

<b>SUNRISE POLICE DEPARTMENT</b>  POLICIES AND PROCEDURES MANUAL  CHAPTER 63  DEPARTMENT INVESTIGATION PROCEDURES	Effective Date	05/01/87
	Revision Date	02/01/18
	Revision No.	1.4
	Page No.	1 of 22
	Approval:	

63. PURPOSE

The purpose of this standard operating procedure is to ensure the efficient and effective management of preliminary criminal investigations by providing guidance that identifies the responsibilities of the initial investigating officer.

63.1. REVISION HISTORY

<u>Date</u>	<u>Rev. No.</u>	<u>Change</u>	<u>Reference Section</u>
05/01/87	1.0	New Policy	Department Investigation Procedures
12/01/08	1.1	Entire Revision	All sections
10/12/11	1.2	Definitions, Photo Lineup, In-Person Lineup, Show-up Procedures	63.4., 63.6.5., 63.6.7.
10/19/12	1.3	Filing Policy with State Attorney's Office	63.6.5.11.5., 63.6.7.10.5.
02/01/18	1.4	Interviews with Individuals with Autism or Autism Spectrum Disorder, Added refusal procedures, Show-up Witness Identification Form Procedures, Removed Forwarding policy to SAO.	63.6.3.3.4., 63.6.5.3.1.2.1., 63.6.7.3., 63.6.7.10.5.

63.2. PERSONS AFFECTED

All Police Personnel

63.3. POLICY

It is the policy of the Sunrise Police Department to manage preliminary criminal investigations by establishing guidelines for officers so that follow-up efforts by investigative personnel or other specialized units can be coordinated in an effective manner.

63.4. DEFINITIONS

63.4.1. Blank Photo – A sheet of paper the same size as the photos utilized in the photo line-up that is blank, with no photo showing.

63.4.2. Eyewitness – A person whose identification by sight of another person may be relevant in a criminal proceeding.

63.4.3. Filler Photos –Photographs of persons other than the suspect, used to complete a photo array and bring the total number of photos in the array up to a minimum of six photos.

63.4.4. Functional Equivalent Procedures – Procedures utilized when an Independent Administrator is not utilized, permitting the investigator to conduct a sequential photographic line-up in a manner that precludes him or her from knowing when the suspect is presented to the witness.

63.4.5. Independent Administrator – An investigator administering a lineup or photo array who has no knowledge of the suspect’s identity. Sometimes referred to as a “Blind Administrator”.

63.4.6. In-Person Lineup –In-Person lineups are sometimes called “Live or Physical Line-Ups”. A procedure in which a group of people is displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.

63.4.7. Photo Array – The group of photographs utilized in a photographic line-up. A photo array shall be presented to the witness simultaneously or sequentially. The process of conducting a photographic lineup is often called the “photo array.”

63.4.8. Photographic Lineup – The procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.

63.4.9. Photographic Lineup Forms:

63.4.9.1. Administrator Sequential Photo/In-Person Array Form (referred to hereafter as Administrator Form) – This form will be completed by the Administrator, regardless of whether they are an Independent Administrator or a Functional Equivalent.

63.4.9.1.1. This form will contain the Case Number, Name of the Witness, Name of the Administrating Detective/Officer and a check box for whether the Administrator does or does not know the identity of the suspect. This form will also contain instructions for the actual line-up procedure and another check box to indicate if the witness viewed the line-up once or twice. Near

the bottom of the form there are two sections to write all comments (exact words) made by the witness during the display and another for any non-verbal communication or physical responses made by the witness during the viewing of the photo line-up.

63.4.9.2. Independent Administrator - Witness Sequential Photo/In-Person Array Form (referred to hereafter as Independent Administrator Form) – This form would be utilized when the Administrator does not know the identity of the suspect (referred to as a Blind Administrator Procedure).

63.4.9.2.1. This form contains the instructions that would be read aloud to the witness prior to viewing the photo line-up. Additionally, there is a space for the witness to sign this form after being read the instructions to insure that he or she understands the process prior to actually viewing the photo line-up. The instructions on this form are specific to the Independent Administrator since he/she does not know the identity of the offender.

63.4.9.3. Functional Equivalent Procedure - Witness Sequential Photo/In-Person Array Form (referred to hereafter as Functional Equivalent Form) – This form would be utilized when the Administrator knows the identity of the suspect, but does not know the order of the photographs being shown.

63.4.9.3.1. This form contains the instructions that would be read aloud to the witness prior to viewing the photo line-up. Additionally, there is a space for the witness to sign this form after being read the instructions to ensure that he or she understands the process prior to actually viewing the line-up. The instructions on this form are specific to the Functional Equivalent Procedure since the Administrator does not know the order of the photographs, but does know the identity of the suspect.

63.4.10. Preliminary Criminal Investigation – Usually the primary responsibility of the first responding officer, although in some instances this may be assigned to investigative or other personnel. This person is responsible for collecting and recording information and evidence, if available.

63.4.11. Sequentially – Presentation of photos in a group or individuals in a line-up to a witness one-at-a-time rather than all at once (simultaneously).

63.4.12. Show-up Identification – A direct one-on-one examination of an actual person, place, or object.

63.4.13. Simultaneously – Presentation of photos in a group or individuals in a line-up to witness all at once rather than one-at-a-time (sequentially).

