THE POLICIES AND PROCEDURES INCLUDED IN THIS MANUAL ARE NOT A CONTRACT OF EMPLOYMENT AND SHOULD NOT BE RELIED ON AS SUCH. THESE POLICIES AND PROCEDURES ARE SUBJECT TO AND MAY BE CHANGED AT ANY TIME BY THE DEPARTMENT OF PUBLIC SAFETY, MEDICAL UNIVERSITY OF SOUTH CAROLINA.

A. Purpose

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

B. Policy

Eyewitness identification is a frequently used investigative tool. As such, officers shall strictly adhere to the procedures set forth here in order to maximize the reliability of identifications, minimize unjust accusations of innocent persons, and to establish evidence that is reliable and conforms with established legal procedure.

C. Definitions

*Filler Photographs (also referred to as “fillers”):* Photographs of individuals, not suspects, used in a photographic Lineup.

*Live Lineup:* A live display of the suspect along with other individuals whose physical characteristics resemble the suspect’s description or appearance at the time of the incident.

*Photographic Array:* The showing of multiple photographs to an eyewitness for the purpose of obtaining an identification.

*Photographic Lineup (also referred to as “photo lineup”):* A display of the suspect along
with filler photographs of other individual whose physical characteristics resemble the suspect’s description or appearance at the time of the incident.

SHOW-UP: The presentation of one suspect to an eyewitness in a short time frame following commission of a crime.

D. Procedure

1. Show-ups:

Many courts have suppressed identification evidence based on the use of show-ups because of the inherent suggestiveness of the practice. Therefore, the use of show-ups should be avoided whenever possible in preference for the use of a photographic lineup. Show-ups are typically justified when other means of identification are either impractical or unavailable and no other evidence exists to hold the suspect. (CALEA 42.2.12.a) Show-ups are practical only when a crime is freshly committed and circumstances are such that the subject can reasonably be associated with the incident. (CALEA 42.12.a) When exigent circumstances require the uses of show-ups, the following guidelines should be followed:

a. Show-ups should not be conducted when the suspect is in a cell, manacled (handcuffs are allowable) or dressed in jail clothing.

b. Show-ups should not be conducted with more than one witness present at a time. If the show-up is conducted separately for more than one witness, the witnesses should not be permitted to communicate before or after the show-up regarding the identification of the suspect. (CALEA 42.2.12.c)

c. The same suspect should not be presented to the same witness more than once.

d. Show-up suspects should not be required to put on clothing worn by perpetrator, to speak words uttered by the perpetrator or to perform other actions of the perpetrator.

e. Words or conduct of any type by officers that may suggest to the witness at the individual is or may be involved in the incident should be scrupulously avoided. The officer will not provide feedback to the witness regarding status of the suspect or the identification. (CALEA 42.2.12.f)

f. The officer conducting a show-up will instruct the witness that the subject being presented is not necessarily the suspect of the incident and that the witness is not compelled to either positively or negatively identify the subject as the suspect in the incident. (CALEA 42.2.12.d)
g. The officer will ask the witness to state their level of confidence regarding the identification. (CALEA 42.2.12.e)

h. The witness should be transported to the location of the subject of the show-up. Under no circumstances should a suspect be transported to the scene of the incident. (CALEA 42.2.12.b)

i. The subject of the show-up should, if practical, be taken out of a vehicle and stood up for the show-up. The witness typically should be allowed to sit in a vehicle. Officers may use lights as necessary to illuminate the subject of the show-up and reduce the ability of the subject to see the witness.

j. The officer conducting the show-up will thoroughly document all aspects of the show-up to include where and how the suspect was initially located, where the show-up was conducted, description of the suspect and clothing, and the level of confidence expressed by the witness. (CALEA 42.2.12.g)

2. Photographic Identifications / Photographic Lineups:

   a. Photographic identifications must use multiple photographs shown individually to a witness or simultaneously in an array. (CALEA 42.2.11.a)

   b. Photographic lineups should be created using six photographs. Filler photographs should be individuals who reasonably resemble the suspect in regard to age, height, weight and general appearance and be of the same sex and race. Photographs should not include, or should have covered, any identifying information on subjects. The lineup should be arranged with three photographs across the top and three across the bottom. Numbering of the photographs will be one through three across the top from left to right and four through six across the bottom from left to right. (CALEA 42.2.11.a)

   c. The officer conducting the photo lineup will instruct the witness of the following prior to viewing the lineup: (CALEA 42.2.11.d)

      1) That the suspect may or may not be among the subjects in the lineup and that the witness is not compelled to make an identification.

      2) Explain to the witness that the subject may not appear exactly as they did during the incident because features such as hairstyles and
facial hair may be changed. Photographs also may not always depict the true complexion of the person and can be affected by the quality of the photograph.

3) Ask the witness to state their level of confidence in the identification. (CALEA 42.2.11.e)

4) Remind the witness not to discuss the identification procedure or results with other witnesses involved in the case. (CALEA 42.2.11.d)

d. The officer will place the photo lineup face down in front of the witness. After explaining the procedure to the witness, ask the witness if they understand the procedure. (CALEA 42.2.11.d) Once the witness is ready, ask him/her to turnover the photo lineup and view the photographs. If the witness makes a positive identification, have the witness place their signature, date and time above or on the back of the chosen photograph.

e. Officers will not make statements to influence the perception or judgment of the witness or witnesses. Officers will not provide feedback to the witness or witnesses regarding the subject or the identification. (CALEA 42.2.11.f)

f. The officer conducting the lineup will thoroughly document the identification, or lack of identification, made by the witness. Documentation will include the level of confidence in the identification expressed by the witness. (CALEA 42.2.11.g)

g. The officer conducting the photo lineup will write the case number, the officer’s name and date on the back of the photograph and place the lineup in Property and Evidence as evidence in the case. A photocopy should also be made and placed in the Records file. (CALEA 42.2.11.g)

h. If more than one witness is involved, separate photo lineups should be prepared. If practical, the arrangements of the photographs should be changed. All other procedures for the lineup will be followed for additional witnesses. Precautions should be taken so witnesses do not have an opportunity to speak to one another unsupervised prior to the identification procedure. (CALEA 42.2.11.c)

i. Video and/or recording devices, when available, may be used to document the lineup procedure. If recording devices are used, the witness should be advised that the lineup identification will be recorded prior to beginning the identification procedure. (CALEA 42.2.11.b)

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3 Photographic Identification and Photographic Array

a. Single photographic identification is generally regarded as improper for identifying an unknown subject. This type of identification is only acceptable for confirming a known, or partially known, identity. For example, if a witness knows the identity of a subject but only knows a partial name, or nickname, a single photograph identification may be used to confirm the identity.

b. A photographic array of multiple single photographs may be used for identification when a photographic lineup is impractical or justifiable reasons exist to substitute a photographic array for a photographic lineup. If a photographic array is used, the same procedures for a photographic lineup will be followed with the exception that photographs should be shown to the witness one at a time. The same order should be used for each viewing and the officer should document the order shown. The photographic array should be preserved in the same manner as a photographic lineup. If photographic array photographs are to be viewed at one time, they should be affixed to a piece of paper and utilized as a photographic lineup.

E. Lineups:

1. Lineups are typically not utilized by this Department. If, in the rare event, a live lineup is necessary, precautions must be taken to ensure that officers do not influence witnesses. The basic procedures outlined for photographic lineups should be followed at a minimum. Additionally, officers must be aware that subjects have a right to have counsel present during any live lineup identification procedure once they have been formally charged with a crime.