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Stephanie E. Peterson

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The Perceived Honesty and Accuracy of Older Eyewitnesses

Stephanie E. Petersen

Louisiana State University

Abstract

This study investigated juror perceptions of older eyewitnesses credibility, which involves the two components of “expertise” and “trustworthiness”. Based on previous research, it was thought that older adults would be viewed as more honest, therefore more credible, than middle-aged adults in situations based on the trustworthiness and honesty of the eyewitness. It was also thought that older adults would be viewed as less cognitively capable than middle-aged adults in situations based on the expertise of the eyewitness. Two versions of a transcript (“expertise” and “honesty”) were used, with the eyewitness varied by age (middle-aged and older). Significant results were not found with this study; variations in age did not affect credibility ratings of the eyewitness or the verdict for either transcript version. Along with previous research, this study suggests that verdicts may not be affected by witness age.

The Perceived Honesty and Accuracy of Older Eyewitnesses

There are numerous studies of children as eyewitnesses, but not as many looking at the testimony of older witnesses. As noted by Ross, Dunning, Toglia and Ceci (1990), children are increasingly becoming more active in the legal system. So is the older population as their numbers rise due to increased life expectancies (Yarmey 1996). Because of the increasing older population, and thus an older population more active in the legal system, it is important to find out how potential jurors would view an older eyewitness. Are they seen as accurate and credible? Or do jurors give an older eyewitness's testimony less weight than a younger adult's? The aim of this study was to explore juror perceptions of older eyewitnesses compared to younger adults.

An important issue for appraising eyewitness testimony is the witness's credibility. Leippe (1994) defines the two components of credibility as expertise (dealing with perceptions of knowledge, accuracy, and ability) and trustworthiness (dealing with perceptions of honesty). Eyewitness testimony is a persuasive communication. Major influences on judgment are the message content and delivery style, a person's beliefs and stereotypes about eyewitness testimony. People often tend to overbelieve memory reports, although beliefs about memory do seem to take age into account. Beliefs about overall intellectual competence seem to translate to beliefs about memory abilities.

Eyewitness identification and testimony are extremely important in the conviction of defendants. Many times, the conditions of a crime are less than optimal, making how a juror perceives a witness very important. Yarmey (1996) notes that many factors are involved in eyewitness testimony. Accuracy depends on the amount of observation time and the kind of attention given. Older adults require more time than younger adults for

integration of information in memory. An older adult's memory performance is also not as good when attention is divided (Yarmey 1996).

Various studies have focused on the effects that age has on eyewitness testimony. Memon and Vartoukian (1996) studied the effects of repeated questioning on children's (5-7 years) testimony. Repetition for closed questions (yes/no), but not for open-ended questions, tended to lead to less accuracy. Repeated questioning during open-ended questions was thought to be helpful in gaining more information. No effect was detected for a warning given about repetition. Poole and White (1993) also studied the effects of repeated questions, but on children (6, 8, and 10 years) and adults (22-68 years). Participants were questioned about an event after a two year interval. Across both the first and second of Poole and White's studies, the influence of question repetition was consistent. As questioning continued, participants of all ages averaged slightly less accurate information, and repeated questions increased the number who speculated inappropriately. The major problems with repetition within sessions were that participants seemed to have increased confidence in their responses and they increasingly speculated on questions. Poole and White's findings show that repetition was not associated with decreased accuracy, which differs from Memon and Vartoukian who found that repetition tended to lead to decreased accuracy (for closed questions). The six and eight year olds in the study by Poole and White were significantly less accurate for open-ended questions than adults, but they reported comparable amounts of inaccurate information. This discrepancy may be accounted for by the interval of time between the event and interviews. Memon and Vartoukian questioned their participants after the event, while Poole and White extended the length of time between the event and the

interview to two years. Also, the effects of repetition seem to depend on one's interpretation of the task.

Ross, Dunning, Tolia and Ceci (1990) examined perceptions of children as witnesses. Participants rated the witness based on a variety of characteristics and viewed children as the most credible out of three groups (child, adult and elderly). Upon being presented with a written transcript, participants reacted most positively to the child witness, finding them more confident, truthful, and consistent. However, Experiment 3 uncovered participant stereotypes regarding child witnesses, believing them to be less likely to offer accurate testimony and more susceptible to suggestion.

List (1986) examined the reliability of eyewitness testimony based on age (10, 20, and 72 years old), probability of occurrence (low and high), and type of memory test (recall and recognition). Experiment 1 studied participant expectations about the probability of occurrence for different types of information from a crime. Participants of all ages had expectations about occurrences of objects and actions, but not for characteristics of a person. In session 1 of Experiment 2, participants viewed a videotape of a staged shoplifting. Recall and recognition tests were given in session 2 to assess completeness and accuracy of memory. Regarding the completeness of memory, 10 year olds and older adults recalled less information than younger adults. On the recognition test, older adults did not remember as much, and were less accurate in recognizing information pertaining to the younger actress from the video, but it was equivalent across age groups for the oldest actress. For the accuracy of memory, recall tests found that older adult recall was less accurate than the other two groups, which did not differ.

However, recognition tests found that children were less accurate than the two adult groups, who did not differ.

Cohen and Faulkner (1989) studied the ability to remember the source of a memory, which reflects accuracy, in three groups of subjects: young (24-39 years), young-old (60-68 years), and old-old (72-83 years). In Experiment 1, participants were to determine whether a memory had an internal or external source by identifying an action as performed, watched, imagined, or new. The old-old group made more confusions than the other two groups, and the young-old group made more confusions than the young group. Generally, older adults recall less information, which is also less accurate than that of other ages, and they are more confused about the source of memories.

Various studies have also assessed the suggestibility of witnesses as a function of age. In Experiment 2, Cohen and Faulkner (1989) used an eyewitness testimony paradigm on a young (24-45 years) group and an old (62-82 years) group. After watching a film, participants were given one of two versions of the story, either correct or misleading. As part of the recognition test, two questions tested memory for critical incidents. In the misled condition, the old group made significantly more errors than the young on critical questions. In the older adult group, misled subjects made 29% more errors than those in the control condition. Moreover, older adults were often very confident in making these misleading information errors. In the young group, misled subjects made 15% more errors than in the control condition.

