Eyewitness Lineup Procedures:
An Examination of Local Law Enforcement Agencies in the State of Iowa

Prepared by
Rachel Bassich & Dr. Neal McNabb
Department of Criminology and Criminal Justice
Buena Vista University
Storm Lake, Iowa
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Executive Summary

This report contains the findings of a survey conducted by Rachel Bassich, a graduating senior in the Criminology and Criminal Justice program at Buena Vista University in Storm Lake, Iowa. This research was supervised by Dr. Neal McNabb, Assistant Professor of Criminology and Criminal Justice. The voluntary survey was conducted in December 2012 and January 2013. The purpose of the study was to learn more about the policies and procedures regarding the administration of eyewitness lineups in criminal investigations. The survey was sent to 198 local law enforcement agencies in the State of Iowa, and 116 responses were returned. The resulting response rate was 58.6 percent.

Key Findings:

- While nearly all local law enforcement agencies in the State of Iowa employ the use of lineups in criminal investigations, the majority (58 percent) do not have written policies and procedures regarding the administration of lineups.

- Seventy-two percent (72%) of agencies use simultaneous lineups (potential suspects are shown to the eyewitness at the same time, as in a six-pack photo array) at least some of the time.

- Fillers (non-suspects) are selected based on their resemblance to the suspect, at least some of the time, in 96 percent of law enforcement agencies in Iowa.

- Fifty-three percent (53%) of respondents indicated that they are aware of an investigation conducted by their agency where an eyewitness picked an individual in a lineup who was not the suspect or perpetrator.

- Despite this, ninety-five percent of (95%) respondents expressed confidence in eyewitness lineup procedures used by their agency.
1. Introduction

An important component of criminal investigations in the United States has always been the collection of eyewitness evidence, and thousands of cases have been argued in court based solely on eyewitness testimony – as many as 77,000 annually.¹ In fact, eyewitness identification is so heavily relied upon that as many as 80,000 suspects are focused on by law enforcement each year due to eyewitness identification and testimony.² With the eyewitness identification process having such apparent ramifications on the criminal justice system, it should come as no surprise that researchers have taken a keen interest in its study over the past few decades, producing a considerable amount of research on what procedures are effective versus ineffective and why.³ As a result of this research, law enforcement officials across the country have begun to implement changes to their lineup procedures in order to produce more accurate eyewitness identifications.¹

Why have departments been making these changes to their lineup procedures? Perhaps the most predominant motivating factor is the increasing number of misidentifications, often discovered after the innocent individual has been wrongfully convicted. For example, the Dallas (TX) Police Department now administers double-blind, sequential lineups only. Since this change, Dallas PD Lieutenant David Pughes, who oversees the department’s lineup program, says he believes the department is now bringing stronger evidence to court. He also acknowledges that these changes to lineups in Dallas emerged due to the fact that Dallas was responsible for the largest number of exonerations in the country.⁴

Similar changes have been made in large departments across the country, including the Denver (CO) Police Department. There, Chief Matthew Murray stated they have made changes to their eyewitness identification procedures after finding their normal procedures were too suggestive. Along with Denver and Dallas, two states, New Jersey and North Carolina, mandate that law enforcement use double-blind, sequential lineups, as recommended by research in the field.⁵
2. Methodology

One hundred ninety-eight local law enforcement agencies, consisting of ninety-nine police departments and ninety-nine sheriff’s offices, from each of Iowa’s ninety-nine counties, were selected to receive a one-page survey. In an attempt to better represent larger cities, five police departments from the Des Moines metropolitan area were also selected. The survey, consisting of eleven questions, was mailed out in December 2012, along with prepaid return envelopes in order to maximize the return rate of completed surveys. The final sample consisted of one hundred sixteen returned surveys (fifty-five police departments and fifty-eight sheriff’s offices), while three surveys were returned but did not indicate agency type. The final return rate was 58.6 percent, which is an acceptable return rate for social science survey research. The research team for this study consisted of Rachel Bassich and Dr. Neal McNabb.

3. Findings

The following pages include a breakdown of the survey responses. Each question is treated separately and includes both a short description and a brief summary. Note that we have elected to use the term “officers” in reference to both police officers and deputies. This term was chosen to represent all sworn law enforcement officers. Finally, we have included a discussion of the findings, followed by suggested eyewitness lineup procedures that are supported by scientific research and the current suggested standard to improve the reliability of this type of evidence and decrease the possibility of incorrect identifications in criminal investigations.
A. Comparison of the Study Sample to the Iowa Law Enforcement Agencies

This graph shows a breakdown of the number of officers employed (by each agency) in the study sample as compared to the number of officers employed (by each agency) in Iowa. For example, in our sample 42.4 percent of departments responded that they employed between 6 and 10 officers. According to data for the entire state, as reported in 2011 in FBI’s Uniform Crime Report/Police Employee Data (the most recent data available), 41.6 percent of departments overall employ the same number of officers. Based on these data, though not all agencies responded to our survey, we can infer that our sample is representative of all local law enforcement agencies in the State of Iowa.

