



Cover Memorandum

Eyewitness Identification Procedure, JHPD Directive #462

Purpose of the Directive

The purpose of this Directive is to establish guidelines for eyewitness identification procedures for the Johns Hopkins Police Department (JHPD) in a manner most likely to assess witnesses' true and reliable recollections, in compliance with state and federal constitutional requirements, and the eyewitness procedure requirements of MD Code, Public Safety, § 3-506.1.

Summary of Directive Requirements

This Directive is intended to reduce misidentifications and eliminate the possibility of subjective identifications by mandating either a blind or double-blind identification procedure for all eyewitness identifications, when practicable, and limiting the use of show up techniques to situations that require prompt display of a suspect to the witness, such as an active assailant threat scenario.

The Directive provides that the preferred method for eyewitness identifications for the JHPD shall be a double blind sequential photographic line up in which neither the JHPD member conducting the lineup, nor the witness is aware of the identity of the person suspected of a crime. The photographic line-up will be presented sequentially by the JHPD member. If this method is not possible, an alternative technique of "blinded" administration may be used, in which the member may know the identity of the person suspected of a crime but cannot see which photograph is being viewed by the witness at a given time.

The Directive includes specific instructions that must be read by the member and a witness confidence statement that must be completed by the witness and signed. Finally, the Directive mandates that all eyewitness identification procedures be audio/video recorded on body-worn cameras (BWC) or interview room recording equipment. All materials and recordings related to eyewitness identifications will be handled as evidence.

Blueprint for the Policy Development Process

The draft JHPD policies (hereinafter referred to as "directives") shared for community feedback are based on examples of 21st century best practices in public safety policy, identified through extensive benchmarking of university and municipal law enforcement agencies across the nation. Taken together, they represent a comprehensively progressive approach to policing that prioritizes equity, transparency, accountability, and community-based public safety strategies.

The JHPD's draft directives embody approaches that community advocates and leading experts have championed locally and in law enforcement reform efforts across the nation. The draft directives have also been developed based on input received through robust community engagement in prior phases of

JHPD development, including suggestions received in the legislative process as well as last fall's Memorandum of Understanding (MOU) public comment period and feedback opportunities.

In addition, the directives were drafted to exceed the minimum requirements of the Constitution and laws of the United States and the State of Maryland, to align with the Community Safety and Strengthening Act (CSSA) and to fulfill the requirements of the MOU between the Johns Hopkins University and the Baltimore Police Department. The Hopkins community and our neighbors throughout Baltimore can help improve and strengthen these directives further through their feedback and input.

Material that was considered in the drafting of the Directive and Procedure Manual, include:

a. Publicly available policies from municipal police departments that have undergone substantial reform efforts, including: the New Orleans Police Department; Seattle Police Department; Portland Police Department; Detroit Police Department; Ferguson Police Department; and Baltimore Police Department;

b. National guidance on best practices and model policies from criminal justice reform efforts, social science research centers, and civil rights organizations, including: the Leadership Conference on Civil and Human Rights; American Civil Liberties Union (ACLU), including the ACLU of Massachusetts's "Racially Just Policing: Model Policies for Colleges and Universities"; the International Association of Chiefs of Police (IACP); the Police Executive Research Forum (PERF); U.S. Department of Justice Office of Community Oriented Policing Services (COPS Office); The Justice Collaboratory (The JC) at Yale University Law School; and The Center for Innovation in Community Safety (CICS) at Georgetown Law School.

c. National and local higher education institutions that are based in comparable environments and make policies publicly available, including: Carnegie Mellon University; Morgan State University; Towson University; University of Chicago; University of Cincinnati; University of Maryland, Baltimore County; University of Pennsylvania; and Yale University.

To ensure that the proposed directives captured national best practices in community-focused public safety services, the development team collaborated with independent experts from two organizations: National Policing Institute (the Institute), a non-profit dedicated to advancing excellence in policing through research and innovation, and 21CP Solutions, an expert consulting team of former law enforcement personnel, academics, civil rights lawyers, and community leaders dedicated to advancing safe, fair, equitable, and inclusive public safety solutions. Each directive was reviewed by experts selected by both organizations, who provided feedback, suggestions, and edits that were fully incorporated into the current draft.

