



Audit and Review Section
Professional Standards and Accountability Bureau

Photographic Line-up Audit (Final) December 2021

(FOB and ISB)

Report # Photographic Line-up 2021-(Apr-Sep)
January 19, 2022

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Executive Summary

The Audit and Review Unit (ARU) of the Professional Standards and Accountability Bureau (PSAB) completed a Photographic Line-up Audit in December 2021. 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 CD paragraphs 171, 173, 174, 175 and 176 and Chapter 42.8.1 of the New Orleans Police Department's Operations Manual.

This audit, conducted in December 2021, was completed using the Photographic Line-up Audit Protocol. This audit addresses twenty-two (22) Consent Decree (CD) checklist questions and results are summarized as follows:

Number of Non-Compliant Checklist Questions (1):

Q15: Filler Photo's Generally Resemble Suspect Features - (91%) issues primarily with distinguishing marks (tattoos, moles, eyebrow slits) not being uniform.

Number of Compliant Checklist Questions (21):

See the details in "Reviews Checklist Scorecards Section"

Number of Logbook Entries Used to Create Sample (221):

The entries covered the period from April 1st to September 30th

Sample Target to Audit (67):

The sample target represented 30% of available entries (221)

Single Photo Line-ups Audited (5):

The sample target represented 7% of overall sample (67).

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 – **98%**

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 the last 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 December 2021.

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 was one item deselected for this audit. The one item deselected (F-07019-21) was for a line-up that was used as evidence tied to another item that the line-up was presented for.

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 (Q1-7)** - The log entry will include all required information. The photographic lineup log will be checked to ensure it contains the following checklist questions in summary:
 - 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 (Q8)** - 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. **Line-up Administrator is not involved in the Investigation (Q9)**
 - D. **Line-up Administrator is unaware of Suspects' Photo (Q10)**
 - E. **Eyewitness admonished (informed) that Suspect Might Not be in Line-up (Q11)**
 - F. **Photos Used are in the Case File (Q12)** – All the photos were marked and maintained as evidence in the case file.
 - G. **Marked Photos in Case File If Suspect Selection Made (Q13)**
 - H. **The “filler” photographs (those that do not depict the suspect) generally fit the witness’s description of the perpetrator (Q14)** - The “filler” photographs (those that

do not depict the suspect) generally fit the witness's description of the perpetrator with no obvious differences.

- I. **The "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features (Q15)** – The photographs (those that do not depict the suspect) resemble the suspect in significant features with no obvious differences.
- J. **Photos Used are in Color (Scanned or Paper) (Q16)** - Each photograph must be printed or scanned in color and with the case file or in electronic folder.
- K. **If Witness ID's a Photo, Witness Initials Each Photo (Q17)** - Photographs are initialed when required for positive or negative identifications.
- L. **Single Photo When Used, was Appropriate (Q18)**
- M. **Does a Form 277 Exist in the Case File for this Line-up (Q19)** - The photo line-up is accompanied by inclusion of the form.
- N. **Did the person who administered the line-up sign the form 277 (Q20)**
- O. **Is the witness' statement recorded verbatim on form 277 (Q21)** - Photographic line-up witness/victim statement listed verbatim.
- P. **Are the name(s) of additional person(s) in the room during the ID procedure recorded on Form 277? Or does the form document that no additional people were present (Q22)** - Other(s) present during line-up review.

- 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 – Checklist Scorecards

Audit results data can be viewed in attached excel spreadsheet; raw data based on individual questions on the Photographic Line-up Audit Forms.