Loftus, Levidow, and Duensing (1992) studied the effect that age, among other factors, has on memory performance. Participants were recruited from a science museum and answered questions after watching a short video. Half of the participants

received misleading information to test for its influence on the participants. Performance increased as a function of age until the 26-35 year old group, then began to fall, with the 65 and over group being the least accurate. The two highest levels of misinformation effect occurred in the 5-10 year age group, with a 19% misinformation effect, and the 65 and over age group, which had a 32% misinformation effect. The youngest and the oldest subjects performed relatively poorly; they were less accurate and influenced more by misleading information, although the 51-65 year old group was more suggestible than the 65 and over group.

Coxon and Valentine (1997) compared the accuracy of children (7-9 years), young adults (16-18 years), and older adults (60-85 years) for non-misleading questions, and also looked at how susceptible they were to misleading information. After watching a video, participants answered 17 questions, 4 of which contained misleading information for the misled condition. Participants then answered 20 questions, with 4 of these pertaining to the misleading information. For the 13 noncritical questions of the first test, there was a significant effect of age on questions answered correctly. Children and older adults had significantly fewer correct responses than young adults, and older adults had significantly fewer correct responses than children. There was also a significant effect of age on the noncritical questions answered incorrectly. Children and older adults had significantly more incorrect responses than young adults, and older adults had fewer incorrect responses than children. Older adults answered significantly more questions with "don't know" responses than the other two groups. For critical questions in the second test, there was a significant main effect of age and condition. Participants in the misinformed condition gave fewer correct responses than those in the

control condition. Children gave significantly more misinformed responses than young adults and older adults, with no significant difference between the latter two groups.

In general, studies have shown older adult groups to be relatively suggestible and lower in accuracy when compared to other age groups. On recall tests, older adults offer less information and they do not remember as much for recognition tests. Older adults also have been shown to be more confused for the source of memories than younger age groups, and influenced more by misleading information, making more errors.

There has also been research focusing on the perceptions that people have of older eyewitnesses. Brimacombe, Quinton, Nance, and Garrioch (1997) studied participants' perceptions of eyewitness credibility as well as the effect of age on witness ability. The sample of participants contained 18-25 year olds, 30-44 year olds, and 65-85 year olds. Participants watched two videos, the second showing a theft. Participants were then questioned for their memory of the theft by a direct examiner asking straightforward questions, then by a cross-examiner asking leading questions. Older witnesses were significantly less accurate than younger adults under direct and cross examination. Experiment 2 assessed perceived credibility by having undergraduate students view videotapes from Experiment 1. The testimony was evaluated on four dimensions: description accuracy, perceived confidence, perceived competence, and perceived honesty. Older adults were perceived as less cognitively capable, but not any less honest.

Ross et al. (1990) examined juror perceptions of child, young adult and older adult witnesses. In Experiment 1, participants watched a video, then rated witnesses based on a variety of characteristics. Participants reacted more positively to child

testimony and viewed the child as most credible, the older adult as moderately credible and the younger adult as the least credible. Age had no effect on the verdict. In Experiment 2, participants were given a written transcript; they again reacted more positively to the older adult witness than the young adult, but most positively to the child. In Experiment 3, participant stereotypes revealed that older adult witnesses were viewed more negatively than young adults and their testimony was given less weight. Older adults were thought of as the most honest out of the four groups (ages 6, 8, 21, and 74). When assessing witnesses, mental capability and honesty are viewed separately; generally, older adult witnesses are viewed as less capable, but more honest than other age groups.

The present study used two versions of a court transcript to uncover perceptions of older eyewitnesses compared to younger adults. The “expertise” version emphasizes the facts and details that the eyewitness recalls, while the “honesty” version emphasizes whether or not the eyewitness is believed to be telling the truth. Since we expected the older eyewitness to be viewed as more honest, yet less cognitively capable than the younger adult, as studies by Brimacombe et al.(1997) and Ross et al.(1990) suggest, it was predicted that age and transcript version would have an effect on both credibility ratings and the verdict. Specifically, older adults were expected to be perceived as more credible in the honesty transcript version, leading to more guilty verdicts. For the expertise transcript version, older adults were expected to be perceived as less credible, leading to fewer guilty verdicts.

Method

Participants

One hundred and sixty-three participants (118 females and 45 males) were recruited from psychology classes at Louisiana State University, and received extra credit for participation.

Design

The experiment is a 2 x 2 (age of eyewitness x transcript version) factorial design, with either 40 or 41 participants per cell. Each participant was given one of the four versions of the trial transcript; either middle-aged honesty, older honesty, middle-aged expertise, or older expertise.

Materials

Trial. Four variations of a trial transcript were based on a transcript from the 4th Circuit Court of Appeals (State of Louisiana v Brian Chisolm). Both versions are based on a trial involving an eyewitness to the crime of attempted murder (see Appendices A and B). The “expertise” version emphasized the eyewitness’s capacity to observe what was going on and the ability to accurately recall details. The defense argues that the eyewitness has misidentified the defendant because there was not much light in the area, he was not wearing his glasses, and because there was excessive time between the event and the police lineup (see Appendix A). The “honesty” version emphasized the trustworthiness of the eyewitness. The defense argument in this version is based on a family dispute between the defendant and the eyewitness, who is the defendant’s uncle (see Appendix B). Other witnesses included in all versions of the transcript are a detective in charge of the case, and an acquaintance who offers an alibi for the defendant.

Each version of the transcript varied by the age of the eyewitness. The middle aged witness was described as 42 years old, and the older witness was described as 72 years old. Confederates were used to play the roles of the individuals involved in the trial in a tape recording.¹ Participants listened to this recording through headphones as they read the written transcript. The recordings of the honesty transcript with the older and middle-aged eyewitness were 14 and 13 minutes, respectively. The recordings of the expertise transcript were approximately 11 minutes.