Finally, individuals and organizations representing the diversity of the Johns Hopkins University community provided feedback to ensure the policies and procedures reflect and respond to the values of our institution and to our community's public safety service needs.

Now they are available for your review. Johns Hopkins is committed to adopting, incorporating, or otherwise reflecting recommended changes and feedback in the final version of policies so long as feedback is aligned with our values and commitments, permissible within legal parameters, and supported by national best practices for community policing and public safety.



POLICE DEPARTMENT
**EYEWITNESS
IDENTIFICATION**

**OPERATIONAL
PROCEDURE #462**

Responsible Executive:
Chief of Police
Responsible Office:
Vice President for Public Safety
Approved by:
Dr. Branville G. Bard, Jr.
Issued: [full date]
Revised: [full date]

Table of Contents

POLICY STATEMENT1
WHO IS GOVERNED BY THIS POLICY.....1
PURPOSE1
DEFINITIONS2
PROCEDURES2
POLICY ENFORCEMENT11
RELATED RESOURCES11
CONTACTS12

Policy Statement

It is the policy of Johns Hopkins Police Department (JHPD) that eyewitness identifications be conducted in a manner most likely to assess witnesses’ true and reliable recollections in compliance with state and federal constitutional requirements and the eyewitness procedure requirements of MD Code, Public Safety, §3-506.1.

Further, this policy is intended to reduce misidentifications, improve the reliability of identifications, and establish evidence that conforms to constitutional and statutory requirements. The double-blind identification procedure, in which neither the officer conducting the lineup nor the witness is aware of the suspect’s identity, is the preferred method. If this method is not possible, an alternative technique of “blinded” administration may be used, in which the officer may know the suspect’s identity but cannot see which photograph is being viewed by the witness at a given time (e.g., the folder shuffle method, in which photographs are placed in folders, shuffled, and then handed over to the eyewitness).

Who is Governed by this Policy

All sworn police officers, as defined by MD Code, Public Safety, § 3-201, in service with the Johns Hopkins Police Department are governed by this Directive.

Purpose

The purpose of this policy is to establish guidelines for eyewitness identification procedures using photographic lineups and showups.

Definitions

Administrator:	For purposes of this directive, the officer conducting an identification procedure.
Double-Blind Presentation or Lineup:	For purposes of this directive, the officer (and witness) do not know which photograph or person is the suspect. Double-blind is the proper term to use but is often used interchangeably with the term "blind" and means the same thing.
Blinded Administration:	When the officer knows the suspect's identity but cannot tell which suspect is being viewed at a given time, such as through use of the folder shuffle method.
Eyewitness:	A person who observes another person at or near the scene of an offense.
Filler:	A person or a photograph of a person not suspected of an offense and included in an identification procedure.
Identification procedure:	A procedure in which an array of photographs, including a photograph of a suspect and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness in hard copy form or by computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.
Member:	All members of the JHPD, including employees, officers, and volunteers, unless the term is otherwise qualified (e.g., member of the public, member of the Baltimore Police Department, etc.).
Officer:	All sworn police officers, at any rank, as defined by MD Code, Public Safety, § 3-201, in service with the JHPD.
Perpetrator:	For purposes of this directive, a person who committed an offense.
Sequential presentation:	A display of photographs or persons one at a time, where the officer retrieves one before presenting another.
Simultaneous presentation:	A display of photographs or persons presented at the same time, either manually constructed or computer generated.
Show-up:	The presentation of a live person in the field who is close in time and proximity to the incident under investigation.
Confidence Statement:	A witness's statement about their selection and the confidence with which it is made. It is taken immediately after the selection has been made.

Procedures

The core objectives of these procedures are to ensure constitutional rights by improving the ability of law enforcement officials to act appropriately during eyewitness identifications.

