

25101 PROCEDURE – VIDEO IDENTIFICATION SYSTEM

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ECHR **Potential Equality Impact Assessment: Low**

1. About This Procedure

- 1.1. This Procedure provides instruction to Hampshire Constabulary staff on how to identify persons by using of the Video Identification System.
- 1.2. The legislation supporting this method of identification is contained in Code D of the Police and Criminal Evidence Act 1984.
- 1.3. This Procedure is intended:
 - a) to improve victim/witness care;
 - b) to speed the identification process;
 - c) to bring offenders to justice and to do so in a timely fashion.
- 1.4. Subject to 1.5 below, this Procedure will be used on every occasion where:
 - a) the suspect denies their presence at / involvement in the alleged offence;
 - b) the suspect admits being at the scene, but denies the act in question;
 - c) there are a number of parties involved in the incident and the suspect's precise participation is unknown or in question,
 - d) the officer in charge of the investigation considers it would be useful and;

all the above are conditional upon having at least one witness who has a reasonable chance of making an identification.
- 1.5. There is no requirement to hold an identification procedure where it is **not disputed** (by either party) that the suspect is already well known to the witness who claims to have seen them commit the crime. Before coming to a decision not to hold an identification procedure because the witness knows the suspect well investigating officers should consider the following:
 - a) How long has the witness known the suspect?
 - b) In what circumstances did they meet?
 - c) How many times has the witness seen the suspect?
 - d) How long ago was the witness's last sighting of the suspect before the incident?

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- e) Does the witness know the suspect by sight or have they spoken?
- f) Does the witness know the name and address of the suspect and if so how?
- g) Does the suspect have any particular distinguishing features?
- h) Was the witness's knowledge of the suspect gained before or after the incident?
- i) What has been said in interview with the suspect? Have the investigators asked the suspect if he/she knows the witness or vice versa?

2. Risk Assessments / Health & Safety Considerations

- 2.1. The generic risk assessment appertaining to police officers and police staff in contact with suspects and members of the public in general applies equally to this procedure.

3. The Procedure

3.1. Notice to Suspect and Form ID 2

- 3.1.1. Where a decision is made that it is necessary or desirable to hold an identification procedure 'video identification' will be chosen. Other identification procedures (parade, group, confrontation etc) will only be adopted when a Video Identification is not practicable or another procedure is more suitable.
- 3.1.2. The 'Notice to Suspect', contained within the form ID 2, will be explained to the suspect. This will take place before the suspect is released from police detention.
- 3.1.3. In addition to explaining this notice the form ID 2 will be completed. The officer in the case is responsible for completing the form ID 2 as far as he/she is able. It will then be passed to the person reading the Notice to Suspect who will complete it as far as they are able.
- 3.1.4. In the case of a juvenile or person who is mentally vulnerable the ID 2 procedure must be undertaken in the presence of an appropriate adult. In the case of a juvenile, where the appropriate adult is not their parent or guardian, the officer in the case will additionally arrange for a copy of the Notice to Suspect, first descriptions and media material to be served on the parent or guardian and seek their written consent to a video identification procedure.

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3.1.5. Where:

- a) in any case, a parent or guardian does not provide written consent or, after making reasonable efforts, they cannot be located, or
- b) a suspect, of any age, indicates that he/she is not willing to take part in an identification procedure (this includes a case where a parent or guardian gives consent but a juvenile does not),

the tasks detailed in 3.1.1 to 3.1.12 must still be carried out and the actions detailed in 3.3 below must then be followed.

3.1.6. After the Notice to Suspect has been explained it, together with (where available) all First Description forms (**suspect copy only**) and copies of any media material must be served on the suspect. Media material in the form of video footage etc may be viewed by the suspect/solicitor rather than a copy being served.

3.1.7. In normal circumstances these tasks will be carried out by the 'Identification Officer' (an officer of at least the rank of Inspector who is not involved with the investigation). This is a statutory responsibility of **all** police officers (uniform or not) of the rank of Inspector or above and all reasonable efforts must be made to ensure these tasks are carried out by such an officer. However, in certain, specified, circumstances these tasks may be carried out by other staff.

These circumstances are:

- a) where 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 police 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.

This does not provide a simple alternative as to who may carryout these tasks. An Inspector will only be considered to be unavailable where an operational commitment would

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justifiably override the responsibility to carry out this statutory responsibility.