## 63.5. RESPONSIBILITIES

63.5.1. All police personnel are responsible for complying with this policy. Supervisory Personnel are responsible for the enforcement of this policy. Unjustified violations may result in disciplinary action, up to and including termination.

63.5.2. This Policy is not intended to be all-inclusive. It is intended to be a general guideline to be read in conjunction with all other Department rules, regulations, policies and procedures, as well as other City rules and ordinances.

## 63.6. PROCEDURES

### 63.6.1. Preliminary Criminal Investigations:

63.6.1.1. The preliminary criminal investigation is normally conducted by an Officer assigned to the Uniform Division. Depending upon the nature of the investigation, certain incidents may be handled by either Public Service Aides (PSAs) or the Telephone Reporting Unit.

63.6.1.1.1. It is imperative to handle the investigation properly. The preliminary investigation of a crime scene can often determine the successful outcome of a criminal incident.

63.6.1.1.2. The preliminary criminal investigation may bring the case to a satisfactory conclusion, and sometimes eliminate the need for a follow-up investigation.

63.6.1.1.3. This procedure does not prevent the Officer/PSA who conducts the preliminary investigation from being assigned to conduct the follow-up investigation.

63.6.1.1.4. If a PSA is conducting a preliminary criminal investigation and a suspect arrives on the scene or it appears that the person being questioned may be a suspect in a crime, the PSA will immediately request a sworn officer respond to complete the investigation and questioning.

### 63.6.2. Preliminary Criminal Investigation Procedures:

63.6.2.1. Department members shall observe all conditions and events and document remarks. Members conducting preliminary criminal investigations should establish that a crime has been committed and identify all elements related to each crime.

63.6.2.2. Department members shall attempt to locate all victims and witnesses to the crime. All parties should be encouraged to remain at the scene.

63.6.2.2.1. If victims or witnesses must leave the scene, members will obtain all contact information and record this within the offense/incident report.

63.6.2.2.2. Department members shall conduct a neighborhood canvass and record information pertinent to the investigation, should the type of crime warrant this process.

63.6.2.3. Department members shall maintain the crime scene to protect all possible evidence and arrange for its collection.

63.6.2.4. Department members shall interview the reporting person(s), victim(s), and all witnesses, when possible.

63.6.2.4.1. In the spirit of cooperation but in the best interest to the investigation, members should interview all reporting person(s), victim(s), and witnesses before these persons are interviewed by the media.

63.6.2.4.2. When possible, all reporting person(s), victim(s), and witnesses should be kept separate from one another.

63.6.2.5. Department members shall, when possible and practical, locate and interview all suspects. If located, it is recommended that all suspects be separated before they are interviewed.

63.6.2.5.1. Department members who cannot locate suspects will obtain as much information as possible to assist in locating the suspect(s) in the future.

63.6.2.5.2. Detailed Be On the Lookout (BOLO) information regarding descriptions of the suspect(s) and any vehicle(s) will be issued. It will be the responsibility of the investigating member to ensure this is accomplished.

63.6.2.6. Department members shall arrange for collection of evidence. They will notify the Crime Scene Unit if necessary.

63.6.2.7. Department members shall make arrests, when necessary.

63.6.2.7.1. If multiple suspects are arrested, they should be separated as soon as possible.

63.6.2.7.1.1. The safety of all Department personnel and other persons that may be at the scene of an arrest will be a priority when officers are making an arrest.

63.6.2.7.2. Officers will comply with all constitutional requirements during investigations and pertaining to the investigative interviews of all suspects. No suspect will be denied their right to counsel, if requested. (CFA: 15.06)

63.6.2.7.2.1. Officers will utilize Department approved Rights Waiver Cards or Forms when informing all arrested persons of their constitutional rights.

63.6.2.7.2.2. Officers will utilize, when required, Department approved Written Rights Waiver forms when informing all arrested persons of their constitutional rights.

63.6.2.7.3. An attempt to locate the suspect's vehicle should be made if it is believed to have been involved in the crime.

63.6.2.8. Department members shall report all criminal incidents fully and accurately. Members should include any unsolicited statements made by the suspect within the offense/incident report and probable cause affidavit (if completed).

63.6.3. Conducting Interviews During Preliminary Investigations:

63.6.3.1. Interviews of Complainants and Witnesses:

63.6.3.1.1. Preliminary investigating Officers/PSAs shall identify themselves, secure the scene, and attend to any victims and injured persons and then take the following steps directed at gathering information as necessary depending on the circumstances:

63.6.3.1.1.1. Attempt to determine or classify what type of crime or incident has occurred, if any.

63.6.3.1.1.2. Identify the involved subjects or obtain physical descriptions of the perpetrators and/or suspect vehicles.

63.6.3.1.1.3. Broadcast an updated description of the incident, suspect(s), and/or vehicles.

63.6.3.1.1.4. Verify the identity of the complainant and witness(es).

63.6.3.1.1.5. Separate witnesses and instruct them to avoid discussing details of the incident with other witnesses.

63.6.3.1.1.6. Canvass the area/neighborhood for additional witnesses.

63.6.3.1.1.7. Obtain information from complainant and witness(es):

63.6.3.1.1.8. Establish rapport with the complainant or witnesses.

63.6.3.1.1.9. Inquire about the victim(s) or witness(es) condition.

63.6.3.1.1.10. Use open-ended questions and augment with closed-ended questions to clarify or elicit specific information.

