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MIDWEST INNOCENCE PROJECT

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Rachel Wester, Midwest Innocence Project
Senate Committee on Judiciary on Senate Bill 428
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The Midwest Innocence Project is a non-profit that works to exonerate the wrongfully convicted in Kansas, Arkansas, Iowa, Missouri and Nebraska. We support SB 428 because it would enact policies that could reduce the number of wrongful convictions.

Nationally, eyewitness misidentification is the leading contributing factor to the nation's 337 DNA-based exonerations, playing a role in 71 percent of these cases. In Kansas, DNA testing has proven the innocence of at one individual who was convicted based upon an eyewitness misidentification.

In 1985, Joe Jones was convicted of raping a woman at a nightclub in Topeka after two witnesses misidentified him as the assailant. He spent 7 years in prison until DNA testing proved his innocence. In 2012, law enforcement retested the DNA evidence, which produced a match to the profile of Joel Russell, who was already incarcerated for other crimes. Mr. Jones' case demonstrates the importance of preventing witness misidentification because when an innocent person is convicted, the real perpetrator can be out harming others.

Fortunately there are a set of cost-neutral best practices that have been proven to enhance the accuracy of witness identifications. These 'core four reforms' have been endorsed by the National Academy of Sciences, the nation's primer independent scientific institution, the International Association of Chiefs of Police, the U.S. Department of Justice and many others, and they include:

1) Blind or blinded administration of the lineup, in which the officer conducting the lineup does not know the suspect's identity, or if that is not practicable, using a "blinded" technique such as the folder shuffle method where lineup photos are placed in folders, shuffled and handed to the witness so the administrator cannot see which photo is being viewed by the witness. The purpose is to remove any chance of inadvertent suggestiveness in the procedure.
2) Witness instructions that the perpetrator may or may not be present.
3) Use of non-suspect fillers that generally match the witness's description of the perpetrator and do not make the suspect stand out, and
4) Eliciting a witness confidence statement in which the witness is asked, as soon as an identification is made, to state his or her level of certainty in the selection.

Nationally, 14 states have uniformly adopted these best practices (CT, CO, GA, HI, MD, NJ, NC, OR, OH, RI, TX, WI, WV, VT). There are no costs associated with implementation, and reform can protect taxpayers from payouts stemming for wrongful convictions. In Mr. Jones' case, the State of Kansas paid $350,000.

We support Senate Bill 428 because it mandates that law enforcement agencies adopt these 'core four' best practices. In addition, we would be happy to work with the committee and law enforcement to implement and provide training on these issues.

Innocence Project Resources to Assist with Statewide Eyewitness ID Reform

The Innocence Project can offer a number of free resources to assist with statewide implementation of eyewitness identification reform and recording of custodial interrogations. The enclosed materials detail these resources, which include:

1. **Eyewitness ID Training Courses**: The Innocence Project can fund two statewide training courses presented by certified eyewitness identification trainer Chief William Brooks of the Norwood, MA Police Department.

2. **Eyewitness ID Implementation Toolkit**: The Innocence Project can coordinate and fund the mailing of "toolkits" to agencies to assist with implementation. Materials may include:
    - A policywriting guide that can be used if an agency prefers to write its own eyewitness identification policy with key best practices.
    - A checklist that an administrator can employ to be certain that the "core four" reforms have been followed.
    - A detailed description of the folder shuffle method, which can be employed in instances where blind administration is not feasible.
    - Links to online training videos that can be used to teach officers about best practices.

3. **Compliance Surveys**: The Innocence Project can mail surveys to every agency in the state and can assess the results to determine whether reforms have been adopted at law enforcement agencies.

Costs of Implementing Eyewitness ID Reform: Training is the only cost associated with implementing key eyewitness identification best practices (e.g. blind or blinded administration, witness instructions that the perpetrator may or may not be present, fillers that match the witness description of the perpetrator and witness confidence statements), which can be funded by the Innocence Project. Of the 11 states that have enacted eyewitness identification reform statutes, every associated fiscal note estimated costs to be "none" or "minimal."

