ABSTRACT: Psychologists have long been concerned about the use of eyewitness testimony in the courtroom. Recently, it has been suggested that experimental psychologists should testify as expert witnesses in cases involving eyewitnesses to inform the jury about problems with eyewitness testimony. In this article we examine the arguments offered in favor of the use of expert testimony about eyewitnesses. We suggest that contrary to strong claims made recently by several psychologists and lawyers, it is by no means clear that expert psychological testimony about eyewitnesses would improve jurors' ability to evaluate eyewitness testimony. In fact, it is even possible that this sort of expert testimony would have detrimental effects. We suggest that experimental psychologists should carefully consider the issues raised in this article when deciding whether to offer expert testimony.

Imagine the following scene. An experimental psychologist is sitting in his or her office, lost in thought, when the phone rings. An attorney is calling.

Psychologist: Hello.

Attorney: Hello, Dr. Smith, this is Joe Doaks; I'm an attorney. I've been retained by a man who has been charged with armed robbery. The prosecution's case does not look very impressive to me except for one point—at a lineup my client was positively identified by an eyewitness to the crime.

What I'm calling about is to ask if you'd be willing to serve as an expert witness for the defense to explain to the jury the problems with eyewitness testimony.

Psychologist: You seem to be quite knowledgeable about eyewitness testimony yourself; what do you need me for?

Attorney: Basically, I can only ask questions. I'm not permitted to lecture the jury about psychology. But you can. You would not be the first psychologist to give expert testimony about problems with eyewitnesses. Many of your colleagues have testified as experts in cases involving eyewitnesses, and many more probably will in the near future. Judges sometimes don't allow this sort of expert psychological testimony, but in many cases they do admit it.

Psychologist: This sounds very interesting, but I don't want to rush into it. Let me think about it for a few days and do some reading.

Attorney: Very good. I'll get back to you in a few days. Goodbye.

Psychologist: Goodbye.

What should the psychologist do? What considerations should inform the decision to testify or not to testify? In the following pages, we discuss several basic questions that we think the psychologist should consider in the process of reaching his or her decision. It should be made clear at the outset that this article has been written by and (largely) for experimental psychologists. The content is psychological. We have made no effort to consider legal aspects of the problem, such as laws affecting the admissibility of psychological testimony in various jurisdictions (such discussions are provided by Ellison & Buckout, 1981; Gass, 1979; Loftus & Monahan, 1980; Woocher, 1977).

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A basic premise of our discussion is that intervention in the workings of the justice system should not be undertaken lightly. In particular, we take the position that expert psychological testimony about perception and memory in eyewitnesses should be offered only if there is clear evidence that such testimony has salutary effects. As we discuss in greater detail below, the use of expert psychological testimony in the absence of clear evidence of its utility would carry substantial risks both for the system of justice and for the psychological profession. Consequently, in the following evaluation of arguments that have been offered in favor of the use of expert psychological testimony, we ask not, Does this claim seem plausible? or Might this assumption be valid? but rather, What does the available evidence say about this argument?

The final decision about whether to testify is up to the individual psychologist. However, we suggest that contrary to the claims of several psychologists and lawyers (e.g., Addison, 1978; Ellison & Buckhout, 1981; Loftus, 1979; Loftus & Monahan, 1980; Lower, 1978; Starkman, 1979; Woocher, 1977), the available evidence fails to demonstrate the general utility of expert psychological testimony and in fact does not even rule out the possibility that such testimony may have detrimental effects.

**Rationales for the Use of Expert Psychological Testimony**

Two major rationales have been offered for the use of expert psychological testimony. First, the discrimination rationale asserts that jurors cannot discriminate adequately between accurate and inaccurate eyewitnesses (Lindsay, Wells, & Rumpel, 1981; Loftus, 1979; Loftus & Monahan, 1980; Wells, Lindsay, & Ferguson, 1979; Wells, Lindsay, & Tousignant, 1980). Consequently, the argument continues, jurors often disbelieve accurate witnesses and believe inaccurate witnesses. According to this view, expert psychological testimony could improve juror discrimination by informing jurors about factors known to influence witness accuracy and by cautioning against reliance on irrelevant factors.

The second rationale for the use of expert psychological testimony asserts that jurors are in general too willing to believe eyewitness testimony (Ellison & Buckhout, 1981; Lindsay et al., 1981; Loftus, 1974, 1979; Loftus & Monahan, 1980; Wall, 1965; Wells et al., 1980). According to this overbelief rationale, an expert witness could increase juror skepticism to a more appropriate level by discussing research demonstrating the unreliability of eyewitness testimony and by pointing out aspects of the case at hand (e.g., stress experienced by the witness) that might have led to witness inaccuracy. Loftus (1979) provides a strong statement of the overbelief claim: "Since jurors rarely regard eyewitness testimony with any skepticism, the expert testimony will increase the likelihood of this happening. This is its value" (p. 197).

Both the discrimination and the overbelief rationales make two fundamental claims: (a) Jurors need help in evaluating eyewitness testimony and (b) expert psychological testimony can provide this help. In the following sections we examine these claims.

**Do Jurors Need Help?**

**Overbelief.** Consider first the claim that jurors are too willing to believe eyewitnesses. Several arguments have been advanced in support of this claim. One argument that is frequently implicit in discussions of juror evaluation of eyewitness testimony (e.g., Ellison & Buckhout, 1981; Loftus, 1979; Woocher, 1977) is that the conclusion of juror overbelief follows from research showing that eyewitness testimony is often unreliable. An important but unstated assumption here is that jurors are not aware of the unreliability of eyewitnesses and consequently are too willing to believe eyewitness testimony. However, there is virtually no empirical evidence that people are unaware of the problems with eyewitness testimony. Further, there appears to be no reason to assume a priori that people are not cognizant of these problems. Cases of mistaken identification are often widely publicized and wrongful conviction on the basis of mistaken or perjured eyewitness testimony is a rather common theme in fiction. In addition, there is no consensus within the legal community that jurors are unaware of the unreliability of eyewitnesses and consequently give too much credence to eyewitness testimony. For example, in ruling against the admission of expert psychological testimony, the trial judge in the case of *People v. Guzman*2 stated: "It is something that everyone knows about, the problems of identification. The jurors here were well questioned regarding their experience . . . with having mistakenly identified people. Everyone knows these things happen." Thus, in the absence of evidence that jurors are unaware of the unreliability of eyewitness testimony, the conclusion that jurors are too willing to believe eyewitnesses cannot legitimately be drawn from research demonstrating that eyewitnesses are often inaccurate.

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1 We will henceforth use the phrase "expert psychological testimony" as a convenient shorthand for the more cumbersome "expert psychological testimony about perception and memory in eyewitnesses." It should be understood that we are referring only to expert testimony about eyewitnesses and not to other sorts of expert psychological testimony.

