

RELIABILITY OF EYEWITNESS TESTIMONY

When eyewitnesses offer conflicting accounts of the same event, it becomes necessary to assess the relative reliability of each account. The reliability of eyewitness testimony has been the subject of significant legal and psychological research. This research has suggested that eyewitness reliability is extremely complex and that assessments of reliability are not easily made.

Studies have shown that triers of fact are more likely to believe an eyewitness who expresses a high level of confidence in his testimony.¹ However, further psychological research has suggested that this strong reliance on eyewitness confidence as a predictor of accuracy may not be appropriate. Some of this research has shown that eyewitness confidence can be manipulated by various means, without affecting accuracy.² Although the exact degree of correlation between confidence and accuracy is in dispute, most researchers agree that expressed levels of eyewitness confidence, taken alone, are not reliable predictors of accuracy.

Certain researchers have suggested that the confidence-accuracy relationship is strong under certain conditions. For example, some research has found that repeated questioning of a witness can lead to an improved confidence-accuracy correlation.³ Other studies have proposed lists of factors that may affect the confidence-accuracy relationship.⁴ However, nothing in this field of research has challenged the notion that the confidence-accuracy relationship is generally quite weak.

¹Kenneth A. Deffenbacher, "Eyewitness Accuracy and Confidence: Can We Infer Anything about Their Relationship?" Law and Human Behavior 4, no. 4 (1980): 243.

²C.A. Elizabeth Luus and Gary L. Wells, "The Malleability of Eyewitness Confidence: Co-Witness and Perseverance Effects," Journal of Applied Psychology 79, no. 5 (1994): 714-723.

³Par Anders Granhag, "Realism in Eyewitness Confidence as a Function of Type of Event Witnessed and Repeated Recall," Journal of Applied Psychology 82, no. 4 (1997): 599-613.

⁴Deffenbacher, "Eyewitness Accuracy and Confidence," 243-260; Robert K. Bothwell, John C. Brigham, and Kenneth A. Deffendbacher, "Correlation of Eyewitness Accuracy and Confidence: Optimality Hypothesis Revisited," Journal of Applied Psychology 72, no. 4 (1987): 691-695.

In addition to studying the interaction of eyewitness confidence and accuracy, researchers have attempted to isolate individual factors that affect the accuracy of an eyewitness account. One factor that appears to affect accuracy is the passage of time. Rather predictably, research has generally shown that the more time that passes after an event, the less accurate one's memory becomes.⁵ Due to practical considerations, most psychological research has dealt with relatively short periods of time, such as a few months or a year. However, the limited research that has examined the effect of longer periods of time suggests that one's memory of an event continues to decline steadily over time.⁶

There is also evidence suggesting that a stressful or violent event can affect the accuracy of an eyewitness's recall. Most studies show that recall accuracy generally declines as the violence of an event increases.⁷ The problem with this area of research is that it is extremely difficult, if not impossible, to create realistic levels of stress and/or violence in a laboratory setting without violating ethical boundaries

Some memories of emotional events are thought to be so vivid that they remain in one's memory almost indefinitely. For example, many people still remember how they learned that President Kennedy had been assassinated. However, some recent studies have suggested that these extremely vivid memories may not always be extremely accurate.⁸ Although people often claim to remember emotional events very vividly, the effect of emotion on recall accuracy is apparently quite complex.⁹

⁵Elizabeth F. Loftus and James M. Doyle, Eyewitness Testimony: Civil and Criminal, 3d ed. (Charlottesville, Va.: Lexis Law Publishing, 1997), 49-52.

⁶*Ibid.*, 51-52.

⁷Brian R. Clifford and Clive R. Hollin, "Effects of the Type of Incident and the Number of Perpetrators on Eyewitness Memory," Journal of Applied Psychology 66, no. 2 (1981): 364-370.

⁸Ulric Neisser and Nicole Harsh, "Phantom Flashbulbs: False Recollections of Hearing the News about Challenger," in Affect and Accuracy in Recall: Studies of "Flashbulb" Memories, ed. Eugene Winograd and Ulric Neisser (Cambridge: Cambridge University Press, 1992): 9-31.

⁹Daniel Reisberg and Friderike Heuer, "Remembering the Details of Emotional Events," in Affect and Accuracy in Recall, ed. Winograd and Neisser: 162-191.

Given the substantial research showing that eyewitness confidence is not a reliable predictor of accuracy, recent studies have examined whether there are other standards by which to judge the accuracy of an eyewitness account. According to these studies, inaccurate accounts tend to include more of the witness's thoughts and inferences, whereas accurate accounts are more likely to only include observations.¹⁰ As promising as these findings are, further research is needed before these standards can be used to assess the reliability of individual witnesses.¹¹

Unfortunately, the study of eyewitness reliability has resulted in relatively few clear answers. Researchers have been able to isolate a few of the factors that influence the accuracy of an eyewitness account. Their findings have also challenged some commonly held beliefs about eyewitness reliability. However, there remains no clear standard by which to evaluate the accuracy of an individual eyewitness account. Discussion of the research on eyewitness reliability should therefore not be taken as a guide to assessing the reliability of any particular testimony. Instead, this research is offered as an indication of how difficult and imprecise assessments of reliability can be.

¹⁰Lisa Beth Stern and David Dunning, "Distinguishing Accurate from Inaccurate Eyewitness Identifications: A Reality Monitoring Approach," in Adult Eyewitness Testimony: Current Trends and Developments, ed. David Frank Ross, J. Don Read, and Michael P. Toglia (Cambridge: Cambridge University Press, 1994): 273-299.

¹¹Loftus and Doyle, Eyewitness Testimony, 63.