

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

SUSPECT IDENTIFICATION
SUBJECT

DATE: March 1, 2005

NO: P-22

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: **Confrontations**
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I. **POLICY**

Officers of the Stockton Police Department will conduct in-field showups, photo lineups, and lineups for (in custody) establishing identity according to law.

II. **LAW**

Court decisions (Example: Simmons vs. United States) set out specific guidelines regarding use of photos, lineups, and confrontations, which this procedure follows.

III. **PROCEDURE**

A. In-Field Show-ups

1. In-field showups between suspects and witnesses and/or victims normally will take place within a reasonably brief time after the incidents.
2. If the suspect is located and not arrestable at the time, he/she can be detained and the victim/witness must be transported to the stop scene for viewing.
3. If the suspect is located and there is probable cause to arrest for a charge, he/she may be transported to the victim's location for viewing.
 - a. If there is any doubt as to whether probable cause to arrest exists, do not move the suspect unless consent is obtained or it is impractical to bring the witness to the stop site.
 - b. Exceptions:
 - (1) Suspect demands to be taken to the victim (only use on rare occasions).
 - (2) Victim is incapacitated and unable to move.
 - (3) If the detention is made under circumstances where there is a reasonable possibility of imminent danger to officers or suspects, the suspect may be moved for security reasons. Must be objectively reasonable.
 - c. The courts have referred to this means of identification as "In the Field Show-Up" "or "Field Confrontation.
 - d. The witness/victim must be admonished the person they are viewing may or may not be involved in the crime and they are under no obligation to identify anyone. There must be no suggestive statement on the part of the officer which might influence the witness/victim.

(Simmons Admonishment Refer D 1 a (1)).

- (1) An officer who is a witness or a victim will be handled in the same manner as a private citizen.
 4. An in-field showup delayed beyond a reasonable period of time between suspect and witness and/or victims is permissible provided the suspect agrees to the confrontation.
 - B. Photo Lineups
 1. Officers utilizing photographs will adhere to the following procedures:
 - a. Each Witness/Victim should view the photographs alone or under conditions in which other witnesses/victims viewing the photos will not be influenced or open to suggestions.
 - b. The photographs must show subjects of the same race, sex, approximate age, and same general characteristics (hair style, hair color, facial hair, facial features, and complexion).
 - c. If the investigator has a particular subject as a suspect, there must be photos of at least five other individuals shown to the witness/victim.
 - d. Photographs shown must be similar in color, type, and size.
 - (1) All dates and booking numbers shall be blocked out on photos.
 - (2) There will be no extraneous markings on the photos such as boxes, arrows, etc.
 - e. Prior to showing the photographs, the witness/victim must be admonished the responsible person may or may not be present in the group of photos and they are under no obligation to identify anyone. (SIMMONS ADMONISHMENT - REFER D 3 b
 - f. In the event a witness/victim supplies the name of the suspect, a photograph will be shown as per procedure B.1, "a" through "d."
 - g. If identification of the suspect is accomplished, a photo copy of the lineup will be taken and submitted to records for scanning as an attachment. The copy must have a route slip attached and the DR.# written in the upper right hand corner of the copy. The original photos are to be booked as evidence. The names, photography I.D. number and date of photographs (if applicable) shall be listed on the appropriate report.
 - (1) If no identification is accomplished, the names, photograph I.D. number and date of the photographs will be listed on the appropriate report.
- C. Lineups (In Custody)
 1. Lineups are to be considered formal in nature and will normally take place at the San Joaquin County Jail with the suspect in custody.
 - a. The suspect has a right to have a private attorney or the Public Defender present at the lineup.
 - b. The District Attorney also has the right to be present.
 - (1) The investigating officer conducting the lineup, shall contact the District Attorney assigned to the case and the suspect's lawyer to set up a reasonable time and place for the lineup.
 - c. When defense counsel is present, counsel will be permitted to observe all proceedings and listen to any statements made by the witnesses.

- (1) Defense Counsel is an observer only and has no right to interfere with the process or advise a client not to participate in the lineup.
- (2) Defense Counsel may talk with witnesses or victims, but witnesses or victims are not obligated to talk to the defense counsel.
- d. There must be at least six subjects in the lineup.
- e. The subjects should be of the same approximate height, weight, dress, age, and physical characteristic, and be the same race and sex. Hair style and color, facial hair, facial features, and complexion should be approximately the same.
- f. Participants in the lineup will be provided with numbered identification of sufficient size to be readable by the witness.
- g. If there is more than one witness or victim they must be admonished not to discuss the matter at hand with each other and the responsible person may or may not be in the lineup, and they are under no obligation to identify anyone. (SIMMONS ADMONISHMENT)
- h. Witnesses may be given an identification form (PD 444 revised 6/88) which will be used for the victim or witnesses to write down any conclusion. This form will be available through Investigations Division.
- i. Photographs will be taken of all lineups.

D. Simmons Admonishments:

- 1. The courts have ruled it is a violation of due process under the Fifth and Fourteenth Amendments for police to suggest in any way, that a suspect to be observed at a lineup or showup committed the crime.
- 2. To avoid being suggestive, officers should admonish the witness(s) and or victim(s) prior to viewing the suspect.
- 3. The following are samples of Simmons Admonishments in reference to in-field showups, photo lineups, and lineups (in custody). These samples are provided as guidelines only.
 - a. In-Field Showups
 - (1) You will be asked to look at a person or persons. The fact the person/persons are shown to you should not influence your judgment. You should not conclude or guess the person/persons have committed the crime. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as to identify parties. Please do not discuss the case with other witnesses nor indicate in any way that you have or have not identified someone.
 - b. Photo Lineups
 - (1) You will be asked to look at a group of photographs. The fact the photographs are shown to you should not influence your judgment. You should not conclude or guess the photographs contain the picture of the person who committed the crime. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as to identify guilty parties. Please do not discuss the case with other witnesses nor indicate in any way that you have or have not identified someone.
 - c. Lineups (In Custody)

- (1) You will be asked to look at a group of people. The fact the people are shown to you should not influence your judgment. You should not conclude or guess the group of people contain the person who committed the crime. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as to identify guilty parties. Please do not discuss the case with other witnesses nor indicate in any way that you have or have not identified someone.