

Eyewitness Testimony

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In a legal proceeding, evidence serves as a critical component of reaching a decision. Eyewitness testimony, one of the key types of evidence applied in court, is a complex topic that stands at the intersection of forensic science, law, and cognitive psychology. Eyewitness testimony is a legal concept that stands for an account given in a courtroom under oath by a bystander who has witnessed events of a crime (Toglia et al., 2017). The reliability of the eyewitness testimony is considered to be a topic of extensive debate within cognitive psychology. Although eyewitness testimony was one of the primary sources of evidence in the 20th century, with its credibility not being disputed, it has become the subject of debates in recent years. The reason for this is that forensic scientists and psychologists have moved towards the consensus that eyewitness testimony has the potential to be biased and unreliable, which makes it a frequent subject for manipulations. The discussion has prompted many countries to change legislation on how eyewitness testimony is presented in court. It is highly unlikely that eyewitness testimony will be excluded from court as a significant source of evidence because of its irreplaceable importance; however, eyewitness testimony should be supervised more professionally in order to ensure that it is correct and not manipulated.

The psychological factors that might have an impact on the reliability of eyewitness testimony include stress, anxiety, reconstructive memory, weapon focus, and leading questions (Toglia et al., 2017). In most cases, violent crimes cause anxiety and stress in individuals who have witnessed it, and even more so for individuals who have become victims of a crime. According to the results of an experiment, people in a group who have observed a violent attack in a film remember less than forty accounts of information about the attack compared to the individuals who saw a less violent version that did not cause that much stress (Laney & Loftus, 2016). Since the experiment featured individuals who watched a film, it is safe to assume that the

real-life occurrence of a crime would have a more devastating effect on the memory of an individual.

Despite these results, there are studies with polarized observations on the way violent attacks tend to affect memory. In particular, according to Yuille and Cutshall (1986), the real-life episode of the gun shooting in Vancouver, Canada, made most of the individuals have extremely accurate memories of the entire account of events (p. 300). The memories of thirteen witnesses were accurate despite being interviewed five months after the incident. The witnesses who experienced the most profound stress levels during the event were the closest one to recall it correctly (Yuille & Cutshall, 1986). Overall, the study demonstrated that memories of stressful events could be accurate regardless of the interview time.

Leading questions might affect the authenticity of eyewitness testimony, as they might challenge the confidence of the people about the things they saw. Studies found that if an individual is exposed to brand new information in the process between witnessing and recalling information, there is a high probability that the remembered events will be altered, causing the original memory to be modified and supplemented (Toglia et al., 2017). The memory of most of individuals can be easily distorted by this technique that is applied in the process of answering the questions. In fact, some of the experiments demonstrate that the wrong recalling of the events is not the result of response bias, but rather a consequence of the deliberate alteration of a memory caused by the questions asked.

The theory of the reconstructive memory is yet another component that has a direct influence on the reliability of eyewitness testimony. Reconstructive memory is a theory developed by Frederic Bartlett based on the ideas of Jean Piaget's theory of schema (Hemmer & Steyvers, 2009). Reconstructive memory theory is helpful for studying eyewitness testimony, as

it suggests that the process of recalling events is not objective, but rather a subject of an interpretation that is based on a variety of factors, including cultural norms, experience, and subjective perceptions (Hemmer & Steyvers, 2009). One of the distinguishing features of human memory is that information is not remembered precisely in the way that it was presented to the individual. The mechanism for storing information resembles extracting information from meaning (Hemmer & Steyvers, 2009). Jean Piaget suggested the name "schema" for the unit that stores information (Hemmer & Steyvers, 2009). Schemas allow people to create an understandable, whole picture of what happened to them, and therefore are prompted to subjective thinking due to being influenced by prejudice and social schemes (Hemmer & Steyvers, 2009). A study by Bartlett suggested that memory depends on the knowledge and understanding of the world of a particular human being (Hemmer & Steyvers, 2009). Therefore, memory can be subjected to a change if the change gives an individual an enhanced understanding that fits into his or her picture of the world. In the study, participants were asked to recall the details of the story "The War of the Ghosts," which was previously told to them (Hemmer & Steyvers, 2009). The results demonstrated that the details recalled by each of the individuals were drastically different. Many of the participants tended to rationalize the ideas that appeared puzzling. What is more, the details that were difficult to explain, such as ghost stories, were omitted almost entirely (Hemmer & Steyvers, 2009).

A study by Allport and Postman asked participants to recall the details of a picture in which a white man was holding a knife at a black man in public transport (Lindsay et al., 2017). Many of the study's participants recalled the events incorrectly by suggesting that a black man was holding a white man on knifepoint (Lindsay et al., 2017). Studies on reconstructive memory

demonstrate that memory processes are subjective due to the structure of memory, and therefore, eyewitness testimony is affected by the subjectivity of memory.

Weapon focus is a phenomenon that challenges the reliability of eyewitness testimony due to the proximity of the person to focus on the weapon of the crime and excluding other details from the observation (Loftus, Loftus & Messo, 1987). Therefore, when a crime has been committed with the use of a weapon, victims and witnesses are likely to remember details about the weapon more proudly than the person who committed the crime. In a 1987 study, Loftus found that people tend to focus on the gun rather than the criminal when the pictures of the crime are displayed to them, leading to their reduced ability to identify the subject of a crime (Loftus, Loftus & Messo, 1987). Contradicting studies have since disputed the importance of weapon focus on crime recall.

Eyewitness testimony on crimes that occurred more than one decade before a trial is met with a unique set of challenges. Throughout the decades of studying memory and the way it relates to eyewitness testimony, it was discovered that there is no reason to assume that the events, people, and details that once were stored in memory are going to remain there for an unlimited amount of time. It appears that long-term memories have a high probability of not being permanent (E. Loftus & G. Loftus, 1980). This discovery revolutionized the field of forensic research, as it put the need of applying techniques to extract long-term memories into question. As a matter of fact, if such techniques are applied together with leading questions, there is a high chance that they will result in the emergence of false memories. Psychologists and eyewitness experts are now used in trials to analyze and validate the way eyewitnesses are interviewed in courts and the way the process of lineups is implemented (Wells, Memon & Penrod, 2013).

To conclude, most of the studies conducted on the reliability of eyewitness testimony are criticized based on the fact that they lack realism and validity, because the individuals who participate in the experiments only respond to pictures of hypothetical crimes. Therefore, some researchers suggest that the only studies that are valid in the research of eyewitness testimony are those conducted with the participation of actual crime witnesses. Therefore, it is necessary to invest in psychological studies featuring real-life witnesses to test the reliability of the eyewitness testimony in court to progress. The debates on the validity of eyewitness research have already resulted in the improvement of the legal system due to the fact that eyewitness error can lead to faulty outcomes of trials is already recognized. Therefore, research on eyewitness testimony in the field of psychology has already brought changes to the court system, and the improvement is set to continue.

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