



Audit and Review Unit
Professional Standards and Accountability Bureau

Photographic Line-up Audit April 2021 (FOB and ISB)

Report # Photographic Line-up 2021-(Jan-Mar)
May 6, 2021

Audit Team

This audit was managed and conducted by the Audit and Review Unit individuals listed below:

Innovation Manager Tim Lindsey

Auditor Charmel Peterson

Auditor Betty Johnson

Executive Summary

The Audit and Review Unit (ARU) of the Professional Standards and Accountability Bureau (PSAB) completed a Photographic Line-up Audit in April 2020. Photographic Line-up Audits are conducted to ensure that New Orleans Police Department (NOPD) officers conduct Photographic Line-ups in accordance with the rights secured or protected by the Constitution and laws of the United States. NOPD agrees to ensure that Photographic Line-ups are conducted professionally and effectively, in order to elicit accurate and reliable information. This process is regulated by Chapter 42.8.1 of the New Orleans Police Department's Operations Manual.

This audit, conducted in April 2021, was completed prior to the completion of the Photographic Line-up Audit Protocol, which is still in draft status as of this writing. This audit addresses the following Consent Decree (CD) questions: Log is Complete & Compliant; Line-up Administrator is not Case Detective; Photos used are in Case File; Scanned Photos are in Color; Photos Depict People with No Obvious Differences; If Witness IDs a Photo, Witness Initials Each Photo; and Form 277 is Complete, as documented in CD paragraphs 171, 173, 174, 175 and 176, as well as NOPD Chapter 42.8.1,

Scores of 95% or higher are considered substantial compliance. Supervisors should address any noted deficiencies with specific training through In-service Training classes or Daily Training Bulletins (DTBs). This training should be reinforced by close and effective supervision in addition to Supervisor Feedback Logs entries.

The overall score of the Photographic Line-up Audit is as follows: Overall – **89%**

More detailed results are embedded in the Scorecards and Conclusion sections.

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Introduction

The Audit and Review Unit of the Professional Standards and Accountability Bureau conducted a Photographic Line-up Audit in April of 2021.

Purpose

Photographic Line-up Audits are completed to ensure Photographic Line-ups are conducted effectively and in accordance with the rights secured or protected by the Constitution and laws of the United States, in order to elicit accurate and reliable information. These requirements are regulated by the following policies of the New Orleans Police Department's Operations Manual:

Chapter 42.8.1 Eyewitness Identification - Photographic Line-ups

In addition, Consent Decree paragraphs 171 to 176 should be understood and referenced as needed.

This list is not all inclusive.

Objectives

This audit is designed to ensure that all Photographic Line-ups conducted by NOPD officers or detectives are done so in accordance with the U.S. Constitution, DOJ Consent Decree and NOPD policies. All Photographic Line-ups administered must be documented in the Photographic Line-up log either electronically or in a written log. During the audit, while reviewing the log, auditors need to ensure that it was accurately completed. The audit qualitatively assesses Photographic Line-ups to ensure compliance and each audit consists of a random sample of all Photographic Line-ups conducted by officers/detectives in the duty location since the prior PSAB audit.

Generally, the auditor is responsible for verifying and documenting that the NOPD conducted a proper photographic line-up through:

1. Inspection of the Photographic Line-ups log to determine compliance with stated requirements. Documentation in log must should be evidence of compliance with the following:
 - Correct item number
 - Time of lineup
 - Date of lineup
 - Location of lineup
 - Identity of the viewing person
 - All Photograph numbers
 - Name of administrator
 - Name of case detective
 - Line-up result

