



RESTRICTED

WEST MIDLANDS POLICE Force Policy Document

POLICY TITLE:

**VIDEO EVIDENCE RECOGNITION and
IDENTIFICATION POLICY.**

POLICY REFERENCE NO:

CJ/06

Executive Summary.

This policy is intended to provide clarity and corporacy with regards to the recognition and formal identification processes and provide guidance to officers in circumstances where recognition of an unknown suspect is required and following recognition, identification becomes an issue.

***Any enquiries in relation to this policy should be made be made directly with that of the policy contact / department shown below.*

Intended Policy Audience.

This policy is aimed at all police officers, LPU Identification Champions and Force Identification Bureau staff.

| | | |
|--|--|-------------------|
| Current Version And Effective Date. | Version 2.1 | 08.05.2013 |
| Business Area Owner | Community Justice & Custody (CJC) | |
| Department Responsible | Force Identification Bureau (FIB) | |
| Policy Contact | [REDACTED] | |
| Policy Author | CJC | |
| Approved By | ACC Scobbie | |
| Policy Initial Implementation Date | 29 July 2010 | |
| Review Date | May 2014 | |
| Protective Marking | Yes - Restricted. | |
| Suitable For Publication – Freedom Of Information | Yes | |

RESTRICTED

Supporting Documents

- PACE – Code D ([pdf](#))
- Identification policy and information via CJC ([pdf](#))
- Promat – Information Services ([pdf](#))

Evidence Based Research

Full supporting documentation and evidence of consultation in relation to this policy including that of any version changes for implementation and review, are held with the Force Policy Co-ordinator including that of the authorised original Command Team papers.

Please Note.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UPTO DATE VERSION OF ANY POLICY, GUIDANCE or FORCE DIRECTIVE – ORDER, CAN BE FOUND ON THE INTRANET A to Z POLICIES SITE.

RESTRICTED

Force Diversity Vision Statement and Values

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, staff and officers at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

CONTENTS

| | | |
|-------|---|----|
| I. | Abbreviations | 4 |
| 1. | INTRODUCTION | 6 |
| 1.1. | Purpose | 6 |
| 1.2. | Policy Aims | 6 |
| 2. | VIDEO EVIDENCE RECOGNITION PROCEDURES | 6 |
| 2.1. | Admissibility of Evidence | 6 |
| 2.2. | PACE Code 'D' | 6 |
| 2.3. | Eye Witnesses | 7 |
| 2.4. | Definition of 'Visual Medium' | 7 |
| 2.5. | Witness Types | 7 |
| 3. | UNIDENTIFIED IMAGES | 7 |
| 3.2. | Viewing of Unidentified Images by Investigators | 7 |
| 3.2.1 | Individual Viewing | 7 |
| 3.2.2 | Numbering of Images | 7 |
| 3.2.3 | Recognition Officer | 7 |
| 3.2.4 | Conduct of Procedure | 8 |
| 3.2.5 | Action in the Event of Recognition | 8 |
| 4. | UNIDENTIFIED IMAGES PLACED ON THE FORCE BRIEFING SYSTEM | 8 |
| 4.1. | Instruction Prior to Viewing | 8 |
| 4.2. | Automated Viewing Records | 8 |
| 4.3. | Removal of Images from Briefing System | 8 |
| 5. | IDENTIFIED IMAGES | 8 |
| 5.1. | Procedure Following Recognition of an Image | 8 |
| 5.2. | Role of the Recognition Officer | 9 |
| 5.3. | Selection of Footage | 9 |
| 5.4. | Preparation for Viewing | 9 |
| 5.5. | Selection of Witnesses | 9 |
| 5.6. | Attendance of Officer Recognising the Image | 9 |
| 5.7. | Method of Viewing | 9 |
| 5.8. | Role of Witness Officers | 9 |
| 5.9. | Legal Representation | 10 |
| 5.10. | Questions to Witnesses by Recognition Officer | 10 |
| 5.11. | Recording the Procedure | 10 |
| 6. | DOCUMENTATION | 10 |
| 6.1. | Witness Statements | 10 |
| 6.2. | Recognition Officers Statement | 11 |

RESTRICTED

| | | |
|-------|---|----|
| 7. | FORMAL IDENTIFICATION PROCEDURES..... | 11 |
| 7.1. | Circumstances in which an identification procedure must be held..... | 11 |
| 7.2. | Force Identification Bureau (FIB). | 12 |
| 7.3. | LPU Responsibilities..... | 12 |
| 7.4. | Role of Community Justice & Custody Department (CJC). | 13 |
| 7.5. | Force ID Bureau Staffing. | 14 |
| 7.6. | Availability of the Force ID Bureau..... | 14 |
| 7.7. | Selecting the Appropriate Identification Procedure..... | 14 |
| 7.8. | Cases when the suspect is known and available..... | 14 |
| 7.9. | Cases when the suspect is known but not available..... | 15 |
| 7.10. | Arranging an Identification procedure with Force ID Bureau. | 16 |
| 7.11. | Identification Forms. | 16 |
| 7.12. | Arranging an ID Procedure Appointment. | 16 |
| 7.13. | Non-Attendance of Suspect for Appointment. | 16 |
| 7.14. | Dealing with Change of Appearance..... | 17 |
| 8.1. | Overview. | 18 |
| 8.2. | Selection of Images..... | 18 |
| 8.3. | Action Following the Compilation of a Video ID Parade. | 19 |
| 8.4. | Action if There Are Insufficient Suitable Images on Promat 2 Database..... | 19 |
| 8.5. | Collection of Additional Promat 2 Images. | 20 |
| 8.6. | Conducting the Video Identification (Witness Viewing). | 20 |
| 9. | WITNESS CARE..... | 20 |
| 9.1. | General..... | 20 |
| 9.2. | Vulnerable Witnesses..... | 20 |
| 9.3. | Undercover (UC) Police Officers/Witnesses Provided with a Pseudonym.... | 21 |
| 9.4. | Planning & Conducting the Witness Viewing Procedures..... | 21 |
| 9.5. | Managing Multiple Witnesses..... | 22 |
| 9.6. | Managing Multiple Witnesses & Multiple Suspects..... | 22 |
| 9.7. | Obtaining Witness Statements Following Witness Viewing Procedures..... | 22 |
| 9.8. | ID Officer's Statements..... | 23 |
| 9.9. | Dealing with Solicitors..... | 23 |
| 9.10. | Dealing with concealment or replication of unusual physical feature during witness viewings..... | 24 |
| 9.11. | Control of Exhibits..... | 25 |
| 9.12. | Performance Monitoring..... | 25 |
| 10. | EQUALITY IMPACT ASSESSMENT (EQIA)..... | 26 |
| 11. | HUMAN RIGHTS..... | 26 |
| 12. | FREEDOM OF INFORMATION (FOI)..... | 26 |
| 13. | TRAINING..... | 26 |
| 14. | PROMOTION / DISTRIBUTION & MARKETING..... | 27 |
| 15. | REVIEW..... | 27 |
| 16. | VERSION HISTORY..... | 28 |

RESTRICTED

Abbreviations

| | | |
|---------------|---|--|
| CJC | - | Community Justice and Custody Department |
| CPS | - | Crown Prosecution Service |
| FIB | - | Force Identification Bureau |
| HOLMES | - | Home Office Large Major Enquiry System |
| ICIS | - | Integrated Custody Information System |
| LPU | - | Local Policing Unit |
| PACE | - | Police and Criminal Evidence Act 1984 |
| WMP | - | West Midlands Police |

RESTRICTED

1. INTRODUCTION.

1.1. Purpose.

1.1.1 The showing of video footage of an incident to witnesses, including police officers, who are not eye-witnesses to the incident, for the purposes of recognising a suspect, is permissible at any stage of an investigation. Following recognition of a suspect, formal Identification (ID) procedures must follow when the suspect later disputes the identification made by the witness.

