POLICY/PURPOSE:
This policy sets forth procedures which will produce reliable and accurate eyewitness identifications through the elimination of practices that undermine these principles.

DEFINITIONS:
Line-Up (Photo Line-Up) – The Cedar Rapids Police Department (CRPD) only conducts photo line-ups. A photo line-up is a process in which an array of photographs is sequentially displayed to an eyewitness or victim. If the victim or witness identifies the suspect from among similar appearing individuals, and the identification is based on factors that the courts have found to be relevant in identification testimony, the identification is considered valid.

LINE-UP ADMINISTRATOR - The officer or investigator that administers a line-up or show-up.

Suspect Show-up – (Formerly known as a confrontation.) – A show-up is a limited usage identification procedure where a suspect is shown singularly to a single witness or victim for the purpose of identification. This will usually occur within the first two hours after an offense has been committed, a suspect is detained, and the victim/witness is taken to the suspect's stop location.

Viewer - Victim or eyewitness of a crime.

GENERAL GUIDELINES FOR ALL EYEWITNESS IDENTIFICATION PROCEDURES:
All eyewitness identification procedures may not be necessary when the viewer:

- Would be unable to recognize the perpetrator of the offense being investigated
- Knew the identity of suspect before the offense occurred
- Learned of the suspect’s identity after the offense has occurred without police assistance

If eyewitness identification procedures are necessary, the below factors are supported by expert research, best police practices, and are based on factors that the courts have found to be relevant in identification testimony:

- The viewer’s opportunity to view the criminal during the crime
- The length of time between the crime and subsequent identification
- The level of certainty demonstrated by the viewer at the identification
- The accuracy of the viewer’s description of the suspect prior to a lineup
- The eyewitness' degree of attention during the crime
IDENTIFICATION PROCEDURE:
General instructions for all identification procedures include:

- All viewers should be separated.
- Officers must read the Line Up Admonition Form (CRPD #781) to each viewer regarding the identification procedures without other viewers present. [42.2.11d]
- Viewers should not be allowed to confer with one another before, during, or after the procedures.
- The administrator will avoid saying anything or displaying behaviors to the viewer that may influence the viewer’s selection.
- Line up and show up procedures should be recorded when possible.
  - Refer to Line-Up and Show-Up procedures below.

LINE-UP PROCEDURE:
When assembling a photo line-up: [42.2.11a]

- A minimum of six photos should be used in photo identification procedures with a minimum of five fillers (non-suspects) per photo identification procedure.
- If there is more than one suspect that fits the description of the perpetrator, there can be more than one suspect in the line-up; however, the number of fillers should be increased to maintain a 1:5 ratio of suspect to fillers.
- Fillers should resemble the viewer’s description of the perpetrator in significant features (race, height, weight and build, etc).
  - If the perpetrator was described as having an unusual identifying mark, the fillers should have similar markings.
- When showing a new suspect to the same viewer, avoid re-using the same fillers in additional line-ups.
- Photos should be presented to viewers sequentially rather than simultaneously. Sequential presentation requires each photo to be presented to the witness separately removing each photo after it is viewed.
- Viewers should: [42.2.11d]
  - Not be told how many photos will be shown in the line-up.
  - Be instructed that the suspect may or may not be in the line-up.
  - Be shown all photos, even if they make an identification during the presentation.
  - Not write or mark any materials that will be used in other identification procedures.
  - Not receive any feedback during or after the identification process. [42.2.11f]
- If there are several viewers to a crime: [42.2.11c]
  - They should be separated to avoid influencing other viewers.
Arrangements should be made for the line-up to be displayed independently for each viewer.

- A viewer who has taken part in a line-up must not be permitted to state their conclusion within earshot of another viewer.

- A suspect should not be displayed to more than one viewer at a time.

- The established method for presentations of the Line Up Admonition Form (CRPD #781) and the photo line-up itself is to audio and video record the process, this can be done at the Cedar Rapids Police Department or through the use of a squad cars Arbitrator camera system.
  - It is understood that there are extenuating circumstances and certain situations that prevent the process from being audio and video recorded, in these situations officers should follow standard investigative procedures to document the photo line-up process and articulate why the process was not recorded. [42.2.11b]

- Officers should have the viewer sign and date the photo of the suspect they identified.