Manipulation Check. Five different pilot studies were used to determine if the transcript versions were properly manipulated to emphasize either honesty or expertise. Participants read both the honesty and expertise versions of the transcript (age was not manipulated at this point), then answered questions for each version. The versions were counterbalanced so that half of the participants read the honesty version first, while the other half read the expertise version first. Participants were asked to rate, on a seven point scale, the importance of the eyewitness answering the questions honestly, telling the truth, reporting events in a clear manner, answering directly and without hesitation, reflecting accurate recall of the events, and being able to remember what happened. Although five different pilot studies were done to strengthen the manipulation, the following results are from the last pilot study. Answers were analyzed using paired samples t-tests. The only significant comparison between the honesty and expertise transcripts was for how important it was that the eyewitness tell the truth, ($t(38)=2.23$), $p<.05$. They were also asked two separate questions about which version was more concerned with the eyewitness's honesty, and which was more concerned with the eyewitness's ability to observe and accurately recall events. Participants were asked to

answer with a “1” or “2”, indicating the first or second version they read, or “neither”. An answer of “neither” was scored as “0”, the honesty version was scored as “1”, and the expertise version was scored as “-1”. The honesty question had a mean score of 0.51, indicating that participants generally associated the honesty version with greater concerns for the eyewitness’s honesty. The question about the eyewitness’s ability to observe had a mean score of -0.64, indicating that participants generally associated the expertise version with greater concerns for the eyewitness’s ability to observe and accurately recall events.

Procedure

Small groups of participants were seated at a table. Each group was randomly assigned to one of the four conditions. After reading and signing a consent form, participants read and heard instructions. These preliminary instructions introduced the case, explained the trial procedure, and referred to the expectations of the subjects as jurors. Participants were also told that the defendant was presumed to be innocent until his guilt could be proven. The participants then listened to, and read, their version of the case. Pictures of each individual in the transcript were displayed by a slide projector in the front of the room while that person was testifying. These pictures were the same for each condition, except for the eyewitness, which varied according to age. Once finished, participants were given more specific instructions about reasonable doubt, the evaluation of evidence and testimony, and the charge of attempted murder. They then answered questions to determine their perceptions of the eyewitness (see Appendix C). Each participant indicated a verdict of guilty or not guilty, then rated their confidence in that verdict. They then rated the eyewitness on the following characteristics: accuracy of

memory, consistency of testimony, truthfulness of response, trustworthiness, and overall credibility. Finally, participants were asked to rate the amount of influence the eyewitness's testimony had on their verdict decision. All ratings were made using a seven point scale ranging from "not at all" to "extremely" confident, important, or influential. Participants were then debriefed and received their extra credit.

Results

Participants rated the importance of five characteristics of the eyewitness. These characteristics are accuracy of memory, consistency of testimony, truthfulness of response, trustworthiness, and overall credibility. Within each transcript version, independent sample t-tests by age were used because the eyewitness was perceived differently, regardless of age, in the two versions as a result of the changes made between them. For example, the defendant in the expertise version received more not guilty verdicts (see Figure 1).

Honesty Version

The effect of age on verdict was analyzed with a chi square test ($\chi^2(1, n=81)=2.81, p=.09$). The defendant in the trial with the middle-aged eyewitness was found guilty marginally more often (56%) than in the trial with the older eyewitness (37.5%), which is in a direction opposite of what was expected. The older eyewitness was expected to be believed more, resulting in more guilty verdicts (see Figure 1).

An independent samples t-test was used to analyze the ratings given to the eyewitness characteristics. Significant results due to age were not found for the eyewitness characteristics in the honesty version, including the influence given to the eyewitness's testimony, t 's are all less than 1.26, with p 's > .21.

Expertise Version

The chi square test showed no effect of age on verdict, $\chi^2(1, n=82) = 0.05, p = .82$. The defendant in the trial with the older eyewitness was found guilty 36.6% of the time, while the defendant in the trial with the middle-aged eyewitness was found guilty 34% of the time (see Figure 1).

Significant results due to age were not found for the five eyewitness characteristics in the expertise version, t 's are all less than 0.73, with p 's $> .46$. The rating for the influence given to the older and middle-aged eyewitness yielded marginally significant results, $t(80) = 1.85, p = .06$. The mean score given to the influence of the older eyewitness's testimony was 4.88, with $SD = 1.31$. The mean score for the middle-aged eyewitness was 4.32, with $SD = 1.44$.

Discussion

We expected to find that compared to the middle-aged eyewitness, the older eyewitness's testimony would be given more weight in the honesty transcript, and less weight in the expertise version. The older eyewitness was predicted to be seen as more honest, but less cognitively capable, than the middle-aged eyewitness.

Leippe (1994) defined the two components of credibility as expertise and trustworthiness. Expertise deals with perceptions of knowledge, accuracy and ability, while trustworthiness deals with perceptions of honesty. Using first a video, then a written transcript, Ross, Dunning, Toglia and Ceci (1990) found that subjects viewed the testimony of an older adult as more credible than that of a younger adult, but less than a child's testimony. The older adult was seen as the most honest out of three age groups. However, ratings of the defendant's guilt or innocence did not vary as a function of

witness age in either Experiment 1 or 2. There was a nonsignificant pattern that participants were more likely to convict in the young adult and elderly conditions than with the child. Brimacombe, Quinton, Nance and Garrioch (1997) found older adults to be less accurate under questioning than younger adults. They were perceived as less cognitively capable, but not any less honest. The results suggest that it is what the witness says, and not the negative stereotypes held, that affect judgments of credibility.

