Thinking About the Law

A Review of

The Science of Perception and Memory: A Pragmatic Guide for the Justice System

by Daniel Reisberg


http://dx.doi.org/10.1037/a0039162

Reviewed by

Edie Greene

I don't know Daniel Reisberg, author of this informative and engaging book about applications of psychological science to the legal system, and that is my loss. Though we graduated from college in the same year and have worked in roughly comparable fields for the past three-and-a-half decades, our paths have never crossed. If they had (and I hope they will), and if this volume is any indication, I would have recognized the scope of his knowledge, the precision of his insights, and his inclinations toward practicality and pragmatism, which I value. All of these are on display in The Science of Perception and Memory: A Pragmatic Guide for the Justice System.

Reisberg is a cognitive psychologist and his volume applies fundamental principles of this field (primarily but not exclusively, those concerning perception and memory) to issues at the center of many legal disputes. But he is also a consultant to lawyers and judges and an occasional expert witness whose testimony focuses on how people perceive, remember what they perceived, and think about what they remember. He has testified in state and federal court about procedures to elicit memories from children, eyewitness narratives, and memory for conversations. Such experiences in the trenches enliven Reisberg’s writing and give the reader confidence that his suggestions for reforming certain legal procedures are realistic and practical.

Early chapters on foundational issues such as the nature of science and the value of psychological science to courts, and on the selective, constructive, and integrative nature of witness perception and memory provide the “scientific muscle” (p. x) that supports many of the claims that follow. But the substance of the book really focuses on the relevance of psychological research on perception, memory, and other thought processes to various legal concerns: eyewitness and earwitness memory, deception detection, interrogations and confessions, jurors’ cognitions, and children’s accounts of crime. Other chapters step further into the weeds of criminal investigations, assessing how, for example, the police identify and interrogate suspects, conduct lineups, and question child witnesses, and how their procedures can be—indeed should be—refined in light of the relevant scientific research.
Intended as a middle ground between scholarly articles that appear in esoteric journals and sources written by nonscientists for legal practitioners, this book does a masterful job of conveying science in an accessible yet erudite way. I suspect that judges, attorneys, and policymakers without formal training in the sciences or experience in reading social scientific research will find its insights accessible and its conclusions useful.

But what really sets this volume apart from others like it (e.g., Devine, 2012; Lampinen, Neuschatz, & Cling, 2012) and from edited books (e.g., Holliday & Marche, 2013; Lassiter & Meissner, 2010) is that even readers like me, who conduct the foundational research and think hard about how it can inform legal processes and procedures (as well as those with only a passing interest), will be engaged by Reisberg’s efforts. His mastery at deciphering complicated concepts (e.g., viewers’ ability to perceive and identify faces under varying levels of lumens and from different angles and distances) and integrating vast sets of research findings (e.g., the countless studies that examine the relation between witnesses’ confidence and accuracy, factors that mediate that relationship, and jurors’ reactions to confident witnesses) is obvious. So too is his ability to tuck these findings into a coherent and big-picture framework, reflecting, I suspect, wisdom gleaned over many years of teaching at a liberal arts college. Reading this book made me feel as though I was sitting at a seminar table with Professor Reisberg at the helm, his soliloquys broadening my world view and deepening my understanding of ideas I’ve been tinkering with for years. I even found ways to incorporate his ideas about earwitness memory into some expert testimony I’m preparing for the near future. This is pragmatism at its best, and one reason I wish that Reisberg and I were acquainted. After commending him, I would thank him.

The only quibble I have with this otherwise excellent work is its misleading title, in particular, its overly-narrow emphasis on the science of perception and memory. Those domains are represented here in separate chapters on what witnesses can see and how that information is retained and remembered. And relevant findings are applied to eyewitnesses’ and earwitnesses’ perceptions and memories, children’s accounts of their observations, and the procedures that law enforcement officials use in investigating these issues. All of this borrows clearly from principles of perception and memory. But other domains and topics, including some beyond the purview of traditional cognitive psychology, garner sustained attention. Examples include situational factors such as confirmation biases and minimization strategies at work in interrogations, dispositional factors that put some people at more risk than others for false confessions, social influence factors that arise during jurors’ deliberations, and interpersonal dynamics that determine how a conversation between a child witness and a forensic interviewer can and should unfold. At their most basic level, these situations rely on perceptions and memories but they extend so far beyond those foundations that a reader who expects this book to focus on traditional concepts in cognitive psychology may be surprised. I wish the book had been titled The Science of the Mind: A Pragmatic Guide to the Justice System, or some variant thereof.

Still, in this Pragmatic Guide (we’ll stick with the right side of the colon), Daniel Reisberg has done a great service to attorneys, judges, investigators, policymakers, and anyone else interested in the workings of the justice system and open to current thinking about how psychological science can be used to make it more efficient and fair. In accessible language, he catalogs possible problems with evidence from witnesses and other parties in legal disputes and outlines ways that research can lead to better procedures, rendering the evidence “stronger, clearer, and less vulnerable to challenge” (p. xii). That he can also
engage, instruct, and inspire researchers like myself makes Reisberg's contribution all the more impressive.

References


PsycINFO