1.0 **Rationale**

1.1 The identification of offenders is an important part of the criminal justice process and it is imperative that the correct procedures are adopted in order to secure evidence which is acceptable to the courts and to avoid prosecuting innocent persons.

2.0 **Intention**

2.1 The intention of the policy is to improve the service delivery, management and efficiency of identification procedures, including Covert procedures.

2.2 It outlines the Thames Valley Police response to identification procedures which are a necessary part of the investigation process and assist in the identification or elimination of suspects.

3.0 **General Principles**

3.1 **Identification Units**

There are five identification units within the Force located at Milton Keynes, Oxford, Reading (capture facility at Loddon Valley), Aylesbury and Maidenhead Police Stations. Each is equipped with VIPER recording and parade facilities, (Video Identification Parade Electronic Recording). These units are staffed by Criminal Justice Department personnel, including a dedicated Force Identification Inspector responsible for all of the sites.

3.2 **Staff**

3.2.1
The staff at each Identification Unit are responsible for giving advice on the following identification procedures:

- video identifications,
- identification parades,
- group identifications,
- confrontations,
- covert identifications,
- voice identifications and
- photographic identifications (ID Units do not show Photograph albums/Video Witness albums)

4.0 **Challenges & Representations**

4.1 Any person directly affected by this policy may make representations in relation to this document and/or any decision taken in consequence of it, to:

Superintendent Criminal Justice
Thames Valley Police Headquarters
Oxford Road
Kidlington
OX5 2NX

4.2 Independent scrutiny of this policy will be performed, as necessary, by the Thames Valley Police and Crime Commissioner and Her Majesty’s Inspectorate of Constabulary.

5.0 **Guidance, Procedures & Tactics**

5.1 **Responsibility**

In accordance with the Code D of the Codes of Practice issued under the Police and Criminal Evidence Act 1984 (PACE), the arrangements for, and conduct of identification procedures shall be the responsibility of an officer not below the rank of inspector who is not involved with the investigation (“the Identification Officer”). Unless otherwise specified, the Identification Officer may allow another officer or member of civilian support staff to make arrangements for and to conduct identification procedures. The Identification Officer will remain responsible for the procedure. When an identification procedure is required, in the interest of fairness to suspects and witnesses, it must be held as soon as practicable.

5.2 Code D.3.11 of the Code of Practice referred to above specifically states when delegating procedures the Identification Officer must be able to supervise effectively and either intervene or contactable for advice. When allowing another person to undertake identification procedures the Identification Officer will make suitable arrangements to remain responsible for the procedure.
5.3

The following is guidance for Identification Officers on the meaning of responsibility;

- Responsibility means that there is a duty to ensure that the procedures are properly carried out and being prepared to answer questions as to how the duty has been discharged. The duty can be discharged by ensuring that proper systems and structures are in place, and ensuring that appropriate people are carrying out the necessary tasks, rather than by doing everything oneself. For example, the Chief Constable is responsible for the effective policing of the Thames Valley, but they do not patrol the streets themselves.

- Responsibility does not necessarily mean that the Identification Officer must be present when the identification procedures are carried out.

- For every identification procedure carried out, there must be an Identification Officer who is prepared to answer questions about the procedure and how they exercised their responsibility.

- The systems and structures in place must allow for an Identification Officer to monitor and review any procedures for which they are responsible.

- The Courts are likely to look at the substance of the procedure and whether it is conducted in accordance with the Code. If the procedure is carried out in accordance with the Code, it is unlikely to be ruled out on the basis that the Identification Officer was not sufficiently closely involved.

5.4

Identification unit staff will be responsible for maintaining a guidance file on identification procedures to ensure their advice and decisions are always based on the most recent legislation and case law.

5.5

They will be responsible for some decision making on, administration of, and carrying out:

- video identifications,
- identification parades,
- group identifications,
- voice identifications and
- confrontations.

5.6

Identification Unit staff will generally be able to carry out procedures without the need for additional personnel except where specifically required and in
these cases the ID Unit will liaise with the OIC and arrange for additional staff for witness transport and witness supervision (no-one involved in the investigation of the case is to be involved in this).

5.7 Decision Making and Documentation

The circumstances in which an identification procedure must be held are as follows:

Whenever:
(i) a witness has identified a suspect or purported to have identified them prior to any identification procedure having been held; or

(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 ID procedures.

5.7.1
In considering whether an identification procedure is required, in addition to the provisions of Code D, the following matters will be considered:

- the nature and seriousness of the offence, generally ID procedures will not be considered for Theft under a value of £100, Criminal Damage under £300, Common Assault and Section 4 and 5 Public Order Act unless there are aggravating circumstances or the suspect is a DYO or PPO. (Each individual case can be discussed with the ID Unit and the merits of the case will be considered.)

- whether it is necessary for elimination purposes,

- witness credibility,

- whether the witness is able to identify the offender (e.g. have they seen the offender's face - as determined in the case of R v Turnbull),

- whether the witness will attend a procedure,

- whether there is any corroborative evidence,

- CPS requests for ID procedures. In cases where the ID manager disagrees with the CPS decision the case will be referred to the Force Identification Inspector.

5.7.2
To ensure consistency the decision making process about whether to carry out an identification procedure will be as follows:
5.8 **Suspect arrested for offence:**

5.8.1 The officer in charge of the investigation will consult the Identification Unit or an Inspector unconnected with the investigation.

