The Interview-Identification-Eyewitness Factor (I-I-Eye) Method for Analyzing Eyewitness Testimony

by Nell B. Pawlenko, Richard A. Wise, Martin A. Shafer, and Brett Holfeld

Don't miss our trial consultant responses at the end of this article: Roy Arranda and Rita Handrich

EYEWITNESS ERROR is the leading cause of wrongful felony convictions. For example, eyewitness error played a role in 72% of the 302 DNA exoneration cases, and it is estimated that one-third of eyewitnesses make an erroneous identification (APA, 2011; Innocence Project, 2013). In this article, we discuss why jurors and legal professionals have difficulty evaluating eyewitness testimony. We also describe the I-I-Eye method for analyzing eyewitness testimony, and a scientific study of the I-I-Eye method that shows it can improve jurors' ability to assess eyewitness accuracy.

Jurors have trouble differentiating accurate from inaccurate eyewitnesses. For instance, studies of staged crimes show that mock jurors cannot distinguish between accurate and inaccurate eyewitnesses (Wells, Lindsay, & Ferguson, 1979). There are several reasons why jurors have difficulty. First, they have limited knowledge of eyewitness factors (Schmechel, O'Toole, Easterly, & Loftus, 2006). Second, they tend to rely on factors that are poor predictors of accuracy such as the eyewitness's confidence at trial (Wells et al., 1998). In fact, eyewitness confidence is generally the most important factor that jurors use in evaluating eyewitness accuracy even though

it has little probative value in assessing accuracy by the time of trial.

Third, jurors tend to ignore factors that are good predictors of accuracy such as whether the perpetrator used a weapon and most significantly how the police conducted the eyewitness interviews and identification procedures in the case (Shaw, Garcia, & McClure, 1999). These system variables are particularly important in assessing eyewitness accuracy because the police can generally control how they conduct the eyewitness interviews and identification procedures and can usually create an objective record of them by videotaping them. In contrast, the criminal justice system cannot control the eyewitness factors at the crime scene (i.e., the estimator variables,) and it usually must rely on the subjective reports of the eyewitness in evaluating them. Moreover, information supplied to the eyewitness after the crime (i.e., post-event information) and suggestion can influence eyewitness reports of estimator variables. Lastly, jurors have difficulty assessing eyewitness accuracy because even if they were knowledgeable about eyewitness factors they would have difficulty integrating their knowledge into the facts of a criminal case. Even experts

have difficulty applying their knowledge to the facts of a case (Cutler & Penrod, 1995).

Law enforcement officers, prosecutors, defense attorneys, and judges also have limited knowledge of eyewitness testimony (Wise, Pawlenko, Safer, & Meyer, 2009; Wise & Safer, 2004; Wise, Safer, & Maro, 2011). Accordingly, legal professionals often lack the knowledge necessary to help jurors evaluate eyewitness accuracy. In addition, legal safeguards such as voir dire, cross-examination, closing arguments, and jury instructions, are ineffective in educating jurors about eyewitness factors. Even expert testimony about eyewitness accuracy is generally ineffective because it usually causes jurors to disbelieve all eyewitnesses rather than helping them differentiate between accurate and inaccurate eyewitnesses (Leippe & Eisenstadt, 2009; Matire & Kemp, 2011).

The I-I-Eye Method

To address these problems, Professor Wise developed the interview-identification-eyewitness factor (I-I-Eye) method for analyzing eyewitness accuracy (Wise, Fishman, & Safer, 2009). The I-I-Eye method consists of four steps. First, you assess whether the eyewitness interviews were properly conducted by determining if law enforcement (a) obtained the maximum amount of accurate information from the eyewitness; (b) contaminated the eyewitness's memory with post-event information; or (c) artificially increased the eyewitness's confidence. Second, you determine if the identification procedures were properly conducted. The I-I-Eye method provides scientific guidelines, for assessing whether the eyewitness interviews and identification procedures were properly conducted. If there was substantial bias in how the eyewitness interviews and identification procedures were conducted, you should assume that the eyewitness testimony is inaccurate unless an exception applies. The exceptions include if the eyewitness conditions at the crime scene were unusually good or if there is substantial corroborating evidence of the accuracy of the eyewitness testimony.