2. Documentation must exist in each case file as evidence of compliance with the following:
 - The officer displaying the lineup was different from the investigating officer.
 - The officer displaying the lineup was not involved in the investigation.
 - The officer displaying the lineup was unaware of the suspect's photograph.
 - The report or the audio/video indicates eyewitnesses were admonished that the suspect might or might not be present in the lineup.
 - The case file includes all photographs used in the lineup.
 - All photos were marked and maintained as evidence in the case file.
 - The "filler" photographs (those that do not depict the suspect) generally fit the witness's description of the perpetrator.
 - The "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features.
 - The photographs are in color.
 - Photographs are initialed when required for positive or negative identifications.
 - If a single photograph was displayed, the use of a single photo was appropriate. Note: There are times a single photo is appropriate. For example, if a woman is the subject of domestic violence and her boyfriend is Tom Jones, they may show her a photo of Tom Jones only to ensure they are getting a warrant for the correct Tom Jones. If the victim does not know the name of the person who is the subject, a photo lineup is required.
 - Statements made by the viewing individual are documented in the report. (EPR or 277)
 - The identities of other persons present during the procedure are documented in the report. (EPR or 277)
 - All other pertinent information to the display procedure was documented in the police report. (EPR or 277)
 - A Form 277 exists in the case file.

Background

Photographic Line-up Audits have been conducted, whole or in part since May of 2016. This Photographic Line-up Audit was conducted in April 2021. Photographic Line-up audits were not impacted greatly as a result of the December 2019 cyber-attack that victimized the technology infrastructure of the City of New Orleans. As of this writing, a new Photographic Line-up Audit Protocol is being implemented. All future audits will be completed using this protocol.

Methodology

Auditors qualitatively assess the administration of photo line-ups using the audit forms for the Photographic Line-up Audit (see Appendix A). Auditors analyze the following data sources:

1. Electronic or paper district log entries
 - a) Logbooks MS Access DB is primary source
 - b) Emailed internal district log entries
 - c) Electronic files on district shared drive
2. Photos used for the photographic lineup (These will be obtained from either the photos scanned into the digital case file or from photographs located in the officer's/detective's case file)
3. The Eyewitness Identification Form (Form 277) contained in the file
4. Electronic Police Reports (EPR)
5. Audio/Video recordings from the lineup

All documents and related photos that are in the sample and are not audited must be deselected. All deselections are recorded in the Deselection Log. A review of the Deselection Log shows there were items deselected for this audit. Most items deselected were for line-ups that were not administered (total of 5), and one other deselected for being a confirmation photo only.

Auditors read the guidance in the audit forms on a regular basis. Changes to audit forms are clearly communicated to auditors by the audit supervisor. Auditors re-read policies when guidance in audit forms recommends they do so or when the policy requirements are not clear enough to the auditor to allow him/her to confidently score an audit criterion.

When audit results require comments, auditors thoroughly explain the evidence they observed that led to their determination of the result for the audit criteria in question. Drawing on their knowledge of NOPD policies, auditors note any policy violations they observe that are not specifically addressed in the Photographic Line-up Audit tools in the "Auditor Comments" section of the form.

Initiating and Conducting the Photographic Line-up Audit

By applying the audit forms as a guide, the auditors qualitatively assessed the Photographic Line-up data to determine whether officers/detectives substantively met the requirements of policy.

1. When the month for a duty location audit becomes due, the auditor will contact the duty location and schedule the date and time for the audit.
2. A week prior to the audit, the auditor will notify the duty location of the months to be reviewed (3 months – January through March; 6 months – April through September, etc.) to ensure the duty location is prepared for the audit and all case files are available for review.
3. The day(s) prior to the audit, the auditor will ensure all required PSAB forms and worksheets (such as checklists) required to conduct the audit are available. This should include:
 - Auditor notes
 - Spreadsheet
 - Immediate action report forms
4. Cases will be reviewed as chosen by the randomizer.
5. The auditor used the digital audit form to verify the existence of the required documentation while in the field.
6. The auditor inspected the selected documents provided by the district/unit as evidence of compliance or reviewed online data.
7. When the documentation was unavailable at the time of the audit, the district/unit was given until the end of the audit period to provide the documentation.
8. **Audit Criteria**
 - A. **Photographic Log is Complete & Compliant** - The log entry will include all required information. The photographic lineup log will be checked to ensure it contains the following information:
 - Correct item number
 - Time of lineup
 - Date of lineup
 - Location of lineup
 - Identity of the viewing person
 - All Photograph numbers
 - Name of administrator
 - B. **The Line-up Administrator is Not the Case Detective** - The officer displaying the lineup was different from the investigating. This is determined when reviewing log entries or EPR documentation, as well as reviewing signatures on Form 277.
 - C. **Photos Used are in the Case File** – All the photos were marked and maintained as evidence in the case file.
 - D. **Photos Used are in Color (Scanned or Paper)** - Each photograph must be printed or scanned in color and with the case file or in electronic folder.
 - E. **Photos Depict People with No Obvious Differences** - The “filler” photographs (those that do not depict the suspect) generally fit the witness’s description of the perpetrator. The “filler” photographs (those that do not depict the suspect) resemble the suspect in significant features.