Blind administration of a lineup, in which the officer conducting the lineup is unaware of the suspect's identity, does not require the use of additional personnel. If a blind administrator is unavailable, an officer who is aware of the suspect's identity may use a "blinded" technique such as the folder shuffle method. In the folder shuffle method suspect and filler photographs are placed in folders and shuffled, so the administrator cannot tell which photograph is being viewed by the witness at a given time, removing the possibility of suggestiveness or inadvertent cues during the procedure.

Eyewitnesses Identification Training Course

"That's the guy, I think."

For years, scientists and criminal justice practitioners have known that some eyewitnesses struggle to recognize the face of the stranger they saw for only a few moments. Worse, some believe they recognize him, but are wrong. Today, we know that about 72% of people exonerated by DNA were sent to prison, at least in part, based on a mistaken identification by an eyewitness. Over the past decade, the National Institute for Justice, the Innocence Project and the International Association of Chiefs of Police have called on police departments to modify the procedures they use with eyewitnesses. And now, a report by a committee at the National Academy of Sciences has echoed that call.

William G. Brooks, a Massachusetts police chief and recognized expert on eyewitness identification, will talk about the science behind the reforms, and about ways that police are implenting them across the U.S. Among other topics, his presentation will include:

- Cautions for dispatchers
- Interview techniques
- Instructing witnesses
- Handling multiple witness cases
- Assembling a photo array
- Sequential photo arrays
- Blind administration
- Assessing witness confidence
- Sketches and composites

William G. Brooks is the Chief of the Norwood, Massachusetts Police Department. He was a member of the Supreme Judicial Court's Study Committee on Eyewitness Identification and is a member of the SJC standing committee. He also served on a committee at the National Academy of Sciences that issued a report on eyewitness identification research. He presents nationally on behalf of the Innocence Project and was the 2012 recipient of the Innocence Network's Champion of Justice Award. Chief Brooks is a graduate of the FBI National Academy.

Eyewitness Identification
Best Practices Writing Guide

Contents

I. OVERVIEW

The purpose of this policy writing guide is to provide assistance to those writing departmental policies and procedures regarding eyewitness identification in live lineups or by photographic display. Unquestionably, each local jurisdiction is unique, but the essential elements of this guide can be adapted to local needs and professional best practices. Agency policies should be written within the context of local protocols, organizational culture, and available community resources.

II. PURPOSE

The overall purpose of this policy and procedure is to offer guidance when conducting eyewitness identification. This policy outlines a set of procedures that have been scientifically proven to enhance the accuracy of witness identifications.

Commentary

Studies of eyewitnesses and human memory have suggested that eyewitness evidence is much like trace evidence left at a crime scene. Like trace evidence, eyewitness memory is an imprint left in the mind of the witness. But also like trace evidence, it is susceptible to contamination if not handled properly. The result can be failure to identify the true perpetrator or erroneous identification of an innocent person.

Over the past 30 years, a large body of peer-reviewed, scientific research and practice has emerged showing that simple systemic changes in administering eyewitness identification procedures can greatly improve the accuracy of those identifications and reduce the risk of misidentifications. These methods represent the best techniques for accurately capturing and preserving eyewitness memories, thereby enhancing the reliability of criminal investigations and prosecutions.

III. TERMINOLOGY

Blind administration is when the law enforcement official who is administering the lineup does not know which photograph or person is the suspect. Similar to scientific procedures, this eliminates any possibility of unintentional cues or suggestiveness.

Blinded administration/functional equivalent procedure is a technique used when a blind administrator is not available. The folder shuffle method is a simple technique for blinded administration in which the lineup photographs are placed in folders and shuffled. While the administrator may know the identity of the suspect, he or she is prevented from seeing which photograph is being viewed by the witness at a given time, thus removing the possibility of unintentional cues or suggestiveness.