If proper procedures were followed or an exception applies, you proceed to step 3 and consider the eyewitness factors at the crime scene. The eyewitness factors at the crime scene are divided into three types: factors pertaining to the eyewitness (e.g., the eyewitness's view of the perpetrator), the perpetrator (e.g., the perpetrator used a weapon), and the crime (e.g., the lighting at the crime scene). Finally, you answer questions about the eyewitness testimony in the case that helps you assess its likely accuracy.

In summary, the I-I-Eye method helps identify and organize the many different types of eyewitness factors that affect accuracy. Even more importantly it provides a framework for applying the relevant eyewitness factors to the facts of a case. Thus it specifies the order in which the different kinds of eyewitness factors should be evaluated, provides scientific standards for evaluating them, and asks summary questions

that help the evaluator arrive at a conclusion about the likely accuracy of the eyewitness testimony. Finally, because the I-I-Eye method supplies a framework for applying the eyewitness factors to the facts of a case, it may cause jurors and legal professionals to rely more on good predictors of accuracy when evaluating eyewitness testimony such as whether the police followed proper eyewitness procedures. It may also discourage them from relying on poor predictors of accuracy such as an eyewitness's confidence at trial. A form is available in the appendix to this article to help you apply the I-I-Eye method to eyewitness testimony in criminal cases (Wise et al., 2009, p. 513; Wise & Safer, 2012; p. 34 Wise, Safer, & Cushman, 2011, p. 39).

We conducted a study to determine if the I-I-Eye method could improve mock jurors' ability to assess eyewitness accuracy (Pawlenko, Safer, Wise, & Holfeld, 2013).

A Scientific Test of the I-I-Eye Method[1]

Participants
Participants were 293 psychology students from three universities (60.5% female, 39.5% male). Two of the universities are private urban, east-coast universities and the third is a public, Midwestern university.

Procedure
Participants were randomly assigned to one of six groups. The groups differed in two ways: First, each group received one of three teaching aids: the jury duty aid, the *Neil v. Biggers* aid, or the I-I-Eye aid (see below). Second, each group received either a trial transcript that contained strong eyewitness testimony or weak eyewitness testimony (see below).

Participants first viewed one of the three teaching aids that were presented on 24 PowerPoint slides. The participants then read one of two 27-page trial transcripts containing either strong or weak eyewitness testimony. Next, participants completed a questionnaire where they entered their verdicts in the case, gave reasons for their verdicts, and answered other questions about the case.

Teaching Aids
Participants received one of three teaching aids:

Jury Duty Aid
The jury duty aid (hereafter 'JD') was one of two control aids. It provided participants with the kinds of information that they might receive if they were a juror in a criminal case such as the importance of remaining fair and impartial, considering all the evidence before rendering a verdict, et cetera.

Neil v. Biggers Aid

The Neil v. Biggers aid (hereafter 'NvB') was the second control condition. It described the five eyewitness factors that the Supreme Court said jurors should consider when evaluating eyewitness accuracy: (i) the eyewitness's view of the perpetrator during the crime; (ii) the length of time between the crime and identification procedure; (iii) the eyewitness's confidence in their identification at the time of the lineup; (iv) the accuracy of the eyewitness's prior description of the perpetrator; and (v) the amount of attention the eyewitness paid to the crime. The NvB aid also gave a rationale for each of the five factors (*Neil v. Biggers*, 1972; *Manson v. Brathwaite*, 1977).

I-I-Eye Aid

The I-I-Eye aid instructed participants when assessing eyewitness accuracy to first evaluate the eyewitness interview, then the identification procedure, and lastly the eyewitness factors at the crime scene. The I-I-Eye aid also gave participants examples of factors they should consider when evaluating the interview (e.g., open-ended questions vs. closed ended or leading questions), the identification procedure (e.g., line administrator did not know the suspect's identity vs. the lineup administrator knew the suspect's identity), and the eyewitness factors at the crime scene (e.g., same race vs. cross-race identification). The I-I-Eye aid emphasized to the participants the importance of conducting proper eyewitness interviews and identification procedures.