- 3.1.8. In either a) or b) above the Notice to Suspect will be explained and served on the suspect by one of the following:
 - a) The custody officer;
 - b) An officer not involved in the investigation;
 - c) A detention officer, but only if delegated to do so by the custody officer (this should only be considered as a final option)
- 3.1.9. Where the Notice to Suspect is explained and served by any member of staff mentioned in 3.1.8 a) to c) above the reasons why will be recorded on the custody record by the custody officer.
- 3.1.10. In the case of 3.1.8 a), b) or c) above, the Identification Officer must be informed of the action taken and the signed copy of the ID 2 will be given to him/her and they will be responsible for quality checking it.
- 3.1.11. See Appendix A, Notice to Suspect and Image Capture Flowchart for additional guidance.
- 3.1.12. Where the custody officer delegates these tasks to the detention officer that custody officer remains responsible for ensuring that the tasks are carried out correctly in accordance with Code D of PACE.
- 3.1.13. Once the ID2 has been completed and sent to the ID Suite, if it subsequently transpires that there are further witnesses to undertake the ID procedure who were not listed in the ID2, then the OIC must complete and send to the ID Suite, an "Additional Witness(es)" form ID12, which can be found on Standard Forms under Identification procedures. This form includes an Additional witness list and additional First Description forms. A further ID2 must not be completed. It is very important to remember that any subsequent additional witness is allocated with his / her own unique witness number and not with a number that has already been issued to a witness on the ID2. All numbers must be sequential.

3.2. Image Capture

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- 3.2.1. Where identification is an issue, except in exceptional circumstances (eg defective equipment) the detainee's moving (PROMAT) image **will be** captured during their initial custody period. This process is part of the securing and preserving of evidence process and if taken whilst in custody allows the retention of all images regardless of whether proceedings are taken. It is important that the detainee is not bailed for image capture. Capturing the images during the original custody period prevents the suspect being given an opportunity to fail to answer their bail or alter their appearance and thus provides the witness the best opportunity of making a correct identification.
- 3.2.2. Where the suspect is a juvenile or person who is mentally vulnerable this process must take place in the presence of an appropriate adult.
- 3.2.3. The moving (PROMAT) video image of the detainee may only be captured by suitably trained staff. If this person is different to the one who conducted the Notice to Suspect procedure then they will be handed the part completed ID 2 form. The person capturing the suspects moving (PROMAT) image will complete the relevant parts of the ID 2.
- 3.2.4. Where a suspect has a facial injury the instructions at 3.2.1 must still be complied with. The injury must be cleaned up as far as is practicable before the image is taken.
- 3.2.5. The suspect should not be videoed wearing the same colour or style top (jumper/shirt etc) as is described in first description by **any witnesses** known at the time. Additionally a suspect must not be videoed wearing HMP clothing or a Constabulary issue white boiler suit. OCU's are responsible for providing a selection of alternative tops, maintained in a clean and reasonable condition, to resolve this potential problem.
- 3.2.6. If the suspect refuses to remove the top or clothing in question he/she will have their image taken in the clothing they are wearing.
- 3.2.7. Before capturing an image or images the PROMAT operator must consider the following:
 - a) Jewellery – image to be taken with and without;
 - b) Unusual hair style/colour – image to be taken **without** hat;
 - c) Hair worn up – image taken with hair up and hair down;

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- d) Excessive/unusual makeup – image to be taken with makeup and without makeup;
- e) Glasses (defective sight) – image taken with glasses on and with glasses off;
- f) Tattoos, Marks, Scars – take natural image, do not cover up;
- g) Sweets/Chewing gum – remove before taking image.

3.2.8. No person involved in the investigation in question should be present during the process of capturing a suspect's image.

3.2.9. The member of staff who captures the suspect video image will, after capture, complete and sign the 'Video Recording of Suspect's Image' page together with the following MG11 proforma statement within the ID 2. Additionally, that member of staff will seal the digital video tape containing the suspect image in a completed, uniquely numbered exhibit bag.

3.2.10. In all cases where the Notice to Suspect has been explained and served (together with associated papers) by an Identification Officer (Inspector) the ID 2 together with the uniquely numbered sealed exhibit bag containing the digital video tape must be forwarded to the relevant Identification Suite (see Appendix B for locations of Identification Suites) by the person capturing the image.

3.2.11. In all cases where an Identification Officer (Inspector) was not available to conduct the Notice to Suspect procedure and another police officer or member of staff did so, the ID 2 and the sealed video tape must be handed to the Identification Officer who will quality check the documentation (not the images). The Identification Officer will then forward the ID 2 and the sealed video tape to the relevant Identification Suite (see Appendix B for locations of Identification Suites).

3.2.12. See Appendix A, Notice to Suspect and Image Capture Flowchart for additional guidance.

3.3. Suspect Fails to Co-operate With Video Identification Procedure

3.3.1. Where a suspect indicates that he/she is not willing to take part in an identification procedure the tasks detailed in 3.1.1 to 3.1.13 above must still be carried out.

