

West's Vermont Statutes Annotated  
Title Thirteen. Crimes and Criminal Procedure (Refs & Annos)  
Part 3. Proceedings Before Trial (Refs & Annos)  
Chapter 182. Innocence Protection  
Subchapter 3. Law Enforcement Practices

13 V.S.A. § 5581

§ 5581. Eyewitness identification policy

Currentness

<Text of section effective until Oct. 1, 2015. See, also, text of section effective Oct. 1, 2015.>

(a) On or before January 1, 2015, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to [24 V.S.A. § 1936a](#) and who is trained in compliance with [20 V.S.A. § 2358](#) shall adopt an eyewitness identification policy.

(b) The written policy shall contain, at a minimum, the following essential elements as identified by the Law Enforcement Advisory Board:

(1) Protocols guiding the use of a show-up identification procedure.

(2) The photo or live lineup shall be conducted by a blind administrator who does not know the suspect's identity. For law enforcement agencies with limited staff, this can be accomplished through a procedure in which photographs are placed in folders, randomly numbered and shuffled, and then presented to an eyewitness such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed.

(3) Instructions to the eyewitness, including that the perpetrator may or may not be among the persons in the identification procedure.

(4) In a photo or live lineup, fillers shall possess the following characteristics:

(A) All fillers selected shall resemble the eyewitness's description of the perpetrator in significant features such as face,

weight, build, or skin tone, including any unique or unusual features such as a scar or tattoo.

(B) At least five fillers shall be included in a photo lineup, in addition to the suspect.

(C) At least four fillers shall be included in a live lineup, in addition to the suspect.

(5) If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure is the perpetrator.

(c) The model policy issued by the Law Enforcement Advisory Board shall encourage ongoing law enforcement training in eyewitness identification procedures for State, county, and municipal law enforcement agencies and constables who exercise law enforcement authority pursuant to [24 V.S.A. § 1936a](#) and are trained in compliance with [20 V.S.A. § 2358](#).

(d) If a law enforcement agency does not adopt a policy by January 1, 2015 in accordance with this section, the model policy issued by the Law Enforcement Advisory Board shall become the policy of that law enforcement agency or constable.

#### Credits

[2013, Adj. Sess., No. 193](#), § 1, eff. June 17, 2014.

13 V.S.A. § 5581, VT ST T. 13 § 5581

Current through the laws of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

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