

# EYEWITNESS IDENTIFICATION AROUND THE WORLD

Eyewitness Identification Around the World

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### **Eyewitness Identification Around the World**

At its core, a lineup is simple. Someone who witnessed a crime looks at some people and decides whether one is the culprit. Nevertheless, those with experience conducting lineups can attest to the complexities and decisions involved in formulating an identification procedure that is both manageable for the witness and fair to the suspect. Are photos of the lineup members sufficient? Or must they be physically present? How many fillers should appear with the suspect? Who should those fillers be? Should lineup members appear all at once or one at a time? These are but a sample of the questions to ask.

Depending on the answers, or whether the questions are even asked, an identification procedure will take a variety of forms. Take England, for example, where 9-member video lineups are administered under the supervision of an Identification Officer who cannot be involved in the investigation of the crime. An independent lineup administrator is also required in South Africa, but the process looks much different thanks to the longstanding expectation of South African judges that the lineup members appear live for the identification procedure. Then there is Czechia, where eyewitnesses who make an identification are shown the lineup a second time for verification, with the positions of the lineup members rearranged. Even within the borders of a single country, policies and practices vary from one jurisdiction to the next. For instance, most U.S. law enforcement agencies use photo lineups, but two-thirds present the photos simultaneously and the other third present them sequentially (Police Executive Research Forum, 2013).

In this chapter, we report a comparative review of eyewitness identification guidelines from around the world. Contrary to the chapters in this volume that address rigor in the methodology of eyewitness science, our review speaks to whether eyewitness identification guidelines from around the world are likely to promote rigor in practice. We are not the first to compare eyewitness guidelines in different countries, but previous reviews are either outdated or focused on a small number of countries (Table 1). In our review, we adopt a more expansive approach.

## Method

### Search for Guidelines

We located lineup guidelines from 54 countries (sources are available in the Appendix). Guidelines were found by compiling those already familiar to us, reviewing databases containing criminal codes (<https://www.legislationline.org/documents/section/criminal-codes>) and case law (<http://www.worldlii.org/countries.html>), and entering country names and keywords into *Google* search (e.g., lineup, identification, parade, confrontation, recognition).

### Inclusion Criteria

We limited our review to legislation, national guidelines, and case law containing lineup recommendations. For guidelines to be considered applicable to lineups, they were required to refer to an investigative procedure for presenting two or more individuals for identification. Legislative guidelines were typically found in criminal procedure codes. To be considered ‘national guidelines’ the recommendations must have been issued by either a national law enforcement agency or justice committee. For case law guidelines, it was not feasible to review every case involving eyewitness identification. Thus, we limited our review to cases that included a package of eyewitness identification recommendations or secondary sources that reviewed eyewitness identification case law. Although we found state-level guidelines in countries with federal systems (e.g., U.S., Australia), these were beyond the scope of our review. Two exceptions were Scotland and Macau, which were included because their legal systems were sufficiently distinct from other jurisdictions in the U.K. and China, respectively.

### Language

For many of the guidelines, the source document was in English or was an English translation. We also took advantage of the native languages of the author team to translate guidelines for Czechia, Slovakia, Romania, and Moldova. To translate additional non-English legislation, we used our own French, German, Polish, and Spanish language skills in combination with *Google Translate*.

Whenever possible, if questions of interpretation arose we solicited the help of a native speaker to validate our translations (specifically for Lithuanian and Portuguese<sup>1</sup>).

### **Coding**

Two authors independently coded the guidelines from each sample country on 53 variables. Mean interrater agreement between the two coders was .90 ( $SD = .08$ ). Discrepancies were discussed between the two coders. When they could not be resolved, the third author was consulted for an additional perspective. Agreement was over 70% for all but one variable. Specifically, on whether a policy described simultaneous presentation of the lineup, agreement was 55%. This variable required subjective interpretation of the guidelines, but the coders were able to resolve their discrepancies through discussion. For instance, it was agreed to code guidelines that mentioned lineup members appearing in a line or in a row as a description of simultaneous presentation.

### **Characteristics of the Final Database**

**Legal systems.** The reviewed countries were coded as civil law ( $n = 38$ ), common law ( $n = 11$ ), or other ( $n = 5$ ). The ‘other’ legal systems have elements of civil and common law (Lesotho, Norway, Scotland, South Africa, and Zimbabwe). When comparing guidelines across legal systems, we combined common law and ‘other’ countries.

**Types of guidelines.** The guidelines for the common law (and other) countries comprised a mix of case law ( $n = 5$ ), national guidelines ( $n = 9$ ), and legislation ( $n = 2$ ). Although we found and reviewed relevant sections of Australia’s Evidence Act 1995, we coded Australia as national guidelines because we found federal police guidelines that implemented the 1995 legislation. Of the civil law countries, only Denmark, Poland, and Sweden had eyewitness identification guidelines in standalone documents. Poland’s guidelines were issued as legal regulations from the Ministry of Justice and were coded as legislation. Denmark and Sweden were coded as national guidelines, though we also found some guidelines for Denmark in legislation. Guidelines for the remaining 35 civil

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<sup>1</sup> Thanks to Renan Benigno Saraiva and Aleksandras Izotovas.

countries were contained within legislation, which typically described how to conduct lineups in court.

**Year of publication.** The guidelines were published between 1995 and 2020 ( $M = 2014$ ,  $SD = 5$ ). For case law, source documents were published between 2012 and 2018 ( $M = 2015$ ,  $SD = 2$ ); however, these were all secondary sources and the case law itself invariably had earlier origins (in some cases, substantially earlier: Uganda = 1936, 1968, and 1995, Lesotho = 1982-1984, Zimbabwe = 1985). Similarly, most of the legislative guidelines we reviewed were from recently amended versions ( $M = 2015$ ,  $SD = 4$ , range = 2001-2020) of laws enacted much earlier ( $M = 1994$ ,  $SD = 25$ , range = 1882-2017). Year of publication for what were coded as national guidelines ranged from 1995-2018 ( $M = 2010$ ,  $SD = 8$ ).

## Results and Discussion

Only a sample of the variables coded are reported here. Full results are available online (<https://osf.io/kn6r5>).

### Reforms in the 1998 Lineup White Paper

The 1998 Lineup White Paper recommended using a blind lineup administrator, recording post-identification confidence, matching fillers to the witness description, and instructing witnesses that the culprit may or may not be in the lineup (Wells et al., 1998). This White Paper was written by scientists and has had a significant impact on eyewitness identification policies in the U.S. (Police Executive Research Forum, 2013; Norris, Bonventre, Redlich, Acker, & Lowe, 2018). In guidelines outside of the U.S., however, it was rare to find any of these four recommendations (Table 2).

**Double-blind administration.** Although scientists have long been calling for lineups to be administered by someone who does not know the suspect's identity (Wells, 1988), only guidelines for five (9%) of the countries we reviewed included a recommendation for double-blind lineups (Canada, Denmark, Norway, Sweden, U.S.). Progress in the U.S. has been slow, but legislation and model policies from over one-third of U.S. states now recommend double-blind administration or "blinded"

administration in which the administrator knows the suspect's identity but takes precautions to avoid knowing which lineup member the witness is examining (Norris et al., 2018). Blind or blinded lineup administration has also been recently recommended by the U.S. Department of Justice (Yates, 2017).

Another group of countries do not require that the administrator is blind to the suspect's identity, but they do require that the lineup administrator be uninvolved in the investigation. Case detectives have been restricted from administering lineups in England and Wales for many years, and several common law countries have followed suit (Australia, India, Ireland, Kenya, Lesotho, South Africa, Tanzania, Uganda, Zimbabwe). The most restrictive variant of this rule is in India, where even police uninvolved in the investigation are prohibited from attending lineups (Prabhakar & Bhupal Reddy, 2017). This is because witness statements to police cannot be admitted as evidence in court (Criminal Procedure Code 1973, as of 2018, Section 163) and if police are present at a lineup the identification is considered a statement to police and thus inadmissible. To be admissible in Indian courts, a pre-trial lineup identification must have been conducted under the supervision of a magistrate.

An independent administrator is an improvement from the majority of guidelines, which make no mention of who should conduct the procedure, but any guidelines that do not require a blind or blinded lineup procedure nevertheless fall short of best practice. If an administrator is independent from the investigation, this reduces their interest in the identification outcome; however, independent administrators would normally know the suspect's identity and thus would still have the potential to unintentionally steer an eyewitness toward that suspect. The experimental literature shows this can happen even when the suspect is innocent (Clark, 2012; Kovera & Evelo, 2017).

**Confidence.** Guidelines from seven (13%) of the reviewed countries recommend obtaining a post-identification confidence assessment from the eyewitness. U.S. guidelines recommend recording the witness's certainty in their own words. Canadian guidelines advise collecting confidence before it is contaminated by feedback and discourage police from discussing the lineup decision with the

witness. Norwegian guidelines similarly discourage feedback and recommend assessing confidence immediately after the identification. After an identification in Albania and Italy, guidelines recommend asking witnesses to specify whether they are sure. Danish guidelines recommend obtaining a statement to clarify whether the identification is secure, less secure, or uncertain. In Sweden, witnesses are advised first to state confidence in their own words, and then to follow by rating their confidence on a scale of 0-100. In England and Wales there is no recommendation to assess confidence for video or live lineups, but there is a recommendation to assess confidence if a witness is unable to confirm an identification from less preferable procedures (group identification, confrontation, or viewing of photographs).