A second argument asserts that juror overbelief is demonstrated by the existence of documented cases in which defendants were wrongfully convicted on the basis of eyewitness testimony later shown to be mistaken. The implicit assumption here seems to be that if jurors were appropriately skeptical, wrongful convictions based upon erroneous identifications would never occur. But this is not a tenable position. It must be borne in mind that the degree of skepticism jurors exhibit toward eyewitnesses will affect not only the likelihood that an innocent defendant will be convicted but also the likelihood that a guilty defendant will be convicted. Thus, an increase in juror skepticism toward eyewitness testimony would decrease convictions of the guilty as well as convictions of the innocent, and a degree of skepticism that eliminated wrongful conviction on the basis of eyewitness testimony would also eliminate any role of eyewitnesses in the conviction of the guilty. In signal-detection terms, it is unfortunate but true that except in situations involving very high signal-to-noise ratios, one cannot eliminate false alarms without also eliminating hits merely by shifting one's decision criterion. Consequently, some wrongful convictions must be accepted as the unavoidable price for convicting guilty defendants. As Rembar (1980) puts it, “A system of justice that has no miscarriages of justice is not a workable system of justice” (p. 95).

To demonstrate juror overbelief in eyewitnesses, one must show not merely that erroneous convictions based on eyewitness testimony sometimes occur but that the ratio of conviction of the innocent to conviction of the guilty is unacceptably high. However, documented cases of wrongful conviction resulting from mistaken eyewitness testimony obviously represent only a small fraction of 1% of the cases in which defendants were convicted at least in part on the basis of eyewitness testimony. Thus, although we cannot say what should be considered an acceptable ratio of conviction of the innocent to conviction of the guilty, it would seem to be difficult to argue that documented cases of wrongful conviction establish that the ratio is unacceptably high. Consequently, the known cases of erroneous convictions fail to demonstrate that jurors are too willing to believe eyewitness testimony (Pachella, 1981).

Our point here is not that the frequency of wrongful conviction is acceptably low but merely that known cases of erroneous conviction fail to establish that the frequency is unacceptably high. Thus, our argument is not affected by the possibility that documented cases of wrongful conviction represent only the tip of the iceberg. In the absence of a means of estimating the number of undocumented cases of wrongful conviction, these undocumented cases cannot be used as evidence that erroneous conviction on the basis of eyewitness testimony occurs too often.

A third argument offered in favor of the overbelief claim is based on an experiment by Loftus (1974, 1979; see also Cavoukian, Note 1). In this experiment, university students read a very brief summary of evidence presented at a robbery–murder trial and voted individually for conviction or acquittal. In the no-eyewitness condition, the trial description mentioned only physical evidence against the defendant (e.g., money found in the defendant’s room). Only 18% of the subjects in this condition voted for conviction. In the eyewitness condition, the trial description mentioned the physical evidence and also indicated that an eyewitness had identified the defendant as the robber. In this condition, 72% of the students voted to convict. Finally, in the discredited-eyewitness condition, subjects were told about the physical evidence and the eyewitness identification. However, they were also informed that the defense attorney “claimed the witness had not been wearing his glasses the day of the robbery, and since he had vision poorer than 20/400, he could not possibly have seen the face of the robber from where he stood” (Loftus, 1979, p. 117). In this condition, 68% of the students voted to convict. The high percentage of subjects voting for conviction in the eyewitness condition and the lack of difference between the eyewitness and discredited-eyewitness conditions, it is argued, indicate that people give too much credence to eyewitness testimony.

Several recent studies, however, cast doubt on this conclusion. First, an experiment was recently conducted in our laboratory in which subjects read detailed summaries (4,000–6,500 words) of a fictitious bank robbery trial and voted individually for conviction or acquittal (McKenna, Mellott, & Webb, Note 2). The bank teller who was robbed chose the defendant from a lineup two days after the robbery and positively identified him during the trial. In addition, the prosecution demonstrated that an amount of money closely matching that stolen from the bank was found in the defendant’s possession.

The defense consisted of the testimony of the defendant’s mother. She stated that the money found in the defendant’s possession was a loan from her so that the defendant could buy a car and that the defendant had followed his normal routine the day of the robbery, coming home from his night job in the morning, going to sleep, and getting up at 5 p.m. On cross-examination, the defendant’s mother admitted that she could not be sure that the defendant was at home at the time of the robbery, as his door was closed.

Part of our original purpose in conducting this study was to examine the impact of expert psycho-
logical testimony. Hence, the experiment included a no-expert-testimony condition, in which only the testimony described above was presented, and an expert-testimony condition, in which the trial summary included testimony of an experimental psychologist concerning factors (e.g., stress) that may lead to inaccurate eyewitness identifications.

In spite of the teller’s positive identification of the defendant, guilty verdicts were obtained from only 2 of the 24 subjects (8%) in the no-expert-testimony condition and 3 of the 48 subjects (6%) in the condition involving expert testimony. Examination of the subjects’ explanations for their verdicts revealed that many, including those in the no-expert-testimony condition, felt that although the defendant may well have been guilty, it was possible that the teller had made an erroneous identification. Consequently, they were not certain enough of the defendant’s guilt to vote for conviction. In subsequent experiments, we have replicated these results using adults from the Baltimore community as subjects and with a trial scenario in which the defense case in a robbery–murder trial consisted solely of the defendant’s testimony that he was at home alone at the time of the crime.

Similar findings have been obtained by Hosch, Beck, and McIntyre (1980). In their study, subjects serving in eight six-person juries viewed a trial in which an eyewitness positively identified the defendant. Four of the juries heard expert psychological testimony; the other four juries did not. After deliberating, all eight juries voted unanimously for acquittal. These results are somewhat difficult to reconcile with Loftus’s claim that “jurors rarely regard eyewitness testimony with any skepticism.”

Other studies have examined the claim that jurors will believe even a discredited eyewitness. In an experiment in which subjects made individual guilty/not guilty decisions after reading a detailed summary of a robbery–murder trial, we found that the subjects disregarded a prosecution eyewitness who was convincingly discredited (McCloskey, Egeth, Webb, Washburn, & McKenna, Note 3). Hatvany and Strack (1980) and Weinberg and Baron (1982) have obtained similar results.

Thus, studies using methodologies similar to that of the Loftus (1974, 1979) experiment have shown that (a) a high percentage of subjects do not routinely vote guilty when an eyewitness has positively identified the defendant and (b) when a witness is convincingly discredited, his or her testimony is disregarded. Although definite conclusions about the behavior of jurors in actual trials cannot readily be drawn from these studies, the results clearly suggest that the Loftus study should not be taken as strong support for the juror overbelief argument.

