

Bulletin of Applied Criminal Justice

Volume 1 Number 2



Eyewitness Memory Errors

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From the Squad Room

On February 14, 2018, Nikolas Cruz entered Marjorie Stoneman Douglas High School and executed 17 individuals. Subsequently, School Resource Officer and Broward Sheriff's Deputy Scot Peterson was criticized for his inaction, was vilified for his inaction and was charged criminally for his inaction. Peterson has been charged with seven counts of child neglect, three counts of culpable negligence, and one count of perjury.

There is no question that Deputy Peterson failed to act. There is no question that Deputy Peterson failed to act in accordance with his active-shooter training. There is no question that Deputy Peterson violated the public trust. But my question is this: Are we focusing on the right issues? While attempting to prosecute Deputy Peterson may make us feel better, should his inaction be the focus of our attention?

There are approximately 800,000 police officers in the United States. There are approximately 1,000 officer-involved shootings per year. What this means is that 799,000 police officers will not face the circumstances that Deputy Peterson faced. While we would like to believe all of us would respond accordingly, the reality is we don't know.

How many times have you heard an officer expound on how he would respond to another officer's situation? We all know the ex-high school football player who watches the NFL game and says, "I could have made that catch!" while sitting on the

couch eating chips and drinking a beer. The reality is, unless we have been in one of those situations, we really don't know how we will react. We would like to think we know, but we really don't.

A police department in a neighboring city where I used to work, hired a female officer who successfully completed the hiring process not unlike any other recruit. She successfully completed a residential, basic police academy. She was attending rollcall when the Officer in Charge inspected her weapon. There was not a round in the chamber nor any rounds in the magazine. The officer's comment to the OIC was that she did not believe she could shoot someone so she would not carry ammo in the weapon. She was subsequently terminated.

How does this happen? How can someone go through the hiring process which included a psychological evaluation and an extensive interview process, successfully complete the basic police academy, and make it to the street, yet no one picked up that she has this mindset?

Maybe it is time to re-evaluate the process. Maybe we aren't testing for the right things. Maybe we aren't asking the right questions. Maybe the criteria in the hiring process need to be updated. Maybe there should be a separate evaluation process for School Resource Officers. Maybe the training should be different. Deputy Peterson and the recruit police officer clearly demonstrated a breakdown in the

process. It is reported that Deputy Peterson had 29 years of service; the recruit had less than one year of service. Both, however, demonstrated that they were in jobs for which they were not suited.

It is unfortunate, but there will be more events like the one that occurred at Marjorie Stoneman Douglass High School. Let's take a good look at how we select School Resource Officers so that the next time, the result will be different. We should all take a look at how we think we will respond and how we are trained. One never knows!

"Hey, let's be careful out there!"

Professionally,

Dennis W. Bulen
Chief of Police, Retired
editorbacj@gmail.com



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By Dr. David Hochstein
Associate Professor of Psychology, WSU—Lake Campus

Eyewitness Memory Errors

Memory is a tricky thing. With few exceptions, we only have the capacity to remember things that we paid attention to at the time of occurrence. That attention is based on the **brain's judgment** of which information is important enough to spend processing time on.

This provides a limiting factor for memory in general, but particularly under time constraints. However, this limiting factor is also at play under typical circumstances as well. Remembering the minutia of the day, even when we had plenty of time to pay attention to it, may be difficult based on the perceived lack of importance during the time of encoding.

Somewhat counter to this general idea is the general completeness our memories seem to have, despite the potential gaps this inattention to details should bring. These gaps are usually filled in through "schema," our mental frameworks of information based on our prior experiences.

Thus, a memory may consist of information encoded during the original event, but be supplemented by information from similar situations. While that memory's accuracy may not be perfect, the resultant memory is good enough under most circumstances.