Fillers are the non-suspects used in photographic and live lineup procedures. They should generally match the witness's description of the perpetrator, as opposed to the appearance of the police suspect.

Sequential presentation is a display of photographs or persons one at a time.

Simultaneous presentation is a display of photographs or persons presented at the same time, either manually constructed or computer generated.

Showup is the live presentation of a suspect to an eyewitness shortly after the commission of a crime.

Witness confidence statement is a witness's statement about his or her level of certainty in the selection, taken immediately after the identification is made.

IV. POLICY

The core objectives of this policy are to improve the accuracy of witness identifications to enhance their evidentiary value in investigations and reduce the likelihood of misidentification. The National Academy of Sciences, the International Association of Chiefs of Police, the American Bar Association and the U.S. Department of Justice have recommended a series of eyewitness identification best practices, most prominently among them (asterisked in the following Procedure section):

1. **Blind/blinded administration** in which the officer conducting the lineup does not know the suspect's identity, or if that is impractical, the officer administers the lineup in a way that "blinds" him from seeing which photograph is being viewed by the witness at a given time (e.g. the folder shuffle method). This eliminates the possibility of inadvertent suggestiveness or cues.
2. **Using proper non-suspect fillers** in the lineup that resemble the description of the perpetrator provided by the eyewitness – as opposed to resemblance to the police suspect.
3. **Providing witness instructions** that the perpetrator may or may not be present and that a selection does not have to be made.
4. **Eliciting witness confidence statements** immediately after an identification is made, in which the witness describes, in his/her own words, the level of confidence in the selection made.

V. PROCEDURES

A. Photographic Lineup

1. Organizing a Photographic Lineup

- Obtain a thorough suspect description from each witness prior to presenting the photo lineup.
- ***Select fillers (non-suspects) who generally fit the witness' description of the perpetrator, as opposed to the police suspect. ***
- Include a minimum of five fillers (non-suspect) per identification procedure. Once the photos are selected, mark the back of each photo with numbers.
- Complete uniformity of features is not required. Avoid using fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- Create a consistent appearance between the suspect and fillers with respect to any unique feature (e.g., scars, tattoos) used to describe the perpetrator by using images that cover those characteristics.
- Position the suspect randomly in each lineup, both across cases and with multiple witnesses in the same case.
- When showing a new suspect, avoid reusing fillers in lineups shown to the same witness.
- Ensure that no writings or information concerning previous arrest(s) will be visible to the witness.
- View the array, once completed, to ensure that the suspect does not unduly stand out.

2. Conducting a Photographic Lineup

- ***A blind administrator who is unaware of the suspect's identity shall conduct the lineup***. * If a blind administrator is not available use a "blinded" administration technique such as the folder shuffle method listed below.

- ***Prior to a presentation, instruct the witness that the perpetrator may or may not be present in the lineup and that an investigation will continue regardless of whether an identification is made.** *
- Photographs may be presented sequentially (one at a time) or simultaneously (all at once).
- For a sequential presentation, show the photographs to the witness one at a time and ask the witness whether or not he or she recognizes the person. When the witness signals for the next photograph, move the first photograph so that it is out of sight and ask the witness whether he recognizes the next photograph. The procedure should be repeated until the witness has viewed each photograph. The entire photo lineup must be shown to witness even after he/she makes an identification.
- ***If a witness makes an identification, ask the witness to state in his or her own words the level of certainty in the identification and document the response.** *
- If the witness requests to view the lineup again, he or she may view the lineup one additional time and must be shown the entire lineup. The order of the photographs should be shuffled before the array is shown for the second time.
- If possible, video record (with audio) the presentation.
- Document in writing the photo lineup procedures, including:
    - Identification information.
    - Sources of all photos used.
    - Witness confidence statement.
    - Date and time of the identification procedure.

