RELIABILITY OF IDENTIFYING SUSPECT AS OFFENDER

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Introduction

Whether or not the suspect (or the accused, hereinafter referred to merely as "suspect") in a criminal case is really the offender is an important point in criminal administration of justice. That there should be no mistake in the determination of his identity is the kernel of criminal administration of justice. Accordingly, the establishment of such identity is of extremely grave significance. This is usually arrived at by means of taking statements from the victim and persons concerned in the case as witnesses. (Under the Code of Criminal Procedure the term witness cannot be used before the case becomes pending in the court but it shall be used in this article as covering what is called "informant" in the investigation stage.)

In the practice of our criminal judicature, as is generally known, it is attained by means of "single confrontation". "Single confrontation" is a method to show one signle suspect to a witness and ask the latter if he has cognizance of the former. However, it is said that this method is dangerous because affirmation is liable from mistaken recognition. To cite from the literature I have at hand, R. Graszberger[1], E. Seeling[2], A. Hellwing[3] and others, all point it out. Rather formerly O. Lipmann[4] and F. Gorphe[5] who quotes Lipmann write to the same purport, if I remember correctly. I have neither of the copies at hand and cannot make sure of them. I have written in one of my works[6] affirming this conclusion. I have approved it as there are certainly reasonable points in this conclusion but it is dubious whether or not it has been experimentally proved. The authors I cited above do not say that it has been experimentally proved. So that it is under minute investigation but so far it has not been found as yet.

Such being the circumstances I decided to ascertain this under strict conditions by experimental methods, and after as many as five experiments I have realized that the conclusion hitherto made—that selective confrontation is better—cannot be accepted uncoditionally. My report on it follows.

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[1] Graszberger, R., Psychologie des Strafverfahrens, 1950, S. 141.
[2] Seeling E., Die Ergebnisse und Problemstellungen der Aussageforschung; in "Schuld, Lüge, Sexualitat," 1955, S. 151 f.
[3] Hellwig, A., Psychologie und Vernehmungstechnik bei Tatbestandsermittelungen, 1951, S. 293 ff.
[4] Lipmann, O., Grundrisz der Psychologie für Juristen, 2. Aufl. ,1914, S. 84.
[5] Gorphe, F., La critique du témoiguage, 2e. ed., 1927, p. 383.
[6] Uematsu, Tadashi, "Some Aspects in Juristic Psychology", p. 2 and following, the Jurist No. 160 (1958).

Method of Experiment

As a preparatory trial, I showed a photograph of a person to three adults (one being a female) who happened to come to see me, etc. I gave them instruction which is roughly as will be stated later and after approximately five minutes I showed them ten other photographs of ten persons, one of whom being the same person that was in the picture shown them first. And I made them select out of the ten pictures the one of the same person that they saw first. They did not err in the identification and the three could select out the picture of the identical person. Then I conjectured that unless more time would be given between the presentation and the identification aimed results could not be attained.

As the essential points are shown in the table the methods of experiment were not necessarily same but differed according to the groups of persons experimented upon but it was due to the methods having been improved during the process of experiment that difference arose among them. The details of difference are accounted for by the following circumstances.

There were five groups of persons experimented up. They were (1) judicial apprentices, (2) women's university students, (3) police officials (recently appointed executives), (4) police officials (inspectors and assistant inspectors) and (5) male university students—in their order from the top to the bottom column in Table I appearing on the next page. The improvement of conditions for experiment had been made in this order, and I arrived at the conclusion that an experiment on four-sub-group system, as in the case of the group of male university students lastly experimented upon, was idealistic.

Some explanation will be given with respect to these five groups of persons who were experimented on like the following.

The judicial apprentices were tested on January 26, and February 10 the next year of the year wherein they had started their training. So they were those who would soon take up practical function. As this group of persons have experience in having taken considerably difficult examinations, they can be said to belong to what is commonly called an excellent group.

Of school students I used male and female university students. The latter being students of a leading women's university in this country where students of excellent scholarship are gathered together, the male students are also of the leading university in our country that admits both male and female students, where students of most excellent scholarship are gathered. In such phase as the age of both male and female students are approximate they are conveniently compared under various conditions. Although both universities have superior students, there may be an aspect that calls for a consideration as to the propriety of treating a university for girl students and a university whose students are mostly males as equal.

