

Researchers propose new federal rule of evidence for more accurate verdicts in court

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While many juries use commonsense when determining an innocent or guilty verdict, research has shown that commonsense can be misleading and inaccurate. In a new study, researchers propose a new federal rule of evidence that ensures a jury is educated on theories of false memory in order to produce more just verdicts—a rule that would especially be of aid in testimonies from children.

Referencing previous cases and research, the researchers found that because some court testimonies largely rely on how a person remembers a scenario, an assessment based on commonsense is not a sound way for a [jury](#) to reach a verdict; [memory](#) can be incorrect, as can our instincts for determining credibility. The study relates six principles of false memory that are firmly grounded in research to legal cases, demonstrating the fallibility of a testimony based on memory and verdicts based on commonsense.

According to the researchers, if juries were able to assign weight to testimonies with reference to these six principles as opposed to commonsense, more just verdicts would be made. And because [children](#) are so often disbelieved due to age, jurors would be taught the real role age plays in memory.

Read the full study, "Fuzzy-Trace Theory, False Memory, and the Law," by researchers C.J. Brainerd and Valerie F. Reyna from the journal *Policy Insights from the Behavioral and Brain Sciences*.

More information: C. J. Brainerd et al, Fuzzy-Trace Theory, False Memory, and the Law, *Policy Insights from the Behavioral and Brain Sciences* (2019). [DOI: 10.1177/2372732218797143](https://doi.org/10.1177/2372732218797143)

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