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Look Into His Eyes

Retired Hanover professor helps courts find the truth

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Pointing at the defendant in a courtroom, the prosecution's eyewitness blurts out: "I swear that's the person who did it!"

Although the eyewitness believes his recollection is accurate, his memory may indeed be flawed, says social cognitive psychologist and author Roger Terry who recently published a new book, "Eyewitness Identification."

Terry's book, a compilation of years of researching thousands of criminal cases, was written to aid lawyers with a model script of expert eyewitness testimony adaptable to a range of scenarios.

A memory which once provided incriminating testimony is now subject to its own scrutiny. Increasingly, criminal defense teams are calling Terry and other expert eyewitness witnesses to testify to the factors that can compromise the accuracy of eyewitness identifications. Unfortunately, courtroom personnel are too often poorly trained to deal with the experts -- thus, the motivation for the book.

"Whether it is a victim or a bystander, the recollection withers as time passes," said Terry, acknowledging that his expertise as a psychologist is a perfect crossover to write the book. "Time is a big factor in the accuracy of a memory. Another is social judgments people make about other people -- whether they look like a criminal when, in fact, they may not be one.

The more recent memory theory contrasts Sigmund Freud's in the nineteenth century who believed that once memory was encoded in the brain, it could be accurately retrieved. Research by Terry and his contemporaries differs, maintaining that memories are not automatic but are fleeting and change over time.

"It is theory now generally accepted in the professional community," he said. "However, the courts and society are lagging behind and still accept an eyewitness' testimony alone as incriminating evidence. It's not that someone is lying, but the only one who really knows the truth is the defendant."

Over the past 30 years, Terry, a retired Hanover College psychology professor and authority on face recognition, has subscribed to the same revolutionary theory as psychologist and expert on human memory Elizabeth Loftus. She has led research on the misinformation effect and the nature of false memories. The research has played an important role in recent years in sex abuse cases, especially in cases where an experience by an adult "suddenly awakens traumatic memories of abuse as a child."

Terry, who only takes on a couple of cases each year as an expert eyewitness witness because of the amount of time spent on research, started researching the subject of memory on animals in college which later evolved into research on humans and a focus on face recognition.

"There are actually three sets of factors that contribute to eyewitness identification," Terry said.



People can confirm memories of things they read in a book by going back to the book and looking to the printed page. But their recollections as eye witnesses to a crime or other unrecorded events cannot usually be confirmed in a tangible way. Retired Hanover College professor Roger Terry has recently published a book explaining how lawyers should approach eye witnesses to validate their memories.

"Encoding, or the process in which the experience is perceived is one. The second factor is the retention; and the third is the retrieval of the memory, perhaps in an interview or by recognition in a lineup.

It is important for the lawyers to know what questions to ask about a memory -- what was done, who was involved and the parts they played in their accounts to police, a judge or jury. Physical conditions surrounding an event like the lighting, alcohol use and particular physical features or distinctive characteristics of the perpetrator like a beard, glasses or a mask or disguise can also play a role in the accuracy of a memory."

Terry emphasizes the value of other evidence that might not carry the same potential flawed testimony, especially in cases where there is a death sentence.

"There was a case where an eyewitness to a crime was shown a lineup with all whites and one black when the victim had described a black person," he said. "Whether or not the eyewitness recognized the face became irrelevant, choosing the only color that fit."

He points out that a big piece of the evidence is "He's the guy!"

Terry, who earned his academic degrees from Yale University, Auburn University and the University of Missouri, has provided expert eyewitness identification in many criminal trials.

In his book, he presents an exhaustive coverage of issues, and shows a review of hundreds of research studies collected from thousands of reports.

He has written "Eyewitness Identification" to give lawyers in real-courtroom dramas the preparation they need through a model script of expert eyewitness testimony adaptable to a range of scenarios.

"Although I am a psychologist, I will always first be a teacher," he said. "That is my purpose for the book -- to give lawyers the information they may not have to validate eyewitness identification testimony."

Jefferson County Circuit Court Judge Ted Todd, who discussed the memory theory with Terry 30 years ago and has looked to him in the past for expert testimony, commented on Terry's book:

"Roger has written a book that should be in the library of attorneys on both sides of criminal cases as well as the library of both trial and appellate judges presiding over such matters," Todd said.

"Using a format of the direct examination of an expert witness on the subject of eyewitness identification, he lays out questions to ask followed by a discussion of scholarly references that explain the answers. This makes the book one that can easily be used as a 'go-to-book' on every issue, or read in its entirety in a logical sequence.

"Some of the references are to articles written by the author, adding a measure of authenticity to the author's overall grasp of the subject," Todd said. "The book will also appeal to the general reader interested in the fascinating subject of memory and recall. It will be a part of my library for both judicial and general interest reasons."

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To purchase Terry's book, contact Xlibris at (888)795-4274 or on the web at www.Xlibris.com. The 316-page paperback is \$19.99 or hardback copy \$29.99 is also available at Amazon.com and at retail book stores.