

Witness memory as evidence in criminal trials



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1. When, and why, are witnesses' memories unreliable as evidence in criminal trials in England and Wales?

Memory

Memory is one's ability to recall the past events. Memory let us explain our personal experiences and perception about anything which is occurred in past.

Types Of Memory

There are three types of memory

1. Episodic Memory

Episodic memory refers to our memory of special event like accident, death etc.

2. Semantic Memory

There are too many general knowledge is stored in one's mind which comes under the semantic memory type. It also refers to the information which is stored in our mind to perform any skill. It also tells us how to perform in some repeated situation.

3. Procedural Memory

Understanding the procedural memory is rather difficult to understand and contains different kind of information. Generally it refers to series of events which occurred on numerous times.

Importance Of Witness Memory

Witness memory is a fuel of any investigation because it let investigator to collect information about incident but human memory is too fragile to

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exactly remember every moment. There are also numerous factors involved which affect witness memory that is environment factors, witness factors, stress levels of the witness/victim, weapon focus.

When Witness Memory Is Unreliable As Evidence?

Witnesses memories are unreliable as evidence in criminal trials in England and Wales when there is a “TurnBull” direction indicated the state of witness at the time of incident happened because so many researches has found the massive impression on the quality of information.

What Is TurnBull?

There are too many environmental factors which affect the memory of witness and can damage the quality and quantity of information. R. V.

Turnbull guidance proposed a term ADVOKATE

Amount of time one observed

Distance - What was the distance between event and witness

Visibility - How much the scene was clear?

Obstruction - Was there anything obscuring the view?

Known or seen before - If the situation was familiar?

Any reason to remember - What is the reason behind to remember.

Time lapse - How long the exposure of event?

Error or material discrepancy - Is there any discrepancy between the fact and the description(Booklet).

Why Witness State Is Unreliable

In England and Wales, Evidence is not reliable, when there is a Turnbull direction in a state of witness because sometime witness rely on external help to recall the incident or he may have perceived wrongly due to distance or visibility or both (Bull, 1999)

Generally people under the investigation are not ready to recall the incident currently. Many factors like fear, stress and nervousness can affect their quality of information. Sometimes they rely on external resources to feed them and they wrongly perceive the series of happening occurred at TBR events.

Sometimes witness may lie for any previous dispute or grudge. Witness may be biased and can provide wrong information to affect the investigation

Conclusion

Since witness memory depends on lots of factors which are indicated through the famous term ADVOKATE therefore investigation should be taken with caution and every term of ADVOKATE should be properly and clearly note down.

To gather worthy information from the witness, should check the witness personal preference of biasness or favoritism.

It should also be checked that whether the witness is pressurized by the culprit to speak lie.

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2. What changes should be made, to the procedures for identifying suspects in criminal investigations in England and Wales, according to psychological research?

Human memory is too fragile to exactly remember the incident which happened that is why interviewing the witness to identifying the suspect is rather difficult task. It can also affect by the “Turnbull” directions. Usually witness replies the interviewer in broad term and can only describe six or seven characteristics of suspect like age (Between 20-30) or height (between 5’6” - 5’8”) that is why it is always difficult to get accurate knowledge about victim.

The accurate information may be collected through cognitive interview but this type of interview demands too much time to conclude things. These are the reasons for which psychological research stress on the identification parade to identify the culprit. (Kapardis & ebrary, 2010)

Why Should Be Identification Parade Arranged?

Identification parade are arranged to avoid two hurdles of identifying the culprit.

1. Verbal Overshadowing

In most of crime, during the investigation, witness is interviewed by more than one officer and provided stream of information due to which he can mix up the details which is stored in witnesses’ mind and the information he is provided by the officers about culprit.

If identification parade is arranged then a witness can easily identify the suspect or the person who is somehow linked with the crime.

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2. Information To The Public

Some crimes are needed to announce in public through media and police shows the picture, video or sketch of suspect in public. Sometimes a totally innocent person can be suspected and shown to public. Witnesses, after seeing the police announcement about suspect can to mix-up the faces of suspect with actual culprit.

In that case, after the identification parade, officers are directed to ask witnesses whether they have seen any broadcast on media or not?

Asking directly to the witness is rather strange. According to researchers, it is more appropriate to ask logically by the witness rather than directly.

3. Changing Facial Expressions.

Facial expressions of people are changed with the passage of time due to weight, tiredness, hair color or culprit can deliberately change it to be hidden from the police but if culprit is arrested for identification parade then he cannot change his facial expression and can be identified by the witness.

Conclusion

Investigation with witness should be deal with cautious and interviewer should know the art of interviewing to get accurate information. Investigator should avoid direct questions like was that man wearing black shirt? Or did you see blood spot on right side of window? It is recommended to ask series of questions to grab the fact like the series below.