Trial Transcripts

The participants read a trial transcript concerning a convenience store robbery and murder of the sales clerk that contained either strong or weak eyewitness testimony. The transcripts were modified versions of an existing transcript so they would not favor the I-I-Eye aid. Consequently, the I-I-Eye aid discussed eyewitness factors that were not mentioned in the transcripts (e.g., cross-racial identifications).

In both the strong and weak eyewitness transcripts, the sole eyewitness and a detective testified for the prosecution and the defendant's girlfriend provided an alibi for the defendant. The defendant did not testify, and all witnesses underwent direct and cross-examination. Both transcripts contained identical opening statements, closing arguments, and jury instructions.

Eyewitness Factors in the Transcripts

The strong and weak eyewitness transcripts had identical eyewitness factors at the crime scene (i.e., estimator variables). Consequently, in both transcripts the eyewitness testified that (a) she could see the perpetrator because the store was well lit; (b) she paid attention to the crimes, (c) she observed the perpetrator for two minutes; (d) she was standing about 15-20 feet from the perpetrator; (e) she experienced stress during the crimes, (f) she was the same race as the perpetrator, (g) she saw the perpetrator's handgun; and (h) she noticed that the perpetrator was wearing a baseball cap.

To make the transcripts more realistic, they also contained several identical eyewitness factors that related to the interview and the photo array (i.e., system variables). Accordingly, the eyewitness factors in the strong eyewitness transcript were not completely strong and the eyewitness factors in the weak transcript were not completely weak. For example, in both transcripts the police conducted the photo array three weeks after the crime, the eyewitness viewed only one lineup, and the eyewitness immediately and confidently identified the defendant from the photo array.

The strong and weak eyewitness transcripts differed on four eyewitness factors for the interview and seven eyewitness factors for the photo array. The police conducting the eyewitness interview and photo array in the strong eyewitness transcript followed proper procedures for these eleven eyewitness factors, but they did not follow proper procedures for these eleven eyewitness factors in the weak eyewitness transcript. Consequently, the eyewitness testimony in the strong eyewitness transcript was more likely to be accurate than the eyewitness testimony in the weak eyewitness transcript.

For instance, in the strong eyewitness transcripts the detective conducted the interview in a quiet room without distractions, asked the eyewitness if she heard media reports of the crime, and requested the eyewitness not to discuss the crime with others and to avoid media accounts of the crime. In the weak eyewitness transcript, the detective conducted the interview in his busy office, did not inquire if the eyewitness had heard media accounts of the crime, and did not warn the eyewitness not to speak to others about the crime and to avoid media reports of the crime. In addition, in the strong eyewitness transcript, the detective asked about the color of the perpetrator's hair, but did not suggest it was a particular color. The detective also did not comment about the eyewitness's view of the perpetrator. In contrast, in the weak eyewitness transcript, the detective asked if the perpetrator's hair was blond (a leading question), and commented that the eyewitness must have had a good view of the perpetrator.

In the photo array in the strong eyewitness transcript, the detective matched the foils to the eyewitness's description of the perpetrator and used seven foils. The detective had another officer (who did not know the identity of the suspect) conduct the photo array (i.e., a double-blind, photo array), and he used a sequential photo array (i.e., a photo array where the photos are presented individually rather than all at once, which reduces erroneous identifications). In addition, the officer who conducted the photo array used proper cautionary instructions including warning the eyewitness that the perpetrator may not be in the photo array. He also took a statement of the eyewitness's confidence in her identification immediately after the lineup and prior to any feedback. In the weak eyewitness transcript, the detective conducted a five-person, simultaneous photo array (i.e., all the pictures were presented at one time),

and instructed the eyewitness to choose the photo that "looked familiar." The detective chose four foils that matched the perpetrator's photo and informed the eyewitness after she identified the suspect that she selected "the guy they thought it was."