Check-List Questions		Score	Y	N	U	NA	Consent Decree #
1	Is the item number recorded correctly in the log?	99%	67	1	-	-	174
2	Is the date the line up was administered recorded in the log?	99%	67	1	-	-	174
3	Is the time the lineup was administered recorded in the log?	97%	66	2	-	-	174
4	Is the location in which the line-up was administered recorded in the log?	99%	67	1	-	-	174
5	Is the name of the witness who viewed the line-up recorded in the log?	99%	67	1	-	-	174
6	Does the log include identifying information for each photo used in the lineup?	97%	66	2	-	-	174
7	Is the person who administered the line-up recorded in the log?	99%	67	1	-	-	174
8	Is the person who administered the line-up different than the lead case detective?	100%	66	-	-	2	171
9	Is the officer displaying the lineup NOT involved in the investigation?	100%	66	-	-	2	171
10	Is the officer displaying the lineup unaware of the suspects photograph?	100%	66	-	-	2	171
11	Does the report or the audio/video indicates eyewitnesses were admonished that the suspect might or might not be present in the lineup?	100%	66	-	-	2	172
12	Are the photos used in this line-up filed; can you find them?	100%	68	-	-	-	176
13	Are all of the photos marked and maintained as evidence in the case file, if suspect selection is made?	98%	55	1	-	12	176
14	Do the filler photographs (those that do not depict the suspect) generally fit the witness's description of the perpetrator, if available?	96%	54	2	-	12	173
15	Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features?	91%	60	6	-	2	173
16	If the photos are filed, if you could find them, are they in color?	99%	67	1	-	-	176
17	Are photographs initialed as required for positive or negative identifications?	97%	61	2	-	5	176
18	If a single photo was displayed, was the use of a single photo appropriate?	100%	5	-	-	63	176
19	Does a form 277 exist in the case file for this line-up?	100%	66	-	-	2	172
20	Did the person who administered the line-up sign the form 277?	100%	66	-	-	2	172
21	Is the witness' statement recorded verbatim on form 277?	100%	65	-	-	3	175
22	Are the name(s) of additional person(s) in the room during the ID procedure recorded on Form 277? Or does the form document that no additional people were present?	100%	66	-	-	2	175
Total		98%	1,364	21	-	111	

PSAB randomly sampled up to 5 photographic line-ups per District/Unit between Apr and Sep 2021. If the District/Unit had five or less line-ups for the time period, PSAB reviewed all of them. If District had 20 or less, PSAB reviewed 5. If over 20, 25 percent were reviewed.

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.

Photographic Line-up Checklist Audit By District

Review Period: April - September, 2021

Percent of line-ups that are in compliance by requirement

Check-List Questions	1	2	3	4	5	6	7	8	Homicide	Child Abuse	Sex Crimes	Overall Score
1 Is the item number recorded correctly in the log?	100%	80%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%
2 Is the date the line up was administered recorded in the log?	100%	80%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%
3 Is the time the lineup was administered recorded in the log?	100%	80%	100%	100%	100%	100%	100%	100%	100%	100%	80%	97%
4 Is the location in which the line-up was administered recorded in the log?	100%	80%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%
5 Is the name of the witness who viewed the line-up recorded in the log?	100%	80%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%
6 Does the log include identifying information for each photo used in the lineup?	100%	80%	100%	100%	100%	80%	100%	100%	100%	100%	100%	97%
7 Is the person who administered the line-up recorded in the log?	100%	80%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%
8 Is the person who administered the line-up different than the lead case detective?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
9 Is the officer displaying the lineup NOT involved in the investigation?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
10 Is the officer displaying the lineup unaware of the suspects photograph?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
11 Does the report or the audio/video indicates eyewitnesses were admonished that the suspect might or might not be present in the lineup?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
12 Are the photos used in this line-up filed; can you find them?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
13 Are all of the photos marked and maintained as evidence in the case file, if suspect selection is made?	100%	100%	100%	100%	100%	100%	100%	91%	100%	100%	100%	98%
14 Do the filler photographs (those that do not depict the suspect) generally fit the witness's description of the perpetrator, if available?	100%	100%	100%	100%	100%	100%	100%	86%	100%	100%	100%	96%
15 Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features?	100%	80%	100%	100%	100%	60%	100%	79%	100%	100%	100%	91%
16 If the photos are filed, if you could find them, are they in color?	100%	100%	100%	100%	100%	100%	100%	93%	100%	100%	100%	99%
17 Are photographs initialed as required for positive or negative identifications?	100%	100%	100%	100%	100%	100%	100%	92%	100%	100%	80%	97%
18 If a single photo was displayed, was the use of a single photo appropriate?	-	-	-	-	-	100%	-	100%	-	100%	-	100%
19 Does a form 277 exist in the case file for this line-up?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
20 Did the person who administered the line-up sign the form 277?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
21 Is the witness' statement recorded verbatim on form 277?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
22 Are the name(s) of additional person(s) in the room during the ID procedure recorded on Form 277? Or does the form document that no additional people were present?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Total	100%	92%	100%	100%	100%	97%	100%	97%	100%	100%	98%	98%

General Comments

ARU audited the Use of Forece Level 1-3 sample list case files for the defined period, for completeness and accuracy as required by the Consent Decree.

