

PHOTO ARRAY EYEWITNESS IDENTIFICATION PROCEDURE WORKSHEET

click to type in the spaces below

Case Number: _____

1. Date of ID procedure : _____ 2. Time: _____ 3. Location: _____

4. List names of all attendees/witnesses present for the procedure:

Administrator : _____ Witness: _____

Other Law Enforcement _____

Other Civilian (explain relationship to the case/witness): _____

5. Indicate method(s) used to record/document the ID procedure (circle one):

(a) electronic recording: video audio

(b) written verbatim account (attach)

(c) contemporaneous detailed summary (attach)

6. When administering the ID, did administrator know who the suspect was, or which photo depicted the suspect? Y N

7. Did any other attendee know which photo depicted the suspect? Y N

8. If yes to 6 or 7, explain the precautions taken by the administrator/other attendee to avoid knowing which photo the witness was looking at. (see instructions for example) _____

9. a. Did you explain the basic photo array procedures to the witness? Y N

b. Did you tell the witness that the perpetrator may or may not be in the array? Y N

c. Did you tell the witness that he/she should not feel compelled to make an identification? Y N

10. Did the witness ask any questions about the procedure? Y N (If yes, explain) _____

11. Did you confirm that the witness understands the procedure before showing him/her any photos? Y N

12. Did you ask the witness whether he/she had previously spoken to anyone (law enforcement or civilian) about the identification? Y N (If witness answers yes, provide the identities of those individuals, and a detailed summary of what was said) _____

INSTRUCTIONS FOR USING PHOTO ARRAY ID PROCEDURE WORKSHEET

This worksheet is designed to assist law enforcement officers in documenting the procedures/ results of photo arrays that are shown to eyewitnesses in the course of a criminal investigation. The worksheet is also designed to serve as a checklist to ensure that officers comply with all of the requirements for eyewitness identification procedures established by Court Rule and New Jersey Supreme Court case law. Whenever a worksheet is prepared, the original should be preserved and a copy forwarded to the Prosecutor's Office. The officer(s) must also preserve and forward to the prosecutor any other contemporaneous notes concerning the identification procedure.

New Jersey law requires that law enforcement officers must contemporaneously record the identification procedure. This may be done in writing, or, if feasible, electronically. See Question 5. If a contemporaneous record cannot be made, the officer shall prepare a record of the identification procedure as soon as practicable and without undue delay. Whenever a written record is used, it must include, if feasible, a verbatim account of any exchange between the officer(s) involved in the procedure and the witness. When a written verbatim account cannot be made, a detailed summary of the identification procedure should be prepared which includes the dialogue between the officer(s) and the witness.

The worksheet should be prepared by the officer who administers the photo array. A worksheet should be prepared whether or not the witness was able to make an identification. If more than one suspect is involved in an investigation, a different photo array should be used and a separate worksheet prepared for each witness. Worksheets should be prepared during the identification procedure, or immediately thereafter. See Question 22.

New Jersey law requires the "blind" administration of photo arrays. This means that the officer(s) administering the procedure either should not know the identity of the suspect, or at a minimum, should shield themselves from knowing where the suspect is located in the photo array. If for any reason the administrator or other attendee knows the identity of the suspect or knows which photo depicts the suspect, precautions should be taken to avoid knowing which photo the witness is looking at during the procedure itself. See Questions 6-8. For example, the administrator might use the "shuffle method," in which the photos are separately placed in individual folders or envelopes, shuffled, and presented to the witness in a way that ensures that the administrator/attendee cannot see the photos as they are being viewed by the witness or know which photo is being viewed.

The administrator must ask the witness whether he or she has spoken to anyone (law enforcement or civilian) about the identification. See Question 12.

If the witness identifies a photo as depicting the perpetrator, the administrator must ask the witness to make a statement regarding his/her level of confidence that the photo depicts the perpetrator. See Question 17. The officer must document as detailed an account as possible of the exact words/gestures used by the witness. To ensure that the worksheet accurately documents the witness's stated level of confidence, the administrator should repeat back to the witness the language recorded by the officer in the answer to Question 17, and confirm that the witness agrees with that characterization of his/her level of confidence. See Question 18.

Officers must avoid providing any "feedback," that is, signaling to the witness in any way - whether during or after the identification procedure - that the witness had correctly identified the suspect. See Question 14.