Identifications from confident witnesses tend to be more trustworthy than identifications from unconfident witnesses, particularly if confidence is assessed immediately after the identification, the lineup procedure is administered properly, and the memory has not been contaminated (Wixted, Mickes, & Fisher, 2018). Eyewitness scientists have been interested in confidence for many years, and the utility of confidence judgments as an indicator of eyewitness identification reliability has been demonstrated in numerous experiments (Brewer & Wells, 2006; Juslin, Olsson, & Winman, 1996). There have even been suggestions to bypass the traditional categorical identification procedure and ask witnesses to rate their confidence in the guilt of every lineup member (Sauer, Brewer, & Weber, 2008; Brewer et al., 2020). But there are a variety of circumstances in which eyewitness confidence is not a reliable indicator of accuracy: if it is obtained after the witness has received feedback (Wells & Bradfield, 1998); if the witness does not make an identification (Sporer, Penrod, Read, & Cutler, 1995); or if the lineup procedure is less than pristine (Wixted & Wells, 2017).

In countries without guidelines for assessing eyewitness certainty at the time of the identification, triers of fact should be skeptical when an eyewitness expresses confidence in an identification at trial. A witness who was hesitant in their pre-trial identification has the potential to become unequivocally certain by the time they testify in court (Garret, 2011; Wixted, 2018). Even

with the best of guidelines, a pristine lineup procedure is difficult to achieve (Smalarz & Wells, 2015), and most of the guidelines we reviewed lack even the most basic safeguards to prevent contamination of eyewitness certainty. Nor do many recommend videotaping the identification procedure, which could provide an indication of witness confidence and show whether post-identification feedback was given (Kassin, 1998; Sporer, 1993).

**Witness instructions.** The ‘may or may not be present’ pre-lineup admonition was found in the guidelines for a slim majority of the common law countries (Australia, Canada, England and Wales, Kenya, New Zealand, Norway, Scotland, South Africa, Uganda, US) and only one of the civil law countries (Sweden). As early as the 1920s, English policymakers were mindful that witnesses might choose the lineup member most similar to their memory of the culprit, “disregarding apparently the alternative that he may not be present at all” (pp. 46–47, Royal Commission Report, 1929, as cited in Davies & Griffiths, 2008). Nevertheless, the Home Office Circular 1969 guidelines still contained no instruction to warn witnesses of the culprit’s possible absence from the lineup. The adoption of the instruction did not come until after Devlin’s (1976) report on the role of misidentification in wrongful convictions, where the former High Court judge discussed the psychological literature on demand characteristics and concluded that “something should be done to relieve the witness of any sense of failing in his duty if he does not pick out someone on the parade” (8.16). Devlin’s solution was to explicitly warn the witness that the culprit might not be present immediately before they view the lineup. In the Home Office Circular 1978, the ‘may or may not be present’ instruction made its first appearance in English guidelines.

Although several common law countries now give the warning, its prevalence in the guidelines we reviewed is troublingly low (20%). Without a warning to dissuade witnesses from assuming that the culprit is in the lineup, innocent suspects are at greater risk of misidentification. The experimental literature is clear on this: witnesses are more likely to misidentify an innocent lineup member if they are not explicitly told that the lineup might not contain the culprit (Malpass & Devine, 1981; Steblay,



1997). Witnesses are also more likely to identify the culprit, if present, when they are not given the warning (Clark, 2005, 2012; Steblay 2013), but this should have no bearing on whether to advise witnesses that the culprit may or may not be present (Wells, Steblay, & Dysart, 2012). If witnesses are approaching the lineup task with the presumption that the culprit will be in the lineup, they should be alerted to the alternative possibility that the culprit may be absent.

**Filler selection.** Almost all the guidelines (89%) recommend matching fillers to the suspect's appearance, whereas matching fillers to the eyewitness description of the culprit was only recommended in 17% of the guidelines. Of the countries with guidelines that mention matching to the description, five also recommend matching to the suspect's appearance (Canada, North Macedonia, Norway, Sweden, US). Of the guidelines that only recommend matching to the suspect's appearance, the eyewitness description is typically absent from filler selection recommendations. One exception is Scotland, where guidelines suggest "[i]t is more important that the other persons visibly resemble the suspect or accused as opposed to matching them [to] descriptions previously provided by witnesses" (Police Scotland, 2018, p. 11).

The Scottish guidance provides a consistent strategy for filler selection but could send the wrong message about how the eyewitness description should be taken into account. If a lineup contains a suspect who matches the description and fillers who do not, it would be biased because a witness could eliminate the lineup members who do not match their previous recall and infer the suspect's identity without using recognition memory (Luus & Wells, 1991). Although no rationale is provided for the Scottish preference for matching fillers to the suspect's appearance over the witness description, it may be because matching to the description is not always practical or desirable (Fitzgerald, Price, Oriet, & Charman, 2013; Luus & Wells, 1991). This is evident in the Swedish guidelines, which generally recommend matching fillers to the eyewitness description but clarify that if the description conflicts with the suspect's appearance the latter should be prioritized. If fillers are matched to the suspect's appearance and the suspect's appearance corresponds with the eyewitness

description, the Scottish guidelines should normally result in lineups with fillers who match both the eyewitness description and the suspect's appearance. However, this might not be the case if the pool of potential fillers is limited and investigators must choose between Filler A who resembles the suspect holistically but does not possess all features in the description and Filler B who is holistically less similar but matches the description. Experimental research suggests Filler B would be advantageous (Wells, Rydell, & Seelau, 1993), whereas the Scottish guidance could lead Filler A to be chosen.

Recent guidance in the academic literature emphasizes that fillers should be matched to both the witness description and the suspect's appearance (Clark, Rush, & Moreland, 2013), with features in the eyewitness description treated as a minimal requirement (Wells et al., 2020). A further clarification would be to recommend lineups with description-match equivalence, such that fillers and the suspect match the eyewitness description to the same extent. If the suspect matches the description, an equivalence strategy would require selection of fillers who also match the description. The added benefit of the equivalence policy is that fillers need not match the description if it conflicts with the suspect's appearance.

### **Simultaneous/Sequential**

Guidelines rarely recommended sequential presentation, and simultaneous presentation was never explicitly recommended (Table 3). Although none of the guidelines recommended simultaneous presentation, 52% described an identification procedure that suggested lineup members would be presented simultaneously (e.g., they would appear in a line). Sequential presentation was preferred in the guidelines from five countries (9%): Canada, Denmark, Germany, Norway, and Sweden (sequential presentation is also recommended in some U.S. jurisdictions). In England and Wales, where video lineups are preferred, sequential presentation is common practice but not an explicit requirement. Further, contrary to the original sequential procedure developed by psychologists, which requires a decision for each lineup member before the next is shown (Lindsay & Wells, 1985), English

guidelines specify that witnesses must view each lineup member twice before making a decision and that lineup members may be viewed as many times as necessary. Further, some police forces in England and Wales begin with sequential presentation and then give the option to see all the lineup members together in a simultaneous photo array or ‘matrix’ (Wilcock & Kneller, 2011). This procedure is neither described nor discouraged in the guidelines.

There is a long-standing debate in the academic literature on whether lineup members should be view simultaneously or sequentially. Suffice it to say, the debate lives on. When eyewitness experts cannot reach a consensus, it falls upon policymakers to sift through the evidence and make a judgment call. Alternatively, they can remain neutral by recommending neither or both. The U.S. guidelines specify procedures for sequential and simultaneous lineups, without a stated preference (for background, see Wells et al., 2000). We suspect policymakers in many of the sample countries simply have not considered sequential presentation.

### **Lineup Size**

Policies on the nominal size of lineups are anything but uniform. The recommended minimum number of lineup members ranged from 3 to 10 (Figure 1). The mean of the sample distribution was 5.5 ( $SD = 2.5$ ) and, to our surprise, the mode was three (Albania, Estonia, Georgia, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Macau, Portugal, Russia, Uzbekistan, Vietnam). The next most common recommended minimum, excluding countries with no recommendation ( $n = 11$ ), was four (Armenia, Azerbaijan, Bulgaria, Czechia, Mongolia, Poland, Ukraine). All of the recommended minimums of three or four were from civil law countries.

[insert Figure 1 here]

Common law countries tended to recommend larger minimum lineup sizes. Since 1926, a minimum of nine lineup members has been recommended in England (Sheppard et al., 1982). This remains the minimum in England and Wales, as well as in Australia, Ireland, Kenya, Tanzania, and Uganda. Other common law countries deviate only slightly from the 9-member lineup minimum

(India = 6; Lesotho, New Zealand, and South Africa = 8; Canada and Zimbabwe = 10). The minimum in the U.S. is among the most lenient of the common law countries: 6 for photo lineups and only 5 for live lineups. Distinct minimum lineup sizes for different medium types were also reported in Lithuania (live = 3, photo = 4), Norway (Live = 7, photo or video = 10), Scotland (live or video = 6, photo = 12), and England and Wales (live or video = 9, photo = 12).

In the academic literature, there have been calls for lineup sizes much larger than any minimum recommendations we found. Presuming that an innocent suspect would be selected no more than any other filler from a fair lineup, Levi (2007) proposed that the risk of an identification landing on an innocent suspect would be four times greater in a fair 6-member lineup (16.7%) than in a fair 24-member lineup (4.2%). Based on the results of experimental comparisons between lineups of conventional (10-12 members) and much larger nominal sizes (48, 84, 120), Levi has concluded that innocent suspects would be substantially less likely to be misidentified if lineup sizes were dramatically increased (Levi, 2007, 2012, 2017). Note, however, that Levi has been estimating innocent suspect misidentifications by dividing overall misidentifications by nominal lineup size. Although this is common practice, and in many experiments inconsequential to the research questions, it assumes that the suspect would be no more plausible than the average filler. Although Levi reports that all the lineup members in his experiments fit the culprit's description, it is doubtful that 48+ plausible fillers could be found for all suspects (Wells, 2001). Correct identifications also tend to drop as nominal size increases (Meissner, Tredoux, Parker, & MacLin, 2005), and correct identification rates have never exceeded 20% in lineups with nominal sizes of 24 or greater (Levi, 2007, 2012, 2017).