63.6.3.1.1.11. Avoid leading questions.

63.6.3.1.1.12. Clarify the information received with the witness.

63.6.3.1.1.13. Document information obtained from the complainant and witness(es), including their identity, in a written report.

63.6.3.1.1.14. The investigating Officer should arrange for the victim(s) and witness(es) to provide sworn taped statements whenever an arrest is made.

63.6.3.1.1.15. Ensure that all basic elements of an alleged crime have been established. The following questions should be answered:

63.6.3.1.1.15.1. Who are the parties involved?

63.6.3.1.1.15.2. When did the incident occur?

- 63.6.3.1.1.15.3. Where did the incident occur?
- 63.6.3.1.1.15.4. Why did the incident occur?
- 63.6.3.1.1.15.5. What were the circumstances surrounding the incident?
- 63.6.3.1.1.15.6. How was the alleged offense committed?
- 63.6.3.1.1.15.7. Encourage the victim or witness(es) to contact investigators with any further information.
- 63.6.3.2. Investigative Interviews of Suspects:
  - 63.6.3.2.1. Investigative interviews with suspects will be conducted in accordance with constitutional requirements.
  - 63.6.3.2.2. Interviewing suspects on-scene, in the field, or during the preliminary phase of an investigation requires the use of good judgment by the investigating Officer or Detective. Questioning of suspects during the initial stages of an investigation is usually conducted to gather preliminary information or for issues of public safety.
  - 63.6.3.2.3. The investigating Officer shall make a determination whether or not Miranda warnings need to be read prior to any questioning and whether or not it is the appropriate time to begin questioning the suspect.
  - 63.6.3.2.4. A decision must be made as to whether or not a Detective is needed and if interviewing the suspect should wait for the Detective to respond.
  - 63.6.3.2.5. The cooperative suspect should be allowed to give a complete accounting of their involvement in an alleged crime.
  - 63.6.3.2.6. The investigating Officer should listen for any omissions, contradictions, and inconsistencies.
  - 63.6.3.2.7. The questions should be clearly stated using plain language.
  - 63.6.3.2.8. The investigating Officer should avoid leading questions.
  - 63.6.3.2.9. The investigating Officer will maintain a courteous and professional demeanor.
  - 63.6.3.2.10. The actions of the investigating Officer(s) will not be coercive in any way.
- 63.6.3.3. Constitutional Requirements: (CFA: 15.06)

63.6.3.3.1. Investigative interviews with suspects will be conducted in accordance with established State and Federal Law, and in compliance with constitutional requirements.

63.6.3.3.2. Officers are to advise suspects of their constitutional rights and access to counsel pursuant to the Miranda decision by reading said rights from an approved Department prepared Miranda Rights Waiver Card or Form. These rights are to be read prior to all custodial interrogations and regardless of whether suspect states he/she is familiar with their rights.

63.6.3.3.3. Custodial interrogations occur under the following circumstances:

63.6.3.3.3.1. When the suspect is arrested and Officers want to question him/her.

63.6.3.3.3.2. During custodial questioning, where the suspect's freedom of movement is restricted in any significant manner.

63.6.3.3.3.3. When the questioning occurs in a police dominant atmosphere.

63.6.3.3.3.4. When the suspect is willing, the investigating member should record a sworn taped statement to accurately record the suspect's account of the incident.

63.6.3.3.3.5. The investigating member shall preserve whenever possible on tape an affirmation that the suspect was read Miranda warnings and that the suspect understood their rights and is voluntarily speaking with the police by providing a taped statement.

63.6.3.3.3.6. The investigating member may use an approved Department Written Rights Waiver Form prior to conducting a custodial interview of a suspect. When a Written Rights Waiver Form is not utilized, the Officer shall document the date, time, and location as well as individuals present when the rights were given.

63.6.3.3.3.7. The investigating member shall take into consideration the following factors when deciding how the interview should proceed:

63.6.3.3.3.7.1. Physical disabilities;

63.6.3.3.3.7.2. Alcohol or narcotic impairment;

63.6.3.3.3.7.3. Emotional stability;

63.6.3.3.3.7.4. Age, education, language barriers; and cultural background.

63.6.3.3.3.7.5. When the victim, witness, suspect, or arrestee being interviewed is a juvenile, then all of the above requirements apply in conjunction with the standards and procedures set forth in Policy and Procedures Chapter 73 and F.S.S. Ch. 985.

63.6.3.3.4. Members will follow State Statute when interviewing individuals with Autism or Autism Spectrum Disorder. (CFA: 15.18)



63.6.3.3.4.1. When an individual, who is a victim, suspect or defendant, diagnosed with autism or an autism spectrum disorder or his or her parent or guardian, request a professional be present at any interview, the interviewing officer or other individual designated by the interviewing officer, shall take the following steps:

63.6.3.3.4.1.1. Advise the individual making the request for a professional (defined as a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional. The professional must have experience treating, teaching, or assisting patients who have been diagnosed with autism or autism spectrum disorder) that all expenses related to the attendance of the professional at the interview shall be borne by the requesting individual.

63.6.3.3.4.1.2. Ask the individual making the request for a professional, if they have a particular professional he or she would like to request or knows of a professional who may be requested. If so, obtain the professional's contact information and contact the professional for assistance. The individual making the request for a professional may contact the professional directly if that is his or her preference.