5.8.2 The ID Unit or Inspector will consider whether there is a Police and Criminal Evidence Act 1984 Code D requirement to carry out an identification procedure. If there is, s/he will take into account the criteria above to decide whether to serve Identification Procedure forms (as detailed in PACE Code D) on the suspect - local form PAC23.

5.8.3 If s/he identifies the potential for an identification procedure, s/he will serve the PAC23 forms, but will warn the suspect that the decision to serve the forms will not necessarily mean that such a procedure will be carried out.

5.8.4 These forms can be served by ID Unit staff, custody officer or any other officer not involved in the investigation of the case against the suspect if;

- It is proposed to hold an identification procedure at another date and
- An inspector is not available to serve them before the suspect leaves the station where they are detained.

5.8.5 While the suspect is in custody CPS Direct may make a decision that ID procedures are required, in this case the OIC is to ensure that the PAC23 is correctly served on the suspect and the ID Unit are informed as soon as possible. (PAC 23, copy statements (inc back page, witness details) and details of what was said in interview and copy of CPS advice to be forwarded to ID Unit)

5.9 **Suspect not arrested for offence:**

5.9.1 The local Case Director/ Supervisor will assess the file and decide whether there is a Police and Criminal Evidence Act 1984 Code D requirement to carry out an identification procedure and whether it is appropriate considering the criteria listed above. Consideration should be given at this stage to consulting the local ID unit for expert advice.

5.9.2 The Identification Officer in determining which procedure to adopt will consult with the Officer in the Case and consider any representations made by the
suspect, although Video Identification is now the nationally accepted procedure to conduct in the first instance.

5.9.3
When deciding whether to hold group identification in a public place or a covert identification procedure the potential to interfere with article 8 (Right to Respect for Private and Family Life) of the Human Rights Act 1998 must be considered.

5.9.4
All decisions taken in consequence of this policy will be made in compliance with the provisions of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998, in particular Articles 5, 6, 8 and 14. They will take into account the operational principles of safety, lawfulness, necessity, proportionality and will be the least intrusive to achieve the purpose. All decisions will be fully documented on the forms provided.

5.10 Administration

5.10.1
The protocols to be followed in respect of arranging the various types of identification permitted under Code D are contained in the document “Identification Procedures - A Users Guide”.

5.10.2
The officer in charge of the investigation must ensure that the Identification Unit staff have the necessary case papers as soon as practicable, PAC23, copy statements (back pages), details of what was said in interview and copies of any CPS advice.

5.10.3
Identification Unit staff are responsible for all identification procedure administration from the point of booking until the procedure is concluded. This includes contacting witnesses, solicitors, conducting a risk assessment for the procedure and producing performance information.

5.11 Priority Identification Procedures

5.11.1
Identification Procedures for Deter Young Offenders (DYOs) and other identified priority groups will be held as soon as practicable. The target will be to carry out a procedure within 7 days of a request. **Staff booking such a procedure must ensure it is clear that it is required for a DYO or other such priority case.**

5.11.2
When an identification procedure is required after a person has been charged with an offence, it will be held prior to pre-trial review whenever practicable.
5.12 Volunteers

5.12.1
The National Viper Volunteer database is administered by The National VIPER Bureau, West Yorkshire and comprises of volunteers nationwide. ID Units have the ability to use volunteers from outside the Thames Valley Police area if the offence requires this.

5.13 Showing of photographs

5.13.1
In addition to showing photographs in accordance with annex D of Code D of the Police and Criminal Evidence Act 1984, still photographs from Closed Circuit Television (CCTV) are often shown to police officers to identify a suspect.

5.13.2
Showing and viewing of CCTV stills must be carried out in accordance with Code D and in accordance with the ‘Police Officer Recognition Protocol’.

5.14 Covert filming of Detained Persons for Identification Purposes

5.14.1
When a suspect will not co-operate in the making of a video film for identification purposes or fails to attend an arranged procedure on an agreed date or it is not possible to obtain a suitable moving image of a suspect, PACE Code D allows:

(i) The use of available images, whether moving or still (video witness is the preferred option when a suspect will not co-operate), or

(ii) Covert filming of a suspect. The procedure for covert filming is recorded below.

5.14.2 Covert filming can take place if:

5.14.3
If the Officer in the case presents information to the identification officer and there are reasonable grounds for believing that the suspect will take steps to avoid being seen by a witness after being given the information required by the Code D of the PACE Codes of Practice, the following procedure will be followed:

• The Officer in the Case must present his evidence to the Identification Officer at the identification unit where the procedure would normally take place.
The Identification Officer will consider the application and, if he agrees that the necessary criteria are met, will endorse the relevant section in form PAC23 and may then arrange for images suitable for use in video identification procedures to be obtained before giving the information and notice to the suspect.

If the suspect later agrees to provide images for a video identification, or to participate in an identification parade, the images obtained covertly will not be used but will be retained on the case file.

5.14.4
Having been given the information required (by service of forms PAC23) the suspect does not consent to taking part in an identification parade, cooperating with group identification, or the making of a video film. In this case the following procedure will be followed:

The Identification Officer must consider whether the criteria for covert filming are met.

If they are, the Identification Officer must apply for an authority for directed surveillance in accordance with normal RIPA (Regulation of Investigatory Powers Act 2000) procedures if images other than Video Witness/Custody CCTV images are to be used.

5.14.5
In either case the Identification Officer must liaise with the South East Technical Surveillance Unit (SETSU) and the Authorities Bureau for advice regarding the necessary authority. Together they will agree a suitable method to obtain the necessary images.