- F. **If Witness ID's a Photo, Witness Initials Each Photo** - Photographs are initialed when required for positive or negative identifications.
 - G. **Form 277 is Complete** - The photo line-up is accompanied by inclusion of the form, along with photographic line-up witness/victim statement verbatim, whether review resulted in an identification or not, whether other(s) present during line-up review, and signatures of both witness/victim and line-up administrator.
9. Once the auditors entered their audit results, the compliance rate for each of the requirements was determined. This final report documents whether the compliance rate for each requirement met the threshold for substantial compliance (95%).

Reviews - Scorecards

Audit results data in Excel spreadsheet, raw data based on individual questions on the Photographic Line-up Audit Forms.

Photographic Line-Up Scorecard

Review Period: Jan-Mar 2021

Percent of line-ups that are in compliance by requirement

District	# of Line-Ups	Log is Complete & Compliant	Admin. is not the Case Det.	Photos Used are in Case File	Scanned Photos are in Color	Photos Depict People with No Obvious Differences	If Witness IDs a Photo, Witness Initials Each Photo**	Form 277 is Complete	Overall
1	5	40%	40%	100%	100%	60%	67%	100%	70%
2	5	100%	100%	100%	100%	80%	50%	100%	90%
3	5	100%	100%	100%	100%	100%	100%	100%	100%
4	5	85%	100%	100%	100%	60%	100%	100%	92%
5	5	100%	100%	100%	100%	60%	100%	100%	94%
6	5	38%	40%	100%	100%	100%	50%	65%	70%
7	5	80%	80%	80%	75%	75%	100%	84%	82%
8	5	100%	100%	100%	100%	80%	100%	100%	97%
SVS	4	100%	100%	100%	100%	100%	100%	100%	100%
Homicide	5	100%	100%	100%	100%	60%	100%	100%	94%
Total	49	84%	86%	98%	98%	74%	89%	93%	89%

PSAB randomly sampled up to 5 photographic line-ups per District/Unit between Jan and Mar 2021. If the District/Unit had five or less line-ups for the time period, PSAB reviewed all of them.

For guidance on meeting Consent Decree requirements for photographic line-ups, refer to the "Photographic Line-up Compliance Guide" at NOPD.org > Resources > Compliance Guides.

*Scores below 95% are highlighted in red.

**Only line-ups which result in the victim/witness identifying an individual are included for the column entitled "If Witness IDs a Photo, Witness Initials Each Photo." Line-ups resulting in no identification are not reviewed for this column.

Note: Photographic line-ups conducted with out-of-town individuals were de-selected for this review.



Raw Data.xlsx

The results of this audit were verified through a Photographic Line-ups Review. Once this process was finished, the districts/units had an opportunity to review all the audit results and scorecards. If they identified any discrepancies or had any concerns, an Audit Re-Evaluation Request Form could have been submitted to PSAB documenting their concerns. No Audit Re-Evaluation Request Forms were submitted, however.

Photographic Line-ups - as noted above, requires that officers/detectives administer eyewitness photo line-ups in compliance within all U.S. laws, consent decree agreements and department policies to ensure the trust and safety of individuals in the community, and provide counseling, redirection, and support to officers.

