

Police and Criminal Evidence Act 1984

Code D - Identification

3. Identification by witnesses

A record shall be made of the suspect's description as first given by a potential witness. This record must:

(a) be made and kept in a form which enables details of that description to be accurately produced from it, in a visible and legible form, which can be given to the suspect or the suspect's solicitor in accordance with this Code; and

(b) unless otherwise specified, be made before the witness takes part in any identification procedures under *paragraphs 3.5 to 3.10, 3.21 or 3.23*.

A copy of the record shall where practicable, be given to the suspect or their solicitor before any procedures under *paragraphs 3.5 to 3.10, 3.21 or 3.23* are carried out.

See *Note 3E*

Cases when the suspect's identity is not known

In cases when the suspect's identity is **not known**, a witness may be taken to a particular neighbourhood or place to see whether they can identify the person they saw. Although the number, age, sex, race, general description and style of clothing of other people present at the location and the way in which any identification is made cannot be controlled, the principles applicable to the formal procedures under *paragraphs 3.5 to 3.10* shall be followed as far as practicable. For example:

(a) where it is practicable to do so, a record should be made of the witness' description of the suspect, as in paragraph 3.1(a), before asking the witness to make an identification;

(b) care must be taken not to direct the witness' attention to any individual unless, taking into account all the circumstances, this cannot be avoided. However, this does not prevent a witness being asked to look carefully at the people around at the time or to look towards a group or in a particular direction, if this appears necessary to make sure that the witness does not overlook a possible suspect simply because the witness is looking in the opposite direction and also to enable the witness to make comparisons between any suspect and others who are in the area; See *Note 3F*

(c) where there is more than one witness, every effort should be made to keep them separate and witnesses should be taken to see whether they can identify a person independently;

(d) once there is sufficient information to justify the arrest of a particular individual for suspected involvement in the offence, e.g., after a witness makes a positive identification, the provisions set out from paragraph 3.4 onwards shall apply for any other witnesses in relation to that individual. Subject to *paragraphs 3.12 and 3.13*, it is not necessary for the witness who makes such a positive identification to take part in a further procedure;

(e) the officer or police staff accompanying the witness must record, in their pocket book, the action taken as soon as, 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 previously seen the suspect; where any identification was made; how it was made and the conditions at the time (e.g., the distance the witness was from the suspect, the weather and light); if the witness's attention was drawn to the suspect; the reason for this; and anything said by the witness or the suspect about the identification or the conduct of the procedure.

A witness must not be shown photographs, computerised or artist's composite likenesses or similar likenesses or pictures (including 'E-fit' images) if the identity of the suspect is known to the police and the suspect is available to take part in a video identification, an identification parade or a group identification. If the suspect's identity is not known, the showing of such images to a witness to obtain identification evidence must be done in accordance with *Annex E*.

Cases when the suspect is known and available

If the suspect's identity ***is known*** to the police and they are ***available***, the identification procedures set out in paragraphs 3.5 to 3.10 may be used. References in this section to a suspect being 'known' mean there is sufficient information known to the police to justify the arrest of a particular person for suspected involvement in the offence. A suspect being '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.

The interpretation and comments made within this document are not to be considered as legal advice.

Reference should always be made to the original PACE Codes.