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## Eyewitness Misidentification

Eyewitness misidentification is the single greatest cause of wrongful convictions nationwide, playing a role in more than 75% of convictions overturned through DNA testing.

While eyewitness testimony can be persuasive evidence before a judge or jury, 30 years of strong social science research has proven that eyewitness identification is often unreliable. Research shows that the human mind is not like a tape recorder; we neither record events exactly as we see them, nor recall them like a tape that has been rewound. Instead, witness memory is like any other evidence at a crime scene; it must be preserved carefully and retrieved methodically, or it can be contaminated.

When witnesses get it wrong

In case after case, DNA has proven what scientists already know — that eyewitness identification is frequently inaccurate. In the wrongful convictions caused by eyewitness misidentification, the circumstances varied, but judges and juries all relied on testimony that could have been more accurate if reforms proven by science had been implemented. The Innocence Project has worked on cases in which:

- A witness made an identification in a “show-up” procedure from the back of a police car hundreds of feet away from the suspect in a poorly lit parking lot in the middle of the night.
- A witness in a rape case was shown a photo array where only one photo of the person police suspected was the perpetrator was marked with an “R.”
- Witnesses substantially changed their description of a perpetrator (including key information such as height, weight and presence of facial hair) after they learned more about a particular suspect.
- Witnesses only made an identification after multiple photo arrays or lineups — and then made hesitant identifications (saying they “thought” the person “might be” the perpetrator, for example), but at trial the jury was told the witnesses did not waver in identifying the suspect.

Variables impacting accuracy of identifications

Leading social science researchers identify two main categories of variables affecting eyewitness identification: estimator variables and system variables.

Estimator variables are those that cannot be controlled by the criminal justice system. They include simple factors like the lighting when the crime took place or the distance from which the witness saw the perpetrator. Estimator variables also include more complex factors, including race (identifications have proven to be less accurate when witnesses are identifying perpetrators of a different race), the presence of a weapon during a crime and the degree of stress or trauma a witness experienced while seeing the perpetrator.

System variables are those that the criminal justice system can and should control. They include

### RELATED LINKS

[Fix The System: Eyewitness Identification Reform](#)

[Innocence Project Report: Reevaluating Lineups](#)

[Fact Sheet: Eyewitness Misidentification](#)

[In Depth: Prof. Gary Wells's Website on Identification](#)

all of the ways that law enforcement agencies retrieve and record witness memory, such as lineups, photo arrays and other identification procedures. System variables that substantially impact the accuracy of identifications include the type of lineup used, the selection of “fillers” (or members of a lineup or photo array who are not the actual suspect), blind administration, instructions to witnesses before identification procedures, administration of lineups or photo arrays, and communication with witnesses after they make an identification.

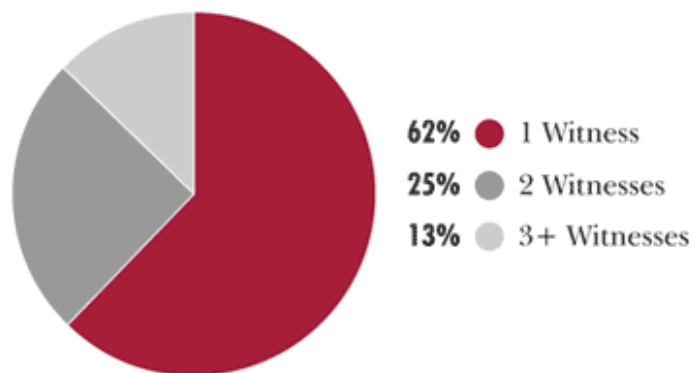
[Click here to learn about reforms](#) the Innocence Project strongly recommends for individual law enforcement agencies and state legislatures.

Decades of solid scientific evidence supports reform

As far back as the late 1800s, experts have known that eyewitness identification is all-too-susceptible to error, and that scientific study should guide reforms for identification procedures. In 1907, Hugo Munsterberg published “[On the Witness Stand](#),” in which he questioned the reliability of eyewitness identification. When Yale law professor Edwin Borchard studied 65 wrongful convictions for his pioneering 1932 book, “[Convicting the Innocent](#),” he found that eyewitness misidentification was the leading cause of wrongful convictions.

Since then, hundreds of scientific studies (particularly in the last three decades) have affirmed that eyewitness identification is often inaccurate — and that it can be made more accurate by implementing specific identification reforms.

**Number of witnesses misidentifying  
the same innocent defendant**  
(based on 175 eyewitness misidentification cases  
in the first 239 DNA exonerations)



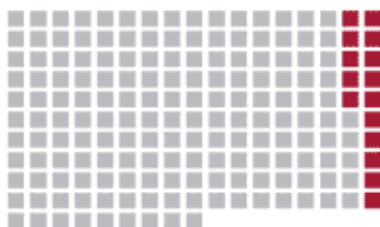
## Eyewitness misidentification as the central cause (based on 179 eyewitness misidentification cases in the first 239 DNA exonerations)



50%  
just misidentification



48%  
with unvalidated or  
improper forensic science



8%  
with false confession  
or admission



8%  
with informant testimony

The percentages will not add up to 100 because more than one cause may contribute to a wrongful conviction in any given case.

### Featured Case: Calvin Willis



One night in 1982, three young girls were sleeping alone in a Shreveport, Louisiana home when a man in cowboy boots came into the house and raped the oldest girl, who was 10 years old. When police started to investigate the rape, the three girls all remembered the attack differently. One police report said the 10-year-old victim didn't see her attacker's face. Another report — which wasn't introduced at trial — said she identified Calvin Willis, who lived in the neighborhood. The girl's mother testified at trial that neighbors had mentioned Willis's name when discussing who might have committed the crime. The victim testified that she was shown photos and told to pick the man without a full beard. She testified that she didn't pick anyone, police said she picked Willis. Willis was convicted by a jury and sentenced to life in prison. In 2003, DNA testing proved Willis'

innocence and he was released. He had served nearly 22 years in prison for a crime he didn't commit.

[Click here to read more about Willis' case.](#)

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