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EYEWITNESS IDENTIFICATION REFORM

Mistaken identifications are the leading factor in wrongful convictions

Mistaken eyewitness identifications contributed to **over 75%** of the more than 175 wrongful convictions in the United States overturned by post-conviction DNA evidence.

- Inaccurate eyewitness identifications can confound investigations from the earliest stages. Critical time is lost while police are distracted from the real perpetrator, focusing instead on building the case against an innocent person.
- Despite solid and growing proof of the inaccuracy of traditional eyewitness ID procedures – and the availability of simple measures to reform them - traditional eyewitness identifications remain among the most commonly used and compelling evidence brought against criminal defendants.

Traditional eyewitness identification practices – and problems

- In a standard lineup, the lineup administrator typically knows who the suspect is. Research shows that this leads administrators to often provide unintentional, or at times deliberate, cues to the eyewitness about which person to pick from the lineup.
- In a standard lineup, an eyewitness is shown individuals or photographs *simultaneously*. Research shows that this tends to lead eyewitnesses to choose a lineup member based upon a relative judgment (i.e. *who looks most like the perpetrator?*), rather than basing the identification on his or her own mental image of the perpetrator.
- In a standard lineup, without instructions from the administrator, the eyewitness often assumes that the perpetrator of the crime is one of those presented in the lineup. This often leads to the selection of a person despite doubts.

How to Improve the Accuracy of eyewitness identifications

“*Sequential double-blind*” is shorthand for a package of reforms recognized by police, prosecutorial and judicial experience, as well as national justice organizations, including the National Institute of Justice and the American Bar Association. The benefits of these reforms are corroborated by over 25 years of peer-reviewed comprehensive research.

1. The “Double-blind” Procedure/ Use of a Blind Administrator

A “double-blind” lineup is one in which neither the administrator nor the eyewitness knows who the suspect is. This prevents the administrator of the lineup from providing inadvertent or intentional verbal or nonverbal cues to influence the eyewitness to pick the suspect.

2. Sequential presentation

In a “sequential” presentation, the eyewitness is shown lineup members one at a time and asked to make a decision about each before viewing the next. This allows the eyewitness to

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examine the image of each suspect separately and reduces the demonstrated likelihood of the witness making a “relative judgment,” i.e. picking the person who may not be, but most *resembles* the witness’s memory of the perpetrator.

An important note about sequential lineups is that they can actually *decrease* the likelihood of a correct identification if they are not accompanied by a “blind administrator.” Therefore, *“sequentially” presenting lineups is only a reform when teamed with a blind administrator.*

3. Instructions

There are a number of instructions that the administrator should provide the eyewitness. This includes telling the eyewitness that *the administrator does not know who the suspect is, the suspect may or may not be in the lineup, and that it is as important to exclude the innocent as it is to identify the guilty.* These instructions deter the eyewitness from looking to the lineup administrator for feedback, and prevent the eyewitness from feeling compelled to select an individual from the lineup.

In addition to the core recommendations highlighted above, there are a host of other reform recommendations put forth by the Innocence Project to improve the accuracy of eyewitness identifications. These range from suggestions on the appropriate selection of “filler” photographs to technical advice on how to perform procedures with multiple suspects.

Jurisdictions utilizing “sequential double-blind” procedures:

These jurisdictions have implemented “sequential double-blind” as standard procedure:

The state of New Jersey; Boston, MA; Northampton, MA; Madison, WI; Winston Salem, NC; Hennepin County (Minneapolis-St. Paul), MN; Ramsey County, MN; Santa Clara County, CA; Virginia Beach, VA

These jurisdictions have promulgated “sequential double-blind” voluntary guidelines and/or incorporated them into law enforcement trainings: North Carolina & Wisconsin

Case in Point: Anthony Michael Green, Ohio Exoneree

In June of 1998, a woman convalescing from cancer treatment at the Cleveland Clinic Hospital was raped and robbed by an assailant who identified himself as “Tony” during the attack. Anthony Michael Green, a former employee of the Cleveland Clinic became a suspect in the case after a security officer from the hospital pointed to him based on the description provided by the victim. The victim was shown two photo lineups. Mr. Green was the only person represented in both lineups. In the first lineup, the victim stated that she saw one person that “resembled [her] attacker, but just not enough.” In the second lineup, the photographs were accompanied by biographical placards, which included the height, weight and age of the lineup members. The card associated with Mr. Green’s photo contained height, weight and age information that matched the description provided by the victim, who this time identified Mr. Green. It is unlikely that a “blind” administrator would have decided to perform two line-ups and include pedigree information in the second. Mr. Green’s subsequent conviction was based almost exclusively on the eyewitness identification made by the victim. Since the victim lacked confidence in her first identification, it is improbable that Mr. Green would have been identified through a double-blind sequential procedure had it been employed. Instead, Mr. Green served thirteen years in prison for a crime that DNA evidence later proved he did not commit. Since his release, the real perpetrator of this crime confessed and was convicted.