For an explanation of the procedures and scoring system for this review, see the associated "Protocol " document.

For a list of relevant policies, contact ARU as needed.

For the audit results for each case file, see the accompanying RawData spreadsheets.

Scores below 95% are highlighted in red.

The results of this audit were verified through a Photographic Line-ups Review. This process has finished, and the Districts/Units have had an opportunity to review all the audit results and scorecards. If the Districts/Units identified any discrepancies or had any concerns, an Audit Re-Evaluation Request Form was submitted to PSAB documenting their concerns.

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 items per district/unit if overall count 20 or less, and 25% of count if over

1. **Photographic Log is Complete & Compliant (Q1-7)** - The log entry will include all required information. The overall score for these questions was **98%**. The score is calculated using the 7 logbook related questions. The 68 samples totaled 476 possible responses. Of those 476 responses, 467 were audited as positive and 9 were negative. Three District/Units had deficiencies in the logbooks. District 2 was missing an item entirely (G-07505-21), District 6 (D-05104-21) was missing photo id information, and Sex Crimes (C-25299-21) was missing correct line-up time. The source was the logbooks database utilized by the districts and other units to track consent decree related data.

District 2 Response: (G-07505-21) - An SFL was subsequently issued (SFL 13375) to address the missing entry. Additionally, verbal counseling took place.

2. **The Line-up Administrator is Not the Case Detective (Q8)** - The officer administering the lineup was different from the investigating officer. The overall score for this question was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. 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. **Line-up Administrator is not involved in the Investigation (Q9)** - The officer administering the lineup was not involved in any way with the investigation. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the EPR reports written by the districts and other units to document the line-up presentation and related data as well as the Form 277 used in presenting the line-up.
4. **Line-up Administrator is unaware of Suspects' Photo (Q10)** - The officer administering the lineup was different from the investigating officer. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the EPR reports written by the districts and other units to document the line-up presentation and related data as well as the Form 277 used in presenting the line-up.
5. **Eyewitness admonished (informed) that Suspect Might Not be in Line-up (Q11)** - The officer administering the lineup was different from the investigating officer. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the EPR reports written by the districts and other units to document the line-up presentation and related video as well as the Form 277 used in presenting the line-up.
6. **Photos Used are in the Case File (Q12)** – All the photos are accessible as evidence in the case file. The overall score for this category was **100%**. Of those 68 responses, 68 were audited as positive and none were negative. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.
7. **Marked Photos in Case File If Suspect Selection Made (Q13)** - All the photos were marked and maintained as evidence in the case file. The overall score for this category

was **98%**. Of those 68 responses, 55 were audited as positive, 1 was negative and 12 not applicable. One District/Unit had a deficiency in the case file. District 8 was missing signed/initialed photos due to remote presentation(F-29605-21). The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

District 8 Response: (F-29605-21) - Roll call training has been held with the detectives. While we initially advise the person viewing the line up to sign and return the documents, this does not always occur. The case detective will now set a 10-day recurring follow up call until we have received all documents

8. **Photos Depict People with No Obvious Differences Part A (Q14)** - The “filler” photographs (those that do not depict the suspect) generally fit the witness’s description of the perpetrator. The overall score for this category was **96%**. Of those 68 responses, 54 were audited as positive and 2 were negative and 12 were not applicable. One District/Unit had a deficiency in the case file. District 8 was missing signed/initialed photos due to EPR descriptions not matching filler photos (F-24566-21 - no long hair) and (H-17940-21 - missing a mole). The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

District 8 Response: (F-24566-21) While no one was chosen from this line-up, the district deems this a difficult remedy. Will work to ensure consistency across photos. (H-17940-21) - Roll Call training was held to ensure detectives and sergeants reviewing the line-up know to mark out the mole and make the same mark on all filler photos.

