



Audit and Review Section
Professional Standards and
Accountability Bureau

Photographic Line- up Audit – April 2023 (FOB and ISB)

Report # PL042023

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Responses from Districts: April 27, 2023

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Audit Team

This audit was managed and conducted by the Audit and Review Unit

Executive Summary

The Audit and Review Unit (ARU) of the Professional Standards and Accountability Bureau (PSAB) completed a Photographic Line-up Audit in March of 2023. 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. To ensure compliance, this process adheres to Chapter 42.8.1 of the New Orleans Police Department’s Operations Manual and Consent Decree (CD) paragraphs 171, 173, 174, 175, and 176.

This audit, which reviewed sample data from October 1, 2022, to March 31, 2023, was completed using the Photographic Line-up Audit Protocol. The basis for compliance of photographic line-ups is analyzed using twenty-two (22) CD checklist questions. The results from the checklist analysis are below:

Number of Non-Compliant Checklist Questions (1):

Q15: The filler photos generally resemble suspect features - **(84%)** issues primarily with distinguishing marks (tattoos, moles, eyebrow slits, etc.) not being uniform. This score has changed from **76%** in the last audit, which is an improvement.

Number of Compliant Checklist Questions (21):

See the details in “Reviews Checklist Scorecards Section”

Number of Logbook Entries Used to Create Sample (117):

The entries covered the period from October 1, 2022 – March 31, 2023.

Sample Target to Audit (55):

The sample target represented 47% of available incidents (117). There were no de-selections for this sample.

Single Photo Line-ups Audited (6):

The sample target represented 5% of the overall sample (117).

Scores of **95%** or higher are considered compliant. 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 – **99% (Compliant)**.

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 2023.

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, 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 the log 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 by her known boyfriend, they may show her a photo of the boyfriend only to ensure they are requesting a warrant for the correct person. 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 Form 277)
 - The identities of other persons present during the procedure are documented in the report. (EPR or Form 277)
 - All other pertinent information to the display procedure was documented in the police report. (EPR or Form 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 2023**.

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. For the April 2023 audit, none of the sample items were deselected.

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 the audit forms recommend doing so or when the policy requirements are not apparent 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 (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(s)
 - 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.

Audit Criteria

- A. **The 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 suspect's photo (Q10)**
- E. **Eyewitness admonished (informed) that suspect might not be in the line-up (Q11)**
- F. **Photos used are located 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 is 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 attached to the case file or in an electronic folder.
- K. **If the witness identifies 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 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 line-up procedure recorded on Form 277? Or does the form document that no additional people were present (Q22)** - Others present during line-up review must be documented, or the form must state that there were no other persons in the room during the presentation.

Once the auditors enter their audit results, the compliance rate for each of the requirements is determined. This final report documents whether the compliance rate for each requirement met the threshold for substantial compliance of 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.

Photographic Line-Up Checklist Scorecard

Review Period: October 2022 - March, 2023

Percent of line-ups that are in compliance by requirement

Check-List Questions	Score	Y	N	U	NA	Consent Decree #
1 Is the item number recorded correctly in the log?	100%	55	0	0	0	174
2 Is the date the line up was administered recorded in the log?	100%	55	0	0	0	174
3 Is the time the lineup was administered recorded in the log?	100%	55	0	0	0	174
4 Is the location in which the line-up was administered recorded in the log?	100%	55	0	0	0	174
5 Is the name of the witness who viewed the line-up recorded in the log?	100%	54	0	0	1	174
6 Does the log include identifying information for each photo used in the lineup?	100%	49	0	0	6	174
7 Is the person who administered the line-up recorded in the log?	100%	55	0	0	0	174
8 Is the person who administered the line-up different than the lead case detective?	100%	49	0	0	6	171
9 Is the officer displaying the lineup NOT involved in the investigation?	98%	48	1	0	6	171
10 Is the officer displaying the lineup unaware of the suspects photograph?	100%	49	0	0	6	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%	49	0	0	6	172
12 Are the photos used in this line-up filed; can you find them?	100%	50	0	0	5	176
13 Are all of the photos marked and maintained as evidence in the case file, if suspect selection is made?	98%	42	1	0	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%	26	1	0	28	173
15 Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features?	84%	41	8	0	6	173
16 If the photos are filed, if you could find them, are they in color?	100%	52	0	0	3	176
17 Are photographs initialed as required for positive or negative identifications?	98%	45	1	0	9	176
18 If a single photo was displayed, was the use of a single photo appropriate?	100%	6	0	0	49	176
19 Does a form 277 exist in the case file for this line-up?	100%	49	0	0	6	172
20 Did the person who administered the line-up sign the form 277?	100%	49	1	0	5	172
21 Is the witness' statement recorded verbatim on form 277?	98%	49	1	0	5	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%	49	0	0	6	175
Total	99%	1031	14	0	165	

PSAB randomly sampled photographic line-ups per District/Unit. 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.