Another factor to consider is the influence of post-event infor-

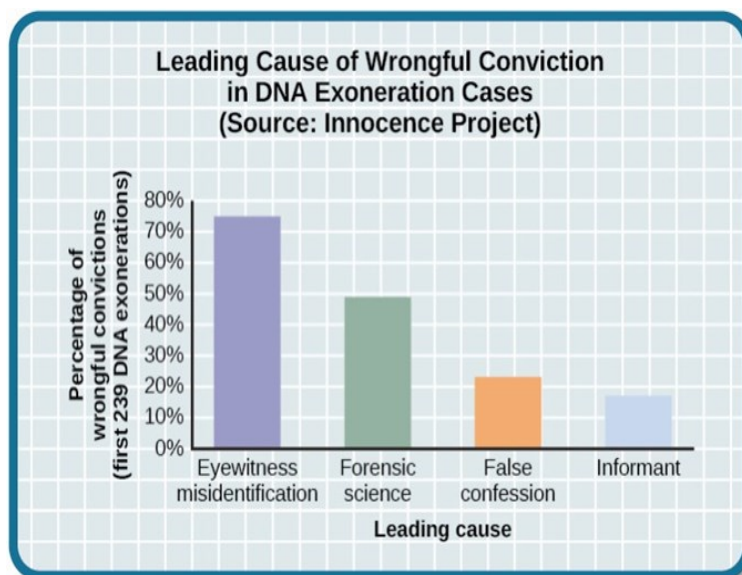
mation. After the initial encoding, our memories can be influenced by any subsequent information. This is thought to be, at least in part, the result of the newer information interfering with our ability to remember the original information. This is a process referred to as "retroactive interference."

The construction of memories based on schemas and the effect of retroactive interference result in memories that may not be valid reflections of the original events. As both of these effects are unconscious in nature, people typically cannot tell the difference between accurate memories and memories influenced by schemas and/or retroactive interferences. In cases where people rate confidence

in the accuracy of their memories to be high, they will do so regardless of how much is based on schema and retroactive interference.

The Beltway Sniper attacks that took place in October 2002 provide several examples of how the memory system can fail, due to both of these influences. In this case, John Allen Muhammad and Lee Boyd Malvo, driving a blue 1990 Chevrolet Caprice sedan, killed ten people and critically injured three others in the Washington, DC, metropolitan area and along Interstate 95 in Virginia.

On October 3, eyewitnesses reported seeing two men fleeing the scene of the second shooting in a white "box truck," a fact



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Eyewitness Memory Errors, cont.

that was given to and repeated by national media. On October 11, six shootings later, eyewitnesses again reported a white panel truck leaving the scene,

little time to process information in this situation, as the perpetrators would have tried to escape as soon as possible after the shooting.

to direct their attention and fill in memory gaps.

All of this is made even more tragic by the reports of white vans overshadowing the two eyewitness reports of a blue Chevy Caprice given on October 3 and 4, which were not reported in the media for another 20 days.

"The memories of eyewitnesses are subject to the same errors as all memories are."

In summation, the memories of eyewitnesses are subject to the same errors as

which was again repeated by national media. It wasn't until October 23 that police issued a statement to be on the lookout for a dark blue Chevy Caprice or sedan, based on their own independent investigations.

John Allen Muhammad and Lee Boyd Malvo were arrested on October 24, after reports of such a vehicle parked at a highway rest stop.

In an event like a sniper shooting (or in most violent crime situations), several factors work against accurate memories. There would have been little reason for eyewitnesses to expend time and effort trying to remember random vehicles and people in their vicinity before hearing a gunshot.

Once they heard the gunshot, random vehicles and people would have been of secondary importance, with primary importance being reserved for processing how to survive the situation. There would have also been

Schemas would have played a role in this situation as well. During the shooting, people would have had any available hand, may have simply stuck out in its environment simply because of its size (being more noticeable and able to conceal a sniper) and higher contrast color. Later, when thinking about the event, the memory of the large white vehicle may have filled in a gap, since it was the only information available.

In later attacks, this effect is compounded by retroactive interference. The media's reports of a large white vehicle being present at several shootings overwrote the incomplete memories of what really happened, resulting in even more eyewitnesses reporting the van.

In turn, these multiple media reports almost certainly changed people's schemas of what they expected the snipers to be driving, making eyewitnesses even more apt to use that information

all memories are. Events are rarely completely remembered, gaps in memory are filled in with what we assumed happened, and post-event information can cause interference as well.

While this article tied these types of errors into the Beltway sniper attacks, they can also be clearly seen in most investigations that are primarily based on eyewitness testimony.



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Candace E. Padgett—CFE, FCLS—is currently a SIU Supervisor at SafeAuto Insurance Company and serves as the President of The National Society of Professional Insurance Investigators (NSPII).

Law Enforcement & Insurance Companies: Unlikely Allies

Law enforcement and insurance companies are not typically associated with one another, but they have more in common than many realize. Both can be viewed negatively by the general public, both can be involved in lengthy court proceedings, and both conduct detailed fraud investigations.

While the scope of investigation may differ between the two, their shared objectives are seeking the truth and ensuring prosecution for those who commit fraud. The public and private sector may not always work together in harmony, but it is important to improve communication and assist one another.

Insurance fraud is a very expensive crime, one that not only affects insurance companies but every person who has any type of insurance. It is often viewed as a victimless crime, however, in addition to the increased costs for consumers, it can also be associated with other crimes. Insurance fraud schemes can be a way to launder drug money.

Various mafia divisions from across the country use insurance fraud to fund their illegal activities. People also kill for insurance money, whether it is murdering a spouse to collect on a life insurance policy, or a store owner burning down their business and unintentionally killing a responding firefighter.

It can be a dangerous game and one in which the insurance company Special Investigations Unit (SIU) and public sector investigators must work together towards a common goal — prosecuting parties who commit insur-

ance fraud and preventing unwarranted payouts.

Public and private sector investigators must both abide by their own set of business and legal guidelines but information that can be shared, should be shared. Such sharing benefits investigators on both sides.

It is important to build strong relationships between investigators at



various agencies (local, state, and even federal), insurance companies, Department of Insurance agencies, and the National Insurance Crime Bureau (NICB).

To really build trust and rapport, titles and egos need to be thrown out the door, so to speak. Communication is key. Both civil and criminal insurance fraud cases are most successful when everyone can work together.

Detectives from public agencies should consider meeting with local NICB agents to gain insight into how the NICB can assist them with insurance fraud investigations. The NICB's purpose is to "partner with

insurance companies, consumers, and law enforcement to combat insurance fraud and theft."

Public sector investigators are often invited to attend NICB Dialogue Meetings, in which SIU's from various companies discuss fraud trends in the area. Another way to make strong contacts is to consider joining fraud fighting organizations, such as the National Society of Professional Insurance Investigators (NSPII).

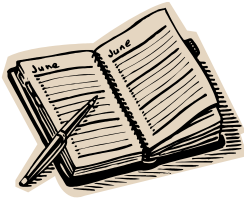
According to their website, NSPII is a "non-profit organization established for the purpose of providing recognition, encouragement, and support to individuals who demonstrate the highest degree of professionalism in conducting insurance investigations."

Members consist of SIU investigators, public sector investigators (officers, detectives, arson investigators, state investigators, etc.), attorneys, and various forensic experts. Auxiliary membership for public sector investigators is free!

When investigating a crime that may be associated with insurance fraud, public sector investigators need to reach out to their allies at the NICB and in the insurance industry. Willingness to share as much information as possible with each other will strengthen cases and result in more successful prosecutions.

In the end, everyone is on the same team and that professional rapport will go a long way.

END OF WATCH 2019. . . .



Master Police Officer Joseph William Shinners
Provo Police Department, UT
EOW: Saturday, January 5, 2019

K9 Able
United States Department of Justice—
Bureau of Alcohol, Tobacco, Firearms,
and Explosives, US
EOW: January 5, 2019

Police Officer Dale James Woods
Colerain Township Police Department,
OH
EOW: Monday, January 7, 2019

Police Officer Clayton Joel Townsend
Salt River Police Department, TR
EOW: Tuesday, January 8, 2019

Police Officer Natalie Becky Corona
Davis Police Department, CA
EOW: Thursday, January 10, 2019

Trooper Christopher Lambert
Illinois State Police, IL
EOW: Saturday, January 12, 2019

