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**PROGRAM MATERIALS**

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# **Eyewitness Identification: The State of the Field and Best Practices for Police**

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# **Eyewitness Identification: The State of the Field and Best Practices for Police**

Dr. Curt Carlson

Continuing Legal Education

# Mistaken Eyewitness Identification

→ **Several hundred individuals across the U.S. have been released from prison based on DNA evidence.**

- Approximately 70% of these convictions were due in part to mistaken eyewitness identification.
- Let's look at three examples (from [www.innocenceproject.org](http://www.innocenceproject.org)).

# Herman Atkins

- In 1986, a woman was assaulted, and police subsequently gave her local yearbooks to look through – she could not find perpetrator.
- Then taken to police station briefing room, where she saw a wanted poster for Herman Atkins (unrelated charges).
  - She then saw a photo lineup with Atkins' photo, and identified him.
- Even though Atkins had an alibi, and the defense presented a witness to support it, he was convicted, primarily based on the testimony provided by the victim.
  - He served 11 years in prison prior to exoneration.



# Robert Clark

- **In 1981, a woman was assaulted in her car, then her car was stolen by the perpetrator.**
  - She described the perp to police as a black male, about 5'7", and about 120-125 pounds.
- **Robert Clark was picked up a few days later because he was driving her car.**
  - Police arrested him for motor vehicle theft, but not the assault because he did not match the description (he is 6'2").
- **Victim picked someone else from mugbooks shortly after the crime, but over 3 weeks later, she was given a photo lineup with Clark's picture in it.**
  - She chose him as someone who resembled the perp.
- **Two days later, police presented her with a live lineup with Clark, and she picked him as being the perpetrator.**
  - He was the only one in the live lineup who was also in the photo lineup.
- **The victim testified confidently at trial that Clark was the perpetrator, and the jury believed her, so he served 26 years in prison.**



# Luis Diaz

- **Between 1977 and 1979, 25 women were assaulted in Coral Gables, FL.**
- **Diaz became suspect after first victim saw him at gas station 4 days after she was attacked.**
  - Later, she IDed him when police showed her his license, and then from a photo lineup.
  - However, he was not thought to be a real suspect because he did not match the description given by the first victim or any other (he was much smaller).
- **After more attacks, police showed several victims a photo lineup with Diaz.**
  - Some IDed him, some IDed a filler, some made no ID.



# Luis Diaz (continued)

## → During trial, the defense emphasized that:

- Diaz did not match physical description.
- He did not speak English (though perp did).
- There was no physical evidence linking Diaz to any of the assaults.
- He had none of the possessions stolen by the perp.
- None of the victims reported a smell, though Diaz worked in a fry shop, and smelled strongly of fried onions at the end of the day when the attacks usually occurred.

## → Regardless, the jury convicted Diaz of 7 counts of kidnapping, sexual battery, and assault.

- He was sentenced to multiple life sentences.
- Diaz was finally released after serving 25 years.



# What do eyewitness ID researchers study?

→ Estimator Variables

→ System Variables

→ Reflector Variables

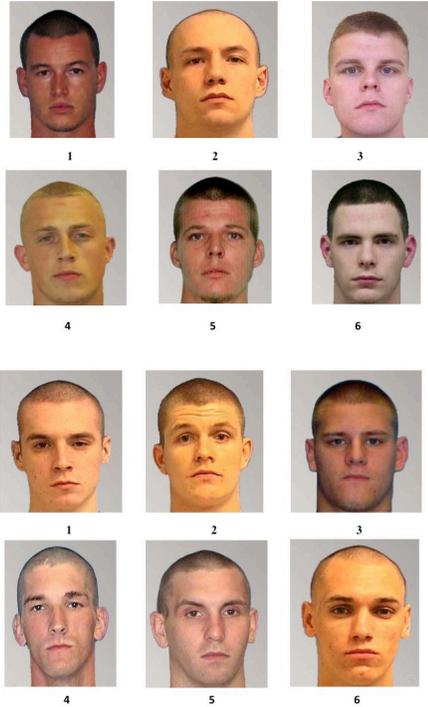
# How do these experiments work?



