The most common element in all wrongful convictions later overturned by DNA evidence has been eyewitness misidentification. Misleading lineup methods have been used for decades without serious scrutiny. Now is the time for change.

Despite solid proof of the inaccuracy of traditional methods – and the availability of simple measures to reform them – eyewitness IDs remain among the most common and compelling evidence brought against criminal defendants.

Misidentifications don’t only threaten the innocent, they also derail investigations. While police focus on finding evidence against an innocent person, the perpetrator can get away.

**How the wrong person gets picked**

Most law enforcement agencies use the same methods they have used for decades – live and photo lineups, usually conducted without a blind administrator or proper instructions. It is stressful for victims and eyewitnesses to identify a perpetrator, and they make mistakes.

Sometimes these mistakes are triggered by a gap in memory or the desire to make an identification at all costs. In other cases, subtle cues by police – intentional or not – lead to a false identification. Almost all of these mistakes are preventable.

**Time for reform**

Several easy-to-implement procedures have been proven to significantly decrease the number of misidentifications. However, acceptance of these changes has been slow. The Innocence Project recommends that all jurisdictions immediately adopt the following policies:

* **Blind administration:** Research and experience have shown that the risk of misidentification is sharply reduced if the police officer administering a photo or live lineup is not aware of who the suspect is.
* **Lineup composition:** “Fillers” (the non-suspects included in a lineup) should resemble the eyewitness’ description of the perpetrator. The suspect should not stand out (for example, he should not be the only member of his race in the lineup, or the only one with facial hair). Eyewitnesses should not view multiple lineups with the same suspect.
* **Instructions:** The person viewing a lineup should be told that the perpetrator may not be in the lineup and that the investigation will continue regardless of the lineup result. They should also be told not to look to the administrator for guidance.
* **Confidence statements:** Immediately following the lineup procedure, the eyewitness should provide a statement, in his own words, articulating his the level of confidence in the identification.
* **Recording:** Identification procedures should be videotaped whenever possible – this protects innocent suspects from any misconduct by the lineup administrator, and it helps the prosecution by showing a jury that the procedure was legitimate.

Jurisdictions should also consider adopting **sequential presentation of lineups:** Research has shown that presenting lineup members one-by-one (sequential), rather than all at once (simultaneous), decreases the rate at which innocent people are identified. Research has also demonstrated that when viewing several subjects at once, witnesses tend to choose the person who looks the most like – but may not actually be – the perpetrator.

**Reforms at work**

Changes recommended by National Institute of Justice, the Innocence Project and others have proven to be successful. New Jersey, North Carolina, Wisconsin and several large cities have implemented new procedures and improved the quality of their identifications.

Eyewitness misidentification is the single greatest cause of wrongful convictions nationwide, playing a role in 72% 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 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.

**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](http://www.amazon.com/gp/product/0404091806/002-5184067-9904013?ie=UTF8&tag=theinnoproj-20&linkCode=xm2&camp=1789&creativeASIN=0404091806),” 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](http://www.amazon.com/gp/product/B000IN6NQE/002-5184067-9904013?ie=UTF8&tag=theinnoproj-20&linkCode=xm2&camp=1789&creativeASIN=B000IN6NQE),” 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.