

Opinions of Attorneys and Law Enforcement Personnel on the Accuracy of Eyewitness Identifications¹

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A survey was conducted to obtain the opinions of attorneys and law enforcement personnel regarding several important aspects of eyewitness evidence: (1) legal procedures concerning eyewitness evidence; (2) estimated frequency of mistaken eyewitness identification; (3) the effects of certain witness/suspect characteristics on identification accuracy; (4) the amount of emphasis placed on eyewitness evidence by judges and juries; (5) the relationship between a witness' identification accuracy and certainty; and (6) the effect of stress and arousal on identification accuracy. The questionnaire was sent to a sample of defense and prosecuting attorneys in each of Florida's 20 Judicial Circuits, to each of the 67 county Sheriff's Departments in Florida, and to 100 randomly sampled Police Departments in Florida. Prosecuting attorneys and law enforcement officers indicated that they regard eyewitness identification as relatively accurate and that judges and juries appropriately emphasize its importance. Defense attorneys, on the other hand, felt that eyewitness identifications are often inaccurate and are overemphasized by triers of fact. The implications of these findings for the criminal justice system and their possible applications within the legal system are discussed.

INTRODUCTION

Evidence based upon eyewitness identification plays a crucial role within the American criminal justice system. But while such identifications are an important source of evidence in many criminal cases, numerous social scientists, legal scholars, and law enforcement personnel have asserted that eyewitness testi-

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monies are frequently inaccurate (e.g., Clifford & Bull, 1978; Ellison & Buckhout, 1981; Goldstein, 1977; Levine & Tapp, 1973; Loftus, 1979; Woocher, 1977; Yarmey, 1979). Judge Jerome Frank, for example, has suggested that erroneous identification of the accused may be the major cause of known wrongful convictions (Frank & Frank, 1957, p. 61). Judge Nathan Sobel (1972, p. vi) has suggested that mistaken identifications have been responsible for more miscarriages of justice than all other factors combined.

Despite such warnings, awareness of the limitations of eyewitness testimony does not appear to be widespread within the legal system. It has been suggested (Wall, 1965; Woocher, 1977) that most juries and a significant proportion of judges are unaware of the fallibility of eyewitness identification and hence place an undue amount of faith in the veracity of this evidence. In the past decade numerous studies have been conducted in an attempt to develop procedures which are fairer to both witnesses and suspects and which help triers of fact to more effectively evaluate the evidence. Much of this research has been concerned with determining factors that either increase or decrease the likelihood that a particular eyewitness identification will be erroneous (see Loftus, 1979, and Yarmey, 1979, for reviews of the related literature).

Several courts have attempted to utilize the available research evidence to set standards by which to evaluate eyewitness identification evidence. In *Neil v. Biggers* (409 U.S. 188, 34 L. Ed. 401, 1972), the U.S. Supreme Court attempted to incorporate the empirical data available at the time to specify five conditions which should be considered in the evaluation of eyewitness identification evidence: (1) the opportunity of the witness to view the criminal at the time of the crime; (2) the length of time between the crime and the identification; (3) the witnesses' degree of attention during the crime; (4) the level of certainty demonstrated by the witnesses at the identification; and (5) accuracy of the witnesses' prior description of the criminal. These five factors have since been restated by the Court in *Manson v. Brathwaite* (432 U.S. 98, 97 S. Ct. 2243, 53 L. Ed. 140, 1977).

The significance of the first three *Biggers* factors has received some support in subsequent research, although results are mixed with respect to the length of time factor (Barkowitz & Brigham, 1982). There has also been considerable empirical investigation of the fourth factor, the relationship between certainty and accuracy. Numerous recent studies of this topic have generated conflicting results, however. Several studies have found no relationship between accuracy and certainty while others have provided evidence for a small to moderate relationship (see Deffenbacher, 1980 and Leippe, 1980, for reviews of this issue). The fifth *Biggers* factor has not been investigated empirically.

Many other factors which affect the accuracy of eyewitness identification have also received recent scrutiny. From the large number of factors that have been shown to affect eyewitness identification accuracy, a subset was selected for investigation in the present study. These were: the effects of race of witness and suspect (e.g., Brigham, 1980; Brigham & Barkowitz, 1978; Chance, et al. 1975; Malpass & Kravitz, 1969); the effects of arousal or stress (Brigham, Maass, Martinez, & Whittenberger, in press; Giesbrecht, Note 1; Johnson & Scott, Note 2); and the effect of personal characteristics of witnesses such as sex, age, intel-

ligence, and education on recognition accuracy (e.g., Brigham & Williamson, 1979; Chance et al., 1975).

