Elizabeth Loftus

Forensic psychologist who specializes on memory research.  She has testified in criminal cases on the fallibility of eyewitness testimony and is the author of several books on eyewitness identification and memory.

Q: What happens to a person's memory in a traumatic experience?

LOFTUS: One of the things that we know about memory is that when you experience something extremely upsetting or traumatic, you don't just record the event like a video tape machine would work, the process is much more complex and what's happening is you're taking in bits and pieces of the experience, you're storing some information about the experience, but it's not some indelible image that you're going to be able to dig out and replay later on.

Q: Why are juries persuaded by eyewitness testimony?

LOFTUS: Well, one of the things that we know about juries and how they react to evidence that they're hearing is that they do place a lot of weight in eyewitness testimony. They especially place weight in eyewitness testimony when it's very confidently expressed. When the victim, for example, can give a whole lot of details. Jurors are impressed with that confident detailed testimony and they're very persuaded by it.

Now why jurors are so influenced by eyewitness testimony--that's a more difficult question to answer and one of the reasons may be that we don't catch most of the mistakes that we make in our memories. If I tell somebody that I had a chicken last night instead of hamburgers, I'm going to get away with that mistake because my listener isn't going to catch it. I think we're not really as aware of the malleability of memory. How readily distorted our memories can be and that's one reason we place so much weight on someone else's memory--when it's a confident memory.

Q: What happens to memory when you're more excited and in an upsetting situation?

LOFTUS: One of the things that we know about memory for very upsetting experiences, traumatic experiences, is that the memory does not work like a videotape recorder. You don't just record the event and play it back later the way a videotape player would work. The process is much more complicated, and actually what's happening is you're storing bits and pieces of the experience. Later, when you try to tell somebody what happened, you are in some sense reconstructing that experience, you're piecing it together and essentially telling a story about your experience.

Q: What if a person is trying to pay particular attention to remembering what another person looked like?

LOFTUS: Well, one thing that does help memory is you pay attention at the time something is happening. If you do make efforts to study the information and to retain that information, that helps your memory. So there are some things that people can do at the time that they are having an experience or witnessing an experience or being a victim of an experience if they think about doing those things, it will help the memory.

Q: And in a rape case?

LOFTUS: Well, one of the things about a rape case, in particular, is, of course, you have people who are very close together. That's almost by definition. And short distances, that's good for memory. But to the extent that you have other factors in the situation that create problems for memory, you can get mistakes. So you do have to ask: Is it a cross-racial identification? Is it a situation where there was tremendous stress and fright? Is it a situation where the victim was given information or feedback or told stories about another victim? If there were things going on that create problems for accurate memory, it's going to affect the memory even if it was a rape, even if the people were very close together to begin with.

Q: Cross-racial identification ... what are the problems in that kind of situation?

LOFTUS: We do have more difficulty identifying the faces of strangers of a different race that the faces of strangers of our own race. Whites identifying blacks, blacks identifying whites, whites and Asians, all these different cross-racial combinations demonstrate this greater difficulty. It may be that what is happening in a cross-racial situation is that you're actually scanning the face differently when it's a member of a different race. I could give you one example. If you're looking at the face of an Asian person and you're Caucasian, maybe you notice those eyes because they're a little bit unusual. Later you go to a lineup and those unusual eyes are present in all the cases because you've got a lineup that's full of Asians and that doesn't help you very much in making that discrimination--which particular face did I see. So we might be looking at the faces differently when they're faces of a different race.

Q: What kind of dynamic can occur between a victim and the police investigator?

LOFTUS: One of the things that happens when you have a victim of a serious crime and a police investigator is they both have the same goal. They want to see the crime solved and they're going to work together to do that. And that is perfectly natural, but if you have somebody who is very, very motivated to see that crime solved, she may be especially sensitive to feedback that she might be getting from investigators who are assisting her in that process. And so, if they've a suspect in mind, if they've an idea who the perpetrator is and they communicate that idea to the victim, even unwittingly, she may be more sensitive to picking up that communication.

And if they explicitly give her feedback, "Well that's the guy we thought it was," then this can be a serious problem. This kind of feedback can artificially increase the confidence level of the victim, make the victim more certain if the police believe it, they must have a good reason, "I think that's the guy, in fact, I'm even more confident than I was before." And now, you have a victim who's going to be even more persuasive when she goes into the court room to testify than, perhaps, is warranted.

Q: What about selecting someone in photos and physical line ups?

LOFTUS: Well, first of all, when a victim goes to a lineup or to a photo spread, looks at a set of photos, one of the things that would be natural is for that victim to think the police must have a suspect or they wouldn't have brought me here. And while it's a very good idea for the police to try to make that victim feel that it's OK not to choose someone and, in fact, it's a very good idea for them to be instructing those victims that the person may or may not be here, still some victims have in their minds the idea that, "I wouldn't be here unless they had some idea of who this was."

Q: What is the significance when a victim fails to make an identification?

LOFTUS: Sometimes you have a situation where there will be a witness or another victim to a crime who goes to a lineup and doesn't identify anybody. If the defendant is in that lineup and the victim says, "No I don't recognize anybody," that is valuable information. Often times that information is just thrown away, the jurors don't even get to hear about it, but that information is telling you something. Yes, it's possible that this victim really was a victimized by one of those people in the lineup and has forgotten it, but it's also possible that his nonidentification is telling you he's not there. It's somebody else and that information should be preserved and presented along with the rest of the information to the jury, the triers of fact, so that they have that valuable information in making their decision.