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Jurisdictions That Use Double-Blind Sequential Presentation of Lineups

The Innocence Project presents this non-exhaustive list of jurisdictions around the country that have implemented double-blind sequential presentations of lineups. As more information becomes available, this list will be updated.

Preliminary Definitions

Double Blind Administration: An identification procedure in which the administrator does not know the identity of the suspect.

Blinded Administration: An identification procedure in which the administrator knows who the suspect is but employs procedures and/or technology so that s/he does not know which lineup member is being viewed by the eyewitness at a given time. (As a practical matter, blinded administration can only happen in the context of a photo array.)

Envelope or Folder Shuffle Method: An identification procedure used to achieve “blinded administration,” where the suspect and five filler photographs are each placed in separate envelopes or folders, which are then shuffled by the administrator, so that s/he does not know which folder contains the suspect photo. (An additional number of empty folders are also used so that the eyewitness does not know when s/he has viewed the final photograph.) After instructing the eyewitness, the administrator provides the eyewitness one folder at a time without looking at the photograph in the folder. Each time the eyewitness has viewed a folder, the eyewitness indicates whether or not this is the person the eyewitness saw and the degree of confidence in this identification, and returns the folder to the administrator. The administrator maintains the order of folders for documentation at the end of the procedure. By its nature, this procedure is blinded and sequential.

Sequential Presentation: A method of presenting an identification procedure in which the eyewitness views only one member of a lineup at a time and views all persons or photographs even if an identification has been made before all the persons or photographs have been viewed.

Simultaneous Presentation: A method of presenting an identification procedure in which the eyewitness views all members of a lineup in a live lineup or is shown all of the photographs in a photo lineup at the same time.

The Source of Our Data

The Innocence Project or affiliated entities have conducted public information requests in the following states to determine the status of eyewitness identification policy within the state:

- California¹
- Florida²
- Maryland³
- New York⁴
- Oregon⁵
- Rhode Island⁶
- South Carolina⁷
- Texas⁸
- Wisconsin⁹

Policies have also been obtained from other sources, including researchers and directly from law enforcement agencies. It should be noted that while requests were made of most or all law enforcement agencies within these states, not all agencies responded. Likewise, some requests were made several years ago and have not been updated. Finally, we include policies that were provided to the Innocence Project outside of the context of public information requests.

An Explanatory Note

Jurisdictions employing double-blind sequential presentation do so in a variety of ways and through different procedural mechanisms. The vast majority of eyewitness identification procedures are governed by local law enforcement policy. (This list includes only those jurisdictions whose written policies regarding eyewitness identification procedures address double-blind sequential procedures.) Several states' eyewitness identification procedures are governed by statute or similar mandate. For example, North Carolina alone mandates double-blind sequential presentation of both live and photographic lineups by statute. New Jersey's Attorney General, which has the unique authority to mandate statewide law enforcement policy, requires by policy that live and photographic lineups be conducted in a double-blind sequential fashion whenever practical/possible. The eyewitness procedure of Wisconsin is governed by a statute that requires that jurisdictions adopt written policies for conducting lineups and specifically recommends the consideration of several best practices, including sequential presentation and the blind administration of lineups. Similarly, in 2011, the Texas Legislature passed House Bill 215, which requires law enforcement agencies to adopt written policies for the administration of identification procedures by September 1, 2012. Each policy must be based either on a model policy created by the Bill Blackwood Law Enforcement Management Institute of Texas which will be promulgated by December 31, 2011 or on minimum standards that conform to best practices as established by research and are, to some extent, set forth in House Bill 215, which specifically provides for double-blind or blinded procedures if practicable.

With respect to the application of double-blind sequential procedures, the policies of some jurisdictions require double-blind sequential presentations in all circumstances, while others provide certain exceptions or advise that the procedure be used whenever practical (or similar language). (Category I) The policies of other jurisdictions express a preference for double-blind sequential presentation but do not require it. (Category II) Finally, the policies of some jurisdictions describe

double-blind sequential presentation but express no preference for its use. (Category III)

Where feasible, we include the relevant provisions of each lineup policy.