A final argument in favor of the claim that jurors overbelieve eyewitnesses stems from a recent series of experiments by Wells, Lindsay, and their colleagues (Lindsay et al., 1981; Wells et al., 1980). In these experiments, subjects serving as witnesses viewed a staged crime and then attempted to identify the criminal from an array of photographs. Witnesses who made accurate identifications as well as witnesses who identified the wrong person were then videotaped as they answered questions about the viewing conditions, the appearance of the criminal, and so forth. Additional subjects serving as jurors watched videotapes of witnesses and judged for each whether the witness had made an accurate identification. Under some witnessing conditions, the percentage of jurors believing a witness was higher than the percentage of witnesses who made accurate identifications. For example, in one situation 50% of the witnesses made an accurate identification. However, jurors viewing videotapes believed witnesses from that condition 66% of the time. Lindsay et al. (1981) and Wells et al. (1980) argue on the basis of these results that jurors are too willing to believe eyewitness testimony.

Although the Wells and Lindsay argument seems plausible, it is not entirely valid. The logic of the argument appears to be as follows: The finding that juror belief rates exceed witness accuracy rates implies that jurors overestimate the probability that an eyewitness is accurate, and this in turn implies that jurors are too willing to believe eyewitnesses.

There are some difficulties with the first step in this argument, because the finding that the percentage of jurors believing a witness was higher than the percentage of witnesses who were accurate does not necessarily imply that the jurors overestimated the probability that the witness was accurate. However, even if we ignore this problem and assume that in some situations jurors overestimate the probability that an eyewitness is accurate, the conclusion that jurors are too willing to believe eyewitnesses

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3 One question of interest at this point is, What are the reasons for the differences in results between the Loftus experiment and later studies? Results we have obtained (McCloskey et al., Note 3) suggest that Loftus obtained high percentages of guilty verdicts whereas subjects in our study and in that of Hosch et al. (1980) rarely voted guilty because subjects in the latter two studies, but not in the Loftus experiment, received judges’ instructions on the beyond a reasonable doubt criterion for voting guilty. However, the reasons for the discrepancies between the Loftus study and other experiments in regard to the effects of discrediting manipulations are not clear (see Weinberg & Baron, 1983).

4 A simple example serves to make this point. Consider a situation in which 90% of witnesses make an accurate identification. If jurors accurately estimate the probability that a witness was accurate at .9, all jurors will probably make believe decisions, and the juror belief rate (100%) will exceed the witness accuracy rate (90%).
does not follow. As we discussed earlier, to say that jurors are too willing to believe eyewitnesses means that jurors are too willing to *convict* on the basis of eyewitness testimony (or, more technically, that the weight given by jurors to eyewitness testimony results in an unacceptably high ratio of number of innocent defendants convicted to number of guilty defendants convicted).

Although we would expect the likelihood of conviction to increase monotonically with jurors' degree of belief in a prosecution eyewitness, data suggesting that jurors overestimate the probability that eyewitnesses are accurate do not necessarily imply that jurors are overly willing to convict on the basis of eyewitness testimony. The reasonable doubt criterion, among other things, intervenes between judging the likelihood that a witness is accurate and voting to convict or to acquit. In our research, we have frequently seen subjects, who read trial summaries and arrived at verdicts, vote not guilty in spite of a stated belief that an eyewitness who identified the defendant was probably correct. These subjects generally say that although they believe the defendant is probably guilty, they are not certain beyond a reasonable doubt. Thus, if the criterion for convict decisions is sufficiently stringent, juror overestimates of witness accuracy need not result in an overwillingness to convict on the basis of eyewitness testimony. More generally, our point here is that in the absence of data concerning jurors' criteria for convict/acquit decisions, we cannot determine from juror estimates of witness accuracy (or, more specifically, from the believe/disbelieve judgments collected by Wells et al. and Lindsay et al.) whether jurors are insufficiency likely, just likely enough, or too likely to convict on the basis of eyewitness testimony.

One other point should be made regarding the Wells et al. and Lindsay et al. results. In considering whether jurors overbelieve eyewitnesses, we have focused on the question of whether juror evaluation of eyewitness testimony results in an acceptable ratio of number of innocent defendants convicted to number of guilty defendants convicted. However, one may also ask whether jurors give eyewitness testimony appropriate weight relative to other sorts of evidence. It is certainly conceivable that studies using the Wells–Lindsay paradigm, with other kinds of evidence substituted for eyewitness testimony, might show that jurors “overbelieve” (in the Wells–Lindsay sense) those other kinds of evidence as well. (Although, as we mentioned earlier, this sort of overbelief would not necessarily imply an overwillingness to convict.) Thus, the Wells et al. and Lindsay et al. findings demonstrate neither that jurors are overly willing to convict on the basis of eyewitness testimony nor that eyewitness testimony is overvalued relative to other sorts of evidence.

Finally, in discussing juror overbelief we should mention two recent studies of actual trial outcomes that cast doubt on the claim that jurors rarely regard eyewitness testimony with any skepticism. Chen (1981) tabulated the outcomes of all criminal cases in the Los Angeles County system from July 1977 through December 1978. Other factors partialed out, the ratio of convictions in cases with at least one eyewitness identification of the defendant to convictions in cases without identification was 1.1 to 1. Similarly, Myers (1979) examined the 201 criminal cases tried by jury in Marion County, Indiana, between January 1974 and June 1976. She found that convictions were no more likely in cases involving identification of the defendant by a victim or other eyewitness(es) than in cases where there was no eyewitness identification. These sorts of results are, of course, not definitive. For example, the prosecution may have brought otherwise weaker cases to trial when an eyewitness was available than when there was no eyewitness. Nevertheless, the Chen and Myers findings cast doubt on the claim that jurors rarely regard eyewitness testimony with any skepticism. A dramatic illustration of this point is provided by the case of a man who was arrested 13 times and tried 5 times in an 18-month period for a series of crimes that were later confessed to by another man. What is noteworthy about this case is that he was acquitted in all five trials, even though...
one or more eyewitnesses testified against him in each (Shoemaker, 1980).

In summary, the available evidence fails to show that jurors are overly willing to believe eyewitness testimony. This does not mean that jurors exhibit an appropriate degree of skepticism toward eyewitness testimony. Our point is simply that contrary to the claims of many psychologists and lawyers (e.g., Ellison & Buckhout, 1981; Lindsay et al., 1981; Loftus, 1974, 1979; Loftus & Monahan, 1980; Wells et al., 1980; Woocher, 1977), juror overbelief in eyewitnesses has not been demonstrated. Consequently, it is by no means clear that there is a need for expert psychological testimony to make jurors more skeptical.

