in the incident. The officer will ask the witness to state their level of confidence regarding the identification. (CALEA 42.2.12 d) (CALEA 42.2.12 e)
7. The witness will be transported to the location of the subject of the show-up. Under no circumstances will a suspect be transported to the scene of the incident. (CALEA 42.2.12 b)
8. The subject of the show-up will, if practical, be taken out of a vehicle and stood up for the show-up. The witness typically will be allowed to sit in a vehicle. Officers may use lights as necessary to illuminate the subject of the show-up and reduce the ability of the subject to see the witness.
9. The officer conducting the show-up will document all aspects of the show-up to include: (CALEA 42.2.12 g)
  - a. Where and how the suspect was initially located;
  - b. Where the show-up was conducted;
  - c. Description of the suspect and clothing; and
  - d. The level of confidence expressed by the witness.

### B. Photographic Identifications/Photographic Line-Ups

1. Photographic identifications may use multiple photographs shown individually to a witness or simultaneously in an array. (CALEA 42.2.11 a)



2. Photographic Line-Ups will be created using six photographs. Filler photographs will be individuals who reasonably resemble the suspect in regard to age, height, weight, and general appearance and be of the same sex and race. Photographs will not include (or will have covered) any identifying information on the subjects. (CALEA 42.2.11 a)
3. The line-up will be arranged with three photographs across the top and three across the bottom. Numbering of the photographs will be one through three across the top from left to right and four through six across the bottom from left to right. (CALEA 42.2.11 a)
4. The officer conducting the photo line-up will instruct the witness of the following prior to viewing the line-up: (CALEA 42.2.11 d)
  - a. That the suspect may or may not be among the subjects in the line-up and that the witness is not compelled to make an identification.
  - b. Explain to the witness that the subject may not appear exactly as they did during the incident because features such as hair styles and facial hair may be changed. Photographs also may not always depict the true complexion of the person and can be affected by the quality of the photograph.
  - c. Ask the witness to state their level of confidence in the identification.
  - d. Remind the witness not to discuss the identification procedure or results with other witnesses involved in the case.
5. The photo line-up will be placed face down in front of the witness and after explaining the procedure, will be asked if they understand the procedure. Once the witness is ready, they will be asked to turn over the photo line-up and view the photographs. If the witness makes a positive identification, the witness will sign, date, and indicate the time above the chosen photograph. (CALEA 42.2.11 g)
6. Officers will not make statements to influence the perception or judgment of the witness or witnesses. Officers will not provide feedback to the witness or witnesses regarding the subject or the identification. (CALEA 42.2.11f)
7. The officer conducting the photo line-up will thoroughly document the results of the identification (positive or negative) made by the witness. Documentation will include the level of confidence in the identification expressed by the witness. (CALEA 42.2.11 e.& g)
8. The officer conducting the photo line-up will write down the case number, the officer's name and date on the Affidavit of Photograph Identification Form and place the line-up in the case file. (CALEA 42.2.11 g)
9. If more than one witness is involved, separate line-ups will be prepared. Precautions will be taken to make sure the witnesses do not have an opportunity to speak to one another unsupervised prior to the identification procedure. (CALEA 42.2.11 c)
10. Video and/or audio recording devices will not be used to document line-ups. (CALEA 42.2.11 b)


C. Photographic Identification and Photographic Array

1. Single photographic identification is only acceptable for confirming a known, or partially known, identity. For example, if a witness knows the identity of a subject but only knows a partial name, or a nickname, single photograph identification may be used to confirm identity.
2. A photographic array of multiple photographs may be used for identification when a phoyo line-up is impractical or justifiable reasons exist to substitute a photographic array for a photo line-up.
3. If a photographic array is used, the same procedures for a photographic line-up will be followed with the exception that photographs will be shown to the witness one at a time. The same order will be used for each viewing and the officer will document the order shown.
4. The photographic array will be preserved in the same manner as a photographic line-up. If photographic array photographs are to be viewed at one time, they will be affixed to a piece of paper and utilized as a photographic line-up.

D. Live Line-Ups

Live line-ups are not utilized by officers of the City of Anderson Police Department.

By order of:

  
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Martin D. Brown, Chief of Police

10-29-10  
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Date