

Fall 1960

Police Training Investigates the Fallibility of the Eye Witness

James H. Chenoweth

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

James H. Chenoweth, Police Training Investigates the Fallibility of the Eye Witness, 51 J. Crim. L. Criminology & Police Sci. 378 (1960-1961)

This Criminology is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

POLICE TRAINING INVESTIGATES THE FALLIBILITY OF THE EYE WITNESS

JAMES H. CHENOWETH

James H. Chenoweth is Chief Deputy U. S. Marshal, Anchorage, Alaska, and a past-president of the Alaska's Peace Officers Association. Shortly after his arrival in Alaska in 1951 Mr. Chenoweth was appointed to the Alaska Police Department as a patrolman and detective, and in January 1954 assumed his present position. Prior to Alaskan statehood U. S. Marshals and their deputies were charged with the responsibility of enforcing Alaskan law as well as Federal law and in this capacity operated as a police unit. Among its other activities the Alaska's Peace Officers Association has conducted several training programs at Anchorage one of which is described in this article.—EDITOR.

A few weeks ago one of the local newspapers in Anchorage, Alaska, carried a brief item under a photograph depicting a joyous young man who—according to the story—had just regained his freedom after having been *erroneously identified by five witnesses* as the person who had committed a crime in their presence; a fortuitous confession by the real criminal had clarified the error. While the memory of this incident still nagged at a corner of his mind, this writer happened to read (in Harry Soderman's fascinating autobiography, *Police-man's Lot*) of a case in which some burglars attempted to blow open the safe in a small country post office; failing to open it with the first blast, they blew it a second time. During both explosions the postmaster and his family of four snored away peacefully upstairs in the far-from-soundproof frame house.

The conjunction of these two incidents re-focused attention upon the difficulties facing police officers who must evaluate the accuracy of witness testimony. It is one thing to disprove the statements of a witness who deliberately lies; it is quite a different thing to extract the factual truth from statements of witnesses who are honestly mistaken in what they think they see or hear. Any police officer confronted with the seeming impossibility of a family of five actually sleeping through two dynamite explosions has our sympathy, as does any officer whose case is shattered when the testimony of five eye witnesses is proven wrong. The best safeguard for officers today is a constant awareness of the fallibility of the "eyeball witness", an awareness that is tempered by understanding some of the factors causing fallibility. This was the approach used by the Alaska Peace Officers Association when they included a six-hour course on this sub-

ject in their advanced training program called "Scientific Approaches to Investigation" which was available to all local police officers. For those who attended, the course itself produced some thought-provoking results.

Our first session began with a brief introduction to Sigmund Freud's three famous lectures on the psychology of human errors. We discussed the basic mechanisms involved in making slips-of-the-tongue, slips-of-the-pen, in mis-reading, mis-hearing, forgetting, and in mis-laying things. The observation of insignificant human errors is of as much assistance to a police officer as it is to a psychoanalyst. An understanding of such errors must include a knowledge of the physiological processes that allow errors to be committed, so we went on to discuss fatigue, illness, excitement, distractions, medication, and alcohol, and the part each of these plays in human errors.

Epistemologists frequently remind us that we are all caught in the "solipsistic predicament," a term embracing the theory that all external data comes to us only through our senses; the "predicament" exists because the limitations of our senses also limit our knowledge and our awareness of experiences. Police officers and witnesses alike are subject to these limitations.

In our course this theory was illustrated graphically. We started by passing around paper bags containing various objects which the students were to identify by touch alone, each student using his weakest hand. Vials containing different liquids were handed out to be identified by taste alone, each student being requested to pinch his nostrils while swallowing. Still other materials were to be identified by aroma alone. At this point we discussed briefly the problems created by individual

interpretations of general terms such as "sweet," "bitter," "strong," "faint," "sharp;" some knowledge of semantics is beneficial to a peace officer who must work from the descriptive terms used by witnesses.

About ninety per cent of what we experience comes to us through the organs of sight and hearing. Reliability studies in both of these areas are worth our attention. For example, Frances McGehee made a reliability study to determine the accuracy of 740 people who attempted to identify an unfamiliar voice after various intervals of time had elapsed after they heard the voice. This study indicated that approximately eighty-three percent of the listeners were able to identify the voice during intervals that extended up to two weeks, but beyond that point there was a notable drop in correct identification.