63.6.3.3.4.1.3. If the individual making the request does not have or know of a particular professional to contact, the interviewing officer shall contact the Sunrise Police Department's Victim Advocate for further assistance.

63.6.3.3.4.1.4. The interviewing officer or designee shall document all attempts to obtain a qualified professional for the interview.

63.6.3.3.4.1.5. An interview may take place only after a good faith effort has been made to locate a professional to attend the interview and all known sources for a professional have been exhausted.

63.6.3.3.4.1.6. Upon request of a person who has a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles shall issue an identification card exhibiting a capital "D" for the person, child, or ward if the person or the parent or guardian of the child or ward submits:

63.6.3.3.4.1.6.1. Payment of an additional \$1 fee; and

63.6.3.3.4.1.6.2. Proof acceptable to the department of a diagnosis by a licensed physician of a developmental disability.

63.6.3.3.4.1.7. If an individual claims that he or she is diagnosed with autism or autism spectrum disorder or his or her parent or guardian request a professional be present at any interview, it is NOT a requirement for them to provide or possess an identification card or any proof showing that they have a developmental disability. The Department member will still make a diligent attempt to contact a professional.

63.6.4. Follow-up Investigations:

63.6.4.1. Officers and Public Services Aides (when applicable) are encouraged to follow-up on all felony and misdemeanor cases that they handle.

63.6.4.1.1. Officers and Public Services Aides (PSAs) will notify a Supervisor prior to conducting any follow-up investigation.

63.6.4.1.2. Supervisors may suspend follow-up investigations conducted by Officers or PSAs due to workforce levels, calls for service, cases of a sensitive nature, or at the request of investigative personnel.

63.6.4.2. Conducting Interviews During Follow-up Investigations:

63.6.4.2.1. Complainants and Witnesses:

63.6.4.2.1.1. Generally a function of Detectives assigned to the Investigations Division.

63.6.4.2.1.2. Prior to commencement, the investigator should arrange for an effective interview by:

63.6.4.2.1.2.1. Reviewing and analyzing all previous reports, agency records, laboratory examination results, when applicable, and available and any other external sources of information that may assist with the case. (CFA: 15.04A)

63.6.4.2.1.2.2. Planning to conduct additional interviews or with any known or future witnesses. Additional interviews should be planned in advance and after the investigator has had the opportunity to review other information and statements. (CFA: 15.04B)

63.6.4.2.1.2.3. Seeking additional information from patrol officers, other investigators, or informants. (CFA: 15.04C)

63.6.4.2.1.2.4. Planning to conduct the interview as soon as the witness is physically and emotionally capable.

63.6.4.2.1.2.5. Selecting an environment that minimizes distractions while maintaining the comfort level of the witness.

63.6.4.2.1.2.6. Ensuring that all necessary equipment and resources are available.

63.6.4.2.1.2.7. Separating all witnesses.

63.6.4.2.1.2.8. When necessary, planning, organizing, and conducting additional searches for physical evidence; and when necessary making preparation for the collection of said evidence. (CFA: 15.04D)

63.6.4.2.1.3. Prior to the start of questioning, the investigator should:

- 63.6.4.2.1.3.1. Develop a rapport with the complainant or witness.
- 63.6.4.2.1.3.2. Refrain from volunteering specific information about the suspect or case.
- 63.6.4.2.1.3.3. Maintain or reestablish rapport with complainants and witness(es) by showing understanding and concern.
- 63.6.4.2.1.3.4. Minimize distractions.
- 63.6.4.2.1.3.5. Avoid leading questions.
- 63.6.4.2.1.3.6. Ask open-ended questions and follow-up with closed-ended questions to clarify or illicit specific information related to the witness's narration.
- 63.6.4.2.1.3.7. Facilitate the witness's memory and thinking by encouraging the witness to mentally recreate the incident in sequence and jog the witness's memory by asking specific questions.
- 63.6.4.2.1.3.8. Review notes taken contemporaneously with the interview and other case file information.
- 63.6.4.2.1.3.9. Ask the complainant or witness, "Is there anything else I should have asked you?" or "Is there anything else you would like to add to your statement?"
- 63.6.4.2.1.3.10. Close the interview by encouraging the individual to re-contact the investigator with any additional information and thank the witness for their cooperation.
- 63.6.4.2.2. Suspects:
  - 63.6.4.2.2.1. Part of the preliminary and follow up interview procedures are for the purpose of identifying and when possible apprehending suspects involved in criminal incidents. (CFA: 15.04E)
  - 63.6.4.2.2.2. The objective when questioning a suspect(s) is to effectively extract truthful and pertinent information related to the alleged offense as well as determining their involvement in other crimes, identifying accomplices, or identifying unreported crimes. (CFA: 15.04F)
  - 63.6.4.2.2.3. The Detective or Officer, prior to interviewing any suspect, will ensure that a warrant and criminal history check is accomplished. (CFA: 15.04G)
  - 63.6.4.2.2.4. The interview may be accusatory or non-accusatory in nature.
  - 63.6.4.2.2.5. The investigating member should note verbal and non-verbal language; and, may utilize interviewing strategies and techniques commensurate with their training and experience.