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

Photographic Line-up Checklist Audit By District

Review Period: October 2022 - March, 2023

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%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
2 Is the date the line up was administered recorded in the log?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
3 Is the time the lineup was administered recorded in the log?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
4 Is the location in which the line-up was administered recorded in the log?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
5 Is the name of the witness who viewed the line-up recorded in the log?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
6 Does the log include identifying information for each photo used in the lineup?	100%	100%	100%	100%	100%	100%	100%	100%	100%	-	100%	100%
7 Is the person who administered the line-up recorded in the log?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
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%
9 Is the officer displaying the lineup NOT involved in the investigation?	100%	100%	100%	100%	100%	100%	100%	83%	100%	-	100%	98%
10 Is the officer displaying the lineup unaware of the suspects photograph?	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%
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%
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%	80%	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%	67%	100%	-	-	100%	96%
15 Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features?	100%	100%	60%	100%	100%	80%	80%	83%	40%	-	100%	84%
16 If the photos are filed, if you could find them, are they in color?	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
17 Are photographs initialed as required for positive or negative identifications?	100%	100%	100%	100%	100%	100%	80%	100%	100%	100%	100%	98%
18 If a single photo was displayed, was the use of a single photo appropriate?	-	-	-	-	-	-	-	-	-	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%
20 Did the person who administered the line-up sign the form 277?	100%	100%	100%	100%	100%	100%	100%	100%	100%	-	80%	98%
21 Is the witness' statement recorded verbatim on form 277?	80%	100%	100%	100%	100%	100%	100%	100%	100%	-	100%	98%
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%
Total	99%	100%	98%	100%	100%	99%	96%	98%	97%	100%	99%	99%

PSAB randomly sampled photographic line-ups per District/Unit. 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.

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

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 review of randomly sampled item numbers (up to 5 items per district/unit or 25% of count whichever is greater) utilizing the data sources listed in the **Methodology**:

- 1. The photographic log is complete and compliant (Q1-7)** - The log entry will include all required information. The overall score for these questions was **100%**. The score is calculated using the 7 logbook related questions. The 117 samples totaled 385 possible

responses. Of those 385 responses, 378 were scored “Yes”, and 7 were scored “N/A”.

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 55 responses, 49 were scored “Yes” and 6 were scored “N/A”.
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 **98%**. Of those 55 responses, 48 were scored “Yes”, 1 was scored “No”, and 6 were scored “N/A”.
4. **Line-up administrator is unaware of suspect’s photo (Q10)** - The officer administering the lineup was different from the investigating officer. The overall score for this category was **100%**. Of those 55 responses, 49 were scored “Yes” and 6 were scored “N/A”.
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 55 responses, 49 were scored “Yes” and 6 were scored “N/A”.
6. **Photos used in the line-up are located 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 55 responses, 50 were scored “Yes” and 5 was scored “N/A”.
7. **Marked photos are attached in the case file if suspect selection is 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 55 responses, 42 were scored “Yes”, 1 was scored “No”, and 12 were scored “N/A”.
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 55 responses, 26 were scored “Yes”, 1 was scored “No”, and 28 were scored “N/A”.
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 **84%**. Of those 55 responses, 41 were scored “Yes”, 8 were scored “No”, and 6 were scored “N/A”.
10. **Photos used are in color (scanned or paper) (Q16)** - Each photograph must be printed or scanned in color and attached to the case file or in an electronic folder. The overall score for this category was **100%**. Of those 55 responses, 52 were scored “Yes”, 3 were scored “N/A”.
11. **Are photographs initialed when required for positive or negative identifications (Q17)** - If witness identifies a photo, the witness must initial each photo as required regardless of whether a positive or negative identification is made. The overall score for this category was **98%**. Of those 55 responses, 45 were scored “Yes”, 1 was scored “No”, and 9 were “N/A”.

12. **Single photo use when 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 55 responses, 6 were scored “Yes” and 49 were scored “N/A”.
13. **Does Form 277 exist in the case file for the 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 55 responses, 49 were scored “Yes” and 6 were scored “N/A”.
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 **98%**. Of those 55 responses, 49 were scored “Yes”, 1 was scored “No”, and 5 were scored “N/A”.
15. **Is the witness's 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 **98%**. Of those 55 responses, 49 were scored “Yes”, 1 was scored “No”, and 5 were scored “N/A”.
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)** - Form 277 identifies whether others were present during line-up review. The overall score for this category was **100%**. Of those 55 responses, 49 were scored “Yes” positive and 6 were scored “N/A”.

Conclusion

After analysis of the photographic lineups and assessment of scores throughout each district, PSAB ARU auditors assessed NOPD with a score of **99%**. This percentage is an increase from the prior audit score of **98%**. Auditors have determined that NOPD is **compliant** with Chapter 42.8.1 and CD 171 – 176.

Recommendations – Overall, the logbooks database are maintained. It is recommended that the detectives creating the lineups understand Chapter 42.8.1 Section 17 and 18. The main deficiencies were due to the suspect or filler photos having significant features that were not consistent with one another. Photographic lineup policy and procedure training should be implemented within the NOPD’s Daily Training Bulletin (DTB) to ensure continuation of compliance within Eyewitness Identification and Photographic Lineups.

