

3.15B
Law Enforcement Identification Opinion Evidence

You have before you evidence that a law enforcement officer made an identification of [(the defendant) (an individual) (an object)] from a [(video recording) (photograph)]. It is for you to determine what weight, if any, should be given to that evidence. In determining the weight to be given to this evidence, you should not draw any inference from the fact that the witness is a law enforcement officer.

Committee Note

Instruction and Note Approved January 26, 2018

Give this instruction when a law enforcement officer provides identification testimony regarding a video recording or photograph and the evidence includes that the witness is a law enforcement officer.

In *People v. Thompson*, 2016 IL 118667, 49 N.E.3d 393, the Illinois Supreme Court held that a witness's identification of the defendant from a video recording or photograph constitutes lay witness opinion evidence pursuant to Illinois Rule of Evidence 701. The court further held that when the witness is a law enforcement officer and that fact is disclosed to the jury, the trial court "should properly instruct the jury, before the testimony and in the final charge to the jury," regarding that evidence. *Thompson*, 2016 IL 118667, ¶ 59, 49 N.E.3d at 407.

In *People v. Gharrett*, 2016 IL App (4th) 140315, 53 N.E.3d 332, the court applied *Thompson* to a law enforcement officer's opinion testimony identifying an object in a surveillance video recording.

The Committee believes that giving this Instruction does not require giving Instruction 3.15.

Use applicable bracketed material.