- 63.6.4.2.2.6. The member shall speak in a clear and concise manner.
- 63.6.4.2.2.7. The member shall provide for the availability of a translator, if applicable.
- 63.6.4.2.2.8. The following prohibitions apply in all interview situations:
  - 63.6.4.2.2.8.1. The subjects will not be subjected to unusually long interview periods.
  - 63.6.4.2.2.8.2. Subjects will not be denied necessities such as water, food, or use of facilities.
  - 63.6.4.2.2.8.3. Subjects will not be subjected to physical abuse or threats.
  - 63.6.4.2.2.8.4. Inducements or promises will not be used to extract information from the subject being interviewed.
  - 63.6.4.2.2.8.5. The number of police personnel present during any questioning will be kept to a minimum, usually one or two members, to avoid an appearance of coercion unless there are unusual or extenuating circumstances.
- 63.6.4.2.2.9. Detectives and Officers will conduct all interview processes so that the case can be properly prepared for court presentation. (CFA: 15.04H)
- 63.6.5. Photographic Lineup and In-Person Lineup Procedures:
  - 63.6.5.1. Constructing the Photographic or In-Person Lineup Lineup: (CFA: 15.13A)
    - 63.6.5.1.1. When constructing photo lineups, a reasonable effort will be made to select contemporary photographs that will depict persons with similar characteristics such as age, height, weight, and general appearance and are of the same sex and race, in accord with the witness's description of the suspect. Do not mix color and black and white photos. Use photos of the same size and basic composition. Do not include more than one photo of the same person. Cover or crop any portion of a mug shot or other photo that provides identifying information on the subject or other persons included in the photographic lineup.
    - 63.6.5.1.2. A reasonable effort will be made to select photographs for use in the lineup that have similar backgrounds and markings. Names, dates and other information appearing on the photograph must not be visible to the witness.
    - 63.6.5.1.3. Create a consistent appearance between the suspect and fillers photos with respect to any unique or unusual feature, for example, scars and/or tattoos.
    - 63.6.5.1.4. If multiple witnesses are to view a lineup, the numbers of the photographs/folders should be changed to a different position for an Independent Administrator; or reshuffled when utilizing the Functional Equivalent procedure.

63.6.5.1.5. If there are multiple suspects, only one suspect shall be included in a lineup.

63.6.5.1.6. The photographic lineup will be constructed utilizing a minimum of eight (8) separate photographs.

63.6.5.1.6.1. Include only one (1) suspect, a minimum of five (5) fillers (non-suspects), and two (2) blank photos per lineup procedure.

63.6.5.1.7. For photographic lineups, a single photograph will be placed in a single folder and each photograph will be secluded from the others.

63.6.5.1.8. Each photograph must be numbered on the backside of photo. However, the actual numbering of the photos will be accomplished based upon the type of procedure utilized.

63.6.5.1.8.1. The photos will be numbered prior to the viewing with an Independent Administrator.

63.6.5.1.8.2. When utilizing the Functional Equivalent procedure, the photos will not be numbered until after shuffling and viewing.

63.6.5.1.9. When a photo lineup is administered by an Independent Administrator, two blank photos will be introduced following the sixth photo. This prevents the witness from knowing he or she has viewed the last actual photo.

63.6.5.1.10. If an Independent Administrator is not utilized, blank photos will still be included in the group when the Functional Equivalent method is used. The sequence of each folder will be random since the folders containing each photo will be shuffled prior to presentation to the witness.

63.6.5.1.11. Every Officer who administers a photo lineup shall complete an Administrator Form and one of the two following forms: Independent Administrator - Witness Sequential Photo/In-Person Array Form (Independent Administrator Form) or Functional Equivalent Procedure - Witness Sequential Photo/In-Person Array Form (Functional Equivalent Form).

63.6.5.2. In-Person lineups will be conducted at a County detention facility.

63.6.5.2.1. In-Person lineups should utilize a minimum of six persons, including the suspect, who are reasonably similar in age, height, weight, general appearance and are the same sex and race, in accordance with the witness's description of the subject.

63.6.5.2.2. The person preparing an In-Person lineup should create a consistent appearance between the suspect and the fillers photos with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature.

63.6.5.2.3. Documentation for In-Person lineups should include, at a minimum, a photograph of each person utilized. The original photographs will be placed into evidence and a copy retained in the case file.

63.6.5.2.4. All In-Person lineups must conform to specific legal requirements. If the right to counsel has attached, the counsel representing the accused is entitled to have sufficient time to confer with his or her client prior to the lineup, and to observe the lineup itself.

63.6.5.2.5. Any waiver of right to counsel must conform to the requirements of law. Any investigator utilizing an In-Person lineup will coordinate his or her efforts with the Broward County State Attorney's Office to ensure that the lineup conforms to all obligations of law.

63.6.5.2.5.1. No In-Person lineup will be conducted without the assistance and direction from the State Attorney's Office.

63.6.5.2.6. During an In-Person lineup, no person who is aware of the suspect's identity other than the investigator who is administering the lineup and the suspect's attorney may be present.

63.6.5.3. Presentation of the Photographic or In-Person Lineup: (CFA: 15.13B, D)

63.6.5.3.1. Witnesses must be provided instructions, orally and in writing, prior to displaying or viewing photographic or in-person lineups.

63.6.5.3.1.1. Documentation of instructions will be accomplished by utilizing either the Department's Independent Administrator Form or the Functional Equivalent Form.

63.6.5.3.1.2. The eyewitness must acknowledge receipt of the specific instructions in writing prior to beginning review of the photo array or lineup.