1.1.2 This policy is intended to provide clarity and corporacy with regards to the recognition and formal identification processes. The purpose of this policy is to provide guidance to officers in circumstances where recognition of an unknown suspect is required and following recognition, identification becomes an issue. Code D of the Police and Criminal Evidence Act 1984 governs Identification procedures.

1.2. Policy Aims.

- To ensure that guidance on recognition evidence and subsequent identification procedures are readily available to investigating officers.
- To provide guidance upon the practical interpretation of Code D PACE.
- Provide clarity around areas of responsibility, procedures and policy to achieve corporate standards for these procedures.
- To ensure that West Midlands Police recognition and identification procedures are conducted in a manner that is effective, efficient, robust and with integrity.

SECTION 'A'

2. VIDEO EVIDENCE RECOGNITION PROCEDURES.

2.1. Admissibility of Evidence.

It is essential that this guidance is accurately and consistently followed. Failure to comply with the guidance could result in the recognition evidence being ruled inadmissible and could adversely affect the likelihood of securing a conviction.

2.2. PACE Code 'D'.

The revised Code D (March 2011) contains a new section (B) dealing with recognition of images in a film, photograph or other visual medium by non-eye witnesses (including police officers). Paragraph D3.35 provides, that the images should be shown on an individual basis and that the showing shall as far as possible follow the principles in **Annex A** (if the suspect is known) and **Annex E** (if the suspect is not known).

Paragraph D3.36 provides a detailed list of information which must be recorded at the time of the viewing. The information will enable the court to gauge the reliability of the recognition and ascertain whether the safeguards in Annex A or Annex E (as appropriate) have been adhered to. The detailed list in D3.36 is reproduced at paragraph 6.1 of this policy.

Police & Criminal Evidence Act 1984 – Code D (link)

RESTRICTED

2.3. Eye Witnesses.

It is important to note that eye-witnesses (including police officers) to the offence should not normally be shown video footage of the incident as this is likely to involve a breach of Code D. The formal Code D procedures (e.g. video ID parade) must be used and evidence of a positive identification at formal procedure would be undermined if the witness has viewed footage of the incident prior to such a procedure.

2.4. Definition of 'Visual Medium'.

For the purposes of this guidance, "visual medium" is to be taken to mean all forms of visually recorded evidence and includes digital material and photographs.

2.5. Witness Types.

This guidance relates specifically to the showing of footage to police officers. The majority of such viewings for the purposes of recognition will be made by police officers. However, where it is proposed to show footage to non-eyewitness civilian witnesses (including police staff) for the purposes of recognition, the same principles should be followed.

3. UNIDENTIFIED IMAGES.

3.1 The following procedures should be followed at the stage of the investigation where the image of the offender on the video footage has **NOT** been identified. The same principles will apply whether the footage is being viewed initially by the investigative team for the purposes of recognition; or whether images are later placed on the Force Briefing System for a wider audience.

3.2. Viewing of Unidentified Images by Investigators.

3.2.1 Individual Viewing.

Paragraph D3.35 Code D provides that the video footage containing the image must be viewed by police officers on an individual basis to avoid any possibility of collusion and to provide safeguards against mistaken recognition. The showing shall as far as possible follow the principles for video identification. If the suspect is known see **Annex A**, or identification by photographs if the suspect is not known, see **Annex E**

3.2.2 Numbering of Images.

Where appropriate & practicable, the officer should be shown video footage that contains a number of images of offenders. Individual images should be referred to by number.

3.2.3 Recognition Officer.

Where practicable, the procedure should be overseen by an officer with no direct involvement in the investigation, the "recognition officer". The recognition officer should be a trained "approved person" or of at least the rank of Inspector. The recognition officer will countersign any record of these procedures in which they are involved.

RESTRICTED

3.2.4 Conduct of Procedure.

A full contemporaneous record should be made of each viewing using the forms WC293, whether or not recognition is made. If practicable, the viewing should be audio recorded or video recorded with sound track. Where a recognition is made, the record must include the information listed at paragraph D3.36 (a - k) Code D. This list is reproduced in-full at paragraph 6.1 of this policy.

3.2.5 Action in the Event of Recognition.

Once an image is recognised, no further officers should view the footage at this stage. Where appropriate, the remaining officers will view the footage in accordance with the procedure for identified images as outlined in the paragraphs below.

4. UNIDENTIFIED IMAGES PLACED ON THE FORCE BRIEFING SYSTEM.

4.1. Instruction Prior to Viewing.

4.1.1 Where images are placed on the Force Briefing System, the following instructions must be clearly displayed on a title page preceding the actual images:

- Images must not be viewed by officers who are eye witnesses to the incident in question.
- Viewings must be made individually. There should be no discussion between officers before, during or after the viewing.
- A pocket notebook entry or witness statement must be prepared immediately in the event of a positive recognition. This record should include the information set out in paragraph 6.1 of this policy (i.e. information which must be recorded in accordance with D3.36 Code D).

4.1.2 The investigating officer should be contacted immediately in the event of a positive recognition by telephone and email with full covering details.

4.2. Automated Viewing Records.

Where a contemporaneous record of the viewing is automatically created by the relevant software system; that record will suffice for disclosure purposes in cases where no image is recognised.

4.3. Removal of Images from Briefing System.

Any identified image should be removed from the Force Briefing System as soon as reasonably practicable. (This does not preclude later re-circulation should the identification prove incorrect).

5. IDENTIFIED IMAGES.

5.1. Procedure Following Recognition of an Image.

The following formal recognition procedure applies once positive identification has been made in accordance with the above (unless the identification is clearly incorrect because the named individual can be eliminated). There is nothing in Code D to prevent other persons viewing the video footage for the purposes of recognition at any stage of the investigation or prosecution process.

RESTRICTED

5.2. Role of the Recognition Officer.

The procedure should be conducted by an officer ("recognition officer"). The recognition officer must be a trained "approved person" or of the rank of at least Inspector, who has no direct involvement with the case.

5.3. Selection of Footage.

The investigating officer will provide the relevant footage to the recognition officer. The preparation of viewing material may be delegated by the recognition officer to a person with suitable technical skills

5.4. Preparation for Viewing.

The best available images should be used for the purposes of the viewing. Moving video images should be shown where practicable rather than still images. Where appropriate and practicable, the officer should be shown video footage that contains several individual images. Each image should be numbered. Where practicable (and in particular in more serious cases), two or more identical sections of footage should be prepared and the individual images numbered differently. One of these sections of footage will then be selected at random for each officer viewing the footage.

