



EYEWITNESS IDENTIFICATION REFINEMENT

Mistaken Identifications Are the Leading Factor in Wrongful Convictions

Mistaken eyewitness identifications contributed to 75% of the 321 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 administrators often provide unintentional cues to the eyewitness about which person to pick from the lineup.
- 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

The Pennsylvania Innocence Project endorses a range of procedural refinements to improve the accuracy of eyewitness identification. These procedures have been recognized by the National Institute of Justice, the International Association of Chiefs of Police and the American Bar Association. The benefits of these refinements are supported by over 30 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. Instructions: “Instructions” are a series of statements issued by the lineup administrator to the eyewitness that deter the eyewitness from feeling compelled to make a selection. They also prevent the eyewitness from looking to the lineup administrator for feedback during the

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identification procedure. One of the recommended instructions includes the directive that *the suspect may or may not be present in the lineup*.

3. Composing the Lineup: Suspect photographs should be selected that do not bring unreasonable attention to him. Non-suspect photographs and/or live lineup members (fillers) should be selected based on their *resemblance to the description provided by the eyewitness* – as opposed to their resemblance to the police suspect. Note, however, that within this requirement, the suspect should not unduly stand out from among the other fillers. (More detailed recommendations can be provided upon request by the Innocence Project.)

4. Confidence Statements: Immediately following the lineup procedure, the eyewitness should provide a statement, in his own words, that articulates the level of confidence he has in the identification made.

5. The Lineup Procedure Should Be Documented: Ideally, the lineup procedure should be electronically recorded. If this is impracticable, an audio or written record should be made.

6. Allow for the use of Experts on Human Memory in Court: Pennsylvania is in the extreme minority of states and jurisdictions that do not allow experts to testify in court regarding the frailties of human memory and what factors have been consistently shown through research to affect an eyewitness' memory.

7. Adopt Universal Jury Instructions on Eyewitnesses: The American Bar Association recommends the use of “well-crafted” jury instructions with regard to eyewitness-dependent cases to allow juries to reach rational decisions on the cases before them.

Jurisdictions Utilizing “Sequential Double-Blind” Procedures:

Many jurisdictions have implemented “sequential double-blind” as standard procedure including the states of New Jersey, Ohio, North Carolina, Georgia, and Wisconsin.

Law Enforcement Agencies Recommending “Sequential Double-Blind”:

In addition to state legislatures, police departments and leadership nationwide are recommending the adoption of sequential double-blind procedures as the best available practice:

International Association of Chiefs of Police
National Institute of Justice
Federal Bureau of Investigations
New York City Police Department
Dallas, TX Police Department

Philadelphia Police Department
Allegheny County (Pittsburgh) District Attorney
Pittsburgh Police Department
Ramsey County, Minnesota
Dallas, TX District Attorney