63.6.5.3.1.2.1. If the eyewitness refuses to sign the document acknowledging receipt of the instructions, the lineup administrator must document refusal of the eyewitness to sign a document acknowledging receipt of the instructions. The lineup administrator will write "REFUSED" and must sign the acknowledgement document himself or herself.

63.6.5.3.2. Photographic or in-person lineups must be displayed to the witness independent and separate from other witnesses that also view the same lineup.

63.6.5.3.3. Witnesses must be instructed not to consult or talk with one another about their identification before, during or after the photographic lineup procedure.

63.6.5.3.4. For photographic lineups, all folders containing individual photographs will be presented in sequential order (one at a time).

63.6.5.3.5. Witnesses should only have one photograph/folder at a time and must return each photograph/folder to the administrator before viewing the next photograph/folder.

63.6.5.3.6. After all photos or persons have been displayed and only if the witness requests it, the entire display may be repeated once in the same sequence as originally presented.

63.6.5.3.6.1. The entire sequence should be presented even if the witness only requests to see one or a few photos or persons again.

63.6.5.3.6.2. During a photographic lineup, the witness cannot compare nor have more than one photo at a time.

63.6.5.3.6.3. If a witness makes a request to view the photo array again, this request will be documented in the area provided on the Administrator Sequential Array Form.

63.6.5.3.6.4. The administrator should never suggest an additional viewing. (CFA: 15.13C)

63.6.5.3.7. When practical, the administrator should have no knowledge of the identity of the suspect; this should be accomplished by utilizing an Independent Administrator whenever one is available.

63.6.5.3.7.1. If an Independent Administrator is not available, then the Functional Equivalent Procedure shall be used.

63.6.5.3.7.2. The administrator shall document in his/her report the type of photographic lineup that was administered.

63.6.5.4. Blind Administrator Procedure (using an Independent Administrator that does not know the identity of the suspect):

63.6.5.4.1. The Lead Investigator will prepare the photo array, utilizing the suspect and the fillers photos in folders 1 through 6. Two blank photos will be used in folders 7 and 8, for a total of (8) eight folders.

63.6.5.4.2. All photos (not folders) will be numbered 1 through 8 on the rear side of the photograph, along with the case number, prior to the presentation of the photo array to the witness.

63.6.5.4.3. The entire photo array will be given to another detective (Independent Administrator) that has no knowledge of who the suspect is and has no involvement in the current investigation.

63.6.5.4.4. The detective (Independent Administrator) will present the photo array to the witness and record all results. If identification is made, the Independent Administrator will take a sworn taped statement and complete a supplement report for the lead detective's investigation.

63.6.5.4.4.1. The sworn taped statement will only refer to the administration of the lineup.

63.6.5.5. Functional Equivalent Procedure (when an Independent Administrator is not utilized and the Administrator knows the identity of the suspect, but does not know the order of the photographs being shown):

- 63.6.5.5.1. Place the suspect and filler photos in non-marked folders. Include two blank photos, for a minimum of eight folders.
- 63.6.5.5.2. Shuffle the folders before giving them to the witness. This will result in the administrator not knowing the location of the suspect, filler photos, or blanks. Do not number the photos yet.
- 63.6.5.5.3. The investigator should position himself or herself away from the witness, and in a position that he or she cannot see inside the folders as they are viewed by the witness.
- 63.6.5.5.4. The witness will only be allowed to view one photo at a time.
- 63.6.5.5.5. Once the photo is viewed by the witness and they return the folder back to the investigator, the investigator should stack the folders in the same order that they were viewed so they can be correctly numbered afterward.
- 63.6.5.5.6. Only after the photo lineup is completed should the photographs be numbered (on the back) in the correct order they were shown to the witness.
- 63.6.5.7. Instructions for the Independent Administrator Form will include:
  - 63.6.5.7.1. You will be asked to view a series of photos of individuals or live persons.
  - 63.6.5.7.2. It is just as important to clear innocent persons from suspicion as to identify guilty parties.
  - 63.6.5.7.3. The person of interest may or may not be in this photo/in-person array and the photos/persons are not in any particular order.
  - 63.6.5.7.4. I don't know whether the person being investigated is included in this series.
  - 63.6.5.7.5. You should not feel you have to make identification. If you do identify someone, I will have you designate the photograph of the person you have identified.
  - 63.6.5.7.6. Regardless of whether you make identification, we will continue to investigate the incident.
  - 63.6.5.7.7. The photos/persons will be shown to you one at a time and are not in any particular order. In the photo lineup, there are some blank photos in the series, which is part of the normal process. Take as much time as you need to examine each photo/person. If you make identification, I will continue to show the remaining photos/persons in the series.
  - 63.6.5.7.8. Since this is an ongoing investigation, you should not discuss the identification procedures or results.



63.6.5.7.9. Confirm that the witness understands the nature of the procedure by having them place their initials in the appropriate location within the form.

63.6.5.8. Instructions for the Functional Equivalent form:

63.6.5.8.1. You will be asked to view a series of photos of individuals or live persons.

63.6.5.8.2. It is just as important to clear innocent persons from suspicion as to identify guilty parties.

63.6.5.8.3. The person of interest may or may not be in this photo/In-Person array and the photos/persons are not in any particular order.

63.6.5.8.4. You should not feel you have to make identification. If you do identify someone, I will have you designate the photograph of the person you have identified.