5.5. Selection of Witnesses.

The recognition officer should select individuals to view the video footage. These officers should be selected on the basis that they have had previous dealings with the named suspect whose image has been identified on the footage. It is best practice to select individuals from police records of previous dealings, rather than by directly appealing for officers by reference to the suspect's name. In this way, when the officer views the video footage, they will not be aware of the name already attributed to the image.

5.6. Attendance of Officer Recognising the Image.

In addition, any officer who has previously identified the image in accordance with the above "unidentified image" procedure, must attend the formal recognition procedure as detailed in this section.

5.7. Method of Viewing.

The recognition officer should make arrangements for the officers to attend viewings at a designated time and place. Where practicable, viewings should take place at premises not connected with the investigation. Officers should attend individually and should be instructed not to discuss the viewing with any other officers involved. Officers should not be told the name of the suspect whom the footage is believed to contain.

5.8. Role of Witness Officers.

Where more than one officer is required to view the images, the recognition officer will appoint a "witness" officer(s) to assist in the process. Witness officers should be informed that their role is to ensure that officers intending to view the images do not discuss any of the related viewing images and individual findings before or after the viewing session.

RESTRICTED

5.9. Legal Representation.

The suspect's solicitor or legal representative (if known) should be invited to attend the viewing and be given reasonable opportunity to view the footage before it is shown to any officer. Steps should also be taken, where practicable, to remove any reasonable grounds for objection that the solicitor/ legal representative has in respect of any aspect of the procedure

5.10. Questions to Witnesses by Recognition Officer.

The recognition officer will conduct the viewings on an individual basis. Before each viewing, the officer will be told that the footage may or may not contain images of persons whom he/she will recognise. The officer will be asked the following:

- Have they been informed of the name of any person whose image is believed to be on the footage? - *Provide details.*
- Have they previously viewed any images in connection with the investigation (e.g. via Force Briefing System)? - *Provide details.*
- Have they discussed the viewing with any other officer? - *Provide details.*

5.11. Recording the Procedure.

Best practice would dictate that the viewing procedure should itself be video recorded (with sound track). A contemporaneous written record must be made of the procedure (whether or not identification is made) using the standard forms WC293, to include the following:

- Representations made by solicitor/ legal representative, and representations made by recognition officer in response.
- What is it about the image which has triggered the recognition or satisfied the officer as to the accuracy of the recognition; particular facial features, tattoos or gait?
- The officer's initial reaction to the image on the footage. Words used by the officer in making the identification.
- Approximate time taken to make the recognition; number of viewings before image is identified etc.

6. **DOCUMENTATION.**

6.1. Witness Statements.

Each officer making recognition should provide an MG11 dealing with the precise extent of their previous dealings with the suspect and dealing with the circumstances of the recognition. Paragraph D3.36 Code D provides a list of information which must be recorded. With the exception of subparagraphs (e), (f) and (i) below, the place to record the information is the MG11.

"D3.36: A record of the circumstances and conditions under which the person is given an opportunity to recognise the individual must be made and the record must include:

RESTRICTED

- a) Whether the person knew or was given information concerning the name or identity of any suspect.
- b) What the person has been told before the viewing about the offence, the person(s) depicted in the images or the offender and by whom.
- c) How and by whom the person was asked to view the image or look at the individual.
- d) Whether the viewing was alone or with others and if with others, the reason for it.
- e) The arrangements under which the person viewed the film or saw the individual and by whom those arrangements were made.
- f) Whether the viewing of any images was arranged as part of a mass circulation to police and the public or for selected persons.
- g) The date time and place images were viewed or further viewed or the individual was seen.
- h) The times between which the images were viewed or the individual was seen.
- i) How the viewing of images or sighting of the individual was controlled and by whom.
- j) Whether the person was familiar with the location shown in any images or the place where they saw the individual and if so, why.
- k) Whether or not on this occasion, the person claims to recognise any image shown, or any individual seen, as being someone known to them, and if they do:
 - I. the reason
 - II. the words of recognition
 - III. any expressions of doubt
 - IV. what features of the image or the individual triggered the recognition?

6.2. Recognition Officers Statement.

Where one or more officers make a positive identification, the recognition officer should provide a MG11 dealing with the procedure and producing the contemporaneous record (and, where appropriate, video recording) as an exhibit. The recognition officer should ensure that all of the information listed at D3.36 (a) - (k) above is recorded in the documentation as a whole (i.e. somewhere in MG11 of recognition officer, in MG11 of officer making the recognition or in contemporaneous notes).

SECTION 'B'

7. FORMAL IDENTIFICATION PROCEDURES.

In the majority of cases where video evidence recognition procedures have been used and a suspect has been identified, then formal identification procedures tend to follow.

7.1. Circumstances in which an identification procedure must be held.

7.1.1 In accordance with paragraphs 3.12 and 3.13 Code D PACE an identification procedure must be held:

Para 3.12: whenever:-

(i) an eye witness has identified a suspect or purported to have identified them prior to any identification procedure set out in paragraphs 3.5 to 3.10 having been held; OR

RESTRICTED

(ii) *there is a witness available who expresses an ability to identify the suspect, or where there is a reasonable chance of the witness being able to do so, and they have not been given an opportunity to identify the suspect in any of the procedures set out in paragraphs 3.5 to 3.10,*

and the suspect disputes being the person the witness claims to have seen, an identification procedure shall be held unless it is not practicable or it would serve no useful purpose in proving or disproving whether the suspect was involved in committing the offence, for example:

- where the suspect admits being at the scene of the crime and gives an account of what took place and the eye-witness does not see anything which contradicts that.
- when it is not disputed that the suspect is already known to the witness who claims to have recognised them when seeing them commit the crime.

It follows, that an identification procedure may be required despite admissions to "presence at the scene". The key question is whether the suspect admits being the person seen by the eye witness committing the particular crime.

Para 3.13: Such a procedure may also be held if the officer in charge of the investigation considers it would be useful.

7.2. Force Identification Bureau (FIB).

7.2.1 The Force Identification Bureau (FIB) is based at [REDACTED] FIB is responsible for preparing video identification parades involving a known suspect.

7.2.2 FIB staff have expertise of both legal and procedural matters with regard to visual identification issues. They are available for the provision of advice to investigating officers at any stage of an investigation, including pre-planned operations.

7.2.3 FIB staff have a responsibility to provide a support service to investigating officers in respect of identification matters regardless of Force boundaries. FIB will take ownership of dealings with other Forces and will provide investigating officers with viable and evaluated solutions, making the appropriate arrangements with other Forces. Prior to undertaking work for other Forces, FIB staff will discuss the implications and charges with Community Justice & Custody management.

7.2.4 The primary method of identification employed by West Midlands Police (WMP) is through the use of the PROMAT2 video identification software. FIB still has the facility to produce video identification parades on compact disk for witness viewings at locations other than a police station e.g. hospital.