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- 3.3.2. In such cases of refusal to co-operate in the procedure, including image capture, where the Notice to Suspect procedure has been conducted by an Identification Officer the ID 2 must be sent to the relevant Identification Suite by the Identification Officer. Where an Identification Officer was not available to conduct the Notice to Suspect procedure and another police officer or member of staff did so the ID 2 must be forwarded to the Identification Officer who will check the quality and forward it to the relevant Identification Suite.
- 3.3.3. The Identification Suite will, if possible, obtain the suspect's photograph from the RMS and will prepare a Video Identification procedure using 'still' images.
- 3.3.4. In cases where the solicitor or the suspect / suspect's representative wishes to view the parade before being shown to the witnesses, the Identification Suite will communicate directly with the solicitor / suspect. See 3.4.7 through to 3.4.26 below for procedure to be followed.
- 3.3.5. Where neither the solicitor nor the suspect wish a reasonable opportunity to view the parade, the Identification Suite will proceed with the viewing of the parade to witnesses.
- 3.3.6. The showing of the Video Parade to witnesses will be undertaken by the Identification Suite. See 3.5 below for procedure to be followed.
- 3.3.7. Alternatively consideration, where practicable, may be given at any stage to the use of a previously compiled video parade (still or moving) containing the same suspect.

3.4. Production of Video Parade CD – Identification Suites

- 3.4.1. Identification Suite staff are responsible for checking the quality of the images as soon as possible after receiving them, preferably on the same day of receipt. They are also responsible for editing any images if necessary or rejecting the images where the images are not up to standard and cannot be edited in such a way as to rectify the problem.
- 3.4.2. If any image presented to the Identification Suite is neither a custody photograph nor a PROMAT moving/still image staff must refer the matter to the Identification Officer who shall ascertain whether the image taken was taken subject to RIPA rules. If so they must view the RIPA 1A to ensure the image was taken within the authority granted. If it is established that RIPA does apply and that the image was not strictly taken under the authority granted or no authority was

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granted then that image may not be used for PROMAT purposes. Contact Source Registry for more guidance.

- 3.4.3. In all cases where it is necessary to edit or reject images a form ID(i) – available on the Standard Forms Library – must be completed and forwarded to:
 - a) the person who captured the image;
 - b) the officer in the case;
 - c) the Custody Inspector for the OCU where the image was captured, and;
 - d) the Custody and Identification Image Support and Development Manager at the Custody Policy and Development Team, Southwick Park.
- 3.4.4. Where an image is rejected it is the responsibility of the officer in the case to arrange, where possible, for the capturing of a fresh image.
- 3.4.5. In cases where an image is rejected it will be returned to the officer in the case who will retain it as 'unused material'.
- 3.4.6. If the image is of an acceptable or editable quality, the ID Suite will then attempt, on that same day, to contact the witnesses and agree a date / time for the viewing of the parade.
- 3.4.7. The suspect or their solicitor, friend or appropriate adult must be given a reasonable opportunity to see the images before they are shown to a witness.
- 3.4.8. Where a solicitor has been appointed, the ID Suite will then attempt, on that same day, to contact the solicitor and request their attendance up to 30 minutes before the specified time of viewing to the witnesses.
- 3.4.9. If there is more than one suspect parade to view, then the solicitor should be asked to attend up to 60 minutes before the specified time of viewing to the witnesses.
- 3.4.10. If no solicitor has been appointed, and the suspect or his / her friend or appropriate adult have requested a reasonable opportunity to view the parade before being shown to the witnesses, then an ID13 letter (on Standard Forms) shall be sent to the suspect, thereby providing an opportunity to view the parade on a day / time set suitably a part from the viewing date / time to the witnesses. This letter should be sent by recorded delivery / hand delivered on the

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same day that the witnesses have agreed a viewing date / time.

- 3.4.11. Where no solicitor has been appointed, and where the suspect or his / her friend or appropriate adult fails without reasonable notice, to attend at the appointed date / time to view the parade, then the viewing to the witnesses shall proceed in the absence of any further opportunity to view the parade.
- 3.4.12. If the suspect or his / her friend or appropriate adult provides reasonable notice that they are unable to attend at the appointed date / time to view the parade, then ID Staff should consider arranging an alternative date / time to view the parade prior to the viewing to the witnesses, but must not alter the date / time set for the viewing to witnesses.
- 3.4.13. "Reasonable notification" to the solicitor / suspect is not defined in PACE, but if the suspect is not in Custody, it is suggested that as little as 24 hours notification could be considered as reasonable. (That's 24 hours from day of receipt of letter at the relevant address or actual notification).
- 3.4.14. If the suspect is in Custody, then the "reasonable notification" 24 hours suggested time can, with justification, be significantly reduced, but each case will have to be determined upon its' own merits / circumstances. If necessary guidance can be sought from the Identification Officer or from the Custody Policy and Development Department.
- 3.4.15. The Identification Officer automatically delegates the task of distracter selection to the relevant Identification Suite. Staff from the relevant Suite will undertake the selection of all distracters. The solicitor, suspect or suspect's representative will no longer routinely take any part in the distracter selection process.
- 3.4.16. If an ID Suite is in reasonable doubt as to the fairness of any compilation, the Operator should seek a decision from the relevant Identification Officer (Inspector).
- 3.4.17. Although it must be avoided where at all possible, in exceptional circumstances, the Identification Officer (Inspector) may authorise the inviting of the solicitor to view the parade / be involved in the selection process prior to the witness viewing date / time, if circumstances dictate that it would be, in those particular set of circumstances, in the