The hypothesis of the present study was not supported. In the honesty version, the defendant was found guilty somewhat less often with the older eyewitness than with the middle-aged eyewitness, which is opposite of what was expected. There are various reasons for the hypothesis not to be supported by this study. First, the two transcript versions may not have been sufficiently manipulated. The honesty transcript version needs to focus on the trustworthiness of the eyewitness and the ability of the jury to believe the eyewitness's testimony. We tried to give a reason to question the eyewitness's trustworthiness in the honesty transcript. The eyewitness said that he was related to the defendant, they were involved in a family dispute and there were hard feelings remaining from that dispute. The expertise version should focus on the eyewitness's knowledge and ability to recall details accurately. In the expertise version, we tried to give a reason to question the eyewitness's ability to recall events and details surrounding the incident accurately. The lighting in the area was described as poor, there was a considerable length of time between the incident and a police lineup, and the eyewitness testified that he was not wearing his eyeglasses. The key to finding the desired results in this study is the transcript versions. It is important to have them adequately manipulated to highlight either the eyewitness's honesty and trustworthiness,

or his knowledge and accuracy. One solution may be to have two different scenarios for the two different transcript versions, so that the “expertise element” or the “honesty element” of the transcript could be focused on more easily, rather than using the same basic trial for both versions as was attempted here.

Second, the situation participants were in may not have been real enough. In listening to an audiotape simulation rather than participating in an actual trial, they may not have been fully able to put themselves in the role of jurors for this case. However, Bornstein (1999) found evidence that trial presentation medium does not seem to affect juror verdicts, so this should not have presented a problem for this study.

As was stated in the introduction, increased life expectancies have led to a rise in the population of older adults. For this reason it is important to look at the implications of older adults becoming increasingly more active in the legal system. Many people have certain perceptions of an older adult, and with their increased participation in the legal system, it is important to investigate how these perceptions will affect defendants and the outcome of their trials. Both previous research and the present study suggest that age may affect credibility judgments, but not verdicts, which is what really matters.

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Appendix A: Expertise Transcript

William Vernon, called as a witness on behalf of the state of Louisiana, after having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

Prosecutor: Please state your name for the record, sir.

Mr. Vernon: William Vernon, Jr.

Prosecutor: And how old are you?

Mr. Vernon: 42 years old.

Prosecutor: Now sir, are you familiar with Behrman gym on the corner of Jefferson and 56th Street?

Mr. Vernon: Yes, I go there three times a week for my physical therapy.

Prosecutor: And why did you begin physical therapy?

Mr. Vernon: Well, two years ago I hurt my knee in a car accident and I have been going since then.

Prosecutor: So around what times are you usually at the gym?

Mr. Vernon: I go for 8:00 in the evening, and leave around 9:30.

Prosecutor: Let's now go through the events taking place on August 16. You left the gym at 9:30, like usual, correct?

Mr. Vernon: Yes, my wife picks me up from outside the front entrance to the gym.

Prosecutor: Where exactly were you?

Mr. Vernon: I was sitting on a bench by the street.

Prosecutor: And so as you were waiting, what happened?

Mr. Vernon: Suddenly, I heard yelling behind me, where the bike racks are. I stood up by the tree that is next to the bench, and I looked around it to see what was going on.

Prosecutor: What was this yelling about?

Mr. Vernon: When I looked over, I saw a man on a bike and another man standing in front of him holding a gun. That man was yelling at the one on the bike to stop and empty his pockets, to give him what he had.

Prosecutor: And then what happened?

- Mr. Vernon: The man with the gun didn't seem satisfied with what the other man gave him. He kept getting angrier, then started shooting. After three shots he ran off.
- Prosecutor: What did you do then?
- Mr. Vernon: I ran up to check on the man that was shot, then ran inside to call for help.
- Prosecutor: Did you get a look at the man with the gun?
- Mr. Vernon: Yes.
- Prosecutor: Approximately how long were you able to get a good look at the perpetrator?
- Mr. Vernon: I guess about a minute or so.
- Prosecutor: Were you distracted during this time?
- Mr. Vernon: No, I was not.
- Prosecutor: Did you find that during this time you were able to pay close attention to the perpetrator's face?
- Mr. Vernon: Yes, I believe so.
- Prosecutor: Was the perpetrator wearing a disguise such as a hat or a mask?
- Mr. Vernon: He was wearing a baseball hat.
- Prosecutor: Is the man that you saw shoot someone outside of the Behrman gym here in this room now?
- Mr. Vernon: Yes, he's right there (indicating).
- Prosecutor: Please let the record reflect the identification of Brian Chisolm. Had you ever seen this man before?
- Mr. Vernon: No, I had never seen him before that night.
- Prosecutor: After the crime occurred, did you view a live lineup and make an identification?
- Mr. Vernon: Yes, I did.
- Prosecutor: And whom did you identify?
- Mr. Vernon: The defendant, Brian Chisolm.
- Prosecutor: How long did it take you to identify the defendant?
- Mr. Vernon: As soon as I saw him, I knew it was him.

Prosecutor: Thank you, Mr. Vernon. No further questions your Honor.

CROSS EXAMINATION

Defense: Did you view a lineup to identify the perpetrator?

Mr. Vernon: Yes, I did.

Defense: How long was it from the day of the shooting to the day you identified my client from the lineup?

Mr. Vernon: About two and a half weeks.

Defense: After more than two weeks you were still confident in your identification?

Mr. Vernon: Yes.

Defense: Could you please describe the shooter as you did to the police?

Mr. Vernon: I described the shooter as a white male, about 25 years old, average height and weight. He had dark hair, it looked like it was cut short, and he was wearing jeans and a black t-shirt.

Defense: How were the lineup member dressed...were any of them wearing what you just described?

Mr. Vernon: No, they all had on different clothing.

Prosecutor: About how far away from the crime scene were you?

Mr. Vernon: I was about 75 feet away.

Defense: Mr. Vernon, do you normally wear glasses like you are today?

Mr. Vernon: Yes.

Defense: And these glasses are necessary for you to see, correct?

Mr. Vernon: Yes.

Defense: Were you wearing them on the night in question when you walked out of the gym?

Mr. Vernon: No, I had taken them off while working out.

Defense: Wasn't it difficult to see in the dark without them?

Mr. Vernon: Well, I could still see, just not quite as well as I would have with the glasses.