7.3. LPU Responsibilities

7.3.1 Before a video identification parade, an identification parade or group identification procedure is arranged, a notice to suspect (WC 375) will be explained to the suspect and a copy provided to them by the serving LPU Inspector who is performing the role of the Identification Officer. The notice to suspect contains details of the purpose of the parade, legal entitlements, details of any photograph or media footage used prior to their identity becoming known, full details of first descriptions as provided by all witnesses, change of appearance etc. The full list is in PACE Code D Para. 3.17.

RESTRICTED

- 7.3.2 The duties of the identification officer under PACE Code D Para's 3.17 and 3.18 may be performed by the custody officer or other officer not involved in the investigation if:
- a) It is proposed to release the suspect in order that an identification procedure can be arranged and carried out and an inspector is not available to act as the Identification Officer before the suspect leaves the station; Or
 - b) It is proposed to keep the suspect in police detention whilst the procedure is arranged and carried out and waiting for an inspector to act as the Identification Officer would cause unreasonable delay to the investigation.
- 7.3.3 The integrity of the image capture process is vital. Officers who are not independent from the investigation and all witnesses must be excluded from the police station where the image capture takes place. The suspect should be offered a change of clothing for the image capture to preserve the integrity of the process.
- 7.3.4 Witness viewings of the video identification parade will be conducted by the LPU owning the investigation. An Inspector will be in overall charge of witness viewings, but the role may be delegated to another member of staff, however, the Inspector must be in a position to supervise the viewing and intervene if necessary. It will be a matter for the LPU to determine whom they wish to nominate for any such viewing, however, due consideration should be given to the nature of the offence being investigated.
- 7.3.5 Each LPU has identified an 'ID Champion'. This individual will be the primary conduit for communication between FIB and LPUs.
- 7.3.6 Investigating officers are responsible for following ID procedures in accordance with policy and procedure. This will ensure that an effective and efficient identification process is achieved through close and collaborative working practice with FIB.
- 7.3.7 It is important that the Investigating officer informs the identification officer if a witness has described more than one offender in their witness statement. This will ensure that after the witness viewing, a further statement is taken from the witness clarifying the role played by the person they have picked out (see paragraph 9.7.3).
- 7.3.8 Arrangements should be in place to ensure that all ID procedure documentation (including first descriptions for all witnesses, contemporaneous notes of witness viewing and MG11s of witnesses and ID officer) are available to CPS for the purposes of charging decision. All ID procedure documentation must be included in a full file of evidence sent to CPS.
- 7.4. **Role of Community Justice & Custody Department (CJC).**
- 7.4.1 CJC is responsible for identifying, introducing and implementing policy, corporacy and best practice in respect of the Identification process.
- 7.4.2 The Chief Inspector CJC is responsible for the line management of FIB staff. CJC responsibilities include budget, PDR, performance management and sickness. Admin support for FIB staff will be provided by CJC. Any sickness will be recorded by the supervisor within the Force Identification Bureau.
- 7.4.3 CJC will establish effective communications with the LPU 'ID Champions'. This will enable constructive feedback and performance issues to be dealt with.
- 7.4.4 A Force Intranet web page for Identification is incorporated within the CJC website and will be maintained by the Department.

RESTRICTED

7.5. Force ID Bureau Staffing.

7.5.1 A Police Staff supervisor has responsibility for the day-to-day functioning of FIB. This includes management of the workload and personnel matters. A number of business support officers are available who prepare video identification parades and provide advice and guidance to investigating officers.

7.6. Availability of the Force ID Bureau.

7.6.1 It is recognized that FIB provides a vital service to operational officers. Their workload is dictated by demand, which comes in peaks and troughs. This is a specialist service that is provided to the Force and it must be utilised efficiently. West Midlands Police policy is to carry out identification procedures whilst the suspect is 'in custody'

7.6.2 FIB operates Monday to Friday between the hours of 08:00 Hours to 21:00 Hours and on Weekends and Bank Holidays between 10:00 Hours to 18:00 Hours. Suspect image capture can still be completed on LPU outside of these hours and forwarded to FIB along with the required paperwork. Staff at FIB will complete the parade upon commencement of duty and return the completed parade as soon as practicable. It is essential in these cases that effective use of Superintendent and Court extensions are utilised.

7.7. Selecting the Appropriate Identification Procedure.

7.7.1 PACE Code D Para 3.14 specifies that if an identification procedure is to be held, the suspect shall initially be offered a video identification unless:

- I. A video identification is not practicable; or
- II. An identification parade is both practicable and more suitable than a video identification; or
- III. A group identification may initially be offered if the officer in charge (OIC) of the investigation considers it is more suitable than a video identification or an identification parade and the identification officer considers it practicable to arrange

7.7.2 To achieve a corporate approach to selection of the appropriate method of identification, officers will discuss any proposed deviation from video identification with FIB staff prior to taking such action. The LPU Inspector performing the role of ID officer must record the rationale behind the decision not to conduct a video identification using moving images.

7.8. Cases when the suspect is known and available.

Suspects who make themselves 'available' for ID procedures are participating voluntarily in the ID procedure. 'Available' is defined by PACE Code D paragraph 3.4 as:

'They are immediately available or will be within a reasonably short time and willing to take an effective part in at least one of the following which is practicable to arrange:

- *Video identification;*
- *Identification parade; or*
- *Group identification*

RESTRICTED

7.9. **Cases when the suspect is known but not available.**

7.9.1 This is dealt with by paragraphs 3.21 to 3.24 Code D which specifies:

3.21: When a known suspect is not available or has ceased to be available, (see paragraph 3.4), the identification officer may make arrangements for a video identification (see Annex A). If necessary, the identification officer may follow the video identification procedures but using still images. Any suitable moving or still images may be used and these may be obtained covertly if necessary.

Alternatively, the identification officer may make arrangements for group identification. These provisions may also be applied to juveniles where the consent of their parent or guardian is either refused or reasonable efforts to obtain that consent have failed.

7.9.2 In circumstances where a person who has never been arrested in relation to an offence under investigation later becomes a known suspect but cannot be located. It is for the prosecution to prove that the suspect was making them selves 'unavailable'. The suspect will claim in the absence of an arrest they were unaware of them being a 'known suspect' and not deliberately making them self 'unavailable'. It is for investigating officers to make enquiries to locate the person and then follow normal post arrest identification procedures. The decision to follow non-consenting procedures in these circumstances will be based on the supporting evidence provided by investigating officers that the suspect was deliberately making them self 'unavailable' and avoiding arrest.

7.9.3 *3.22: Any non-consenting activity should be strictly limited to that necessary to test the ability of the witness to identify the suspect.*

3.23: The identification officer may arrange for the suspect to be confronted by the witness if none of the options referred to in paragraphs 3.5 to 3.10 or 3.21 are practicable. A "confrontation" is when the suspect is directly confronted by the witness. A confrontation does not require the suspect's consent. Confrontations must be carried out in accordance with Annex D.

3.24: Requirements for information to be given to, or sought from, a suspect or for the suspect to be given an opportunity to view images before they are shown to a witness, do not apply if the suspect's lack of co-operation prevents the necessary action.

