

Research Paper

Perception of Law Enforcement Officials and Legal Experts towards Eyewitness Competency

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ABSTRACT

The aim of the study was to understand the perception of the law enforcement officials and legal experts towards eyewitnesses in trial proceedings. For this purpose, the individuals authorized to interact with and those who have experience dealing with the witnesses were chosen as the sample population. The sample population of 35 individuals consisted of law enforcement officials and legal professionals. A self-developed questionnaire was administered to the sample population and the scoring was performed on a 5-point likert scale. Data was analysed and the results indicated that the sample population was classified based on the reliability of witnesses in high, medium and low scoring. The study showed that majority of the sample population analysed had witnesses who had high reliability of testimony.

Keywords: *Eyewitness, Credibility, Competency, Perception*

A witness is defined as “one that gives evidence”. The witness is regarded as the most indispensable part of the criminal justice system. He is the foundation on which the building of justice and equity rests. He/she is therefore invaluable. A witness in a criminal trial plays an important role on which the fate of the case depends. They are the backbone of the trial whether it is a civil or criminal or any other trial. It is the witness who builds the case of the contesting parties by deposing before the court. The testimony given by the witnesses enables the court to decide the merit of the facts and circumstances of the case. Therefore, the truthfulness of the witness’s testimony becomes the cornerstone of justice and hence the witness is made to offer a statement under oath. The statement of a witness may lead to the conviction or acquittal of the suspect. The expression “competency” alludes to the negligible capabilities somebody must possess to be a witness. A lunatic is not incompetent to testify unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

“Whenever man commits a crime heaven finds a witness”- Edward G. Bulwer. Witnesses in the law are an important element in ensuring justice is served. Their testimony can play an

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important role in determining the outcome of the case. Whittaker Chambers says a witness is “a man whose life and faith are so completely one that when the challenge comes to step out and testify for his faith, he does so, disregarding all risks, accepting all consequences.” It is important to understand the many factors that influence the ability of witnesses to ensure that only reliable statements are used in court. Testifying proficiency refers to a witness’s ability to give accurate and reliable testimony. The witness is the one, who deposes to fill in the lacuna in the story of prosecution and defence.

A competent witness is a person who can remember events he witnessed, communicate clearly, and is not biased or influenced by other factors. The recognition of the accredited witness in the law is important in terms of ensuring the integrity of the proceedings. Witnesses play an important role in the administration of justice, and their testimonies can make or break a case. Therefore, it is important that witnesses have the competence to ensure that only true and reliable statements are used in court. As witnesses are the eyes and ears of justice, the court decides on the testimony of witnesses. Section 118 of the Indian Evidence Act, of 1872, contains the provisions for determining a competent witness.

The criminal justice system is more complex than most people realize –it is much more than committing a crime, and being arrested, tried or convicted. The Criminal Justice System is a network of government and private institutions designed to manage suspected and convicted criminals. It is made up of many pillars, including education, law enforcement, forensic services, the judiciary, and corrections. This post is designed to support the goals of justice. Experts need to comply with the rules of justice of the criminal law and clarify their behaviour. This is done with the help of basic ethical rules that demonstrate – if well managed – competence, trust, acceptance and complete trust.

REVIEW OF LITERATURE

The study suggests that an increase in the emotionality of crime decreased the completeness of the victim’s report of details. The personality of the witness also affects recall. If the witnessed event is arousing, extroverts should be better witnesses than introverts. This is if introverts are more chronically stimulated than extroverts. Early research shows free report produces more accurate testimony than an interrogative report. (*Clifford & Scott, 1978*)

The study focuses on the time duration between the input and output of information by the witness. The variable under focus is whether the witnesses confer in this period. Identification can be affected by the information of other witnesses or the police. “Difficult” items are not mentioned spontaneously in testimony and are answered in specific questioning. Contrary to this, “easy” items are those that constitute a significant part of the testimony. The difficult items were found to be more susceptible to change during discussion. (*Hollin & Clifford, 1983*)

Weapon focus refers to the witness’s attention being drawn to the weapon during the commission of the crime. The attention to the weapon outweighs the witness’s ability to recall other details in the environment. The physical features of the perpetrator are often not registered by the witness. (*Kramer et al., 1990*)

The research shows that the presence of a weapon interferes with the ability of the witness to recall the perpetrator’s face. Weapon focus may be influenced by arousal and attentional focus. By experimenting, it was found that the visual display of the weapon made the subjects more uncomfortable than the knowledge of the weapon. It was proved that weapon

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focus increased the chance of false alarm and the presence of the weapon was distracting and arousing. (Maass & Köhnken, 1989)