5.14.6
Section 37 PACE details the circumstances in which a Custody Officer may detain a suspect and Custody Officers must bear in mind that an Identification Officers decision to arrange a covert video identification is not an additional ground for detaining a suspect.

5.14.7
The use of covert filming must not be recorded on the custody record as this could lead to interference with the course of justice. The authorisation and decision making process is accurately recorded via the RIPA and PACE (PAC23) procedures.

5.14.8
Covert filming within a Custody Suite must take account of the relevant Custody Risk Assessment. In the unlikely event of filming taking place elsewhere, a PER 72a Risk Assessment Form must be completed prior to filming.

5.15 Voice Identification Procedures
5.15.1
There are no statutory procedures in relation to voice identification. Voice identification must not be regarded as proof of identity. However, in rare cases, it can provide additional evidence against an accused.

5.15.2
Prior to any procedure being conducted the Crown Prosecution Service must be consulted to determine the likely evidential value of such a procedure. Voice identification is only likely to be carried out for serious offences.

5.15.3
A voice identification procedure must be conducted in accordance with the spirit of Code D of PACE. This may be done by an expert comparing the voice of an offender taped during the commission of an offence (e.g. an extortion demand) with, for example, a taped interview by adapting the confrontation procedure. Consideration could also be given to a person who knows the suspect’s voice very well (e.g. a family member, close friend) listening to the offenders voice on audio tape.

5.15.4
Voice identification may also, in exceptional cases, be conducted by adapting the video identification procedure. For example, in the situation that the offender’s voice is not recorded on audio tape but an important witness, who could not visually identify the offender, is confident of identifying the offender by voice characteristics. It must be carried out as soon after the offence as possible. If this procedure is proposed the following steps must be followed:

(i) Form PAC23 must be served on the suspect after the Identification Officer and Crown Prosecution Service have agreed the procedure would be of value.
(ii) The Identification Officer must liaise with the South East Technical Surveillance Unit (SETSU) to check feasibility and availability of staff and equipment. They will agree a suitable method to obtain the necessary recordings.

5.15.5
When it has been decided to conduct a Voice Identification procedure in accordance with the above, the guidance contained within the document “Identification Procedures - A Users Guide” must be followed. (This procedural guidance is exempt from publication to the public under ‘Exemption 31.1(a) FOIA 2000’ as it contains Police tactics.)

6.0 Communication

6.1 Links to Police National Legal Database Other

- Link to PNLD PACE Codes of Practice/Identification Case Law
- Link to ID Users’ Guide
6.2 Communications Strategy

- Intranet Policy and Procedure site
- Knowzone

Target audience:

- All Operational Police Officers and Investigators.
- ID Unit staff

7.0 Compliance and Certification

7.1 Human Rights Certification

(i) Legal Basis

The legal basis for this document is derived from the Police and Criminal Evidence Act 1984 and Code D of the Codes of Practice issued under section 66 of that Act, together with relevant case law.

The covert use of video filming for the purposes of identification may only be used if the suspect fails or refuses to take part in a video identification, an identification parade or a group identification, or refuses or fails to take part in the only practicable options from that list (section 2.19, Code D of the Police and Criminal Evidence Act 1984 refers).


Definition of serious crime (RIPA): Section 81(3) RIPA: Conduct which constitutes one or more offences if, and only if:

a) It involves the use of violence, results in substantial financial gain, or is conducted by a large group of persons in pursuit of a common purpose or
b) The offence or one of the offences involved is an offence for which a person who has attained the age of 21 years and has no previous convictions could reasonably be expected to be sentenced to 3 or more years in custody.

It should be noted that certain lower level crimes might appear to fall outside the criteria. However, the merits of each individual application will be examined. For example where the offender is suspected of a series of indecencies, thefts, distraction burglaries etc. the covert video service could be used if it has potential material benefit to the investigation.

(ii) Human Rights Articles Engaged
It is acknowledged that this policy has the potential to engage the following Articles:

- **Article 5** Right to Liberty and Security
- **Article 6** Right to a Fair Trial
- **Article 8** Right to respect for Private and Family Life

In the event that an Article of the Convention is engaged, then the legitimacy for the engagement is provided within the text of the Articles:

- **Article 5**: Right to Liberty and Security. It applies as regards the detention of a person as a result of procedures detailed in this document.
- **Article 6**: Right to a Fair Trial. It applies in its entirety when a person is detained/arrested/charged.
- **Article 8**: Right to Respect for Private and Family Life. A public authority may interfere with the exercise of this right in accordance with the law and as is necessary in a democratic society in the interests of:
  - national security
  - public safety or the economic well-being of the country
  - the prevention of disorder or crime
  - the protection of health or morals
  - the protection of rights and freedoms of others.

(iii) **Prohibition of Discrimination**

By engaging any of the aforementioned Articles, there is the potential to engage Article 14 of the Convention. The enjoyment of the Rights and Freedoms set forth in the European Convention of Human Rights shall be secured without discrimination on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Actions taken as a consequence of this policy will be applied fairly and impartially, having due regard to natural justice and human rights.

**7.2 Diversity Impact Assessment**

This policy has been assessed for its relevance to the six strands of Diversity and has been rated as “LOW” impact.

**7.3 Diversity (Human Resources)**
In the application of this policy, the Force will not discriminate against any persons regardless of their gender, sexual orientation, race or ethnic origin, religion, age or disability.

7.4 Data Protection

Personal data held in connection with this policy will be processed in accordance with the provisions of the Data Protection Act 1998.