Summary

Among the seventeen states that form the universe of our current knowledge, thirty-six local police departments, 277 Wisconsin jurisdictions, jurisdictions in Ohio that use the folder shuffle method, and the states of New Jersey and North Carolina all use double-blind sequential lineup presentation under certain circumstances. Among these jurisdictions, twenty-three localities, Wisconsin's 277 jurisdictions, and the states of New Jersey and North Carolina require double-blind sequential presentation. Six local jurisdictions have policies which pronounce a preference for double-blind sequential presentation and the state of Ohio and seven local jurisdictions offer double-blind sequential presentation as an option for lineups.

The Results

Those policies marked with an asterisk (“*”) apply only to photographic lineups.

Category I: Jurisdictions Requiring Double-Blind Sequential Presentation:

California¹⁰

- Santa Clara County, CA¹¹

Colorado

- *Denver, CO¹²

Florida

- *Coral Springs, FL¹³
- *Margate, FL¹⁴
- *Palm Beach County, FL¹⁵

Maryland

- Caroline County Sheriff's Department¹⁶

Massachusetts¹⁷

- Boston, MA¹⁸
- Chelsea, MA¹⁹
- Northampton, MA²⁰
- Wellesley, MA²¹

Minnesota²²

- *Chaska, MN²³
- *Minneapolis, MN²⁴
- *St. Paul, MN²⁵

Montana

- Colstrip, MT²⁶

Nebraska

- *Lincoln, NE²⁷

New Jersey²⁸

North Carolina²⁹

Oregon

- *Cannon Beach, OR³⁰
- *Grant County Sherriff's Office, OR³¹
- *Lincoln County Sheriff's Office, OR³²

South Carolina

- *Mount Pleasant, SC³³
- Spartanburg, SC³⁴

Texas

- Lewisville, TX³⁵
- *Dallas, TX³⁶

Virginia

- Virginia Beach, VA³⁷
- *Roanoke, VA³⁸

Wisconsin

- According to the Wisconsin Innocence Project's analysis of policies received in response to its 2008 information request, at least 277 jurisdictions in Wisconsin require double-blind sequential presentation always or whenever possible/feasible in photographic lineups. Some of these jurisdictions also require double-blind sequential presentation always or whenever feasible in live lineups.³⁹

Category II: Jurisdictions Recommending or Preferring Double-Blind Sequential Presentation:

Florida

- *Lighthouse Point, FL⁴⁰

Maryland⁴¹

- Brunswick, MD⁴²
- Caroline County, MD⁴³
- Montgomery County, MD⁴⁴

South Carolina

- *North Charleston, SC⁴⁵

Virginia

- Richmond, VA⁴⁶

Category III: Jurisdictions Whose Policies Offer the Option of Double-Blind Sequential Presentation:

Ohio⁴⁷

Maryland

- *Brunswick Police Department⁴⁸

Rhode Island

- Bristol, RI⁴⁹
- *Cumberland, RI⁵⁰
- Warwick, RI⁵¹

South Carolina

- Charleston County, SC⁵²

Texas

- Austin, TX⁵³
- Richardson, TX⁵⁴

¹ The Northern California Innocence Project performed a public information request of all California law enforcement agencies from May 2010 to early 2011. The results are currently being analyzed.

² The Innocence Project of Florida performed a public information request of the Florida Department of Law Enforcement, all 67 sheriffs' agencies, and all member agencies of the Florida Chiefs of Police in 2008 and 2009.

³ The Mid-Atlantic Innocence Project surveyed Maryland law enforcement eyewitness identification policies in 2008.

⁴ At the request of the Innocence Project, a private law firm began a public information request of all New York law enforcement agencies in 2011.

⁵ At the request of the Innocence Project, a private law firm performed a public information request of all Oregon law enforcement agencies in 2010.

