

R v Sekhon [1987] 85 Cr App R 19

A police officer witness kept an observation log based on his own observations and those of other police officers reporting to him. When retiring, the jury had requested access to the log which had been used by the officer to refresh his memory in the witness box.

Held: Such a log, which was a memory-refreshing document, must be available for inspection by other parties for the purpose of cross-examination, and where it was suggested that the witness was making up his evidence and had concocted his notes, the notes might be admissible to show consistency. Generally however, the notes are not admissible to prove the truth of their contents and are relevant only to credibility.

The Court set out a series of propositions concerning documents used to refresh memory. It considered the police log admissible but described it as a 'tool' to assist the jury to evaluate the truth of the evidence given in the witness box by the witness. It went on to say:

'Although normally the document when admitted is not evidence of the truth of its contents, in those cases where it provides, because of its nature, material by which its authenticity can be judged, then in respect of that material and only for the purpose of assessing its authenticity it can amount to evidence in the case.'

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Reference should always be made to the original case.*