1. What have you seen at spot?
2. Can you tell us the gender of person you have seen?

3. What was he wearing?

It is also recommended to setup interview as soon as possible because there is margin of memory fail.

3. Describe the extent to which offender profiling is relied upon both in criminal investigations and in criminal trials in England and Wales.?

Offender Profiling

Offender profiling is a tool of investigation about the culprit with the help of evidences. Offender profiling is commonly perceive as a magical ability of investigator to put hands on the culprit. It is also called psychological profiling, criminal personality profiling, profile analysis and the offender profiling is carried by the profilers or offender profilers.

Offender profiling is a psychological assessment of evidence which is collected from the crime scene. Offender profiler collects evidence from the crime scene and assess assumes the personality type which usually exhibits similar patterns (Jackson & Bekerian, 1997).

Aims Of Profiling

The aim of profiling is to get closer to suspect and get the answer of three questions

1. What happened at the spot of incident?
2. What personality type can be involved in it?
3. What personality traits can be possessed by that personality type?

These questions are generally analyzed by the psychologist who are expert of their field and are outside of the police department.

Limitations Of Offender Profiling

Although the crime scene can reflect the personality of offender and psychiatrist put insights on it but sometimes searching the link between the crime and mental state of offender is not cleared or understandable.

It is also criticized that psychologist are helpful only in the crime which are committed in extreme cases of mental illness. They are not much useful in the crimes which are not committed due to mental illness.

One more criticism is usually done on clinical approach that psychologists works according to science of psychology which is remain ambiguous and has flaws in it. Understanding and evaluating complex human psyche is rather difficult task and sometimes it is understood completely wrong

Conclusion

Offender profiling is no doubt a significant part of crime investigation but it is also limited in a way. It restricts psychiatrist to some specific pattern of personality traits while human behavior is always complex and cannot read accurately always. It is not necessary that crime scene always show the exact pattern of behavior which culprit exhibit.

4. Identify the key ways in which the research, into common forms of decision-error, might inform and improve practice in criminal investigations and trials?

Deception

Identifying someone's lie is not easy according to research reaching correct result is tending to fall between 50 to 60 percent. The more common reason of this trend is over confidence of people in their ability to judge others.

Detection Of Deception

Despite of fact that deception cannot be easily caught, people also make some basic judgment errors. These judgment errors are categorized in five types.

Pinocchio's Nose

There is indeed some universal signs of lying like stammering, avoid eye contact, blushing but it cannot equally apply to everybody on the earth. So these universal signals may guide to wrong direction.

Erroneous Assumptions

Some people think that deception can easily be caught by facial expression or they are the master of face reading. Some people do have the ability of face reading but in general this ability is over estimated.

Othello Error

This type of error is actually comes in existence due to Shakespeare's drama where Othello achieved his target by accusing Desdemona but in modern criminal justice system this error misleads because most of people became nervous and feared when they feel that they are under observation.

The Plausibility Problem

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Plausible and implausible problems have problem to judge right because we do not believe implausible event if it is reported by some old man.

Countermeasures

A natural liar can deceive the interviewer after noticing the interviewer suspicion and can adjust his/her behavior accordingly.

Techniques To Improve Decision Errors

Scholars and researchers proposed three techniques of improving decision errors.

Un-spoken deeds

Lying can be judged by the entire body language which includes gestures, postures, facial expressions, voice quality etc. Some common proposed techniques of judging un spoken deeds are:

1. Decrease in movement of entire legs till feet
2. Decrease in hand movements
3. Sudden increase and decrease in voice.

These all assumed signs should be deal with cautious because it cannot be true in every situation like deception errors and may lead to in accurate judgment.

Spoken Deeds

Numerous techniques are used to judge the “ REAL” of words that are written or spoken. The two most famous techniques of read between the lines are: Statement Validity Analysis (SVA) which is developed by Steller
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and Kohnken in 1997 which is then incorporated by Criteria Based Content Analysis (CBCA). It implies that our account is different in content and quality in case of reality or imagination. This techniques uses nineteen criteria to judge a statement. This technique is not commonly use in U. K.

Physiological Methods

The most common technique of physiological method is Polygraph, which measures physiological reaction like heart beat, sweating etc to check the deception. The polygraph is conducted through different sensors that are attached to the body and every physiological reaction recorded as a graphical presentation.

Although polygraph is considered as very effective tool of detecting deception and has been used in different countries but it is not used in U. K. criminal justice system due to complex human nature and the fact that human behavior and their psychological reactions are vary from person to person.

Conclusion

To improve decision making process in U. K spoken deeds and physiological test should be considered because these two techniques have been using in different countries and showing successful results to some extent but these techniques should be used with the caution and must not be rated overly. It should be used with the understanding that human nature varies from person to person and same reactions cannot be equally applied to everybody

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