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interest of justice / fairness to do so. If this is the case, the authorisation and the reasoning behind it must be fully recorded together with what action occurred.

- 3.4.18. Where a solicitor is so invited under 3.4.17, if any objection is made by a solicitor to the set of images or any of the participants the reasons for the objection will be asked. If the objection is reasonable, steps will if practicable be taken to remove the grounds for objection. Where this is not practicable the objection, the reason given for it and why it cannot be met must be recorded on the ID2.
- 3.4.19. Where an objection raised under 3.4.18 above cannot be satisfactorily resolved between the solicitor and the Identification Suite, the Identification Officer (Inspector) should be contacted and asked to make a decision as to the way forward, which will be recorded in writing as soon as possible.
- 3.4.20. All images comprising the parade must:
- a) Resemble, as far as possible, the suspect's image (in age, general appearance and position in life);
 - b) be selected against the suspect's appearance and not against the content of any first description given by a witness(s);
 - c) be of a quality sufficient for purpose.
- 3.4.21. In addition to a) to c) above where the suspect has a distinctive visible mark, scar or tattoo which has been identified by a witness in their first description that mark, scar or tattoo will be replicated on all distracter images unless it is impractical to do so, in which case the feature area will be concealed on the suspect image and the same feature area will be concealed on all distracter images. Where such a mark, scar or tattoo exists but has not been identified by a witness in their first description that feature area will be concealed on the suspect's image and the same feature area will be concealed on all distracter images.
- 3.4.22. Identification Suite staff will prepare 9 video parades using 8 distracters taken from the PROMAT database. The suspect will appear at a different place in each of the prepared video parades. The CD will then be placed into a sealed exhibit bag and stored in a secure ID Suite.
- 3.4.23. The printing of images to paper as part of the parade preparation should as far as possible be avoided. If there is a need to do so these paper images shall be destroyed

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(confidential waste) within the Identification Suite premises. There is no requirement to retain these paper images as unused material.

- 3.4.24. Where a member of staff from an Identification Suite is to leave the Force area in order to complete an identification procedure (distracter selection or a showing) he/she will be accompanied by an Inspector who will be the Identification Officer.
- 3.4.25. Where a member of staff is required to conduct any part of an identification procedure at any location other than at a Police station, then that staff member should be accompanied by another member of staff. Each such visit should also be risk assessed by the attending staff.
- 3.4.26. Identification Suite staff may approach other Forces to conduct relevant parts of identification procedures. When doing so staff must be aware that standards and procedures will vary and that other Forces may charge for this service. Any charge made will be borne by the OCU requesting the service. Such a request will only be made in exceptional circumstances (eg where distances are great) and the authority of the Identification Officer must first be given.
- 3.4.27. Identification Suite Staff are required to check that all subsequent additional witnesses have their own unique witness number and that this is replicated on the witness's First Description form. ID Suite Staff, where appropriate, must compare the ID2 witness list / First Descriptions and the Additional Witness list / First Descriptions to ensure witness numbers are not repeated and are sequential.

3.5. The Showing of the Video Parade CD to Witnesses

- 3.5.1. Form ID10, a letter to witnesses including 'frequently asked questions', is available on the Standard Forms Library for use by Identification Suite staff.
- 3.5.2. The showing of the video parade CD to witnesses will comply with the PACE Codes of Practice, in particular Code D and Annex A to that Code.
- 3.5.3. The showing of a video parade to a witness(s) will be conducted by staff from an Identification Suite. The Identification Officer must attend the showing if requested by the Identification Suite staff and must in any event be able to

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intervene if the need arises or be contactable to provide advice to staff.