So what is the magic number of lineup members? Given that each subsequent lineup member provides less protection for an innocent suspect than the lineup member added immediately prior (Wells, Memon, & Penrod, 2006), it is important to know whether, or at what point, the protection provided by additional lineup members no longer outweighs any adverse effects on correct

identifications. Unfortunately, the experimental literature has not yet developed to the point at which an optimal number of lineup members can be recommended. What it has established, however, is that the number of *plausible* lineup members is far more important than the lineup's nominal size (Nosworthy & Lindsay, 1990).

### **Lineup Medium**

Just under half of the guidelines (46%) indicated a preference for live lineups (Table 4). By contrast, none of the guidelines indicated a preference for photo lineups and only two sets of guidelines indicated a preference for video lineups (England and Wales; Scotland). In the guidelines for all 54 countries, a live lineup procedure was described. Instructions on how to conduct live lineups were also commonly included. For example, the option for a witness to view the lineup from outside of the suspect's view was expressly permitted in 54% of the sample countries. In addition, 57% of live lineup guidelines permitted the suspect to choose their lineup position, and 19% clarified that the suspect can change their position for different witnesses. The guidelines for five countries (9%) either recommended or permitted witnesses to make an identification by touching a lineup member (India, Kenya, South Africa, Tanzania, Uganda). This method of identification was also recommended in England in the 1926 guidelines and maintained through the 1969 and 1978 updates (Sheppard, Ellis, & Davies, 1982). We are not certain when it was officially dropped, but the recommendation to touch a lineup member is no longer included in English guidelines. According to Kenyan guidelines, the purpose of identification by touch is to avoid misinterpretation about which lineup member the witness has chosen (Office of the Inspector General, 2017). However, given the anxiety this process could provoke in a witness (Rust & Tredoux, 1998), another method of ensuring clarity in the identification would be preferred. In South Africa, where touching was once a requirement, the guidelines now specify that other forms of making an identification should be used for witnesses who would be uncomfortable identifying by touch.

In a small number of guidelines, the preference for live lineups was explicitly stated (Australia, Ireland). More commonly, the preference was implied. For example, many policies permit nonlive lineups, but only if “necessary” (Armenia, Azerbaijan, Estonia, Lithuania, Ukraine) or if a live lineup would be impossible (Bosnia and Herzegovina, Bulgaria, Columbia, Czechia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Moldova, Mongolia, Nicaragua, Russia, Serbia, Uzbekistan). If a live lineup was recommended to verify a previous identification from a nonlive lineup (Kenya, Portugal, Zimbabwe), that too was classified as a preference for live lineups. Even in some countries that were not coded as having a preference for live lineups, it was evident that live lineups were common practice (e.g., India, South Africa).

Although having lineup members physically present may seem intuitively appealing, there is no empirical evidence to support a preference for live lineups. A case for abandoning live lineups is provided elsewhere (Fitzgerald, Price, & Valentine, 2018). We will not rehash all those arguments, but the gist can be summarized with three main points: (1) To justify a preference for live lineups, the benefits to performance would have to be sufficiently sizeable to overcome the practical difficulties of organizing and administering a live lineup; (2) The experimental literature on the identification medium is so underdeveloped that even if every experiment supported the live superiority hypothesis, it would not be convincing; and (3) We do not know of a single lineup experiment that lends robust support for the live superiority hypothesis.

There are many reasons to predict that, all else equal, a witness has a better shot at a live lineup than at a photo or video lineup. But all is not equal in practice. Live lineups are hard to organize, difficult to control, and stressful for witnesses. Taking into account these issues and the absence of empirical evidence of live superiority, we recommend using high-quality photo or video lineups instead.

### **Repeated Identifications with the Same Suspect**

A minority of the guidelines (17%) explicitly discouraged presenting a suspect for identification more than once with the same witness (Australia, Azerbaijan, Czechia, Georgia, Kazakhstan, Moldova, New Zealand, Russia, Ukraine). But some of these same countries nevertheless tolerate repeated identifications in specific circumstances. For example, the Code of Criminal Procedure of the Azerbaijan Republic 2000 states that “the same person shall not be asked again to identify the person concerned on the basis of the same features” (Article 239.8, as of 2019). This implies that repeated identification may be permissible on the basis of different features. In Georgia, repeated identifications are prohibited unless the first identification procedure involved photographs. There is a similar rule in Czechia, with the added condition that there should be a delay between the photo and live procedures. The guidelines in Columbia, Estonia, Kenya, Portugal, and Zimbabwe also recommend conducting a live lineup if the witness has previously identified the suspect from a nonlive lineup. The Portuguese Code of Criminal Procedure 1987 goes so far as to state that “recognition by photograph, film, or recording made in the scope of the criminal investigation can only be valid as evidence when it is followed by recognition made in accordance with [the live lineup procedure]” (Article 147 § 5, as of 2019). In Scotland, if the first identification was at a showup or some other form of “informal identification” and the suspect’s legal representative is informed about that showup identification, the guidelines state that “there is no reason why [the witness] should not subsequently view any form of identification parade to have that identification tested” (Police Scotland, 2018, p. 9). Similarly, in England and Wales, if a witness identifies a suspect through any means other than a video lineup, live lineup, or group identification and the suspect disputes their guilt, one of those three identification procedures must be held.

Another case of repeated identification occurs in India, where the most persuasive evidence of identification is if a witness identifies the defendant at trial to confirm a pretrial lineup identification. Only the in-court identification qualifies as substantive evidence. The pretrial lineup identification is considered an investigative tool that can corroborate the in-court identification, but Indian courts do

not consider the pretrial identification itself to be substantive. An in-court identification that was not preceded by a pretrial lineup identification is given less weight but may still be admissible.

Repeated identifications are discouraged in the academic literature because exposure to the suspect at a prior identification can influence who the witness picks at the second identification procedure. If the witness has previously seen an innocent suspect at a mugshot viewing or showup procedure, there is an increased likelihood that they will misidentify that same innocent suspect from a lineup (Deffenbacher, Bornstein, & Penrod, 2006; Valentine, Davis, Memon, & Roberts, 2012). Presumably, the idea behind conducting a second identification procedure is to test the credibility of a prior identification that was obtained with a less reliable procedure. The problem is that eyewitnesses are susceptible to commitment effects, and if they misidentify the innocent suspect at the first procedure they rarely correct their error at the second (Stebly, Tix, & Benson, 2013).

### **Additional Procedures**

**Multiple suspects.** Restrictions on the number of suspects per lineup were rarely included in the guidelines. The single-suspect lineup model enables investigators to discount misidentifications of presumed-innocent fillers (Wells & Turtle, 1986), yet only 26% of the guidelines specify that a lineup should only have one suspect (Table 5). Another 7% allow two suspects per lineup, on the condition that they resemble one another. The remaining guidelines mostly included no mention of procedures for multiple suspects, but there were two exceptions: the Criminal Procedure Code of the Republic of Nicaragua (2001) states “if a person must recognize several, the recognition of all may be carried out in a single act” (Article 234) and the South African National Instruction 2007 permits multiple suspect lineups as long as “there are sufficient parade participants whose general appearance approximate that of every suspect” (p. 5).

**Multiple eyewitnesses.** If there are multiple eyewitnesses to the same event, over half of the guidelines (56%) recommend administering separate identification procedures for each witness (Table 5).



**Does anyone resemble the culprit?** If a witness does not identify any of the lineup members in Scotland, guidelines recommend asking if anyone in the lineup looks similar to the culprit. If the witness responds affirmatively, the Identification Officer is advised to ask how the lineup member resembles the culprit.

**Blank lineups.** Guidelines for Lesotho recommend administering a blank lineup (i.e., all fillers and no suspect), if possible. This idea may have originated in England, where it was recommended in the Royal Commission Report of 1929 but never adopted into guidelines (Davies & Griffiths, 2008). Although the experimental literature on blank lineups is limited, such a procedure could be easily administered via computer (Palmer, Brewer, & Weber, 2012) and may be useful for screening out witnesses who are prone to misidentification (Wells, 1984).

**Legal representation.** A minority of the guidelines (32%) specify that the suspect can or should have legal representation at the identification procedure (Table 5). A notable country with no mention of legal representation in the guidelines is the U.S., where the Supreme Court has ruled that a suspect has no right to defense counsel during administration of a photo lineup (*United States v. Ash*, 1973).

**Same lineup, different positions.** In Czechia sometimes witnesses are shown the same lineup twice during the same identification session, with the position of the lineup members rearranged when the lineup is presented for the second time. Although this practice is not endorsed or described in the Code of Criminal Procedure of the Czech Republic 1961 (amended 2012), a commentary on the Code states that, “[t]o increase the trustworthiness of the outcome of the identification procedure, it is appropriate to repeat the procedure with the change of position of the objects that are compared, and this may be done even multiple times” (Section 9, Drašík & Fenyk, 2017). The purpose of repeated presentation of the same lineup is to reveal witnesses who guess on the first presentation. But rather than aiming to identify the culprit on the second presentation, witnesses are likely to focus on identifying the lineup member they pointed out at the first presentation (Konrád, 2006; Protivínský,

2005) and there is no guidance on how to interpret conflicting decisions (Protivínský, 2005; Seifertová, 2009). The procedure may even violate Czech law, which states that the suspect must not be shown to the witness prior to the identification procedure (Brázda, 2013).