3. Folder Shuffle Method (Blinded Administration)

If a blind administrator is unavailable, a "blinded" technique called the folder shuffle lineup may be used. In this technique the administrator may be aware of the suspect's identity but is "blinded" or prevented from seeing which photo is being viewed by the witness at a given time, which removes the potential for inadvertent suggestion or cues. The folder shuffle lineup is conducted as follows:

- Use one suspect photograph that resembles the description of the perpetrator provided by the witness, five filler photographs that match the description, and ten folders (four of the folders will not contain any photos and will serve as 'dummy folders').
- Affix one filler photo to Folder #1 and number the folder.
- Place the suspect photograph and the other four filler photographs into Folders #2-6 and shuffle the photographs so that the administrator is unaware of which folder the suspect is in, and then number the remaining folders, including Folders #7-10, which will remain empty (this is done so that the witness does not know when he has seen the last photo).
- ***Prior to the presentation, instruct the witness that the perpetrator may or may not be present in the lineup and the investigation will continue whether or not an identification is made.** *
- Without looking at the photo in the folder, hand each folder to the witness individually. Each time the witness has viewed a folder, the witness should indicate whether or not this is the person the witness saw and return the photo to the administrator. The order of the photos should be preserved, in a facedown position, in order to document.
- If the witness requests to view the lineup again, he or she may view the lineup one additional time and must be shown the entire lineup. The order of the folders should be shuffled before the array is shown for the second time.
- ***If an identification is made, ask the witness to state in his or her own words the level of confidence in the selection made and document the response.** *
- If possible, video record (with audio) the presentation.
- Document in writing the photo lineup procedures, including:
    - Identification information.
    - Order of the folders used in the procedure.
    - Witness confidence statement.
    - Date and time of the identification procedure.

Commentary to the Writer

Blind or blinded administration (aka the folder shuffle technique) uses the same principle as scientific experiments to eliminate the potential for suggestiveness or bias. This recommendation does not presume any deliberate impropriety by law enforcement officers; it merely recognizes the potential for unintentional suggestion.

Studies show that telling the witness that the perpetrator may or may not be present in the lineup counteracts the tendency to identify the person who looks the most like the perpetrator and reduces mistaken identification rates.

Research shows that information suggesting to the witness that he or she selected the right person can dramatically, yet artificially, increase confidence in the identification. Therefore, the witness's level of confidence should be captured at the time the identification is made, before it can be influenced by outside factors.

The National Academy of Sciences eyewitness identification report indicated that more research should be conducted on the issue of sequential vs. simultaneous lineup presentations and recommended that law enforcement continue employing whichever technique is currently used. This guide provides flexibility for agencies to use either method.

B. Live Lineups

1. Organizing a Live Lineup

- Determine when a live lineup is appropriate by considering the availability of witnesses and lookalikes.
- Obtain a thorough suspect description from each witness prior to presenting the live lineup.
- Only include one suspect in each identification procedure.
- ***Select non-suspects who generally fit the witness's description of the perpetrator, as opposed to the police suspect.***
- Include a minimum of four fillers (non-suspects) per identification procedure.
- When conducting more than one lineup due to multiple witnesses, place the suspect in different display positions.
- Avoid reusing non-suspects in lineups shown to the same witness when showing a new suspect.

2. Conducting a Live Lineup

- ***A blind administrator who is unaware of the suspect's identity shall conduct the lineup***. * If a blind administrator is not available use a "blinded" administration technique such as the folder shuffle method, which as a practical matter means conducting a photographic instead of live lineup.
- ***Prior to a presentation, instruct the witness that the perpetrator may or may not be present in the lineup and that an investigation will continue regardless of whether an identification is made.***
- Lineup participants may be presented sequentially (one at a time) or simultaneously (all at once).
- For a sequential presentation, begin with all lineup participants out of view of the witnesses. Present each individual to the witness separately, in a previously determined order, removing those previously shown. The entire lineup must be shown to witness even after he/she makes an identification.
- If the witness requests to view the lineup again, he or she may view the lineup one additional time and must be shown the entire lineup.
- ***If a witness makes an identification, ask the witness to state in his or her own words the level of certainty in the identification and document the response.***
- If possible, video record (with audio) the presentation.
- Document in writing the photo lineup procedures, including:
    - Identification information.
    - Names of all persons participating in the lineup.
    - Date and time of the identification procedure.

