

# Cobb County Police Department

## Policy 5.09

### SUSPECT IDENTIFICATION

<b>Effective Date:</b> October 1, 2019	<b>Issued By:</b> Chief C.T. Cox
<b>Rescinds:</b> Policy 5.09 (November 1, 2017)	<b>Page 1 of 4</b>
The words "he, his, him," which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.	

It is the purpose of this policy to establish guidelines for the use of eyewitness identifications involving show-ups, photographic identifications, and line-ups.

#### I. POLICY

Employees will follow established procedures, in accordance with current law, when conducting show-ups, line-ups, or photo line-ups.

#### II. DEFINITIONS (OCGA 17-20-1)

- A. **Filler:** an individual who is not a suspect
- B. **Line-up:** an identification procedure in which a suspect and fillers are displayed in person to a witness.
- C. **Photo Line-up:** an identification procedure in which a photograph of a suspect and photographs of fillers are displayed to a witness, either in hard copy form or via computer.
- D. **Show-up:** an identification procedure in which a witness is presented with a single individual.
- E. **Suspect:** the individual believed by law enforcement to be the possible perpetrator of an alleged crime.
- F. **Witness:** an individual who observes an alleged crime.

#### III. PROCEDURES AND GUIDELINES

##### A. Show-ups

A show-up is typically used as a means of identifying the perpetrator(s) of a crime that has been freshly committed, and circumstances are such that the suspect(s) can reasonably be associated with the incident. When conducting a show-up, officers should adhere to the following procedures:

1. A show-up should be conducted with one witness present at a time. Multiple witnesses should not be permitted to communicate before or after

the show-up regarding the identification of the suspect. The same suspect should not be presented to the same witness more than once.

2. Generally, the witness should be transported to the location of the suspect; the suspect should not be transported to the scene of the incident.
3. The subject of the show-up may be stood up and illuminated (if necessary) for the show-up. The witness will be allowed to stay in the vehicle to reduce the ability of the subject to see the witness.
4. The suspect should not be required to put on clothing worn by the perpetrator, speak words uttered by the perpetrator, or perform other actions of the perpetrator.
5. The witness should be instructed that he is not compelled to either positively or negatively identify the subject as the suspect in the incident. The officer should not provide feedback to the witness about the suspect.
6. The officer conducting the show-up will seek and document, at the time that an identification of an individual is made, and in the witness's own words without necessarily referencing a numeric or percentage standard, a clear statement from the witness as to the witness's confidence level that the individual identified is the individual who committed the alleged crime. (OCGA 17-20-2(b)(6))

**B. Photo Line-ups**

When conducting a photo line-up, officers should adhere to the following procedures:

1. The photo line-up will either be conducted by an officer who does not know the identity of the suspect, or by an officer who knows the identity of the suspect using a procedure in which photographs are placed in folders, randomly shuffled, and then presented to the witness so that the officer conducting such procedure cannot physically see which photograph is being viewed by the witness until the procedure is complete. (OCGA (17-20-2(b)(2))
2. A minimum of five "filler" photographs that generally resemble the witness' description of the perpetrator of the alleged crime will be used (OCGA (17-20-2(b)(4 and 5)). In doing so:
  - a. Use photos of the same size and basic composition. When possible, avoid mixing color and black and white photos and/or mixing mug-shots with other snapshots.
  - b. Cover any portions of mug-shots or other photographs that provide identifying information on the subject, and similarly cover others used in the array.

3. If more than one witness is involved, the photo line-up should be viewed by each witness individually. Each witness should be asked not to discuss the identification procedure or results with other witnesses involved in the case.
4. Each witness will be instructed that the perpetrator of the alleged crime may or may not be present in the photo line-up. The witness should be instructed of the Photographic Line-up Advisory Statement. (OCGA (17-20-2(b)(3))
5. Officers will not make suggestive statements that may influence the judgment or perception of the witness. The officer conducting the photo line-up should not provide feedback to the witness regarding the status of the suspect.
6. The officer conducting the photo line-up will seek and document, at the time that an identification of a photograph is made, and in the witness's own words without necessarily referencing a numeric or percentage standard, a clear statement from the witness as to the witness's confidence level that the photograph identified is the photograph of the individual who committed the alleged crime. (OCGA 17-20-2(b)(6))
7. Preserve photographs used, together with full information about the identification process, for future reference. Video and/or audio recording of the process is not necessary.

**C. Line-ups**

When conducting a line-up, officers should adhere to the following procedures:

1. The line-up should be scheduled on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel and all witnesses. Consideration should be made in regard to the necessary legal and technical requirements for transfer of the subject to the line-up location should he be incarcerated at a detention center.
2. The line-up will be conducted by an officer who does not know the identity of the suspect. (OCGA 17-20-2(b)(1))
3. A minimum of four "fillers" that generally resemble the witness' description of the perpetrator of the alleged crime will be used (OCGA (17-20-2(b) (4 and 5))). In addition, the officer conducting the line-up should:
  - a. Ensure that the prisoner has been informed of his right to counsel if formal charges have been made against him, and also ensure that he has the opportunity to retain counsel or request that one be provided.

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- b. Allow counsel representing the accused, sufficient time to confer with his client prior to the line-up and observe the manner in which the line-up is conducted.
  - c. Obtain a written waiver on the prescribed Departmental form should the prisoner waive his right to counsel.
  - d. Advise the accused that he may take any position in the line-up which he prefers, and may change positions prior to summoning a new witness.
  - e. Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.
4. Witnesses are not permitted to see any photographs of the accused immediately prior to the line-up.
5. The line-up should be viewed by one witness at a time. Each witness should be asked not to discuss the identification procedure or results with other witnesses involved in the case.
6. Prior to viewing a line-up, the witness should be instructed of the following:
  - a. The perpetrator of the alleged crime may or may not be present in the line-up. (OCGA (17-20-2(b)(3))
  - b. The suspect may not appear exactly as he did during the incident because features such as hairstyles and facial hair may be changed.
  - c. The witness is not compelled to make identification.
7. Never make suggestive statements, clues, casual comments, or provide unnecessary or irrelevant information that may influence the judgment or perception of the witness. The officer should not provide feedback to the witness regarding status of the suspect.
8. The officer conducting the line-up will seek and document, at the time that an identification of an individual is made, and in the witness's own words without necessarily referencing a numeric or percentage standard, a clear statement from the witness as to the witness's confidence level that the individual identified is the individual who committed the alleged crime. (OCGA 17-20-2(b)(6))
9. A complete written record and videotape recording (by the crime scene technician if available) of the line-up proceedings should be made and retained.