7.9.4 A person, who refuses to participate in ID procedures or fails to attend an ID appointment that has been arranged, may subsequently be deemed to have made themselves 'unavailable'. The likely consequence for suspects making themselves 'unavailable' is that the ID officer may then resort to another form of identification, [REDACTED] and evidence may be given concerning the suspect's failure to participate in the ID procedures voluntarily at any subsequent trial.

7.9.5 The usual practice for FIB in conducting ID procedures when the suspect is known but not available, i.e. non-consenting / failing to participate in ID procedures is to resort to use of suitable ICIS images for the purposes of forming an identification parade. Other identification procedures are available for consideration e.g. non-consenting group, in deciding upon the appropriate method of ID procedure, advice must be sought from FIB. Each case will be assessed on its own merits. In all cases of non consenting parades documentary evidence is required to support the fact that the suspect is 'unavailable'

7.9.6 At present, approximately 5% of ID procedures are non-consenting and involve the use of ICIS images as the 'still' image used. It is crucial therefore that good quality ICIS images are obtained whilst the suspect is in police detention.

RESTRICTED

7.10. Arranging an Identification procedure with Force ID Bureau.

- 7.10.1 To ensure the most effective use of an ID procedure, it is crucial to aim for the shortest possible time lapse between the date of the offence and subsequent witness viewing of the ID procedure. This helps both in terms of witness memory recall and in reducing the chances that the suspect's appearance may change (intentionally or otherwise).
- 7.10.2 The aim is to conduct all ID image captures whilst the person is still in Police detention. The need to conduct ID procedures will provide grounds to extend the PACE detention clock. In conducting ID procedures it will constitute 'securing of evidence relating to an offence for which the suspect is under arrest' for the purposes of Section 42-44 PACE. If this cannot be achieved, the ID capture should be within a short period of time. An appointment to attend for an ID procedure will be arranged with the suspect prior to their release from custody.

7.11. Identification Forms.

7.11.1 The following forms are utilised by FIB in Identification procedures:

- Notice to suspect of ID procedure (WC375 Promat 2)
- Offence and witness summary (WC376A Promat 2)
- Report of video ID parade capture/compilation procedure (WC377)
- Video ID parade witness viewing pack (WC378 Promat 2)

7.12. Arranging an ID Procedure Appointment.

- 7.12.1 It is appreciated that not all ID procedures can be conducted whilst a suspect is in police detention. This may be due to the suspect having a facial injury or an operational difficulty experienced by the investigating officers.
- 7.12.2 The suspect will attend for their ID procedure voluntarily thus not affecting the PACE detention clock. The image capture will be conducted by custody staff and the moving image forwarded to the Force Identification Bureau where a video identification parade will be completed.
- 7.12.3 On occasions the ID procedure will be conducted when the suspect returns on Police Bail following CPS advice or further enquiries.

7.13. Non-Attendance of Suspect for Appointment.

- 7.13.1 WMP will adopt a robust approach to appointments that are offered to suspects, the principle being to offer one appointment only unless there is evidence to support that there is a valid reason for their non-attendance for the ID procedure.
- 7.13.2 Before FIB can resort to the use of 'non-consenting' identification procedures, there must be evidence to support that the suspect was aware of the proposed procedure and that they were making themselves 'unavailable'.
- 7.13.3 It should be noted that the suspect's non-attendance for an appointment would not in itself be sufficient for the ID Officer to resort to other forms of identification. It will always be necessary for the investigating officer to make further enquiries, for example contact the suspect and/or solicitor to ascertain any good reason for non attendance.

RESTRICTED

- 7.13.4 It is crucial that the OIC documents all enquiries made in their pocket note book regarding the non-attendance of a suspect. They will discuss the outcome with FIB, who will then make recommendations as to the appropriate ID procedure to be pursued. The investigating officer is responsible for ensuring that there is a robust audit trail covering notification of the appointment through to any subsequent enquiries into non-attendance, as this may be required during any subsequent trial. In deciding whether to resort to 'non-consenting' identification procedures, FIB may request the investigating officer to provide either a written report or statement of evidence detailing the enquiries made.
- 7.13.5 Failure to make and document thorough enquiries may lead to FIB being unable to resort to non-consenting ID procedures.
- 7.13.6 All officers and staff should bear in mind the force policy on the effective management of offenders when dealing with priority and prolific offenders. Every effort should be made to carry out the whole identification process whilst the suspect is in custody.
- 7.14. **Dealing with Change of Appearance.**
- 7.14.1 Before a video identification, an identification parade or group identification is arranged a notice to suspect (WC 375) will be served on and explained to the suspect by the LPU Inspector performing the role of the Identification Officer. The notice to suspect contains a number of details including D 3.17 (ix) which informs the suspect that if they significantly alter their appearance between being offered an identification procedure and any attempt to hold an identification procedure, this may be given in evidence if the case comes to trial, and the identification officer may then consider other forms of identification.
- 7.14.2 At the time of serving the notice to suspect (WC 375), the serving officer will add a current description of the suspect. When the suspect later attends for an image capture their appearance will be compared to that noted by the serving officer. If there is a significant change in appearance, for example the suspect has grown a beard, then the Identification Officer can use an alternative identification procedure including the use of still images. Any suitable image can be used in these circumstances and details of any change of appearance may be given in evidence if the case comes to trial.
- 7.14.3 The provision of this section does **NOT** apply when a change of appearance occurs [REDACTED]
[REDACTED]
[REDACTED]
- 7.14.4 In very limited circumstances, the deliberate actions of the suspect (in changing his appearance) might mean that he is "unavailable". An example might be where the suspect, who is known not to require glasses, deliberately wears glasses and refuses to remove them. Previously obtained ICIS images will support this. The ID officer may then be entitled to use alternative procedures (i.e. use pre-existing ICIS image or a previously compiled video parade with suspect appearance at time of offence). The decision to treat the suspect as unavailable in these circumstances must be made by Inspector (preferably in consultation with CPS).
- 7.14.5 Where a normal ID procedure is conducted using the suspect's image with their appearance at the time of capture and due to the difference in appearance the witness is unable to make any identification (suspect or foil); it might be appropriate to show the witness a second parade using an image of the suspect with appearance at the time of the offence, if an image is available. Note that the Code does not allow for the use of a second parade. Any evidential weight to be attached to positive identification at second parade will be low. This will be an exceptional course of action and consultation must be made with CPS. The legal representative must be fully informed throughout.

RESTRICTED

8. PROCEDURE FOR COMPILATION OF VIDEO IDENTIFICATION PARADES.

8.1. Overview.

8.1.1 Promat2 provides WMP with the facility to prepare video identification parades. The suspect's image is captured using Promat2 software from a digital imaging booth located within a custody suite. The captured video file and associated paperwork are sent via a secure network to FIB. A video identification parade is then compiled by FIB. The completed video identification parade and associated paperwork is sent via a secure network to a nominated witness viewing officer on the originating LPU to facilitate the witness viewing. - ([link to Promat – Information Services](#)).

8.1.2 Paragraph 3.5 Code D PACE specifies:

A 'video identification' is when the witness is shown moving images of a known suspect, together with similar images of others who resemble the suspect. Moving images must be used unless:

- *The suspect is known but not available (see paragraph 3.21 Code D PACE);*
OR
- *In accordance with paragraph 2A of Annex A of Code D, the identification officer does not consider that replication of a physical feature can be achieved or that it is not practicable to conceal the location of the feature on the image of the suspect.*

The ID officer may then decide to make use of video identification but using still images.