**Discrimination.** The discrimination rationale asserts that regardless of whether jurors are generally skeptical or generally credulous of eyewitness testimony, they cannot distinguish well between accurate and inaccurate eyewitnesses. According to this view, expert psychological testimony could improve juror discrimination.

The claim that jurors cannot readily discriminate accurate from inaccurate eyewitnesses appears to be well founded. Cases of wrongful conviction based on mistaken eyewitness testimony demonstrate that juror discrimination is not perfect, and the recent studies of Wells, Lindsay, and their colleagues suggest that jurors' ability to distinguish accurate and inaccurate eyewitnesses may indeed be quite poor. As we mentioned above, these researchers conducted a series of studies in which subjects serving as jurors judged whether witnesses to staged crimes made an accurate or inaccurate identification of the perpetrator. They found that within a given crime situation, jurors were as likely to believe inaccurate witnesses as they were to believe accurate witnesses (Lindsay et al., 1981; Wells et al., 1979, 1980).

Although these results are clearly very disturbing, the situation is perhaps not as bleak as it first appears. In the Lindsay et al. (1981) study, the witnesses viewed a staged crime under either good, moderate, or poor viewing conditions (in the poor condition, for example, the criminal was visible for only 12 seconds and wore a hat that completely covered his hair, whereas in the good condition the criminal's head was uncovered and he was visible for 20 seconds). Accurate identification of the criminal was made by 33%, 50%, and 74% of the witnesses in the poor, moderate, and good viewing conditions, respectively. Jurors in the study (see also Wells et al., 1980) were just as likely to believe inaccurate as accurate witnesses within a given viewing condition. (For example, inaccurate witnesses from the good viewing condition were believed as often as accurate witnesses from the same condition.) However, jurors were less likely to believe witnesses, the less favorable the viewing conditions. Specifically, juror belief rates were 77%, 66%, and 62%, for witnesses in the good, moderate, and poor viewing conditions, respectively. These results suggest that jurors weighing eyewitness testimony are able to take into account at least some factors that influence witness accuracy. Nevertheless, it seems clear that jurors' ability to discriminate accurate from inaccurate witnesses is far from perfect.

**Can Psychologists Provide the Needed Help?**

Our conclusions above are that (a) it is by no means clear that jurors need expert testimony to make them appropriately skeptical but that (b) there is room for improvement in the ability of jurors to discriminate accurate from inaccurate witnesses. In this section, we consider the possible effects of expert psychological testimony on jurors.

Three recent studies suggest that expert psychological testimony may serve to make jurors more skeptical of eyewitness testimony (Hosch et al., 1980; Loftus, 1980; Wells et al., 1980). For example, Wells et al. found that expert psychological testimony reduced the likelihood that a subject would believe that an eyewitness to a staged crime made an accurate identification, and Loftus reported that subjects who read brief trial summaries were less likely to vote guilty when the summaries included expert psychological testimony than when no such testimony was included. It is not a straightforward matter to extrapolate the results of these studies to the verdicts of real juries. However, even if we accept the findings at face value, we are left with the following question: Given the absence of clear evidence that jurors overbelieve eyewitnesses, is it really appropriate for psychologists to offer expert testimony that serves to reduce jurors' overall level of belief in eyewitnesses?

If we turn now to the possible effects of expert psychological testimony on jurors' ability to discriminate accurate from inaccurate eyewitnesses, we find only one relevant study (Wells et al., 1980). This study employed the basic Wells–Lindsay paradigm described above, in which subjects serving as jurors judged whether or not witnesses to a staged crime accurately identified the perpetrator. In the Wells et al. (1980) study, half of the "jurors" received expert psychological advice before judging the credibility of witnesses, and the remaining "jurors" received no expert advice. The expert testimony emphasized two general points. The first was that eyewitness identification in criminal cases is quite different from recognizing one's friends and associates, in that research using staged crimes has shown that, depending on conditions, 15% to 85% of eyewitnesses may choose the wrong person from a lineup. The
second major point was that there is considerable
evidence to show that witness confidence may have
little or no relationship to witness accuracy. The
psychologist also mentioned that jurors should pay
attention to situational factors that might affect wit-
ness accuracy.

“Jurors” in the expert-advice and no-expert-
advise conditions viewed videotapes of witnesses
and made believe/disbelieve judgments. The vid-
etapes were taken from the Lindsay et al. (1981)
study in which witnesses observed a staged crime
under poor, moderate, and good viewing condi-
tions (resulting in 33%, 50%, and 74% accurate identi-
fications, respectively).

As mentioned above, the expert psychological
testimony reduced the jurors’ overall willingness to
believe eyewitnesses. However, the expert testimony
had absolutely no effect on jurors’ ability to dis-
criminate accurate from inaccurate witnesses.

In summary, the available evidence suggests
that there may be a rather ironic mismatch between
the type of help needed by jurors and the possible
effects of expert psychological testimony. Specifi-
cally, jurors clearly need help in discriminating ac-
curate from inaccurate eyewitnesses but may not
need to be made more skeptical overall. Expert tes-

timony, on the other hand, may serve to increase
juror skepticism but not to improve juror discrim-
ination.

Of course, firm conclusions at this point would
be premature. This is especially true with regard to
the effects of expert psychological testimony on juror
discrimination. As we have seen, only one study rel-


vant to this issue has been conducted (Wells et al.,
1980). Furthermore, the expert testimony used in
that study may not have been optimal for improving
juror discrimination. Aside from the negative advice
to ignore witness confidence, jurors were told only
to examine “situational factors.” It is certainly con-
ceivable that expert testimony that provided a de-
tailed discussion of specific factors that affect witness
accuracy would result in better juror discrimination.
Nevertheless, we must conclude that at present there
is no evidence that expert psychological advice im-
proves juror evaluation of eyewitness testimony.

Expert Psychological Testimony and the
Factors Affecting Witness Accuracy

At this point, an advocate of the use of expert psy-
cological testimony might argue as follows: “Al-
though the Wells et al. (1980) study failed to show
an improvement in juror discrimination of accurate
and inaccurate witnesses as a result of expert advice,
this failure probably reflects, as mentioned above,
the vagueness of the expert’s remarks. There is every
reason to believe that more specific expert testimony
would improve juror discrimination. Empirical re-


search has identified many variables that affect wit-
ness accuracy in ways that are not obvious to the
lay juror. Expert testimony that discusses these fac-
tors in detail would, and in practice does, increase
jurors’ ability to distinguish accurate from inaccu-
rate eyewitnesses.”