The police officials who were tested had been divided into two groups. Those who are under "Police Official (special)" in Table I are students in the course of executive training of the Police College and it was very soon after they entered the Police College when I tested them, so that then they had no experience of the police duties. They are those who are in a regular course for taking up executive posts of the police

Table I *Rate of Answering Accuracy of Tested Persons*

Tested persons and their age		Length of time till identification	No. of photos for selecting	Group I Selective (Subject person not included)		Group II Selective (Subject person included)		Group III Single (Different person)		Group IV Single (Subject person)	
Judicial apprentice	26	15 days	10	—	—	4/11	36%	10/13	77%	—	—
Women's Universty student	22	24 hours	10	—	—	5/13	38%	4/11	36%	—	—
Police official (special)	24	21 hours	5	2/9	22%	7/9	78%	5/8	63%	—	—
Police official (general)	33	54 hours	5	1/39	3%	21/38	55%	26/40	65%	—	—
University student (male)	22	7 days	5	5/17	29%	13/17	76%	16/17	94%	13/17	76%
Synthesis				8/65	12%	50/88	57%	61/89	69%	13/17	76%

and most of them are excellent new graduates of universities selected from other university-graduates and they have been taken in by the Police College. Therefore, they may be considered as a group of people among the people in general whose scholarly attainments are superior. They should not be taken as persons having special skill or ability that is found in the function of the police. The other group of police officials, on the other hand, are students in the regular course of the Police College. They are at present in the rank of police inspector or assistant police inspector and most of them are graduates of high schools or persons having had school career of a similar grade, and they have approximately ten years' experience of police duty starting from the rank of policeman. In comparison with the people in general they may, therefore, be said to belong to a group of people selected for intellectuality to a certain extent, and we may take it for granted that they have some practical experience in the matter of identification. And it is to be considered that the judicial apprentices and the two groups of police officials must especially have a greater concern with matters relative to offenders, suspects and their identification than people in general. Moreover, these persons I tested, no matter to which groups they may belong, have qualifications superior to people at the averaged level of the community. So if such qualifications have positive bearings upon the result it can be said that these experimented persons are on the whole advantageously qualified for making no errors in the identification. As tests are given to those who are so qualified, it is quite conceivable that if less qualified persons are tested, there may be more errors.

As is shown in Table I, difference in the age of persons according to groups is to be noted. Rather mature years are noted of the general police officials.

The points of difference among the groups of tested persons have been stated so far but among the groups three more points of difference should be mentioned. The difference is not in the attributes of the groups of tested persons but it is in the con-

ditions of experiment.

(1) Length of time from presentation to identification

Difference in conditions as shown in Table I is to be noted. Such difference has not been made so intentionally, but as it was feared from the result of the preparatory experiments on three persons that too short intervals of time would make identification too easy and consequently they might not bring about results which would serve for the solution of the problem, longer intervals of time were given. Fifteen days' interval was given in the first experiment on judicial apprentices and the result was that an unexpected fact was found that single confrontation showed a higher rate of correctness. (Later study revealed that to think it unexpected was wrong). Therefore, in the next experiment on women's university students I made the interval as short as one day by way of experiment. This was such a groping, and the difference in the conditions of intervals in the later experiments on the three groups had been for no other purpose.

By way of reference or satisfaction the date and hour of exhibiting one photograph after presumption of the offender and the date and hour when the tested person was made to disclose the result of his recognition of the identity of the subject by identification according to the groups are recorded as follows:

Judicial Apprentice:
- Presentation; January 26, 1959
- Identification; February 10, 1959
- Interval; 15 days

Women's University Student:
- Presentation; About 4:00 p.m., March 3, 1959
- Identification; Same hour, next day
- Interval; 24 hours

Police Official (special):
- Presentation; 1:00 p.m., April 24, 1959
- Identification; 10:00 a.m., next day
- Interval; 21 hours