The present study investigated views held by those persons most closely connected with the gathering and utilization of eyewitness evidence—law enforcement personnel, defense attorneys, and prosecuting attorneys. These persons' views about, and evaluations of, eyewitness evidence are important in two general senses. First, and most importantly, the attitudes and opinions of attorneys and law enforcement personnel are likely to affect the ways that they handle eyewitness evidence within the legal system. The opinions of law enforcement personnel could affect the procedures they use to gather eyewitness evidence and the amount of effort devoted to corroborating or questioning it. For attorneys, attitudes about eyewitness evidence could be expected to affect trial strategies and the amount of attention devoted to emphasizing or combating disputed eyewitness evidence. Second, the views of a representative sample of attorneys and law enforcement personnel can provide a uniquely relevant estimate, based on personal experience, of the actual incidence of erroneous eyewitness identifications and the factors affecting the likelihood of errors. This type of estimate is valuable as it is very different from presently available estimates based solely upon single individuals' opinions (e.g., Wall, 1965; Sobel, 1972).

The present survey, therefore, obtained the opinions of attorneys and law enforcement personnel regarding several important aspects of eyewitness evidence. Given the adversarial nature of the criminal justice system, it was expected that defense attorneys would be much more skeptical about the accuracy of eyewitness evidence than would prosecutors. It was also expected that law enforcement personnel would have opinions falling somewhere between those of defense attorneys and prosecutors on the accuracy issue. It was not clear, however, how the opinions of these three groups might differ with respect to other controversial issues regarding eyewitness evidence, such as the relationship of certainty to accuracy, the effect of stress and arousal, the role of race, and the impact on accuracy of witness characteristics such as sex, intelligence, and education.

METHODS

Survey Subjects and Procedures

In August 1979, packets of six questionnaires were sent to the central Public Defender's Office and central State Attorney's Office in each of Florida's twenty Judicial Circuits. The surveys were also sent to a sample of 250 private criminal defense attorneys in March 1980, several in each of the largest cities in each of the Judicial Circuits. Private attorneys within each Judicial Circuit were randomly sampled from names listed under "criminal attorneys" in the yellow pages of the telephone book. Follow-up letters were mailed to attorneys approximately six weeks after the original mailing. All responses were made anonymously.

Sets of two questionnaires and a cover letter were sent to all 67 county Sheriff's Departments in Florida in December, 1980 and to 100 randomly-sampled Police Departments throughout Florida in January, 1981. Reminder letters were

mailed four weeks later to those Departments from which no reply had been received. After a further four-week period, additional questionnaires and cover letters were sent to all Sheriff's and Police Departments which had not yet returned completed questionnaires.

Completed questionnaires were received from 89 attorneys working in the Public Defender's Office, representing 17 (85%) of the 20 Judicial Circuits and from 69 attorneys working in the State Attorney's Office, accounting for 12 (60%) of the Judicial Circuits. A total of 77 completed questionnaires (31% of those sent) were returned by private defense attorneys.² Regarding the law enforcement personnel, 69 questionnaires were returned by Sheriff's Departments, representing 71% of the Sheriff's Departments sampled and 132 questionnaires were returned by Police Departments, representing 80% of the Departments to which they were sent.

Across all samples, 95% of the persons who returned completed questionnaires were male; 97% of all respondents were white. The average age of the law enforcement officers was 36.0 years, defense attorneys 34.4 years, and the prosecutors 31.2 years. Defense attorneys had been practicing for an average of 7.5 years, prosecutors for an average of 5 years. Law enforcement officers had been with their respective agencies an average of 11 years. Education level of the attorneys was constant, of course; for the law officers, 99% said they had graduated from high school and 81% had attended some college.

Instrument

The questionnaire was constructed to gather the opinions of attorneys and law enforcement personnel on several important areas: (1) legal procedures concerning eyewitness evidence; (2) estimated frequency of mistaken eyewitness identifications; (3) the effects of several witness/suspect characteristics on accuracy of identification; (4) opinions on the amount of value or emphasis judges and jury members place on eyewitness evidence; (5) the relationship between identification accuracy and how certain or confident a witness is; and (6) the effect of stress and arousal on identification accuracy. The questionnaire also assessed respondents' age, race, sex, years of experience, and, for law enforcement personnel, level of education.