63.6.5.8.5. Regardless of whether you make identification, we will continue to investigate the incident.

63.6.5.8.6. The photos/persons will be shown to you one at a time and are not in any particular order. I do not know the order of the photos/persons. In the photo lineup, there are some blank photos in the series, which is part of the normal process. Take as much time as you need to examine each photo/person. If you make identification, I will continue to show you the remaining photos/persons in this series.

63.6.5.8.7. Since this is ongoing investigation, you should not discuss the identification procedures or results.

63.6.5.8.8. Confirm that the witness understands the nature of the procedure by having them place their initials in the appropriate location within the form.

63.6.5.9. Administrator Conduct during Display/Presentation (Photo or In-Person Lineups):

63.6.5.9.1. Avoid saying anything to the witness that may directly or indirectly influence witness decision. (CFA: 15.13C)

63.6.5.9.2. No additional commentary by the administrator should be made beyond the reading of the standardized instructions. Any additional comment could inadvertently suggest to a witness which photograph or person is believed to be the suspect. (CFA: 15.13C)

63.6.5.9.3. The administrator will avoid any verbal or nonverbal comments or actions that suggest the witness did or did not identify the suspect when the photographic lineup is completed. (CFA: 15.13C)

63.6.5.9.4. If possible, the administrator should not be in the witness's direct line of sight. This helps minimize the opportunity for inadvertent behavior that might influence the witness's decision, and provides the witness a more relaxed opportunity to view the lineup.

63.6.5.9.5. Upon identifying a photo as the suspect, the witness must initial the identification photo as the one selected. Additionally, the witness must also initial the other photos used, indicating he or she did not select them. This makes it clear which photos were actually viewed by the witness. If the witness refuses to initial the photos, the administrator shall note the refusal.

63.6.5.9.6. Note and document the exact words of the witness during the entire process, including any comments made if the witness makes identification. Note any non-verbal communication, for example, crying upon viewing of a photo or person of the witness.

63.6.5.9.7. Upon completion of the photographic or in-person lineup viewing a sworn, taped recorded statement will be taken from any witness who is able to make a positive identification. This statement will include the witness' level of confidence, including words that describe the witness' certainty of identification. (CFA: 15.13E)

63.6.5.9.8. Discerning level of confidence. Any comment made by the witness during the entire process should be carefully documented word-for-word. Any non-verbal communication or action of the witness should also be noted in the administrator's notes. For example: "Upon viewing the photo number four, the witness stated, 'That's the one. He's the one who told me he was going to kill me.' and the witness began crying". (CFA: 15.13E)

63.6.5.9.9. If the witness has previously viewed a photo array in connection with the identification of another person suspected of involvement in the offense, the filler photos in the lineup in which the current suspect participates shall be different from the filler photos used in any prior lineups.

63.6.5.9.10. Whether a witness is able to make a positive identification from the photographic lineup or not, all photographs, suspect, filler photos, and blanks will be made part of the case file.

63.6.5.9.11. The original photographs and signed witness forms will be entered into evidence and copies will be retained in the investigator's case file.

63.6.5.9.12. Photographs of the persons utilized in an In-Person lineup will be entered into evidence and copies retained in the investigator's case file.

63.6.5.10. Record of Photographic or In-Person Lineup: (CFA: 15.13F)

63.6.5.10.1. The record of a photographic or in-person lineup shall include all of the following information:

63.6.5.10.1.1. All identification results obtained during the identification procedure.

63.6.5.10.1.2. The names of all persons present at the photographic or in-person lineup.

63.6.5.10.1.3. The words used by the witness in any identification, including words that describe the witness' certainty of identification.

63.6.5.10.1.4. A copy of each photograph, the name, date of birth and position number that each photograph or person was in when it was shown to the witness.

63.6.5.10.1.5. The sources of all photographs or persons used.

63.6.5.10.1.6. A copy of the lineup will be made for the Detectives case file.

63.6.5.10.1.7. The assigned case number should be documented on each Administrator Form and the back of his photograph.

63.6.5.10.1.8. If the case Detective is not the administrator of the lineup, the administrator will complete a supplemental report.

63.6.5.11. Other Photographic Methods of Identification:

63.6.5.11.1. In an effort to secure the identity of a suspect for use in a photographic lineup it may be necessary to utilize a school yearbook, mug book, website, or other array of photos.

63.6.5.11.2. This practice is not a substitute for conducting a photographic lineup and should only be used when specific information is obtained by an Officer or Detective whereby the identity of the suspect may be known and it is believed that the identity can be matched to an existing photograph.

63.6.5.11.3. If a suspect's identity is established utilizing these types of sources, the original source must be maintained or reproduced. A copy must be signed and dated by the witness and placed into evidence.

63.6.5.11.4. If the source is from a website, a copy of the identified photograph must be printed then signed and dated by the witness. The exact site name will be noted in the Detective's Investigative Report.

63.6.6. Field Interviews:

63.6.6.1. Field Interviews are necessary for deterring crime and identifying criminal suspects.

63.6.6.2. When an Officer initiates a citizen contact for a field interview, the officer must be able to reasonably articulate that the person stopped:

63.6.6.2.1. Has committed, is committing, or is about to commit a crime.

63.6.6.3. In these circumstances a temporary detention would be permissible to investigate the circumstances and verify identification.

63.6.6.4. After interviewing the subject, if no probable cause exists for arrest, the purpose of the field interview will be documented on a Department approved Field Contact form and forwarded to a Supervisor for review.