Police Official (general):
- Presentation; 10:00 a.m., April 25, 1959
- Identification; 4:00 p.m., April 27, 1959
- Interval; 54 hours

University Student (male):
- Presentation; April 21, 1959
- Identification; 4:00 p.m., April 28, 1959
- Interval; 7 days

(2) Number of Photos for Selective Confrontation

It has been the main object of this research to make comparative study of selective and single confrontation and in case selection is to be made, difference is made according to the groups of persons tested in the number of photographs from which they are made to select. As is shown in Table I, the first two groups were made to select from 10 and the latter tested 3 groups from five. Such difference in conditions was made for the sake of simplifying the process because I found that five instead of ten photos were sufficient although I used ten for the first time. In decreasing the number I exercised

care so that the five which had been less selected at the time of selecting out of the ten should be omitted. As to which were taken away I shall explain later.

(3) Method of Grouping

Some groups were divided into two sub-groups and others were made into three and four sub-groups. As I have said already, as I found the four-sub-group system to be idealistic, the last group of persons were tested in four groups. And I intend to go by the four-sub-group system in the experiment I shall conduct in the future. However, as I thought it sufficed to compare selective confrontation with single confrontation in the beginning of my experiment, I employed a two-sub-group method. I found that the system of two-sub-group or that of three-sub-group was not satisfactory for the solution of the problem. But none the less the experiments carried out upon the persons in four groups under the two-sub-group system or three-sub-group system are of use. Apart from this matter, the fact that they sufficiently serve to solve the problem in part is as will be stated on the interpretation of the results. The oblique lined portions of Table I is meant to indicate that no experiment was performed upon the persons of the relevant groups.

The four groups are according to the following divisions.

The persons in Group I are made to identify by selective confrontation but the five photographs presented to them for selecting do not contain the photograph of the person presented to them before as supposed offender (subject person). The conditions for Group II is similar to those for Group I on the whole but a different point is that the photographs include the picture of the person presented to them as hypothetical offender (subject person), wherein it differs from Group I. As is shown in Table I there are cases in which the photographs for selecting are five and in which they are ten. If the results of experiment on Group I and Group II, alike in selective confrontation, are compared, it is found how different the results are in the case of including the subject person's photograph in the pictures for selecting and in the case of no inclusion of his picture in them. Such has been my aim.

Group III and Group IV are tested in single confrontation. The former are made to conduct identification by showing them one photograph of a person who is not the person presented to them before as hypothetical offender (subject person) and the latter are made to identify by showing them a picture of the subject person. Thus my intention was to see the difference of the two groups in the result of experiment by such means.

And the most important aim is to compare the case of selective confrontation (Group I and II) with single confrontation (Group III and IV).

For this purpose Group I, II, III and IV must of course be the groups of persons approximately equal in quality when each group is compared with another group in the whole. Thus care has been taken of the personal formation of each group but it cannot be guaranteed but that any fortuitous factors will work in the qualitative equality of each group, etc. Whether or not there arises the action of accidental factors may be ascertained by repeating experiment and examining its result. In short, if difference of each group is to be seen among the groups of equal quality it should be considered that the difference is attributable to the experimental conditions given to each group, so in such light I am going to interprete the result.

Materials Used (Photographs) and the Method of Identification

The photographs that have been made use of are not criminal offenders' but they are pictures of police service personnel. While the photograph presented as a hypothetical offender's is of a person in a cap and jacket, the photographs used for identification are of persons in no cap and suits, and not only the background in the photograph used as presentation for the first time is different from that of the pictures for identification but the photographs for identification, although the persons pictured are different, with respect to any persons their background is the same and their posing is generally alike.

Of the eleven photographs used for identification, one is of the person identical with the hypothetical offender. Other pictures are of persons different from the supposed offender. At the time of identification six pictures were used to make them select the one out of the five, and to make them choose from ten, four were added to the six and made them ten. It is misleading to say that for selecting out of five pictures six were used but in the case of Group I five photographs not containing the subject person's were used and in the case of Group II the subject person's picture was excluded and it was replaced by one picture of some other person, so that the number was made five and actually I used six photographs in all. So that it is impossible that six photographs should have been shown to the persons tested at a single time.