² In figuring the return rate for these questionnaires, it is hard to assess how many of the original questionnaires actually reached the attorneys for whom they were intended. Thirty-four of the 250 questionnaires were returned as undeliverable by the Postal Service, and another 22 attorneys responded to our follow-up letter by saying that they had never received the questionnaire in the first place. In addition, 14 attorneys wrote or called to say that they had had so little recent experience with cases involving disputed eyewitness evidence that they did not feel qualified to answer the questionnaire. It is our impression from these contacts that many of the remaining private defense attorneys who did not respond either never saw the questionnaire due to protective secretaries or chose not to respond because they had had little or no recent experience with cases involving disputed eyewitness evidence. Hence, it is our impression that the sample of respondents is representative of private criminal defense attorneys who had had some recent experience with cases involving eyewitness evidence.

RESULTS

Prior to the main data analyses, responses of Police and Sheriff's Department personnel were compared across all questions. Since Chi-square analyses indicated that the responses of these two groups were significantly different on fewer than 10% of the questions, responses from the two groups (hereafter called law officers) were combined for the main analyses. Similarly, responses of the public and private defense attorneys were found to be highly similar and the data obtained from the two types of defense attorneys were also combined.³

Group Differences

Most of the attorneys and law officers were involved in eyewitness identification procedures less than once a week. Prosecuting attorneys reported considerably more frequent involvement with eyewitness procedures than did defense attorneys or law officers. The procedure most commonly encountered by all groups was photograph lineups; 59% of the prosecutors, 31% of the law officers, and 25% of the defense attorneys reported that they were involved with photo lineups once a week or more [$\chi^2(10) = 32.39, p < .003; \eta = .244$]. Live lineups were encountered much less frequently, with only 23% of the prosecutors, 6% of the law officers, and 9% of the defense attorneys reporting that they were involved with live lineups once a week or more [$\chi^2(10) = 31.19, p < .005; \eta = .246$]. Showups and mugbooks were reportedly utilized less often yet.

Looking first at the way the criminal justice process is perceived, reliable between-groups differences were evident. Responding to questions about corporeal (live) lineups and photograph lineups which take place before "first appearance"⁴ and after "first appearance," defense attorneys were significantly less likely than prosecutors or law officers to feel that an attorney would be present in any of the situations [$\chi^2(12) = 22.97$ to 70.83 for the 4 situations, $p < .001$ in 3 cases, $p < .03$ in the other; $\eta =$ from $.008$ to $.196$]. Despite these considerable differences, the modal responses of the three groups were the same. All felt that an attorney is "seldom" present at a corporeal lineup taking place before "first appearance" (interestingly, though, 17% of law officers believe an attorney is "always" present in this situation) but is "usually" present at corporeal lineups taking place after "first appearance." For photograph lineups, most respondents felt an attorney is "never" present before "first appearance" and "seldom" present when the photo lineup occurs after "first appearance."

When asked to estimate the percent of eyewitness identifications they had

³ For comparison purposes, a group of 33 law students was sampled in May 1980 at the end of their first year at the Florida State University College of Law. The pattern of their responses was most similar to that of the defense attorneys.

⁴ The Florida Rules of Criminal Procedure state that every arrested person must have a "first appearance" before a judicial officer of the Circuit Court within 24 hours of the arrest, wherein he or she is informed of the nature of the charge(s), provided with a copy of the complaint, and advised of his or her legal rights.

observed which were probably correct, the vast majority of the prosecutors (84%) felt that "90% or more" of the identifications were probably correct, while 63% of the law officers and only 36% of the defense attorneys endorsed this view [$\chi^2(10) = 68.84, p < .001; \eta^2 = .382$]. The majority of the defense attorneys (58%) responded that from "50% to 75%" of identifications were correct. When asked which type of error was more common, the large majority (over 75%) of prosecutors and law officers indicated a belief that the failure to identify an actual criminal who is in a lineup was more frequent than the false lineup identification of a suspect who is actually innocent. Responses of defense attorneys were much more variable; 56% felt that failure to identify a guilty person present in a lineup was more frequent but 34% felt that the false identification of an innocent suspect was a more common occurrence [$\chi^2(12) = 56.39, p < .001; \eta^2 = .312$].

