

Legal Factors

The Use of Blinded Eyewitness Identification as a Forensic Procedure

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Abstract: Flawed scientific evidence has contributed to the most serious wrongful convictions that have come to light in the United States. Not only did over two-thirds of persons exonerated by post-conviction DNA involve eyewitnesses who misidentified innocence suspects, but over half of the over-300 cases involved unreliable and unscientific forensic analysis and testimony. First, I will discuss the eyewitnesses, who misidentified defendants using then-standard lineup procedures that were highly vulnerable to suggestion and contamination. Indeed, most of those eyewitness were unsure when they first saw the defendant in a photo array or other type of lineup. They became certain by the time of trial, although we now know they were wrong. The 2014 Report by a Committee of the National Academy of Sciences (of which the author was member) discussed a series of improvements to eyewitness identification procedures that can safeguard against errors. A central recommendation was that lineups be conducted blind, so that the administrator does not know which is the suspect, or is effectively blinded and cannot convey feedback to the eyewitness. Second, I will discuss how that same recommendation can be extended more broadly to prevent cognitive bias and error in a range of forensic disciplines. Scholars have recommended, and some crime labs have implemented, procedures to selectively blind the work that forensic scientists do, to help minimize everyday phenomenon of cognitive bias. The images that adorn our courthouses depict justice as blind for a reason; improvements to quality of scientific evidence that our criminal justice system routinely relies upon should include procedures to make the collection of that evidence blind.