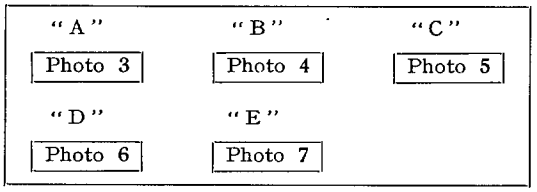
The following were the photographs used.

Photo 1. For presentation (hypothetic offender)
Photo 2. For identification
(Same person with hypothetic offender presented as "B" in set of 5 photos and "C" in set of 10 photos in case of Group II)
Photo 3. (A) for identification
Photo 4. (B) for identification
(excluded in case 5 photos are used for Group II)
Photo 5. (C) for identification
(presented as "C" in case of 5 photos and as "D" in case of 10 photos)
Photo 6. For presentation
(presented as "D" as case of 5 photos and as "E" in case of 10 photos)
Photo 7. For identification
(presented as "E" in case of 5 photos and as "F" in case of 10 photos)
Photo 8. (G) for identification
Photo 9. (H) for identification
Photo 10. (I) for identification
Photo 11. (y) for identification

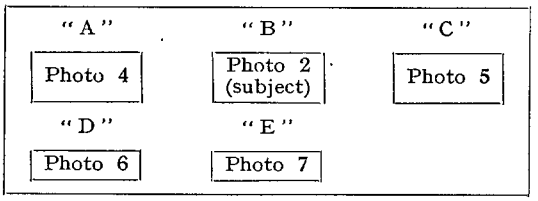
In making them select by the method of selective confrontation, while I took a method of unintentional arrangement of the photographs at the time when ten pictures were shown and when five were shown to the group of police officials (special), I fixed the spots for placing the pictures (the fixed spots are shown in the following) when five were shown to the groups of police officials (general) and university students (male). For this I had no special purport. It so happened that I came to do so as I went on improving the method gradually for convenience. I cannot think that such change

in the method should generally have any effect on the result. Each photograph bears an alphabetical letter. This is for the convenience of the tested person when he makes an indication in his answer in writing.

Arrangement of 5 photos for Group I.



Arrangement of 5 photos for Group II.



When the supposed offender is presented the following instructions are given.

"I am going to show you a photograph. Let us suppose that the person in the photograph has broken into your house. I will ask you to do something about that person later on, so please have a good look at the picture. While you see the photo you will please keep silent because it would be embarrassing, if you would talk with one another or utter voices because by so doing you might influence others."

The photograph is shown in a way it can be seen well and at any distance and for any length of time that is required but approximately a little more than one minute is sufficient. In many case I made around fifteen persons see it at the same time. In order that there should be no person who failed to see it for some cause, if I found any person who could not see it, I gave him an opportunity to see it even though it was a little later. It is added that after the expression "later on" in the instruction "tomorrow," "next time" or "after one week" were inserted.

As tested persons have been made to conduct observation under such conditions they of course expected to be questioned later on. Compared with an actual criminal case, the point that it was identification by a photograph may be a disadvantageous condition (or it may on the contrary be an advantageous condition) for them, but the point that the observation can be carried out without hurry and in a calm mental condition, expecting to be questioned later on, is an extremely advantageous condition for them. What degree of correctness can be attained under such advantageous condition is to be made clear by this experiment.

In the instruction given in the case of identification besides the repetition of the wording to prevent mutual influence, asking questions was also prohibited. It is like the following.

To the group for single confrontation—"Answer whether or not the person in the picture I am going to show you is the same person with the robber in the picture I showed you before."

To the group for selective confrontation—"I am going to show you five (or ten) photographs. Amidst the photographs is there the picture of the same person with the robber in the picture that I showed you before? If you have not found him, answer "No." If you have found him, take out his picture and indicate which is that picture by either the "A", "B", "C", "D", or "E", etc. that is written on the picture."

Their answers were to be given in writing and without bearing their names. As much time as they wanted in answering was given but several minutes generally sufficed. When selection was made from ten some took more than ten minutes.