9. **Photos Depict People with No Obvious Differences Part B (Q15)** - The “filler” photographs (those that do not depict the suspect) resemble the suspect in significant features. The overall score for this category was **91%**. Of those 68 responses, 60 were audited as positive and 6 were negative and 2 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system. See more detail in the conclusion section of report below.

District 8 Response: (F-17533-21) - Roll Call training was held to ensure detectives and sergeants reviewing the lineup know to mark out the eyebrow and make the same mark on all filler photos (F-24566-21 and H-17940-21) – See Q14

District 6 Response: (C-28373-21) – DIU Lt. Burns met with Sgt. Kelly and explained that all line ups shall meet all elements of the checklist provided in the email. The sergeant shall verify these steps are followed prior to finalizing any line up. Additionally, the officer that completed this line up was fairly new and in training at the time. We will continue to ensure compliance and not repeat this act. This issue was considered resolved via verbal counseling.

District 6 Response: (F-03236-21) – DIU Lt. Burns personally viewed the line-up and also spoke with Sgt. Payne. Should one view the actual line up, one could see neck tattoos on the other five fillers. The scan quality of our printer more than likely

contributed to this perception. Sgt. Q. Lewis has sent a request for funds for the district to obtain a new scanner printer. This issue was resolved by requesting an upgrade to our hardware. In the meantime, I will also share the checklist with Sgt. Payne so that we are mindful of the small details that could potentially create noncompliance.

10. **Photos Used are in Color (Scanned or Paper) (Q16)** - 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 **99%**. Of those 68 responses, 67 were audited as positive and 1 was negative. One District/Unit had a deficiency in the case file. District 8 filed only B&W photos (F-29605-21 – case file has only black and white photos) The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

District 8 Response: (F-29605-21) - Roll call training was held to remind detectives to verify their scan was in color.

11. **Are Photographs initialed when required for positive or negative identifications (Q17)** - If witness ID's a photo, the witness must initial each photo as required regardless whether a positive or negative identification is made. The overall score for this category was **97%**. Of those 68 responses, 61 were audited as positive and 2 were negative and 3 were not applicable. 8/A-33421-21 - Lineup photos were not signed/initialed, even though a suspect was identified. As previously noted, the lineup was conducted via email; However, no supporting documentation or email to determine how witness signed off on any of the photos. SC/B-23410-20 - Photos in the 6-pack were not initialed even though identification made; the one selected was not signed and dates thus those questions were marked NO; Non-Compliant. Reached out to Sgt. Claudia Bruce to confirm that none of the photos in this lineup was initiated. Source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system. See more detail in the conclusion section of report below.

District 8 Response: (F-29605-21) - Roll call training has been held with the detectives. While we initially advise the person viewing the line up to sign and return the documents, this does not always occur. The case detective will now set a 10-day recurring follow up call until we have received all documents

12. **Single Photo When Used, was Appropriate (Q18)** – single photographs are appropriate when identifying a suspect known to the witness/victim. The overall score for this category was **100%**. Of those 68 responses, 5 were audited as positive and none were negative and 63 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

13. **Does a Form 277 Exist in the Case File for this Line-up (Q19)** - The photo line-up is accompanied by inclusion of the form in the case file. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

14. **Did the person who administered the line-up sign the Form 277 (Q20)** - Signature of line-up administrator included. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.
15. **Is the witness' statement recorded verbatim on Form 277 (Q21)** - Photographic line-up witness/victim statement is written verbatim as stated. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.
16. **Are the name(s) of additional person(s) in the room during the ID procedure recorded on Form 277? Or does the form document that no additional people were present (Q22)** - The Form 277 identifies whether other(s) were present during line-up review. The overall score for this category was **100%**. Of those 68 responses, 66 were audited as positive and 2 were not applicable. The source was the district/unit shared drives, hardcopies sent to auditors, well as EPR online system.