**Panchas.** In India, where the presence of police at lineups is forbidden, the procedure is administered by a magistrate and two independent community members known as panchas or panch witnesses (Prabhakar & Bhupal Reddy, 2017). The panchas are responsible for bringing the suspect from the holding cell to the room where the lineup will be held. After administration of the lineup, the magistrate prepares an identification memo to document the conduct of the identification procedure, the context of when and where it took place, and any objections raised by the suspect. The magistrate then reads it to the panchas, who then sign the memo to verify its authenticity.

**Reasonable suspicion.** In Denmark, lineups may only be conducted if the accused is reasonably suspected of a serious offence. In 1995, Denmark's Criminal Justice Committee proposed that live lineups should only be conducted if (1) there is reasonable suspicion of an offence, (2) the offence could result in a prison sentence of at least 18 months, and (3) the lineup is essential for the investigation. These requirements were subsequently incorporated into Danish law, which further states that photographs of a suspect may only be presented if they are reasonably suspected of an offence that is subject to public prosecution (Administration of Justice Act 1916, as of 2019). Wells et al. (2020) propose a similar rule in their update to the 1998 Lineup White Paper, arguing that an evidence-based suspicion requirement would reduce wrongful convictions by decreasing the prevalence of innocent suspects appearing in lineups.

### General Discussion

We examined whether guidelines from around the world are likely to promote reliable eyewitness identification practices. In the guidelines we reviewed, some important recommendations were relatively common. For instance, in cases with multiple witnesses, over half of the guidelines recommend separate identification procedures for each witness. Nevertheless, most of the guidelines

have room for improvement. Even the most basic safeguards, such as warning that the culprit may not be in the lineup, were absent from the majority of the reviewed guidelines. Further, many of the guidelines recommend a minimum of only two or three fillers to appear with the suspect. Even the guidelines for England and Wales, which are among the most comprehensive in the sample, do not recommend double-blind administration or recording post-identification confidence. In every country we reviewed, policymakers have work to do.

Why have the 1998 Lineup White Paper reforms not been more widely adopted? In the case of double-blind lineups, there are numerous possible reasons for the low uptake. Contrary to scientists, who are trained to avoid experimenter expectancy effects, policymakers may not have even considered the possibility that a lineup administrator could unintentionally influence an identification decision. It is also possible that double-blind procedures have been rejected by law enforcement due to lack of resources. The low prevalence of other 1998 reform procedures, however, is harder to explain. It would cost minimal resources to warn of the culprit's absence or record post-identification confidence, yet these practices were rarely found in guidelines.

Our review highlights the different foci of eyewitness scientists and policymakers. Consider, for example, the identification medium. A preference for live lineups was evident in 25 of the 54 countries we reviewed, yet the identification medium has been largely off the radar of the research community since the early work of Cutler and colleagues (Cutler, Berman, Penrod, & Fisher, 1994; Cutler, & Fisher, 1990; Cutler, Fisher, & Chicvara, 1989). The reverse is true of whether to present lineup members simultaneously or sequentially. This topic has led to high profile debates in the research community but is rarely mentioned in guidelines. Eyewitness identification guidelines tend to focus on fundamental lineup characteristics, such as nominal size and filler appearance. Perhaps this is not especially surprising. The reason why lineups with poor fillers are the subject of so many funny cartoons is that it does not take an expert to realize that lineup fillers should not look drastically different from the suspect's appearance. And it is uncontroversial that, all else equal, a lineup of six is

fairer to a suspect than a lineup of two. What is surprising, however, is that these core issues are not well understood by the scientific community. Precisely how many lineup members are needed to protect innocent suspects without impeding witnesses from identifying guilty suspects? We cannot say with certainty. Exactly how should police select fillers? Scientists have yet to agree on a definitive strategy (Wixted & Wells, 2017). Thus, for practitioners to develop rigorous methods for collecting identification evidence, scientists also have work to do.

### **Limitations**

This was not a comprehensive review of global eyewitness identification guidelines, nor was it a random sampling of countries with guidelines. Despite locating guidelines from more countries than any previous comparative review, our sample was ultimately a product of our language skills and whether guidelines were publicly available. Several regions were underrepresented (Middle East, Latin America, South East Asia, Africa, South Pacific), which may have been because our search strategy was not sufficiently extensive or may have been because the guidelines simply do not exist. This was a convenience sample, and the included countries were not selected randomly. Accordingly, the statistics in this chapter should be treated as preliminary and should not be generalized beyond the sample countries.

We opted to focus on national guidelines and did not systematically review within-country jurisdictional variations. For example, although South Australia recently passed legislation to elevate photo lineups to have the same weight as live lineups (Evidence [Identification Evidence] Amendment Act, 2013), the federal guidelines we obtained for Australia indicated a preference for live lineups and we based our coding on the federal guidelines. The U.S. is also a conglomerate of jurisdictions, and our approach was ill-suited for capturing the substantial heterogeneity across U.S. states and counties (for more in-depth reviews of U.S. practices and policies, see Police Executive Research Forum, 2013; Norris, Bonventre, Redlich, Acker, & Lowe, 2018).

The scope of our review precluded in-depth examinations of every sample country, and this may have introduced some degree of measurement error. Rather than restricting our focus to the handful of countries we knew well, we aimed to cover a broad range of countries including some we knew nothing about before undertaking the review. Guidelines inevitably require interpretation, and we could not consult insiders with expertise for every country we reviewed. We used an inter-rater coding protocol to increase the likelihood that our interpretation of the guidelines was accurate. Even still, misinterpretation was possible.

A final point is that guidelines are unlikely to accurately represent practices on the ground. The divergence between policy and practice may be particularly acute in civil law countries, which tended to have limited scope for eyewitness identification in their criminal procedure codes. For example, Czech legislation presently specifies a minimum of only four lineup members and does not mention warning of the culprit's potential absence from the lineup. However, Czechia's Constitutional Court has recommended a number of changes to the statutory requirements, including many of the 1998 Lineup White Paper reforms (Šimáčková, 2017). Although these changes are not yet required by law, they may have already been adopted in practice. It is possible that law enforcement in many of the countries we reviewed implement procedures and safeguards for eyewitness identification that are not specified in guidelines or required by law.

## **Conclusion**

Our findings may be disappointing or encouraging, depending on your perspective. It may be tempting to lament the guidelines for so commonly excluding essential components of a fair and effective eyewitness identification procedure. That view, however, would overlook what is perhaps the most promising implication of our review: guidance on the conduct of eyewitness identification exists in *at least* 54 countries. This means policymakers in these countries have already been convinced of the need to regulate eyewitness identification procedures. As the science of eyewitness

identification gains increasing international recognition, policymakers in the sample countries and beyond may decide to adjust their guidelines to more closely align with evidence-based practice.

### References

- Brázda, J. (2013). Je rekognice “in natura” opakovatelný, nebo neopakovatelný úkon? *Bulletin advokacie, 10*, 41-43.
- Brewer, N., Weber, N., & Guerin, N. (2020). Police lineups of the future? *American Psychologist, 75*, 76–91. <https://doi.org/10.1037/amp0000465>
- Brewer, N., & Wells, G. L. (2006). The confidence–accuracy relationship in eyewitness identification: Effects of lineup instructions, foil similarity, and target-absent base rates. *Journal of Experimental Psychology: Applied, 12*, 11–30. <http://dx.doi.org/10.1037/1076-898X.12.1.11>
- Brooks, N. (1983). *Police guidelines: Pretrial eyewitness identification procedures*. Ottawa, Canada: Law Reform Commission of Canada.
- Clark, S. E. (2005). A re-examination of the effects of biased lineup instructions in eyewitness identification. *Law and Human Behavior, 29*, 395–424. <http://dx.doi.org/10.1007/s10979-005-5690-7>
- Clark, S. E. (2012). Costs and benefits in eyewitness identification reform: Psychological science and public policy. *Perspectives on Psychological Science, 7*, 238–259. <http://dx.doi.org/10.1177/1745691612439584>
- Clark, S. E., Rush, R. A., & Moreland, M. B. (2013). Constructing the lineup: Law, reform, theory, and data. In B. L. Cutler (Ed.), *Reform of eyewitness identification procedures* (pp. 87-112). American Psychological Association. <http://dx.doi.org/10.1037/14094-005>
- Cutler, B. L., Berman, G. L., Penrod, S. D., & Fisher, R. P. (1994). Conceptual, practical, and empirical issues associated with eyewitness identification test media. In D. F. Ross, J. D. Read, & M. P. Toglia (Eds.), *Adult eyewitness testimony: Current trends and developments* (pp. 163–181). Cambridge University Press. <http://dx.doi.org/10.1017/CBO9780511759192.009>
- Cutler, B. L., & Fisher, R. P. (1990). Live lineups, videotaped lineups, and photoarrays. *Forensic Reports, 3*, 439-449.