The validity of this argument can be assessed
only through additional research. We suggest, how-
ever, that there is less reason than might be supposed
for optimism about the effects of expert psychologi-
testimony on juror discrimination. The claim
that detailed expert testimony would improve juror
discrimination rests on the assumption that there
are many variables for which both of the following
are true: (a) The relationship between the variable
e and eyewitness accuracy is known to psychologists
as the result of empirical research, and (b) jurors do
not understand how the variable is related to witness
accuracy. However, it turns out to be surprisingly
difficult to find variables of this sort. In other words,
for many (if not most) variables that have been listed
as suitable topics for expert testimony, either the
effects of the variable on witness accuracy are not
well documented, or these effects are probably ob-
vious to the juror. A few examples will illustrate this
point.

For a variable such as exposure duration, the
well-documented effects are probably obvious to ju-


ors. It is difficult to imagine that jurors are not
aware of the fact that longer exposures lead to in-
creased witness accuracy.

For retention interval, the situation is slightly
more complex. Since the time of Ebbinghaus (1885/
1913), the verbal-learning literature has quite con-
sistently shown that retention declines as a function
of the delay between the learning experience and the
subsequent test. For face recognition, there are fewer
studies, and the available data are not entirely con-
sistent. Many studies show run-of-the-mill retention
losses. For example, Shepherd and Ellis (1973) mea-
sured recognition performance a few minutes, 6
days, or 35 days after exposure. Performance de-
clined from 87% correct to 71% over that period.
However, others have failed to find performance de-
clining over time. For example, Goldstein and
Chance (1971) found accuracy to be unaffected by
delay over the range 0–48 hours. Similarly, Laugh-

cery, Fessler, Lenorovitz, and Yoblick (1974) found
no difference in recognition performance among the
six retention intervals they studied (4 minutes, 30
minutes, 1 hour, 4 hours, 1 day, and 1 week). Finally,
it is worth noting that Carr, Deffenbacher, and Leu
(Note 4; see also Deffenbacher, Carr, & Leu, 1981)
actually found a reminiscence effect—recognition of
faces was slightly better 2 weeks after original
viewing than 2 minutes after. This pattern of results
did not obtain for the other classes of stimuli that
were tested (concrete nouns, pictures of common objects, and pictures of landscapes).

There are two ways in which this situation can be assessed. First, one could conclude that at present the effects of retention interval on face recognition are not sufficiently well understood to be discussed in expert testimony. Alternatively, one could argue that the available evidence on memory in general overwhelmingly supports the generalization that retention declines with delay between acquisition and test. According to this view, the face recognition studies showing no effect of retention interval, or reminiscence, would be said to fail to reflect the true state of affairs. If this latter position is taken, however, it follows that the true effects of retention interval on face recognition probably match jurors’ beliefs about these effects and consequently that expert testimony about retention interval may be unnecessary.

Consider now the cross-racial identification effect. Several studies have shown that cross-racial identification (e.g., white witness–black defendant) is more difficult than within-racial identification (e.g., black witness–black defendant; Malpass & Kravitz, 1969). This result is often discussed (e.g., Loftus, 1979) as if it were not obvious to the lay juror. However, the claim that jurors are unaware of the difficulty of cross-racial identification is questionable at best. For example, the cliche “they all look alike to me” used in reference to members of another race suggests that there may be a general awareness of the difficulty of cross-racial identification. In fact, the Devlin (1976) report describes studies of cross-racial identification as “support for what is widely accepted on the basis of common intuition” (p. 73).

Loftus (1979; see also Deffenbacher & Loftus, 1982; Yarmey & Jones, 1983), in a study of beliefs about factors affecting witness accuracy, found that only 55% of the subjects correctly answered a four-alternative multiple-choice question concerning cross-racial identification. However, this result probably should not be taken too seriously as evidence that people do not understand the difficulty of cross-racial identification, because Loftus’s question was extremely complex and difficult to understand:

Two women are walking to school one morning, one of them an Asian and the other white. Suddenly, two men, one black and one white, jump into their path and attempt to grab their purses. Later, the women are shown photographs of known purse snatchers in the area. Which statement best describes your view of the women’s ability to identify the purse snatchers?

(a) Both the Asian and the white woman will find the white man harder to identify than the black man.
(b) The white woman will find the black man more difficult to identify than the white man.
(c) The Asian woman will have an easier time than the white woman making an accurate identification of both men.
(d) The white woman will find the black man easier to identify than the white man. (p. 172)

In a similar study, Deffenbacher and Loftus (1982) asked subjects their opinion of the cliche “they all look alike to me.” The answer Deffenbacher and Loftus deemed correct, “it is true,” was chosen by only about 20% of the subjects. However, this result should not be taken to indicate that people are unaware of the difficulty of cross-racial identification because “they all look alike to me” is obviously a gross overstatement. Thus, many people may judge this statement to be technically false even though they feel that there is a kernel of truth in it.

At present, then, it is by no means clear that jurors are unaware of the difficulty of cross-racial identification.

Finally, for several variables that purportedly have nonobvious effects on accuracy and consequently are cited as appropriate topics for expert testimony, there is in fact little empirical evidence about how (or even if) these variables affect eyewitness performance. Consider, for example, weapon focus, which is the alleged tendency of a person threatened with a weapon to focus on the weapon and consequently pay little attention to the appearance of his or her assailant. Although weapon focus is frequently cited as an important factor in assessing eyewitness accuracy and has been discussed in expert testimony (see Loftus, 1979, pp. 223–224), there is virtually no evidence that the phenomenon actually occurs. The single unpublished experiment cited as a demonstration of weapon focus (Johnson & Scott, Note 5) is “suggestive . . . but it is far from conclusive” (Loftus, 1979, p. 36). As another example, it is widely claimed (e.g., Loftus, 1979; Woocher, 1977) that stress or arousal experienced by a witness during an event has detrimental effects on the accuracy of the witness’s testimony, and this claim is frequently a prominent feature of expert testimony. Unfortunately, there is little basis for this claim. Deffenbacher (1982), in a review of research concerning the effects of arousal on the reliability of eyewitness testimony, lists 19 relevant studies. He reports that 10 of these studies found decreases in eyewitness accuracy with increased arousal, whereas the remaining 9 found that increases in arousal improved eyewitness performance or had no effect.

Deffenbacher claims that these seemingly disparate results conform to the Yerkes–Dodson law, which states that the function relating stress or arousal to performance is an inverted U, such that performance is poorer at very high or very low levels of arousal than at intermediate levels. This claim is unwarranted, however, because Deffenbacher fits the
data to the Yerkes-Dodson function simply by assuming that studies showing that performance increased with arousal involved levels of arousal below the optimal arousal level, whereas studies showing impairment of performance with increasing arousal involved arousal levels above the optimal level. Deffenbacher also claims that actual crime situations usually involve arousal levels higher than the optimal level and so concludes that eyewitness performance in these situations is adversely affected. Again, however, the claim that stress in crime situations is above the optimal level is merely an assumption. Deffenbacher's claims about arousal and eyewitness performance may well be correct, but at present there is little empirical basis for these claims.

