

# Sioux Falls Police Department

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Policy: <b>'Show Up' - Identifications</b>	Related Policies:	Section #: 1000
		Policy #: 1035
		Effective: 3/2021
		Page 1 of 2
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: USD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

- 1.1. The purpose of this policy is to outline the manner in which criminal suspects will be subjected to 'Show Up' identification proceedings.

2. Policy:

- 2.1. It is the policy of this agency to respect the rights of all persons during any law enforcement operation in which witness identification will be conducted.

3. Definitions:

- 3.1 Show-Up/Drive-by: The process by which a complainant or witness is driven to a suspect who has been stopped in the area of a crime for purposes of excluding or verifying the suspect as the person responsible.

4. Procedure:

- 4.1. In all identification procedures, officers should take steps to ensure that the procedure is not suggestive by the manner in which it is carried out. Thus, officers should use caution as to the manner in which suspects are presented so that a suspect may not later claim that the officer influenced the witness' identification of the suspect.
- 4.2. Show-Up/Drive-by Identification: Although the United States Supreme Court has not affixed a duration of time within which these procedures are to be conducted,

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generally this type of identification occurs within a short period of the crime and within a reasonable proximity (geographically) from the crime.

- 4.2.1. Unless an extreme emergency exists, the complainant or witness shall be taken to the location where the suspect has been stopped. The movement of the suspect to the witness' location may constitute an arrest for which probable cause is required. To the extent that probable cause is lacking without identification, movement may be determined to have been an unlawful arrest.
- 4.2.2. To the extent that an officer may safely do so, the officer should take steps to minimize the suggestiveness of the identification. The following should be considered:
  - 4.2.2.1. Have suspect standing outside of any law enforcement vehicle rather than in the vehicle;
  - 4.2.2.2. Have the suspect standing without handcuffs or with handcuffs not visible to the witness;
  - 4.2.2.3. The appearance that the suspect maintains his or her freedom will undercut suggestiveness;
  - 4.2.2.4. If items taken or used in the crime have been recovered, do not allow the witness to view or become aware of the recovery until after the identification proceeding is complete; and
  - 4.2.2.5. The witness' failure to recognize the subject stopped must be documented and included in any materials forwarded to the prosecutor who ultimately handles the case. Such evidence may be exculpatory to the suspect who is charged with the crime. As such, it must be forwarded to the prosecutor. Additionally, if the witness identifies a suspect in the future, this failure to identify the first subject presented to them may add credibility to their identification.