Conclusion

Recommendations – Overall, the logbooks database is now being adequately maintained based on the previous audit recommendation. 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 photo line-ups into the case files, as well as ensuring significant facial features within the line-ups be addressed prior to the presentation of each line-up. Those line-ups that are presented remotely or via email should have witness markings on the line-ups that indicated either positive or negative identifications. There were no other serious deficiencies identified by this audit.

Overall, only one checklist question in this audit was below the substantial compliance threshold of 95%. Question 15, **“Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features”**. All other categories scored above the compliance threshold of 95%. Explanations for the deficiencies are documented below:

The **(Q15) “Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features”** score was driven by four district/unit non-compliance scores, which impacted the overall score slightly **(91%)** and signifies a need for minimal corrective action. The key take-away is to ensure all photo line-ups are properly viewed for any tell-tale differences which may unintentionally lead to bias. Comments noted by the auditors are as follows by District/Unit and Item:

2/G-20218-21 - The filler photos were not consistent based on Photo #1 having a forehead tattoo while the rest did not, and also Photos #2, 4, & 6 had gray hair, while the rest did not.

District 2 Request for Review (G-20218-21): During a review of the photographic line-up, the case detective did not create the lineup but rather sent a request to LA Fusion for a lineup containing the suspect and five filler photographs. The photographic lineup in question was received by the case detective and was shown according to NOPD policy relative to photographic lineups. It is believed detectives should not be penalized for this particular issue because the line-up was created by an outside agency and the detectives followed NOPD policy.

PSAB Determination: While ARU understands and agrees with the assessment that an outside party was responsible for creating the line-up, and notwithstanding the gray hair issue, the primary issue which was determined to be problematic, was the forehead tattoo not being blotted out prior to showing. It has been a longstanding process in NOPD to place a dot to cover certain facial markings as previously audited by the CD Monitors, and to also place that dot onto the other filler photos. Final determination is the line-up was **non-compliant**.

6/C-28373-21 - the suspect is described in EPR as being between 20 to 21 years of age. The suspects in the photographs 1 and 5 appear to be older. (Addressed through verbal counseling. No Change)

6/F-03236-21 - There is one "filler" photo (#1) which has a clearly visible neck tattoo of a star, the other's do not. The tattoo should have been blotted out along with the rest of the photos.

(Addressed through request for better printer technology and verbal counseling. No Change)

8/F-17533-21 - According to the EPR, the suspect was described as a white male, fair complexion, with dark short hair. While all of the fillers in the lineup matched this description, the suspect had a distinguishing feature (a slit in the eyebrow) that was not present on any of the fillers. The victim identified the suspect based off of this feature stating "that eyebrow slit, that's him". A slit in the eyebrow should have been present on all photographs in the line-up. (No Change).

8/F-24566-21 - According to the EPR, the suspect was described as a "short white or light skinned female with long black hair". The photographs selected for the lineup are not consistent as it relates to the hair styles of the individuals chosen for the line-up...some have braids, one has curly hair, and some have straight hair. (No Change)

8/H-17940-21 - According to the EPR, the suspect was described as having a small "mole" on her right cheek. The filler photographs were not consistent with the suspect description as no moles were present on any of the other individuals. (No Change)

H/D-35326-21 (2) - The photos used in the line-up are inconsistent based on the following: Pic #1 has a facial tattoo. There are a variety of hairstyles, hair textures and lengths, that are not similar to the labeled suspect. (This item audited with two different Form 277's, with different witnesses reviewing the line-up); These two photo line-ups were removed from the non-compliant status as noted below:

Homicide Request for Review (D-35326-21): During a review of the photographic line-up, it was observed that photograph number one has some form of blemish to his skin underneath his right eye. During a further review there is no way that a reasonable person can determine if this blemish is a tattoo, birth mark, acne, shadow, age spot, ingrown hair, cyst, scar, or hyperpigmentation.

PSAB Determination: After further review of the line-up in question, while it appears that the spot below the right eye could be interpreted as a tattoo or skin blemish, the feature is conspicuous at the least and probably should have been blotted out on all photos. Given that, ARU will change the score for this review, but going forward it is recommended that any future conspicuous facial marks be dotted out as appropriate. This final report addressed this line-up as **compliant** regarding the issue stated.

