I. PURPOSE
To ensure that Constitutional safeguards are observed in the process of identifying the perpetrators of a crime.

II. POLICY
All reasonable efforts should be taken to positively identify or clear the suspect as the perpetrator of the crime in accordance with applicable statutory and case law, taking extreme care to avoid suggestive methods.

III. DEFINITIONS
A. Show-up: The presentation of one suspect to an eyewitness in a short time frame following the commission of the crime.

B. Photographic Identification: The showing of several photographs, including the suspect, for the purpose of obtaining identification.

C. Lineup: The simultaneous presentation of a number of individuals, including the suspect, before an eyewitness.

IV. INTEGRITY OF IDENTIFICATION
A. Officers should consider the totality of the circumstances when employing a specific identification procedure. Factors to be considered included the opportunity of the witness to view the perpetrator at the time of the crime, the witness's degree of attention, the level of certainty demonstrated by the witness in the identification process and the length of time between the crime and identification process.

Officers conducting identification processes will do so in a manner which ensures that individual witnesses are not influenced by any other witnesses or incidents, or by any behavior of police personnel. The following guidelines should be employed in any type of identification procedure:

♦ Whenever possible, witnesses should view the suspects out of the presence of other witnesses
♦ Witnesses who have taken part in identification procedures must not be permitted to discuss their observations or conclusions within the hearing of other witnesses before, during or after the identification procedure
♦ When presenting a suspect to an eyewitness for identification, officers will remain neutral
♦ Officers must not by word or gesture, before, during, or after the identification procedure, suggest that a suspect committed the crime being investigated
IV. DOCUMENTATION

A. Officers, when conducting any identification shall document through a written report the following information:

- Time and location
- Persons present
- How was the identification conducted
- Duration
- Statements of witnesses attempting the identification
- Other circumstances which may assist in determining the validity of the identification

V. PROCEDURES

A. SHOW-UP

1. A suspect apprehended near the scene of the crime, within a relatively short period of time after the commission of the crime, may be exhibited in a "show-up." In a show-up a single suspect is viewed by a victim or witness immediately following the commission of a crime for the purpose of identification or eliminating the suspect as the perpetrator. This procedure normally takes place during the initial investigation.

B. IDENTIFICATION THROUGH THE USE OF PHOTOGRAPHS

1. The use of photographs for identification purposes prior to an arrest is permissible provided the suspect's photograph is grouped with at least five (5) other photographs of the same general description.

2. Adequate records of the photographs shown to each witness are to be kept so that the exact group of photographs from which an identification was made can be presented in court at a later date to counter any claim of undue suggestion and enhance the reliability of the identification.

3. Each witness is to view the photographs independently, out of the immediate presence of the other witnesses.

C. LINEUP

1. RIGHT TO COUNSEL

The U.S. Supreme Court has held that a suspect has the right to counsel when appearing in a lineup. In Wisconsin, this right arises once a warrant or summons has been issued or an information or indictment returned. The attorney has no right to ask anyone questions. His/her only function is to assure that the lineup procedure is fair or to object when the procedure is unfair or "unduly suggestive." Better practice suggests that a suspect be informed of his/her right to have counsel present at the lineup.

2. UNFAIR PROCEDURE

The lineup procedure must be fair. Thus, where a witness to a crime saw a black man, the black suspect may not be in a lineup with all white men. If the criminal is young, the others must not all be elderly. The suspect must not be the only one wearing the particularly distinctive clothing worn by the criminal. The suspect must not be identified by one witness deliberately in the presence of other witnesses or only the suspect's
photograph shown to witnesses prior to the lineup. The procedure must not be designed to call attention specifically to the suspect.

3. ACCEPTABLE PROCEDURE

A suspect may be compelled to appear in a lineup. The suspect may be made to read a statement where all persons in the lineup read it, assume a certain pose or walk or wear particular clothing where all persons in the lineup do the same. Lineups may be recorded by audio-video tape for future showings, which future showings do not require notice to the participants nor presence of counsel. They are to be treated in the same way as picture identification.

DANIEL C. WADE, CHIEF OF POLICE