- 3.5.4. A solicitor or legal representative may be present during any showing of a video parade to witnesses. The suspect, a friend or non-legal representative can not be present during a showing.
- 3.5.5. Unless circumstances dictate otherwise all arrangements necessary for the showing will be conducted by staff from the Identification Suite. This includes all communication with the officer in the case, the Identification Officer, all witnesses, any solicitor and the suspect.
- 3.5.6. Where there is a requirement to contact the suspect's solicitor to attend a parade viewing they are to be notified of the relevant time, date and location and given a reasonable opportunity to attend. If no solicitor has been instructed this information shall be given to the suspect by means of form ID13. The following must be adhered to when contacting a solicitor / legal representative:
 - a) Contact should generally be made by telephone and every call logged, to include time, date, who spoken with, the content of the conversation and who made the call.
 - b) The contacted person must be informed that if the solicitor fails to attend, then providing reasonable notification was afforded, the procedure will be completed in their absence.
 - c) Where, at the time of, or immediately after being informed of a date and time, the solicitor states that they are unable to attend, then the solicitor maybe afforded the opportunity to view the parade on an alternative date / time, but this must be before and not be allowed to change the witness viewing date / time. This opportunity should not be afforded if the solicitor has the intention of attending the arranged witness viewing.
- 3.5.7. Where, a solicitor provides very short notice of their unavailability to attend, the ID Operator will provide that person an opportunity to nominate an alternative solicitor or legal representative to attend. If this option is refused the ID Operator may continue with the parade viewing procedure.

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- 3.5.8. In cases where a witness is unable to understand the procedure due to their lack of knowledge of the English language the Identification Suite staff will arrange for an interpreter to be present at the showing. Any interpreter used shall be selected from the National Register of Public Service Interpreters (NRPSI).
- 3.5.9. The procedure of showing a Video Parade to a witness must be recorded on form ID 3 which will be completed by a member of the Identification Suite.
- 3.5.10. Unless exceptional reasons exist (ie equipment failure) all showings of a Video Parade to a witness will be recorded onto DVD via a split screen recording system. This task will be carried out by a member of staff from the relevant Identification Suite.
- 3.5.11. On the day of the showing, witnesses may need to be escorted to the ID suite by OCU staff, but efforts must be made by ID Suites to avoid this where circumstances allow, thereby encouraging witnesses to travel without Police escort.
- 3.5.12. Unless exceptional circumstances apply (e.g. witness in hospital or unable to travel) the showing to witnesses will be completed at an Identification Suite or other police station equipped with suitable recording facilities by ID suite staff.
- 3.5.13. The showing to witnesses itself will be videoed on every occasion.
- 3.5.14. In relation to a video compilation containing concealment, a witness will be informed that, after viewing all the images at least twice, they may request to view one image only uncovered.
- 3.5.15. Not more than one image per witness viewing should be uncovered.
- 3.5.16. The uncovering of concealment does not include glasses and clothing.
- 3.5.17. Replication should not be uncovered except for electronically applied hats.
- 3.5.18. A black and white image can be uncovered by showing in full colour.

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- 3.5.19. A witness, other than by the wording in the ID3, should not be reminded, encouraged or otherwise invited to request any uncovering.
- 3.5.20. If the viewing to the witness is to take place on premises on which an uncovered CD could not be produced, then the uncovered CD should be produced before attendance.
- 3.5.21. If the viewing is to be conducted on premises where an unmasked CD can be produced, ID Staff have the option of creating, sealing and exhibiting the CD and to take the CD to the viewing, or having agreed to the uncovering during the viewing, suspending the viewing whilst the unmasked CD is created.
- 3.5.22. If the uncovered compilation is produced after the witness has made a request to view such an image, the recording of the viewing should be allowed to continue and suitable arrangements made with the witness to protect the integrity of the procedure.
- 3.5.23. Where any uncovered compilation is used in a witness viewing, the exhibit reference number will be quoted on the viewing video recording.
- 3.5.24. The witness may view the same uncovered image as many times as they wish. This will be undertaken / recorded exactly in the same way as if the witness was requesting to see a standard covered image again.
- 3.5.25. In the very rare event that at the viewing to witness stage, there is a **reasonable** objection from the solicitor, every effort will be made by the ID Suite to overcome the objection, and should only abort the viewing to witness process if rectification cannot be achieved whilst the witnesses are waiting.
- 3.5.26. In the case of multiple suspect parades if a witness has completed a parade viewing and on a subsequent, linked parade viewing makes significant admissions or comments about the first parade viewing, in particular regarding any identification made, the ID Operator is responsible for ensuring this information is:
- a) visually recorded;
 - b) summarised accurately in the ID 3;
 - c) recorded in the witness's statement (regardless of outcome);

