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## EVIDENCE

### Educating jurors on eyewitness reliability may backfire, study suggests

By Lorelei Laird

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Jurors in New Jersey may be getting the wrong lesson about eyewitness testimony, [NPR](#) reported Tuesday.

The state has new jury instructions for considering eyewitness testimony, [NPR](#) says—and it may be making them skeptical of all eyewitness testimony, even if it's fairly reliable.

The new instructions come from a 2011 New Jersey Supreme Court decision, *State v. Henderson*, which changed how the state evaluates and admits eyewitness evidence. That includes the new jury instructions, which [NPR](#) says are “basically a tutorial on what scientific research has learned about eyewitness testimony.”

According to a 2012 [blog post from the Innocence Project](#), the instructions ask jurors

to consider many new factors that could affect eyewitness reliability. These include whether the officer in charge of a police lineup knows who the suspect is; whether the witness was under a lot of stress; and how much time elapsed between the event and the identification. The multi-page [instructions](#) (PDF) include sentences like “human memory is not foolproof” and “eyewitness identification evidence must be scrutinized carefully.”

Psychologists David Yokum, Athan Papailiou and Christopher Robertson decided to test the effect of the new instructions, using videos of a mock trial for robbery and murder. They made two versions that differed only according to the quality of the eyewitness testimony. Subjects watched the videos, then either heard the New Jersey instructions or didn't.

The results: Those who heard New Jersey's instructions were much less likely to convict, regardless of which video they saw. The researchers suggest that the instructions made jurors suspicious of all eyewitness testimony.

Criminal defense attorney Alan Zegas, who was involved in one of the cases that led to the change in jury instructions, told [NPR](#) the instructions could make a difference in cases that hinge on eyewitness testimony. But because most cases involve other kinds of evidence as well, it might not determine most outcomes.

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