



## Legislation Text

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Int. No. 376

By Council Members Moskowitz, Baez, Brewer, Comrie, Jackson, Koppell, Liu, Rivera, Stewart and Weprin

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department of the city of New York to institute guidelines for criminal suspect identification procedures that minimize and prevent false identifications.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that false eyewitness identification is a primary cause of the conviction of innocent people. The moment in which an eyewitness views a lineup or photo spread to identify a criminal suspect is a crucial juncture in the possible criminal prosecution of the suspect. The Council finds that current suspect identification procedures used by the New York City Police Department lead to a significant number of false identifications. The Council further finds that there are feasible alternatives to the existing simultaneous lineup and photo spread procedures. These alternatives have been thoroughly researched and proven to significantly reduce the number of false positive identifications.

Since more viable, equally cost effective alternatives to current lineup and photo spread procedures exist, the Council finds that there is a compelling reason to require the New York City Police Department to discontinue its current practice of simultaneous lineups and photo spreads in its pre-trial criminal investigation efforts.

§ 2. Chapter 1 of title 14 of the administrative code of the city of New York is amended to add a new section 14-151 to read as follows:

14-151. Police Department Lineup and Photo Spread Requirements.

a. Definitions. "Identification lineup" is the placing of a criminal suspect in a lineup with at least

five (5) other persons for the purpose of identification by a victim or witnesses. "Identification photo spread" is the placing of a photograph of a criminal suspect in a spread of at least five (5) other photographs of other persons for the purpose of identification by a victim or witnesses.

b. The New York City Police Department shall implement the following procedures when conducting an identification lineup or identification photo spread:

1. The participants in the identification lineup shall not be viewed by the victim or witness simultaneously, but rather shall be viewed by the victim or witness one at a time.
2. The photographs in the identification photo spread shall not be viewed by the victim or witness simultaneously, but rather shall be viewed by the victim or witness one at a time.
3. The person who conducts the identification lineup or identification photo spread shall not be aware of which person in the identification lineup or identification photo spread is the suspect.
4. Eyewitnesses shall be explicitly told that the individual who committed the crime might not be in the identification lineup or identification photo spread and, therefore, that they should not feel that they must make identification.
5. Eyewitnesses shall be told that the person administering the identification lineup or the identification photo spread does not know which person is the suspect in the case.
6. Identification lineup and identification photo spread participants shall be selected as follows:
  - a. Same sex and race as suspect.
  - b. Approximately same age, weight, height and physical makeup as suspect.
  - c. Similarly clothed.
7. Eyewitnesses should be required to make a clear statement at the time of the identification and

prior to any feedback as to his or her confidence that the identified person is the actual culprit.

c. The Police Department shall promulgate all rules and regulations necessary to implement provisions of this section.

§ 3. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 4. This local law shall take effect sixty days after which it shall have become a law.