

Body Worn Camera Training and Technical Assistance Professor Elizabeth Loftus

Michael White: Hello, I'm Dr. Michael White from the School of Criminology and Criminal Justice at Arizona State University. I'm also the Co-Director of the Bureau of Justice Assistance Body-Worn Camera Training and Technical Assistance Team.

Today, I'm speaking with Dr. Elizabeth Loftus, a distinguished professor at the University of California Irvine. At UC Irvine, Professor Loftus holds faculty positions in the Department of Psychology and Social Behavior, the Department of Criminology, Law and Society and the School of Law.

She received her Ph.D. in Psychology from Stanford University, since then she's published 22 books and over 500 scientific articles. Professor Loftus' research has focused on the malleability of the human memory. She's been recognized for her research with seven honorary doctorates and elections in numerous prestigious societies, including the National Academy of Sciences. She's past president of the Association of Psychological Science, the Western Psychological Association and the American Psychology Law Society.

Because of her expertise, Professor Loftus has been called upon as an expert witness or consultant in hundreds of cases. Some of the more well known cases include the McMartin pre-school molestation case, the Hillside Strangler, the Abscam cases, the Trial of Oliver North, the Trial of the Officers Accused in the Rodney King beating, the Menendez Brothers, the Bosnian War trials of the Hague and the Oklahoma City bombing just to name a few.

Thank you for joining us today, Professor Loftus.

Elizabeth Loftus: It's my pleasure.

Michael White: To start, could you just briefly just describe your background and research interests.

Elizabeth Loftus: Sure. I have, well now, for quite some time been studying human memory and when I say human memory to somebody I'm meeting on an airplane, usually the first thing they think of is that they want to tell me about somebody in their family who has Alzheimer's or some kind of memory problem. But, what I actually study is how people come to believe and remember that they saw things or did things that didn't see or do.

So, amongst other things, I study I witness testimony and when it becomes faulty.

Michael White: OK. Great. Law enforcement and the justice community are just starting to explore the evidentiary value of body-worn camera video here in the United States. The audio and video is being challenged by many, often times because of eye witness and victim stories that may change fact, that maybe left out or an individual may recant. Given these limitations, can you offer your thoughts on the potential benefits of video and audio footage from police body-worn cameras?

Elizabeth Loftus: I think, in general, it's a good idea to have more information and so if you have more information in the form of these recordings and you don't just have to rely on human memory, which can be faulty and can become contaminated, generally, it's going to be a good thing to have available this extra information.

Michael White: OK. There's been a lot of discussion lately around an officer's right to review his or her own body-worn camera video, especially after a traumatic event, such as an officer involved shooting.

Some departments have made the decision to not allow an officer to view that footage until after writing a report or even completing a formal interview. The ACLU, in particular, is adamant on this point.

Can you discuss your research regarding memory following a traumatic incident and how a police officer viewing body-worn camera video of that incident could influence the officer's recall of the event?

Elizabeth Loftus: Well, let me just say that, when I first was confronted with this issue, it occurred in the context of a court case, where an officer was being essentially prosecuted because the officer had said some things -- had said some things in an initial report, for example, said something like, the perpetrator threw a telephone or threw a chair or something like that, and then cameras, this was surveillance camera, not a body-worn camera, but it's a similar issue, but camera -- evidence revealed that this hadn't happened.

And, so what the officer said was, "I made a mistake, in my memory that's what I thought he did, but obviously, now that I've seen the video, I realized he didn't, and so I want to retract that." And, they end up charging the officer with lying and I thought that was a very unfair situation for this particular officer who made a mistake, was confronted with the mistake and tried to correct it.

And so, my sympathies were with these officers who should not be prosecuted for lying when they were victims of mistaken memory. Then a little bit later I was asked to write an essay and say something about what the memory literature says about whether an officer should review video information before writing the report. And as I -- there's nothing exactly directly on that point, but there are studies that show a phenomenon, sometime called, port-hole queuing or sometimes retrieval induced inhibition. If you review part of the material that you've been exposed to, it strengthens your memory for that material but weakens your memory for the non-reviewed material.