Note: At the bottom of each graph in this report is the symbol (N). This symbol represents the number of respondents who answered the questions.
B. Frequencies of Responses by Question/Category

The following section contains the breakdown of responses to questions asked on the survey. The first few questions consisted of basic demographic information, such as type of department, level of education, etc.

a. Agency Type

The first question on the survey asked what type of agency the respondent belonged to, and the breakdown of answers is provided below (both the number of respondents and the corresponding percentage of the sample are shown). Fifty-eight respondents, or 50 percent of the sample, indicated they were from sheriff’s offices, while 55 (47 percent) said they were from police departments. Three departments did not answer this question. Considering police departments and sheriff’s offices make up the overwhelming majority of all law enforcement, we were pleased to see both types of agencies were well-represented in our sample.

<table>
<thead>
<tr>
<th>Agency Type</th>
<th>N</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Department</td>
<td>58</td>
<td>50%</td>
</tr>
<tr>
<td>Sheriff’s Office</td>
<td>55</td>
<td>47%</td>
</tr>
<tr>
<td>Missing Data (Did Not Answer)</td>
<td>3</td>
<td>3%</td>
</tr>
</tbody>
</table>

N=113
b. Size of Population Served

Respondents were asked approximately how many people their agency serves. Only one respondent answered that their agency serves fewer than 500 people, while most respondents (63) noted their agency serves over 10,000 people. These numbers are skewed toward the higher end due to the inclusion of sheriff’s offices, which typically serve larger populations (entire counties). Though it should be noted that agencies that primarily serve the smallest towns in the state are underrepresented in this sample, we would speculate that most of these towns perhaps do not have a police department and are instead covered under the jurisdiction of the county sheriff.
c. Average Agency Educational Levels

The next chart contains responses to the question asking for the average education levels of all officers (of all ranks). The majority of respondents (62 percent) answered that the average level of education of officers in their agency was a two-year college degree. Five agencies did not answer this question.

Agency Average Education Levels

- High school diploma/GED: 5 (4%)
- Some college, but no formal degree: 17 (15%)
- Two-year degree (e.g., A.A., A.A.S., etc.): 6 (5%)
- Four-year degree (e.g., B.A., B.S., etc.): 72 (62%)
- Missing Data (Did Not Answer): 16 (14%)

N=111
d. The Use of Lineups

As the primary focus on this study is on the use of lineups in criminal investigations, it was important to establish with the respondents whether or not their agency employs lineups. This was a simple yes or no question, with 114 (98 percent) of respondents saying their agency uses lineups and 2 (2 percent) answering that their agency does not use lineups. Clearly, nearly all local law enforcement agencies in Iowa at least occasionally use lineups in criminal investigations.
e. Type of Lineups Used

The next question addressed what types of lineups are used in the agency. Respondents were asked to circle or write in the type(s) of lineup used by their agency. As was expected, the majority of agencies responded that they use photographic lineups. Multiple answers could be selected for this question, resulting in frequency numbers (10, 113, 1, & 4) adding up to more than the sample size.
f. Written Polices and/or Procedures

The next couple of questions dealt with policies and procedures regarding lineups. In this first chart, it can be seen that 58 percent of respondents answered that their agencies do not have written polices or procedures regarding how to implement and use lineups, while 42 percent of agencies do. This finding should cause some concern about the consistency of how lineups are conducted. Without a formal written policy for how lineups should be conducted, it is possible that different investigators use different methods (or that individual investigators sometimes use various methods).
**g. Focus of Lineup Policies**

This next graph depicts the responses in regards to what the agencies’ lineup policies address. Thirty-eight respondents answered that policies and procedures concern instruction given to the witness making the identification. The same number (38) indicated their policies concerned how individuals in the lineup were shown to the witness. Only 22 departments have policies concerning who may administer lineups to eyewitnesses. Multiple answers could be selected for this question, resulting in frequency numbers (22, 31, 38, & 38) adding up to more than the sample size. Note that the question did not specifically ask if these policies are written, so given the number of responses to this question it can be inferred that many of the policies referred to here are unwritten.