I. General

- A. Instructions to witnesses shall be read from the Eyewitness Identification form(s), which shall also include a witness's affirmation of their confidence statements.
- B. All Eyewitness Identification procedures shall be audio/video recorded, either via Body-Worn Camera (BWC) or on interview room recording systems. Presentations, forms, and video records shall be treated as evidence, with documentation included in the investigative file, whether the witnesses made identifications.
- C. If a photo lineup is developed electronically, the lineup shall be printed for documentation. Officers shall provide a written justification for using photographic presentation other than a double blind or blinded presentation.
- D. **Obtaining a Description of the Perpetrator** - Prior to any photographic lineup, officers shall record a thorough description of the perpetrator from each eyewitness, taken separately for each eyewitness, in their own words.
- E. **Witness Instructions** - Prior to the start of the identification procedure, the officer shall read instructions to the witness. Specific instructions for photographic lineups and showups are included on the forms. The witness shall sign the form to indicate that they understand the instructions. (Commission on Accreditation for Law Enforcement Agencies (CALEA) 42.2.9.d)

II. Photographic Lineup (CALEA 42.2.9)

- A. **Organizing a Sequential Photographic Lineup** - When organizing a sequential photographic lineup, officers shall adhere to the following:
 - Include only one suspect in each identification procedure, with a minimum of five (5) fillers. (CALEA 42.2.9.a)
 - Fillers shall match the witness's description of the perpetrator in significant features, including any unique or unusual features. (CALEA 42.2.9.a)
 - All photographs shall be contemporary and similar in size. There should be consistency in personal features across all pictures.
 - The photographs shall be numbered.
 - The photographs shall be presented sequentially.

- When conducting a single lineup for multiple witnesses, the procedure for multiple eyewitnesses below should be followed. (CALEA 42.2.9.c)
- If a subsequent photographic lineup is necessary for any witness who has previously viewed a photo lineup in connection with the offense, contact the Office of the State's Attorney for Baltimore City prior to conducting the photographic lineup. At minimum, different fillers and a different suspect photograph shall be used.

B. Conducting a Photographic Lineup - A blind administrator, e.g., an officer who does not know the suspect's identity, should conduct the procedure. If that is not practicable, a blinded administration technique such as the folder shuffle may be used (see below for details).

- Before the presentation, read aloud the instructions on the form to the witness for photo lineups, ensuring they understand the instructions.
- Use the following sequential presentation:
 - o The officer shall display the photographs to the witness by replacing one photograph with another so that no two are presented at the same time.
 - o The officer shall present each photograph to the witness, even if the witness identifies a previous photograph as the suspect.
 - o At the request of the witness, the officer may present the photographs again; each photograph must be presented and presented sequentially.
 - o After each photograph is presented, ask if the witness recognizes the person. Even if the witness identifies a previous photograph as the suspect, present each photograph in the series.
 - o At the request of the witness, the officer may present the photographs one more time.
- If an identification is made, record a statement of confidence on the form, which shall be signed by the witness. (CALEA 42.2.9.e)
- The administrator is prohibited from providing the witness any feedback. (CALEA 42.2.9.f)

C. Blind Administration - Should the investigating officer of a particular case be the only JHPD sworn member available to conduct a photo lineup, and if approved by a supervisor, the following process should be followed:

- Use one suspect photograph that resembles the description of the perpetrator provided by the witness, five (5) filler photographs that match the description, and ten (10) folders (four (4) of the folders will not contain any photos and will serve as ‘dummy folders’).
- Affix one filler photo to Folder #1 and number the folder.
- The individual administering the lineup shall place the suspect photograph and the other four (4) filler photographs into Folders #2-6 and shuffle the photographs so that they are unaware of which folder the suspect is in, and then number the remaining folders, including Folders #7-10, which will remain empty (this is done so that the witness does not know when they have seen the last photo).
- If available, instead of the folder shuffle method, an administrator may use an automated computer program that prevents the administrator from seeing which photos the eyewitness is viewing until after the identification procedure is completed as a blinded identification procedure.
- Before the presentation, read aloud the instructions on the form to the witness for photo lineups, ensuring they understand the instructions.
- Without looking at the photo in the folder, the administrator is to hand each folder to the witness individually. Each time the witness has viewed a folder, the witness should indicate whether or not this is the person they saw and the degree of confidence in this identification and return the photo to the administrator. The order of the photos should be preserved in a facedown position to document.
- The administrator should then document and record the results of the procedure, including the order of the folders used.
- If an identification is made, record a statement of confidence on the form for photo lineups, which shall be signed by the witness.
- The administrator is prohibited from providing the witness any feedback.
 - o Note: The investigating officer should only conduct a blinded photographic lineup as a last resort. All efforts should be made to have the photographic lineup conducted by a blind administrator, including having a supervisor, commander, or an off-duty officer come in to administer the photographic lineup, prior to resorting to the blinded process.

