

LIMITING INSTRUCTION ON IDENTIFICATION BY PHOTOGRAPH¹

***Note:** Effective July 1, 2017, CPL 60.25 and 60.30, under certain circumstances, permit a witness to testify to an identification of the defendant by “pictorial, photographic, electronic, filmed or video recorded reproduction.” Upon request of the defense, the following limiting instruction may be given the jury either at the time of the identification or during the court’s final instructions to the jury or on both occasions.*

(Specify name of witness) testified that he/she was shown *(specify)* by a *(specify, e.g. a police officer, detective)*. The police obtain *(specify)* of many people from a variety of sources, and for different purposes. You must not infer from the fact that the police obtained a *(specify)* of the defendant that the defendant committed this or any other crime. [To do so would be unfair (and you have promised to be fair)].

¹ This instruction has been derived from federal jury instructions. See, e.g., Manual of Model Criminal Jury Instructions for the District Courts of the Ninth Circuit § 2.12 (2010).