- Cutler, B. L., Fisher, R. P., & Chicvara, C. L. (1989). Eyewitness identification from live versus videotaped lineups. *Forensic Reports*, 2, 93-106.
- Davies, G., & Griffiths, L. (2008). Eyewitness identification and the English courts: A century of trial and error. *Psychiatry, Psychology and Law*, 15, 435-449.  
<https://doi.org/10.1080/13218710802101605>
- Deffenbacher, K. A., Bornstein, B. H. & Penrod, S. D. (2006). Mugshot exposure effects: Retroactive interference, mugshot commitment, source confusion, and unconscious transference. *Law and Human Behavior*, 30, 287–307. <https://doi.org/10.1007/s10979-006-9008-1>
- Devlin, P. A. (1976). *Report to the Secretary of State for the Home Department on the Departmental Committee on Evidence of Identification in Criminal Cases*. London, U.K.: Her Majesty's Stationery Office.
- Drašík, A. & Fenyk, J. (Eds.). (2017). *Trestní řád: Komentář, 1. díl (§ 1 až 179b)*. Wolters Kluwer.
- Evidence (Identification Evidence) Amendment Act. (2013). South Australia. Retrieved from [http://www.austlii.edu.au/au/legis/sa/num\\_act/eeaa201358o2013389/](http://www.austlii.edu.au/au/legis/sa/num_act/eeaa201358o2013389/)
- Fitzgerald, R. J., Price, H. L., Oriet, C. & Charman, S. D. (2013). The effect of suspect-filler similarity on eyewitness identification decisions: A meta-analysis. *Psychology, Public Policy, and Law*, 19, 151–164. <https://doi.org/10.1037/a0030618>
- Fitzgerald, R., Price, H. L., & Valentine, T. (2018). Eyewitness identification: Live, photo, and video lineups. *Psychology, Public Policy, and Law*, 24, 307-325.  
<http://dx.doi.org/10.1037/law0000164>
- Garrett, B. (2011). *Convicting the innocent*. Harvard University Press.
- Juslin, P., Olsson, N., & Winman, A. (1996). Calibration and diagnosticity of confidence in eyewitness identification: Comments on what can be inferred from the low confidence-accuracy correlation. *Journal of Experimental Psychology: Learning, Memory, and Cognition*, 22, 1304–1316. <http://dx.doi.org/10.1037/0278-7393.22.5.1304>



- Kahn-Fogel, N. A. (2008). Beyond Manson and Lukolongo: A critique of American and Zambian eyewitness law with recommendations for reform in the developing world. *Florida Journal of International Law*, 20, 279-327. <https://heinonline.org/HOL/P?h=hein.journals/fjil20&i=285>
- Kassin, S. M. (1998). Eyewitness identification procedures: The fifth rule. *Law and Human Behavior*, 22, 649-653. <http://dx.doi.org/10.1023/A:1025702722645>
- Konrád, Z. (2006). Po veľké novele trestného rádu objavujeme v kriminalistické taktice nové problémy? *Kriminalistika*, 39, 93–100.
- Kovera, M. B., & Evelo, A. J. (2017). The case for double-blind lineup administration. *Psychology, Public Policy, and Law*, 23, 421–437. <http://dx.doi.org/10.1037/law0000139>
- Leonetti, C. (2014). Showing up: Eyewitness-identification requirements in Bosnia and Herzegovina: A comparative case study. *Penn State Law Review*, 119, 439-483.
- Levi, A. M. (2007). Research note: Evidence for moving to an 84-person photo lineup. *Journal of Experimental Criminology*, 3, 377-391. <https://doi.org/10.1007/s11292-007-9042-0>
- Levi, A. M. (2009). Eyewitness identification methods: A comparative analysis of practices in England, Canada, USA and Israel. In K. Jaishankar (Ed.), *International perspectives on crime & justice*, (pp. 36-60). Cambridge Scholars Publishing.
- Levi, A. M. (2012). Much better than the sequential lineup: A 120-person lineup. *Psychology, Crime & Law*, 18, 631-640. <https://doi.org/10.1080/1068316X.2010.526120>
- Levi, A. (2017). Comparing the English video lineup with the 48-person lineup. *Universal Journal of Psychology*, 5, 239-243.
- Lindsay, R. C. L., & Wells, G. L. (1985). Improving eyewitness identification from lineups: Simultaneous versus sequential lineup presentations. *Journal of Applied Psychology*, 70, 556–564. <http://dx.doi.org/10.1037/0021-9010.70.3.556>
- Luus, C. E., & Wells, G. L. (1991). Eyewitness identification and the selection of distracters for lineups. *Law and Human Behavior*, 15, 43-57. <https://doi.org/10.1007/BF01044829>

- Malpass, R. S., & Devine, P. G. (1981). Eyewitness identification: Lineup instructions and the absence of the offender. *Journal of Applied Psychology*, *66*, 482-489.  
<http://dx.doi.org/10.1037/0021-9010.66.4.482>
- Meissner, C. A., Tredoux, C. G., Parker, J. F., & MacLin, O. H. (2005). Eyewitness decisions in simultaneous and sequential lineups: A dual-process signal detection theory analysis. *Memory & Cognition*, *33*, 783–792. <http://dx.doi.org/10.3758/BF03193074>
- Norris, R. J., Bonventre, C. L., Redlich, A. D., Acker, J. R., & Lowe, C. (2018). Preventing wrongful convictions: An analysis of state investigation reforms. *Criminal Justice Policy Review*. Advance online publication. <https://doi.org/10.1177/0887403416687359>
- Nosworthy, G. J., & Lindsay, R. C. (1990). Does nominal lineup size matter? *Journal of Applied Psychology*, *75*, 358-361. <http://dx.doi.org/10.1037/0021-9010.76.6.796>
- Palmer, M. A., Brewer, N., & Weber, N. (2012). The information gained from witnesses' responses to an initial “blank” lineup. *Law and Human Behavior*, *36*, 439-447.  
<http://dx.doi.org/10.1037/h0093939>
- Police Executive Research Forum. (2013). *A national survey of eyewitness identification processes in law enforcement agencies*. Washington, DC: Author. Retrieved from  
<http://policeforum.org/library/eyewitness-identification/NIJEyewitnessReport.pdf>
- Prabhakar, G. & Bhupal Reddy, G. B. (2017). *Conduct of test identification parades for suspects and property recovered during investigation* (workshop proceedings, pp. 1-38). Official Website of District Court. [https://districts.ecourts.gov.in/sites/default/files/Third%20Topic\\_1.pdf](https://districts.ecourts.gov.in/sites/default/files/Third%20Topic_1.pdf)
- Protivínský, M. (2005). Rekognice po velké novele trestního řádu. *Kriminalistika*, *2*, 120-124.
- Rust, A., & Tredoux, C. (1998). Identification parades: An empirical survey of legal recommendations and police practice in South Africa. *South African Journal of Criminal Justice*, *11*, 196–212.  
<https://heinonline.org/HOL/P?h=hein.journals/soafcrimj11&i=210>

- Sauer, J. D., Brewer, N., & Weber, N. (2008). Multiple confidence estimates as indices of eyewitness memory. *Journal of Experimental Psychology: General*, *137*, 528–547.  
<http://dx.doi.org/10.1037/a0012712>
- Seifertová, P. (2009). Některé aspekty rekognice. *Trestní právo*, *11*, 28-33.
- Shepherd, J. W., Ellis, H. D., & Davies, G. M. (1982). *Identification evidence: A psychological evaluation*. Aberdeen University Press.
- Smalarz, L., & Wells, G. L. (2015). Contamination of eyewitness self-reports and the mistaken-identification problem. *Current Directions in Psychological Science*, *24*, 120-124.  
<https://doi.org/10.1177/0963721414554394>
- Sporer, S. L. (1993). Eyewitness identification accuracy, confidence, and decision times in simultaneous and sequential lineups. *Journal of Applied Psychology*, *78*, 22-33.  
<http://dx.doi.org/10.1037/0021-9010.78.1.22>
- Sporer, S. L., Penrod, S., Read, D., & Cutler, B. (1995). Choosing, confidence, and accuracy: A meta-analysis of the confidence-accuracy relation in eyewitness identification studies. *Psychological Bulletin*, *118*, 315–327. <http://dx.doi.org/10.1037/0033-2909.118.3.315>
- Stebly, N. M. (1997). Social influence in eyewitness recall: A meta-analytic review of lineup instruction effects. *Law and Human Behavior*, *21*, 283-297.  
<https://doi.org/10.1023/A:1024890732059>
- Stebly, N. K. (2013). Lineup instructions. In B. L. Cutler (Ed.), *Reform of eyewitness identification procedures* (pp. 65-86). Washington, DC: American Psychological Association.  
<http://dx.doi.org/10.1037/14094-004>
- Stebly, N. K., Tix, R. W., & Benson, S. L. (2013). Double exposure: The effects of repeated identification lineups on eyewitness accuracy. *Applied Cognitive Psychology*, *27*, 644-654.  
<https://doi.org/10.1002/acp.2944>

- Technical Working Group for Eyewitness Evidence. (1999). *Eyewitness evidence: A guide for law enforcement*. US Department of Justice, Office of Justice Programs, National Institute of Justice.
- Tupper, N., Sauerland, M., Sauer, J. D., & Hope, L. (2019). Eyewitness identification procedures for multiple perpetrator crimes: a survey of police in Sweden, Belgium, and the Netherlands. *Psychology, Crime & Law*, 25, 992-1007. <https://doi.org/10.1080/1068316X.2019.1611828>
- United States v. Ash, 413 U.S. 300 (1973)
- Valentine, T., Davis, J. P., Memon, A., & Roberts, A. (2012). Live showups and their influence on a subsequent video line-up. *Applied Cognitive Psychology*, 26, 1-23.  
<https://doi.org/10.1002/acp.1796>
- Valentine, T., Hughes, C., & Munro, R. (2009). Recent developments in eyewitness identification procedures in the United Kingdom. In R. Bull, T. Valentine, & T. Williamson (Eds.), *Handbook of psychology of investigative interviewing: Current developments and future directions* (pp. 221-240). Wiley-Blackwell.
- Wells, G. L. (1984). The psychology of lineup identifications. *Journal of Applied Social Psychology*, 14, 89-103. <http://dx.doi.org/10.1111/j.1559-1816.1984.tb02223.x>
- Wells, G. L. (1988). *Eyewitness identification: A system handbook*. Toronto: Carswell Legal Publications.
- Wells, G. L. (2001). Police lineups: Data, theory, and policy. *Psychology, Public Policy, and Law*, 7, 791–801. <http://dx.doi.org/10.1037/1076-8971.7.4.791>
- Wells, G. L., & Bradfield, A. L. (1998). “Good, you identified the suspect”: Feedback to eyewitnesses distorts their reports of the witnessing experience. *Journal of Applied Psychology*, 83, 360–376. <http://dx.doi.org/10.1037/0021-9010.83.3.360>