The compliance percentage for requirements in the Photographic Line-up Audit are as follows for the reviews of up to 5 samples per district/unit:

1. **Photographic Log is Complete & Compliant** - The log entry will include all required information. The overall score for this category was 84%. The score is calculated using the 8 logbook related questions. The 49 samples totaled 392 possible responses. Of those 392 responses, 329 were audited as positive and 63 were negative. The source was the logbooks database utilized by the districts and other units to track consent decree related data.
2. **The Line-up Administrator is Not the Case Detective** - The officer administering the lineup was different from the investigating officer. The overall score for this category was 86%. Of those 49 responses, 42 were audited as positive and 7 were negative. The source was the logbooks database utilized by the districts and other units to track consent decree related data as well as the Form 277 used in presenting the line-up.
3. **Photos Used are in the Case File** – All the photos were marked and maintained as evidence in the case file. The overall score for this category was 98%. Of those 49 responses, 48 were audited as positive and 1 was negative. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.
4. **Photos Used are in Color (Scanned or Paper)** - Each photograph must be printed or scanned in color and with the case file or in electronic folder. The overall score for this category was 98%. Of those 49 responses, 48 were audited as positive and 1 was negative. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

5. **Photos Depict People with No Obvious Differences** - The “filler” photographs (those that do not depict the suspect) generally fit the witness’s description of the perpetrator. The “filler” photographs (those that do not depict the suspect) resemble the suspect in significant features. The overall score for this category was 74%. Of those 49 responses, 35 were audited as positive and 12 were negative and 2 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system. The “Raw Data” field relevant to this score is the “Filler Photos Compliant” column.
6. **If Witness ID’s a Photo, Witness Initials Each Photo** - Photographs are initialed when required for positive or negative identifications. The overall score for this category was 89%. Of those 49 responses, 25 were audited as positive and 3 were negative and 21 were not applicable (21 were not applicable (either no witness selection or no photos available). The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system. The “Raw Data” field relevant to this score is the “Filler Photos Compliant” column.
7. **Form 277 is Complete** - The photo line-up is accompanied by inclusion of the form, along with photographic line-up witness/victim statement verbatim, whether review resulted in an identification or not, whether other(s) present during line-up review, and signatures of both witness/victim and line-up administrator. The overall score for this category was 93%. Of those 49 responses, 25 were audited as positive and 3 were negative and 21 were not applicable (21 were not applicable (either no witness selection or no photos available). The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system. The “Raw Data” fields relevant to this score are the “Admin Signed Form 277”, “Witness Statement Recorded”, and “Additional People Present Recorded” columns.

Conclusion

Recommendations – Due to the Logbooks database being inadequately maintained, it is recommended that some correspondence is sent via email to all district/unit investigative teams to remind of the need to be vigilant in the maintenance of data entries into the system. From prior communications sent, it was evident that these teams were slow to re-engage in using the electronic system. In addition, there seems to be a lapse in ensuring that the line-ups are free of potential bias or targeting of individuals subject of potential influence. There were no other serious deficiencies identified by this audit.

Only two categories in this audit were above the substantial compliance threshold of 95%. “Photos Used are in Case File” was 98% and Scanned Photos are in Color” was 98%. All other categories scored below the compliance threshold of 95% and are documented below:

The “**Log is Complete & Compliant**” score was driven by six district/unit non-compliance scores, which impacted the overall score slightly (**84%**) and signifies a need for minimal corrective action.

The key take-away is to ensure all photo line-ups are properly logged into the “Logbooks Database”. Process reminders should be thoroughly executed as a result.

The “**Administrator is not the Case Detective**” score was driven by six district/unit non-compliance scores, which impacted the overall score modestly (**86%**) and does signify a need for minimal corrective action. The key take-away is to ensure all photo line-ups are properly logged into the “Logbooks Database”. Process reminders should be thoroughly executed as a result.

