

Forensic Psychology: Eyewitnesses' meta-cognitive thinking and its effect on judicial decision-making processes

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Abstract

The objective of this article is to provide a glimpse into the world of forensic psychology, through analysis of court testimonies from the witnesses' point of view and the presiding judges' point of view, and an attempt to understand these testimonies. The article presents empiric psychological findings and analyzes them, with an emphasis on cognitive psychology. The article clarifies that eyewitness testimony is an important tool in the legal world, but the assumption that this tool reflects reality accurately and reliably should be treated very carefully. We present the difficulties and weaknesses of both the testifying witnesses' human memory and the judges' ability to recognize when the witness is telling the truth, when the testimony reflects subjective but not objective truth, and when the witness is lying.

On the background of these issues, we first examine the essence of human memory, the psychological effect of eyewitness testimony on trusting the witness' statement, and the two key factors that affect eyewitness testimonies: the duration of exposure to the event and meta-cognitive mistakes. Then, the article reviews findings that express memory differences between men and women, cultural expectations and their structuring, and examines the courts' immunity to the effect of these biases. We also examine the degree to which questions presented by the lawyer can outline and structure the witness' memory. The article also refers to two unique population groups: minors and people who suffer from genetic syndromes. In addition, we examine the significance of the witnesses' confidence in their testimony, and clarify the legal significance of subconscious transference.

The discussion and conclusions chapter proposes a revision to the rules of evidence, by which it would be impossible to convict someone based merely on eyewitness testimony. If it is single evidence, we suggest that conviction should require evidentiary reinforcement, at least supportive, and if the witness belongs to one of the two unique groups (minors or people who suffer from genetic syndromes), we suggest adding strongly supportive evidence. The conclusion that runs throughout the article is that human memory is prone to manipulations, changes, structuring, and biases. In the legal context, these factors could cause innocent people to be locked up behind bars for many years, and we must act to minimize this danger.

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