Result of Experiment

The general result of experiment is as shown in Table I. The fractional numbers appearing in the table show how many of the whole persons of the group gave correct answers. In other words the denominator shows the number of the persons in the group and the numerator shows the number of persons who answered correctly out of the whole persons of the group. And the % that has been shown in the right column of each fraction indicates the percentage of the number of correct answers among the whole persons of the group by counting 0.5 and over as a whole number and dismissing the rest.

It has been made clear in my explanation under "Method" what is meant by correct answers. To make it clear again, the correct answers are "No." in the case of Group I, that which points out "B" in the case of Group II, "No." in the case of Group III and "same person" in Group IV.

From the main object of this experiment one may take note of the sidewise comparison or the difference among the groups in the rate of correct answering but vertical comparison is also possible. The vertical comparison or comparison of the rates of accuracy of the answers among the groups of persons experimented on cannot of course bring about what is accurate because experimental conditions among groups are different but by it we may get rough ideas and get at probably correct assertions, which will be deduced from the evaluations listed in the table like the following.

(1) *Comparative Merits and Demerits of Selective and Single Confrontation*

When I carried out experiment for the first time on judicial apprentices under the system of Group II and Group III, from my presupposition from the description of foreign scholars, I presumed that single confrontation would of course result in a lower rate of correct answering but the result was contrary to my expectation. The rates turned out to be 36% in the case of selective confrontation (Group II) and 77% in the case of single confrontation (Group III). At first I thought this was an exceptional phenomenon brought about by the intervention of accidental factors resultant from the small number of persons tested, but in synthesizing the results of these two groups against all the persons of the five groups it was found that this was not an exceptional phenomenon but rather it was usual that Group II had a higher rate of accuracy in answering than Group III as has been found. In the case of women's university students and in the case of police officials (special), the rate of accuracy is higher in the case of the group for selective confrontation than in the case of the group for single one. And

in either case not only the tested persons were few but in the case of women's university students it is clear on the face of it that the difference between the two groups was so little that it was insignificant. Moreover, the exceptions, because of the small number of the tested persons, cannot be regarded as having the value of exceptions.

In short as, excepting these two groups, it is obvious that the accuracy rate is lower in the case of selective confrontation, it must be said as a whole that the accuracy rate is lower in the case of selective confrontation than in the case of single one. The sythesis column of the same table has the numerical indications of this finding. This is a fact patently contrary to what has hetherto been strongly asserted by various scholars. The qualitative difference of answers (statements) themselves has not been examined in this experiment, so in this respect a conclusion is reserved but so far as it is seen from the quantitative side I do not think that I am mistaken in this conclusion of mine. This is on the following basis.

Why has it been said that correct answers are easier to be obtained in the case of selective confrontation? To draw inferences from this, I think that this is for the following reason. When questioned persons are made to select out from many, they have a large compass of freedom so they point out that which they have confidence of, but when they are shown one single person and are asked whether he is identical with the offender as in the case of single confrontation they are liable to be subjected to suggestion that he is the same person, as those questioned persons who are not confident are apt to give an answer in the affirmative. Accordingly in the latter case the accuracy rate becomes lower than in the former case. Especially with respect to persons who have been labeled as suspects by "authoritative" organs such as courts and investigators, persons who are made to do the work of identifying are unconsciously under the spell of suggestion and make statements in the affirmative that they are the same persons because they rely on their authority, so long as there exist no special circumstances. Such things taken into consideration, the method of single confrontation seems all the more dangerous.

With regard to the general psychology of statement the law concerning the relation of question and answer gives suggestions to this problem. While questions are asked in the yes-or-no form in the case of identification in single confrontation, questions are put in the form of interrogatives in the case of selective confrontation, I think. As questions in interrogatives are less suggestive than yes-or-no questions, correct answers are thought to come out easier [7] and [8]. In short a correct answer is easier to get by asking, "What colour was it?" than by asking, "Was it blue?" The results of my several experiments have proved this without exception. [9], [10] and [11]. However, the question is whether the so-called selective confrontation is of the same nature with questioning in interrogatives.

