Abstract

Recently, the New Jersey Supreme Court determined that jurors may not be able to effectively evaluate eyewitness evidence (New Jersey v. Henderson, 2011). Research generally supports this contention, finding that jurors do not take into account factors surrounding the commission of the crime and identification when determining the reliability of an identification (Devenport, Cutler, & Penrod, 1997). The courts have implemented a variety of safeguards to assist jurors in evaluating eyewitness evidence and prevent wrongful convictions, including judicial instructions and expert testimony. The New Jersey Supreme Court proposed the use of case-specific judicial instructions and suggested the implementation of these instructions would reduce the need for expert testimony. The current studies tested the efficacy of various forms of Henderson instructions and expert testimony. Specifically, in the first study, I compared the effectiveness of the original Henderson instructions to a research enhanced version, expert testimony, and the combination of Henderson instructions and expert testimony in addition to a control group.

Jurors were sensitive to the quality of police practices on their own. Expert testimony resulted in skepticism by reducing convictions regardless of eyewitness identification quality. No version of Henderson instructions sensitized jurors to the quality of witnessing and identification conditions. Therefore, I conducted a follow up study to examine modifications to the Henderson instructions. The modified instructions incorporated features from the I-I-Eye instructions (Pawlenko, Safer, Wise, & Holfeld, 2013), which induced sensitivity to the quality of identification conditions. These modifications included condensing the length of the instructions, rhetorical questions designed to draw jurors’ attention to how each eyewitness factor influenced a particular identification, and making the instructions general in nature and not tailored to the facts of the case. I also examined whether having jurors evaluate the eyewitness evidence
through the use of interrogatories would influence their verdict decision. Results indicated the modified version of *Henderson* sensitized jurors to the quality of witnessing conditions compared to the original *Henderson* instructions. This effect occurred regardless of whether jurors evaluated the evidence before or after determining a verdict. These results suggest the original *Henderson* instructions are having little impact on jurors’ decisions. However, asking jurors to assess a number of factors that can either weaken *or* strengthen the reliability of an identification in a condensed format appears to improve jurors’ ability to effectively evaluate eyewitness evidence. This sensitivity effect is promising, though courts may wish to delay implementation of these instructions until further research can establish their effectiveness.