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- d) brought to the attention of the first ID Operator and first parade solicitor (if there was one) as well as the current parade solicitor as soon as possible.
- 3.5.27. The completed documentation and all exhibits will be returned to the officer in the case.
- 3.5.28. See 3.4.24 and 3.4.25 above regarding showings to be conducted out of this Force area.
- 3.5.29. The ID Operator conducting the viewing to the witness is required, immediately after the viewing, to obtain a statement from the witness regardless of the outcome. This statement must accurately record what was said by the witness as to any identification made, or equally, not made and is to contain the full name of the witness.
- 3.5.30. Once a video ID procedure has been completed, the ID Suite Operator must complete an ID9 on Standard Forms, attach copies of the statements that were obtained at the end of the procedure and forward to the OIC. In addition the ID Suite should cause the ID9 and statements to be placed on to RMS before its departure to the OIC.
- 3.5.31. All witness lists from the ID2, ID12 and ID3 should be detached by ID Staff and submitted to the OIC.
- 3.5.32. All notes made by the ID Suites which could possibly have an impact on the case, otherwise than on prescribed forms, by means of task bar or otherwise, will be disclosed to the OIC.
- 3.5.33. The OIC on receipt of PART A of the ID9 will place the form and attached original statements to the main prosecution file.
- 3.5.34. The OIC on receipt of PART B of the ID9 will place the form and attached original statements on the unused material schedule.

3.6. Retention / Destruction of Images

- 3.6.1. Where a PROMAT image was taken whilst the person is detained at a police station or where the suspect provided written consent, that image will be retained, regardless of the case outcome, after being used in the identification procedure.

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4. Roles And Responsibilities

- 4.1. Subject to 3.1.7 above the role of Identification Officer will be performed by an Inspector on the OCU where the detainee is located. This Inspector will continue to be the Identification Officer until such a time as the ID 2 together with digital video tape has been received at the relevant Identification Suite.
- 4.2. Once the Identification Suite receives the ID 2 together with the digital video tape the Custody Inspector for the OCU where the Identification Suite is located becomes the Identification Officer. If this Inspector is not available it is the responsibility of the OCU to ensure that another Inspector from that OCU is available to perform the role of Identification Officer.
- 4.3. The Identification Officer must be able to effectively supervise and must be contactable for advice in respect of the compilation and viewing processes outlined above. This supervision will be achieved by periodic checking that Identification Suite staff adhere to this Procedure.
- 4.4. See Appendix A, Notice to Suspect and Image Capture Flowchart for additional guidance.
- 4.5. For additional individual responsibilities of staff see section 3 above.

5. Administration

- 5.1. Identification forms are located on the Standard Forms Library under 'Identification Procedures'.
- 5.2. All tapes/CD's and documentation (except PART B of ID9) for finalised identification procedures shall be attached to the crime file and processed in the normal way.
- 5.3. Any defect with PROMAT equipment must be reported to the Custody Policy and Development Department who will arrange rectification.
- 5.4. The disclosure of any visual image exhibit will be dealt with by the relevant Criminal Justice Unit and only with the express permission of the Crown Prosecution Service. See the Service Level Agreement, at Appendix C for further information.

6. Monitoring And Evaluation

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- 6.1. The Custody Policy and Development Team will monitor:
- a) the number of Video Identification procedures processed;
 - b) the number of other types of identification procedures undertaken;
 - c) the number of identification procedures where the suspect is identified;
 - d) the number of failed identification procedures by reason e.g. witness fails to attend etc.

7. Review

- 7.1. This Procedure will be reviewed by the Custody Policy and Development Team annually. The review will consider the findings of the monitoring at 6.1 above and make any necessary amendments to this and related procedures.

8. Related Policies, Procedures And Information Sources

8.1. Related Procedures

- 8.1.1. 25102 Procedure – E-Gallery Facial Imaging
- 8.1.2. 25103 Procedure – Photographic Identification – Showing of Digital Facial Images

8.2. Related Policies

- 8.2.1. 25100 Policy – Video Identification

8.3. Information Sources


- 8.3.1. Code D - Police and Criminal Evidence Act 1984
- 8.3.2. Notice to Suspect and Image Capture Flowchart (Appendix A)
- 8.3.3. Service Level Agreement Hampshire Constabulary and Crown Prosecution Service relating to Identification Procedures (Appendix C)
- 8.3.4. AD203 - Equality Impact Assessment

Origin: Custody Policy and Development

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1. Appendix A

1.1. Notice to Suspect and Image Capture Flowchart:

Click here to view this process 

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2. Appendix B

2.1 Identification Suite Locations and Feeder Custody Centres

2.1.1 Southsea:

- a) Portsmouth Central
- b) Waterlooville
- c) Gosport

2.1.2 Bitterne:

- a) Bitterne
- b) Fareham
- c) Southampton Central
- d) Winchester

2.1.3 Aldershot:

- a) Aldershot
- b) Alton
- c) Basingstoke

2.1.4 Lyndhurst:

- a) Lyndhurst
- b) Andover
- c) Eastleigh

2.1.5 Newport:

- a) Newport

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3. Appendix C

3.1. Service Level Agreement – Hampshire Constabulary and CPS – Identification Procedures (PROMAT)

3.1.1 Service level agreement between Hampshire Constabulary and the Crown Prosecution Service in Hampshire and the Isle of Wight relating to identification procedures (Promat).