Problems frequently arise for investigating officers who must determine the source of sound, and they are especially troublesome in cases involving gunfire. A high-velocity bullet in flight builds up a bow-wave in front of it which assaults the ear of a listener with a sound-impact. Because this bow-wave originates from a different location than the gunshot itself, the listener who hears the bow-wave before he hears the gunshot may easily be mistaken; confusing the bow-wave report with the gunshot report, he may honestly be in error concerning the source of the gunfire.

To illustrate some of these audio-problems, we asked the students to close their eyes and listen to a variety of sounds which were produced from different locations, including up near the ceiling. With their eyes still closed, they were requested to point to the source of the sounds. When they opened their eyes, the variety of directions indicated drove the point home. This test is made more interesting if different sounds are used and the students are asked to identify them. Some of our experienced police officers could not distinguish between the sound of a gun being cocked and the sound of a cigarette lighter.

Visio-errors cause more trouble for police officers than any other form of sensory data. We introduced this topic by discussing retinal fatigue, night-vision, color-blindness, Vincent's Rule on the limiting distance for visual recognition, and Rohrschach tests. Using visual aid cards which contained numerous optical illusions, we helped each student to commit his own "eyeball error."

At this stage in our course, we digressed a bit and began relating the many psychological tests that have been sprung upon unwary students by having an unannounced incident occur in the classroom about which the students are later questioned. With the element of surprise, it is not too difficult to force someone to commit a human error. But this type of test does little to remove from the student's mind the thought that he would not have made an error had he not been either concentrating on the lecture or subjected to the bewilderment of surprise. To remove this doubt, thus emphasizing our discussions even more strongly, we announced that the students were about to witness a skit that would be enacted in front of the class. We instructed the students to take positions where they could see clearly everything that occurred. Although they were specifically prohibited from taking notes during the skit, we warned them that at the end of the session they would be handed questionnaires to take home and answer before coming back to class the next week. Because these questionnaires required information about the skit, the students were warned to watch closely and remember accurately.

The skit was relatively simple in plot. A masked man entered the classroom, carrying a suitcase and flashlight. He placed the suitcase on a chair, examined the adjacent area with the flashlight, took a tobacco canister from a table-top and placed it in the suitcase. Then he erased a drawing of a safe on the blackboard and re-drew it so that the safe door was open. Next, he took a drink from one of two bottles on the desk, closed the suitcase, placed the flashlight in his pocket, and left the room. A clock stood ostentatiously on the desk; by its mechanism, the entire skit took approximately two minutes.

The next twenty minutes were spent in discussing other aspects of visio-error, during which time the skit was not mentioned at all. The questionnaires were handed out; students were asked to fill them out without additional help from other students. The class was dismissed.

A week later, twenty-seven questionnaires were collected at the beginning of the class. Although the questionnaire had been designed to fulfill a number of purposes not pertinent to this article, some of the questions were simple, direct, and unambiguous. Oddly enough, the answers to these questions caused the greatest consternation when

they were tabulated. The following is a sample of what we found:

1. What time did the skit begin?—The answers covered a time-span of twenty-five minutes. (One officer stated he did not know because he had no watch, apparently overlooking both the clock on the desk and the one that hung on the classroom wall.)
2. How long did the skit take?—Answers covered a span of two to fifteen minutes.
3. What did the burglar wear for a mask?—27 correct answers.
4. What did he carry in his right hand when he entered?—Only 10 correct answers out of 27.
5. What did he carry in his left hand when he entered?—Only 8 correct answers out of 27.
6. What did he carry in his right hand when he left the room?—Only 17 correct answers out of 27.
7. What did he carry in his left hand when he left the room?—Only 1 correct answer out of 27.
8. When, in the course of the action, did he open the suitcase?—Only 16 correct answers out of 27.
9. When, in the course of the action, did he look at his wrist watch?—Only 10 correct answers out of 27.

The moral of this story was obvious. The students who attended our advanced training program were experienced police officers from a variety of police and enforcement agencies. Attending this course of their own volition, they manifested a healthy and intelligent attitude toward their police responsibilities. This experiment, limited in nature and not without some flaws in its own structure, seemed to indicate rather strongly that many police officers have not developed the ability to see accurately, or remember with clarity what they have seen. Carried out under circumstances which eliminated the element of surprise and focused attention upon the skit itself, we can only conclude that at least this aspect of police training needs further encouragement from our agencies.