The “**Photos Depict People with No Obvious Differences**” score was driven by seven district/unit non-compliance scores, which impacted the overall score modestly (**74%**) but does signify a need for moderate corrective action. The key take-away is to ensure “filler” photographs (those that do not depict the suspect) generally fit the witness’s description of the perpetrator. The “filler” photographs (those that do not depict the suspect) resemble the suspect in significant features. Re-training may need to be executed as a result.

The “**If Witness IDs a Photo, Witness Initials Each Photo**” score was driven by three district/unit non-compliance scores, which impacted the overall score modestly (**89%**) but does signify a need for minimal corrective action. The key take-away is to ensure all photos scanned or copied, include both front and back if where initials are located, into each digital and/or hard-copy case file. Process reminders should be thoroughly executed as a result.

The “**Form 277 is Complete**” score was driven by three district/unit non-compliance scores, which impacted the overall score modestly (**93%**) but does not signify a need for corrective action. Process reminders should be thoroughly executed as a result.

1. This report will serve as notification of district/unit performance during this audit.
2. Work with Policy Standards Section to develop DTB’s to address the training issues identified in this report.

Timothy A. Lindsey

Innovation Manager

Auditing and Review Unit, Professional Standards and Accountability Bureau

Appendix A – Photographic Line-up Audit Forms

Photographic Line-up Audit Forms:



Photographic Line-ups Audit Form



ID Info **Log** Photos Form Review

Created By

Tim Lindsey

Faith Thornton

Charmel Peterson

Betty Johnson

Michael Sarver

Matt Segraves

FBT-TAL

TAL-CAP

CAP-FBT

Investigative Unit

1

2

3

4

5

6

7

8

ISB

MSB

Other

SOD

*

Item Number

Date and Time of Line-up

Reporting Year

2019

2020

2021

2022

2023

Reporting Month

Jan

Feb

Mar

Apr

May

Jun

Jul

Aug

Sep

Oct

Nov

Dec

Submit Record

Enter Status v

Return to Main



Photographic Line-ups Audit Form



ID Info Log Photos Form Review

1 Is the date the line-up was administered recorded in the log?

CD 174

Log Includes Date

Yes
 No

2 Is the time the line-up was administered recorded in the log?

CD 174

Log Includes Time

Yes
 No

3 Is the location in which the line-up was administered recorded in the log?

CD 174

Log Includes Location

Yes
 No

4 Is the name of the witness who viewed the line-up recorded in the log?

CD 174

Log Includes Name of Witness

Yes
 No

5 Does the log include identifying information for each photo used in the line-up?

CD 174

Log Includes Photo ID Info

ID numbers and names can be used to identify photos.

Yes
 No

6 Is the name of the person who administered the line-up recorded in the log?

CD 174

Log Includes Name of Line-up Admin

Yes
 No

7 Is the person who administered the line-up different than the lead case detective? Admin is Not Case Detective

CD 171

The name of the lead case detective is recorded in the log.

Yes
No

8 Is the result of the line-up recorded in the log? Log Includes Result

CD 174

"Tentative" is an acceptable result. I means the witness wasn't sure.

Yes
No

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Submit Record

Enter Status

Return to Main

MAIN x Photographic Line-ups Form x



Photographic Line-ups Audit Form



ID Info Log Photos Form Review

9 Are the photos used in this line-up filed; can you find them?

Look for the photos in the digital case file, hardcopy case file, and in attachments to the EPR/Supplemental.

Photos Used are in Case File

Yes-Digital File
Yes-Hardcopy File
Yes-Attached to EPR
No

10 If the photos are filed, if you could find them, are they in color?

Photos Are In Color

Yes
No
NA-No Photos Filed

11 This is a five part question do determine whether the filler photos used in the line-up are compliant.

11 A Do the photos have obvious differences between each other?

Obvious differences include, but are not limited to:

- A. Different hair colors, hair styles, head garments, or facial hair
- B. Different eye colors
- C. Different facial expressions (some people are smiling and others are not, for example)
- D. Markings, piercings, or tattoos that make the individual stand out
- E. Obvious age differences
- F. Obvious skin color differences

Photos Have Obvious Differences

[Redacted]

Yes
No
NA-No Photos Filed

11 B If 11 A is "Yes," there are obvious differences, can you find the witness' description of the subject?

It may take some time to read the related reports and documentation to find the witness' description.