63.6.6.5. Circumstances in which a field interview would be conducted could include, but not be limited to: (CFA: 15.07A)

63.6.6.5.1. Suspicious subjects or circumstances.

63.6.6.5.2. Subjects in areas that would not be usual for law abiding citizens, for example, closed businesses, posted no trespassing areas, places not open to the public.

63.6.6.5.3. Subject in a high crime area.

63.6.6.5.4. The Officer believes that a crime has been, is being, or is about to be committed.

63.6.6.6. If circumstances appear suspicious to an Officer, a field interview should be conducted.

63.6.6.6.1. All information will be recorded on a Department approved Field Contact form. (CFA: 15.07B)

63.6.6.6.2. Officers must complete the entire Field Contact form, filling in all appropriate blanks unless the information cannot be obtained for a specific reason. This should be noted in the narrative section of the form. (CFA: 15.07B)

63.6.6.6.3. If a vehicle is involved, complete the vehicle portion of the Field Contact form. (CFA: 18.09B)

63.6.6.7. The original of the Field Contact form will be forwarded to the Records Unit with copies distributed to the appropriate Division for review. This will be directed by a Supervisor. (CFA: 15.07C)

63.6.6.8. Field Interrogation Photographs:

63.6.6.8.1. Officers initiating Field Contact forms are not required to take photos of the individuals.

63.6.6.8.2. In cases where Officers make contact with a subject(s) in which a photograph may be desirable, for example, a suspect of a crime, possible gang member(s) a surveillance photo may be taken of the person in question.

63.6.7. Conducting Show-up Identifications: (CFA: 15.14A, B, D)

63.6.7.1. Any member may arrange a show-up between a witness and a suspect whenever a potential suspect is located and detained within a reasonable length of time, in proximity to the location of the alleged crime, and fits the description of the suspect given by the witness. Ideally, show-ups should be conducted while the witness' memory is fresh and the suspect is located and still available.

63.6.7.2. If a member has reasonable suspicion to detain a suspect under the above circumstances, the member may use such force as is reasonably necessary to stop the suspect from leaving, or to cause the suspect to remain in the members' presence. The suspect should be detained in the least restrictive manner possible. If probable cause to arrest develops during the detention, an arrest should be made.

63.6.7.2.1. A suspect cannot be detained for longer than a reasonable period of time to confirm or refute positive identification.

63.6.7.3. Any time a show-up is conducted, officer shall complete a Show-Up Witness Identification Form.

63.6.7.4. Prior to conducting the show-up, officers shall read aloud to the witness, the instructions provided to them on the Show-Up Witness Identification Form.

63.6.7.4.1. The officer will fill out the information on the form and have the witness sign the bottom affidavit, stating that the instructions have been read aloud to them and that they understand how the Show-Up is conducted.

63.6.7.4.1.1. If the witness refuses to sign the document acknowledging receipt of the instructions, the lineup administrator must document refusal of the eyewitness to sign a document acknowledging receipt of the instructions. The lineup administrator will write "REFUSED" and must sign the acknowledgement document himself or herself.

63.6.7.4.2. Immediately after the show-up, the officer will also read aloud, "Do not discuss this show-up process with anyone who is involved in the case." These instructions are also located on the Show-Up Witness Identification Form.

63.6.7.5. Members in contact with the witness will obtain a detailed description of the suspect prior to the suspect being shown to the witness. The witness must advise the member that they will be able to recognize the suspect of the alleged crime prior to the show-up.

63.6.7.6. Prior to the show-up, members shall provide instructions to the witness to ensure the witness understands the purpose of the identification process is to exonerate the innocent as well as to identify the actual suspect. The witness should be informed that the person detained may or may not be the suspect, and the witness should not feel compelled to make an identification. (CFA: 15.14C)

63.6.7.7. The witness should be transported to the suspect's location and care should be used to shield the witness from being seen by the suspect. If possible, members will not show the suspect handcuffed, or measures should be taken to conceal this fact from the witness.

63.6.7.8. Members should ensure that witnesses wear prescription glasses (if prescribed) and note the approximate distance the witness is from the suspect. During the show-up, officer presence immediately surrounding the suspect should be kept to a minimum.

63.6.7.9. Suspects may not be required to put on clothing worn by the offender. However, they may be asked, but not required, to speak words uttered by the suspect, or perform other actions of the suspect.

63.6.7.10. If the witness makes identification, do not confirm or corroborate the identification. Feedback may not be given to the witness as to the identification. (CFA: 15.14D)

63.6.7.11. Show-ups should not be conducted with more than one witness present at a time. If there is more than one witness, the show-up must be conducted separately for each witness, and witnesses should not be permitted to communicate before or after any show-up regarding identification of the suspect. The same suspect should not be presented to the same witness more than once.

63.6.7.12. Following all show-ups, and whether or not a positive identification is made, the person administering the show-up shall complete an offence/incident report or supplemental report which includes: (CFA: 15.14F)

63.6.7.12.1. The date, time and location of the show-up.

63.6.7.12.2. Whether identification was made and the approximate length of time the witness needed to identify the suspect.

63.6.7.12.3. The words used by the witness in any identification, including level of certainty regarding the identification. (CFA: 15.14E)

63.6.7.12.4. The reason or basis for any deviation from the photo lineup guidelines.