Results and Discussion

The percentage of participants rendering guilty verdicts for each aid condition for the strong and weak eyewitness transcripts were I-I-Eye aid (55% for strong and 16% for weak), NvB aid (27% for strong and 36% for weak), and J.D. aid (30% for strong and 30% for weak; see Figure I). Statistical tests indicated that only the I-I-Eye group could discriminate between the strong and weak eyewitness transcripts. The I-I-Eye group rendered significantly more guilty verdicts for the strong eyewitness transcript than both of the control groups. The I-I-Eye group also had significantly fewer guilty verdicts for the weak eyewitness transcript than the NvB group and the combined NvB and JD groups but not than the JD group.
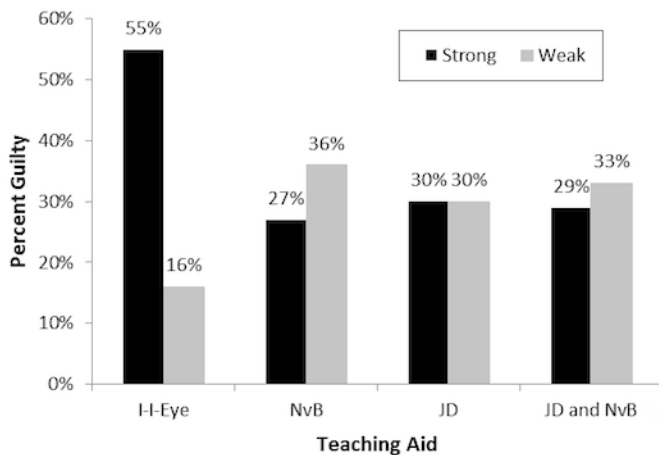

Figure 1. Percentage of guilty verdicts by transcript type (strong, weak) among the three teaching aid conditions and the combined control groups.

The participants gave reasons for their verdicts. The I-I-Eye group was much more likely than the control groups to mention how the interview and identification procedures were conducted as a reason for their verdicts. In contrast, the two control groups were more likely to cite an absence of forensic evidence such as blood or fingerprints as a reason for their verdicts, even though the absence of forensic evidence was not mentioned in the transcripts. Lastly, the I-I-Eye group was more knowledgeable about the relevant eyewitness factors in the transcripts than participants in the control groups.

In summary, the I-I-Eye aid, unlike the control aids, appeared to sensitize the participants to the eyewitness factors in the case. Thus only the participants in the I-I-Eye group were able to distinguish between the weak and strong eyewitness transcripts.

These results may have occurred because the I-I-Eye method provided participants with a comprehensive framework for analyzing eyewitness testimony. Accordingly, it may not only have helped participants identify and organize the many different types of eyewitness factors in the transcripts, but it may also have helped them to apply the eyewitness factors to the facts of the cases.

Other Studies of the I-I-Eye Method

In a second experiment, that included both eyewitness evidence and circumstantial evidence, only the I-I-Eye group was able to discriminate between the strong and weak eyewitness testimony (Murphy, Safer, Wise, & Holfeld, 2013). In a third study, the I-I-Eye method improved the effectiveness of eyewitness expert testimony (Wise & Kehn, in preparation).

How Prosecutors and Defense Attorneys Can Use the I-I-Eye Method

There are several ways that prosecutors and defense attorneys can use the I-I-Eye method to evaluate the eyewitness evidence in criminal cases. Prosecutors can use the I-I-Eye method to determine if the eyewitness testimony in a case is sufficiently reliable to indict a defendant. Prosecutors can also use the I-I-Eye method to help them decide if they should offer a plea bargain in a case or take a case to trial. Defense attorneys can apply the I-I-Eye method to help them determine if they should recommend a plea bargain to their clients. In addition, the I-I-Eye method can assist defense attorneys in deciding if they should file a motion to suppress an identification or hire an eyewitness expert to testify at trial. For instance, they may want to file a motion to suppress or hire an eyewitness expert if there was substantial bias in how the eyewitness interviews or identification procedures were conducted or if the eyewitness conditions at the crime scene were poor.

Prosecutors and defense attorneys can also use the I-I-Eye method at hearings on motions to suppress an identification and in criminal trials. For example, it can assist them in preparing their opening statements and closing arguments that pertain to the eyewitness testimony in a case. Prosecutors and defense attorneys can use the I-I-Eye method to help them prepare direct and cross-examinations of eyewitnesses, law enforcement officers, and eyewitness experts. Moreover, as previously stated, an eyewitness expert's use of the I-I-Eye method may improve the effectiveness of eyewitness expert's testimony. Attorneys can use the I-I-Eye method to draft jury instructions concerning the eyewitness testimony in a criminal case. The I-I-Eye method can help prosecutors and defense attorneys address any other eyewitness issues that arise in the course of a criminal case. The I-I-Eye method may also decrease jurors' expectation that prosecutors should introduce forensic evidence in every criminal case.

