

Who's the real bad guy? Eyewitness testimony can make it hard to tell.

Emotions easily affect memories and accurate identification of suspects.

By Chuck Lindell

AMERICAN-STATESMAN STAFF

Sunday, April 15, 2007

The murder case against Jimmy Lee Page relied on the memory of a traumatized 7-year-old boy who had been stabbed 20 times and left for dead.

Still in his hospital bed, Joe Howard reacted dramatically to a picture of Page in a photo lineup nine days after the stabbings, only to identify two other men as his attacker in the following months.

Was Joe right the first time, as police insist? Or did the later identifications prove his memory to be unreliable, as jurors concluded in acquitting Page in 1988?

Nacogdoches police placed tremendous significance on Joe's tearful, fear-filled response to Page's photo.

But to researchers into memory and cognition, Joe's later identification of the other men was more telling because it revealed his memory to be unreliable.

Joe's emotional reaction was not "an indication of being right, it's an indication of believing you are right," said Gary Wells, an Iowa State University psychology professor who has studied the reliability of eyewitness identification for 30 years.

A growing body of research has improved the scientific understanding of witness testimony, shattering long-held beliefs about the reliability of first-hand observation.

The results have gained credibility as DNA testing has exonerated 198 inmates nationally, 152 of whom were wrongly convicted based on witness testimony, according to the Innocence Project, which pursues DNA exonerations.

Today, it's known that fear plays a key role in impeding the ability to form and process memories, Wells said.

"The natural tendency for all humans is fight or flight from fear. All of one's mental resources get devoted to survival, and forming a detailed memory of things around you does not help you survive," Wells said.

Though conventional wisdom would suggest being stabbed would produce an indelible memory of the attacker's face, "in fact, it's the other way around," Wells said. "Fear provides very, very unfavorable conditions for forming any kind of reliable memory."

Youth is another factor: "Kids do better if they are trying to ID another kid than an adult," Wells said.

Studies show that young children do relatively well in recognizing a culprit in a photo or physical lineup.

But in lineups that contain no culprit, they also are much more likely than adults to choose a suspect anyway.

On the other hand, people are better recognizing members of their own race, and both Joe and Page are black.

The research does not mean Joe was wrong when he selected Page as his attacker, said Roy Malpass, a psychology professor with the Eyewitness Identification Research Laboratory at the University of Texas-EI Paso.

But, Malpass said, the identification procedures used at the time make it impossible to gauge the accuracy of Joe's testimony.

Police presented Joe with photos of 14 men, including Page, who lived near the crime scene. All were potential suspects, which experts say they find troubling.

"They can't go wrong, can they? If the witness picks anybody, then they've got their man," Malpass said.

By contrast, a scientifically valid lineup would have packaged each suspect with photos of five "fillers," men who could not have committed the crime, Malpass and Wells said.

"The beauty of that is, if you've got a witness who really doesn't have a reasonable memory — if they are just going to pick somebody — five out of six times, they'll pick the filler, and you know immediately that they don't know what they're talking about," Wells said.

clindell@statesman.com, 912-2569