On the “General Acceptance of Eyewitness Testimony Research: *Surveying the Experts*

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Background.. Why Survey Experts

- The *Frye* (1923) test concerning "general acceptance"
- Loftus v. McCloskey & Egeth (1983) debate within psychology on whether psychologists should testify about eyewitness identifications.
- There was a need to assess "general acceptance" within the scientific community to set parameters for experts in court — especially in light of *false consensus biases* discovered by social psychologists.
- The science of eyewitness identification is not monolithic and absolute; rather it consists of a number of discrete empirical propositions — including both estimator and system variables.
- Kassin, Ellsworth, & Smith (1989) – First survey of eyewitness experts; 63 respondents, 19 propositions.

Table 1
Eyewitness Topics and Statements Used to Describe Them

Topics	Statements
1. Stress	Very high levels of stress impair the accuracy of eyewitness testimony.
2. Weapon focus	The presence of a weapon impairs an eyewitness's ability to accurately identify the perpetrator's face.
3. Showups	The use of a one-person showup instead of a full lineup increases the risk of misidentification.
4. Lineup fairness	The more the members of a lineup resemble the suspect, the higher is the likelihood that identification of the suspect is accurate.
5. Lineup instructions	Police instructions can affect an eyewitness's willingness to make an identification and/or the likelihood that he or she will identify a particular person.
6. Exposure time	The less time an eyewitness has to observe an event, the less well he or she will remember it.
7. Forgetting curve	The rate of memory loss for an event is greatest right after the event, and then levels off over time.
8. Accuracy–confidence	An eyewitness's confidence is not a good predictor of his or her identification accuracy.
9. Cross-racial/white	White eyewitnesses are better at identifying other White people than they are at identifying Black people.
10. Cross-racial/Black	Black eyewitnesses are better at identifying other Black people than they are at identifying White people.
11. Postevent information	Eyewitness testimony about an event often reflects not only what they actually saw but information they obtained later on.
12. Color perception	Judgments of color made under monochromatic light (e.g., an orange streetlight) are highly unreliable.
13. Wording of questions	An eyewitness's testimony about an event can be affected by how the questions put to that witness are worded.
14. Unconscious transference	Eyewitnesses sometimes identify as a culprit someone they have seen in another situation or context.
15. Trained observers	Police officers and other trained observers are no more accurate as eyewitnesses than the average person.
16. Hypnotic retrieval	Hypnosis does *not* facilitate the retrieval of an eyewitness's memory.
17. Hypnotic suggestibility	Hypnosis increases suggestibility to leading and misleading questions.
18. Time estimation	Eyewitnesses tend to overestimate the duration of events.
19. Attitudes, expectations	An eyewitness's perception and memory for an event may be affected by his or her attitudes and expectations.
20. Sex differences	Women are better than men at recognizing faces.
21. Event violence	Eyewitnesses have more difficulty remembering violent than nonviolent events.

Background: Why a Second Survey

- Kassin, Ellsworth, & Smith (1989) – 1st survey of eyewitness experts, *N* = 63 respondents; 19 propositions. Since that time…

- In 1992, the Innocence Project was founded. NIJ (1996) then reported on the 1st 28 DNA exonerations, all of which contained eyewitness identification errors.

- There was a surge of new research activity, focused more on *system variables* than on *estimator variables.* Hence it was important to *update* consensus on old propositions and *add* new propositions to be tested.

- Wells et al. (1998) AP-LS White Paper – offered the first "rules" on how to minimize error. NIJ's (2000) *Eyewitness Evidence: A Guide for Law Enforcement* was published.

- U.S. Supreme Court shifted federal legal criteria for expert testimony from *Frye* (1923) to *Daubert* (1993) and *Kumho* (1999).

Kassin, Tubb, Hosch & Memon (2001)

- 186 psychologists from professional organizations (AP-LS, SARMAC, EAPL) were mailed surveys; 34% response rate **à** *N* = 64 from 13 countries.

- As a group, respondents were highly prolific scholars (*M* = 17.98 eyewitness publications). Seventy-eight percent had been asked to testify as experts in court.

- Questionnaire consisted of 30 statements, each describing an eyewitness proposition: 17 from Survey 1, 13 completely new.

- For each statement, respondents were asked to (1) characterize the effect, then indicate (2) whether the effect is reliable enough for testimony, (3) whether they would testify to it, (4) whether their opinion was based on empirical research, and (4) whether most jurors know the effect as a matter of common sense.

Expert Activity in Court: Pre-2001

Estimated Number of Times Respondents Were Asked to Testify, Agreed to Testify, Actually Testified, and Were Opposed in Court

	Criminal				Civil					
	Prosecution		Defense		Plaintiff		Defense		Total	
Action	*n*	%	*n*	%	*n*	%	*n*	%	*n*	%
Asked to testify	134		3,016		62		158		3,370	
Agreed to testify	65	48[a]	1,193	40[a]	47	76[a]	68	43[a]	1,373	41[a]
Actually testified	56	86[b]	837	70[b]	27	57[b]	40	44[b]	960	70[b]
Opposed	25	45[c]	30	4[c]	9	33[c]	12	30[c]	76	8[c]
Total yield		42[d]		28[d]		44[d]		25[d]		28[d]

[a] Agreement rate (i.e., percentage of times experts agreed to testify when asked). [b] Percentage of experts who after agreeing to testify actually did so. [c] Percentage of experts whose testimony was opposed in court. [d] Percentage of experts initially asked who ultimately testified.