⁶ The Office of the Rhode Island Public Defender performed a public information request of all Rhode Island law enforcement agencies in 2009 and 2010.

⁷ The Palmetto Innocence Project performed a public information request of all South Carolina law enforcement agencies in 2010.

⁸ The Justice Project performed a public information request of all Texas law enforcement agencies in 2008.

⁹ The Wisconsin Innocence Project performed a public information request of all Wisconsin law enforcement agencies in 2008.

¹⁰ The Northern California Innocence Project is in the process of analyzing the results of its public information requests. This document will be updated as that information becomes available.

¹¹ "[W]herever possible, the officer conducting a line-up should not know the identity of the suspect...[and] in all cases, show the witness the photos or persons comprising the line-up sequentially."

¹² "[W]hen conducting a photographic line-up, the sequential photo line-up procedure will be used...The photographic array will be shown to the witness in a "blind" format...The Blind Line-up may not be utilized in the following situations: 1. The officer/investigator articulates a compelling need to avoid such a procedure, or the case investigation

will be jeopardized by such a procedure, or 2. The officer/investigator obtains the approval of a command officer to not use the Blind line-up. 3. In no instance will a line-up be shown in a format other than a blind line-up where the charges sought will be felony charges.”

¹³ “Double Blind Sequential Presentation: A. One of the investigative officers will select a series of photographs to be presented to each witness in a sequential format...C. The photographic array will then be turned over to another investigative officer who does not know which photograph reflects the actual suspect. This investigative officer will arrange the photographs in a random order and conduct the identification procedure with each witness.”

¹⁴ The policy provides for double-blind sequential presentation of photographic lineups to “the extent practicable”: “One of the investigative officers should select a series of photographs to be presented to each witness in a sequential format...The photographic array should then be turned over to an independent administrator, *i.e.*, someone who does not know which photograph reflects the actual suspect. The independent administrator should arrange the photographs in a random order and conduct the identification procedure with each witness.”

¹⁵ The photo lineup policy requires the use of the folder shuffle method and notes, “[i]f reasonably available, it may be preferable to use an individual who is not involved in the investigation or who is not aware of the suspect’s identity to administer the lineup.”

¹⁶ The policy only describes a sequential lineup procedure for both photographic and live lineups, and states that “Blind Testing Procedure should be employed by the Lineup Administrator whenever possible to eliminate the possibility of influencing the witness’ selection.”

¹⁷ The Suffolk County, MA District Attorney’s Office mandates the use of double-blind sequential presentation of lineups by police departments within its jurisdiction (Boston, Chelsea, Revere and Winthrop Police Departments). Not all departments maintain written policies at present. *See* Susan Gaertner, et al., *Successful Eyewitness Identification Reform: Ramsey County’s Blind Sequential Lineup Protocol*, Police Chief Magazine (April 2009), http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1776&issue_id=42009 (last visited Aug 25, 2011) (“Others using this procedure include...Suffolk County, Massachusetts (including the Boston Police Department and suburbs”).

¹⁸ “Line-ups may be either photo or live line-ups. The suspect, or his/her photo, will be included with additional individuals, or photos, and the witness will view them sequentially, one individual or photo at a time....‘Blind’ administration procedures should be used whenever possible to eliminate accusations of influencing the witness.”

¹⁹ Photographic and live lineups are conducted in sequential fashion. “*Blind* procedures should be used whenever possible to eliminate accusations of influencing the witness.”

²⁰ “The method of presenting the photos or individuals is the sequential method. Blind Testing Procedures shall be employed by the Lineup Administrator to eliminate the possibility of influencing the witness’ selection.”

²¹ “Photo arrays and line-ups will be conducted using sequential rather than simultaneous presentation; and...Photos arrays, line-ups and voice identifications will be conducted using blind administration.”