Ice Cream Flavors

C A S A H O K E Y P O K E Y  
 O T E T N U T A E E I C S T  
 T B C C R T C O O C A N K A  
 T U O H A A U E T A R S C Y  
 O N O O E T W A A N U L A C  
 N E K C T U O B T C I N R V  
 C O I O N E O T E A T L T A  
 A P E L E A R O T R Y R E N  
 N O D A E C E R A C R O S I  
 D L O T R E E S E S T Y O L  
 Y I U E G G F U D G E W O L  
 U T G S I A N A N A B E M A  
 E A H T U N O C O C I A O N  
 L N N N T D A O R Y K C O R

Play this puzzle online at: <https://www.bbc.com/news/health-38788888>



**Decision**

Identify  
Suspect

Do not  
Identify  
Suspect

**Reality**

Suspect  
is Guilty

Suspect is  
Innocent

**Correct  
ID**

**False  
ID**

**Miss**

**Correct  
Rejection**

(Carlson et al., 2017)

# Estimator Variables

Aspects of the eyewitness, perpetrator, or crime that can affect memory but are outside the control of the criminal justice system

- Cross Race Effect (e.g., Meissner & Brigham, 2001)
- Exposure time (e.g., Palmer et al., 2012; Carlson et al., 2016)
- Distance (e.g., Lockamyeir, Carlson, et al., 2020)
- Lighting (e.g., Wagenaar & Van Der Schrier, 1996)
- Weapon presence (e.g., Carlson & Carlson, 2012, 2014; Carlson et al., 2016, 2017)
- Distinctive features (e.g., Carlson et al., 2025; Jones, Carlson, et al., 2020)
- Multiple perpetrators (e.g., Lockamyeir, Carlson, et al., 2021)
- Sleep (e.g., Carlson et al., 2023)
- Prior familiarity (e.g., Carlson et al., 2024)
- Passage of time between crime and ID procedure (e.g., Lampinen et al., 2012)
- And many more



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# Cross Race Effect



- A member of a majority race (e.g., white in the U.S.) can have difficulty distinguishing among members of a minority race (e.g., black in the U.S.), which can lower eyewitness ID accuracy.
- However, an ID supported by immediate high confidence can still be accurate.

(e.g., Meissner & Brigham, 2001; Wixted & Wells, 2017)

# Quality of View and Exposure Time

- Unsurprisingly, eyewitness ID accuracy improves with higher quality view and longer exposure time.
- But eyewitnesses will not always appreciate this issue, and can identify an innocent suspect with high confidence.



(e.g., Palmer et al., 2012; Carlson et al., 2016, 2023, 2025)

# Distance



- **Closer is better of course, but at what distance can eyewitness memory not be trusted?**
  - Unclear, but research indicates 20-40 meters (22-44 yards) may be too far.
- **Also problematic is that eyewitnesses can remain highly confident in their memory even at great distances when accuracy is at chance.**

(e.g., Lampinen et al., 2014; Lockamy et al., 2020; Wagenaar & Van der Schrier, 1996)

# Weapon Focus Effect

- Eyewitnesses are less likely to make an accurate ID decision if the perpetrator was brandishing a visible weapon during the crime.
- However, if they ID a suspect from a fair lineup quickly and with high confidence, the ID could still be accurate.



(e.g., Carlson et al., 2017; Erickson et al., 2014; Fawcett et al., 2013)

# Distinctive Features



- Similarly, eyewitness ID accuracy is harmed by a distinctive feature like a scar or tattoo.
- However, again a fast high-confidence ID can still be accurate, as long as police construct a fair lineup by applying a similar feature on each lineup member.

(e.g., Carlson et al., 2024; Jones et al., 2020; Zarkadi et al., 2009)

# Multiple Perpetrators

- Eyewitness ID accuracy is better for one perp compared to two or more.
- Especially problematic if the perpetrators look similar.
- However, a high-confidence ID is still indicative of guilt even if there were multiple perpetrators.