Four questions, one depicting each of the possible race-of-eyewitness-race-of-suspect combinations, assessed respondent's opinions about the impact of race on identification accuracy. As Table 1 summarizes, responses of all three groups indicated considerable belief in a "same-race bias," with the belief that identification of a black suspect by a white eyewitness is particularly likely to be in error. Indeed, a substantial minority of defense attorneys (34%) felt the latter type of identification is likely to be in error half of the time or more. Responses of the three groups differed significantly across all four questions [$\chi^2(10) =$ from 63.88 to 76.02, $p < .001$ in all 4 cases, $\eta^2 =$ from .318 to .394]. Views of law officers fell between prosecutors and defense attorneys and were significantly different ($p < .001$) from both for all four race-of-witness-race of suspect combinations.

Respondents were also asked about three other witness characteristics: sex, education, and intelligence. In contrast to several of the other issues, the two types of attorneys tended to agree with each other and differed significantly from the law officers on these questions. Looking first at the sex of an eyewitness, the majority of the attorneys (61%) felt that males and females were equally likely to be accurate. However, almost half of the law officers (46%) felt that females are more likely to be accurate than are males; few of the prosecutors (17%) or defense attorneys (19%) shared this view [across all three samples, $\chi^2(12) = 56.08, p < .001, \eta^2 = .234$; while for all attorneys combined vs. law officers, $\chi^2(6) = 51.85, p < .001$].

Turning to the effect of intelligence on accuracy, the majority of attorneys

Table 1. Percent of Respondents Replying That 90% or More Identifications of This Type are Likely to be Accurate (Responses to Four Separate Questions)

	White witness, white suspect	Black witness, black suspect	Black witness, white suspect	White witness, black suspect
Defense attorneys ^a	46.2%	46.6%	31.0%	16.7%
Prosecuting attorneys ^b	89.8%	93.8%	80.9%	75.0%
Law Officers ^c	68.4%	67.2%	48.9%	36.5%

^a $N = 166$.

^b $N = 69$.

^c $N = 201$.

(60% of prosecutors and 63% of defense) felt that relatively intelligent witnesses are most likely to be accurate. The large majority of law officers (72%), on the other hand, felt that witnesses of average intelligence were most accurate or that there was no relationship between accuracy and intelligence [$\chi^2(8) = 61.47, p < .001$; $\eta = .156$]. Considerably greater between-group agreement occurred for the education-accuracy question [$\chi^2(12) = 18.08, ns$]. The majority in all three groups suggested that there was no relationship between level of education and accuracy.

Respondents were also asked three open-ended questions concerning important witness, suspect, or situational characteristics which are perceived to affect accuracy of identifications. An overview of the most common responses is presented in Table 2. Two major clusters of witness factors were perceived as important in affecting an eyewitnesses' accuracy: education/intelligence and emotional stability (described by such overlapping terms as stable, calm, "good temperament," not afraid). It is not immediately clear how the factor labeled ex-

Table 2. Characteristics of Witnesses, Suspects, and Situations Listed by Over 10% of Respondents as Affecting the Accuracy of Eyewitness Identifications

	Percent of respondents spontaneously listing this characteristic			
	Defense attorneys ^a	Law officers ^b	Prosecuting attorneys ^c	Mean
<i>Witness characteristics</i>				
High education/intelligence	21.5	24.0	21.0	22.2
Good memory	21.5	5.6	32.3	19.8
Temperament	26.2	15.6	11.3	17.7
Calm, not nervous	20.1	13.4	24.2	19.2
Stable emotional state	16.1	20.1	12.9	16.4
Introversion/extroversion	9.4	20.7	14.5	14.9
Healthy physical state	8.0	10.6	14.5	11.0
<i>Suspect characteristics</i>				
Physical characteristics	60.4	33.0	67.7	53.7
Body	32.9	20.1	32.3	28.4
Face	14.8	12.3	24.2	17.1
Speech/voice	16.1	14.0	24.2	18.1
Clothing	18.8	10.6	14.5	14.6
Race	15.4	17.9	8.1	13.8
Odd mannerisms	8.1	11.7	11.3	10.4
<i>Characteristics of the situation</i>				
Lighting	39.4	12.8	59.7	39.4
Length of observation	36.2	15.1	51.6	34.3
Proximity of suspect and witness	34.2	8.9	21.0	21.4
Weapon/danger to witness	18.1	21.2	11.3	16.9
Opportunity to view suspect	22.1	5.6	19.4	15.7
Type of crime	11.4	7.3	12.9	10.5

^a $N = 166$.