The judge or jury usually decides the competency of an expert witness. There do not exist any accepted measures to rate the credibility of an expert witness. This research aims to come up with a viable checklist for assessing the credibility of the expert. It aims to do so by taking into account 4 factors: likeability, believability, trustworthiness, and intelligence. A 41-item checklist was prepared and administered to a group of undergraduates. The test allows the assessment of the areas of credibility of the expert, thus allowing them to find the areas he/ she lacks in and hence help to develop those areas. (Brodsky et al., 2010)

Distortions may occur during the encoding, storage and decoding processes. Hence, even the memories of trustworthy individuals are not reliable. Factors such as race, facial features, style and colour of clothing have been shown to influence our perception of credibility. Past research has shown that a witness who displays nervous behaviour is perceived as less credible than a witness who does not appear anxious. The legal courts value rational assessments over emotional reactions in decisions of guilt. (Kaufmann et al., 2002)

The paper deals with witness preparation before trial in a court of law. Unprepared victims are less skilled at handling cross-examination. Signs of uneasiness and anxiety may be misinterpreted as indicators of deception. It is recommended to provide better witness education and to provide emotional support to the victim. A better relationship between the victim and the prosecutor should be cultivated. Lack of witness preparation may lead to the victim viewing the legal proceedings negatively and being defensive to questioning and being frustrated with the criminal justice system. Research has shown that an emotional victim was perceived to be more believable than those who exhibit non-emotional responses. This is an unfortunate preconception as the rape victim must conform to both victim and gender stereotypes to appear credible. (Menaker & Cramer, 2012)

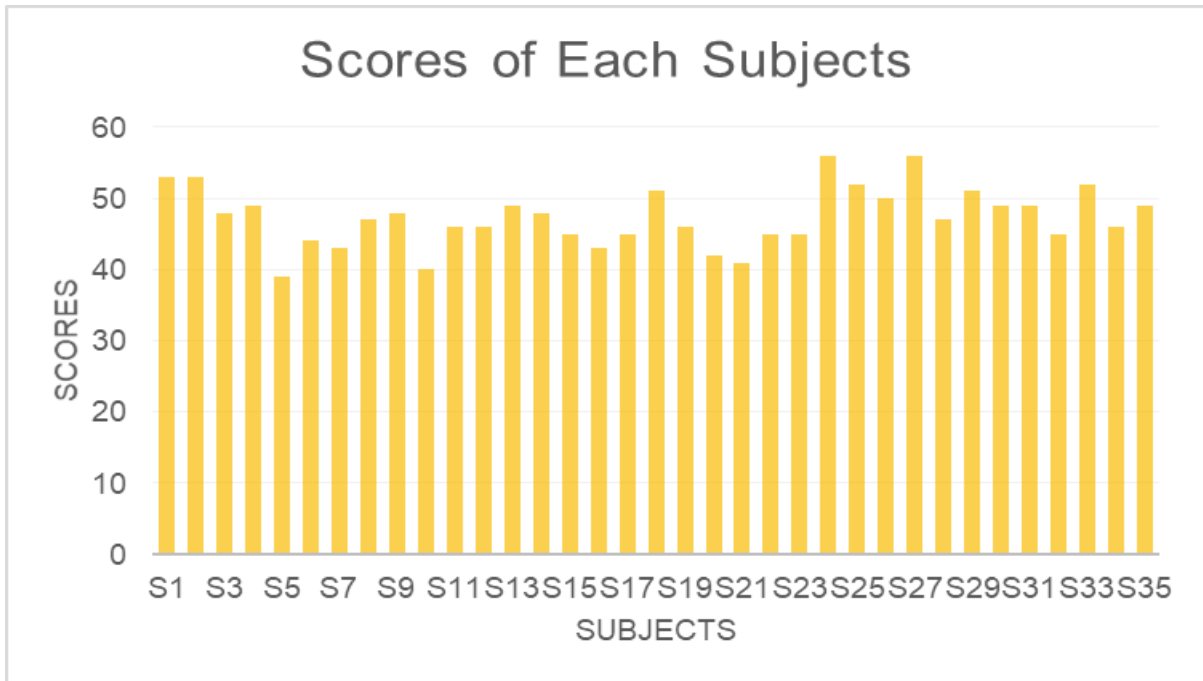
METHODOLOGY

The objective of the study was to understand the perception of law enforcement officials and legal experts towards eyewitnesses in trial proceedings. Primary and secondary data collection was performed. A self-developed questionnaire was prepared and administered to a sample population consisting of Law enforcement officials and legal experts. The sample population consisted of 35 individuals. The questionnaire contained 15 questions with 5 options each: Strongly agree, Agree, Neutral, Disagree, and Strongly Disagree. The questions were scored on a 5-point scale, with Strongly Agree scored as 5, Agree as 4, Neutral as 3, Disagree as 2, and Strongly Disagree as 1. Questions 3, 9, 10, 11, and 13 had reverse scoring. The maximum score a subject could get on the questionnaire was 75 and the minimum score a subject could get was 15. The average score was 45. The type of scoring used was purposive scoring.