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4. Lineup fairness	The more members of a lineup resemble the suspect, the higher is the likelihood that identification of the suspect is accurate.
5. Lineup instructions	Police instructions can affect an eyewitness's willingness to make an identification.
6. Exposure time	The less time an eyewitness has to observe an event, the less well he or she will remember it.
7. Forgetting curve	The rate of memory loss for an event is greatest right after the event and then levels off over time.
8. Accuracy–confidence	An eyewitness's confidence is not a good predictor of his or her identification accuracy.
9. Postevent information	Eyewitness testimony about an event often reflects not only what they actually saw but information they obtained later on.
10. Color perception	Judgments of color made under monochromatic light (e.g., an orange streetlight) are highly unreliable.
11. Wording of questions	An eyewitness's testimony about an event can be affected by how the questions put to that witness are worded.
12. Unconscious transference	Eyewitnesses sometimes identify as a culprit someone they have seen in another situation or context.
13. Trained observers	Police officers and other trained observers are no more accurate as eyewitnesses than is the average person.
14. Hypnotic accuracy	Hypnosis increases the accuracy of an eyewitness's reported memory.
15. Hypnotic suggestibility	Hypnosis increases suggestibility to leading and misleading questions.
16. Attitudes and expectations	An eyewitness's perception and memory for an event may be affected by his or her attitudes and expectations.
17. Event violence	Eyewitnesses have more difficulty remembering violent than nonviolent events.
18. Cross-race bias	Eyewitnesses are more accurate when identifying members of their own race than members of other races.
19. Confidence malleability	An eyewitness's confidence can be influenced by factors that are unrelated to identification accuracy.
20. Alcoholic intoxication	Alcoholic intoxication impairs an eyewitness's later ability to recall persons and events.
21. Mugshot-induced bias	Exposure to mug shots of a suspect increases the likelihood that the witness will later choose that suspect in a lineup.
22. Long-term repression	Traumatic experiences can be repressed for many years and then recovered.
23. False childhood memories	Memories people recover from their own childhood are often false or distorted in some way.
24. Discriminability	It is possible to reliably differentiate between true and false memories.
25. Child witness accuracy	Young children are less accurate as witnesses than are adults.
26. Child suggestibility	Young children are more vulnerable than adults to interviewer suggestion, peer pressures, and other social influences.
27. Description-matched lineup	The more that members of a lineup resemble a witness's description of the culprit, the more accurate an identification of the suspect is likely to be.
28. Presentation format	Witnesses are more likely to misidentify someone by making a relative judgment when presented with a simultaneous (as opposed to sequential) lineup.
29. Elderly witnesses	Elderly eyewitnesses are less accurate than are younger adults.
30. Identification speed	The more quickly a witness makes an identification upon seeing the lineup, the more accurate he or she is likely to be.

Note. The first 16 items were retained from the original survey. In the present instrument, item 14 was stated positively rather than negatively, and item 18 combined initially separate items for Black and White witnesses.

Table 4
Discrete Judgments and Opinions Concerning the 30 Eyewitness Topics Tested

Topic	Is it reliable?	Would you testify?	Research basis?	Common sense?
Wording of questions	98	84	97	25
Lineup instructions	98	79	95	39
Confidence malleability	95	79	95	10
Mug-shot-induced bias	95	77	97	13
Postevent information	94	83	98	17
Child suggestibility	94	81	100	73
Attitudes and expectations	92	70	94	31
Hypnotic suggestibility	91	76	90	19
Alcoholic intoxication	90	61	76	95
Cross-race bias	90	72	97	65
Weapon focus	87	77	97	34
Accuracy–confidence	87	73	97	5
Forgetting curve	83	73	93	29
Exposure time	81	68	93	97
Presentation format	81	64	93	0
Unconscious transference	81	66	92	19
Showups	74	59	85	30
Description-matched foils	71	48	82	30
Child accuracy	70	59	91	78
Lineup fairness	70	54	78	48
False childhood memories	68	52	87	25
Color perception	63	27	37	41
Stress	60	50	98	37
Older witnesses	50	38	77	66
Hypnotic accuracy	45	34	89	55
Identification speed	40	29	75	61
Trained observers	39	31	76	73
Event violence	37	29	79	14
Discriminability	32	25	89	52
Long-term repression	22	20	87	79

Table 5
Comparison of Reliability Judgments, 1989 and Present

	Reliable enough to testify?	
Topic	1989	Present
Stress	71	60
Weapon focus	57	87*
Showups	83	74
Lineup fairness	77	70
Lineup instructions	95	98
Exposure time	85	81
Forgetting curve	83	83
Accuracy–confidence	87	87
Postevent information	87	94
Color perception	66	63
Wording of questions	97	98
Unconscious transference	85	81
Trained observers	59	61[a]
Hypnotic suggestibility	69	91*
Attitudes and expectations	87	92
Event violence	36	37

Our Experts: Objective or Self-Interested?

- 44% of all respondents had never testified in court.
- Respondents did not fit a "pure scientist" vs. "forensic consultant" caricature (in fact, publication totals and court appearances were positively correlated).
- Experts who have testified in court endorsed as reliable the same number of propositions as those who have not testified (*M*s = 19.21 & 19.83).
- There was no significant correlation between # publications and propositions endorsed—or between # courtroom experiences and propositions endorsed.
- Respondents were responsive to the science - they discriminated "rationally" among statements for which there was a wealth of experimental support and those for which there was not.
- What about experimental psychologists who study neuroscience, perception, memory, and decision making – should basic scientists be considered in a consensus of experts?

Twelve years later.. *WHAT NEXT?*

General Acceptance among Experts of Eyewitness Research Findings: Sources of Influence

Tarika Daftary-Kapur

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