

PLANNING, RESEARCH AND DEPLOYMENT

TRANSMITTAL OF WRITTEN DIRECTIVE

FOR SIGNATURE OF: James E. White, Chief of Police

TYPE OF DIRECTIVE: Manual Directive 203.11

SUBJECT: EYEWITNESS IDENTIFICATION AND LINEUPS

ORIGINATED OR REQUESTED BY: Planning, Research and Deployment

APPROVALS OR COMMENTS:

The contents of the above Written Directive mirror the contents of DPD Manual Directive Order 203.11, "Eyewitness Identification and Lineup." The italicized changes/additions were mandated by Chief of Police James E. White. The contents of this Written Directive were reviewed by Captain Heather Cameron, of Investigative Operations. This Written Directive then underwent an additional review conducted by Planning, Research and Deployment. The newly revised Written Directive will rescind the current Eyewitness Identification and Lineup Written Directive (203.11). Upon completion of executive review, and approval by the Chief of Police, the newly revised Written Directive will then be forwarded to the BOPC for review.

This policy has extensive changes because procedures have changed since its last update. Planning, Research and Deployment (PRD) referenced the IACP model policy for current procedures. The recommended changes reflected in this policy are as follows:

- **203.11 – 1 – Purpose** – added - "*... procedures involving showups, photo arrays, and live lineups. Erroneous eyewitness identifications have been cited as the factor most frequently associated with wrongful convictions. Therefore, in addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence that either supports or eliminates the suspect identification.*"
- **203.11-2 – Policy** – added – "*...erroneous identifications, and gather evidence that conforms to established legal procedures.*"
- **203.11 - 3.1 Administrator** - definition added – "*The law enforcement official conducting the identification procedure.*"

**AFTER THE DIRECTIVE IS APPROVED AND SIGNED, PLEASE RETURN TO
PLANNING AND DEPLOYMENT.**

1301 Third Avenue, 7th Floor, Detroit MI 48226



RECEIVED
AUG 17 2023

PLANNING, RESEARCH AND DEPLOYMENT

TRANSMITTAL OF WRITTEN DIRECTIVE BOARD OF POLICE COMMISSIONERS

- **203.11 - 4.3 Photographic Arrays** – Items (1) through (5) – This section new in its entirety. Item (2) – Added – *“The sequential procedure should be preserved as part of the case file.”* Item (3) – Added – *“witnessing”, “must”, and “Members shall obtain the attorney’s information including their name, phone number, address, and P number.”*
- **203.11-4.4 Live Lineups** – Items (1) and (2) – These section are new in their entirety. Item (3) – Added – *“Lineup”*; item (3a) *“Live lineup”* and *“photo array”* were added; item (3b) *“live lineup”* and *“photo array”* were added; item (3c) *“live lineup”* and *“photo array”* were added; item (4) *“live”, “reasonably”* and *“a photo array”* was added; (4d) *“physically unable to attend a lineup”* was added; item (5a) *“member”* and *“lineup”* were added.
- **203.11-4.5 Refusal of Detainee to Stand in a Lineup** – Item (2) *“At any time”* was added.
- **203.11 - 4.6 Limited Use of Video for Identification Purposes** – Added *“Members shall only utilize video to confirm the identity of a subject should the witness be a close associate or family member of the subject (e.g. mother / father or close friend).”*
- **203.11-5 Witnessing Attorney** – Added – Item (1) *“A witnessing attorney shall be present for all live lineups and photo arrays when the suspect is in custody.”* Item (2) – Added – *“Should the suspect be criminally charged and have obtained a lawyer, then the suspect’s defense attorney shall act as a witnessing attorney. In all other cases, the officer in charge of the case shall call Notification and Control who shall identify the witnessing attorney.”* Item (3) – Added – *“...of the witnessing attorney’s”, “live”* and *“photo array”*. Item (4) – Added – *“live”,* and *“...including a voice test, a handwriting sample, to wear certain clothing to assume a stance, to walk or to gesture.”* Item (5) – Added – *“The OIC’s responsibility is to document any objections, procedural violations, or other concerns voiced by the witnessing attorney during the live lineup or photo array.”*
- **NOTE:** The phrase *“witness and victim”* was added throughout the document.

Director Nazneen Miah-Approved
8-16-2023

APPROVED



Assistant Chief
Office of Professional Development
August 17, 2023

**AFTER THE DIRECTIVE IS APPROVED AND SIGNED, PLEASE RETURN TO
PLANNING AND DEPLOYMENT.
1301 Third Avenue, 7th Floor, Detroit MI 48226**

203.11 Eyewitness Identification and Lineups**203.11 - 3.5 Photo Array**

A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.

203.11 - 3.6 Sequential

Presentation of a series of photographs or individuals to a witness and or a victim one at a time.

203.11 - 3.7 Showup

The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to eliminate them as a possible perpetrator. Showups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

203.11 - 3.8 Simultaneous

Presentation of a series of photographs or individuals to a witness and or a victim all at once.