- Identify the level of confidence expressed by the witness. [42.2.11e]

- A viewer can ask to see just one specific photo a second time, however, if they wish to view two or more photographs, the entire array should be presented again.

- After the photographs have been viewed, they should be marked denoting the order that they were shown to the witnesses and retained for later use in court.

- If the viewer cannot make an identification after all photos are shown, the administrator can ask the viewer if they would like to view the line-up again.

**Documentation:** [42.2.11g]

A supplemental report will be left by the line-up administrator to include at minimum:

- Time, date, and location of the procedure
- Notation of the recording of the process
- The administrator’s name
- The viewer’s name(s)
- Sources of all photos used
- Number of times the line-up is viewed
- Results of the procedure, including the witness’s own words regarding how certain they are of any identification. [42.2.11e]

**Show-Up Procedure:**

An officer may arrange a show-up between a suspect and a viewer whenever the suspect is arrested or temporarily detained within two hours of the offense and the viewer is cooperative and states that they might
recognize the person who committed the offense. Two hours is a guideline. The time limit may be extended for other articulable extenuating reasons.

Temporary detention for show-up purposes: [1.2.4]
If an officer reasonably suspects that a person, located within two hours of an offense, has committed the offense, but probable cause to arrest the person is not present, the officer may detain the suspect for a maximum of 20 minutes (30 minutes in some instances) for show-up purposes. In exercising this authority, the officer may use such force, short of deadly force, as is reasonably necessary to stop the person or to cause the person to remain in the officer’s presence.

- Officer(s) invoking a temporary detention may stop and frisk (Terry V. Ohio) for their own protection.
- Suspects who refuse to submit to police authority to detain will be charged with Interference With Official Acts.
- No individuals have a right to a lawyer at any show-up procedure.
- When exercising temporary detention, the suspect should be held at the location of the detention, and the viewer brought to the scene as soon as possible. A suspect cannot be detained for longer than 20 minutes (30 minutes in some cases) unless:
  - Probable cause to believe the suspect committed the offense has developed during the detention, or
  - The suspect, after being clearly informed that they need not cooperate, consents to take part in the show-up.

Show-up when there is probable cause to arrest: [42.2.12a]
If there is probable cause to arrest a suspect who is located within two hours of the commission of an offense, the suspect should ordinarily be taken into full custody prior to any show-up. The show-up must then occur as soon as practical after the arrest.

- If the suspect is cooperative during the detention, and consents to take part in a show-up, an officer may arrange a show-up without first arresting the suspect. [1.2.4]

Conducting a Show-Up:
When presenting a suspect to a viewer for identification: [42.2.12d,f]
- Care should be taken not to give the viewer the impression that the person being detained has already been identified as the perpetrator by the police.
- Officers should not say or do anything to lead the viewer to believe that the suspect has:
  - Been formally arrested or detained
  - Confessed
Possessed incriminating items on the suspect’s person
Is believed to be the perpetrator

- Transport the viewer by police vehicle to the location of the detained suspect. [42.2.12b]
- If there are several viewers to a crime, arrangements should be made to transport each viewer independently if possible. [42.2.12b]
- Advise the viewer that: [44.2.11d]
  - The individual they are viewing may or may not be the suspect.
  - A statement of certainty shall be required for identifications and non-identifications.

- Identify the level of confidence expressed by the viewer. [42.2.12e]
- A suspect should not be displayed to more than one viewer at a time. [42.2.12c]
  - Each suspect should be viewed independently. If for some reason this procedure is not possible, care should be taken so the viewer does not pollute the other identifications.
  - A viewer who has taken part in an identification procedure must not be permitted to state their conclusion within earshot of another viewer

**Release After Show-Up:**
If the suspect is not identified by the viewer, the suspect should be released pursuant to appropriate departmental procedures unless probable cause still exists to believe the suspect committed the offense.

**Documentation:** [42.2.12g]
Any detention for a show-up purpose should be recorded as soon as possible by means of the in-car audio/visual recording equipment (A/VRE) and/or body camera (if applicable). This would include the stopping vehicle with the suspect, and the vehicle transporting the viewer. A supplemental report will be left by the investigating officer to include at minimum:
- The time and location
- The identity of those present - officers, viewer(s) and suspect(s)
- Level of confidence expressed by the viewer [42.2.12e]
- Any additional statements/comments made by either the viewer(s) or the suspect