

# PHOTO ARRAY EYEWITNESS IDENTIFICATION PROCEDURE WORKSHEET

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    both (*preferable*)

(b) contemporaneous written verbatim account (attach)  
(You **must** include all relevant verbal and non-verbal exchanges between the officer and the witness)

(c) contemporaneous detailed summary (attach)

\*\*\*If an electronic recording and/or a contemporaneous written verbatim account was not feasible, please indicate why:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 attached 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 below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 as an attachment to this worksheet).

13. Photos were presented (choose one): sequentially  simultaneously

If sequential presentation, did you explain:

- a. that the witness would view one photo at a time? Y  N
- b. that the photos are in random order? Y  N
- c. that he/she can take as much time as he/she wants to make a decision about each photo? Y  N

14. Officers must avoid providing "feedback;" that is, signaling to the witness in any way (whether during or after the identification procedure) that the witness correctly identified the suspect. Did you or anyone else present say or do anything during or after the procedure that would have suggested to the witness that he/she correctly identified the suspect? Y  N   
(If yes, detail any actions/gestures/dialogue).

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15. Did the witness look at all of the photos? Y  N

16. Did the witness identify any photo as depicting the perpetrator? Y  N

17. If yes to #16, did you ask the witness during the procedure to make a statement concerning their level of confidence that the photo he/she selected depicts the perpetrator? Y  N   
You must document the **exact words and gestures** used by the witness to describe their level of confidence:

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18. Did you repeat back to the witness the language quoted in the answer to #17 and confirm that is what he/she said about their level of confidence? Y  N

19. Was there any other dialogue between anyone in attendance during the identification procedure not described in detail in the answers to #14 and #17? Y  N  (If yes, provide a verbatim/detailed summary of the dialogue).

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20. Did you instruct the witness not to discuss the identification procedure or its results with other witnesses and not to obtain information from other witnesses/sources? Y  N

21. Did you preserve the photo array, digital photos, or physical photos used? Y  N

22. Was this worksheet completed during/immediately following the identification procedure? Y  N  (If no, explain)

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Date: \_\_\_\_\_ Time: \_\_\_\_\_

## 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 record the identification procedure, preferably in an electronic audio and video format. See Question 5. If it is not feasible to make an electronic recording, the officer shall contemporaneously record the procedure in writing, and explain in writing why an electronic recording was not feasible. If a contemporaneous record cannot be made, the officer shall prepare a detailed written summary of the procedure as soon as practicable and without undue delay, and explain in writing why an electronic recording and a contemporaneous, verbatim written account were not feasible. Whenever a written record is used, it must include a verbatim account of all relevant verbal and non-verbal exchanges between the officer(s) involved in the procedure 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 their 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 their 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.