^b $N = 201$.

^c $N = 69$.

troversion/introversion relates to the concept of emotional stability. General bodily characteristics of the suspect were somewhat more likely to be listed as an important suspect characteristic than were his/her facial characteristics.

The greatest degree of within-sample agreement occurred in the attorney samples regarding important situational characteristics, especially lighting, length of observation, proximity, and overall opportunity to view the criminal. Interestingly, and probably not coincidentally, all of these factors could be seen as falling under the "Opportunity to view the criminal" factor cited by the U.S. Supreme Court in the *Biggers* and *Brathwaite* decisions as one of the five factors to take into consideration in evaluating the reliability of eyewitness evidence. Law officers mentioned this set of situational factors much less frequently. In fact, the situational factor most often cited by law officers, presence of a weapon or danger to the witness, was not among the four factors most often cited by either set of attorneys.

Prosecutors and law officers were similar in their views on the perceived relationship between a witness' confidence and actual accuracy. While 75% of the prosecutors and 73% of the law officers felt that witnesses who are more certain are also more likely to be accurate, only 40% of the defense attorneys responded in this manner. A plurality (42%) of defense attorneys responded that there is no relationship between certainty and accuracy [$\chi^2(12) = 85.38, p < .001; \eta = .408$].

Concerning the perceived relationship between a witness' level of arousal (i.e., fear, anger, stress) and accuracy, law officers responded more like defense attorneys than like prosecutors. Almost half (48%) of the prosecutors felt that aroused witnesses are more likely to be accurate than unaroused witnesses. In contrast, the large majority of defense attorneys (81%) and law officers (67%) felt that unaroused witnesses are more likely to be accurate, while only 31% of prosecutors agreed [$\chi^2(12) = 87.02, p < .001; \eta = .354$]. Recall that in the free-response questions prosecutors were less likely than defense attorneys or law officers to mention "weapon" or "danger to witness" as an important factor in accuracy (Table 2).

The greatest between-group differences occurred regarding issues within the courtroom: the amount of value or emphasis that judges and jury members place on eyewitness identifications (Table 3) and whether or not research psychologists should be allowed to testify as expert witnesses regarding eyewitness evidence (Table 4). Prosecutors and law officers seemed satisfied with the *status quo*, particularly with regard to judges' handling of eyewitness evidence. Two-thirds (68%) of law officers and 87% of prosecutors asserted that judges place "the right amount" of emphasis on eyewitness evidence, while only 11% of the defense attorneys agreed. The remaining 89% of the defense attorneys felt that judges place too much emphasis on such evidence but fewer than ten percent of law officers or prosecutors agreed [$\chi^2(12) = 300.18, p < .001, \eta = .745$]. Similar results occurred for judgments of the emphasis that jury members place on eyewitness evidence. About 60% of the law officers and prosecutors felt that jury members gave the right amount of emphasis; only 10% of defense attorneys agreed [$\chi^2(12) = 218.11, p < .001, \eta = .675$].

As Table 4 indicates, a majority of the defense attorneys (59%) felt that a

Table 3. Perceived Amount of Emphasis That Judges and Jury Members Place on Eyewitness Evidence

	Too much emphasis	The right amount	Too little emphasis
Judges			
Opinions of: Defense attorneys ^a	88.7%	11.2%	0%
Prosecuting attorneys ^b	7.4%	86.8%	5.9%
Law officers ^c	8.4%	67.7%	23.8%
Jury members			
Defense attorneys ^a	89.3%	10.1%	0.6%
Prosecuting attorneys ^b	23.5%	54.4%	22.1%
Law officers ^c	20.9%	64.7%	14.4%

^a *N* = 166.

^b *N* = 69.

^c *N* = 201.

psychologist's expert opinion should be considered in court "fairly often" or "routinely" when deciding on the reliability of an eyewitness identification; none of the prosecutors and fewer than 10% of the law officers felt likewise [$\chi^2(6) = 168.66, p < .001; \eta = .540$]. The prosecutors had significantly more negative reactions than did the law officers [$\chi^2(3) = 30.08, p < .001$]. Interestingly, this was the only issue on which the Sheriff's Department and Police Department personnel reacting more negatively than the Police Department personnel reacting more negatively than the Police Department personnel [$\chi^2(3) = 9.00, p < .01$].