7.5 Freedom of Information Act

This policy can be made available to the public via the Thames Valley Police, Freedom of Information Internet site, except for the appendices which are exempt under ‘Exemption 31.1(a) FOIA 2000’ as they contain Police tactics.

7.6 Protective Markings

This document has been assessed for its correct level of protective marking and is NOT PROTECTIVELY MARKED.

7.7 Health & Safety at Work

A risk assessment is to be carried out by officers prior to arranging any ID procedures and any H&S issues should be communicated to the ID Unit so control measures can be put in place if necessary. Suspects who are bailed for ID procedures should be met by the OIC or other officer, booked into custody and a Risk Assessment carried out prior to VIPER capture.

Any accidents and/or near misses must be reported promptly using Force Form PER 10a or PER 10c

8.0 Monitoring and Review

8.1 Links to Best Value/PPAF/Priorities/Performance Indicators

This policy is designed to minimise abortive identification procedures.

It links with the Best Value Review of Crime Investigation.

This policy contributes to TVP’s values and Strategic Objectives:

- *To take pride in delivering a high quality service, learn from experience and always seek to improve the service given to victims and witnesses.*

8.2 Review Process

A full review will be carried out annually by the policy author and will examine:

- Changes in legislation
• Court rulings – Domestic, European and Human Rights
• Examples of good practice from other Forces or other organisations
• Changes in Home Office Circulars
• Developments with ACPO Policy Unit
• Representations made by individuals and relevant organisations
• Relevant Race Equality data

FOR USE BY THE POLICY MANAGEMENT UNIT ONLY

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<td>A/ACC George Wilson</td>
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<td>ACC Specialist Operations:</td>
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<td>29.08.12</td>
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<td>08.11.12</td>
<td>Change reference to Police Authority to read Police Commissioner clause 4.2</td>
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Criminal Justice Department

IDENTIFICATION PROCEDURES

A User’s Guide
Introduction:

The requirements for Identification Procedures, and the rules governing them, are contained within Code D of the Codes of Practice issued under the Police and Criminal Evidence Act 1984.

All Identification Procedures must be run in compliance with the Human Rights Act 1998 and the force Policy on Identification Procedures.

The main reasons for carrying out any identification procedure are as follows:

1. Because the suspect disputes being the person the witness has claimed to have seen and the ‘identification officer’ deems that 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 when it is not disputed that the suspect is already well known to the witness who claims to have seen them commit the crime and a subsequent witness statement supports this fact.

2. The officer in the case considers that ID procedures would be useful and this is agreed in consultation with the Identification Officer and FQM/Case Director/CPS if necessary.

There are, nominally, 5 “formal” types of Identification Procedure as follows;

1. A ‘Video Identification’. (Annex A to Code D) This is always the nationally preferred option as Video Parades are logistically more efficient, can be arranged far quicker than other procedures and are more viable financially.

2. An ‘Identification Parade’. (Annex B to Code D) Thames Valley Police has no facilities for conducting ‘live’ Identification Parades. This type of parade would only be offered if for some reason a Video Identification was deemed to be impracticable and the Identification Inspector would then organise where and when a parade would be held in conjunction with a force ID Unit.

3. A ‘Group Identification’. (Annex C to Code D) This may be offered if the Identification Officer and OIC consider it more suitable than a Video Identification and it is practicable to arrange.

4. A ‘Confrontation’. (Annex D to Code D) Really only a last resort and is generally of little evidential value.

5. A ‘Photographic Identification’. (Annex E to Code D) This can only be used if there is NO suspect, or the suspect is not available.

In addition, there may be other identifications - such as a ‘Street Identification’ immediately after an incident in certain circumstances or ‘Covert ID’ when a suspect refuses to co-operate with any of the procedures offered.
This guide has been produced to assist officers with all aspects of identification and covers:

- Is an Identification Procedure required?
- Which type of Identification Procedure should (or can) be used?
- How do I arrange the Identification Procedure?
- What documentation is involved?
- How is the procedure carried out?

The following Appendices are attached:

- **Appendix A** - Officers attending an incident, options available
- **Appendix B** - Identification by Photographs
- **Appendix C** - Formal Identification Procedures - Initial Action
- **Appendix D** - Video Identifications
- **Appendix E** - Identification Parades
- **Appendix F** - Group identifications
- **Appendix G** - Other forms of Identification

**Caselaw**

Caselaw regarding identification procedures changes rapidly. All Identification Units maintain a guidance file (including relevant caselaw) and to read the latest cases the Police National Legal Database or LAWTEL website should be consulted.

**Documentation**

A PAC23 should always be completed when Identification procedures are required and must be fully completed with all relevant information by the officer in the case before handing to the ID Unit.

Form A Part II on page 4/5 can be completed and served on the suspect by ID Unit staff if available.

Form A Part III page 6/7/8/9 must be completed by the OIC but can be served by ID Unit staff if available. This relates to the first description of the suspect and can be taken from officers Pocket Note Book, Command and Control log or statement, whichever was first.

If ID Unit staff do not serve the forms they must be served by an officer who is **not** connected with the investigation and the relevant part of the PAC23 endorsed by the person serving.

All procedures require that the “first description” of a suspect given by any witness(es) is recorded **BEFORE** any form of Identification Procedure is commenced, this is particularly important when conducting street identification procedures immediately after an incident.
An Identification Procedure is not required when the case is one of ‘recognition’ (unless that itself is in dispute) or there are no witnesses able to identify the suspect. (Code D.3.12)

An admission to being present at a scene does not automatically mean there is no need for an Identification Procedure.