3.2. Introduction

3.2.1 This Service Level Agreement [SLA] is intended to clarify and standardise the way in which identification procedures using Promat are handled in Hampshire and the Isle of Wight. This SLA relates to Promat video and still identification procedures only.

3.2.2 The SLA deals with the procedure itself, the documentation that the procedure generates and also mutual expectations as to the occasions on which it should be necessary for police officers and civilian staff to be required to give evidence in a prosecution.

3.2.3 An identification procedure will be carried out in the circumstances prescribed by the Police and Criminal Evidence Act 1984, Code D to PACE and relevant case law. The law on this topic is not reproduced here.

3.2.4 If a suspect's identity is known and an identification procedure is required, the preferred method will be the Promat video identification procedure. Other procedures (still photo ID, ID parades, group ID, confrontation etc) will be adopted, in accordance with PACE Code D paragraph 3, only when a Promat video ID procedure is not practicable or another procedure is more suitable.

3.2.5 Facilities exist for most Promat video identification procedures to be visually recorded on a new recording system using split screens, showing the witness, the image being viewed and the viewing room.

3.3. Notice To Suspect

3.3.1 The person performing the role of the 'Identification Officer', by explaining and serving the 'Notice to Suspect', (**First**

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witness) completes a proforma statement (Included within ID2 booklet) and produces the ID2 as an exhibit (**First exhibit**).

3.4. Image Capture Procedure

- 3.4.1 Following the service of the 'Notice to Suspect', the suspect will be taken to the Promat capture room where a series of moving images (clips of about 15 seconds in length) will be obtained and recorded on a Digital Video tape. The suspect will be required to turn to the left or right in accordance with a pre-recorded set of instructions. The procedure will be recorded on the ID2 booklet by the person who obtains the images. That person completes a pro-forma statement (**Second witness**) and produces the DV tape as an exhibit (**Second exhibit**). The suspect's Custody Record will be endorsed as to the fact that the images have been obtained.
- 3.4.2 The DV tape, the ID2 booklet and pro-forma statements are to be sent to the appropriate ID Suite where they will be checked for quality. If the images would be of insufficient quality for use in an ID procedure, they will be returned with a request for further images to be obtained. If that is not practicable or the suspect refuses, the original video images will be used to obtain a suitable still image. If that is impracticable, the Custody Suite image on the Custody Record will be considered for use.

3.5. Video ID Preparation

- 3.5.1 If an ID procedure is required, the ID Suite staff will prepare 9 video "parades" using 8 distracters from the Promat database who, so far as possible, resemble the suspect in age, general appearance and position in life. The suspect will appear at a different place in each of the parades.
- 3.5.2 In accordance with PACE Code D Annex A paragraph 7, the suspect or his / her solicitor, friend or appropriate adult will be given a reasonable opportunity to see and object to any of the images before the set of images is shown to any witness. If absolutely necessary, this may be achieved by inviting such a person to be present when the set of images is created. If editing of images is required, for example to obscure a distinguishing feature or to transfer a tattoo to the distracters (still image), there may be more than one visit.
- 3.5.3 When the set of images is completed, it will be burned to a CD-rom (**Third exhibit**) and the Operator (**Third witness**)

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will complete the final page of the ID2 and prepare a statement to produce the CD-rom.

3.6. Video ID Preparation

- 3.6.1 The video ID procedure will be conducted by an ID Operator (**Fourth witness**) and recorded on DVD (**Fourth exhibit**). The Identification Officer will be available to provide advice and intervene if necessary. The suspect's solicitor may be present. The procedure will be conducted in accordance with PACE Code D. A written record of the procedure will be kept using form ID3 (**Fifth exhibit**), which must include a precise record of anything the witness says about any identification. The ID Operator will sign a pro-forma statement to produce the ID3 booklet and the DVD recording of the ID procedure.
- 3.6.2 The obtaining of witness statements from witnesses who attend the video ID procedure will be included in the DVD recording of the procedure.

3.7. Exhibit Bags And Labels

- 3.7.1 Documentary exhibits will bear an exhibit label signed by the person or persons creating or adding to the exhibit.
- 3.7.2 Other exhibits (DV tapes, DVDs and CD-roms) will be sealed in to individually numbered exhibit bags. The exhibit bag details will be completed by the person creating the exhibit.
- 3.7.3 Each DV tape box, DVD or CD-rom will be clearly marked with its exhibit reference number and the word 'Restricted'.
- 3.7.4 On each occasion where the need arises to open a sealed exhibit bag, the bag will be cut open on one side only in order to allow retrieval of the exhibit. The other side of the bag is to remain intact. On completion of the exhibit's use, it will be resealed into the same bag by applying a red coloured security seal over the cut in the bag. Each new security seal will have its own unique number. The person handling the exhibit will complete a statement explaining their use of the exhibit and documenting the new seal number.

