



Legislation Text

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Int. No. 1542

By Council Members Gibson, Johnson, Lancman, Cohen and Levin

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to use evidence based identification techniques

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-166 to read as follows:

§ 14-166. Identification procedures.

a. Definitions. As used in this section, the following terms have the following meanings:

Administrator. The term “administrator” means a member of service employed by the department that conducts an identification procedure.

Double blind. The term “double blind” means an identification procedure in which neither the administrator nor the eyewitness knows the identification of the suspect in such procedure.

Identification procedure. The term “identification procedure” means a lineup or photo array.

b. Identification procedure. In conducting an identification procedure, the administrator shall:

1. instruct the witness orally or in writing about the details of the identification procedure;
2. advise the witness that: (a) the person who committed the crime may or may not be in the identification procedure; (b) the witness will be required to provide a statement of confidence at the conclusion of the identification procedure; (c) the individual may not appear exactly as they did on the day of the incident; (d) the administrator of the identification procedure does not know who the suspect is; (e) the witness is not obligated to make an identification; and (f) upon completion of the identification procedure, that the witness

shall not discuss the procedure with other individuals involved in the case;

3. if a positive identification is made: (a) elicit from the witness a statement of confidence indicating how certain the witness is of the identification prior to any confirmation of the identification; and (b) document the witness statement; and

4. prepare documentation of (a) any identification procedure with a color photograph; (b) the date, time, location and people present in the viewing room with the witness and suspect; (c) any statements or physical reactions made by the witness during the identification procedure;

c. Double blind. All identification procedures shall be conducted in a double blind fashion, unless in extraordinary circumstances in which conducting a double blind procedure is not feasible. If the identification procedure is not double blind, the administrator shall document the reasons why it was not feasible.

d. Reporting. The department shall post on the department website by the 30th day of January on a yearly basis a report containing information pertaining to the use of double blind identification procedures for the prior calendar year. Such annual report shall include, but not be limited to, the following information:

1. the number of identification procedures conducted, in total and disaggregated by the type of procedure;

2. the number of lineups and photo arrays conducted, disaggregated by whether such lineups were conducted in a double blind fashion; and

3. the reasons why any lineups and photo arrays that were not conducted in a double blind fashion were so conducted.

§ 2. This local law takes effect immediately.

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