203.11 - 4 Procedures**203.11 - 4.1 Showups**

The use of showups should be avoided whenever possible in preference to the use of a live lineup or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness and or a victim, the following guidelines shall be followed to minimize potential suggestiveness and increase reliability:

- a. Document the witness's and or a victim's description of the perpetrator prior to conducting the showup. This description should be clearly noted as the witness and or victims' description and separate from the description noted by the member;*
- b. Conduct a showup only when the suspect is detained within a reasonable time frame after the commission of the offense and within a close physical proximity to the location of the crime;*
- c. Members shall obtain supervisory approval before conducting a showup;*
- d. Do not use a showup procedure if probable cause to arrest the suspect has already been established;*
- e. Transport the witness and or the victim to the location of the suspect whenever possible. Members shall not transport the suspect to the witness and or victim;*
- f. If possible avoid conducting a showup when the suspect is in a patrol vehicle, handcuffed, or physically restrained by Department members, unless safety concerns make this impractical;*

203.11 Eyewitness Identification and Lineups

- is, will present the line-up to the witness and or victim. It also means that photographs will be presented one-by-one to the witness and or victim.*
- 4. The live lineup or photo array should consist of a minimum of six (6) individuals or photographs. Use a minimum of five (5) fillers and only one suspect.*
 - 5. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's and or victim's description of the offender.*
 - 6. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers (i.e., twins, look-alikes, facial recognition derived images, etc.).*
 - 7. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual features (e.g. scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.*
 - 8. If there is more than one suspect, include only one in each live lineup or photo array.*
 - 9. During a double-blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a live lineup, the witnessing attorney should be present.*
 - 10. Place suspects in different positions in each live lineup or photo array.*
 - 11. Neither witnesses nor victims should be permitted to see or be shown any photos of the suspect prior to the live lineup or photo array unless as a part of a continued investigation where a proper lineup was conducted.*
 - 12. The live lineup or photo array should be shown to only one witness and or victim at a time; members should separate witnesses and or victims so they will not be aware of the responses of other witnesses and or victims.*
 - 13. Multiple identification procedures should not be conducted in which the same witness and or victim views the same suspect more than once.*
 - 14. Members shall not use statements, cues, casual comments, or provide unnecessary or irrelevant information that in any manner may influence the witnesses' and or victim's decision-making process or perception.*
 - 15. The proceeding must be conducted in a fair manner, so as not to be unduly suggestive of the suspect. This is important because any remarks could later be interpreted as an attempt to influence the identification.*
 - 16. The administrator shall ask the witness and or victim to complete and sign a live lineup or photo array form.*
 - 17. Live lineup and photo array procedures shall be video and audio recorded, unless doing so is not possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of live lineups that are not recorded, members shall take and preserve a still photograph of each individual in the lineup.*
 - 18. The administrator shall document all parties present during the live lineup.*

203.11 Eyewitness Identification and Lineups

- a. *Scheduling the live lineup on a date and at a time that is convenient for all concerned parties, to include the witnessing attorney and any witnesses and or victims;*
- b. *Ensuring compliance with any legal requirements for transfer of the subject to the live lineup location if they are incarcerated at a detention center; and*
- c. *Making arrangements to have persons act as fillers.*
3. A written record, the *Lineup and Photo Identification Record (DPD355)*, should include:
 - a. Names, *age*, and addresses of all persons whose photographs are to be used in the *live lineup or photo array*;
 - b. Physical description of all persons whose photographs are to be used in the *live lineup or photo array*;
 - c. Names and addresses of all persons present at the *live lineup or photo array*; and
 - d. Statements of identifying witnesses and or victims while making the identification.
4. A *live lineup* cannot be avoided by having a witness and or victim view photographs when a formal *live lineup* is *reasonably possible*. A *photo array* shall not be conducted if the suspect is in custody, unless:
 - a. It is not possible to arrange a proper lineup;
 - b. There are an insufficient number of persons available with the defendant's physical characteristics;
 - c. The nature of the case requires immediate identification;
 - d. The witnesses and or victims are *physically unable to attend a lineup*; or
 - e. The subject refuses to participate in a lineup and by this action would seek to destroy the value of the identification.
5. All live lineups shall be photographed.
 - a. The name, rank, and assignment of the *member* taking the photograph shall be entered on the *Lineup and Photo Identification Record (DPD355)*, in the box designated "OTHERS PRESENT." The photograph shall then be attached to the *Lineup and Photo Identification Record* and become a permanent part of the court file.
 - b. The officer in charge of the case shall be responsible for the photographing of lineups conducted at all other locations.

203.11 - 4.5 Refusal of Detainee to Stand in a Lineup

1. If a detainee refuses to stand in a lineup, the following procedures shall be followed:



203.11 Eyewitness Identification and Lineups

clothing to assume a stance, to walk or to gesture. If any lawyer should so advise a client, the Prosecuting Attorney's Office should be notified so that appropriate action may be considered.

5. *The OIC's responsibility is to document any objections, procedural violations, or other concerns voiced by the witnessing attorney during the live lineup or photo array.*