

3.15A

Circumstances Of Law Enforcement Line-Up Identifications

You have before you evidence that a witness made an identification of [(the defendant) (another individual)] following a [(live) (photographic)] line-up conducted by [a] law enforcement [(agency) (agencies)] relating to the offense[s] charged in this case. It is for you to determine [whether the witness made an identification, and, if so,] what weight should be given to that evidence. In determining the weight to be given to this evidence, you should consider all of the circumstances under which the identification was made, including, but not limited to, the procedures [(used) (or) (not used)] by the law enforcement [(agency) (agencies)].

Committee Note

Instruction and Committee Note Approved July 28, 2017

725 ILCS 5/107A-0.1, *et seq.* (West 2016).

Give this instruction only when there is evidence that a witness made an identification pursuant to a law enforcement live or photographic line-up procedure. In those circumstances, this instruction would typically follow Instruction 3.15.

P.A. 98-104, § 10, effective January 1, 2015, significantly changed the statutory requirements for law enforcement identification procedures, and provides that “when warranted by the evidence, the jury shall be instructed that it may consider all the facts and circumstances including compliance or noncompliance with this Section to assist in its weighing of the identification testimony of an eyewitness.” 725 ILCS 5/107A-2(j)(2). Although “compliance or noncompliance” with the statutory provisions is a proper subject of argument to the jury, the Committee believes that judicial commentary on specific aspects of the law enforcement identification procedures would be inconsistent with the general prohibition on instructions on particular types of evidence. *See People v. Cloutier*, 156 Ill.2d 483, 509-10, 622 N.E.2d 774 (1993). *See also* Introduction to Chapter 3.

The bracketed phrase in the second sentence should be included when there is some evidence disputing the making of an identification as described by section 107A-2 (725 ILCS 5/107A-2).

Use applicable bracketed material.