Witness Description Found

Yes
No
NA-No Obvious Differences
NA-No Photos Filed

11 C If 11 B is "Yes," please copy the witness' description here.

Witness Description, if Found

[Empty text box]

11 D If 11 B is "Yes," you found the witness' description, are the obvious differences relevant to the witness' description; do the obvious differences allow the witness to narrow down the photos?

For example: If the witness said the suspect had a goatee and the photos show a mix of goatees and beards, the witness is likely going to rule out the people with beards. If the witness said the suspect was wearing a hood and the photos show different hair styles, the different hair styles don't help the witness rule people out.

Obvious Differences Relevant to Witness Description

[Redacted]

Yes
No
NA-No Witness Description Found
NA-No Obvious Differences
NA-No Photos Filed

11 E Do the photos depict people with no extremely obvious, different features that would allow the witness to eliminate photos?

CD 173

(This is the compliance determination. If you chose "Yes" for 11 D choose "No.")

Filler Photos Compliant

Yes
No
NA-No Photos Filed

If you chose "No" for 11 E, please explain why the filler photos are not compliant.

Filler Photos Compliant Explain

12 If photos are on file and an ID was made (the witness picked someone), is each one initialed by the witness?

CD 176

Photos must be marked everytime a witness picks a photo, regardless of whether the ID was positive (the photo the witness picked was the suspect).

Photos Marked

Yes
No
NA-No Photos Filed
NA-Witness Did Not Pick A Photo

[Submit Record](#)

Enter Status



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Photographic Line-ups Audit Form



ID Info Log Photos Form Review

13 Does a form 277 exist for this line-up?

Form 277 Exists

Yes

No

14 Did the person who administered the line-up sign the form 277?

Admin Signed Form 277

The administrator's signature indicates he/she read the form aloud to the subject and therefore admonished the witness that the subject might or might not be in the line-up. If Form 277 is not signed or does not exist, please look for a supplemental that documents this line-up. If a supplemental says the administering officer read the text aloud, or that he/she informed the subject that the subject might or might not be in the line-up, choose "Yes."

Yes-Form 277 Signed

Yes-Supp Says Admin Admonished Witness

No

No Form 277

CD 172



Photographic Line-ups Audit Form



ID Info Log Photos Form Review

Auditor
Comments
Photo

Reviewer
Comments
Photo

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[Submit Record](#)

Enter Status



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15 Is the witness' statement recorded verbatim on Form 277?

If Form 277 is incomplete or does not exist, please look for a supplemental that documents this line-up. If a supplemental documents the witness' statement, choose "Yes."

CD 175

Witness Statement Recorded

Yes-Form 277 Has Witness' Statement
Yes-Supp Has Witness' Statement
No

16 Are the name(s) of additional person(s) in the room during the identification procedure recorded on Form 277? Or does the form document that no additional people were present?

If Form 277 is incomplete or does not exist, please look for a supplemental that documents this line-up. If a supplemental documents the names of additional people present during the line-up or that none were, choose "Yes."

CD 175

Additional People Present Recorded

Yes-Form 277 Lists Additional People
Yes-Form 277 Indicates No Additional People
Yes-Supp Lists Additional People
Yes-Supp Indicates No Additional People
No
NA-No Form 277

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[Submit Record](#)

Enter Status

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Appendix B – Report Distribution

Superintendent Shaun D. Ferguson

Chief Deputy Superintendent John Thomas – Filed Operations Bureau

Deputy Superintendent Otha Sandifer – Professional Standards and Accountability Bureau

Deputy Superintendent Arlinda Westbrook- Public Integrity Bureau

Deputy Superintendent Christopher Goodly- Management Services Bureau

City Attorney Sunni LeBeouf – City Attorney’s Office

Assistant City Attorney Isaka Williams – Superintendent's Office