Whenever there are any difficulties encountered in arranging an identification procedure, they must be fully documented together with all actions taken in consequence.

**Choice of Procedure**

The Officer in the Case and Identification Officer must consult to determine the most appropriate Identification Procedure in the circumstances. The suspect is entitled to make representations in this regard which must be recorded and considered. (Form PAC23 caters for this.)

**Responsibility of Identification Officer and Delegation of tasks**

Section 5 of the Force Policy on Identification Procedures deals with this subject. When delegating authority to carry out Identification Procedures to police officers or members of civilian support staff, Identification Officers must consider the training given to the member of staff and the potential for their decisions and actions to be challenged.

All Identification Procedures can be ‘broken down’ into separate elements and the Identification Officer will have to decide, before delegating any task, whether the person to whom the task would be delegated is capable of completing the task properly and, in consequence, securing reliable identification evidence to be used in court.

The Identification Officer will also need to consider the persons ability to give evidence in court.

**Advice**

Always remember that advice is available from the Force Identification Inspector, Identification Unit staff, Case Directors and the Crown Prosecution Service.

It is far better to get advice than ‘take a chance’ and then find the process (and evidence obtained) is flawed.
APPENDIX A

IDENTIFICATION - “at scene”

A witness may be taken to a particular neighbourhood or place by an officer to conduct an area search for an offender. This is best done as soon as possible after the offence. Although the age, race, gender, numbers and general description and style of clothing of people present in the area cannot be controlled, the principles that apply to formal procedures should be followed as far as is practicable in the circumstances, for example:

a) Before asking the witness to make identification, a record should be made of any description of the suspect given by the witness. This may be in the Command and Control log, officers pocket book, street ID booklet or similar. It should include what witness gave what description. Care needs to be taken to avoid a witness overhearing radio messages referring to a potential suspect - especially where the witness is then taken to a location to see the person.

b) Care should be taken not to direct the witnesses attention to any individual, unless, having regard to all the circumstances this cannot be avoided. This does not prevent a witness being asked to look carefully at people who are in the area at the time or to look towards a particular group or in a particular direction if this appears necessary to ensure that the witness does not overlook a possible suspect simply because the witness is looking in the wrong direction and also to enable the witness to make comparisons between as many people in the area as possible.

c) Where there is more than one witness every effort should be made to keep them separate and where practicable witnesses should be taken to areas where they may be able to identify a suspect independently.

d) Once there is sufficient information to justify the arrest of a particular individual for suspected involvement in an offence, after a witness has made a positive identification, formal identification procedures must be adopted for any other witnesses in relation to that individual.

e) The officer or other approved person accompanying the witness shall make a record in their pocket book of the action taken as soon as is practicable and in as much detail as possible. The record should include: the date, time and place of the relevant occasion the witness claims to have seen the suspect, whether any identification was made and the conditions at the time (distance, obstructions, weather, lighting etc TURNBULL guidelines), if the witnesses attention was drawn to the suspect, the reason for this and anything said by the witness or suspect about the identification or the conduct of the procedure.

It should be noted that the admissibility and value of identification evidence obtained in these circumstances may be compromised if;
i) Before a person is identified the witnesses attention is specifically drawn to that person (e.g. he is being held by a uniformed officer) : or
ii) The identity of the suspect has become known before the procedure takes place.
iii) Any officer who has physical contact with the victim should not have physical contact with the suspect and vice-versa to avoid cross contamination. Different vehicles must be used to transport the victim and suspect.

An overriding principle is that an “engineered” street identification will generally be ruled inadmissible - as will all subsequent identification evidence.
IDENTIFICATION BY PHOTOGRAPHS
(Code D - Annex E)

Paragraph 1 of Annex E states: An officer (of sergeant rank or above) shall be responsible for supervising, directing and showing photographs. With the advent of the Video Witness computer based system for recording and showing photographs, the showing of photographs should be done in a police station unless a mobile laptop facility is used to travel to the witness.

The detailed procedure for using this equipment is contained within the “Video Witness User Guide”, available on the Criminal Justice Intranet site under Identification.

Video Witness allows an album of photographs (not restricted to 12 photographs) to be compiled within minutes based solely upon the description of an offender given by a witness. This speed in showing albums mean great care must be taken to ensure that the witness’s “first description” has been properly recorded (paragraph 2 of Annex E) before the system is used. The system also generates all required statements and records of the showing.

Video Witness also allows for ‘pre-defined’ albums to be created to deal with such issues as prevalent crime where there are no real suspects but a potential for any one of many possible persons to be the offenders.

Finally, Video Witness allows for an album to be created including a suspect. This facility will NOT be used as PACE now allows the photograph of an ‘unavailable’ suspect to be used in a video parade - which would provide evidence which can be used at court.

To ensure integrity of the system, the actual showing of photographs (which may be done by any officer or member of support staff once approved by a sergeant or above) shall be recorded on video or directly supervised by a sergeant or above.

After the procedure has concluded the supervising officer shall inspect and sign the record as soon as practicable.

A summary of the procedures is shown on the next pages.
IDENTIFICATION BY PHOTOGRAPHS
(Code D - Annex E)

Is the Suspect known?

**YES**
You may NOT show photographs in a witness album. Arrest and Inform ID Unit for VIPER

**However**, it may be appropriate to use a photograph of the suspect in a video identification (Code of Practice D.3.21 and Annex A).