[7] Uematsu, Op. cit. p. 55.
[8] Lipmann, O., Grundriss der Psychologie für Juristen, 3. Aufl., 1925, S. 100 ff.
[9] Uematsu, Tadashi, "Suggestive Character of Question and Reliability of Statement", p. 2 the Jurist No. 160 (1958).
[10] Uematsu, Tadashi, "An Experiment on Suggestive Power of Questions," appearing in February number of "the Liberty and Justice," 1959. Results of experiment relative to Question 4 in the above said article.
[11] Uematsu, Tadashi, "Power of Influence of Suggestion on Statement," p. 459, No. 5, Vol. 66, the Hogaku Shinpo (being number issued in memory of the Late Dr. Raisaburo Hayashi): Result of experiment in Question 4 of the above said article.

If the above point is examined, the following is to be said. The question asked after showing five or ten pictures, "Is there any picture of the person identical with the robber who was in the picture I showed you before? If there is the picture, which one is it?" is very much like a question in interrogatives in that it is in the form of "which one?", but in that the scope of selection is limited to five or ten, the question is in the form of a so-called disjunctive question. As the question says, "If there is the same picture, etc.....Which one.....?" "None." can be an answer, and in that sense the sphere for selecting answers is not restricted so that the question belongs to the category of "Complete disjunctive question". However, as a matter of fact the answer, "None" is difficult to come out. There is a tendency in persons who are tested to take it for granted that there is the picture of the offender among the limited five or ten pictures, and he tries to point it out. This has been proved by the result of experiment on Group I. Aside from the question of Group I for a while, it must be noted at any rate that the form of a question in selective confrontation is not the idealistic form of the question in interrogatives but the question is rather in the form of a disjunctive question which is strongly suggestive. I think this was the factor for the low rate of accurate answering by persons of Group II which had been tested by the method of selective confrontation, in the comparison of Group II with Group III. Perhaps I may not be wrong in saying so.

The result of experiment on Group I shall here be examined.

If the case in which the photo of the subject person is included and the case in which the photos do not contain his picture both in selective confrontation are compared, what will be the outcome? I succeeded in ascertaining a most important fact—the fact that selective confrontation is not necessarily better than single one—by comparing Group II with Group III. However, while there is the photograph of the subject among the pictures for identification by Group II, the photo for identification by Group III with which Group II is compared is not of the subject person. The combination of these two groups has been devised so that I might directly bear on the crux of the old argument, but it is still questionable to make comparison by such combination. It is comparatively easy to point out the picture of the subject person out of the several photos that contain his picture (Group II) but it is to be presumed that it may be far more difficult to point him out with respect to several pictures. As is same with the above, it is presumed that in single confrontation it may be easier to answer correctly (affirmation) in the case of making them identify by showing the subject person than in the case of showing a person other than the subject person.

In order to solve this question I compared Group I and Group II. This is a comparison of selective confrontation without the subject person with selective confrontation in which the subject person is included. And the result of experiment on three groups showed, without exception, a low rate of accuracy in answering in the cases wherein the subject person was excluded. What does this fact tell? If this is replaced in the practice of judicial proceedings, the following is to be said.

In a case where the offender has been arrested as suspect and he is lined up together with others before witnesses, a considrably high rate of accuracy of, answering, like the result obtained from Group II, can be expected, but in a case wherein a person other than the offender has been arrested by mistake and he is lined up with several others

before witnesses, the accuracy rate is as low as the result of experiment on Group I has shown. In short, in the former case the possibility of witnesses' correctly pointing out the offender from among the several is great but in the latter case, notwithstanding the witnesses should point out the fact that there is no offender among the several, they do not do so but on the contarry they are in considerable danger of pointing out a wrong person.

Accordingly, from this point we notice that the positing or postulation hitherto made that selective confrontation is better than single one is not right. It has hitherto been said that selective confrontation can exclude the element of suggestion more than single one, but even under the hypothesis that it is correct, it is in no other case than when selection is made to be conducted from among the several that contain the subject person, and in case when the subject person is not included, it is obviously clear that witnesses are led to make extremely dangerous mistakes.