![Focus of Lineup Policies](image)

N=114
**h. Sequential vs. Simultaneous Lineups**

This question asked respondents how lineups were administered in their agencies – whether individuals are shown to the eyewitness sequentially (one at a time) or simultaneously (all at once). Multiple answers could be selected for this question, resulting in frequency numbers (82 & 69) adding up to more than the sample size. Following nationwide trends, most departments responded that their departments used simultaneous lineups. However, this is also cause for some concern based on research that has been conducted on the reliability of identifications based on how the lineup is administered (see the Discussion section for more information).

![Use of Sequential vs. Simultaneous Lineups](chart.png)
i. Filler Selection Methods

This graph shows responses to the question regarding how fillers (non-suspects) are selected in their agencies – using the suspect resemblance description method or the eyewitness description method. Again, multiple answers could be selected for this question, resulting in frequency numbers (107 & 64) adding up to more than the sample size. These two methods of filler selection are described in the Discussion section of the report.
j. Suspect Identification Reliability

Respondents were asked if they felt that their agency’s eyewitness identification procedures were reliable. An overwhelming majority of respondents, 95 percent, indicated that they do feel their departments’ procedures to be reliable.

**Current Suspect Identification Methods Reliable?**

- Yes: 109 (95%)
- No: 2 (2%)
- Missing Data (Did Not Answer): 3 (3%)

**N=114**
k. Eyewitness Misidentifications

Finally, the last question on the survey asked respondents if, to their knowledge, an eyewitness had ever falsely identified a suspect or an innocent individual in the process of a criminal investigation in their agency. Sixty-one respondents, or 53 percent of agencies that responded to this survey, said that to their knowledge at least one misidentification had occurred in the past in their agency in the past.
4. Discussion

What can we take away from these findings? In Chart J, 95 percent of agencies responded feeling that their identification methods were reliable, while Chart H depicts that 53 percent of agencies noted at least one misidentification had occurred in their agency to their knowledge. Considering eyewitness misidentification has played a part in over 70 percent of cases of individuals who were wrongfully convicted nationwide, these results are somewhat troubling. By examining the vast body of research in this area, it is clear that a few simple modifications to lineup procedures can significantly improve the reliability of eyewitness identification in any law enforcement agency.

We will very briefly revisit some of this research and finish with some easy procedural changes recommend in a 1999 report produced by the National Institute of Justice titled, *Eyewitness Evidence: A Guide for Law Enforcement*¹ and the Police Executive Research Forum (PERF)².

**Blind Administration of Lineups**

While the typical process of eyewitness identification used in everyday in agencies across the country appears to be very straightforward and fair on the surface, researchers have found that certain aspects of the lineup process can actually influence the eyewitness’s final identification. For example, if the administrator of the lineup is involved in the investigation and is aware of the identity of the suspect, he may inadvertently reveal to the eyewitness the suspect’s identity. This can be done through indirect verbal cues as well as through body language, such as appearing more anxious or tense when the eyewitness is paying attention to the suspect. If the investigator does somehow hint to the eyewitness the identity of the suspect, this can put pressure on the witness to select the suspect as the perpetrator even if the suspect is innocent.³

**Sequential vs. Simultaneous Lineups**

Outside of who conducts the lineup, research has shown that other procedural factors can also influence the identification process. How a witness is shown persons in a lineup, sequentially or simultaneously, can drastically impact who the witness believes to be the perpetrator. In simultaneous lineups, for example, a
witness is presented with all individuals at once for comparison (including the suspect), whether live or through photo arrays. Although this method, or some version of it, has been used for decades in the field, researchers have found that this simultaneous presentation can be problematic and less reliable than other methods. Simultaneous lineups ask the eyewitness to compare each individual in the lineup to one another, much like in a multiple-choice test. The witness then eliminates each individual, one by one, until only one remains, leading to the conclusion that this remaining person is the perpetrator. This process of elimination might make sense initially, but this is due to the commonly held belief that there is a correct selection in lineups. But what if the perpetrator is not present in the lineup? This has led to a number of individuals being wrongfully convicted, especially when the most damning evidence is eyewitness testimony. Over 70 percent of all individuals who have been exonerated of their crimes by the Innocence Project were initially convicted based, at least partially, on false eyewitness identification. It is the leading cause of wrongful convictions in the United States.

In the ideal process, rather than comparing the individuals in the lineup to each other the eyewitness would compare each person individually to his or her memory of the perpetrator. This method aims to increase the likelihood that if no individual very closely resembles the perpetrator, then no individual is selected. However, most individuals’ minds are unable to process their selection this way when lineups are simultaneous, which can lead to false identifications.