(e.g., Clifford & Hollin, 1981; Lockamy et al., 2021; Megreya & Burton, 2006)

# Sleep



- **Some research indicates that poor sleep the night before the crime could harm the ability of eyewitnesses to encode and later remember the perp's face.**
- **Even high-confidence IDs may not be trustworthy.**
- **More research is needed here.**

# Prior Familiarity

- If the eyewitness vaguely knows the suspect from the neighborhood, they can be likely to identify him from a lineup, even if he is innocent.
- This mistake is known as *source misattribution*, as the eyewitness can genuinely think that the suspect is the perp when in fact he is just from the neighborhood.



(e.g., Carlson et al., 2024; Ross et al., 1994; Wulff & Hyman, 2022)

# Time between Crime and ID Procedure



- Memory performance declines very quickly after a crime, then levels off.
- Significant reduction in ID accuracy after just 1 week between crime and lineup, and especially after 3 weeks or more.

(e.g., Deffenbacher et al., 2008; Ebbinghaus, 1913; Lampinen et al., 2012)

# Elderly Eyewitnesses

→ Older eyewitnesses are more likely to falsely identify innocent suspects.



(e.g., Memon et al., 2003; Yarmey & Kent, 1980)

# Children as Eyewitnesses



- Children tend to want to choose from a lineup, even if the perp is not present.
- This bias leads to more false IDs of innocent suspects.

(e.g., Brigham et al., 1986; Ceci & Bruck, 1993; Pozzulo & Lindsay, 1999)

# System Variables

Anything under the control of the criminal justice system that could impact eyewitness identification



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- Interviewing the eyewitness after the crime (e.g., Fisher et al., 2014)
- Mugbook search (e.g., Deffenbacher et al., 2006)
- Eyewitnesses using internet/social media to search for perp (e.g., Pica et al., 2024)
- Showups (e.g., Dysart & Lindsay, 2007)
- Lineups
  - Simultaneous vs Sequential presentation (e.g., Carlson et al., 2008; Lindsay & Wells, 1985)
  - Filler selection (e.g., Carlson et al., 2019; Colloff et al., 2021)
  - Lineup Size (e.g., Akan et al., 2020; Wooten, Carlson, et al., 2020)
- Pre-Lineup instructions (e.g., Clark, 2005)
- Double-blind administration (e.g., Greathouse & Kovera, 2009)
- Avoiding post-ID feedback (e.g., Bradfield et al., 2002)
- And many more

# Reflector Variables

→ Additional information that can be gleaned from an eyewitness decision that could be indicative of suspect guilt or innocence

- Confidence (e.g., Sporer et al., 1995)
  - But not in the courtroom!
- Decision Time (e.g., Brewer et al., 2006)