Table 4. Opinions on Whether a Psychologist's Expert Opinions Should be Considered in Court When Deciding the Reliability of an Eyewitness Identification

	Never	Rarely or only in unusual cases	Fairly often	Routinely
Defense attorneys ^a	10.6%	30.4%	31.7%	27.3%
Prosecuting attorneys ^b	55.1%	44.9%	0%	0%
Police officers ^c	16.4%	71.3%	5.7%	6.6%
Sheriff's officers ^d	31.3%	62.5%	6.3%	0%

^a *N* = 166.

^b *N* = 69.

^c *N* = 122.

^d *N* = 64.

Correlational Analyses

Correlational analyses were performed within each of the three groups to determine whether respondents' ages, amount of experience (number of years they had been a law officer or attorney), or education level (for law officers) affected their responses. The very small number of females (5%) and blacks (3%) in our samples precluded analyses for these factors. Concerning the frequency of involvement with eyewitness identification procedures, younger and less experienced law officers reported utilizing mugbooks more often than did older and more experienced officers [$r(198) = .157, p < .03$, with age; $r = .220, p < .002$, with experience]. Younger and less experienced defense attorneys reported utilizing photo lineups and live showups to a greater degree than did their older colleagues [$r(157) = .280, p < .001$; and $r(156) = .198, p < .02$]. For prosecutors, those who were younger reported more experience with corporeal (live) lineups, [$r(68) = .293, p < .02$]. More experienced law officers were more likely to assert that attorneys are present in the four lineup situations described (live or photo lineup, before or after "first appearance") than were less experienced officers [$r(195) = .165$ to $.324, p < .02$ in all four cases]. A similar relationship with experience was significant for prosecutors' opinions of two of the four situations [$r(68) = .347$ and $.380, p < .005$]. Only weak evidence of a similar trend was visible in the defense attorneys' responses [$r(155) = .186, p < .02$ for one of the four situations].

Age, experience, and education were related significantly to opinions on a few of the other issues. Older law officers were somewhat more likely than younger officers to feel that female eyewitnesses are more accurate than are males [$r(196) = .169, p < .02$]. Those prosecutors with more experience were less likely to believe in a positive confidence-accuracy relationship [$r(67) = .247, p < .05$]. Older and more experienced defense attorneys were more skeptical of the accuracy of identifications of black suspects by black eyewitnesses than were their younger and less experienced colleagues [$r(155) = .207$ and $.200, p < .02$ in both cases]. Older and more experienced defense attorneys were also less in favor of admitting psychologists' expert testimony than were their younger colleagues [$r(155) = .202$ and $.244, p < .02$ and $.002$]. Neither age nor experience were significantly related to evaluations of psychologists' expert testimony among prosecutors or law officers. Finally, defense attorneys with more experience were more likely to feel that a positive relationship exists between witness intelligence and accuracy [$r(151) = .177, p < .01$].

DISCUSSION

In general, prosecuting attorneys and law enforcement officers were similar in their responses to most of the survey questions. These individuals consistently indicated that they regard eyewitness identification as relatively accurate and feel that its importance is appropriately emphasized by judges and jurors. Defense attorneys, however, felt that eyewitness identifications are often inaccurate and

are overemphasized by triers of fact. These dissimilarities may result from the occupational differences of the three categories of respondents. Defense attorneys may be more skeptical of the accuracy of eyewitness testimony simply because it is usually the identification of their client which is under consideration.

However, it could also be argued (e.g., see Brigham, 1981) that defense attorneys, because of their direct involvement with the suspect, may be in the best position to estimate the reliability of eyewitness identifications of their client. In the present survey, most defense attorneys believed that 25% or more of eyewitness identifications they encountered were probably inaccurate. This could be considered to be an unacceptably high "error rate" for evidence which is so highly valued by jurors. The law officers, who perhaps have less reason to be biased in their views than do attorneys in an adversarial system, saw eyewitness evidence as more reliable than did defense attorneys, but even the majority of law officers felt that eyewitness identifications were likely to be incorrect 25% of the time or more in the case of *cross-race* identifications.