²² Minnesota Bureau of Criminal Apprehension employs double-blind sequential procedures in both photographic and live lineups, although there is no written policy documenting these procedures. Live lineups are rarely used in Minnesota. In addition, the Office of the Hennepin County Attorney has trained law enforcement within its jurisdiction on the use of double-blind sequential presentation of lineups, although it has no written policy. *See* Gaertner, *supra* n.18 (“The neighboring jurisdiction, Hennepin County (which contains the city of Minneapolis and suburbs), after a similar pilot in 2004, successfully implemented blind sequential lineups countywide in 2005.”).

²³ The Chaska Police Department does not conduct live lineups. “Show photographs sequentially...Whenever possible, the preferred practice is for the officer showing the photo line-up to not know which photograph is the subject of the identification. One alternative is for the officer showing the line-up to not know which position the subject of the identification is in. The showing officer should then not view the photographs as they are shown to the witness. The least preferred option would be for the officer that prepares the line-up also shows the line-up. This option should only be used as a last resort and must be recorded.”

²⁴ The Minneapolis Police Department does not conduct live lineups. “If the witness is looking at photos in a way that the officer can see the photos as well, use an officer who does not know who the suspect is to show the photos. The witnesses should be told the second officer doesn't know if a suspect is in the photos; The investigating officer should remain out of view during the viewing. That officer should be available for questions during the viewing...Sequential identification should be used in every case unless an officer can document an applicable exception. If an exception applies, the officer's report should note the reason in a report. Exceptions include: 1. Children under 12 years of age. 2. Administrative necessity A. No officer is available who does not know the suspect’s identity. B. Multiple witnesses outnumber the number of officers with no knowledge of the suspect’s identity. 3. Uncooperative witness: The witness is likely to fail to cooperate if suddenly exposed to a new officer (because of fear, membership in the criminal community, or other reason). 4. Victim vulnerability: The victim is infirm because of age or mental condition.”

²⁵ St. Paul Police Department requires double-blind sequential administration of photographic lineups. Live lineups are rarely used. Ramsey County Attorney's Office expresses a preference for the use of double-blind sequential presentation of photographic lineups by police departments within its jurisdiction. See Gaertner, *supra* n.18 ("The present article...describes the successful implementation of a blind sequential lineup protocol in Ramsey County, Minnesota").

²⁶ "Lineups shall be presented in the sequential fashion...Blind Testing Procedures should be employed by the Lineup Administrator whenever possible to eliminate the possibility of influencing the witness' selection." Note that while the policy only describes the sequential presentation of suspects and treats it as required ("Lineups *shall* be presented"), the policy does describe the sequential method as "the preferred method".

²⁷ The Lincoln Police Department does not conduct live lineups. "When possible, attempt to have someone uninvolved in the case show the lineup...Photographs are to be shown one at a time."

²⁸ In 2001, the New Jersey Attorney General, who has the unique authority to mandate statewide law enforcement policy, issued the *Attorney General Guidelines for Preparing and Conducting Photo and Live Lineup Identification Procedures*. The Guidelines provide that "whenever practical, considering the time of day, day of the week, and other personnel conditions within the agency or department, the person conducting the photo or live lineup identification procedure should be someone other than the primary investigator assigned to the case" and that "[w]hen possible, photo or live lineup identification procedures should be conducted sequentially."

²⁹ In 2008, North Carolina Legislature passed N.C.G.S.A. § 15A-284.52, which provides that lineups "shall be conducted by an independent administrator or by an alternative method" and that "[i]ndividuals or photos shall be presented to witnesses sequentially, with each individual or photo presented to the witness separately, in a previously determined order, and removed after it is viewed before the next individual or photo is presented."

³⁰ The Cannon Beach Police Department does not conduct live line ups. Photographic lineups are conducted according to double-blind sequential procedures: "Photos are viewed by the witness one at a time in random order" and "Blind testing means that the person administering (Independent Administrator) the test does not know the desired answer. Utilizing this practice, the Independent Administrator would not be aware of which member of the photo-spread or lineup is the suspect, and would eliminate the possibility of influencing the witness' selection."

