

# Dunn & Baker

## **INFORMATION NOTES RE IDENTIFICATION PROCEDURES**

Whenever a suspect in a criminal investigation disputes an identification, an identification procedure shall take place.

Normally, this will be in the form of a Video identification Procedure if the suspect consents, except in certain circumstances set out below.

The alternatives to a video identification procedure are as follows:-

### 1. An Identification Parade

This involves the suspect standing in a line-up with other persons of similar appearance. However, a parade need not be held if the Identification Officer considers that it would not be practicable to find enough people resembling the suspect to make the parade fair, e.g. he is unusually tall or of unusual colouring.

### 2. Group Identification

This takes place where the suspect is viewed by a witness amongst an informal group of people. It may take place with the suspect's consent or without the suspect's knowledge (where he has refused to take part in an identification parade/group identification or failed to attend).

### 3. Confrontation

This does not require the suspect's consent, but should only take place if none of the other procedures is practicable.

## **RIGHTS OF A SUSPECT**

1. Before a parade or other method of identification is arranged, the Officer must explain to the suspect the purpose of the parade etc.
2. The suspect is entitled to free legal advice and to have a solicitor or friend present during the parade.
3. The suspect does not have to take part in a parade or other identification, but his refusal may be given in evidence in any future trial and the Police may proceed without his knowledge or consent or may make other arrangements to test whether a witness identifies him.

### 4.3 ID Procedures

4. Before the parade takes place, the suspect or solicitor must be given details of the first description of the suspect by any witnesses who are to attend the parade.

5. The suspect will be asked whether he has any objections to the arrangements for the parade or to any of the other members in the parade and may take advice before the parade begins.

6. The suspect is entitled to select where he will stand in the line. Where there is more than one witness, the Identification Officer must tell the suspect that he may change position in the line if he so wishes.

## **PROCEDURES**

### **Video Identification**

Where a video parade is to be arranged, the suspect and at least eight other people who, so far as possible resemble the suspect in age, height, general appearance and position in life, will be filmed in the same positions or carrying out the same activity and under identical conditions. The suspect, his solicitor/friend or appropriate adult must be given a reasonable opportunity to see the film before it is shown to the witnesses and may make objections to any part of the film.

If two suspects are of roughly similar appearance, they may be shown on the same tape, but together with at least 12 other persons.

If the suspect has any unusual features, these must either be concealed on the tape, or duplicated in the images of the other persons.

The suspect's solicitor (or the suspect himself if not represented) will be given notice of the time and place when the video identification is to take place so that a representative can attend on behalf of the suspect. The suspect may not attend himself. If there is no representative, then the viewing should itself be recorded on video.

The Identification Officer must ensure that witnesses do not communicate with one another, nor must they be given any reminders to help them identify the person on tape. The witnesses must not be permitted to overhear any earlier witness who has already viewed the tape, or be told if any earlier witness has picked out somebody from the tape. Only one witness at a time can view the film, and before they do so, the Officer will tell them that the person they saw may or may not be on the video film, and that they can ask to see a particular part of the tape again or have it frozen for them to study. There are no limits to the number of times a witness can view the film, but they should not be asked to make a decision until they have seen the whole film at least twice. The witness's attention must not be drawn to any particular image.

### 4.3 ID Procedures

If video evidence/photographs have been previously released to the media, the Officer must ask the witness if they have seen them.

Although referred to as "Video Identification Procedures", they are more usually conducted now using CD ROM rather than video tape.

#### **Identity Parade**

An identity parade consists of at least eight people in addition to the suspect, who so far as possible resemble the suspect in age, height, general appearance and position in life.

If two suspects are of roughly similar appearance, they may stand on the same parade, but together with at least 12 other persons.

If the suspect has any unusual features, these must either be concealed, or duplicated in the other persons on the parade (such as an eye patch).

The suspect must be asked if there are any reasonable objections to the make-up of the line-up.