On appeal, the I-I-Eye method can assist defense attorneys in determining what assignments of errors and arguments they

should make about the eyewitness testimony in their appellate briefs and during oral argument. Prosecutors can use the I-I-Eye method on appeal to help them refute in their brief and at oral argument that the eyewitness testimony in the case was unreliable or that the refusal of the trial court to admit eyewitness expert testimony constituted prejudicial error. The I-I-Eye method may also benefit law enforcement officers and judges as well as jurors and attorneys (Wise & Safer, 2012; Wise, Safer, & Cushman, 2011). Lastly, the I-I-Eye method appears relatively easy to learn and is inexpensive to use.

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Appendix

Form for Evaluating the Accuracy of Eyewitness Testimony
I. **Eyewitness Interview *(Evaluate separately each interview of an eyewitness.)***

A. Factors That Indicate the Interview Was Complete, Fair, and Did Not Increase Eyewitness Confidence.

1. List Factors that Indicate the Interview Obtained the Maximum Amount of Information from the Eyewitness:

1. List Factors that Indicate the Interview Was Fair and Did Not Contaminate the Eyewitness's Memory of the Crime:

1. List factors that Indicate the Interview Did Not Increase Eyewitness Confidence:

B. *Factors that Indicated the Interview Was Incomplete, Biased, and Increased the Eyewitness's Confidence*

1. List Factors that Indicate the Interview Did Not Obtain the Maximum Amount of Information from the Eyewitness:

1. List Factors that Indicate the Interview Was Biased and Contaminated the Eyewitness's Memory of the Crime:

1. List Factors that Indicate the Interview Increased the Eyewitness's Confidence

II. Identification Procedures (Conduct a separate analysis for each identification procedure)

A. *List Factors that Indicate the Identification Procedure Was Fair and Impartial:*

B. *List Factors that Indicate the Identification Procedure Was Biased.*

If the interviews and identification procedures were substantially fair and unbiased or an exception applies (e.g., the eyewitness knew the perpetrator prior to the crime or had prolonged, repeated exposure to the perpetrator, or there is reliable, valid corroborating evidence of the accuracy of the eyewitness testimony) go onto Part III. If an interview or identification procedure was significantly unfair and biased and no exception applies and it likely affected the accuracy of the eyewitness testimony and identification, the eyewitness testimony or any subsequent identification of the defendant by the eyewitness has no probative value and should not be considered in the determination of the defendant's guilt.

III. Eyewitness Factors during the Crime That Likely Affected Identification Accuracy

A. *List Eyewitness Factors During the Crime that Likely Increased Eyewitness Accuracy:*

B. *List Eyewitness Factors During the Crime that Likely Decreased Eyewitness Accuracy:*

IV. Conclusions

1. Was the maximum amount of information obtained from the eyewitness during the interviews?

1. _____ yes 2. _____ no

1. Was a statement of the eyewitness's confidence in the accuracy of the identification obtained prior to any feedback?

1. _____ yes 2. _____ no

1. Is there a high, medium, or low probability that the eyewitness testimony was accurate?

1. _____ high 2. _____ medium 3. _____ low

D. Is there a high, medium, or low probability that the eyewitness identification was accurate?

1. _____ high 2. _____ medium 3. _____ low

We asked two trial consultants to respond to this paper. Roy Aranda and Rita Handrich respond below.

Roy Aranda responds:

Roy Aranda, Psy.D., J.D. (Suffolk County Psychological Association's 2013 Psychologist of the Year) is a forensic psychologist with offices in N.Y. and Long Island. He has been involved in several high profile cases including traveling to Cuba and Puerto Rico and testifies frequently in criminal and civil cases throughout New York State.

Pawlenko, Wise, Safer, and Holfeld have tackled a thorny issue that comes up often enough in trials: eyewitness error. Drawing upon a wealth of research, they note that eyewitness error is the leading cause of wrongful convictions.