There may be variables that have well-documented effects that are not obvious to jurors. Biases in identification procedures provide one possible example. However, it is by no means the case that there are a large number of variables with well-documented nonobvious effects. Thus, the argument that expert psychological testimony could almost certainly improve juror discrimination does not appear to be well founded. Testimony that asserts as fact effects that have not been demonstrated (e.g., effects of stress or weapon focus) is clearly inappropriate (and in any event there is no reason to believe that the introduction of undocumented assertions would improve juror performance); testimony limited to documented phenomena, however, may tell jurors little that they don't already know.  

It might be argued that expert testimony about obvious variables such as exposure duration, lighting, retention interval, and so forth could be beneficial even if jurors understand the effects of these variables, because jurors might not spontaneously think about such variables when evaluating a witness's testimony. However, this argument ignores the fact that the defense attorney in a case involving an eyewitness identification will (in opening and closing statements and in the examination of witnesses) certainly call to the jury's attention any factors (e.g., poor lighting) suggesting that the identification may be inaccurate. Similarly, the prosecutor will point out factors (e.g., long exposure duration) suggesting that the identification is accurate. Thus, expert psychological testimony does not appear to be needed to call the jury's attention to obvious variables.

The Risks of Premature Intervention

We have argued that the available evidence fails to demonstrate that expert psychological testimony will routinely improve jurors' ability to evaluate eyewitness testimony. However, neither do the data rule out the possibility that expert testimony could have beneficial effects.

Clearly, what is needed is additional research concerning eyewitness testimony, juror evaluation of eyewitness testimony, and the effects on jurors of various sorts of expert psychological testimony. If this research establishes that jurors are too willing to convict on the basis of eyewitness testimony or that jurors give disproportionate weight to eyewitnesses relative to other sorts of evidence, then expert psychological testimony should be considered as one of several possible methods of improving juror performance. Similarly, if research demonstrates that expert testimony can improve jurors' ability to discriminate accurate from inaccurate witnesses without producing undesirable side effects, such testimony clearly should be employed in the courtroom.

In the meantime, however, what should a psychologist do when asked to testify? When we have discussed our misgivings about expert psychological testimony with our colleagues, the reaction has often been something like this: "Well, maybe you're right when you say that it hasn't been demonstrated that expert psychological testimony helps the jury. However, it might help, and at least it can't hurt, so why not use it?"

We strongly disagree with this argument for several reasons. First, contrary to the claim that "at least it can't hurt," the possibility that psychological testimony has detrimental effects cannot be ruled out. For example, if jurors are already appropriately skeptical about eyewitness testimony, expert psychological testimony might make jurors too skeptical. In addition, in discussing phenomena that are incompletely understood, an expert might give

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5 It is worth pointing out here that even if there were a large number of variables with well-documented nonobvious effects, expert psychological testimony concerning these variables would not necessarily improve juror evaluation of eyewitness testimony. The information provided by the psychologist would be probabilistic in nature (Loftus & Monahan, 1980; Pachella, 1981) and would not provide the jury with a basis for deciding that an eyewitness was definitely accurate or definitely inaccurate. Furthermore, the expert testimony generally would not give the jury any basis for deciding how large an effect a particular factor would have in the situation at hand. Thus, the expert psychological testimony might be of little benefit to the jurors and could even have detrimental effects if, for example, jurors grossly overestimated the importance of one or more of the factors discussed by the psychologist.

6 It is beyond the scope of this article to discuss what form future research should take. However, we note that due to a lack of external validity, many of the studies we have discussed may be limited in the extent to which their results can be generalized to actual situations. We have chosen not to dwell on problems of external validity in our discussion of previous research, but the external validity issue should be given careful consideration in future work (see, e.g., Komechik & Ebbesen, 1979).

7 It is worth mentioning here that the expert testimony in the Wells et al. (1980) study apparently caused subject-jurors in at least some conditions to underestimate the probability that an eyewitness had made an accurate identification. In a condition yielding 50% witness accuracy, subject-jurors who heard expert
groundless information to the jury (see, e.g., discussion of stress and weapon focus above). Thus, it is even conceivable that expert testimony could decrease the ability of jurors to discriminate accurate from inaccurate witnesses.

A second difficulty with the argument that expert psychological testimony should be used because it might help is that a trial judge would not admit expert testimony on this basis. For expert testimony to be admitted, stronger arguments in its favor would have to be offered. Thus, a psychologist who decided to testify on the basis of the "it might help—at least it can't hurt" argument would in some sense have to misrepresent his or her testimony to the court.

Finally, the use of expert psychological testimony in the absence of clear evidence that it benefits the jury carries risks to the psychological profession as a whole. Because the effects of expert testimony are currently unclear, it is inevitable that psychologists will disagree with one another about its use. This disagreement is likely to lead ultimately to a "battle of experts" in at least some cases where attempts are made to introduce expert psychological testimony. The battle of experts could take several different forms. For example, when the defense attempted to introduce expert psychological testimony, the prosecution could use its own expert to argue that the defense psychologist should not be allowed to testify in front of the jury. The prosecution expert could state that many of the assertions that would be made by the defense expert (e.g., about effects of stress or weapon focus) are not firmly established by psychological research and that the expert testimony could conceivably have detrimental effects on the jurors' evaluation of eyewitness testimony. If the judge nevertheless decided to admit the testimony of the defense expert, the prosecution psychologist could also testify in front of the jury, arguing that support was lacking for many of the defense psychologist's claims. The prosecution expert might also attempt to counter the defense expert's arguments about the unreliability of eyewitness testimony by pointing out factors in the case at hand that would facilitate eyewitness performance (e.g., long exposure duration, good lighting).

A battle of experts could also take more subtle forms. For example, a psychologist could simply serve as an advisor to the prosecutor, helping him or her to prepare an effective cross-examination of the defense expert. In any event, regardless of the form taken by a battle of experts, courtroom confrontation between defense and prosecution psychologists would almost certainly work to the detriment of the psychological profession, creating (or sustaining) the impression of psychology as a subjective, unscientific discipline and of the psychologist as a "gun for hire." The current situation with regard to psychiatric and psychological expert testimony concerning insanity, dangerousness, and the like should serve as food for thought to experimental psychologists.

It may have occurred to the reader that courtroom battles involving members of other professions (e.g., chemists, engineers, physicians) occur quite frequently but that these professions do not seem to have suffered serious loss of credibility. Perhaps, then, there is little reason to be concerned about the consequences of battles involving experimental psychologists.