3.8. Pre-Charge Decisions

- 3.8.1 It is important that the prosecutor who makes a decision whether to charge has accurate information about the terms of any identification. Use of the term "positive identification" is inadequate without a record of the words used by the

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witness (for example “I am sure that is the man who assaulted me”, or “I think that is the man who assaulted me”). Equally, there is a clear difference between “I am not able to identify anyone” and “I am sure that the person is not among these images”. Knowledge of the precise words will enable the prosecutor to weigh the strength of any identification evidence and these must be included by means of form ID9 with witness statements attached.

3.9. With Holding Of Witness Identity

- 3.9.1 Names of witnesses and appropriate adults will not be disclosed to the defence at any stage during any part of the Video Identification process. The standard CPIA disclosure considerations will apply in the usual manner once the Video Identification procedure has been completed. Both Defence and Police copies of First Descriptions provided by witnesses will not include the witness’s name, but will include a unique reference identifier.
- 3.9.2 If the with holding of witness identity is required beyond the remit of the ID procedure, then very early contact must be made by the OIC to the prosecutor.
- 3.9.3 All witness statements must bear the true full name of the witness, except for under cover Police Officers who have been provided with authorised alternative names.

3.10. Disclosure Of Unused Material

- 3.10.1 Police officers and personnel involved in the preparation and conduct of video ID procedures will pass to the Disclosure Officer all material that they create, unless that material is incapable of having any impact on the case. Draft sets of images, printed images of suspects or distracters, notes made by the ID Operator etc are not likely to be capable of having any impact on the case and need not be retained nor be passed on to the Officer in the Case. On the other hand, notes made by the ID Operator or the Identification Officer (for example of comments made by the witnesses or the suspect’s solicitor) may have an impact on the case and should be retained and passed to the Disclosure Officer. These are by way of example only.
- 3.10.2 The CD containing the Promat parades will contain images of volunteers picked from the database. Arrangements must be made for all relevant material containing sets of images used for ID procedures to be kept securely and their movements accounted for. Unless the CD of the parade is required for

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evidential use, it is unused material, even if the Promat Operator has produced it as an exhibit. As unused material, it should be disclosed to the defence only if it meets the CPIA disclosure test. If the CD is to be disclosed, to protect the identities of the volunteers, this may be achieved by allowing the defence to view the CD. If a copy of the recording is to be provided to the defence it will bear a label (AID 58), to be attached by the police, drawing the recipient's attention to paragraph 15 of Annex A to PACE Code D.

3.11. Prosecutions

3.11.1 If a defendant pleads not guilty, or the case is to be sent or committed to the Crown Court for trial, a full file will be prepared. The full file will include a copy of all the documentary exhibits already referred to in this SLA. A copy of the following exhibits need not be provided at that stage:

- a) DVT on which the images of the suspect is recorded;
- b) CD-rom bearing the 9 video "parades";
- c) DVD recording of the video ID procedure.

3.11.2 The prosecutor will establish at the Plea and Case Management Hearing in the Crown Court, or at the Trial Readiness Hearing in the magistrates' courts, whether the ID procedure evidence is agreed. If it is not, the prosecutor will call for a copy of such items as are necessary to prove the identification evidence. It is likely that the CD-rom of the "parades" and the recording of the video ID procedure will be required. If the recording of the video ID procedure is in the new split screen format, one of the screens shows the images being viewed by the witness and that recording may suffice alone. The showing of the DVD split screen system will be fully explored before considering any other alternatives (See 21 below).

3.11.3 Defence requests for a copy of the recording of the video identification procedure, or any other associated item, will be referred to the prosecutor who will apply normal evidential and disclosure criteria to the request.

3.12. Commencement And Interpretation

3.12.1 Insofar as it is not existing practice, this SLA will come into force on the date upon which the second party signs it.

3.12.2 Any questions of interpretation will be resolved between the Superintendent in charge of prosecution issues and Mr Alastair Nisbet, Head of Special Casework Unit for CPS

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Hampshire and Isle of Wight. Any suggestions for amendment of this agreement should be directed to them.

Signatures:

Nick Hawkins
Chief Crown Prosecutor
Crown Prosecution Service
Hampshire & Isle of Wight

David Pryde
Assistant Chief Constable
Operational Services
Hampshire Constabulary

Date:

Date: