

**From:** [Kenneth Nixon](#)  
**To:** [EXTERNAL] Fwd: Eye Witness Testimony Resources  
**Subject:** Monday, February 12, 2024 6:25:19 PM  
**Date:**

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Good evening BOPC,

My name is Kenneth Nixon and I am the President of the Organization of Exonerees. My group is made up entirely of people that spent time in the Michigan Department of Corrections for crimes that we did not commit. I, myself, spent almost 16 years incarcerated for crimes that I was in fact innocent of. I, was at the public meeting a few weeks ago when the topic of eyewitness testimony was being discussed. I was the community member who asked if national research was being considered in the decision making process for the new practices that potentially might be instituted within Detroit Police Department. We have compiled some data and provided it below. Please let me know your thoughts or if we can help clarify anything. Myself or someone on my team can help when and wherever necessary.

Per your request, I did some research into best practices for eyewitness testimony. Below are some key elements that seem to consistently be included in good eyewitness policy.

1. **Prompt Interviews:** Interview witnesses as soon as possible after the event while their memory is still fresh. Memory can degrade over time, so prompt interviews are essential for gathering accurate information.
2. **Open-Ended Questions:** When interviewing witnesses, use open-ended questions rather than leading ones. This helps prevent the introduction of biases into their testimonies.
3. **Avoiding Suggestive Techniques:** Avoid suggestive techniques such as showing witnesses photos of suspects in a suggestive manner or using leading questions that may inadvertently influence their recollection of events.
4. **Double-Blind Lineups:** If conducting a lineup, use a double-blind procedure where neither the administrator nor the witness knows who the suspect is. This minimizes the risk of unintentional cues being given.
5. **Recording Testimonies:** Record witness testimonies whenever possible, either through written transcripts or audio/video recordings. This creates a permanent record that can be reviewed later and reduces the chances of misinterpretation.
- 6.

**Multiple Witnesses:** Gather testimonies from multiple witnesses if available. Corroborating testimonies can strengthen the case and provide a more complete picture of what occurred.

7.

**Expert Testimony:** Consider using expert witnesses, such as psychologists specializing in memory and perception, to provide insight into the reliability of eye-witness testimonies during trial proceedings.

8.

**Jury Education:** Educate jurors about the potential limitations of eye-witness testimony, including factors that can affect its accuracy such as stress, weapon focus, and cross-racial identification. This helps jurors evaluate testimony more critically.

9.

**Continued Investigation:** Eye-witness testimony should not be solely relied upon. It's important to continue investigating the case using other evidence and investigative techniques to corroborate or refute witness accounts.

10.

**Feedback and Training:** Provide feedback and training to law enforcement officers and legal professionals involved in gathering and presenting eye-witness testimony. This helps improve practices and reduces the risk of errors in handling such testimonies.

Additionally, here are what seem to me to be good articles and resources to consider.

On the Department of Justice's website there is an article written by Norwood Massachusetts Chief of Police: "[When it Comes to Eyewitness ID Best Practices, the Science is Settled](#)". It describes a landmark study on the science of eyewitness identification practices in the United States. It recommended the following:

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- train all law enforcement officers in eyewitness identification**

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- conduct lineups and photo arrays blindly**

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- establish standardized witness instructions**

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- immediately ask the witness about his or her level of confidence in the identification**

- **videotape the entire eyewitness identification procedure**

The landmark study in question is *Identifying the Culprit: Assessing Eyewitness Identification* (2014), by the National Academy of Sciences.

-> I took a look and the article is a hefty 154 pages.

-> There was followup article in 2020 showing the reflection of one of the lead authors of the 2014 study: [“Using Science to Improve Eyewitness Testimony”](#)

The article, in summary of the original study, says:

“To counter that lack of awareness, *Identifying the Culprit* recommends that courts bring in experts to advise juries about the ways that eyewitness evidence can fail. The report also urges the use of “double blind” lineups, where the police officer administering a lineup does not know who the suspect is — leaving them unable to offer biasing cues to an eyewitness. And it recommends that police officers record a witness’s confidence level upon first identifying a suspect — a time when their assessment of their own confidence is more likely to be accurate, and when their memory is less likely to have been contaminated.”

The article asserts that 19 states have passed legislation or adopted rules requiring reforms recommended by the report.

Here are a few resources that are Michigan specific:

State Bar of Michigan Info:

[https://www.michigan.gov/-/media/Project/Websites/mcoles/TD-Webpage/state\\_bar\\_eyewitness\\_law\\_enforcement\\_policy\\_writing\\_guide.pdf?rev=6e19807bd78447d2b54e6f9cc7ab186b](https://www.michigan.gov/-/media/Project/Websites/mcoles/TD-Webpage/state_bar_eyewitness_law_enforcement_policy_writing_guide.pdf?rev=6e19807bd78447d2b54e6f9cc7ab186b)

State of Michigan, Eye Witness Procedures:

[https://www.michigan.gov/-/media/Project/Websites/mcoles/TD-Webpage/eyewitness\\_identification\\_model\\_policy.pdf?rev=e0b7ae777bb74d30a20cfb70a5bd1adb](https://www.michigan.gov/-/media/Project/Websites/mcoles/TD-Webpage/eyewitness_identification_model_policy.pdf?rev=e0b7ae777bb74d30a20cfb70a5bd1adb)

UofM Innocence Project: Tainted Eye Witness

<https://www.law.umich.edu/special/exoneration/Pages/taintedids.aspx>

300 Michigan Police Agencies Adopting Eye Witness Standards:

<https://www.michbar.org/news/newsdetail/nid/5408/Michigan-Police-Agencies-Adopt-Evidence-Based-Eyewitness-ID-Rules>

How to challenge an eye witness:

<https://www.derrickgeorge.com/blog/michigan-courts/how-to-challenge-an-eyewitness-identification/>

Your time and attention is greatly appreciated and I look forward to working with you in the future.

Thank you,  
Kenneth Nixon,  
Pres., Organization of Exonerees