Unfortunately, the comparison to professions like medicine, chemistry, and the like may be misleading. We strongly suspect that courtroom battles in which opposing experts positively assert contradictory propositions do decrease public respect for a profession. Nevertheless, professions such as medicine and physics may escape serious loss of credibility because of clear records of past accomplishments and frequent reports of new achievements. Unfortunately, psychology probably does not have the sort of strong public reputation needed to endure battles of experts without significant damage. This may be especially true of the reputation of psychology among members of the legal profession. Consider, for example, the following excerpt from an appeals court decision\(^8\) in which it was ruled that a trial judge had not erred in excluding expert psychological testimony about eyewitnesses:

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How far should the trial judge go in allowing so-called scientific testimony, such as that of polygraph operators, hypnotists, "truth drug" administrants, as well as purveyors of general psychological theories, to substitute for the common sense of the jury? Surely the answer is "not in all cases, or even in the ordinary or usual case."
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Apart from the possible effects of a battle of experts on the reputation of the field, there is also a question of what the effects of such a battle might be on the outcome of a trial. A battle of experts could conceivably improve juror decision making. On the other hand, both experts might end up being ignored. As with many of the other issues discussed in this article, this one probably should be decided empirically rather than by guesswork.

To illustrate our points about the possible consequences of a battle of experts, we conclude with

\(8\) People v. Guzman, supra, p. 72, emphasis added.
an example of one of the milder forms that such a battle might take. Specifically, we present a hypothetical cross-examination of a defense psychologist by a prosecutor who has been thoroughly briefed by his or her own expert. We ask the reader to consider whether this sort of occurrence would benefit either the psychological profession or the justice system.

Prosecutor: Are you suggesting that it is impossible for an eyewitness to accurately identify a criminal?

Psychologist: No, but accurate identification is quite difficult.

Prosecutor: In the studies conducted by yourself and your colleagues, do any of the participants do very well at identifying people?

Psychologist: Yes, some subjects do quite well, but others do very poorly.

Prosecutor: Dr. Smith, are you aware of studies showing that subjects made accurate identifications over 90% of the time?

Psychologist: Yes, there are such studies. Usually, however, the performance of witnesses is worse than that.

Prosecutor: Isn’t it true that the accuracy rates in identification studies depend heavily on the conditions of the experiment, such as how many faces each subject sees, how long each face is seen, and so forth?

Psychologist: Yes, that is obviously true of any experiment.

Prosecutor: Isn’t it also the case that conditions in most experiments are deliberately arranged so that accuracy is low?

Psychologist: Well, yes, in a way that’s true. If none of the subjects make any errors we don’t learn anything from an experiment. For example, if we wanted to see whether poor lighting makes identification harder, we would do an experiment where subjects see people under good and poor lighting conditions. We would then look to see whether accuracy was lower with poor lighting. If the task were too easy, most or all of the subjects might make accurate identifications and we wouldn’t learn anything about the effects of lighting. To find out whether lighting is important, we have to have a situation in which subjects make some errors. So to ensure that errors occur, we might let the subjects view people for only a short period of time, from some distance away, and so forth.

Prosecutor: Isn’t it true, Dr. Smith, that even in tests giving low overall accuracy, some witnesses identify the right person?

Psychologist: Yes.

Prosecutor: Is there any way you can tell beforehand which witnesses will make an accurate identification and which witnesses will be inaccurate?

Psychologist: No, at the present time we have no good way of telling in a particular situation which witnesses will be accurate and which ones will be inaccurate. All we can say is that certain conditions yield lower accuracy than others.

Prosecutor: You have testified, Dr. Smith, that in your psychological tests, the accuracy of witnesses varies widely according to the conditions of the test. You have also stated that in conducting tests, psychologists deliberately create situations that produce low accuracy. Finally, you have said that there is no way you can tell whether a particular individual will make an accurate or inaccurate identification in a particular situation. How, then, can your tests be applied to the present case, in which a bank teller looked at a single bank robber for a much longer time than in most research studies? How can the results of experiments be used to suggest that the witness is inaccurate in his identification?

Psychologist: I cannot comment on the accuracy of any particular witness. All I can do is explain what sorts of conditions lead to a good or poor eyewitness performance.

Prosecutor: I am very interested in what you have called “weapon focus,” Dr. Smith. Can you tell us about some of the experiments that demonstrate this effect?

Psychologist: Well, there is one experiment that gives some support for the weapon focus idea, but it isn’t really conclusive. Actually . . .

Prosecutor: I am very surprised, Dr. Smith, that you are willing to testify about a theory for which there is no experimental evidence.

Psychologist: Well, the idea of weapon focus was developed not so much from experiments but because people threatened with weapons often report having seen the weapon very clearly and often can describe it in great detail.

Prosecutor: That’s very interesting. Are you saying that people who are able to give a clear description of, say, a gun, and who claim to have seen it clearly, would be said to have focused on the gun?

Psychologist: Yes.

Prosecutor: Mr. Robinson, the eyewitness in this case, has testified that he saw the robber’s face clearly, and he gave a clear description of the robber. Would you say, then, Dr. Smith, that Mr. Robinson must have focused on the robber’s face?

Psychologist: Well . . .

Prosecutor: I would like to ask you about your testimony concerning cross-racial identifications. Are you saying that a white person could never identify a black person?