- Wells, G. L., Memon, A., & Penrod, S. D. (2006). Eyewitness evidence: Improving its probative value. *Psychological Science in the Public Interest*, 7, 45-75. <https://doi.org/10.1111/j.1529-1006.2006.00027.x>
- Wells, G. L., Small, M., Penrod, S., Malpass, R. S., Fulero, S. M., & Brimacombe, C. A. E. (1998). Eyewitness identification procedures: Recommendations for lineups and photospreads. *Law and Human Behavior*, 22, 603-647. <http://dx.doi.org/10.1023/A:1025750605807>
- Wells, G. L., Malpass, R. S., Lindsay, R. C., Fisher, R. P., Turtle, J. W., & Fulero, S. M. (2000). From the lab to the police station: A successful application of eyewitness research. *American Psychologist*, 55, 581-598. <http://dx.doi.org/10.1037/0003-066X.55.6.581>
- Wells, G. L., Rydell, S. M., & Seelau, E. P. (1993). The selection of distractors for eyewitness lineups. *Journal of Applied Psychology*, 78, 835-844. <https://doi.org/10.1037/0021-9010.78.5.835>
- Wells, G. L., Steblay, N. K., & Dysart, J. E. (2012). Eyewitness identification reforms: Are suggestiveness-induced hits and guesses true hits? *Perspectives on Psychological Science*, 7, 264-271. <https://doi.org/10.1177/1745691612443368>
- Wells, G. L., & Turtle, J. W. (1986). Eyewitness identification: The importance of lineup models. *Psychological Bulletin*, 99, 320-329. <http://dx.doi.org/10.1037/0033-2909.99.3.320>
- Wilcock, R., & Kneller, W. (2011). A comparison of presentation methods of video identification parades. *Applied Cognitive Psychology*, 25, 835-840. <https://doi.org/10.1002/acp.1754>
- Wixted, J. T. (2018). Time to exonerate eyewitness memory. *Forensic Science International*, 292, e13-e15. <https://doi.org/10.1016/j.forsciint.2018.08.018>
- Wixted, J. T., Mickes, L., & Fisher, R. P. (2018). Rethinking the reliability of eyewitness memory. *Perspectives on Psychological Science*, 13, 324-335. <https://doi.org/10.1177/1745691617734878>

- Wixted, J. T., & Wells, G. L. (2017). The relationship between eyewitness confidence and identification accuracy: A new synthesis. *Psychological Science in the Public Interest*, 18, 10-65. <https://doi.org/10.1177/1529100616686966>
- Wójcikiewicz, J. (2013). On the benefits to Polish law of a comparative analysis of identification parades. *Comparative Law Review*, 15, 123-134. <http://dx.doi.org/10.12775/CLR.2013.007>
- Yates, S. Q. (2017). Memorandum for heads of department law enforcement components, all department prosecutors. Washington, DC: Office of the Deputy Attorney General, U.S. Department of Justice. <https://www.justice.gov/archives/opa/press-release/file/923201/download>

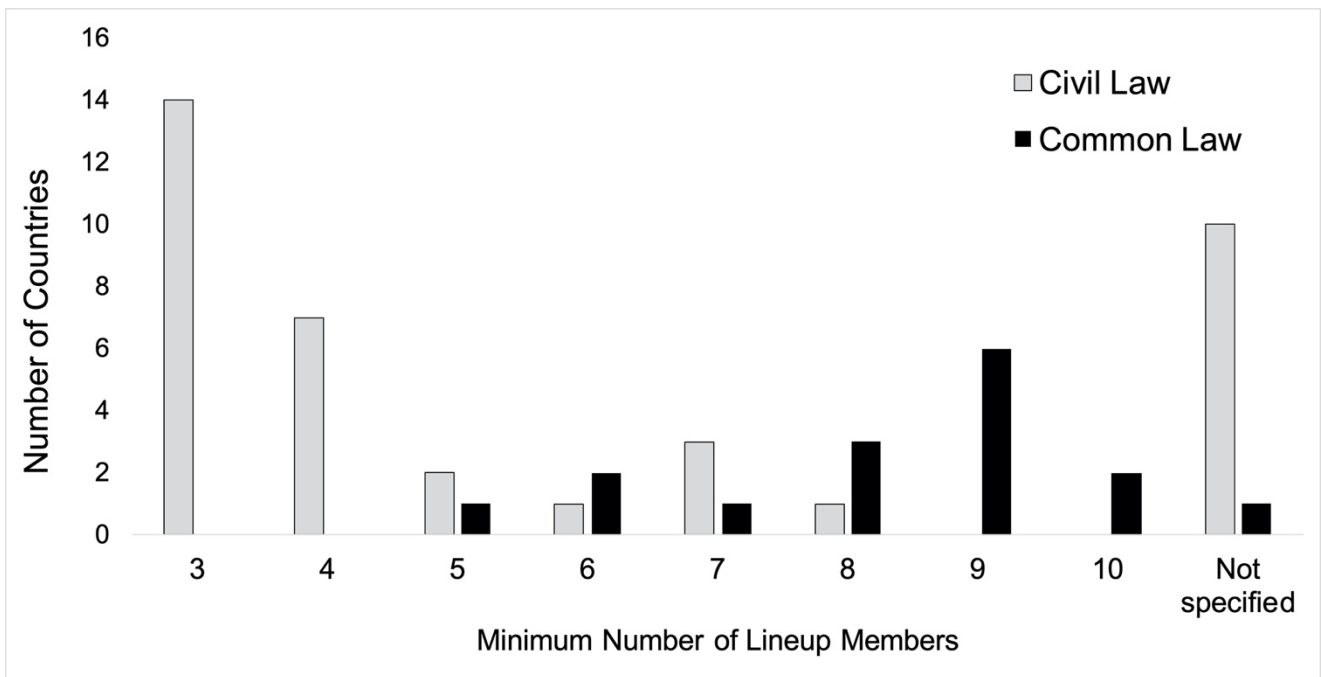


Figure 1. Recommended lineup size minimums in civil law and common law/other countries.

Table 1

*Comparative reviews of eyewitness identification*

<b>Author(s)</b>	<b>Countries reviewed</b>	<b>Topic(s) Covered</b>
Fitzgerald et al. (2018)	Australia; Canada; England & Wales; South Africa; United States	lineup medium
Kahn-Fogel (2008)	United States; Zambia	admissibility; suggestive identification procedures
Leonetti (2014)	Bosnia & Herzegovina; United States	admissibility; lineup procedures; showups
Levi (2009)	Canada; England & Wales; Israel; United States	lineup procedures; presence of counsel; showups
Police Executive Research Forum (2013)	United States (state-wide policies)	lineup procedures
Shepherd et al. (1982)	Australia, Belgium, Canada, Denmark, England and Wales, Germany, Italy, Mexico, the Netherlands, Scotland, South Africa, Sweden, United States	lineup procedures
Tupper et al. (2019)	Belgium, the Netherlands, Sweden	procedures for multiple perpetrator crimes
Valentine et al. (2006)	England & Wales; United States	lineup procedures
Valentine et al. (2009)	England & Wales; United States	lineup procedures
Wójcikiewicz (2013)	England & Wales; New Zealand; Poland; Portugal; Russia; United States	civil vs common law; lineup procedures;



Table 2

*Number of countries with guidelines that include recommendations from Wells et al. (1998)*

	Double Blind	Document Confidence	Warn Culprit May be Absent	Match to Description	Match to Suspect
Common Law	3 (18.8%)	3 (18.8%)	10 (62.5%)	3 (18.8%)	16 (100.0%)
Civil Law	2 (5.2%)	4 (10.5%)	1 (2.6%)	6 (15.6%)	32 (84.2%)
Overall	5 (9.2%)	7 (13.0%)	11 (20.4%)	9 (16.7%)	48 (88.9%)

Note. Parentheses indicate the percentage of 16 common law/other and 38 civil law countries.

Table 3

*Number of countries with guidelines that prefer/describe simultaneous and sequential lineups*

	Simultaneous		Sequential	
	Preferred	Described	Preferred	Described
Common Law	0 (0.0%)	9 (56.3%)	2 (12.5%)	5 (31.3%)
Civil Law	0 (0.0%)	19 (50.0%)	3 ( 7.9%)	4 (10.5%)
Overall	0 (0.0%)	28 (51.9%)	5 ( 9.3%)	9 (16.7%)

Note. Parentheses indicate the percentage of 16 common law/other and 38 civil law countries.