And, based on that work, I and my co-authors, who are graduate students at UC Irvine, we began to worry that if you allow the officer to review the video coverage, the body-worn camera then they won't be reviewing just what is captured by the camera, but not all the other more peripheral information that could be essential to understanding the officer's state of mind or understanding what actually happened.

And so, the memory research suggests that it might be better from a memory point of view to get an initial report without the review, but then in the interest of fairness, you might want to allow the officer to, honestly, change the story

in light of what the officer learns from the video. So, it's actually a complicated situation when you have two sides to balance here.

Michael White: Very, very interesting. Another controversial issue right now involving police body-worn cameras, involved using the cameras to record victim statements. Particularly if the victim requests that the statement not be recorded, essentially asks the officer to turn the body-worn camera off. Do you have thoughts on how police officers should handle interviews with crime victims, especially victims of sexual assault, when it comes to body-worn camera video and perhaps a request to deactivate the camera?

Elizabeth Loftus: Well that -- you know, you're starting to get into an area that maybe requires a slightly different psychological expertise than the one that I can bring to this discussion. I study memory and suggestibility, so I -- you know, I think there may be a sensitivity here, particularly with victims of sex crimes, that they might not want to -- they might not feel comfortable, they might feel nervous, they might actually not give as good information if they know they're being recorded. But, I don't know that that has ever been studied.

It reminds me of a therapy situation where I don't think that, particularly abuse victims would want their therapy sessions, in particular, recorded when they're talking about very sensitive material it might change how they talk about the experience and how they think about it. But again, that's a little beyond my pay grade.

Michael White: OK. Let's move downstream a little bit in the criminal justice system, but still focus on police body cameras. You talk a bit about some of the major issues with review of video and memory recall that prosecutors and courts should be aware of?

Elizabeth Loftus: Well, the justice -- the only thing I think the memory literature has to contribute to this, or at least one thing, is this issue that if somebody reviews the coverage, what they're reviewing is just what's captured in that coverage, and so, they may think that that material is the only important material, but there could be all kinds of other information that might be just as privative, but just as important for understanding what really happened in the case that is

more peripheral, that's not captured and it should not necessarily given less weight, so I think just to caution that -- keep in mind there are other sources of information that can be crucial.

Michael White: OK. Last question. Do you have any other recommendations or guidance for law enforcement agencies regarding your work with the limitations of memory and how body-worn cameras can benefit law enforcement in this area?

Elizabeth Loftus: With the -- the kind of work that I and others psychologists who study memory distortion and mistaken eye witness testimony, we've made all kinds of recommendations for law enforcement or other who are doing investigations. You know, some of those recommendations are certainly not to -- to interview people separately and not have one witness over here when another witness has to say and I -- those are just -- that's just one example.

But I think when it comes to this information, the officers need to be careful that they don't convey information that they've learned from looking at the footage and essentially contaminate somebody's memory with that new information. That somebody else may not have seen that, but in having a discussion about it, could come to believe that he or she also saw it and that might change the kind of evidence that's introduced into a particular case.

Michael White: Thank you, Professor Loftus. We're grateful today, that you could speak with us and share your knowledge on this important topic.

Elizabeth Loftus: Oh, my pleasure.

Michael White: We encourage law enforcement justice -- oh, that's wonderful -- we encourage law enforcement justice and public safety readers because agencies are interested in learning more about the implementation of body-worn camera programs to visit the body-worn camera tool kit at www.bja.gov/bwc. This tool kit offers a variety of resources that agencies can use to help with the adoption and use of body cameras for community engagement, policy development, data collection, officer training and educational purposes.

We also encourage listeners to share and promote these resources with your colleagues and staff. Lastly, all of these resources, especially the body-worn camera tool kit, have been designed as national resource. Your resource. So please submit your ideas for new content through the BWC support link that you'll find at the bottom of the home page.

This is Dr. Mike, Doctor Michael White of the Bureau of Justice Assistant Body-Worn Camera Training and Technical Assistance Team, signing off. Thank you to our listeners for joining us today.

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