**NO**
You may show photographs to witnesses **UNTIL**:-

- An Identification is made
- A Suspect becomes known

Code D.3.4 states:

**“Known”** means:
‘there is sufficient information known to the police to justify the arrest of a particular person’ for suspected involvement in the offence’.

**“Available”** means:
‘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 it is practicable to arrange;
- video identification;
- identification parade; or
- group identification.’

See next page for the permissible methods of showing photographs.
SHOWING OF PHOTOGRAPHS
(Code D - Annex E)

Whenever photographs are shown, at least 12 photographs must be shown to the witness at a time. This will normally be achieved by using the ‘Video Witness’ system.

‘Video Witness’ allows albums to be compiled based upon:

- a) pre-selected possible offenders for an offence type,
- b) including a particular person (only to be used in exceptional circumstances)

OR

- c) the description of offender.

(Option ‘c’ will always be the preferred choice.)

Ensure that you have recorded the description of suspect given by any witness who is to view the photographs.

Log on to ‘Video Witness’ and enter the necessary details to create the witness album.

You may show photographs to one witness at a time UNTIL an identification is made.

At the end of the procedure, ‘Video Witness’ will produce the necessary documentation. The Supervising Officer must sign the documentation at the earliest opportunity.

Police Areas will decide whether all officers will be trained to use ‘Video Witness’ or whether they will train a smaller group of staff. They will also decide whether to:

i) install the ‘Video Witness’ equipment in a room fitted with video recording equipment,
ii) provide mobile video recording equipment or
iii) have direct supervision of procedures.

Although the showing may be done by a constable or civilian employee, it must be supervised and directed by a Sergeant or above.

Where the showing of photographs is recorded on video there is no need for the supervisor to be present.

If the showing is NOT recorded on video then the supervisor MUST be present.

The ‘Video Witness’ User Guide is available on the Criminal Justice Department intranet site.

If the suspect, when interviewed, disputes identification - then a formal Identification Procedure must be arranged (see Appendix C) - which the witness making the ‘photographic identification’ should attend.
FORMAL IDENTIFICATION PROCEDURES
(Suspect in Custody)

Is there sufficient evidence to charge AND achieve a successful prosecution?
(See note on Page 1)

Yes  |  No

**CHARGE** with offence(s) and BAIL or REMAND as normal

Is Identification in dispute?
(Code D.3.13)

No  |  Yes

No problem. No further action required.

Suspect should **not** be charged but an Identification Procedure arranged.

Contact the nearest Identification Unit to discuss the case and to arrange a suitable date for a ‘VIPER Capture’ and for service of forms.

Contact an Inspector, if ID Unit are unavailable, to serve PAC23 - Form A Parts I & II only
(if no Inspector is available they may be served by the Custody Officer or another officer not involved with the investigation of the case - Code D.3.19).

Whenever **Video Identification** is to be used and the suspect is in custody and the ID Unit are available, the suspect should be VIPER captured before they are bailed. The OIC should discuss the case with the ID Unit and make PAC23, statements and details of what was said in interview available to the ID Unit.

After VIPER capture complete other enquiries as normal and await parade result from ID Unit and submit file as normal for CPS decision.
FORMAL IDENTIFICATION PROCEDURES
(Suspect NOT in Custody)

If the suspect is NOT in custody (e.g. yet to be arrested, already on police bail or voluntary attendance required), the case papers should be submitted to the FQM/Case Director for a decision as to whether there is a PACE requirement for an identification procedure to be held.

If the FQM/Case Director considers that a procedure is required the case file will be sent to the relevant identification Unit as soon as practicable. The Identification Inspector will decide whether an identification procedure is to be carried out.

Because of the costs and resources involved, voluntary attendance should not be relied upon, it is preferable that suspects are bailed to a police station for ID procedures to take place, if this is not practicable and voluntary attendance is relied on the OIC must ensure that it is recorded somewhere that the suspect is aware that he is returning to the police station in order to take part in identification procedures. Recording on tape is the best option but PNB or custody records can also be considered. If voluntary attendance is relied on the OIC must ensure that an officer is available to meet the suspect and escort them to and from the Identification unit.
A ‘video identification’ may be done with the consent of the suspect or covertly.

A Video Identification is the preferred method of identification under Code D, and the choice of which procedure to use is for the Identification Officer and Officer in Charge of the Case to decide, although the suspect may make representations as to which procedure should be used (Code D.3.15).

VIPER

Within Thames Valley, the normal method of conducting a ‘Video Identification’ for a consenting suspect will be by using VIPER (Video Identification Parade Electronic Recording).

It will only be used by trained and approved police officers or members of civilian support staff.

A summary of the process follows for information of all officers:

- A standard video clip of the suspect is recorded.
- The VIPER operator will select other images to be used in the compilation from a database of stills held on the system.
- The video clip of the suspect and details of selected images are sent to the central VIPER unit for compilation into a video film (DVD).
- The compilation is returned to the Identification Unit.
- The suspect or their solicitor, friend, or appropriate adult shall 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.
- Agreed compilation is shown to witness(es).

In selecting the images to be included in the VIPER compilation it must be remembered that PACE does NOT require a ‘film’ of persons of identical appearance to the suspect but persons who “…so far as possible, resemble the suspect in age, height, general appearance and position in life”. If the VIPER operator is unable to agree a suitable selection of images with the suspect (and/or solicitor) it remains available to the Identification Inspector/manager to compile a ‘film’ to be used WITHOUT the suspect’s consent.
The recording of images, selection of images, ordering of compilations and showing of completed films to witnesses may be done by persons authorised by the Identification Officer. The approval of the completed film remains the responsibility (see Identification Policy, Section 5) of the Identification Officer even though the actual showing to the suspect and/or solicitor for agreement may be done by any person authorised by the Identification Officer.

