

Gary L. Wells' comments on the Mecklenburg Report:

The Mecklenburg Report was released to the public on March 28, 2006. That report can be accessed via the following link:

http://www.psychology.iastate.edu/faculty/gwells/Illinois_Report.pdf

The Report states that the double-blind sequential procedure used in a pilot program in Illinois resulted in more errors (picking fillers) than the simultaneous procedure. Ultimately, it might be that the sequential procedure does not prove superior to the simultaneous procedure, but the study reported by Mecklenburg was flawed in ways that prevent any such conclusion.

The Flaw: The Failure to Include a Simultaneous Double-Blind Condition

My main reaction to this report is disappointment and concern that the design of the study does not permit any clear conclusions. The reason that it does not permit clear conclusions is because the simultaneous lineups never used the double-blind procedure whereas the sequential lineups always used the double-blind procedure. This is extremely problematic because the failure to use double-blind procedures with the simultaneous lineups leaves open several "lineup-administrator influenced" means by which filler identifications could be suppressed and identifications of the suspect enhanced. These lineup-administrator influences were not available for the sequential because the sequential was conducted using double-blind procedures.

The reason that scientific researchers have called for double-blind lineup procedures is because of a concern that the lineup administrators (usually the case detective) could influence the eyewitnesses by steering them away from the fillers and steering them toward the suspected person (who might or might not be the culprit). [See http://www.psychology.iastate.edu/faculty/gwells/Wells_articles_pdf/whitepaperpdf.pdf] In fact, experimental studies show that non-blind lineup administrators have precisely such effects¹. I want to make it perfectly clear that there is no presumption here that the influence of the lineup administrator is intentional or that the lineup administrator is even aware of the influence that s/he is having. However, there are two general processes that can lead to suppressions of filler identifications by non-blind lineup administrators. First, there are verbal and non-verbal cues that non-blind administrators can leak during the interaction with the eyewitness that can influence the decision of the eyewitness. The examples are too numerous to list, but here are two that I think are the most common:

¹ E.g., see Haw, R. M., & Fisher, R. P. (2004). Effects of administrator-witness contact on eyewitness identification accuracy. *Journal of Applied Psychology*, 89, 1106-1112. Also, see Phillips, M.R., McAuliff, B.D., Kovera, M.B., & Cutler, B.L. (1999). Double-blind photoarray administration as a safeguard against investigator bias. *Journal of Applied Psychology*, 84, 940-951.

- If the eyewitness utters the number of a filler, the lineup administrator can encourage the eyewitness to “take your time...make sure that you look at all the photos,” which effectively leads the witness away from that filler.
- If the eyewitness is wavering between two photos, one being a known filler and the other the suspected person, the lineup administrator could comment on only the suspect’s photo, e.g., “what about number four makes you remember him?” This has the effect of making the conversation totally about the suspect and steers the eyewitness away from the filler.

It is important to recognize that the administration of a photographic lineup is a “conversation” between the lineup administrator and the eyewitness over a set of photos. The interaction between the eyewitness and the lineup administrator yields a product. When the lineup administrator knows the “correct” answer, the product cannot be said to be purely the result of the eyewitness’ memory.

The second way that non-blind lineup administrators can influence the outcome is via their discretion in reporting what the eyewitness said or did. Eyewitnesses often make ambiguous statements. For example, the eyewitness might say “Number three looks like...well he has some...uhh...three is...” Or the eyewitness might say “Number three has the eyes, it looks like three has the eyes and a nose that, well, has familiarity. Number three.” If the lineup administrator knows that number three is the suspected person, then this might be counted as an identification. If the lineup administrator knows that three is a filler, then this might get counted as having not made an identification. We know from data collected in Northern California on photographic lineups conducted in actual cases, for example, that detectives never recorded filler identifications and instead simply indicated that the eyewitness did not identify the suspect.² Note how this discretion is totally eliminated by double-blind lineup administration. With a double-blind lineup (used only when sequential procedures were used), the lineup administrator cannot know whether the person the witness indicated is a filler or the suspected person. Hence, with a double-blind lineup, the administrator would have to decide whether the eyewitness made an identification or not without knowing whether the identified person was a filler or was the suspected person. This is yet another reason why filler identifications appeared to be higher with the sequential (which was always double-blind) than with the simultaneous (which was never double blind).

There is a third process by which non-blind lineup administrators can influence the outcomes. This third process is related to the first two but it operates through the lineup administrator’s effect on the certainty of the eyewitness. One of the most reliable and robust findings in laboratory eyewitness identification experiments in the last decade is the post-identification feedback effect. The post-identification feedback effect occurs when an eyewitness receives some form of feedback (e.g., “good you identified the suspect” or “actually, that person was just a filler”). Confirming feedback dramatically inflates eyewitness identification certainty and

² Behrman, B.W., & Davey, S.L. (2001). Eyewitness identification in actual criminal cases: An archival analysis. *Law and Human Behavior*, 25, 475-491.

disconfirming feedback deflates eyewitness identification certainty.³ A recent field experiment shows that this effect replicates with actual eyewitnesses to serious crimes.⁴ Even without explicitly-manipulated feedback, simply using non-blind lineup administrators affects the certainty of eyewitnesses, leading them to be more certain when they select the person the lineup administrator was led to believe (erroneously) was the suspect.⁵ When non-blind lineup administrators lead eyewitnesses to have low certainty in their filler picks and higher certainty in their picks of the suspected person, it can change the distribution of reported identifications. This is because the lineup administrator has discretion in deciding whether the eyewitness was certain enough to be classified as having made an identification at all.