Although significant between-groups differences occurred for most of the questions used in the present study, inspection of the related eta values indicates that these differences were particularly strong for issues of direct relevance to courtroom behavior—the appropriateness of research psychologists' expert opinions on eyewitness evidence ($\eta = .540$, $\eta^2 = .292$), the amount of emphasis jury members place on eyewitness evidence ($\eta = .675$, $\eta^2 = .456$), and the amount of emphasis judges place on eyewitness evidence ($\eta = .745$, $\eta^2 = .555$). Hence, for these three issues, respondents' group membership alone accounted for from 29% to 56% of the variance in their responses. This graphic illustration of the impact of the adversarial system on participants' observations underscores the need for gathering further objective data on the actual state of affairs in this part of the legal system.

The fact that a relatively large number of attorneys and law officers cited emotional stability or similar characteristics as important determinants of witness accuracy (Table 2) suggests one fruitful avenue for further inquiry. There do not appear to be measures of general emotional stability which have accrued sufficient validity data and acceptance such that they could presently be used in a courtroom setting (e.g., see Loftus, 1979, Chap. 8). Nevertheless, the widespread belief in the importance of this factor suggests that further work on developing such a measure and assessing its relationship to eyewitness accuracy would be extremely valuable.

Since research has suggested that judges and juries strongly believe in eyewitness evidence which may often be erroneous (Brigham & Bothwell, 1983; Deffenbacher & Loftus, 1982; Lindsey et al., 1981; Loftus, 1975; Wells et al., 1979; Wells & Leippe, 1981), the criminal justice system faces a major problem. One way to ameliorate the problem of judges and jurors' overbelief in often-erroneous eyewitness testimony would be to allow the use of psychologists or other researchers as expert witnesses. This type of testimony, with its focus on the factors which have been empirically shown to be important in affecting a witness' ability to make a correct identification, could help the judge and jury to more accurately assess the validity of eyewitness testimony. Expert witnesses

could also be utilized in trial situations to ascertain the degree of apparent fairness or bias in a specific identification proceeding.

It is clear from responses regarding the potential use of psychologists' expert opinions that prosecuting attorneys and law officers are extremely opposed to its utilization in court, prosecutors significantly more so than the law officers. These findings are not surprising given that law officers and prosecutors asserted that judges and juries already place an appropriate amount of emphasis on eyewitness evidence. Because these respondents have confidence in the weighting given to eyewitness evidence by triers of fact, it is likely that they perceive expert testimony as simply time consuming and unnecessary. These persons' reluctance to consider expert testimony may stem also from three additional related viewpoints: (1) the feeling that scientific eyewitness identification research is not well established enough to provide valid research data; (2) the fear that admitting expert testimony would encourage the presentation of conflicting expert testimony which would then result in an uninformative "battle of experts"; and (3) the opinion that such expert testimony would not be providing facts which are beyond the common knowledge of most jurors but instead would be invading the province of the jury.

Considerable research evidence has been generated to refute the first argument (e.g., Clifford & Bull, 1978; Ellison & Buckhout, 1981; Loftus, 1979; Yarmey, 1979). Regarding the second viewpoint, it has been suggested (e.g., Brigham, 1981; Woocher, 1977; but see McCloskey & Egeth, 1983, for a dissenting viewpoint) that a "battle of experts" would be extremely unlikely if researchers limited themselves to a discussion of research findings. Regarding the third point, there is recent evidence that findings derived from empirical research are indeed beyond the common knowledge of most jury members (Brigham & Bothwell, 1983; Deffenbacher & Loftus, 1982). A recent study of prospective jurors' ability to correctly predict research findings on accuracy of eyewitness identifications (Brigham & Bothwell, 1983) found that over 80% of the respondents *overestimated* the accuracy rate of eyewitness identifications in the research settings which were described to them.

In conclusion, the present survey provides information from a much-neglected perspective in psychological research on eyewitness identification, namely, the opinions of those who are involved with eyewitness identification on a routine basis. These opinions are valuable both in providing estimates of the magnitude of incorrect eyewitness identifications and in suggesting how empirical information derived from research can be made useful to persons relying on eyewitness testimony. Hopefully, empirical research in this area will be considered by practicing attorneys and officers of the law as well as by research psychologists when there are concerns about the accuracy of eyewitness identifications in different situations.

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