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:

Professional Standards and Accountability Bureau
Photographic Line Up Audit Input Form

Item Number:
Investigative Unit: **▼**
Auditor: **▼**

Date/Time of Lineup: **▼** : **▼**
Reporting Year: **▼**
Reporting Month: **▼**

Q1: Is the item number recorded correctly in the log?
 ▼ CD 174

Q2: Is the date the line up was administered recorded in the log?
 ▼ CD 174

Q3: Is the time the lineup was administered recorded in the log?
 ▼ CD 174

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Professional Standards and Accountability Bureau
Photographic Line Up Audit Input Form

▼ CD 174

Q4: Is the location in which the line-up was administered recorded in the log?
 ▼ CD 174

Q5: Is the name of the witness who viewed the line-up recorded in the log?
 ▼ CD 174

Q6: Does the log include identifying information for each photo used in the lineup?
 ▼ CD 174 ID numbers and names can be used to identify photos

Q7: Is the person who administered the line-up recorded in the log?
 ▼ CD 174

Q8: Is the person who administered the line-up different than the lead case detective?

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Professional Standards and Accountability Bureau

Photographic Line Up Audit Input Form

Q8: Is the person who administered the line-up different than the lead case detective?

Find items CD 171 - The name of the lead detective is recorded in the log.

Q9: Is the officer displaying the lineup NOT involved in the investigation?

Find items CD 171 - No officer who is involved in the investigation shall participate in administering the photographic line-up.

Q10: Is the officer displaying the lineup unaware of the suspects photograph?

Find items CD 174 - The individual who administers the lineup shall not have any knowledge which photograph depicts the suspect in the investigation.

Q11: Does the report or the audio/video indicates eyewitnesses were admonished that the suspect might or might not be present in the lineup?

Find items CD 172 - NOPD agrees that, before lineup is administered, eyewitnesses shall be admonished that the suspect might or might not be present in the lineup.

Q12: Are the photos used in this line-up filed; can you find them?

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

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Professional Standards and Accountability Bureau

Photographic Line Up Audit Input Form

Q13: Are all of the photos marked and maintained as evidence in the case file, is suspect selection is made?

Find items CD176 - If a suspect selection is made, NOPD agrees to mark and maintain as evidence the photographs used in the lineup, including a copy of the photo array if one was used.

Q14: Do the filler photographs (those that do not depict the suspect) generally fit the witness's description of the perpetrator, if available?

Find items CD 173 - NOPD agrees to select "filler" photographs (those that do not depict the suspect) of individuals who generally fit the witnesses description of the perpetrator.

Q15: Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features?

Find items CD 173 - (See above #14). Then there is a limited or inadequate description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features.

Q16: If the photos are filed, if you could find them, are they in color?

Find items

Q17: Are photographs initialed as required for positive or negative identifications?

Find items CD 176 - Photos must be marked everytime a witness picked a photo, reardless of whether the ID was positive (the photo witness picked was the suspect).

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Professional Standards and Accountability Bureau

Photographic Line Up Audit Input Form

Q18: If a single photo was displayed, was the use of a single photo appropriate?

Find items

Q19: Does a form 277 exist in the case file for this line-up?

Find items

Q20: Did the person who administered the line-up sign the form 277?

Find items

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."

CD 172

Q21: Is the witness' statement recorded verbatim on form 277?

Find items

If Form 277 is incomplete or does not exist, please look for a supplemental that documents this line-up. If a supplemental

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Photographic Line Up Audit Input Form

Q22: Are the name(s) of additional person(s) in the room during the ID procedure recorded on Form 277? Or does the form document that no addition...

Find items

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

Auditor's Comments

Appendix B – Report Distribution

Superintendent Shaun D. Ferguson

Chief Deputy Superintendent Christopher Goodley – Field Operations Bureau

Deputy Superintendent Otha Sandifer – Professional Standards and Accountability Bureau

Deputy Superintendent Paul Noel- Investigations Support Bureau

Assistant City Attorney Isaka Williams – Superintendent's Office