



Witness points at defendant in courtroom.

STOCK/AP

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Study: New Jersey's 'enhanced' eyewitness testimony instructions too potent

Researchers say N.J. rules could produce more outcomes that exonerate guilty defendants

BY **MICHAEL TANENBAUM**
PhillyVoice Staff

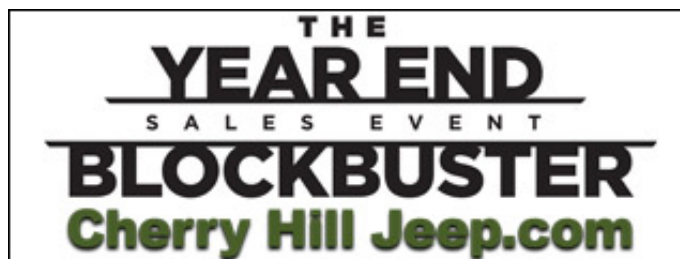
A new study on the role of eyewitness testimony, considered one of the crucial pillars to mount a case in court, finds that a set of jury instructions adopted by the state of New Jersey may be working too well and, in the process, exonerating guilty defendants.

Three legal scholars at the University of Arizona recruited 355 people to participate in an experiment in justice that tests the foundations of New Jersey's reform. Citing evidence that eyewitness accounts can be unreliable on scientific grounds, New Jersey courts put together a list of instructions in 2012 for judges to brief juries with prior to the start of trials.

A document from the judiciary spells out the conditions for questioning the reliability of eyewitness identification, primarily focusing on the blurry nature of memory.

Human memory is not foolproof. Research has revealed that human memory is not like a video recording that a witness need only replay to remember what happened. Memory is far more complex.² The process of remembering consists of three stages: acquisition -- the perception of the original event; retention -- the period of time that passes between the event and the eventual recollection of a piece of information; and retrieval -- the stage during which a person recalls stored information. At each of these stages, memory can be affected by a variety of factors.

Research by the American Psychological Association similarly finds that the accuracy of witness perceptions, particularly from a distance, can easily be "contaminated" and should be treated with the same scrutiny given to trace evidence. Studies have even proven it's possible to convince innocent people that they themselves committed a crime through a phenomenon known as persuaded false confession.



The University of Arizona scholars, who published their results in the journal PLoS One, found that a stricter level of scrutiny among jurors resulted in a lack of nuance reflected in their votes. Study participants were first shown video testimony about a defendant charged with killing a cashier and then given either standard jury instructions or New Jersey's modified instructions on how to interpret the testimony, according to Pacific Standard.

The results showed the New Jersey instructions had a decisive influence. While one in four people who heard the standard version voted to convict the hypothetical defendant, just one in ten people who heard the New Jersey instructions said the defendant was guilty.

The researchers described the results as "suboptimal" and "likely to increase the rate at which guilty defendants are exonerated," but they added that the study touches on an important philosophical stance taken by English juror William Blackstone in the 18th century: "Better that ten guilty persons escape than that one innocent suffer."

Ultimately, the experiment aims to prove that the task of reforming judicial instructions on eyewitness testimony remains incomplete. The researchers hope the study will motivate research into improved methods of preparing jurors to assess factors surrounding evidence used in court.



MICHAEL TANENBAUM

Tanenbaum@phillyvoice.com

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