III. Officer Show-ups (CALEA 42.2.10)

Prior to conducting any showups, consider if a photo lineup can be conducted instead as a blinded photo lineup, which is the preferred identification procedure. However, when circumstances, such as an Active Threat, require the prompt display of a suspect to the witness, the following guidelines shall be followed. (CALEA 42.2.10.a)

- A. Showups shall be conducted only when the suspect is detained within a reasonably brief time following the offense. (CALEA 42.2.10.a)
- B. The witness shall be transported to the suspect's location, whenever possible. (CALEA 42.2.10.a)
- C. Presentations shall be audio/video-recorded when possible.
- D. Prior to the presentation, read aloud instructions on the form to the witness for showups, ensuring and documenting that they understand the instructions. (CALEA 42.2.10.d)
 - Officers shall avoid suggestive words or conduct, such as presenting the suspect in handcuffs, from the backseat of a patrol car, or being physically restrained by police.
- E. Separate witnesses to avoid communication among them, and obtain a thorough description of the suspect from each witness separately prior to the show-up. A suspect shall only be viewed by one witness at a time, out of the presence and earshot of other witnesses. (CALEA 42.2.10.c)
- F. If an identification is made, record a statement of confidence on the form for showups, which shall be signed by the witness. (CALEA 42.2.10.e)
- G. The administrator is prohibited from providing the witness any feedback.

IV. Witnesses Confidence (CALEA 42.2.9.e & 42.2.10.e)

- A. Regardless of the type of identification procedure employed, if an identification is made, the officer shall ask the witness immediately for a statement of confidence in their selection in their own words.
- B. The statement shall be documented by the officer and signed by the eyewitness.
- C. **Multiple Eyewitnesses** - When there are multiple eyewitnesses, the identification procedure shall be conducted separately for each eyewitness; and
 - The eyewitnesses may not be allowed to communicate until all identification procedures are completed. (CALEA 42.2.9.e)

V. Documenting the Identification Procedure (CALEA 42.2.9.f, 42.2.10.g)

- A. The identification procedure should be audio/video-recorded, if possible.
- B. In addition, the administrator shall make a written record of the identification procedure that includes the following information, which shall be treated as evidence in accordance with JHPD Directive #469, Property & Evidence Management:
 - Name of the administrator and eyewitness.
 - Date and time of the identification procedure.
 - Names and sources of fillers used in photo lineups.
 - In a photo lineup, any eyewitness identification of a filler.
- C. All identification and non-identification results obtained during the procedure, including witness confidence statements, shall be signed by the witness.
- D. If a photo lineup is developed electronically, the lineup shall be printed for documentation.

VI. Training

- A. All JHPD Officers shall receive initial training regarding this directive, including the proper administration of photographic lineups and showups.
- B. Annually, police officers will receive refresher training on this policy through a scheduled review using PowerDMS.

Policy Enforcement

Enforcement	The JHPD is responsible for enforcing this Directive. The Public Safety Accountability Unit (PSAU) investigates suspected violations and may recommend disciplinary action, including termination or dismissal in accordance with any applicable University policy or process.
Reporting Violations	Suspected violations of this Policy should be reported to the PSAU or using the online form .

Related Resources

University Policies and Documents
Operational Procedure #460, Criminal Investigation Operational Procedure #469, Property & Evidence Management
External Documentation
University Forms and Systems
Form one

Contacts

Subject Matter	Office Name	Telephone Number	E-mail/Web Address
Policy Clarification and Interpretation			

DRAFT

DRAFT