Psychologist: No. I merely said that it is more difficult for a white person to identify a black person than a white person.
Prosecutor: Are you suggesting that most cross-racial identifications are wrong?
Psychologist: No, I did not say that.
Prosecutor: Well, then, are cross-racial identifications often incorrect?
Psychologist: I cannot say exactly how often cross-racial identifications are erroneous, only that cross-racial identifications are less likely to be correct than within-racial identifications.
Prosecutor: How much less likely?
Psychologist: It is difficult for me to answer that question without having the studies in front of me. However, I can say that several studies have found that cross-racial identifications were significantly less likely to be correct than within-racial identifications.
Prosecutor: Does that mean that there might be a difference of about 80% in the accuracy of within- versus cross-racial identifications?
Psychologist: No, the difference in accuracy is not that large.
Prosecutor: Would 50% be a more reasonable figure?
Psychologist: No, the difference is somewhat smaller than that.
Prosecutor: Well, Dr. Smith, can you estimate for the jury just how much less likely a cross-racial identification is to be correct than a within-racial identification?
Psychologist: I can't be sure of the exact figures, but I believe that most studies show about a 10% difference in accuracy between within- and cross-racial identifications.
Prosecutor: That's very interesting. I'm surprised that such a small difference could be considered significant. Would every subject show this effect? In other words, would everyone be very slightly less likely to correctly identify a person of another race?
Psychologist: Not necessarily. In most studies, the results are not exactly the same for every subject. The 10% difference between within- and cross-racial identifications would represent the average performance of a group of subjects.
Prosecutor: So it is probably the case that some people in these studies did just as well at cross-racial identification as within-racial identification?
Psychologist: That's possible.
Prosecutor: So you can't say for any individual that you haven't tested whether that individual is less likely to be correct in a cross-racial or a within-racial identification?
Psychologist: All I can say is that, in general, cross-racial identifications are more difficult than within-racial identifications.
Prosecutor: I would like to ask you a few questions about your testimony on the effects of stress on performance. You testified, I believe, that people under a moderate amount of stress are better at remembering and perceiving than people under very high or very low stress.
Psychologist: That's right. As I said before, the relationship between stress and performance is expressed by what is called the Yerkes-Dodson law, which is a well-known principle of psychology.
Prosecutor: How much stress, Dr. Smith, is moderate stress? That is, what level of stress leads to the best performance, and how much stress must a person be under before his or her performance deteriorates?
Psychologist: That depends on the type of task involved. Some tasks can be performed well under a fair amount of stress, and in other tasks the same amount of stress would impair performance. In general, the more complex the task, the lower the level of stress that gives the best performance.
Prosecutor: I assume that since you have testified about the effects of stress on eyewitness identification, psychologists must have studied this issue extensively.
Psychologist: Yes, there have been a number of studies on stress and identification.
Prosecutor: Do all of these studies show that people do poorly when they are under stress?
Psychologist: Well, many of the studies show a detrimental effect of stress.
Prosecutor: Are there also studies in which people under stress did as well as or even better than people who were not under stress?
Psychologist: Yes, there are such studies, but they generally used rather low levels of stress. The studies showing improved performance under stress probably involved stress levels below the point of optimum stress, whereas studies finding impaired performance probably involved stress above the optimum level. So all of the studies fit the Yerkes-Dodson law I described earlier.
Prosecutor: I see. So I guess you are saying that there is some method psychologists use to measure the stress people experience in an experiment, and these measurements show that stress levels were lower in studies where stress helped than in studies where it hurt.
Psychologist: Well, no, not exactly. No single measure of stress was used in all of the studies. But if we look at the procedures that were used, it appears that studies showing improved performance under stress involved lower stress levels than studies showing impairment.
Prosecutor: Are you aware of a study by Clifford and Hollin [Note 6] in which people who were stressed by loud noise did more poorly at identifying faces than people who were not exposed to noise?
Psychologist: Yes, I know of that study.
Prosecutor: So according to what you have
said, this study probably involved levels of stress above the optimal level. Is that right?

Psychologist: Yes, that is correct.

Prosecutor: Are you aware of a study by Majcher [1974] in which people exposed to loud noise did better at recognizing faces than people who were not stressed?

Psychologist: Yes.

Prosecutor: So you would say that this study involved stress below the optimal level. Is that right?

Psychologist: Well, yes, I guess so.

Prosecutor: I must admit I am confused, Dr. Smith. Isn’t it true that the stress-inducing noise was actually louder in the Majcher study, which you said involved below-optimal stress levels, than in the Clifford and Hollin study, which you said involved above-optimal stress?

Psychologist: Well, yes, I believe that’s right.

Prosecutor: Do you know some other details of these studies that lead you to believe that induced stress was higher in the Clifford and Hollin study even though the noise was louder in the Majcher experiment, or are you simply making whatever assumptions are needed to make these studies fit your Yerkes-Dodson law?

Psychologist: I do not know enough of the details of these particular studies to comment on them further.

Prosecutor: Are you aware of a study by Johnson and Scott [Note 5] in which people sitting in a waiting room heard a violent altercation in a nearby room and then saw a person carrying a bloody letter opener come out of that room into the waiting room?

Psychologist: Yes.

Prosecutor: How would you compare the stress experienced by someone facing an apparently violent person who has a bloody letter opener with the stress induced by loud noise?

Psychologist: Well, it’s hard to say exactly, but the stress would probably be greater in the situation involving the person with the letter opener.

Prosecutor: So you would say that the stress in this situation was probably above the optimal level?

Psychologist: Again, it’s hard to say for sure, but I would say that is likely.

Prosecutor: Isn’t it true that men who experienced this stressful situation in the Johnson and Scott experiment did better on several memory tests, including an identification test, than men who were exposed to a nonstressful situation?

Psychologist: Well . . . yes, I believe that is correct. However, I believe that for female subjects in that study, the stressful situation led to worse performance on some tests, including the identification test.

Prosecutor: Wouldn’t you agree, Dr. Smith, that the picture emerging from psychological studies of the effects of stress on eyewitness identification is somewhat less than crystal clear?

Psychologist: In any set of studies there are bound to be a few inconsistencies. In general, however, the research shows that high stress impairs eyewitness identification.

Prosecutor: Let me ask you one other thing about stress, Dr. Smith. Would the effects of stress in a task be the same for everyone? In other words, would the level of stress at which performance begins to be impaired be the same for all individuals?

Psychologist: Not necessarily. It is quite possible that a level of stress that impaired performance for one person might have little effect on another.

Prosecutor: According to your testimony, the level of stress at which performance begins to be impaired is different for different situations and for different people. Would you agree, then, that for a particular person in a particular situation, it would be impossible to tell how much stress would be necessary to impair perception and memory without testing that person directly in that situation?

Psychologist: Yes, but as I have said, in general high stress impairs performance.

Prosecutor: How much time have you spent testing Mr. Robinson, the eyewitness in this case?

Psychologist: I have not tested him at all. I have never even met him.

Prosecutor: Then how can you testify about the effects of stress on his ability to identify the person who robbed him?

Psychologist: I cannot make any judgment about whether Mr. Robinson as an individual is an accurate or inaccurate witness. I can only describe the principles concerning eyewitness identifications that have been discovered through psychological research.

Prosecutor: How can these vague principles be of help to the jury, Dr. Smith, when you, with all your knowledge and experience, cannot use them to tell whether a witness was accurate or not?

Psychologist: It is not my function to decide that.9

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9 It is worth reiterating here that the points we have made in this article are meant to apply only to expert testimony. We do not intend to imply that experimental psychologists have no useful role to play in the judicial system. On the contrary, there are probably many useful functions experimental psychologists could serve (e.g., assisting a defense attorney in determining whether there are possible sources of bias in a lineup identification of a defendant). In fact, there may even be special circumstances in which expert psychological testimony would be justified. In particular, expert testimony might be warranted in situations where the psychologist could assert positively that a witness could not have seen what he or she claimed to have seen. Suppose, for example, that a crucial element in a case was whether or not an eyewitness could have noted the color of a sweater worn by a defendant on a clear, moonless night (in the
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