Sergeant WyTasha Lamar Carter
Birmingham Police Department, AL
EOW: Sunday, January 13, 2019

K9 Haas
Duluth Police Department, MN
EOW: January 13, 2019

Supervisory Deputy US Marshal Norman
D. Merkel
United States Marshals Service, US
EOW: Wednesday, January 16, 2019

Deputy Sheriff Ray Elwin Horn, III
Comal County Sheriff's Office, TX
EOW: Thursday, January 17, 2019

Police Officer Sean Paul Tudor
Mobile Police Department, AL
EOW: Sunday, January 20, 2019

Lieutenant Robert "Bo" McCallister
Susquehanna Township Police Depart-
ment, PA
EOW: Sunday, January 20, 2019

Deputy Sheriff Joshua Bryan "LJ" Ryer,
Jr.
Glascocock County Sheriff's Office, GA
EOW: January 25, 2019

K9 Chucky
Bexar County Sheriff's Office, TX
EOW: Tuesday, January 29, 2019

Corporal Shane Michael Totty
Baton Rouge Police Department, LA
EOW: Friday, February 1, 2019

Detective William Lee Brewer
Clermont County Sheriff's Office, OH
EOW: Saturday, February 2, 2019

Border Patrol Agent Donna Doss
United States Department of Homeland
Security - Customs and Border Protec-
tion - United States Border Patrol, US
EOW: Saturday, February 2, 2019

Trooper Lucas Bartley Dowell
Virginia State Police, VA
EOW: Monday, February 4, 2019

Officer Matthew J. Rittner
Milwaukee Police Department, WI
EOW: Wednesday, February 6, 2019

K9 Defender
BNSF Railway Police Department, RR
EOW: Thursday, February 7, 2019

Detective Brian P. Simonsen
New York City Police Department, NY
EOW: Tuesday, February 12, 2019

Agent Alfred Zanyet-Pérez
Puerto Rico Police Department, PR
EOW: Friday, February 15, 2019

Lieutenant Daniel Duane Hinton
Florida Highway Patrol, FL
EOW: Tuesday, February 19, 2019

Undersheriff Monty Thomas Johnson
Pawnee County Sheriff's Office, OK
EOW: Thursday, February 21, 2019

Police Officer Nicholas Scott Galinger
Chattanooga Police Department, TN
EOW: Sunday, February 24, 2019

K9 Doby
Fairfax County Police Department, VA
EOW: February 22, 2019

Sergeant Steve Hinkle
Sullivan County Sheriff's Office, TN
EOW: Tuesday, February 26, 2019

Police Officer Nathan Hayden Heidel-
berg
Midland Police Department, TX
EOW: Tuesday, March 5, 2019

Deputy Sheriff Jacob Howard Keltner
McHenry County Sheriff's Office, IL
EOW: Thursday, March 7, 2019

Corporal Daniel H. Groves
Colorado State Patrol, CO
EOW: Wednesday, March 13, 2019

Deputy Sheriff Ryan Shane Thompson
Kittitas County Sheriff's Office, WA
EOW: Tuesday, March 19, 2019

Police Officer Paul Thomas Rutherford
Phoenix Police Department, AZ
EOW: Thursday, March 21, 2019

Deputy Sheriff Peter Herrera
El Paso County Sheriff's Office, TX
EOW: Sunday, March 24, 2019

Trooper Brooke Jones-Story
Illinois State Police, IL
EOW: Thursday, March 28, 2019

Trooper Gerald Wayne Ellis
Illinois State Police, IL
EOW: Saturday, March 30, 2019

Detective Benjamin J. Campbell
Maine State Police, ME
EOW: Wednesday, April 3, 2019

Deputy Sheriff II Spencer Allen Englett
Forsyth County Sheriff's Office, GA
EOW: Thursday, April 4, 2019

Deputy Sheriff Justin Richard DeRosier
Cowlitz County Sheriff's Office, WA
EOW: Sunday, April 14, 2019

Police Officer Kyle Olinger
Montgomery County Police Department,
MD
EOW: Thursday, April 18, 2019