DATA ANALYSIS AND DISCUSSION

The study was conducted to identify the perception of law enforcement agencies and legal experts towards eye witnesses. The sample population was chosen due to their experience in dealing with eye witnesses. The self-developed questionnaire was administered to 35 subjects who consisted of law enforcement agencies and legal experts. Their responses were scored based on a 5-point likert scale.

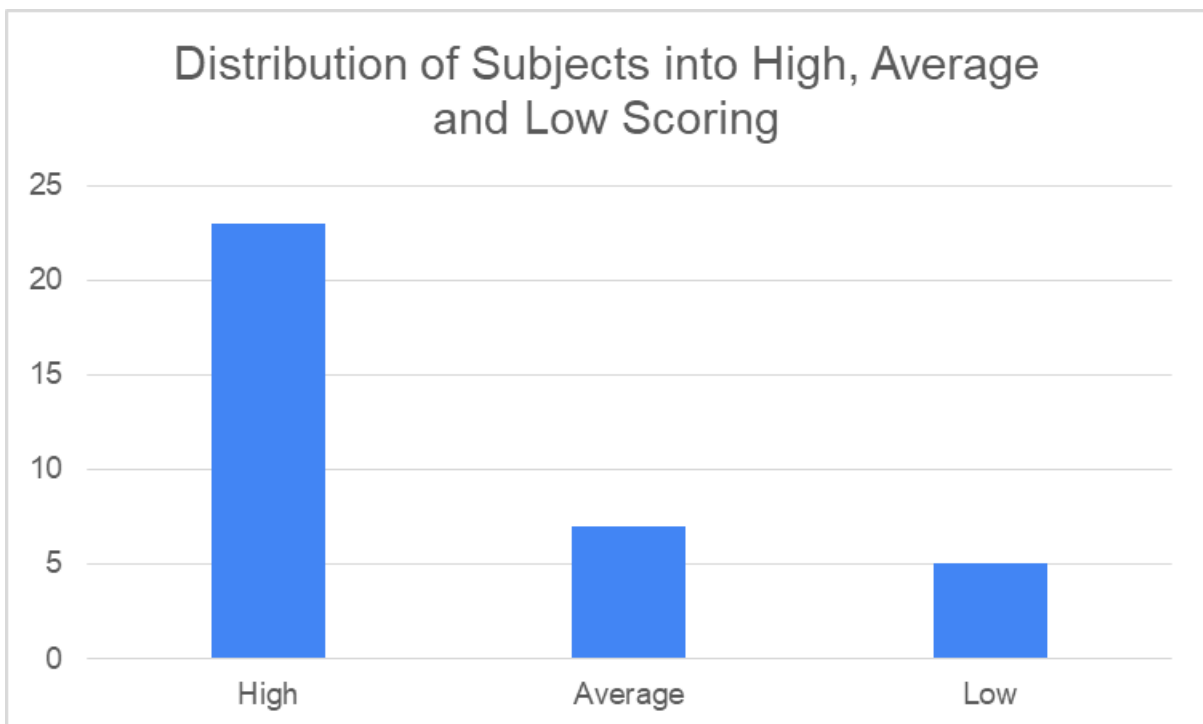
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Graph 1: Individual scores of each of the 35 subjects

Subjects who scored 15-44 were termed as Low scoring subjects, whose witnesses' testimony is less reliable, those who scored 45 were termed as Average scoring subjects whose witnesses' testimony is of average reliability and those who scored 46-75 were termed High Scoring Subjects whose witnesses' testimony is highly reliable.

65.71% of the sample population had witnesses with high reliability of testimony, 20% had witnesses with average reliability of testimony, and 14.28% had witnesses with low reliability of testimony.



Graph 2: Classification of subjects into High, Average and Low scoring.

Major Findings

From the data, it was observed that out of the 35 subjects, 23 subjects were classified as high scoring subjects whose witnesses' testimony is highly reliable, 7 subjects were classified as average scoring whose witnesses' testimony was of average reliability and 5 subjects were classified as low scoring whose witnesses' testimony was not reliable.

CONCLUSION

The study analysed the perception of law enforcement officials and legal professionals towards eyewitnesses. Majority of the subjects (65.71%)'s witnesses were found to have high reliability of testimony, 20% had average level of reliability and 14.28% had low level of reliability. The reliability of eyewitnesses depends on their recall of the events of the crime and the dependability of their testimony. Eyewitnesses must not allow external factors to influence the memory of the events they witnessed. They must remain unbiased throughout the trial proceedings and should report the true facts in trial proceedings as they have observed.

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Conflict of Interest

The author(s) declared no conflict of interest.

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