If these two methods of selective confrontation are considered collectively in relation to the suggestiveness wherewith a question in the general form of questioning is attended, these come under the category of the so-called disjunctive question. Hereupon, although the answer may be "There is no offender amongst these." in the case wherein the subject person has not been included among others, the questioned person is subjected to a suggestion as if he must of necessity select out from the several and point him out, so that it is difficult for him to answer, "There is no offender." and possibility becomes great that a result of wrong and unwarrantable choosing and indication will issue. The old positing which expects that selective confrontation will result in the higher rate of accuracy of answering than single one, on the ground that the former has an aspect of resembling questioning in interrogatives, is merely seeing the other side of the shield and overlooks the tendency of driving the questioned person into a narrow range.

Lastly, comparison will be made of the case in which the subject person is shown for identification with the case wherein some other person than the subject person is shown. The comparison of the result of experiment on Group III with that of Group IV will make the bearings clear but in this respect I have not effected investigation other than that into the group of male university students so that with respect to whether or not the result of experiment can be generalized, there is not altogether room for doubt. However, a result such as it is has been arrived at. And according thereto we can see that it is rather more difficult to get an answer in the affirmative (correct answer) as in the case of Group IV where the subject person has been shown than to get a negative answer (correct answer) as in the case of group III by showing some other person than the subject person. It is hard to explain why the rate of accuracy is low in the case of the former. However, I hope to explain it in the future as I must repeat experiments before I can confirm this fact. But apart from it, as for the case of lower rate of accuracy, it does not compare unfavorably with the case of selective confrontation that contains the subject person. Accordingly, from this view point, also, it cannot be said that single confrontation is inferior to selective one. From any angles, therefore, the positing that selective confrontation excels single one cannot experimentally be proved. On the contrary in respect of accuracy rate it shows contrary result. However, for one thing only it can be thought that the positing may still be maintained. It is the presumption that

although single confrontation may show a rather higher numerical value in accuracy rate, the pointing out in selective confrontation may be higher in reliability as seen qualitatively. The statement that has been made even with resistance against strong suggestions makes one think that it has been made with that much conviction so that there may be such excellence of quality in the accuracy of answering in the case of selective confrontation. However, even for that, the low rate of accuracy in the case of no inclusion of the subject person (Group I) must be said to be too remarkable.

(2) *Observations of Derivative Results.*

(i) In single confrontation there have been exceptions only with respect to women's university students. All the other results show that most persons' identifying was correct. In selective confrontation, in the case wherein the subject person has not been included (Group I) accuracy rate was extremely poor as has been said already, but

Table II *Answers in Selective Confrontation Group I (no subject person)*

Answer / Tested person	A	B	C	D	E	No subject person
Police official (special)	4	0	0	1	2	**2**
Police official (general)	13	5	4	3	13	**1**
University student (male)	4	1	0	2	5	**5**
Total	21	6	4	6	20	**8**

in the case wherein the subject person has been included (Group II) that which has been pointed out by most of the persons as the identical person is correct as is shown in Table III and Table IV. To synthesize these two cases, it can be safely said that excepting the case of selective confrontation in which the subject person has not been included, even though a decision should be made on the identity according to the recognition of the majority of the persons, there would be no mistake in general cases. That such result is attained from single confrontation is already clear from Table I, but with regard to cases of selective confrontation the matter will be made clear only when analysis by numerial values shown in Table II to Table IV will have been completed. In these Tables the figures in gothic types shows the numbers of correct answers. The alphabetical letters of the tables, though they are same, not necessarily stand for the same photographs. Hence the different tables.