- Defense: Being that close to a crime must be frightening. Were you scared while all of this was going on?
- Mr. Vernon: A little, but I didn't really think about it at the time, I guess because I was behind the tree and not too far from the entrance to the gym.
- Defense: How is the area outside of the gym lit? Are there many lights?
- Mr. Vernon: Not very many, but there are some along the street and around the entrance.
- Defense: That didn't help much to see something in the area of the bike racks, did it?
- Mr. Vernon: Well, no, it didn't help much, but I know what I saw.
- Defense: No further questions your Honor.

Detective Anthony Thompson, called as a witness on behalf of the state of Louisiana, after having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

- Prosecutor: Officer, would you introduce yourself to the ladies and gentlemen of the jury.
- Det. Thompson: Yes, ma'am. I am Detective Anthony Thompson, and I'm with the New Orleans Police Department, Fourth District.
- Prosecutor: How long have you been with the Fourth District?
- Det. Thompson: Since 1988.
- Prosecutor: Now, I'm going to bring you back to August 23, 1994. Did you conduct a follow-up investigation into an attempted murder?
- Det. Thompson: Yes, ma'am, I did.
- Prosecutor: Could you tell us what you did and how that came about?
- Det. Thompson: Yes, ma'am. I spoke to the eyewitness to the shooting, Mr. Vernon, and he gave me a description of the subject from the August 16 shooting.
- Prosecutor: And what did you do at that point?
- Det. Thompson: I then compiled a live lineup for Mr. Vernon to view.
- Prosecutor: At that point, did you force or threaten or suggest that he pick anyone out of the lineup?

Det. Thompson: No, ma'am, I did not.

Prosecutor: Was he able to pick anyone out of the lineup?

Det. Thompson: Yes, ma'am, he chose Mr. Chisolm.

Prosecutor: What did you do after Mr. Vernon identified Mr. Chisolm?

Det. Thompson: I then issued an arrest warrant for Mr. Chisolm.

Prosecutor: Detective, was the gun that was used in this case recovered?

Det. Thompson: After searching the defendant's home, a gun was recovered whose bullets matched those taken from the victim.

Prosecutor: Thank you, Detective. No further questions your Honor.

CROSS EXAMINATION

Defense: Officer, were you in charge of the investigation after the initial officers at the scene?

Det. Thompson: Yes, sir, I was. I received the case approximately seven days after the shooting had occurred.

Defense: When you took over the case, was it your usual practice to go over the initial report?

Det. Thompson: Yes, sir, it is.

Defense: Did you talk to the initial officers about it?

Det. Thompson: No, I did not.

Defense: When you got this report, did you ask Mr. Vernon if he could verify the things that are on this report?

Det. Thompson: About a week after it happened, he gave me a call at the office, and gave me some information on Mr. Chisolm.

Defense: But did you go over the physical description and the events that were checked off on the initial report with Mr. Vernon at that point in time?

Det. Thompson: No, sir, I did not.

Defense: How long was it between the crime and the lineup?

Det. Thompson: Well, it was about two and a half weeks.

Defense: Isn't that a little long to wait? How can you be sure that Mr. Vernon accurately remembered who he saw?

Det. Thompson: He seemed confident in his choice.

Defense: No further questions your Honor.

Jeannie Marshall, called as a witness on behalf of the defense, after having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

Defense: State your name please.

Ms. Marshall: Jeannie Marshall.

Defense: Do you reside in Orleans Parish?

Ms. Marshall: Yes, I do.

Defense: Ms. Marshall, do you recall the day of August 16, 1994.

Ms. Marshall: Yes, I do.

Defense: What about that date sticks in your memory, ma'am?

Ms. Marshall: It was my nephew's birthday.

Defense: Did you see your nephew that day?

Ms. Marshall: Yes, I was at his house that afternoon.

Defense: Okay, do you know Brian Chisolm?

Ms. Marshall: Yes, I do. I met him through my ex-boyfriend, Chris.

Defense: And how long have you known Mr. Chisolm?

Ms. Marshall: About a year and a half.

Defense: Are you close friends?

Ms. Marshall: No, we're not.

Defense: Did you see Mr. Chisolm on the day of your nephew's birthday?

Ms. Marshall: Yes, I did. At my friend Janie's house on Elmira Street.

- Defense: What time did you first see him that evening?
- Ms. Marshall: It was after seven o'clock that night.
- Defense: Who arrived first? Were you there first?
- Ms. Marshall: I was there first, then he arrived.
- Defense: Did you see him that entire night?
- Ms. Marshall: Yes. The whole time I was there, yes, I did.
- Defense: When you saw him, when he came in from work, how long did he stay with you, that you could see him directly?
- Ms. Marshall: About an hour.
- Defense: And after that, where did he go?
- Ms. Marshall: He went upstairs.
- Defense: After he had gone upstairs the first time, did he ever come down those stairs?
- Ms. Marshall: Yes, he did.
- Defense: Was he upstairs alone?
- Ms. Marshall: Not for long, because then Chris arrived.
- Defense: When Chris arrived, did Mr. Chisolm stay upstairs? What did he do?
- Ms. Marshall: Chris went upstairs where Brian was, because Chris got there after Brian. And then they both came back downstairs for a few minutes.
- Defense: Did you see Mr. Chisolm between the hours of 9:00 and 10:00 that evening?
- Ms. Marshall: Yes, I did. He went into the kitchen a few times to get something to drink and went back upstairs.
- Defense: How can you be sure about those times?
- Ms. Marshall: Because we were watching television and I saw him come downstairs first before the program started at 9:00, then in the middle of it, around 9:15.
- Defense: From where you were sitting in the house, if he had come down those stairs would you have seen him?
- Ms. Marshall: Yes, I would have.

Defense: At any time during that time you were there, did you see Mr. Chisolm leave the house?

Ms. Marshall: No, I did not.

Defense: Okay, one more question. Did you ever know Mr. Chisolm to own or carry a gun?

Ms. Marshall: No.

Defense: No further questions your Honor.

CROSS EXAMINATION

Prosecutor: When did you first find out about the arrest?

Ms. Marshall: About five months ago I heard he was arrested. Two months ago Janie contacted me and asked if I remembered being at her house that night.

Prosecutor: You're sure that you were at her house on the 16th because your nephew's birthday is that day?