Table 4

*Number of countries with guidelines that prefer/describe live, photo, and video lineups*

	Live		Photo		Video	
	Prefer	Describe	Prefer	Describe	Prefer	Describe
Common Law	4 (25.0%)	15 (100.0%)	0 (0.0%)	12 (75.0%)	2 (12.5%)	5 (31.3%)
Civil Law	21 (55.3%)	36 (100.0%)	0 (0.0%)	30 (78.9%)	0 (0.0%)	10 (26.3%)
Overall	25 (46.3%)	51 (100.0%)	0 (0.0%)	42 (77.8%)	2 (3.7%)	15 (27.8%)

Note. Parentheses indicate the percentage of 16 common law/other and 38 civil law countries.

Table 5

*Number of countries with policies that mention procedures for holding separate procedures for multiple witnesses, limiting the maximum numbers of suspects per lineup, and entitlement to legal representation at the lineup*

	Separate Multiple Witnesses	One Suspect Max	Two Suspect Max	Legal Representation
Common Law	15 (93.8%)	5 (31.3%)	4 (25.0%)	9 (56.3%)
Civil Law	15 (39.5%)	9 (23.7%)	0 (0.0%)	8 (21.1%)
Overall	30 (55.6%)	14 (25.9%)	4 (7.4%)	17 (31.5%)

Note. Parentheses indicate the percentage of 16 common law/other and 38 civil law countries.

## Appendix

Table A1

*Sources of Guidelines for Common Law Countries*

Country	Source of Guidelines
Australia	<p>Australian Federal Police. (2007). <i>AFP practical guide on identification evidence (ACT Policing)</i>.</p> <p>Evidence Act 1995 (Cth), No. 2 (2016).  <a href="https://www.legislation.gov.au/Details/C2016C00605">https://www.legislation.gov.au/Details/C2016C00605</a></p>
Canada	<p>Bindman, S., &amp; Tolppanen, E. (2018). <i>Innocence at stake: The need for continued vigilance to prevent wrongful convictions in Canada</i>. Public Prosecution Service of Canada. <a href="https://www.ppsc-sppc.gc.ca/eng/pub/is-ip/index.html">https://www.ppsc-sppc.gc.ca/eng/pub/is-ip/index.html</a></p> <p>Cory, P. (2001). <i>The inquiry regarding Thomas Sophonow: The investigation, prosecution and consideration of entitlement to compensation</i>. Manitoba Justice. <a href="https://digitalcollection.gov.mb.ca/awweb/pdfopener?smd=1&amp;did=12713&amp;md=1">https://digitalcollection.gov.mb.ca/awweb/pdfopener?smd=1&amp;did=12713&amp;md=1</a></p>
England and Wales	<p>Home Office. (2017). <i>Police and Criminal Evidence Act 1984: Code D</i>.  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/592562/pace-code-d-2017.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/592562/pace-code-d-2017.pdf</a></p>
India	<p>Prabhakar, G. &amp; Bhupal Reddy, G. (2017). <i>Conduct of test identification parades for suspects and property recovered during investigation</i> (workshop proceedings, pp. 1-38). Official Website of District Court.  <a href="https://districts.ecourts.gov.in/sites/default/files/Third%20Topic_1.pdf">https://districts.ecourts.gov.in/sites/default/files/Third%20Topic_1.pdf</a></p>
Ireland	<p>Garda Síochána Inspectorate. (2014). <i>Crime investigation</i>.  <a href="https://static.rasset.ie/documents/news/gsi-crime-investigation-full.pdf">https://static.rasset.ie/documents/news/gsi-crime-investigation-full.pdf</a></p> <p>Citizens Information Board. (2014). <i>Identification evidence</i>.  <a href="https://www.citizensinformation.ie/en/justice/evidence/identification_evidence.html">https://www.citizensinformation.ie/en/justice/evidence/identification_evidence.html</a></p>
Kenya	<p>Office of the Inspector General. (2017). <i>The National Police Service: Service Standing Orders</i>. <a href="http://www.nationalpolice.go.ke/downloads/category/5-acts.html?download=45:national-police-service-standing-orders">http://www.nationalpolice.go.ke/downloads/category/5-acts.html?download=45:national-police-service-standing-orders</a></p>
Lesotho	<p>Teboho Mohajane and Another v Rex, LLR 434 (1982–1984), as cited in R v Mboho LSHC 78 (2012)</p>
New Zealand	<p>New Zealand Evidence Act 2006. (2019).  <a href="http://www.legislation.govt.nz/act/public/2006/0069/latest/DLM393463.html">http://www.legislation.govt.nz/act/public/2006/0069/latest/DLM393463.html</a></p>

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Norway	Riksadvokaten [Norwegian Director of Public Prosecutions/Attorney-General]. (2013). Circular 201301325-7 622: <i>Vitnekconfrontasjoner</i> [Witness confrontation]. <sup>2</sup>
Scotland	Police Scotland. (2018). <i>Identification procedures: Standard operating procedure</i> . <a href="https://www.scotland.police.uk/assets/pdf/151934/184779/identification-procedures-sop">https://www.scotland.police.uk/assets/pdf/151934/184779/identification-procedures-sop</a>
Solomon Islands	Evidence Act, No.11 (2009). <a href="http://www.parliament.gov.sb/files/legislation/Acts/Evidence%20Act%202009.pdf">http://www.parliament.gov.sb/files/legislation/Acts/Evidence%20Act%202009.pdf</a>
South Africa	South African Police Service. (2007). National Instruction: Identification Parades. Pretoria: Commissioner of the South African Police Service. <sup>3</sup>
Tanzania	Inspector General of Police. (n.d.). Police General Order No. 232, as cited in Chiwinga, A. (n.d.). <i>Analysis and effectiveness of identification parade in the administration of justice in Tanzania. A case study of Nyamagana district</i> [unpublished dissertation]. St. Augustine University of Tanzania. <a href="https://www.academia.edu/8730696/analysis_and_effectiveness_of_identification_parade_in_the_adminstration_of_justice_in_Tanzania">https://www.academia.edu/8730696/analysis_and_effectiveness_of_identification_parade_in_the_adminstration_of_justice_in_Tanzania</a>
Uganda	R v. Mwangi Manaa, 3 EACA 29 (1936), Ssentale v. Uganda, EA 365 (1968), and Stephen Mugume v. Uganda, CA 20 SC (1995), all of which were restated in Anor v. Uganda, UGSC 26 (2018)
United States	Technical Working Group for Eyewitness Evidence. (1999). <i>Eyewitness Evidence: A Guide for Law Enforcement</i> . National Institute of Justice. <a href="https://www.ncjrs.gov/pdffiles1/nij/178240.pdf">https://www.ncjrs.gov/pdffiles1/nij/178240.pdf</a>  Yates, S. Q. (2017). Memorandum for heads of department law enforcement components, all department prosecutors. Washington, DC: Office of the Deputy Attorney General, U.S. Department of Justice. <a href="https://www.justice.gov/archives/opa/press-release/file/923201/download">https://www.justice.gov/archives/opa/press-release/file/923201/download</a>
Zimbabwe	S v. Ndhlovu and Others, 2 ZLR 261 SC (1985), as cited in Zimbabwe Legal Information Institute. (2016). <i>Criminal defender's handbook</i> . <a href="https://zimlii.org/content/criminal-defender%E2%80%99s-handbook">https://zimlii.org/content/criminal-defender%E2%80%99s-handbook</a>

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Note: The legal systems in Lesotho, Norway, Scotland, South Africa, and Zimbabwe are classified as a mix of civil and common law.

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<sup>2</sup> Thanks to Ulf Stridbeck for providing a translation.

<sup>3</sup> Thanks to Alicia Nortje and Colin Tredoux for their assistance in locating South African guidelines.

Table A2

*Sources of Guidelines for Civil Law Countries*

Country	Source of Guidelines	Sections/Pages
Albania	Criminal Procedure Code of the Republic of Albania 1995 (amended 2017) <a href="https://www.legislationline.org/download/id/8236/file/Albania_PC_1995_am2017_en.pdf">https://www.legislationline.org/download/id/8236/file/Albania_PC_1995_am2017_en.pdf</a>	170 - 175
Armenia	Criminal Procedure Code of the Republic of Armenia 1998 (amended 2020) <a href="http://www.parliament.am/law_docs/010998HO248eng.pdf?lang=eng">http://www.parliament.am/law_docs/010998HO248eng.pdf?lang=eng</a>	221 - 224
Austria	Strafprozeßordnung [Criminal Procedure] 1975 (amended 2020) <a href="https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&amp;Gesetzesnummer=10002326">https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&amp;Gesetzesnummer=10002326</a>	163
Azerbaijan	Azərbaycan Respublikasının Cinayət-Prosesual Məcəlləsi [Code of Criminal Procedure of the Azerbaijan Republic] 2000 (amended 2019) <a href="http://www.e-qanun.az/code/14">http://www.e-qanun.az/code/14</a>	239 - 241
Bosnia and Herzegovina	The Federation of Bosnia and Herzegovina Criminal Procedure Code 2003 (amended 2014) <a href="https://www.legislationline.org/download/id/8503/file/CPC_FBIH_am2014_eng.pdf">https://www.legislationline.org/download/id/8503/file/CPC_FBIH_am2014_eng.pdf</a>	99 - 100
Brazil	Código de Processo Penal [Criminal Procedure Code] 1941 (amended 2019) <a href="http://www.planalto.gov.br/ccivil_03/decreto-lei/del3689.htm">http://www.planalto.gov.br/ccivil_03/decreto-lei/del3689.htm</a>	226 - 228
Bulgaria	Penal Procedure Code 2006 (amended 2011) <a href="https://www.legislationline.org/download/id/4152/file/PENAL_PROCEDURE_CODE_am2011_en.pdf">https://www.legislationline.org/download/id/4152/file/PENAL_PROCEDURE_CODE_am2011_en.pdf</a>	169 - 171
Colombia	Código de Procedimiento Penal [Criminal Procedure Code] 2004 (amended 2019) <a href="https://www.imolin.org/doc/amlid/Colombia_Ley%20906%20de%202004_Nuevo%20Codigo%20de%20Procedimiento%20Penal.pdf">https://www.imolin.org/doc/amlid/Colombia_Ley%20906%20de%202004_Nuevo%20Codigo%20de%20Procedimiento%20Penal.pdf</a>	251 - 253
Croatia	Criminal Procedure Code (2009) <a href="https://www.legislationline.org/download/id/7895/file/Croatia_Criminal_proc_code_am2009_en.pdf">https://www.legislationline.org/download/id/7895/file/Croatia_Criminal_proc_code_am2009_en.pdf</a>	301 - 303
Czechia	Code of Criminal Procedure of the Czech Republic 1961 (amended 2012)	104