Commentary for Writers

Live lineups must be conducted by a blind administrator. If a blind administrator is not available, a "blinded" procedure must be used, which as a practical matter would require a photographic instead of live lineup. If the witness makes an identification, the law enforcement official should present the remaining participants. This helps ensure objectivity and reliability. Any identification actions, for example speaking or moving, must be performed by all participants. Witnesses may view the lineup a second time if they request to do so; however they must be shown the entire lineup again. Witnesses must be aware that the suspect may not be among those in the live lineup and that they should not feel compelled to make an identification.

C. Showups

- A showup is the presentation of one suspect to a victim or eyewitness within a short timeframe (typically 2 hours) after the commission of a crime.
- Before conducting a showup, consider the length of time since the crime was committed and the proximity of the suspect to the crime scence.
- Consider if a photo lineup can be conducted instead of a showup for increased control and improved logistics.
- Obtain a thorough description of the suspect from each witness prior to the showup.
- Ensure that all law enforcement officials avoid suggestive words or conduct while preparing for the presentation.
- If possible, avoid presenting the suspect in a suggestive manner such as in handcuffs or from the back of a patrol car.
- Transport the witness, not the suspect, when possible.
- Separate witnesses to avoid communication between them.
- Instruct the witness that the person he or she will view may or may not be the perpetrator, and that an investigation will continue whether or not an identification is made.
- ***If a witness makes an identification, ask the witness to state in his or her own words the level of certainty in the identification and document the response. ***
- If possible, video record (with audio) the presentation.
- Document in writing the procedure, including:
    - Identification information.
    - Witness confidence statement.
    - Date and time of the procedure.

Commentary for Writers:

Showups allow law enforcement officials to conduct an immediate eyewitness identification procedure in situations where they have temporarily detained a suspect. Showups are allowed when a limited period of time has elapsed since the crime was committed to eliminate innocent suspects. Although showups can be inherently suggestive, they are intended to minimize the level of governmental intrusion. The suspect should be presented as neutral as possible.

VI. FORMS

Eyewitness Identification Form: **Photo Lineup**

Case Number: _____

Law Enforcement Official Name: _____

Date and Time of Presentation: _____

Witness Name: _____

INSTRUCTIONS *(Read by law enforcement official to witness)*

In a moment I'm going to show you a set of photographs. A photograph of the person who is involved in the crime may or may not be among them. You do not have to make an identification and the investigation will continue regardless of whether or not you make a selection.

I must show you the entire set of photographs, even if you make an identification. If you would like to see a photograph again, you are allowed to view the entire lineup once more.

If you pick a photograph, I'm going to ask you to explain why you picked that photograph and to describe how confident you are in your selection. If you do select a photograph, please do not ask me about the person you have selected, as no information can be shared with you at this stage of the investigation.

Do you understand these instructions? (*Circle one)* YES/ NO

WITNESS STATEMENT *(Written by law enforcement official)*

Witness picked photograph number: _____

Witness Statement of Confidence (*In his/her own words)*

_____

_____

_____

I, _____, affirm that I understand the instructions, and that the statement written by the law enforcement official accurately reflects what I said. Finally, I understand that I should not talk to other people about the procedure.

Signature of Witness_____

Eyewitness Identification Form: **Live Lineup**

Case Number: _____

Law Enforcement Official Name: _____

Date and Time of Presentation: _____

Witness Name: _____

INSTRUCTIONS *(Read by law enforcement official to witness)*

In a moment I'm going to show you a series of people. The person who is involved in the crime may or may not be among them. You do not have to make an identification and the investigation will continue regardless of whether or not you make a selection.