(Full details on the use of VIPER are contained within the “Video Identification Users Guide” which can be found on the Force Policies and Procedures site and the Criminal Justice Department Intranet site).

**VIPER facility not readily available**

When the suspect is in custody at a police station not equipped with VIPER facilities, it will be necessary to arrange for a suitable image of the suspect to be recorded at a VIPER location. It may be appropriate (and proportionate) for the suspect to be taken to a VIPER location before being released from custody but, if not, it will be necessary make suitable arrangements for the suspect to be bailed to a VIPER location for a ‘capture’ to be done. (This will also apply at a Police Station equipped with VIPER if the equipment is not available.)

It is appropriate for the Custody Officer to determine both dates to which a suspect should be bailed - i.e. bailed to a VIPER facility on Time/Date 1 (being the booking for recording on VIPER) and from there be further bailed to a custody station at a later Time/Date 2 when witnesses will have had the opportunity to view the compilation. Bail date 1 should be decided in conjunction with the ID Unit to determine available dates for VIPER capture and Bail date 2 should be a suitable time in the future to enable the ID Unit time to conduct the parade(s).

At the ID Managers discretion voluntary attendance of the suspect may be appropriate for the ‘capture’ phase in certain circumstances.

**Serious Offences**

In serious cases it may be appropriate for a suspect to remain in custody throughout the period after recording an image on VIPER until the compilation has been seen by the witness(es). In such cases the ID Unit can liaise with the National VIPER Bureau in West Yorkshire and arrange for a quick turnaround of the parade compilation(s).

**Covert Video**

When an Identification Officer believes the suspect will not co-operate with the procedures they may obtain covert images before the formal request is made (Code D.3.20) but if the suspect does co-operate in making a Video Identification film the images obtained covertly must not be used. This process does not require authority under the Regulation of Investigatory Powers Act 2000 (RIPA).
A video film may be compiled using images of the suspect already available (for example a previous VIPER recording of the suspect, any other video recording of the suspect or a photograph of the suspect) together with similar images (Code D.3.21). Ideally a previous VIPER recording should be used in preference to a ‘still image’ if one is available.

If a previous VIPER recording is not available Video Witness images (prisoner photographs) are the preferred images to be used in ‘Covert’ parades as all images are captured on identical equipment and are immediately available to be downloaded for compilation into a video film, so it is essential that suspects are captured correctly on the Video Witness system.

If the failure to co-operate occurs after the request has been made, and no previous images are available, covert filming may still be used but authority under RIPA is required. Application for this authority must be made by the Identification Officer using the standard RIPA procedure and forms as follows:

- The Identification Officer will liaise with the Technical Support Unit (TSU) to check feasibility and availability of staff and equipment. They will agree a suitable method to obtain the necessary images.

- The Officer in the Case will complete form RIPA 4 and send it to the Inspector in charge of the Identification Suite where the original identification procedure was attempted or the nearest Suite in the case of a refusal to participate.

- The Identification Suite Inspector must consider whether the criteria for a covert filming are met, in the light of the most recent legislation and case law, and subsequently refuse or authorise the service.

- The Identification Suite Inspector will forward form RIPA 4 to the Authorities Bureau, Langford Locks who will arrange for Detective Superintendent Crime Support (Ops) to give final approval and for TSU to carry out the service. The original RIPA 4 form will be filed at the Authorities Bureau, TSU.

- The Officer in the Case must ensure that a copy of the RIPA 4 form is included with the case papers and is considered for disclosure.

Any covert filming within a Custody Suite must take account of the relevant Custody Risk Assessment. In the unlikely event of filming taking place elsewhere, a PER 72a Risk Assessment Form must be completed prior to filming.

If, for whatever reason, it is not possible to compile a video film in which all the images are in identical conditions, the fact and reasons shall be recorded in form PAC23 (Code D Annex A Paragraph 3).

Whenever the suspect’s image has been recorded for a covert video film (or it is proposed to use other images) it is best practice to inform the suspect of this fact BEFORE any such film is used and invite the suspect to co-operate in making a normal video film. This offer, and any response, should be fully documented.
SHOWING OF VIDEO PARADES

Ideally, the showing of completed video films will take place in a police station and be recorded itself on video. All Thames Valley Police Identification Units have dedicated ‘Showing’ facilities for parades. All Police Areas have ‘vulnerable and intimidated’ witness interview suites which can be used to conduct ID parades. (This is in addition to other facilities which may be available on the relevant police area.)

A major benefit of video identification, particularly for vulnerable or frail witness(es) is the ability to take the “showing” to them and Identification Officers have the ability to do this.

In either case, the showing must be recorded on video unless a solicitor representing the suspect is present. It is Thames Valley Police policy that ALL identification parades are video recorded.

Local arrangements for showing films

Whilst formal Identification Parades will normally only be conducted at one of the Force Identification Units, they may be carried out anywhere. Identification Unit staff have the capacity to travel throughout the country and show parades at Police Stations or witnesses home addresses. In these circumstances the policy on video recording of parades must be rigidly followed.

