Identifications
Chapter Agenda

- Summarize suspects' rights during identification procedures.
- Outline pretrial suspect identification techniques.

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Chapter Agenda

• Describe flaws in identification procedures and strategies for minimizing mistakes.
• Explain how the exclusionary rule operates in the identification context.
Learning Objective

Summarize suspects' rights during identification procedures.
Suspects' Rights

- **Fourth Amendment**
  - Protects from unlawful search or seizure conducted for the purpose of securing identification

- **Fifth Amendment**
  - Technically does not apply to identification procedures

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Suspects' Rights

- Sixth Amendment
  - Right to counsel exists in the context of making an identification but only in limited circumstances.
- Fourteenth Amendment
  - The due process clause always applies to identification procedures.
Learning Objective

Outline pretrial suspect identification techniques.
Identification Procedures

• Lineup
• Photographic array
• Show-up
Learning Objective

Describe flaws in identification procedures and strategies for minimizing mistakes.
4 Rules for Procedures to Prevent Witness Misidentification

• The person who conducts the lineup or photo spread should not be aware of which member of the lineup or photo spread is the suspect.

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4 Rules for Procedures to Prevent Witness Misidentification

• Eyewitnesses should be told that the suspect may not be in the lineup or photo spread and that the person administering the lineup does not know which person is the suspect.

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4 Rules for Procedures to Prevent Witness Misidentification

• The suspect should not stand out in the lineup or photo spread as being different from the distractors.

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4 Rules for Procedures to Prevent Witness Misidentification

• A clear statement should be taken from the eyewitness at the time of the identification and prior to any feedback.
FIGURE 9-3  Examples of Flawed Witness Identifications.

- A witness in a rape case was shown a photo array in which only one photo—of the person police suspected was the perpetrator—was marked with an “R.”
- Witnesses substantially changed their description of a perpetrator (including key information such as height, weight and presence of facial hair) after they learned more about a particular suspect.
- Witnesses only made an identification after multiple photo arrays or lineups—and then made hesitant identifications (saying they “thought” the person “might be” the perpetrator, for example), but at trial the jury was told the witnesses did not waver in identifying the suspect.
Exclusionary Rule

- When an in-court identification is tainted by an out-of-court identification
- When a suspect is searched and/or seized improperly and then identified by a witness