I must show you the entire set of individuals, even if you make an identification. If you would like to see a person again, you are allowed to view the entire lineup once more.

If you pick an individual, I'm going to ask you to explain why you picked that person and to describe how confident you are in your selection. If you do select an individual, please do not ask me about the person you have selected, as no information can be shared with you at this stage of the investigation.

Do you understand these instructions? (*Circle one)* YES/ NO

WITNESS STATEMENT *(Written by law enforcement official)*

Witness picked lineup participant number: _____

Witness Statement of Confidence (*In his/her own words)*

_____

_____

_____

I, _____, affirm that I understand the instructions, and that the statement written by the law enforcement official accurately reflects what I said. Finally, I understand that I should not talk to other people about the procedure.

Signature of Witness_____

Eyewitness Identification Form: **Folder Shuffle Method**

Case Number: _____

Law Enforcement Official Name: _____

Date and Time of Presentation: _____

Witness Name: _____

INSTRUCTIONS *(Read by law enforcement official to witness)*

In a moment I'm going to show you a set of folders containing photographs. A photograph of the person who is involved in the crime may or may not be among them. You do not have to make an identification and the investigation will continue regardless of whether or not you make a selection.

I must show you the entire set of folders, even if you make an identification. If you would like to see a photograph again, you are allowed to view the entire lineup once more.

If you pick a photograph, I'm going to ask you to explain why you picked that photograph and to describe how confident you are in your selection. If you do select a photograph, please do not ask me about the person you have selected, as no information can be shared with you at this stage of the investigation.

Do you understand these instructions? (*Circle one)* YES/ NO

WITNESS STATEMENT *(Written by law enforcement official)*

Witness picked photograph number: _____

Witness Statement of Confidence (*In his/her own words)*

_____

_____

_____

_____

I, _____, affirm that I understand the instructions, and that the statement written by the law enforcement official accurately reflects what I said. Finally, I understand that I should not talk to other people about the procedure.

Signature of Witness_____

Eyewitness Identification Form: **Showup**

Case Number: _____

Law Enforcement Official Name: _____

Date and Time of Presentation: _____

Witness Name: _____

INSTRUCTIONS *(Read by law enforcement official to witness)*

In a moment you will be shown some individuals who may or may not be involved in the crime. You do not have to make an identification and the investigation will continue regardless of whether or not you make a selection.

If you make an identification, I'm going to ask you to explain why you picked that person and to describe how confident you are in your selection. If you make an identification, please do not ask me about the person you have selected, as no information can be shared with you at this stage of the investigation.

Do you understand these instructions? (*Circle one)* YES/ NO

WITNESS STATEMENT *(Written by law enforcement official)*

Did the witness positively identify the person shown? (*Circle one)* YES/NO

Witness Statement of Confidence (*In his/her own words)*

_____

_____

_____

_____

I, _____, affirm that I understand the instructions, and that the statement written by the law enforcement official accurately reflects what I said. Finally, I understand that I should not talk to other people about the procedure.

Signature of Witness_____

LINKS TO EYEWITNESS IDENTIFICATION TRAINING VIDEOS

1. Police Lineup Instructional Video - http://www.youtube.com/watch?v=HY8NzTCT97Q
2. Folder Shuffle Instructional Video https://www.youtube.com/watch?v=i5a75NShfAc
3. Photo Array Instructional Video - https://www.youtube.com/watch?v=PxQ8bYQNAyg&feature=youtu.be
4. Additional Training Materials- http://norwoodpolice.com/chieftrainingmaterials.html

LINEUP IDENTIFICATION CHECKLIST

☐ **Ensure lineup is conducted with a blind administrator/"blinded" administrator using the folder shuffle method.**

- "Blind" means the administrator does not know the identity of the suspect in the lineup.
- "Blinded" means the administrator may know who the suspect is, but by virtue of the use of procedures and/or technology to accomplish this purpose, does not know which lineup member is being viewed by the eyewitness.

