

**NEVADA DEPARTMENT OF CORRECTIONS
INSPECTOR GENERAL'S OFFICE**

DRAFT

OPERATIONAL PROCEDURE 457.05

WITNESS IDENTIFICATION

Effective Date: April 1, 2012

Review Date: April, 2013

AUTHORITY: NRS 171 (2009 Legislative Action under AB 107)

RESPONSIBILITY

The Office of the Inspector General, (OIG), has primary responsibility for establishing policies and procedures for identification of a suspect(s) by a witness.

The Employee Development Manager with assistance from the OIG is responsible for training of correctional staff in suspect identification.

457.05 WITNESS IDENTIFICATION

It is the policy of this Department that when eyewitness identification is used as an investigative tool, investigators shall adhere to the procedures set forth in order to maximize the reliability of the identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and in conformance with established legal procedure. This policy pertains especially to photo line-ups, show-ups, and live line-up. If a video and/or audio recording is used in conjunction with any line-up, the investigator conducting the identification will track the recording in conjunction with established OIG policies and procedures for recording management.

A question for the Attorney General's Office relative to the showing of a mug shot (booking photograph) shown to victim/witness for identification purposes. LVMPD does not do this, in accordance with AB 107 and Accreditation standards unless specifically cleared to do so by the District Attorney. An example for us would be wherein an inmate escapes and commits a subsequent crime or just showing the booking photograph to someone who may have seen the escapee.

457.05 DEFINITIONS

FILLERS:

Individuals or photographs of individuals that resemble the suspect that are used to fill in a live line-up or photo line-up. A minimum of five (5) fillers will be used with any simultaneous or sequential line-up. Individuals who are suspects in the same case will not be used as fillers.

LIVE LINE-UP:

An identification procedure conducted at a pre-determined location in which a group of persons, including the suspect, is displayed to an eyewitness to determine whether the eyewitness or victim identifies the suspect as the perpetrator of a crime. **OIG does not anticipate that this type of witness identification will be utilized. However, for identifying and defining, this definition is included.**

PHOTO LINE-UP:

An identification procedure in which an array of photographs, including a photograph of the suspect, is displayed to an eyewitness in hard copy or by digital image to determine whether the eyewitness or identifies the suspect as the perpetrator of a crime. Photo line-ups are shown in either a simultaneous or sequential format.

SEQUENTIAL PHOTO LINE-UP:

An array of photographs of individuals that includes the potential suspect and five (5) fillers who are similar in appearance, that are presented one at a time to an eye witness for identification purposes.

SHOW UP:

This is commonly referred to as a “one on one” and means an identification procedure in which the suspect appears individually for possible identification by the eyewitness as the perpetrator of a crime or incident.

SIMULTANEOUS PHOTO LINE-UP:

This is commonly referred to as a “six pack” and is a computer-generated array of photographs of individuals that includes the potential suspect and five (5) fillers who are similar in appearance. The “six pack” is presented on a single sheet of paper to an eyewitness for identification purposes.

EYEWITNESS:

A person, including a victim, who views any type of a photo line-up or a show up and whose identification by sight of another person may be relevant in a criminal or administrative proceeding. **OIG does not anticipate that this type of witness identification will be utilized. However, for identifying and defining, this definition is included.**

457.05 METHODS/PROCEDURES

Photo line-ups are an investigative tool and should not be the sole basis of an arrest or administrative action under the Penal Code of Discipline unless authorized by a supervisor.

- A. Photo line-ups should be generated using photographs electronically stored within the Nevada Offender Information Tracking System, (NOTIS) system.
- If an electronic photograph of the suspect is not available in NOTIS system, a photo line-up may be generated using other sources that provide similar photographs of every individual to be used in the array.

- B. A sequential line-up may be used when the investigator cannot prepare a line-up from NOTIS system and must rely upon photographs from outside sources. These sources may include yearbook photographs, Department of Motor Vehicles photographs or other sources providing photographs.
- If the photographs do not have similar background color which cannot be adjusted or the use of a black-and-white simultaneous photo line-up is not practical then a sequential photo line-up should be used.
- C. All photo line-ups conducted in conjunction with any investigation will be impounded as evidence.
- D. In composing a photographic line-up, the investigator will adhere to the following guidelines:
1. Only one potential suspect will be included and randomly placed in each photo line-up.
 2. In the event a simultaneous photo line-up is shown to more than one eyewitness, the same six photographs will be used and the position of the photographs will be changed to the extent practical.
 3. Photo line-ups will contain six photographs, one of the potential suspect and five fillers who are similar in physical appearance.
 4. Complete uniformity of features is not required. The investigator may avoid using 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.
 5. The investigator will ensure that no writings, information concerning current or previous incarcerations, identifications, or any other documentation associated with the identification process is visible to the eyewitness on any photo line-ups.
 6. The investigator will view the line-up once it is completed to ensure that the suspect does not unduly stand out and appears only once in the photo line-up.
- E. Prior to conducting a photo line-up, the investigator will meet with the OIG Supervisory Criminal Investigator to:
1. Make a determination if an independent administrator should show the photo line-up to the eyewitness;
 2. Ensure photograph positions have been changed to the extent practical when a simultaneous photo line-up is used;
 3. Ensure the order of the photographs have been changed to the extent practical when a sequential photo line-up is used;
 4. Ensure the photographs contained within the line-up include only one suspect and five fillers;
 5. Ensure a minimal standard of uniformity between subject features and background; and
 6. Review each photo line-up package and associated paperwork, post eyewitness viewing to ensure completeness.
- F. Investigator duties and responsibilities in conjunction with conducting a photo line-up include but may not be limited to:
1. Completion of the two page Photographic Line-up case identifier and witness admonition; (457.05 (1) and 457.05(2))
 2. Begin digital recording of the process of the witness identification via a photo line-up and read on record the Photographic line-up case identifier and witness admonition;

- When multiple eyewitnesses are involved in the investigation, the investigator will complete the process and conduct each photo line-up separately;
 - Eye witnesses will not be allowed to confer with each other before or while being shown the photo line-ups.
3. Once the witness has been read and indicates an understanding of the photo line-up process, the witness will sign and date/time indicate the document with the investigator signing.
 - Upon completion of the eye witness photo line-up, the witness will be provided a copy of the Photographic line-up case identifier and the witness admonition.
 4. Show the photo line-up to the eye witness for as long as the eye witness wishes
 5. If the eyewitness indicates that they recognize someone in the photo line-up, the investigator will ask the circumstances from which the eyewitness recognizes the individual. The investigator will document the eyewitness' responses in the investigative report.
- G. NDOC OIG staff will not conduct Live line-ups. Should a live line-up be recommended by an authority outside the OIG, such a criminal prosecutor, the Live line-up will be remanded to an outside agency who is available with the proper equipment to support the action.
- H. NDOC OIG staff will not conduct a show-up identification. The immediacy of an OIG response and/or identification will most likely be used for purposes of retake and in these instances, the escapee is known. Any subsequent information and investigation into possible criminal conduct while an inmate was on escape status, that may include the use of an eye witness identification would result in the use of a photo line-up.

Signature Authority

(Printed Name)	(Signature)
(Printed Name)	(Signature)

CONFIDENTIAL Yes_____ No_____

INMATE ACCESS Yes _____ No _____