The parade takes place either in a normal room or in one equipped with a screen permitting witnesses to see members of the parade without being seen (although in this case the suspect's solicitor/friend or appropriate adult must be present or the parade must be recorded on video). Once the parade has been formed, everything involving it must take place in the presence and hearing of the suspect and any interpreter, solicitor, friend or appropriate adult. Immediately before the parade the client will be cautioned. Each position in the line must be clearly numbered.

The Identification Officer must ensure that witnesses do not communicate with one another, nor must they be given any reminders to help them identify the person. The witnesses must not be permitted to overhear any earlier witness who has already viewed the parade, or be told if any earlier witness has picked out somebody from the parade. The witnesses must not be permitted to come into contact with the suspect or any other member of the identification parade, before or after the parade. Witnesses must not be given any reminders by any photograph or description of the suspect or be given any other indication of the suspect's identity.

Witnesses are brought in one at a time. Immediately before the witness inspects the parade, the Identification Officer in charge of the parade will tell the witness that the person he/she saw may or may not be on the parade and that if they cannot make a positive identification, they should say so, but that they should not make a decision before looking at each member of the parade at least twice.

The witness may ask a person on the parade to speak or perform an action, or even to remove something deliberately concealing a distinctive feature (for example if a hat has

### 4.3 ID Procedures

been put on all the persons on the parade, to disguise the fact that the suspect has an unusual haircut), if the witness feels unable to make a definite identification without this. The Identification Officer must first ask them to try to identify any person by appearance only.

Once the Officer is satisfied that the witness has properly looked at each member of the parade, he will ask the witness whether the person they saw on an earlier relevant occasion is on the parade.

If video evidence/photographs have been previously released to the media, the Officer must ask the witness if they have seen them.

After the parade, the suspect or solicitor has the opportunity to comment on the conduct of the parade, and have those comments noted.

#### **Group Identification**

These take place either with the suspect's consent and co-operation or without his knowledge.

The location is a matter for the Identification Officer, although he may take into account representations by the suspect, solicitor/friend or appropriate adult. It must be a place where other people are either passing by or waiting around informally in groups so that the suspect can join them and is able to be seen by the witness at the same time as others in the group, e.g. people walking through a shopping centre, passengers on railway or bus stations.

The Officer must take into account the general appearance and number of people likely to be present and expect that the witness would be able to see a number of others in addition to the suspect whose general appearance is similar to that of the suspect. It need not be held if the suspect is of such a distinctive appearance, that this is not practicable.

Before the group identification takes place, the suspect or solicitor must be given details of the first description of the suspect by any witnesses who are to attend the identification. If video evidence/photographs have been previously released to the media, the Officer must ask the witness if they have seen them.

Immediately after a group identification has taken place, a colour photograph or video should be taken in order to give a general impression of the scene and the number of people present.

Where the suspect has declined to co-operate with other identification procedures, a covert group identification procedure can take place. However under those circumstances the suspect would lose the opportunity of having a solicitor present.

### 4.3 ID Procedures

#### **Confrontation**

If the suspect has declined to co-operate with other forms of identification, or if they are impossible, this identification procedure can be used.

Before a confrontation takes place, the suspect or his solicitor shall be provided with details of the first description of the suspect given by any witness who is to attend and to view any material released to the media by the Police for the purposes of tracing or recognising the suspect, as long as it is practicable to do so.

The Identification Officer must tell the witness that the person he saw may or may not be the person he is going to confront and that if he cannot make a positive identification, he should say so.

The suspect will then be confronted individually by each witness, who will be asked "Is this the person?"

Force must not be used to uncover an unwilling suspect's face.

Confrontation must take place in the presence of the suspect's solicitor/friend or appropriate adult. As for a normal identification parade, the confrontation should take place in a room in a Police Station. If it takes place in a room with a screen permitting the witness to see the suspect without being seen, then the suspect's solicitor/friend or appropriate adult must be present and the confrontation must be recorded on video.

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