8.2. Selection of Images.

8.2.1 Annex A Code D PACE specifies:

- *1 - The arrangements for obtaining and ensuring the availability of a suitable set of images to be used in video identification must be the responsibility of an identification officer, who has no direct involvement with the case.*
- *2 – The set of images must include the suspect and at least eight other people who, so far as possible, resemble the suspect in age, general appearance and position in life. Only one suspect shall appear in any set unless there are two suspects of roughly similar appearance, in which case they may be shown together with at least twelve other people. (Promat2 does not have the facility to allow a parade to be compiled containing two suspects on the same parade).*
- *2A - If the suspect has an unusual physical feature, e.g., a facial scar, tattoo or distinctive hairstyle or hair colour which does not appear on the images of the other people that are available to be used, steps may be taken to:*
 - a) *Conceal the location of the feature on the images of the suspect and the other people;*
or
 - b) *Replicate that feature on the images of the other people.*

For these purposes, the feature may be concealed or replicated electronically or by any other method which it is practicable to use to ensure that the images of the suspect and other people resemble each other. The identification officer has discretion to choose whether to conceal or replicate the feature and the method to be used. If an unusual physical feature has been described by the witness, the identification officer should, if practicable, have that feature replicated. If it has not been described, concealment may be more appropriate.

RESTRICTED

- 8.2.2 In all cases involving identification, there is a legal requirement for a first description of a suspect to be taken from all witnesses before any identification procedure is arranged. It must be in a form that can be accurately produced in a visible and legible form. In cases of replication or concealment of a feature it is vital that the 'first description' accurately records details of any identifying feature for example a facial scar or tattoo. These details must be contained on the notice to suspect (WC375 Promat2). If a feature has been described by a witness then efforts will be made to replicate (if practicable) the feature. If the feature has not been described by any witness then the feature will be concealed. The reason for the decision to conceal or replicate the feature in the images shown to any witness shall be recorded on the appropriate paperwork by the business support officer compiling the video identification parade.
- 8.2.3 Responsibility for selection of the images lies with FIB staff who are conducting the procedure. The video identification parade will comprise of the suspects image and eight further images of people who, so far as possible, resemble the suspect in age, general appearance and position in life. A total of nine video identification parades are produced with the suspect appearing at a random position across the nine parades but not in the same position twice. The suspect, their solicitor, friend, or appropriate adult must be given a reasonable opportunity to see the completed set of images before it is shown to any witness.
- 8.2.4 Any representations made by the suspect or their representative will be recorded and considered, in accordance with paragraph 7 Annex 'A' of Code D which stipulates:

'The suspect or their solicitor, friend, or appropriate adult must be given a reasonable opportunity to see the complete set of images before it is shown to any witness. If the suspect has a reasonable objection to the set of images or any of the participants, the suspect shall be asked to state the reasons for the objection. Steps shall, if practicable, be taken to remove the grounds for objection. If this is not practicable, the suspect and/or their representative shall be told why their objections cannot be met and the objection, the reason given for it and why it cannot be met shall be recorded on forms provided for the purpose.'

8.3. Action Following the Compilation of a Video ID Parade.

- 8.3.1 A key factor in improving the value to an investigation of ID procedures is to ensure that witnesses are shown the video ID parade at the earliest opportunity.
- 8.3.2 Every effort will be made to arrange witness viewings whilst the suspect remains in custody. If key witnesses are not available then arrangements should be made to carry out the witness viewing procedure as soon as they become available.

8.4. Action if There Are Insufficient Suitable Images on Promat 2 Database.

- 8.4.1 There will be occasions where the suspect is available and consenting, however, the FIB officer may consider that compilation of a video parade is not possible. An example may be the Promat2 database may not contain sufficient suitable images of the same ethnic group as the suspect.
- 8.4.2 In circumstances where every reasonable effort to conduct a video parade has been made including consideration of using still images. (The use of still images can only be carried out with consent of a suspect and/or solicitor. Solicitors / suspects usually agree to this course of action as it is felt to be a better option than a group procedure. Technically using still images is a breach of Code D as moving images should be used in consenting parades) but to no avail, a group ID procedure will be considered. This option can only be utilized when the suspect is not in custody. In determining a suitable location for a group procedure, consideration must be given

RESTRICTED

to the ethnicity, age and social background of the suspect. There must be likelihood that there are people of a similar general appearance to the suspect in the location selected.

8.5. Collection of Additional Promat 2 Images.

8.5.1 The Promat2 database contains over 25,000 images that are used to compile video identification parades. FIB has a mobile capture facility that can be used to add further images.

8.5.2 This facility will be used to add volunteers to the database when there are insufficient numbers of volunteers from certain ethnic backgrounds or groups. This process will be governed by nature of the offence and consideration will only be given to the most serious offences.

8.5.3 This is a time consuming and costly process so alternative forms of identification should be considered before taking this step. Advice should be sought from FIB.

8.6. Conducting the Video Identification (Witness Viewing).

8.6.1 Annex A Code D PACE governs the conduct of video identification.

8.6.2 WMP policy is that all witness viewing procedures will be video recorded.

8.6.3 An Inspector conducting or supervising the witness viewing procedure adopts the role of 'Identification Officer' for the purpose of these procedures.

8.6.4 LPU staff is responsible for conducting witness viewings. PACE states that an Inspector is responsible for witness viewings, although the Codes allow for this to be delegated (Para. 3.11 Code D) to another person.

9. **WITNESS CARE.**

9.1. General.

9.1.1 It is important that officers engaged in witness viewings ensure that witnesses are provided with a good level of support and care throughout the ID procedure. Without the support of these witnesses, many of the cases will fail. Some of the points to consider are listed below, but this is by no means an exhaustive list:

- Does the witness need assistance with or recompense for travel?
- Has car parking been arranged for the witness?
- Are the witnesses waiting facilities adequate? e.g. seating, drinks, toilets, reading materials etc.
- Are police premises the most appropriate or convenient for the witness to conduct the viewing? Officers need to keep in mind the obligation for solicitors or suspects to be informed of the viewing location

9.2. Vulnerable Witnesses.

9.2.1 Investigating officers must ensure that the needs of vulnerable witnesses are met, whilst maintaining the integrity of the ID procedure.

RESTRICTED

9.2.2 Officers should be mindful of Paragraph 2AB Code D PACE:

The Youth Justice and Criminal Evidence Act 1999 guidance "Achieving Best Evidence in Criminal Proceedings" indicates that a pre-trial support person should accompany a vulnerable witness during any identification procedure. It states that this support person should not be (or not be likely to be) a witness in the investigation.

9.2.3 "Achieving Best Evidence in Criminal Proceedings" specifies that it may be appropriate to secure the assistance of a supporter who has a particular understanding of the needs of the witness, e.g. in relation to ethnic or cultural background or disability issues.