³¹ The Grant County Sheriff's Office does not conduct live lineups. Sequential presentation is used "in all cases" and should be conducted in a double-blind fashion "whenever possible": "It is recognized that in some cases this will simply not be possible because no other appropriate deputy is available. In these cases, the investigating deputy can conduct the line-up using extreme care not to communicate the identification of the suspect in any way...wherever possible, a deputy who does not know the identity of the suspect should conduct the interview."

³² Sequential presentation is used in all photographic lineups. "When practicable, the employee composing and the employee presenting the photo lineup should not be directly involved in the investigation of the case. When this is not possible, the employee presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way."

³³ The Mount Pleasant Police Department does not conduct live lineups. "A line-up shall be conducted by an independent administrator as defined [“A lineup administrator who is not participating in the investigation of the criminal offense and is unaware of which person in the lineup is the suspect.”]...Photographs shall be presented to witnesses sequentially."

³⁴ Photographic and live "[l]ineups will be conducted by sequential presentation...Unless prior approval is granted by a Lieutenant or above, an independent administrator will conduct eyewitness line-ups." The policy provides in the case of photographic lineups "[o]nly in the following situations may the Blind Line-up not be utilized: (1.) When the officer/investigator can articulate a compelling need to avoid the "Blind" format, or (2.) The case investigation will be jeopardized by such a procedure, and (3.) The officer/investigator obtains the approval of a Lieutenant or above not to use the "Blind" format." However, "**All** Live Line-ups will be conducted by an independent administrator utilizing a sequential presentation."

³⁵ Both photographic and live lineups "[s]hould be completed using the sequential blind testing procedure." Blind testing "means that the person administering the test (Independent Administrator) does not know the identity of the suspect. Utilizing this practice, the Independent Administrator would not be aware of which member in the lineup is the suspect, and would eliminate the possibility of influencing the witness' selection."

³⁶ The Dallas Police Department does not conduct live lineups. All photographic lineups use the double-blind sequential procedure. "The line-up administrator will conduct the line-up following the protocols for "Sequential" administration established by the Investigations Bureau Commander. The assigned detective, or anyone with knowledge of the suspect, will not be allowed in the room at the time of the line-up administration." The policy provides that these procedures do not apply to show-ups; when the complainant and/or eyewitness personally knows the person who committed the offense; "[o]n rare occasions in which an alternate identification process is necessary for expediency and in the interest of public safety. This must be approved by a supervisor and justification must be documented in an investigative supplement. If the administration of a "Blind Line-up" is not possible the sequential method should still be utilized if

possible.”; “Other specialized circumstances where alternative procedures are necessary and are reviewed by the District Attorney and approved by the Investigations Bureau Commander.”

³⁷ Live lineups are rarely used by Virginia Beach Police Department. “In order to ensure that inadvertent verbal cues or body language do not impact on a witness, whenever practical, considering the time of day, day of the week, and other personnel conditions within the Department, the person conducting the photo or live lineup identification procedure should be someone other than the primary investigator assigned to the case...Individual photos/persons will be viewed one at a time...Present each photo to the witness separately, in a previously determined order, as documented on the lineup worksheet, removing those previously shown.”

³⁸ “The photographic line-up will be shown to the eyewitness by an officer not involved in the investigation... All six photographs will be shown to the eyewitness one at a time, allowing the same amount of viewing time for each photograph.”

³⁹ In 2006, the Wisconsin Legislature passed W.S.A. 175.50, which requires all law enforcement agencies to adopt written policies on eyewitness identification procedures. It urged agencies to consider policies that “[t]o the extent feasible, [have] a person who does not know the identity of the suspect administer the eyewitness’ viewing of individuals or representations [and]...[t]o the extent feasible, [show] individuals or representations sequentially rather than simultaneously to an eyewitness.”