Ms. Marshall: Yes, I had gone to see him that afternoon and left around 5 o'clock, then went to Janie's around 6 o'clock.

Prosecutor: Your memory is very specific for August 16th, isn't it?

Ms. Marshall: Yes, it is.

Prosecutor: So you saw Brian Chisolm around 9:00 and 9:15 that night, correct?

Ms. Marshall: Yes, that's about right.

Prosecutor: Did you see him again before you left that night?

Ms. Marshall: I saw him right before I left around 11:00. I had to go upstairs for something.

Prosecutor: How far is your friend Janie's house from Behrman gym?

Ms. Marshall: It's just a couple of blocks away.

Prosecutor: Are there windows on the second floor of the house?

Ms. Marshall: Yes, of course.

Prosecutor: If someone were to leave the house from a window, would it be possible for them to do that without you seeing them?

Ms. Marshall: Yes, I suppose it would be possible.

Prosecutor: Thank you, the state rests your Honor.

CLOSING STATEMENTS

Prosecutor: Ladies and gentlemen of the jury, we have shown that on August 16, 1994 the defendant, Brian Chisolm, shot and attempted to kill an innocent man. An eyewitness saw everything and felt that there was adequate lighting in the area. The eyewitness identified the defendant from a live lineup. Another witness has testified here that she saw the defendant at 9:15 that night, but then not until 11:00. As the house is only a two or three blocks away, this gives the defendant plenty of time to go to the gym and return to the house. The facts here are clear. Brian Chisolm attempted to rob a man as he was heading home. He got upset and began to shoot this man with the intent to kill. The only possible verdict here is guilty.

Defense: Unfortunately, an innocent man was shot outside of the Behrman gym on August 16, but the wrong man is on trial here today. Brian Chisolm has an alibi on August 16. Ms. Marshall has told us that she was with him at another woman's house and would have seen him if he ever left that night. It is a stressful thing to be as close to a violent act as the prosecution's witness has described. I suggest that this witness was afraid and could not get a good look at the shooter. He was not wearing his glasses, the lighting was fairly poor and he was a good distance away. Brian Chisolm does not deserve to be here today; he did not commit this crime. The only verdict in this case can be not guilty.

Appendix B: Honesty Transcript

William Vernon, called as a witness on behalf of the state of Louisiana, after having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

- Prosecutor: Please state your name for the record, sir.
- Mr. Vernon: William Vernon, Jr.
- Prosecutor: And how old are you?
- Mr. Vernon: 42 years old.
- Prosecutor: Now sir, are you familiar with Behrman gym on the corner of Jefferson and 56th Street?
- Mr. Vernon: Yes, I go there three times a week for my physical therapy.
- Prosecutor: And why did you begin physical therapy?
- Mr. Vernon: Well, two years ago I hurt my knee in a car accident and I have been going since then.
- Prosecutor: So around what times are you usually at the gym?
- Mr. Vernon: I go for 8:00 in the evening, and leave around 9:30.
- Prosecutor: Let's now go through the events taking place on August 16. You left the gym at 9:30, like usual, correct?
- Mr. Vernon: Yes, my wife picks me up from outside the front entrance to the gym.
- Prosecutor: And so as you were waiting, what happened?
- Mr. Vernon: Suddenly, I heard yelling behind me, where the bike racks are. I stood next to a tree, and looked around it to see what was going on.
- Prosecutor: What was this yelling about?
- Mr. Vernon: When I looked over, I saw a man on a bike and another man standing in front of him holding a gun. That man was yelling at the one on the bike to stop and empty his pockets, to give him what he had. He kept getting angrier, then he just started shooting.
- Prosecutor: Did you get a look at the man with the gun?

- Mr. Vernon: Yes.
- Prosecutor: And who was that man, do you see him in court today?
- Mr. Vernon: Yes, it was Brian, he's right there (indicating).
- Prosecutor: Please let the record reflect the identification of Brian Chisolm. Had you ever seen him before?
- Mr. Vernon: Yes, I had seen him around the gym a few times. Sometimes I would sit and watch a few minutes of the basketball games being played and I saw him playing a few times.
- Prosecutor: Does your relationship with Mr. Chisolm go beyond seeing each other in the gym?
- Mr. Vernon: Yes, he is also my nephew.
- Prosecutor: So, you're related to Mr. Chisolm. Do you get along with each other? Do you see each other often?
- Mr. Vernon: No, we haven't spoken for several years. My brother and I had a falling out and our families haven't talked since. Right around that same time, Bryan got involved with the wrong crowd. My son is a couple of years younger than Bryan and had looked up to him. I didn't like what Bryan was doing and the influence he had on my son, so I decided to keep him away from Bryan.
- Prosecutor: Were you shown a photographic lineup?
- Mr. Vernon: Yes.
- Prosecutor: And whom did you identify?
- Mr. Vernon: Brian Chisolm.
- Prosecutor: Do you have any doubt as to the identity of the perpetrator?
- Mr. Vernon: I've known Brian for twenty four years; there's no question in my mind.
- Prosecutor: Mr. Vernon, do you know if Brian ever owned or carried a gun?
- Mr. Vernon: I had heard that he carried one, and once I did see it on him.
- Prosecutor: Did you happen to have a conversation with Brian in the days following the shooting?
- Mr. Vernon: Yes. The day after the shooting, I called Brian. Until then I thought that maybe I had been mistaken; I guess I didn't really want to think that he could have done this. I told him what I saw and he said that it was none of my business and I better stay out of it.

Prosecutor: Thank you, Mr. Vernon. No further questions your Honor.

CROSS EXAMINATION

Defense: Mr. Vernon, did you view photos of suspects to identify the shooter?

Mr. Vernon: Yes, after giving my statement to the police, they asked me to come for a photo lineup.

Defense: And how many photos did you look at?

Mr. Vernon: They laid six out on a table.

Defense: Were you able to make an identification from the photos?

Mr. Vernon: Yes, I was.

Defense: How long was it from the day of the shooting to the day you identified my client from the photos?