9.2.4 The video recording of a witness viewing involving a vulnerable witness will require due consideration to the use and disclosure of the recording during any subsequent trial. The ID Officer must discuss this with the Officer in the case.

9.3. Undercover (UC) Police Officers/Witnesses Provided with a Pseudonym.

9.3.1 Due to the complex and serious nature of such cases, care must be taken which will achieve both witness protection and maintain the integrity of the ID procedure.

9.3.2 The UC will be allowed to attend the viewing [REDACTED]

9.3.3. [REDACTED]

9.3.4 The officers facial identity will not at any stage be revealed to the ID officer, solicitor or any other person present.

9.3.5 Statements will be taken in every case (whether positive or negative) and signed in their pseudonym.

9.3.6 On completion, all paperwork and exhibits will be immediately handed to the escorting officer who is to use their own true identity and will not conceal their facial identity.

9.3.7 Each ID viewing facility is responsible for establishing a local security procedure for the entrance and exit from both the police station and ID viewing facility by the witness.

9.4. Planning & Conducting the Witness Viewing Procedures.

9.4.1 Paragraph 10 of Annex A Code D PACE states:

'The identification officer is responsible for making the appropriate arrangements to make sure, before they see the set of images, witnesses are not able to communicate with each other about the case, see any of the images which are to be shown, see, or be reminded of, any photograph or description of the suspect or be given any other indication as to the suspect's identity, or overhear a witness who has already seen the material. There must be no discussion with the witness about the composition of the set of images and they must not be told whether a previous witness has made any identification'

9.4.2 Paragraph 9 Annex A Code D PACE states:

The suspect's solicitor, if practicable; shall be given reasonable notification of the time and place the video identification is to be conducted so a representative may attend on behalf of the suspect. If a solicitor has not been instructed, this information shall be given to the suspect. The suspect may not be present when the images are shown to the witness.

RESTRICTED

In the absence of the suspect's representative, the viewing itself shall be recorded on video. No unauthorised people may be present.

9.5. Managing Multiple Witnesses.

- 9.5.1 When there is more than one witness attending on the same occasion, it is vital that they are properly managed. Failure to do so will lead to a real risk that the integrity of the process may be called into question, for example by the witnesses discussing the case with each other. There will inevitably be some occasions when the witnesses will have discussed the case with each other prior to arrival for the viewing, for example they may be related to each other. Whilst this cannot be prevented, we are responsible for ensuring that this does not occur whilst viewing procedures are being held.
- 9.5.2 It is strongly recommended that every effort should be made to arrange for all of the witnesses to view the video parade on the same occasion, i.e. to avoid 'split-viewings'. This will minimise potential difficulties in complying with Paragraph 10 Annex A.
- 9.5.3 The term 'split-viewing' refers to when there is more than one witness in a case and the witnesses view the video ID parade on different occasions. The risk in conducting 'split-viewings' is that witnesses, who have already viewed the ID parade, may have an opportunity to discuss it with another witness who is still to view it.
- 9.5.4 If 'split-viewings' cannot be avoided, Identification Officers must be mindful of the potential dangers to the integrity of the process.
- 9.5.5 A clearly demonstrable process needs to be in place to ensure that witnesses are met upon arrival, given clear instructions not to discuss the case with each other and are supervised/escorted at all times. Witnesses should not be kept waiting in the presence of defence solicitors.

9.6. Managing Multiple Witnesses & Multiple Suspects.

- 9.6.1 In addition to the guidance/policy set out in the preceding paragraphs concerning management of multiple witnesses, consideration needs to be given to occasions when there are multiple witnesses and multiple suspects. In particular, the ID officer will need to decide whether:
- a) To show all of the parades consecutively to one witness before moving on to the next witness.
 - b) To show the one parade to each witness who will then be kept separate prior to viewing the 2nd and any subsequent parades
- 9.6.2 In either case, it is emphasized that consideration must be given to the reasonable needs and convenience of witnesses.

9.7. Obtaining Witness Statements Following Witness Viewing Procedures.

- 9.7.1
1. A statement **MUST** be obtained from every witness following a witness viewing, regardless of the outcome. This is particularly important on those occasions when there is potential for split-viewings (see following paragraphs).
 2. The witness **MUST NOT** be informed as to whether or not they have correctly identified the suspect.

RESTRICTED

9.7.2 The reasoning behind the statement principles is around 'split-viewings'. In such instances, the taking of statements from only those witnesses who had successfully identified the suspect would indicate to other witnesses that the suspect had been identified, as clearly as if the witness had been told that they had identified the suspect. The witness may then have an opportunity to communicate information about the parade to other witnesses who are still to view the parade. The risk that this could happen may in itself lead to doubts concerning the integrity of the witness viewing process.

9.7.3 There are occasions when the witness describes more than one offender in their original witness statement. When identification is made (suspect or a volunteer), the witness must clarify which offender has been identified. The Identification Officer **MUST NOT** be the person making this enquiry; as to enter into such discussion might be seen as involvement in the investigation (prohibited by D3.11).

Another officer should take a statement from the witness following the video identification procedure. The statement will provide detail of the actions of the person identified for example 'I identified the person at position 6 who held me down whilst another person stole my property'

9.8. ID Officer's Statements.

9.8.1 Following a witness viewing, the ID Officer will, as a matter of course, provide a statement of evidence (MG11). The statement will contain details of the position of the suspect on the parade shown to each witness and whether a positive identification was made.

9.8.1 An MG11 should also be provided by the member of staff at FIB who is responsible for the compilation of the video parades shown to each witness.

9.9. Dealing with Solicitors.

9.9.1 The arrangements for obtaining and ensuring the availability of a suitable set of images to be used in a video identification is the responsibility of a business support officer at FIB who has no direct involvement with the case.

9.9.2 In compiling a video identification parade, the business support officer is stating that in their opinion the set of images is suitable and compiled in accordance with Code D PACE.

9.9.3 Paragraph 7 Annex 'A' Code D stipulates:

The suspect or their solicitor, friend, or appropriate adult must be given a reasonable opportunity to see the complete set of images before it is shown to any witness. If the suspect has a reasonable objection to the set of images or any of the participants, the suspect shall be asked to state the reasons for the objection. Steps shall, if practicable, be taken to remove the grounds for objection. If this is not practicable, the suspect and/or their representative shall be told why their objections cannot be met and the objection, the reason given for it and why it cannot be met shall be recorded on forms provided for the purpose.

9.9.4 In considering any objection made, the ID Officer should consider the following:

- I. Do you as the ID officer consider the objection to be reasonable? The requirement under PACE is that the volunteers should so far as possible RESEMBLE the suspect in age, general appearance and position in life.
- II. Is there anything that draws attention to the suspect?
- III. FIB staff have experience and it may therefore be worth contacting them for advice.

RESTRICTED

IV. A delay to witness viewing may affect witness memory recall. Is this in the interests of Justice?

9.9.5 The decision upon the appropriate course of action in dealing with objections rests with the ID Officer conducting the witness viewing. The decision to continue with the set of images despite objection from the suspect or solicitor should be made by an Inspector. The suitability or otherwise of the set of images or any of the participants is a subjective matter that ultimately may be a matter for consideration during any subsequent trial.