⁴⁰ Photographic lineups are to be conducted in a double-blind sequential fashion; this policy is “merely a recommendation. If circumstances prohibit following any particular part of this procedure, the officer should perform the show-up or line-up anyway and document the procedure used.”

⁴¹ We rely on the analysis of our partner, the Mid-Atlantic Innocence Project, for these jurisdictions.

⁴² Police are to use double-blind administration when possible; sequential presentation is preferred.

⁴³ Deputies are to use double-blind administration when possible; sequential presentation is preferred.

⁴⁴ Double-blind sequential administration is preferred.

⁴⁵ The North Charleston Police Department does not conduct live lineups. “A sequential photographic lineup will be the preferred method...Photographs will be shown to the witness one at a time by an Independent Administrator [An officer who does not know the identity of the suspect who has been placed in a sequential or simultaneous photographic lineup by the case agent or investigating officer.]. If an Independent Administrator cannot be used, the case investigator will prepare a simultaneous lineup...A simultaneous lineup may only be conducted with a supervisor’s approval.”

⁴⁶ “The department’s *preferred* method of conducting photographic line-ups is the *blind* sequential method.” The policy states that photographic line-ups “shall” be conducted in a “sequential” manner.

⁴⁷ Ohio statute (R.C. § 2933.83) sets forth the minimum requirements for photographic and live lineups and mandates that any law enforcement agency or criminal justice entity that conducts identification procedures adopt specific procedures that impose the minimum requirements set forth in the statute. These minimum requirements include that “[u]nless impracticable, a blind or blinded administrator shall conduct the live lineup or photo lineup.” The statute provides a description of the “folder system” but does not require its use.

⁴⁸ The Brunswick Police Department does not conduct live lineups. Photographic lineups may be conducted using either sequential or simultaneous presentation. If sequential presentation is elected, the investigator should “[u]tilize a ‘double blind’ procedure when possible, in which the administrator is not in a position to unintentionally influence the witness’s selection.”

⁴⁹ Lineups may be presented in either a simultaneous or sequential manner with no preference expressed. An “independent administrator will be used to administer a sequential photographic lineup and whenever possible used to administer a [live] lineup.” In addition, “[a] sequential lineup will also be used when the officer cannot prepare a lineup from the DMV and must rely upon photographs from outside sources...that are not compatible with conducting a simultaneous lineup.”

⁵⁰ Only photographic lineups are addressed. The policy allows for both simultaneous or sequential manner with no preference expressed. The sequential photo lineup described is the folder shuffle method, which has the effect of “blinding the administrator.”

⁵¹ Both photographic and live lineups “may be presented sequentially or simultaneously at the discretion of the investigating officer.” In addition, “[w]hen feasible, sworn department personnel may consider using a ‘double-blind’ presentation of a photographic line-up.”

⁵² The policy requires that all lineups be conducted by an Independent Administrator, defined as “A deputy sheriff or other person who does not know the identity of the suspect who has been placed in a sequential, simultaneous photographic lineup or physical lineup by the case investigator.” Physical lineups are presented sequentially. Photographic lineups may be presented in either a sequential or simultaneous fashion, for which the policy expresses no preference.

⁵³ This policy provides for both simultaneous and sequential presentation and expresses no preference but requires that an independent administrator, defined as “[a]n officer administering a line-up who did not compose the line-up and has



no knowledge of the actual suspect,” be used “unless an extraordinary circumstance(s) necessitates using the same officer to both compile and administer the line-up. If this occurs, the extraordinary circumstance(s) shall be documented in the offense report.”

⁵⁴ The policy contemplates both simultaneous and sequential presentation. It notes that “[a]n independent administrator is the preferred administrator for both simultaneous and sequential lineups. However, because there is a greater risk that an administrator may convey unintentional cues during sequential presentations, sequential presentation shall only be used if the identification procedure is being conducted by an independent administrator. If an independent administrator is not available, simultaneous presentation of photos is necessary.”