Eyewitness Identification

604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Minn. Stat. § 626.8433).

604.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

604.2 POLICY

The Oak Park Heights Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

604.2.1 POST MODEL POLICY

It is the policy of the Oak Park Heights Police Department to follow the requirements of the Eyewitness Identification Procedures model policy, established and published by the Minnesota Board of Peace Officer Standards and Training (POST) (Minn. Stat. § 626.8433).

604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

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The Investigation Unit supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

a. The date, time, and location of the eyewitness identification procedure.
b. The name and identifying information of the witness.
c. The name of the person administering the identification procedure.
d. If applicable, the names of all individuals present during the identification procedure.
e. An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
f. An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
g. If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
h. An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
i. A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
j. A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
k. Any other direction to meet the requirements of the POST model policy.

The process and related forms should be reviewed at least annually and modified when necessary.

604.4.1 POST REQUIREMENTS

The Investigation Unit supervisor should remain familiar with the requirements contained in the Eyewitness Identification Procedures model policy issued by POST and incorporate these, as necessary, into the eyewitness identification process for use by members when conducting photographic and live lineups.

604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

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Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

604.5.1 PHOTOGRAPHIC AND LIVE LINEUP CONSIDERATIONS

Photographic lineups are the preferred eyewitness identification process. When a photographic lineup cannot be done or a different method is more reasonable under the circumstances, the investigating officer may use a live lineup or field identification.

When conducting a live lineup, the member presenting the lineup should not be involved in the investigation or know the identity of the suspect (Minn. Stat. § 626.8433).

When conducting a photographic lineup, if practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup to a witness should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

604.5.2 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications should be avoided whenever possible but may be helpful in certain cases where exigent circumstances make it impracticable to conduct a photo or live lineup identification. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

a. Obtain and document a complete description of the suspect from the witness.
b. Assess whether a witness should be included in a field identification process by considering:
    1. The length of time the witness observed the suspect.
    2. The distance between the witness and the suspect.
    3. Whether the witness could view the suspect's face.
    4. The quality of the lighting when the suspect was observed by the witness.
    5. Whether there were distracting noises or activity during the observation.

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6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

c. If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
d. When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
e. The person who is the subject of the show-up should not be shown to the same witness more than once.
f. In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
g. The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect, or to perform other actions mimicking those of the suspect.
h. If a witness positively identifies a subject of a show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

604.6 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

604.6.1 DOCUMENTATION RELATED TO RECORDINGS

The member conducting the lineup should document the reason that an audio and/or video recording was not obtained, if applicable.

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