The premise of the article is that, given the propensity for erroneous identification by eyewitness, in some cases of large magnitude such as, "*eyewitness error played a role in 72% of the 302 DNA exoneration cases*", it becomes essential – in the pursuit of justice – that jurors successfully distinguish accurate from erroneous identifications.

Before there can be an intervention – any intervention – as a threshold measure, "consumers" must have an accurate, empirically-driven basis to understand the nature of the problem. We cannot manipulate variables that impact the accuracy of eyewitness identification in the eyewitnesses in a meaningful way at trial. We can, however, recognize variables that affect jurors' ability to assess eyewitness accuracy and put them to good use to help them decrease mistakes in judging eyewitness testimony.

Pawlenko, Wise, Safer, and Holfeld identify the following crucial factors:

- Jurors have limited knowledge of eyewitness factors.

- Jurors tend to rely on factors that are poor predictors of accuracy (e.g. heavy reliance on eyewitness confidence despite limited probative value.)

- Jurors tend to ignore factors that

are good predictors of accuracy (e.g. whether the perpetrator used a weapon; how the police conducted the eyewitness interviews and identification procedures in the case). These system variables provide a baseline to proceed to the next step: who are the "players" in need of an "intervention?"

Jurors exclusively? The answer is no. Pawlenko, Wise, Safer, and Holfeld point out that prosecutors, defense attorneys, and judges too are "guilty" of lacking knowledge about the pitfalls of eyewitness testimony.

Knowing what the problem is regarding eyewitness testimony and who the "players" are in a trial, the third step is, what can we do about it?

The authors note traditional legal safeguards consisting of admonitions by the judge, voir dire, cross examination, closing arguments, jury instructions and even expert testimony on eyewitness accuracy are of limited efficacy in rooting out inaccurate eyewitnesses.

The interview-identification-eyewitness factor (I-I-Eye) method for analyzing eyewitness accuracy was developed to help tackle the problem of ferreting out unreliable eyewitness testimony. The 4-step method was field-tested recently using a subject population of 293 students from three universities.

The authors delved into what the I-I-Eye method consists of in the article and compared its efficacy to two controls under two conditions: the Jury Duty Aid and Neil v. Biggers Aid followed by exposure to a transcript of strong eyewitness trial testimony or weak eyewitness trial testimony.

Three I-I-Eye method studies provided promising results, namely that the I-I-Eye method improved the effectiveness of distinguishing strong and weak eyewitness testimony.

Returning to the formula, Problem-Who-Solution, the question to ask is, can the I-I-Eye method make a niche in the world of trials? Time and research will tell.

Pawlenko, Wise, Safer, and Holfeld propose several ways in which the I-I-Eye method that is relatively easy to learn and inexpensive to use can find its way into the courtroom:

- Prosecutors can use the I-I-Eye method to determine if the eyewitness testimony in a case is sufficiently reliable to indict a defendant.

- Prosecutors can use the I-I-Eye method to help them decide if they should offer a plea bargain in a case or take a case to trial.

- Defense attorneys can apply the I-I-Eye method to help them determine if they should recommend a plea bargain to their clients.

- The I-I-Eye method can assist defense attorneys in deciding if they should file a motion to suppress an eyewitness identification or hire an eyewitness expert to testify at trial.

- Prosecutors and defense attorneys can also use the I-I-Eye method at hearings on motions to suppress an eyewitness identification and in criminal trials.

- The I-I-Eye method can assist defense attorneys and prosecutors in preparing their opening statements and closing arguments that pertain to the eyewitness testimony in a case.

- Prosecutors and defense attorneys can use the I-I-Eye method to help them prepare direct and cross-examinations of eyewitnesses, law enforcement officers, and eyewitness experts.

- The I-I-Eye method can be used by prosecutors and defense attorneys to draft jury instructions concerning the eyewitness testimony.

- The I-I-Eye method can be used on appeal to weigh in on the reliability of eyewitness testimony. Of course, all of these applications need to be empirically assessed. At first blush, the

notion that a well-defined method, rooted in science, that is relatively easy to learn and inexpensive to use can have a significant impact in the unwieldy world of eyewitness testimony is nothing short of psycholegally exciting.

