



Frequently Asked Questions About Implementing a Double-Blind, Sequential Eyewitness Identification Reform

Costs

Q: Won't the implementation of this reform prove costly?

Santa Clara, California's Office of the District Attorney implemented a double-blind sequential eyewitness identification procedure affecting all law enforcement agencies in the county following a review of best practices. When asked whether the reform had proved costly, District Attorney David Angel of Santa Clara County stated, "There is essentially no cost involved."

Q: What are the other potential losses? Won't there be less officers on the street?

Certain jurisdictions have solved this problem by designating one lineup administrator whose sole duty is to run eyewitness identification procedures. In large jurisdictions, such as Philadelphia, one person serves the entire city. In smaller jurisdictions, a folder shuffle system may be employed. In this system, an investigator who is non-blind can, in essence, "blind" himself by putting each lineup photo in a separate folder and then shuffle the folders. There are specific protocols, which will be provided upon request by the Innocence Project, which will ensure the most accurate results.

Double-blind Administration

Q: Isn't requiring blind administration actually an accusation that law enforcement cannot perform a lineup without prejudicing the witness?

Advocates of blind administration frequently speak about unintentional cues given by the investigator. This is not an indictment of law enforcement. In fact, blind administration is widely employed in a range of procedures to avoid unintentional suggestion. Drug trials, for instance, are always performed by blind administrators.

Q: Won't blind administration stand in the way of the ability of law enforcement to conference and discuss details of the case?

Absolutely not. Once a confidence statement is taken from the witness, the administrator is free to share the results of the lineup with the investigator(s) on the case. Should departments elect to designate one officer to administer lineups (or in small jurisdictions, exercise the folder shuffle), no manpower issues will present themselves and more than one officer may be assigned to a case.

Q: Won't it antagonize victims and witnesses if a blind administrator cannot be secured quickly?

This is a question of implementation. Protocols will need to be established to streamline the lineup process to minimize the potential for this. Officers should also receive adequate support and training so that they may explain to witnesses why the procedure is necessary. Frustrated witnesses may be told that efforts are being undertaken to ensure the reliability of the

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identification process. This, in turn, will assist law enforcement in identifying the correct perpetrator and diminish the likelihood that incorrect suspects are selected.

Warnings/Instructions

Q: How can providing warnings/instructions to witnesses actually protect law enforcement?

When law enforcement uses a standardized script that is read to each witness as a matter of policy, benefits are felt in the courtroom. Law enforcement officers are less susceptible to defense challenges that their conduct was suggestive and can state on record, "This is what I told the witness and I know this to be the fact because I read from a script that the department always uses."

Sequential

Q: Won't it be difficult to run multiple offender cases sequentially?

This should be no different from running multiple offender cases simultaneously. Best practices dictate that there is only one lineup per suspect. Multiple offenders should never be included in the same lineup. (Eyewitness Evidence: A Guide for Law Enforcement, Department of Justice, 1999).

Q: What about concerns that the suspect's position in the lineup will prejudice the witness? If the suspect is in the first position, isn't this equivalent to a show-up? If the suspect is in a later position, won't this lower judgment criteria?

As a matter of practice, it is recommended that a suspect never be in the first position. Some have argued that this will simply render the second position the first one. It is unlikely that witnesses will know of a policy decision to exclude the suspect from the first position. However, if there are concerns that witnesses would learn of this policy decision, one solution is to use more than six photographs.

Q: How many times can a suspect go through the photos, or, is lapping recommended?

Research that has been conducted in Hennepin County, Minnesota, which includes Minneapolis, supports the use of the double-blind sequential procedure as a way of decreasing false identifications without great loss to correct identifications. An evaluation of Hennepin County's reform also found that when witnesses lap through the photographs additional times, the probability that the correct photo is identified decreases. This comports with common sense—the more a person needs to view the photos, the less likely his memory of the appearance of the suspect is strong. There is also an increased chance that a false identification will be made because the witness is likely to employ relative judgment when he repeatedly views the photographs, which undermines the point of utilizing a sequential procedure in the first place.