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# Current Recommendations

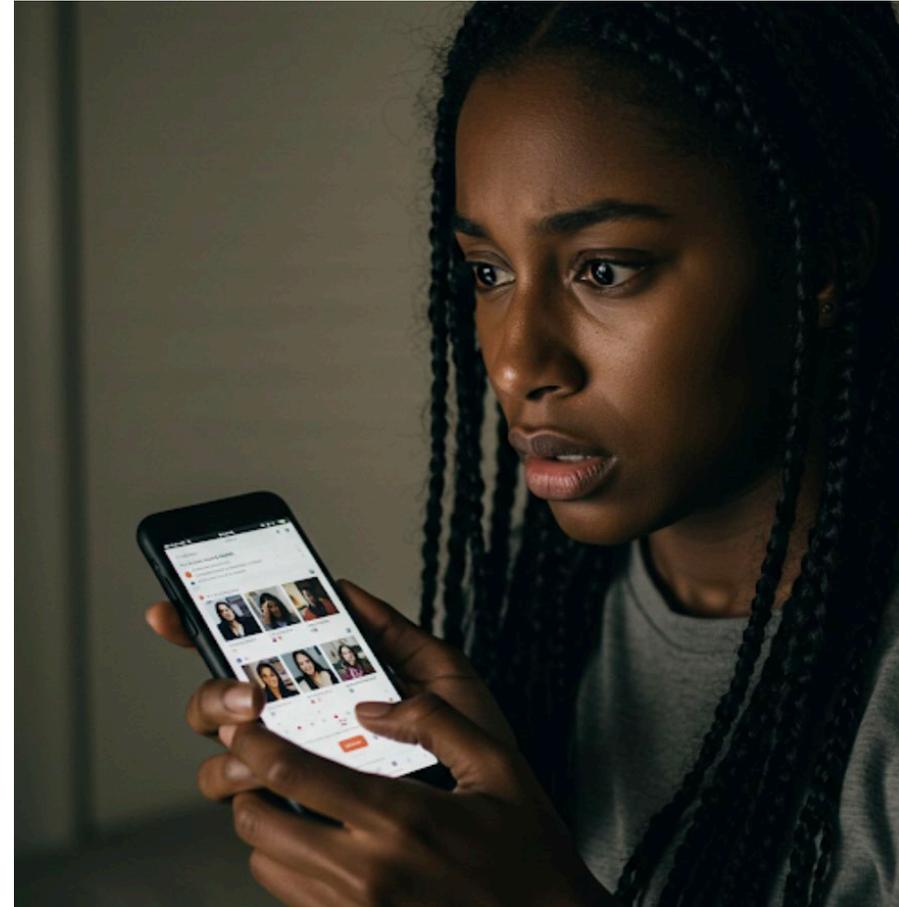
## → Wells et al. (2020)

- 1) Cognitive interview
- 2) Evidence before placement in ID procedure
- 3) Double-blind administration (1998)
- 4) One suspect in fair lineup (1998)
- 5) Unbiased pre-lineup instructions (1998)
- 6) Confidence statement (1998)
- 7) Video-record entire procedure
- 8) No repeated IDs
- 9) Avoid showups if possible



# Cognitive Interview

- As soon as possible after crime, obtain detailed description of perp from eyewitness(es)
- Obtain self-report of viewing conditions, attention paid to perp, and prior familiarity.
- Instruct witness not to discuss with others and not to use internet or social media to search for the perp.



# Evidence before Placing Suspect in Lineup



→ There should be evidence-based grounds to suspect that an individual is guilty of the crime before including that individual in an ID procedure.

# Double-Blind Administration

- To avoid any potential influence of bias, the case detective (or anyone who knows who the suspect is) should never be present during lineup administration.
- Instead, a computer or fellow officer (who does not know who the suspect is) should administer the array.



# One Suspect in a Fair Lineup



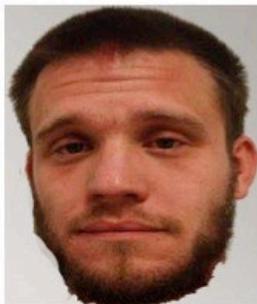
1



2



3



4



5



6

- One suspect per lineup
- All fillers must match full description of the perp
- What about simultaneous vs sequential presentation?

# Unbiased Pre-Lineup Instructions

- Eyewitnesses often assume they should choose someone from the lineup.
- To make sure their decision is based on memory rather than this bias, the eyewitness should be instructed that:
  - Administrator does not know which person is the suspect and which persons are fillers
  - Perp might not be in the lineup at all, so the correct answer might be “not present” or “none of these”
  - They can say they “don’t know”
  - Investigation will continue even if no identification is made.



# Immediate Confidence Statement



- **Get a confidence statement immediately after the lineup decision.**
- **Given that police follow the research-based recommendations:**
  - A high-confidence ID is indicative of suspect guilt.
  - A high-confidence rejection is indicative of suspect innocence.