Mr. Vernon: About two weeks.

Defense: Could you please describe the shooter as you did to the police?

Mr. Vernon: I described the shooter as a white male, about 25 years old, average height and weight. He had dark hair, it looked like it was cut short, and he was wearing jeans and a black t-shirt.

Defense: Tell me more about this falling out between yourself and your brother.

Mr. Vernon: About five years ago, my father died. My brother and I disagreed about everything, as we had for most of our lives; We fought over how to handle his sickness, then the funeral, and finally the inheritance. My brother got greedy, and Brian was old enough to be involved in our dispute also. One night we had a big fight and I haven't spoken to my brother or his family since.

Defense: Is it possible that your identification of Mr. Chisolm is the result of your ill feeling toward him?

Mr. Vernon: No, I saw a crime happen and I felt obligated to report it.

Defense: You knew that Mr. Chisolm regularly went to that gym, and you thought he might own a gun. Is it possible that you jumped to conclusions about your nephew because you wanted him convicted?

Mr. Vernon: No, I don't think so.

Defense: What was your reason for calling Mr. Chisolm after the shooting?

- Mr. Vernon: I wanted to talk to him before doing anything because I didn't want to make a mistake in naming him.
- Defense: If you were positive about what you saw, why would you be worried that you were making a mistake?
- Mr. Vernon: I was sure about what I saw, but I was in a difficult position because of my relationship with Bryan.
- Defense: Mr. Vernon, how far away were you from the shooting?
- Mr. Vernon: I would say about 50 ft away.
- Defense: Being that close to a crime must be frightening. Were you scared while all of this was going on?
- Mr. Vernon: A little, but I didn't really think about it at the time, I guess because I was behind the tree and not far from the entrance to the gym.
- Defense: How is the area outside of the gym lit? Are there many lights?
- Mr. Vernon: Not very many, but there is light in the area where the men were standing.
- Defense: Is there anyone who can corroborate your story?
- Mr. Vernon: I don't believe anyone else was in the area. A few people inside heard the gun shots, but didn't see anything.
- Defense: No further questions your Honor.

Detective Anthony Thompson, called as a witness on behalf of the state of Louisiana, after having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

- Prosecutor: Officer, would you introduce yourself to the ladies and gentlemen of the jury.
- Det. Thompson: Yes, ma'am. I am Detective Anthony Thompson, and I'm with the New Orleans Police Department, Fourth District.
- Prosecutor: How long have you been with the Fourth District?
- Det. Thompson: Since 1988.
- Prosecutor: Now, I'm going to bring you back to August 23, 1994. Did you conduct a follow-up investigation into an attempted murder?
- Det. Thompson: Yes, ma'am, I did.

Prosecutor: Could you tell us what you did and how that came about?

Det. Thompson: Yes, ma'am. I spoke to the eyewitness to the shooting, Mr. Vernon, and he gave me the name of the subject from the August 16 shooting.

Prosecutor: And what name did he give you?

Det. Thompson: Brian Chisolm.

Prosecutor: And what did you do at that point?

Det. Thompson: I then compiled a photo lineup of six photos, including the one of Brian Chisolm.

Prosecutor: What did you do with these photos?

Det. Thompson: I laid them all down on a wooden desk table to show to Mr. Vernon at the Police Station.

Prosecutor: At that point, did you force or threaten or suggest that he pick anyone out of this lineup?

Det. Thompson: No, ma'am, I did not.

Prosecutor: Was he able to pick anyone out of the lineup?

Det. Thompson: Yes, ma'am, he immediately chose Mr. Chisolm.

Prosecutor: What did you do after Mr. Vernon identified Mr. Chisolm?

Det. Thompson: I then issued an arrest warrant for Mr. Chisolm.

Prosecutor: Detective, was the gun that was used in this case recovered?

Det. Thompson: After searching the defendant's home, a gun was recovered whose bullets matched those taken from the victim.

Prosecutor: Thank you, Detective. No further questions your Honor.

CROSS EXAMINATION

Defense: Officer, were you in charge of the investigation after the initial officers at the scene?

Det. Thompson: Yes, sir, I was. I received the case approximately seven days after the shooting had occurred.

Defense: When you took over the case, was it your usual practice to go over the initial report?

Det. Thompson: Yes, sir, it is.

Defense: Did you talk to the initial officers about it?

Det. Thompson: No, I did not.

Defense: When you got this report, did you ask Mr. Vernon if he could verify the things that are on this report?

Det. Thompson: About a week after it happened, he gave me a call at the office, and gave me the information on Mr. Chisolm.

Defense: But did you go over the physical description and the events that were checked off on the initial report with Mr. Vernon at that point in time?

Det. Thompson: No, sir, I did not.

Defense: No further questions your Honor.

Jeannie Marshall, called as a witness on behalf of the defense, after having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

Defense: State your name please.

Ms. Marshall: Jeannie Marshall.

Defense: Do you reside in Orleans Parish?

Ms. Marshall: Yes, I do.

Defense: Ms. Marshall, do you recall the day of August 16, 1994.

Ms. Marshall: Yes, I do.

Defense: What about that date sticks in your memory, ma'am?

Ms. Marshall: It was my nephew's birthday.

Defense: Did you see your nephew that day?

Ms. Marshall: Yes, I was at his house all afternoon.

Defense: Okay, do you know Brian Chisolm?

Ms. Marshall: Yes, I do. I met him through my ex-boyfriend, Chris.

Defense: And how long have you known Mr. Chisolm?

Ms. Marshall: About a year and a half.

Defense: Are you close friends?

Ms. Marshall: No, we're not.

Defense: Did you see Mr. Chisolm on the day of your nephew's birthday?

Ms. Marshall: Yes, I did. At my friend Janie's house on Elmira Street.

Defense: What time did you first see him that evening?

Ms. Marshall: It was after seven o'clock that night.

Defense: Who arrived first? Were you there first?

Ms. Marshall: I was there first, then he arrived.

Defense: Did you see him that entire night?

Ms. Marshall: Yes. The whole time I was there, yes, I did.