☐ **Provide the following lineup instructions to the witness.**

The perpetrator may or may not be among the persons in the identification procedure. The administrator does not know who the suspect is. You should not feel compelled to make an identification. The investigation will continue whether or not an identification is made.

The procedure requires the administrator to ask you to state, in your own words, how certain you are of any identification. You should not discuss the identification procedure or its results with other eyewitnesses involved in the case and you should not speak with the media.

☐ **Ensure all fillers/non-suspect photos match the description of the perpetrator provided by the witness.**

- Record the description that the witness gave of the perpetrator. The lineup will be composed of fillers that generally resemble the description of the perpetrator in significant features (i.e., face, weight, build, skin tone, etc.), including any unique or unusual features (i.e., scar, tattoo, etc.).

☐ **Record the witness' confidence statement.**

- If the witness makes an identification, the administrator should document below in the witness' own words, how confident he/she is that the individual identified is the perpetrator.

THE FOLDER SHUFFLE METHOD

The 'Folder Shuffle Method' was devised to address concerns surrounding limited resources while allowing for blind administration. Should the investigating officer of a particular case be the only law enforcement personnel available to conduct a photo lineup, the following instructions are recommended:

1. Use one suspect photograph that resembles the description of the perpetrator provided by the witness, five filler photographs that match the description but do not cause the suspect photograph to unduly stand out, and ten folders [four of the folders will not contain any photos and will serve as 'dummy folders'].
2. Affix one filler photo to Folder #1 and number the folder.
3. The individual administering the lineup should place the suspect photograph and the other four filler photographs into Folders #2-6 and shuffle the photographs so that he is unaware of which folder the suspect is in, and then number the remaining folders, including Folders #7-10, which will remain empty. [This is done so that the witness does not know when he has seen the last photo].
4. The administrator should provide instructions to the witness. The witness should be informed that the perpetrator may or may not be contained in the photos he is about to see and that the administrator does not know which folder contains the suspect.
5. Without looking at the photo in the folder, the administrator is to hand each folder to the witness individually. Each time the witness has viewed a folder, the witness should indicate whether or not this is the person the witness saw and the degree of confidence in this identification, and return the photo to the administrator. The order of the photos should be preserved, in a facedown position, in order to document in Step 6.
6. The administrator should then document and record the results of the procedure. This should include: the date, time and location of the lineup procedure; the name of the administrator; the names of all of the individuals present during the lineup; the number of photos shown; copies of the photographs themselves; the order in which the folders were presented; the sources of all of the photos that were used; a statement of confidence *in the witness's own words* as to the certainty of his identification, taken immediately upon reaction to viewing; and any additional information the administrator deems pertinent to the procedure.

* The information described above was informed by "Eyewitness Identification Procedure Recommendations" put forth by a Wisconsin Task Force as well as existing research on the folder shuffle.

SAMPLE COMPLIANCE SURVEY

Name of Law Enforcement Agency:
Name of Officer Completing Survey:
Phone Number:
Email Address:

If your department has its own written eyewitness identification policy, please email a copy to XXX.

	Circle One	
Did your department participate in training on eyewitness identification procedures?	Yes	No
Has your department adopted a written policy regarding eyewitness identification procedures?	Yes	No
1. All lineups shall be conducted by a blind administrator, who does not know the identity of the suspect. If blind administration is not practicable, the folder shuffle method will be used, in which the administrator cannot see which photograph the witness is viewing.	Yes	No
2. Instructions to witnesses that the perpetrator may or may not be present in the identification procedure, and the investigation will continue whether or not an identification is made.	Yes	No
3. Non-suspect "fillers" used in lineups shall generally match the witness' description of the perpetrator in significant features.	Yes	No
4. If the witness makes an identification, the administrator shall document immediately after the identification is made, in the witness' own words, how confident he/she is that the individual identified is the perpetrator.	Yes	No