

Review of:

Eyewitness Identification from Line-ups

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Gary Wells, PHD, is a Distinguished Professor of Psychology at Iowa State University. He has authored approximately 150 articles and chapters as well as two books. His primary of interest and research has focused on the reliability of eyewitness identification. The National Science Foundation has funded his research and his conclusions are cited in most standard textbooks in psychology and the law. In 2001, he was awarded the Distinguished Contributions to Psychology and Law Award from the American Psychology-Law Society.

His work has shown that error rates in police line-up identification can be exacerbated by the methods used by crime in conducting line-ups. His proposal for the use of double-blind techniques in line-up procedures is being increasingly accepted in law enforcement. He has served as an expert witness in both criminal and civil cases.

Historically, mistaken eyewitness IDC is the primary cause of conviction of innocent people. This is still true. When reviewing modern cases where DNA was used to exonerate a previously wrongly convicted person, the critical piece of evidence used in conviction was inevitably eyewitness identification. There are now over 150 cases where serious felony convictions have been overturned and the wrong decision recognized by both the defense and prosecution. A bigger problem is that for many cases, biological evidence was never collected, never properly stored, never or improperly analyzed or simply lost; therefore the opportunity to review many individual cases is simply not possible. In addition, most serious crimes don't leave behind biological material as evidence leaving a person wrongly convicted based on eyewitness testimony little recourse.

Dr. Wells reviewed the problems of both false positives and false negatives in identifying a suspect. He noted the spurious belief in the legal system believes that the memory system is akin to a video camera. In fact, human perception is interpretive and that expectation affects processing and what we see and encode. This is made even more likely by the rapid pace at which criminal events frequently occur. Memory is a constructive process, meaning that when we need to recall something, we construct it and don't just replay it. This allows for a person to remember things that they never actually saw, such as seeing oneself in a scene.

Consistent with the underlying theme of the annual meeting, Dr. Wells encouraged the adoption of evidence based, scientific approaches to problem solving. In lineups, witnesses frequently can't identify when the real perpetrator is absent. This results in people selecting an innocent "filler", which then results in the police failing to continue to work the case to find the true perpetrator. Factors which influence lineup identification include those which may and those which may not be controlled by the criminal justice

system. Controllable variables include first responder questioning, composites, co-witness talk, media exposure, lineup instructions, structure, procedure, administrator influence and multiple presentations. Post lineup variables include feedback given to the witness after selection of a perpetrator.

Eyewitnesses tend to pick the person who looks most like the perpetrator relative to the other people in the lineup and fare extremely poorly when the true perpetrator is absent. Warning witnesses that the perpetrator may not be in the lineup helps to reduce this false positive, but is insufficient to correct the problem. Information available or provided to the witness will also influence selection. Sequentially showing the witness one person at a time corrects the problem of relative selection. Sequential lineups are about twice as likely to produce accurate results.

While in science the concept of double blind testing is common in medicine and science, it is unknown in the criminal justice arena. The new thrust in lineup identification is to apply a double blind procedure. The feedback that is given to witnesses when selecting alleged perpetrators is highly influential in their selection. By having the administrator blind as to who is the actual suspect and who is a “filler” in the lineup removes this influence.

Eyewitness certainty is critical in jurors believing that the identification is accurate. In general, the correlation between certainty and accuracy can at best reach 0.40-0.45. under pristine conditions. This is about the same correlation between height and gender. Witnesses can be influenced even after they have made a choice from a lineup by receiving feedback from the administrator. This in turn acts to influence the certainty to which witnesses attest to their memory of the crime and induces retrospective distortions. However, as the witness appears more confident and certain of the opinion, it carries even greater weight in court.

Expert testimony on the issue of eyewitness identification is becoming more frequent but is generally focused on the science of eyewitness identification as opposed to addressing whether or not the problems inherent in the process were actually present in the specific case.

Dr. Wells is looking to see reform throughout the system in the implementation of lineups to include a sequential double blind presentation, proper selection of lineup fillers, pre-lineup instruction reform and use of a blind administrator. He cited NJ as the only state that has implemented all of the suggestions he has made. This attests to the possibility of transferring laboratory research findings to the real world and we can only hope that more jurisdictions follow.

AAPL members may wish to access: Eyewitness Evidence, A Guide for Law Enforcement which can be found at www.jcrs.org.