Analysis has found that the most reliable lineups are administered sequentially. In a sequential lineup, rather than being presented with all individuals at once a witness views each person one by one. As the witness views each person individually, he or she is forced to decide on the spot if the individual closely resembles the perpetrator enough to make identification. If not, the individual is eliminated from the lineup and the next person is shown to the witness. The witness does not know how many individuals or photos will be shown, so when the last person is shown there is no pressure to identify him or her as the perpetrator.
Filler Selection Methods

Researchers have still found other potential problems with lineup procedures, this time involving how fillers (non-suspects) are selected for lineups. Currently in the U.S. there are two common methods for selecting live and photo lineup fillers; the culprit description (CD) strategy and the suspect resemblance (SR) strategy. Both methods have their merits on the surface, but in reality one can increase the rate of misidentifications, leaving only one of these methods preferable.\(^6\)

The first selection method, culprit description, bases the selection of the fillers on the eyewitness’s memory of the perpetrator. This means that in a lineup using this method none of the fillers can be eliminated based on the eyewitness’ memory and description of the perpetrator. This forces the eyewitness to call to mind his or her exact memory of the perpetrator and base the selection on the totality of the perpetrator’s image versus only certain characteristics. In other words, because all fillers in a lineup match the eyewitness’s basic description of the perpetrator, the eyewitness is able to focus on other, more specific details of the perpetrator that were previously forgotten. This results in a selection based on the eyewitness’ memory of the perpetrator rather than a comparison of the individuals to one another, making the lineup fairer and the selection more likely to be accurate.\(^6\)

A second method of filler selection is called suspect resemblance. Fillers, rather than being similar in appearance to the eyewitness description, are selected based on their resemblance to the suspect in police custody. Lineups that result from this method, rather than testing the eyewitness’s memory of the perpetrator, instead test the eyewitness’ ability to identify the suspect in what can sometimes resemble a lineup of clones. This clone effect results from an attempt by the investigator to make the identification of the suspect more reliable, as the witness is selecting from, at times, six or more nearly identical individuals. However, this type of lineup actually makes identification more difficult, even for the most reliable of witnesses.\(^6\)
Lineup Reform

Much of the research over eyewitness identification casts doubt on the accuracy and reliability of the typical lineup process. What then has the impact been on law enforcement agencies throughout the country? Have there been widespread reforms to the lineup process?

A study conducted by Michael S. Wogalter, published in 2004, reports results of a nationwide survey of local law enforcement agencies. Wogalter was interested in examining what procedural changes local law enforcement agencies were making in their agencies, and in order to gather this information surveyed 500 jurisdictions across the United States. He found that the majority of agencies throughout the country have not yet adopted formal lineup procedures, nor have they developed written policies regarding the administration of lineups. At the same time, it is clear that law enforcement agencies across the country are implementing more and more of the recommended procedures as they are made aware of the reliability issues with identification procedures that have been the norm for decades. This is likely due, at least in part, to the publicity in the national media of wrongful convictions and innocent people being exonerated from prison after learning, usually through DNA evidence, that the individual was not the perpetrator of the crime.

Policy Implications

A number of state and law enforcement agencies around the country have adopted evidence based procedures for eyewitness lineups (Wisconsin, for example, has an excellent model policy that the state encourages all agencies use). There are a number of reasons to consider adopting some relatively simple procedures. First, the chance that an individual is wrongfully convicted of a crime he did not commit is reduced. When this happens, not only is justice not done, but the real perpetrator of the crime is not held accountable and is likely still free to commit further crimes. Furthermore, when the innocent are exonerated from prison, they often have standing to sue for damages. This has the potential to result in significant monetary penalties for the state, county or city to compensate the person for the time they served while innocent. Currently, the compensation laws in the State of Iowa state that an individual can receive up to $25,000 per year they were wrongfully incarcerated (Iowa Code Ann 663A.1).
Suggested Eyewitness Identification Procedures

What reforms could be implemented to address the reliability issues in eyewitness identification procedures? Surprisingly, the recommended modifications to the typical identification procedures are both easy and inexpensive.

- Creation of written policies regarding the administration of lineups in criminal investigations.
- Implementation of a blind sequential administration technique.
- Lineup fillers should resemble the eyewitness’ description of the perpetrator.
- Instruction to the witness that the real perpetrator may not be included in the lineup.
- Documentation of the level of confidence of the witness (e.g., Ms. Smith chose Suspect #4 from the photo array. She stated that she feels that she is 85% confident of this selection).
- Avoidance of multiple identification procedures where the same witness views the same suspect more than once.
References