Of course, the identification of a suspect is not necessarily an accurate identification. It only means that the person identified was the focus of the detectives' suspicions. If we assumed that the identification of a suspect is always an accurate identification, then there would be no DNA exonerations involving eyewitness identification. This should go without saying, but the Mecklenburg Report seems to equate suspect identifications with accurate identifications at times and various media outlets have seem to do likewise.

Is There Any Evidence in the Data to Think That Filler Identifications Were Suppressed in the Non-Blind Simultaneous Condition?

The rate of filler identifications in the simultaneous lineups given in the Mecklenburg Report are far out of line with other field studies of eyewitness identification involving eyewitnesses to actual crimes. In this Mecklenburg Report, overall filler identification rates for the non-blind simultaneous are around 3%. In fact, for the Chicago and Evanston lineups, the rate of filler identifications for the non-blind simultaneous lineups is zero! And yet, field studies involving eyewitnesses to actual crimes has generally shown filler identification rates of around 20%. A study organized by the Metropolitan Police in London examined 584 attempts by eyewitnesses to identify suspects from lineups using the simultaneous procedure and found a filler identification rate of 21%⁶. These results are similar to the 22% filler identification rates in a police-supervised study

³ Originally demonstrated in Wells, G.L., & Bradfield, A.L. (1998). "Good, you identified the suspect:" Feedback to eyewitnesses distorts their reports of the witnessing experience. *Journal of Applied Psychology*, 83, 360-376. A recent meta-analysis of post-identification feedback effect experiments indicates that the effect is robust, see Douglass, A. B., & Steblay, N. (in press). Memory distortion in eyewitnesses: A meta-analysis of the post-identification feedback effect. *Applied Cognitive Psychology*.

⁴ Wright, D.B., & Skagerberg, E. M. (in press). Post-identification feedback affects real eyewitnesses. *Psychological Science*, in press.

⁵ Garrioch, L., & Brimacombe, C.A.E. (2001). Lineup administrators' expectations: Their impact on eyewitness confidence. *Law & Human Behavior*, 25(3), 299-314.

⁶ See peer reviewed article describing this work in detail by Valentine, T., Pickering, A., & Darling, S. (2003) Characteristics of eyewitness identification that predict the outcome of real lineups. *Applied Cognitive Psychology*, 17, 969-993.

reported by Slater⁷ involving 843 eyewitnesses to serious crimes. Both of these results are similar to the 20% filler identification rate reported by Wright and McDaid in their analysis of 1,561 eyewitnesses' attempts to identify suspects from simultaneous lineups based on serious crimes⁸. And, these three studies are similar to the filler identification rates of 24% with live simultaneous lineups in a sample from Sacramento County California and several other counties in Northern California⁹. Altogether, these field studies have examined rates of filler identification for over 3,000 actual eyewitnesses. It is true, as noted in the Mecklenburg Report, that a borough of Queens, NY has reported in a non-refereed paper a very low filler identification rate with their simultaneous live lineups. However, these Queens lineups are mostly "confirmatory" lineups (i.e., the eyewitness had already viewed a photographic lineup).

If the filler identification rates for the non-blind simultaneous lineups in the Mecklenburg Report had approximated what has been found in other field studies of simultaneous lineups (about 20%), then the double-blind sequential rate of 8% filler identifications would have looked very good in comparison.

There is one claim in the Mecklenburg Report that I can state unequivocally to be false, or at least terribly misleading. Specifically, it is stated on page 32 that "The protocols and forms, like the surveys, were viewed and approved by Professors Malpass, Ebbesen, Wells and Steblay." Although I did examine the survey, I had no input to or knowledge of the design of the study. In fact, I was shocked when I learned of the failure of the study to include a double-blind control for the simultaneous lineups, a fact I learned only when I read the final report. Nancy Steblay clearly states that she too had no idea that this study would have this design flaw. I have asked Sherri Mecklenburg to correct this misperception, but no corrections have yet been made as far as I am aware.

Gary L. Wells

⁷ See report by Slater, A. (1994). *Identification parades: A scientific Evaluation*. Police Research Award Scheme. London: Police Research Group, Home Office.

⁸ See peer reviewed article describing this work by Wright, D.B., & McDaid, A.T. (1996). Comparing system and estimator variables using data from real lineups. *Applied Cognitive Psychology*, 10, 75-84.

⁹ See peer reviewed article describing this work by Behrman, B.W., & Davey, S.L. (2001). Eyewitness identification in actual criminal cases: An archival analysis. *Law and Human Behavior*, 25, 475-491.