

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS*

Effective: 04/11/2011 Replaces 1/1/99

2-29 LINEUP/PHOTOGRAPHIC ARRAY/ONE-ON-ONE LINEUPS

POLICY:

Department policy is to conduct lineups and photographic arrays according to established legal principles and to provide an opportunity for victims and witnesses to correctly identify suspects accused of committing crimes without the appearance of suggested identification.

PROCEDURES:

2-29-1 PURPOSE OF THE LINEUP
[N/A]

Lineups are conducted to obtain positive identification of a suspect in a crime. Normally, victims and/or witnesses will be allowed to view several persons in order to identify a suspect.

RULES:

2-29-2 EXCEPTIONS
[7]

Lineups will not be held when:

- A. A suspect is personally known to the victim or witness.
- B. A suspect has been arrested at the scene of a crime and in the presence of the victim or witnesses.
- C. The victim or witnesses have apprehended the suspect.

2-29-3 CONDUCTING THE LINEUP
[N/A]

Victim(s) and or witness(es) may view a lineup/photo array to obtain positive identification of a suspect in a crime. In situations where multiple victims/witnesses are present, under no circumstances will they be allowed to speak to one another during the lineup/photo array. The lineup/photo array will be viewed individually. All efforts must be made to avoid the appearance of a police suggested identification.

Suspects in custody may not refuse to participate in a lineup. However, certain constitutional safeguards must be followed:

- A. Suspects have the right to have an attorney present.
- B. At least five persons will participate with the suspect in the lineup.
- C. All participants should be of the same sex, similar physical description, and attire.

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- D. Each participant will be instructed in the lineup procedure.
- E. Each participant will be assigned a numbered position which may be changed between lineups to assure a positive identification.
- 2-29-3
cont'd F. Participants will be asked to step forward by using their numbered position. They will each be asked to turn to offer profile and back views for victims or witnesses.
- G. If verbal identification is necessary, each participant will be asked to say the same phrase.
- H. If necessary, all participants may be asked to repeat some of the above steps.

2-29-4
[7] CONDUCTING A LINEUP WHEN THE SUSPECT IS NOT IN CUSTODY

If a suspect is not in custody, the suspect may participate voluntarily, by consent of the suspect's attorney, or by court order. In these cases, the suspect will be advised of his/her constitutional rights. The procedures listed on the lineup form for in-custody suspects will be followed.

2-29-5
[7] NOTIFICATION OF SUSPECT'S ATTORNEY

The suspect's attorney will be given at least a half day notice before conducting the lineup. If the suspect's attorney cannot attend and the lineup must be held because of hardship to victims or witnesses, efforts must be made to have an attorney present to protect the suspect's constitutional rights. Police personnel are authorized to request that the Public Defender attend the lineup, if necessary.

2-29-6
[7] ATTORNEYS ROLE DURING THE LINEUP

Attorneys viewing lineups may make comments or suggestions however, the investigating officer shall remain in charge. The attorney shall not interview victims or witnesses.

2-29-7
[7] SELECTION OF LINEUP PARTICIPANTS

Volunteers may be asked to participate in a lineup or inmates from the jail may be used to obtain the required number of participants. Under no circumstances will federal prisoners be used and the use of inmates charged with felonies will be avoided.

2-29-8 PHOTOGRAPHIC ARRAYS

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[7]

- A. Any photographic array shown by any officer will require the use of a tape/digital recorder and the use of the Albuquerque Police Department Photographic Identification Form (PD 1336) which includes instructions to be given to the person viewing the photographic array:

2-29-8 cont'd

1. *The person you saw on the date of the incident may or may not be in this photographic line up.*
2. *Do not feel obligated to identify anyone in this photographic line-up.*
3. *Photographic line ups are assembled using photographs, which may be recent or older. Keep in mind; hair styles, length or color may change, as well as moustaches and beards. Lighting may affect the tone of the photograph making the person appear darker or lighter than normal.*

- B. A photographic identification form will be filled out and the officer will ensure that each photograph is initialed by the person making the identification. The photograph that is identified should contain the date, time and signature of the person identifying it. Type of identification will be documented on PD 1336:

1. *__ I positively identify photo number __ as the offender in this case.*
2. *__ Photo number __ resembles the offender in this case but I am not positive.*
3. *__ I do not recognize the offender in this photographic line-up.*

- C. A complete report containing the following information is required:

1. Name of person(s) to whom the array was shown.
2. Name of suspect.
3. Type of identification made (positive, negative, or tentative).
4. Name and APD photo numbers of other persons shown in the photographic array.
5. Use of at least five photos.
6. All photographs used in the photographic array will be of persons similar in appearance to the suspect.

2-29-9

ONE-ON-ONE LINEUPS IN THE FIELD FOR FELONY OFFENSES

[7]

When an officer deems it necessary to conduct a one-on-one lineup in the field during a felony investigation, the following conditions should exist:

- A. There must be a reported crime.
- B. The description of the suspect given to police by victims and/or witnesses must match that of the suspect being detained.
- C. The suspect(s) must be found within a reasonable time and distance from the crime scene.

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- D. Identification of the suspect must be made within minutes of the crime. No longer than one hour.
- E. The witness or victim will be taken to the location of the suspects, if the suspect is only being detained. The suspect will not be taken back to the scene because, once the suspect has been moved, the suspect might be considered under arrest.
 - 1. The witness will be transported to the scene of the one-on-one field line-up by law enforcement unless circumstances dictate the witness(s) travel to the scene by their own conveyance. This must occur within minutes of the crime and no longer than one hour from the occurrence of the crime.
 - 2. If more than one witness is transported to the scene, the one-on-one field line up will be viewed individually.
 - 3. Under no circumstances will witnesses be allowed to speak to one another during the one-on-one field line up.
 - 4. The officer(s) will explain the process of viewing the one-on-one line up to the witness(s) to include the type of identification (positive, negative, or tentative) the witness will provide officers with upon completion of the viewing. The identity of witnesses will be protected from view of the suspect during the one-on-one line up.
- *F. A report will be written as outlined in section 1-05-6 of the Department SOP, General Orders, and will describe the above circumstances and conditions of the one-on-one lineup.
- G. In situations where multiple witnesses are present, officers will select the appropriate witness(s) to view the suspect based on creditability, degree of involvement, etc., to establish probable cause for making an arrest. All efforts must be made to avoid the appearance of a police suggested identification.
- H. Exceptions must be approved by the assistant district attorney on call and will be documented in the report.