Information to be given to witnesses during the introduction to process of showing the film(s)

1. Identify yourself and welcome to the venue if appropriate.

2. Explain the procedure that will be followed with particular reference to:
   - Ensuring that witnesses do not discuss the matter.
   - Ensuring that a witness who has seen the film cannot communicate with a witness who hasn’t (this is especially important if the viewing is not in a police station).
   - Each witness must watch the whole film at least twice before they will be asked if they can make an identification but they can watch the film, or any part of it, as many times as they want.

3. Explain that the purpose of the procedure is to allow the witness(es) to help us in our enquiries and our role is to enable that to take place. Explain that the person they saw on a specified earlier occasion may, or may not, appear in the images they are shown and if they cannot make a positive identification they should say so.
Destruction of Images

PACE differentiates between ‘still’ and ‘moving’ images of suspects for identification purposes. When ‘still’ images have been taken of a person who has been detained, under 64A PACE, they need never be destroyed.

For ‘moving’ VIPER images, however, the situation is that any images, and copies, taken for the purpose of an identification procedure must be destroyed unless the person is:
- charged with, or informed they may be prosecuted for, a recordable offence;
- prosecuted for a recordable offence;
- cautioned for a recordable offence or given a warning or reprimand;
- or
- gives informed consent, in writing, for the images to be retained.

The exception to this rule is when the images need to be retained to comply with the requirements of the Criminal Procedure and Investigations Act 1996 (the retention of material in connection with criminal investigations). This information will only be available to the Officer in the Case and therefore the Identification Officer will consult with the Officer in the Case to determine whether destruction is required.

When images need to be destroyed the subject must be given an opportunity to witness the destruction or to have a certificate confirming the destruction if they request one within 5 days of being informed that the destruction is required. (Code D.3.31 and 3.32)
APPENDIX E

Identification Parades
(Code D - Annex B)

As Thames Valley Police does not have any facilities for holding of 'live' parades any decision for this to be done will now be taken by the Identification Inspector in consultation with the OIC and other parties (CPS and Case Directors).
Group Identifications Procedures (Code D - Annex C)

Group Identifications are unlikely to be used in Thames Valley unless the ID Inspector in consultation with the OIC and other parties decides it is necessary.

The arrangements for the conduct of Identification Parades and Group Identifications will be carried out by members of one of the Force Identification Units and will be conducted in strict accordance with the Code of Practice.
APPENDIX G

Other Forms of Identification
(CONFRONTATION - Code D - Annex D and others)

“A confrontation is where the suspect is directly confronted by the witness. This procedure may be used when it is not possible to arrange a video identification, identification parade or group identification.”
(Code D.3.9)

Confrontation is the least satisfactory type of identification and should be avoided if at all possible.

Other forms of identification and covered in the Codes of Practice include:

Voice Identification

Voice Identification is only covered in the Codes (D.1.2) in so far as saying “...does not preclude the police making use of aural identification procedures such as a ‘voice identification parade’ where they judge that appropriate.” Advice has been sought from the Crown Prosecution Service and an agreement reached in respect of local procedures. The force Policy on Identification Procedures deals with this in Section 12 and the following additional advice applies.

Prior to any procedure being conducted the Crown Prosecution Service must be consulted to determine the likely evidential value of such a procedure. Any voice identification procedure must be conducted in accordance with the spirit of Code D of PACE.

This may be done by an expert comparing the voice of an offender taped during the commission of an offence (e.g. an extortion demand) with, for example, a taped interview by adapting the confrontation procedure. Consideration could also be given to a person who knows the suspect’s voice very well (e.g. a family member, close friend) listening to the offender’s voice on audio tape.

Voice identification may also, in exceptional cases, be conducted by adapting the video identification procedure. For example, in the situation that the offender’s voice is not recorded on audio tape but an important witness, who could not visually identify the offender, is confident of identifying the offender by voice characteristics. It must be carried out as soon after the offence as possible. If this procedure is proposed the following steps must be followed:

- Form PAC23 must be served on the suspect after the Identification Officer and Crown Prosecution Service have agreed the procedure would be of value.
- The Identification Officer must liaise with the Technical Support Unit (TSU) to check feasibility and availability of staff and equipment. They will agree a suitable method to obtain the necessary recordings.

If the suspect is compliant, it is possible to conduct a procedure which would equate with either a formal Identification Parade or a Video Identification by;
Locating suitable volunteers who *sound* like the suspect and having an audio link from the parade room to a room for the witness. This has the benefit of allow a degree of flexibility as to what is said, and how.

- Using suitable volunteers who *sound* like the suspect and getting all to record a set script in identical circumstances (i.e. using the same equipment, in the same room, with same people present). TSU should then compile the recording(s) into a format (usually CD) which can be witnesses with each voice preceded by an identify number. (I.e. replicating the Video Identification procedure. This has the benefit of allowing the compiled recording to be played repeatedly and to different witnesses at different times.

- Both methods carry the danger of the suspect altering their voice characteristics to avoid identification. This is difficult to prevent.

If the suspect is non-compliant, it will be necessary to obtain a suitable audio recording of the suspect - for example a section of an audio interview tape.

- It will then be necessary to locate suitable volunteers who *sound* like the suspect and get them to replicate the chosen section of recording as closely as possible.

- The recording of the volunteers should be done in circumstances matching those of the original recording as closely as possible - for example using the same interview room and equipment with the same number of people present.

- As with covert Video Identification it would be best practice to invite the suspect to co-operate with a procedure before using this covert compilation.

On all occasions the procedure must itself be recorded.