# Video-Record Procedure

- **Confidence expressed in the courtroom is NOT indicative of defendant guilt**
  - Memory has become too contaminated, and biases take over.
- **The jury needs to see the original recording of the ID procedure to gauge confidence and any hesitancy.**
- **Fast, highly-confident IDs are probative of suspect guilt**



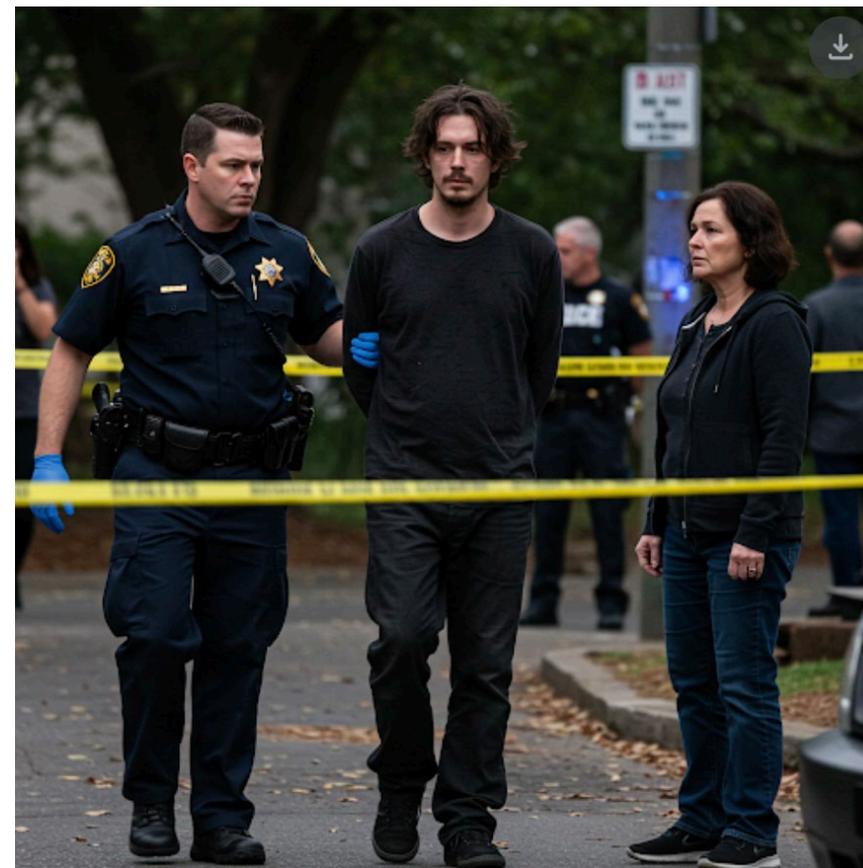
# No Repeat IDs



- **Police should never show the same suspect to the same eyewitness more than once.**
- **The eyewitness is more likely to ID the suspect if seen more than once, but not based on memory from the crime.**

# Avoid Showups

- Showups are highly suggestive of guilt, leading eyewitnesses to make an ID not based on memory for the perp.
- Should be avoided if possible.



# Do U.S. police follow these recommendations?

## → Commonly followed:

- Pre-lineup instructions: “perp may or may not be present”
- One suspect in lineup
- Collecting confidence statement

## → Rarely followed:

- Double-blind administration
- Video-recording

→ **Showups are still common, as are repeated IDs of same suspect by same eyewitness.**

# What do juries understand about eyewitness evidence?



## → Large corpus of scientific research utilizing mock-juries has found:

- They heavily weigh eyewitness evidence in determining guilt, but do not understand many factors.
  - For example, they trust high confidence IDs, but do not distinguish between immediate versus courtroom confidence.
- Expert testimony helps juries understand eyewitness evidence.

(e.g., Carlson et al., 2022; Cutler et al., 1990; Wells & Olson, 2003)

# Take-Away Messages

- Decades of eyewitness ID research have produced several recommendations, but it is challenging to put them into practice.
- If police follow current recommendations, an ID immediately supported by high confidence can be indicative of guilt.
- Eyewitness memory becomes contaminated shortly after a crime so it is critical to present a fair lineup and record confidence before contamination takes over.
- Juries do not intuitively understand how to interpret eyewitness evidence, so judges must allow eyewitness ID experts to educate them from the stand.

Questions?

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