Defense: When you saw him, when he came in from work, how long did he stay with you, that you could see him directly?

Ms. Marshall: About an hour.

Defense: And after that, where did he go?

Ms. Marshall: He went upstairs.

Defense: After he had gone upstairs the first time, did he ever come down those stairs?

Ms. Marshall: Yes, he did.

Defense: Was he upstairs alone?

Ms. Marshall: Not for long, because then Chris arrived.

Defense: When Chris arrived, did Mr. Chisolm stay upstairs? What did he do?

Ms. Marshall: Chris went upstairs where Brian was, because Chris got there after Brian. And then they both came back downstairs for a few minutes.

Defense: Did you see Mr. Chisolm between the hours of 9:00 and 10:00 that evening?

Ms. Marshall: Yes, I did. He went into the kitchen a few times to get something to drink and went back upstairs.

- Defense: How can you be sure about those times?
- Ms. Marshall: Because we were watching television and I saw him come downstairs first before the program started at 9:00, then in the middle of it, around 9:15.
- Defense: From where you were sitting in the house, if he had come down those stairs would you have seen him?
- Ms. Marshall: Yes, I would have.
- Defense: At any time during that time you were there, did you see Mr. Chisolm leave the house?
- Ms. Marshall: No, I did not.
- Defense: Do you know anything about Mr. Chisolm's family? Did he ever talk about them when you were around?
- Ms. Marshall: I just know that he is very close to his father. I don't think that he got along with anyone outside of his immediate family. I remember him saying once that his uncle tried to have him arrested.
- Defense: Was he referring to Mr. Vernon?
- Ms. Marshall: I couldn't say for sure, but I know it was his father's brother.
- Defense: Did he ever say why he wanted him arrested?
- Ms. Marshall: No, he just said that his uncle didn't like him.
- Defense: Okay, one more question. Did you ever know Mr. Chisolm to own or carry a gun?
- Ms. Marshall: No.
- Defense: No further questions your Honor.

CROSS EXAMINATION

- Prosecutor: When did you first find out about the arrest?
- Ms. Marshall: About five months ago I heard he was arrested. Two months ago Janie contacted me and asked if I remembered being at her house that night.
- Prosecutor: And you're sure that you were at her house on the 16th because your nephew's birthday is that day?
- Ms. Marshall: Yes, I had gone to see him that afternoon and left around 5 o'clock, then went to Janie's around 6 o'clock.

Prosecutor: You saw Brian Chisolm around 9:00 and 9:15 that night, correct?

Ms. Marshall: Yes, that's about right.

Prosecutor: Did you see him again before you left that night?

Ms. Marshall: I saw him right before I left around 11:00. I had to go upstairs for something.

Prosecutor: How far is your friend Janie's house from Behrman gym?

Ms. Marshall: It's just a couple of blocks away.

Prosecutor: Are there are windows on the second floor of the house?

Ms. Marshall: Yes, of course.

Prosecutor: If someone were to leave the house from a window, would it be possible for them to do it without you seeing them?

Ms. Marshall: Yes, I suppose it would be possible.

Prosecutor: Thank you, the state rests your Honor.

CLOSING STATEMENTS

Prosecutor: Ladies and gentlemen of the jury, we have shown that on August 16, 1994 the defendant, Brian Chisolm, shot and attempted to kill an innocent man. We have presented to you an eyewitness who saw everything. He recognized the shooter as his nephew, Brian Chisolm. He also knew Mr. Chisolm to frequent Behrman gym, where he was seen playing basketball. The eyewitness viewed a photo lineup and again identified Mr. Chisolm. Mr. Chisolm was known to carry a gun; a gun whose bullets match those from the victim. He admitted his role to Mr. Vernon and even threatened him. The facts are clear. Brian Chisolm attempted to rob a man as he was heading home. He got upset and began shooting him with the intent to kill. The only possible verdict in this case is guilty. Thank you.

Defense: Unfortunately, an innocent man was shot outside of Behrman gym on August 16, but the wrong man is on trial here today. Mr. Chisolm has an alibi for August 16. Ms. Marshall has told us that she was with him at another woman's house and she would have seen him if he had

left that night. It seems extremely convenient to Mr. Vernon's story that he was the only person who saw anything. Can we really trust Mr. Vernon? I suggest to you today that a family dispute has gotten in the way of truth here. Mr. Vernon and Mr. Chisolm had not been on good terms for years. Perhaps after witnessing this crime, Mr. Vernon decided that this was his chance to get back at his family by getting Mr. Chisolm in trouble. Brian Chisolm is not the man who committed this crime. The only verdict in this case is not guilty.

Appendix C: Questionnaire

SUBJECT _____
(last 4 digits of social security number)

sex: M/ F
(circle one)

1. Verdict: _____ Guilty
 _____ Not Guilty

2. Confidence in this verdict:

| | | | | | | |
|------------|---|---|---|---|---|-----------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| not at all | | | | | | extremely |

3. Please rate the prosecution's key eyewitness, Mr. Vernon, on the following characteristics: (1= not at all, 7= extremely)

| | | | | | | | |
|-----------------------------|---|---|---|---|---|---|---|
| a. Accuracy of memory | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| b. Consistency of testimony | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| c. Truthfulness of response | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| d. Trustworthiness | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| e. Overall Credibility | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

4. Please rate the amount of influence that the eyewitness's testimony had in your decision of the guilt/innocence of the defendant.

1 2 3 4 5 6 7
no influence extremely influential

5. Do you recognize anyone involved in this experiment? ___ Yes
___ No

If so, who?

If so, who?

Footnotes

¹The following individuals helped in making the four recordings for this study. Doug Zickafoose and Christy Witt, both graduate students in psychology, read the parts of the prosecutor and defense attorney, respectively. Undergraduates Sid O'Bryant, acting as the police detective, and Jenny Koenig, reading the part of Jeannie Marshall, also participated. Two faculty members in psychology, Drs. Dreger and Bornstein, read the parts of the older and middle-aged eyewitness.

Figure Caption

Figure 1. Verdict as a function of eyewitness age and transcript version.