Pawlenko, Wise, Safer, and Holfeld confined their comments to criminal cases. Perhaps some of the tenets of the I-I-Eye method, modified to suit the system needs in different contexts, can be used in other non-criminal legal proceedings that make use of eyewitnesses and rely on their testimony.

For instance, as a hypothetical, in a negligence proceeding involving a car accident:

- Were eyewitness interviews properly conducted by a police officer at the scene, by investigators, at a deposition, et cetera?

- Was eyewitness memory contaminated with post-event information?

- Was eyewitness confidence artificially increased? And so on… ⬤

Rita Handrich responds:

Rita Handrich is a senior trial consultant and Research Director with Keene Trial Consulting and a frequent contributor to their firm blog, The Jury Room. She is also Editor of The Jury Expert.

A Better Mousetrap? I-I-Eye Model for Helping Us Assess the Accuracy of Eyewitness Testimony

I first read the research this article is based on early this year when Doug Keene blogged on it for our firm blog. I found it fascinating then and that has not changed. I was especially intrigued by the research since I read it after we worked on a civil wrongful conviction case where this sort of model for assessing eyewitness accuracy would have saved a lot of pain and loss for an innocent man if it had been used successfully.

As we prepared for work on that case, we wrote an article for *The Jury Expert* on false confessions and the mystery of why they occur. The voluminous research on that topic was very disturbing. It was even more disturbing to watch as almost every trend documented in the literature occurred along the way in our wrongful convictions case. So, for me, the idea that there is an inexpensive and effective way to teach jurors (and those who come before) how to assess the accuracy of specific eyewitness testimony is a tantalizing one.

I still don't know if expert [training] testimony on the I-I-Eye model would be allowed in court, but it would be intriguing if it were. While the authors stress that more research is needed (and of course it is), this model offers an opportunity to increase just outcomes for those falsely accused (and then wrongfully convicted). Even better, the authors' recommendation that this model be used prior to the decision to go to trial could short-circuit the snow-balling of errors that occur in wrongful conviction cases. It's a wonderful thought.

As I looked at this article again, Jason Barnes, our Associate Editor, suggested two videos that illustrate the difficulty the eyewitness faces. Both are from the BBC and both are true-to-life examples of how we really do not pay attention and thus have to simply make details

up to cover our lack of attention. It isn't like we lie on purpose. We simply have a habit of trying to "fill in the blanks" in our memories and once we tell our story once, we re-tell that same version again so that the story is not really what we saw—it is simply our re-creation of what we said we saw when first asked to reconstruct the [faulty] memory.

Take a look at these two BBC videos of eyewitness examples:

Can you spot the murderer?
http://youtu.be/v_QbTX2qS10

Never forget a face?
http://youtu.be/7JlzeUh5rts

If you did better than the witnesses in these videos, remember you were warned that something was about to happen that would make these onlookers into eyewitnesses. In real-life, we don't have that sort of warning. There is often chaos and fear in the moment that distracts us—like in the first video. Or, as in the second video, there is nothing out of the ordinary and we simply go back to our lives and thinking about where we are going, what we will have for dinner, that cookie in the bakery window calling out to us, or a work project challenging us with complex wrinkles. When we are asked to then recall the event in detail, we are often stumped. But we don't want to be and so we desperately struggle to

recall specifics.

Another good video is this TED talk (courtesy of NPR) from Scott Fraser. It's a terrific example of how our minds fill-in-the-blanks of holes in our memories. And a horrific example of how a man lost twenty years of his life through well-intentioned but simply false eyewitness testimony. As Fraser tells us, *"the accuracy of our memories is not measured either by how vivid they are nor how certain we are that they are correct."*

Can eyewitnesses create memories?
http://www.ted.com/talks/scott_fraser_the_problem_with_eyewitness_testimony.html

Eyewitnesses want to do the right thing. They want to get it right. So very often, though, they simply don't. The I-I-Eye model offers one of the best options I've seen to help us sort out when we should not rely on eyewitness testimony and when, perhaps, it makes sense to do so. I hope this group keeps working on the I-I-Eye model and that it will soon be at a place where law enforcement and our criminal justice system will use it and the courts will not think twice about letting experts teach jurors how to make decisions based on science rather than on the jurors' perception of the eyewitness' seeming confidence and certainty. ◉