9.9.6 The details of any objection must be recorded on the documentation provided, along with any remedial action that is taken. In the case where no action is taken, the reason for taking no action must also be recorded by the Inspector.

9.9.7 Solicitors must never be left unaccompanied during the video identification viewing procedure.

9.10. Dealing with concealment or replication of unusual physical feature during witness viewings.

9.10.1 This procedure is governed by Paragraphs 2A – 2C of Annex 'A' Code D. The effect of paragraph 2A is to allow for concealment or replication of an unusual physical feature when compiling a video identification. Paragraphs 2B and 2C are reproduced below:

2B - If the identification officer decides that a feature should be concealed or replicated, the reason for the decision and whether the feature was concealed or replicated in the images shown to any witness shall be recorded.

2C - If the witness requests to view an image where an unusual physical feature has been concealed or replicated without the feature being concealed or replicated, the

9.10.2 WMP policy on the showing of a video parade that contains concealment or replication of an unusual physical feature is as follows:

1. At the start of the viewing, the witness will be told that there has been concealment or replication on the images to ensure the fairness of the procedure.

2. If the witness requests to view an image where an unusual physical feature has been concealed or replicated without the feature being concealed or replicated,

3. If the witness makes no such request and makes a clear/unequivocal identification of one of the images (suspect or foil), the facility to view the images without concealment/replication will not be offered unless the witness (un-prompted) requests to do so.

4. If the witness either makes no identification (suspect or foil) or makes a vague or unclear identification,

RESTRICTED

Annex A paragraph 2C states, if the witness requests to view an image where an unusual physical feature has been concealed or replicated without the feature being concealed or replicated, [REDACTED] Before offering such an opportunity to the witness, the suspect's legal representative must be advised that this action is based upon police and CPS interpretation of paragraph 2A of Annex 'A'. Any representations must be noted and considered.

9.10.3 Annex 'A'

11: Only one witness may see the set of images at a time. Immediately before the images are shown, the witness shall be told that the person they saw on a specified earlier occasion may, or may not, appear in the images they are shown and that if they cannot make a positive identification, they should say so. The witness shall be advised that at any point, they may ask to see a particular part of the set of images or to have a particular image frozen for them to study. Furthermore, it should be pointed out to the witness that there is no limit on how many times they can view the whole set of images or any part of them. However, they should be asked not to make any decision as to whether the person they saw is on the set of images until they have seen the whole set at least twice.

9.10.4 Annex 'A'

12: Once the witness has seen the whole set of images at least twice and has indicated that they do not want to view the images, or any part of them, again, the witness shall be asked to say whether the individual they saw in person on a specified earlier occasion has been shown and, if so, to identify them by number of the image. The witness will then be shown that image to confirm the identification.

9.11. **Control of Exhibits.**

- 9.11.1 All officers engaged in ID procedures should be mindful of the fact that they must be able to provide an audit trail for the movement and integrity of all exhibits that are created by this process. The 'Notice to Suspect' form served upon the suspect is an exhibit. This form must be retained by the OIC and is not required by the ID Suite staff; a copy will suffice.
- 9.11.2 Requests for copies of identification parades and associated paperwork will be made to the Force Identification Bureau supervisor. The Identification parade will be copied to CD/DVD and together with a copy of the parade seating matrix placed in a sealed evidence bag. The business support officer who prepared the original identification parade will provide a MG11 (witness statement) and WC 377 (contemporaneous notes of compilation). The exhibits will be handed to the officer in case.
- 9.11.3 In serious cases for example a HOLMES managed incident, the appointed exhibits officer should liaise at a very early stage with the Force Identification Bureau regarding the arrangements for exhibit control/packaging.

9.12. **Performance Monitoring.**

- 9.12.1 The overall aim is to facilitate the ID process in the shortest possible time from the point that a suspect becomes known, to the conclusion of witness viewings. CJC will be responsible for monitoring performance in this respect.

RESTRICTED

10. EQUALITY IMPACT ASSESSMENT (EQIA).

The Policy has been reviewed and drafted against all protected characteristics in accordance with the statutory duties as set out in The Equality Act 2010 and that of the WMP Combined Equality and Human Rights Scheme (and Human Rights Act 1988 – *see below*). Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this Policy.

11. HUMAN RIGHTS.

11.1 This policy has been implemented and reviewed in accordance with that set out with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has the potential to impact upon the following articles:

- The right to life (*article 2*):
 - Everyone's right to life shall be protected by law – (*section 1*);
 - In defence of any person from unlawful violence – (*section 2*);
 - In order to effect an arrest or prevent escape;
 - For the purpose of quelling a riot or insurrection.

- Right to liberty and security (*article 5, section 1 – sub-section c*).
 - The lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so.

12. FREEDOM OF INFORMATION (FOI).

12.1 Public disclosure of this policy document is authorised as determined by the Force Policy Co-ordinator and FOI manager. Version 2.1 of this policy document is fully disclosable to members of the public and via the Force WMP internet website.

| Which exemptions apply and to which section of the document? | Whole document | Section number |
|--|----------------|----------------|
| Version 2.1 | n/a | |

13. TRAINING.

All related training will be co-ordinated and delivered through the Force Identification Bureau (Community Justice and Custody Department) and Information Services – (Promat training).

RESTRICTED

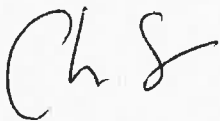
14. PROMOTION / DISTRIBUTION & MARKETING.

14.1 The following methods will be adopted to ensure full knowledge of the Policy:

- Policy document and associated documents on the Force Intranet (noticeboard) for the attention of all WMP officers and staff;
- Recording and audit entry on the Force policy library;
- Training co-ordinated through Force Identification Bureau (FIB) and Information Services.
- Marketing and promotion through FIB and CJC.

15. REVIEW.

- 15.1 The Policy business owner Community Justice and Custody will maintain outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.
- 15.2 The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/ACPO, legislative changes, good practice (learning the lessons) both locally and nationally, etc.
- 15.3 A formal review of the Policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.
- 15.4 Any amendments to the Policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.
- 15.5 Feedback is always welcomed by that of the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.



CHIEF CONSTABLE

RESTRICTED

16. VERSION HISTORY.

| Version | Date | Reason for Change | Amended/Agreed by. |
|---------|------------|--|--------------------------------------|
| 1.0 | 29/07/2010 | New policy. | New Force policy approved by CC Sims |
| 2.0 | 23/04/2012 | Full review and update including: - Human Rights, GPMS, FOI etc. Force policy reference and signature of CC | [REDACTED] |
| 2.1 | 08.05.2013 | Number 7.5.2 to be removed as FIB staff no longer wear uniform, Number 7.6.2 Should now read – FIB operates Monday to Friday between the hours of 08:00 Hours to 21:00 Hours and on Weekends and Bank Holidays between 10:00 Hours to 18:00 Hours. Suspect image capture can still be completed on LPU outside of these hours and forwarded to FIB along with the required paperwork. Staff at FIB will complete the parade upon commencement of duty and return the completed parade as soon as practicable. It is essential in these cases that effective use of Superintendent and Court extensions are utilised. | [REDACTED] |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |