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Credibility of Intellectually Disabled Eyewitnesses

Since its first court appearance in 1985, DNA evidence has exonerated a multitude of societies wrongly convicted. Gross and colleagues (2004) have found 328 innocent people who had been wrongly convicted over the past 15 years which have since been freed though the use of DNA evidence. Many of the innocent’s fates had been decided through the use of eyewitness testimony presented by seemingly intellectually healthy individuals. If testimonies from intellectually healthy individuals can be erroneous, how trustworthy can testimonies from intellectually disabled individuals be?

Contrary to popular belief, eyewitness statements from individuals with and without intellectually disabilities have been found to be equal in correct identifications throughout the psychological field (Agnew, & Powell, 2004; Dent, 1986; Ericson, & Isaacs, 2003). Using photo lineups ranging in clarity, Ericson and Isaacs’ (2003) study showed that participants with intellectual disabilities were able to make as many correct identifications as did participants without disabilities. However, their results also showed that the intellectually disabled made more false identifications and were more prone to guessing. Upon analyzing these results, it would seem that the memory recall of the intellectually disabled was just as good as the non-intellectually disabled. The ability for accurate memory recall is the bases for a valid eyewitness statement. However, the presence of increased false identifications and guessing reduces this validity. If the ability to recall facts from memory is equal for both participants, what make the intellectually disabled fail in the second criteria?
Malpass and Devine (1984) identify two major factors that affect the decision-making process when selecting a suspect. The first is the amount and quality of information available to the witness about the appearance of the offender. This factor likely only affects the percentage of correct identifications. The second factor that affects witness decision-making is the witness’s estimation of the risks and values associated with making a choice. This second factor, also called social utility of choosing, is more likely to be the cause of the increased rates of false identifications and guessing.

The social utility of choosing comes into play when the witness’s information about a crime is less than optimal. When dealing with this incomplete information, the witness must weigh the consequences of making or not making an identification. This affects the likelihood of the witness choosing a suspect. With the intellectually disabled, there are several reasons that lead to an increase in this likelihood. Wells (1988) found that adults who are overly cooperative are more inclined to make a selection than are adults without such attitudes or beliefs. This is also seen in children, whose history of reinforced cooperative behavior, tends to make them more susceptible to demanding authority figures (King & Yuille, 1987). Research has indicated that adults with intellectual disabilities are more susceptible to perceived demands of authority figures than are adults without intellectual disabilities (Ericson and Perlman, 2001). The nature of a lineup itself is also a prominent factor.

When comparing police lineups to showups, Gonzalez and colleagues (1993) found that lineups produce less protection against misidentification and showups produce less danger of misidentification. They contribute their findings to the way in which the two identification processes are approached. In a showup, the eyewitness approaches the
process more cautiously. In their field and laboratory studies, they found that witnesses are far more likely to pick out a member of a line up than they are to identify a lone suspect. This may be due to witness suggestibility. At the time of a showup, the police aren’t certain that they have the right person. The suspect only has to match the eyewitness description and be in the vicinity of the crime. A no answer from the witness is just as acceptable as a yes answer. However, by the time the police produce a lineup, they are no longer looking for information; they are looking for evidence (Gross, 1987).

Some of the comments of the detective that compiled the field data for Gonzalez and colleagues’ said the following:

“We took another photo, and once again the suspect was not identified. Without any other leads to pursue…the investigation was stalled at this point. We never did solve the case which really made us mad because we know we had the right crook.” “We got a photo and showed our three victims the lineup. Two of them identified the suspect; one did not. The women who did not ID the suspect was quite nervous and embarrassed and didn’t want to get involved. I think she purposely didn’t identify the suspect.” (Gonzalez, Ellsworth, & Pembroke, 1987)

Clearly, this quest for evidence can communicate certain expectations to the witness, especially those seeking social approval.

If the mental recall of the intellectually disabled is equal in quality of the non-intellectually disabled, how can society pull this information from the disabled without gains in false identifications and guessing? Dent (1986) showed that the answer may lie in questioning techniques. Dent studied the optimal interviewing techniques and found that when the intellectual disabled were given some form of intermediate cueing, their
recall was most accurate and matched the accuracy of non-intellectually disabled. This matched Gudjonsson and Gunn’s (1982) case study investigation which found that intellectually disabled subject was only suggestible to facts that she was unsure of. This intermediate cueing interview technique walks a fine line that gives the subject enough cues to activate their long term memory, but leaves the cues ambiguous enough to prevent the possibility of forming false memories and/or conveying false expectations.

22 years later, Agnew and Powell (2004) backed up Dents findings through the study of intellectually disabled children. In Agnew and Powell’s study, 80 children were examined with mild to moderate intellectual disabilities. They all attended a magic show which was designed to include 21 target items. Upon questioning three days later, the intellectually disabled children performed equally in accuracy to two control groups when an intermediate form of cueing was used. However, when the intellectually disabled children were questioned using free-narrative prompts or specific questions, their performance was poor in comparison to the two control groups.

Another factor that would help ensure validity in the intellectually disabled is knowledge of the law. Ericson and Perlman (2001) have shown that the intellectually disabled lack in knowledge about the law. In their study, the tested for the degree of conceptual understanding for common legal terms and court proceedings. With the exception of police officer, there were great differences between the understanding of the intellectually disabled and the non-disabled. Results showed that out of 34 terms and concepts studied, only eight terms were understood by 75% of the intellectually disabled. On the contrary, 28 terms were understood by 85% of the non-disabled. This lack of
understanding can lead to embarrassment, confusion, and frustration, all of which can lead to an increase in false identifications and guessing.

When obtaining eyewitness statements from any intellectual ability level, great caution must be exercised. Egeth (1993) showed that many factors such as weapon focus, lineup bias, cross-race identification, and unconscious transference can drastically skew the accuracy of the eyewitness account. With this said, even greater caution must be used when taking eyewitness statements from the intellectually disabled. The disabled can provide relevant and accurate information, but it must be obtained through the use of optimum interviewing techniques.
References