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	<a href="https://www.legislationline.org/download/id/6371/file/Czech%20Republic_CPC_1961_am2012_en.pdf">https://www.legislationline.org/download/id/6371/file/Czech%20Republic_CPC_1961_am2012_en.pdf</a>		
Denmark	<p>Strafferetsplejeudvalg [Criminal Justice Committee]. (1995). Betænkning om Fotoforevisning, konfrontation, efterlysning og observation, Nr. 1298/1995 [Report on Photo viewing, Confrontation, Investigation and Observation, No. 1298/1995]. Ministry of Justice [Afgivet af Justitsministeriets]. <a href="http://krim.dk/undersider/retskilder/betaenkning1298-fotoforevisning-konfrontation-mv-1995.pdf">http://krim.dk/undersider/retskilder/betaenkning1298-fotoforevisning-konfrontation-mv-1995.pdf</a></p> <p>Administration of Justice Act 1916 (amended 2019) <a href="https://www.retsinformation.dk/Forms/R0710.aspx?id=209542">https://www.retsinformation.dk/Forms/R0710.aspx?id=209542</a></p>	43	62
Estonia	Code of Criminal Procedure 2003 (amended 2017) <a href="https://www.riigiteataja.ee/en/eli/530012017002/consolide">https://www.riigiteataja.ee/en/eli/530012017002/consolide</a>	81	82
Georgia	Criminal Procedure Code of Georgia 2009 (amended 2019) <a href="https://www.legislationline.org/download/id/8251/file/Georgia_CPC_2009_am2019_en.pdf">https://www.legislationline.org/download/id/8251/file/Georgia_CPC_2009_am2019_en.pdf</a>	131	
Germany	Richtlinien für das Strafverfahren und das Bußgeldverfahren [Guidelines for Criminal Proceedings and Fines Proceedings] 1977 (amended 2019). <a href="http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_01011977_420821R5902002.htm">http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_01011977_420821R5902002.htm</a>	18	
Hungary	Act XIX of 1998 on Criminal Proceedings (amended 2011). <a href="https://www.legislationline.org/download/action/download/id/6398/file/Hungary_CPC_1998_am2011_en.pdf">https://www.legislationline.org/download/action/download/id/6398/file/Hungary_CPC_1998_am2011_en.pdf</a>	122	123
Italy	Codice di Procedura Penale [Criminal Procedure Code] 1988 (amended 2020) <a href="https://www.altalex.com/documents/news/2014/07/15/mezzi-di-prova">https://www.altalex.com/documents/news/2014/07/15/mezzi-di-prova</a>	213	217
Kazakhstan	Criminal Procedure Code of the Republic of Kazakhstan 2014 (amended 2016) <a href="http://adilet.zan.kz/eng/archive/docs/K1400000231/08.04.2016">http://adilet.zan.kz/eng/archive/docs/K1400000231/08.04.2016</a>	229	230
Kyrgyzstan	The Kyrgyz Republic Criminal Procedure Code 1999 (amended 2008) <a href="https://www.legislationline.org/documents/action/popup/id/17708">https://www.legislationline.org/documents/action/popup/id/17708</a>	197	198
Latvia	Criminal Procedure Law 2005 (amended 2018) <a href="https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law">https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law</a>	175	177
Lithuania	Lietuvos Respublikos Baudžiamojo Proceso Kodeksą [Code of Criminal Procedure of the Republic of Lithuania] 2002 (amended	191	192

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	2020). <a href="https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.163482/yEPeCZkWIr">https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.163482/yEPeCZkWIr</a>		
Macau	Criminal Procedure Code 1996 (amended 2013) <a href="http://bo.io.gov.mo/bo/i/2013/48/despce.asp#354">http://bo.io.gov.mo/bo/i/2013/48/despce.asp#354</a>	134	- 136
North Macedonia	Criminal Procedure Law 1997 (amended 2010) <a href="https://www.legislationline.org/download/id/6377/file/FYROM_CPC_am2010_en.pdf">https://www.legislationline.org/download/id/6377/file/FYROM_CPC_am2010_en.pdf</a>	219	- 220
Moldova	Criminal Procedure Code of the Republic of Moldova 2003 (amended 2016) <a href="https://www.legislationline.org/download/id/6793/file/Moldova_CPC_2003_am2016_en.pdf">https://www.legislationline.org/download/id/6793/file/Moldova_CPC_2003_am2016_en.pdf</a>	116	
Mongolia	Law of Mongolia on Criminal Investigation and Decision 2017 (amended 2020) <a href="https://www.legalinfo.mn/law/details/12694">https://www.legalinfo.mn/law/details/12694</a>	25.7	
Montenegro	The Criminal Procedure Code 2009 (amended 2015) <a href="https://www.legislationline.org/download/id/6412/file/Montenegro_CPC_am2015_en.pdf">https://www.legislationline.org/download/id/6412/file/Montenegro_CPC_am2015_en.pdf</a>	103	
Nicaragua	Código Procesal Penal de la República de Nicaragua [Criminal Procedure Code of the Republic of Nicaragua] 2001 <a href="http://legislacion.asamblea.gob.ni/Normaweb.nsf/(\$All)/5EB5F629016016CE062571A1004F7C62?OpenDocument">http://legislacion.asamblea.gob.ni/Normaweb.nsf/(\$All)/5EB5F629016016CE062571A1004F7C62?OpenDocument</a>	233	- 235
Poland	Kodeks Postępowania Karnego [Code of Criminal Procedure] 1997 (amended 2020) <a href="http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970890555/U/D19970555Lj.pdf">http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970890555/U/D19970555Lj.pdf</a>	173	
	Rozporządzenie Ministra Sprawiedliwości Z Dnia 2 Czerwca 2003 R. W Sprawie Warunków Technicznych Przeprowadzenia Okazania [Regulation of the Minister of Justice of June 2, 2003 Regarding the Technical Conditions for Conducting the Presentation] <a href="http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20031040981/O/D20030981.pdf">http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20031040981/O/D20030981.pdf</a>	1	- 16
Portugal	Código de Processo Penal [Code of Criminal Procedure] 1987 (amended 2019) <a href="https://dre.pt/web/guest/legislacao-consolidada-/lc/117352444/201903111102/diploma?_LegislacaoConsolidada_WAR_drefrontofficeportlet_rp=indice">https://dre.pt/web/guest/legislacao-consolidada-/lc/117352444/201903111102/diploma?_LegislacaoConsolidada_WAR_drefrontofficeportlet_rp=indice</a>	147	- 149
Romania	Criminal Procedure Code 2010 (amended 2014) <a href="https://www.legislationline.org/download/id/5896/file/Romania_CPC_am2014_EN.pdf">https://www.legislationline.org/download/id/5896/file/Romania_CPC_am2014_EN.pdf</a>	132	- 137

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Russia	Criminal Procedural Code of the Russian Federation 2001 (amended 2012) <a href="https://www.legislationline.org/download/id/4248/file/RF_CPC_2001_am03.2012_en.pdf">https://www.legislationline.org/download/id/4248/file/RF_CPC_2001_am03.2012_en.pdf</a>	192	-	193
Serbia	Zakonik o Krivičnom Postupku [Criminal Procedure Code] 2011 (amended 2019) <a href="https://www.paragraf.rs/propisi/zakonik_o_kvivicnom_postupku.html">https://www.paragraf.rs/propisi/zakonik_o_kvivicnom_postupku.html</a>	90		
Slovakia	Trestný Poriadok [Criminal Code] 2005 (amended 2020) <a href="https://www.zakonypreludi.sk/zz/2005-301">https://www.zakonypreludi.sk/zz/2005-301</a>	126		
Slovenia	Zakon o kazenskem postopku [Criminal Procedure Code] 2006 (amended 2019) <a href="http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362">http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362</a>	242		
Spain	Ley de Enjuiciamiento Criminal [Criminal Procedure Law] 1882 (amended 2015) <a href="https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036">https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036</a>	368	-	372
Sweden	Rikspolisstyrelsen [National Police Board]. (2005). Vittneskonfrontation [Witness confrontation].	1	-	30
Ukraine	Criminal Procedure Code of Ukraine 2013 (amended 2015) <a href="https://rm.coe.int/16802f6016">https://rm.coe.int/16802f6016</a>	228	-	231
Uzbekistan	Criminal Procedure Code of the Republic of Uzbekistan 1994 (amended 2019) <a href="https://lex.uz/docs/-111460">https://lex.uz/docs/-111460</a>	125	-	131
Vietnam	Criminal Procedure Code 2015 <a href="https://vanbanphapluat.co/law-no-101-2015-qh13-criminal-procedure-code">https://vanbanphapluat.co/law-no-101-2015-qh13-criminal-procedure-code</a>	139		