Overall, one (1) checklist question in this audit was below the compliance threshold of **95%**.

The (Q15) “Do the "filler" photographs (those that do not depict the suspect) resemble the suspect in significant features” (84%) signifies areas of improvement. Deficiencies were due to the suspect/filler photos having distinctive features that are outliers. In accordance with Chapter 42.8.1 Section 17, the filler photos must significantly resemble the suspect photo and vice versa. However, the score has increased from the last audit (**75%**).

To mitigate the issues with Q15, the filler photo features below must resemble the suspect:

(a) Hair color, style, and length; (b) Facial hair color, style, and length; (c) Eye color; (d) Facial expressions (for example, some photographs should not include smiling individuals while other photographs in the line-up do not); (e) Markings, piercings, or tattoos that make the individual stand out; (f) Obvious age differences; (g) Obvious differences in skin color; and (h) Distinct accessories such as earrings or head gear.

If any of the above differs, the detective should redact the distinction and place the redaction on all photos consistently. If redaction is not possible for the photos, the detective should request a new set of photos through the Louisiana State Police Fusion Center, Think Stream, or Cop Link database to meet the standards of the policies and procedures set forth in Chapter 42.8.1.

The deficiencies and recommendations set forth in this report are forwarded to the Dean and Captain of the Academy for the purpose of implementation of corrective actions via in-service training.

Re-Evaluation Results

District Review

This section covers each district's review of any scores below the compliance threshold. All district review commentary and re-evaluation request; as well as PSAB response can be found below:

District 3:

- **(Q15):** The auditors scored "No" for the "filler" photographs generally fitting the witness's description of the perpetrator. The district commented the following regarding the score re-evaluation:

"We are unable to address this at our level in DIU, as we are instructed to use the Fusion Center for our lineups. Both lineups that were flagged in the audit were constructed by the Fusion Center and used as instructed."

- **PSAB Response:** The auditor reviewed the photo lineup and determined that two of the six individuals depicted were donning earrings. In addition, the auditor reviewed the photo line-up and determined that three of the six individuals depicted were wearing earrings. None of the mentioned photos were edited in order to eliminate this difference. For reference, NOPD Policy Chapter 42.8.1 Paragraph 18 states:

"If significant differences between the suspect's photograph and the filler photographs are unavoidable, the officer must redact aspects of all photos to eliminate the significant differences. For example, if one individual is wearing earrings and the others are not, an investigator should place a black dot / square over the bottom of the ears of all individuals depicted in the line-up to eliminate the significant difference in appearance."

It also specifies in Chapter 42.8.1, Paragraph 17(h), that earrings are a type of significant feature that should be redacted. In adherence to policy, once a district receives the constructed lineup from the Fusion Center, the districts are responsible for redacting any significant differences in features by using "a black dot/square", before conducting the photographic line-up. After further review, it was determined that the scores for both items followed policy and will retain the scores of "No".

District 6:

- **(Q15):** The auditors scored "No" for the "filler" photographs generally fitting the witness's description of the perpetrator. The district commented the following regarding the score re-evaluation:

"The Sixth District staff has reviewed the audit where we scored 80%. We would like to request a re-review for the photographic lineup audit being that each photograph lineup submitted by members of the sixth district comes from the Fusion Center. The center locates the photos and detectives in the district does not have the ability to put the lineups together."

- **PSAB Response:** The auditors reviewed the photo lineup and determined that two of the six individuals pictured were wearing earrings; the photos were not edited in order to eliminate this difference. NOPD Policy Chapter 42.8.1 Paragraph 18 states:

"If significant differences between the suspect's photograph and the filler photographs are unavoidable, the officer must redact aspects of all photos to eliminate the significant differences. For example, if one individual is wearing earrings and the others are not, an investigator should place a black dot / square over the bottom of the ears of all individuals depicted in the line-up to eliminate the significant difference in appearance."

It also specifies in Chapter 42.8.1, Paragraph 17(h), that earrings are a type of significant feature that should be redacted. In adherence to policy, once a district receives the constructed lineup from the Fusion Center, the districts are responsible for redacting any significant differences in features by using "a black dot/square", before conducting the photographic line-up. After further review, it was determined that the score followed the policy and will retain the score of "No".

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.
3. Work with the Academy (ET&S) to ensure all in-service training for detectives and supervisors addresses the issues as stated in the report.

Appendix A – Photographic Line-up Audit Forms

Photographic Line-up Audit Forms:

udit Database

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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udit Database

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?

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?

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?

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?

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

Q12: 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.

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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?

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?

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?

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?

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

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?

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


Q20: Did the person who administered the line-up sign the 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."

CD 172

Q21: 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

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Professional Standards and Accountability Bureau

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...

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

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Appendix B – Report Distribution

Superintendent

Chief Deputy Superintendent – Field Operations Bureau

Deputy Superintendent – Professional Standards and Accountability Bureau Deputy

Superintendent - Investigations Support Bureau

Director – Education & Training Services (Academy)

Assistant City Attorney – Superintendent's Office