Conservation Officer Eugene Wynn, Jr.
Minnesota Department of Natural Re-
sources — Enforcement Division, MN
EOW: Friday, April 19, 2019

Special Agent in Charge Liquat A. "Leo"
Khan
United States Army Criminal Investiga-
tion Division, US
EOW: Tuesday, April 30, 2019

K9 Officer Jordan Harris Sheldon
Mooresville Police Department, NC
EOW: April 30, 2019

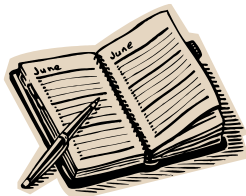
K9 Biggie
Florida Department of Corrections, FL
EOW: Saturday, May 4, 2019

Police Officer Robert McKeithen
Biloxi Police Department, MS
EOW: Sunday, May 5, 2019

Police Officer Anthony Neri
Sanibel Police Department, FL
EOW: Monday, May 6, 2019

Trooper Matthew Elias Gatti
Tennessee Highway Patrol, TN
EOW: Monday, May 6, 2019

END OF WATCH 2019 continued. . . .



Constable Willie Houston "Hoot" West
Lowndes County Constable's Office, MS
EOW: Thursday, May 9, 2019

Sergeant Kelvin Ansari
Savannah Police Department, GA
EOW: Saturday, May 11, 2019

Police Officer William Buechner
Auburn Police Division, AL
EOW: Sunday, May 19, 2019

K9 Eli
Gwinnett County Police Department, GA
EOW: May 23, 2019

K9 Max
Portsmouth Police Department, NH
EOW: May 23, 2019

Police Officer Jesus Marrero-Martínez
Manatí Municipal Police Department, PR
EOW: Saturday, May 25, 2019

Lieutenant Joseph P. Johnson
Seminole Police Department, TR
EOW: May 30, 2019

Lieutenant Steven D. Whitstine
East Baton Rouge Parish Sheriff's Office, LA
EOW: May 30, 2019

Officer Albert Castaneda, Jr.
Grand Prairie Police Department, TX
EOW: June 7, 2019

Officer Esmeralda Ponce Ramirez
Los Angeles Police Department, CA
EOW: June 9, 2019

Sergeant David J. Fitzpatrick
The Colony Police Department, TX
EOW: June 10, 2019

Deputy Sheriff Julius "Jay" Dailey
Monroe County Sheriff's Office, AL
EOW: June 11, 2019

Police Officer Steven J. Brown
Port St. Lucie Police Department, FL
EOW: June 12, 2019

Trooper William Moden
Colorado State Patrol, CO
EOW: June 14, 2019

Patrol Officer John D. Hetland
Racine Police Department, WI
EOW: June 17, 2019

Police Officer Tara C. O'Sullivan
Sacramento Police Department, CA
EOW: June 19, 2019

Trooper Jerry L. Smith, Jr.
Nebraska State Patrol, NE
EOW: June 20, 2019

Corporal Jose L. "Speedy" Espericueta,
Jr.
Mission Police Department, TX
EOW: June 20, 2019

Police Officer Michael V. Langsdort
North County Police Cooperative, MO
EOW: June 23, 2019

Deputy Sheriff Troy P. Chisum
Fulton County Sheriff's Office, IL
EOW: June 25, 2019

K9 Assuan
Marion Police Department, IN
EOW: June 27, 2019

Detective Luis Alvarez
New York City Police Department, NY
EOW: June 29, 2019

Deputy Sheriff Carlos A. Ramirez
Kendall County Sheriff's Office, TX
EOW: July 2, 2019

Police Officer John R. Anderson
Metro Nashville Police Department, TN
EOW: July 4, 2019

Deputy Sheriff Omar Diaz
Harris County Sheriff's Office, TX
EOW: July 6, 2019

Deputy Sheriff Nicholas B. Dixon
Hall County Sheriff's Office, GA
EOW: July 7, 2019

Conservation Officer Shannon L. "Opie"
Barron
Red Lake Nation Conservation Department, TR
EOW: July 7, 2019

K9 Cas
Whitley County Sheriff's Office, IN
EOW: July 10, 2019