The result of selective confrontation that contains the subject person is as shown in Table III and Table IV but in the case of Table III, "B" is identical with the supposed offender and in the case of Table IV "C" is the supposed offender. And an overwhelm-

Table III *Answers in Selective Confrontation Group II Case of ("subject person included") (1—5 photos in such case used)*

Answer / Tested person	A	B	C	D	E	No subject person
Police official (special)	0	**7**	2	0	0	0
Police official (general)	2	**21**	2	1	7	5
University student (male)	0	**13**	0	1	2	1
Total	2	**41**	4	2	9	6

Table IV *Answers in Selective Confrontation Group II Case of ("subject person included")* (2—10 *photos in such case used*)

Answer / Tested person	A	B	C	D	E	F	G	H	I	J	No subject person	Not recognizable
Judical apprentice	3	0	**4**	0	0	3	0	0	0	2	0	0
Femal university student	2	0	**5**	1	0	2	1	0	0	0	1	1
Total	5	0	**9**	1	0	5	1	0	0	2	1	1
Lettering in case of Group I	A	B		C	D	E						

ingly large number of tested persons have identified him. Hereupon, as has been pointed out already, seen from this purview we come to a conclusion that it is almost safe to determine the identity by majority of the witnesses. If so, we may take it exceedingly easy but witnesses do not happen to be so many in usual cases so that even though a decision is to be given by majority, as a matter of fact, in criminal proceedings wherein only several witnesses can be had at best, it is impossible to decide that "there can be no mistake as comparatively many witnesses have made a same testimony."

(2) In selective confrontation in which the subject person is not included (Group I) even though a person who is liable to be misjudged as the same person with the subject person becomes less mistaken for him when the subject person is included in the objects (Group II). This is clearly to be noticed by a comparative study of Table II and Table III. The alphabetical indication in these two tables has been made according to the rule that the same person shall be indicated by the same alphabetical letter with the only exception of "B". Of course as the case of Table II (Group I) does not involve the sujbect person "B" is not the subject person, but in the case of Table III (Group II) the person who was indicated by "B" in Group I had been excluded and in his place the subject person has been included as "B".

If these two tables are compared, while in the case wherein the subject person has not been included (Table II) it is obvious that there is a remarkable tendency of "A" or "E" being misjudged, in the case wherein the subject person has been included (Table III) the tendency of "A" or "E" being misjudged is not so great but the subject person is rightly identified. If over-all observation is made, we can say that although "A" or "E" is a person who is liable to be mistaken for the subject person, after all the subject person will be recognized as the identical person, and the tendency of misjudgment is rectified that much. From this point of view also, if it is the case wherein subject is included in the objects in selective confrontation, there is hardly any mistake in determining the person who has been pointed out by many witnesses as offender. We can also say that in this case even though there is a person who resembles the subject person, the tendency for avoiding him is strong. However, this depends upon the degree of resemblance and as there can be "a person who looks like the subject person more than the subject person looks like himself" in a very rare case, it cannot be declared that the majority of witnesses will avoid a resembling person and rightly point out the subject person. Only as for general tendency such view may presumably be taken.

By the way the alphabetical lettering (A–E) in Table II is not necessarily the same

with the lettering in the case of a set of ten photos in Table IV (A—J). The A, B, C, D and E in Table II are identical with A, B, D, E and F respectively in their order, and they are respectively the pictures of the same person. This is as has been shown in the bottom of Table IV. It was "A" and "E" in the case of Table II that especially many tested persons misjudged for the subject person and in the case of Table IV "A" and "F" (same person as "A" and "E" in Table II) were mistaken by many so that both cases completely agree. However, if the point that in the case of Group II (Table III) "A" is not so much mistaken is considered, it may not be said that there is "complete" agreement in all cases. But, we may say that there is "approximate" agreement.

(3) As it is not the aim of this research to clarify the testifying ability of each group of tested persons, experimental conditions for such clarification has not been prescribed. Accordingly, I cannot make any assertion in that connexion but if I pick up some items that might give suggestions for future research, the following can be mentioned (See Table I.).

(a) Presumably a group of persons who are accepted, in a very popular sense, as superior may show excellent results also in this kind of testifying ability. It is presumed that the fact that any of the three groups of judicial apprentices, police officials (special) and university students (male) has a rather higher rate of accuracy than any other group is to a certain extent suggestive of such a fact. However, it cannot be said that such is sufficiently certain and reliable. It is an exceptional phenomenon when Group II which was made up of judicial apprentices, out of the three groups, has merely shown a low rate of accuracy but it may be presumed that this is attributable to the interference of fortuitous factors arising from the small number of tested persons.

And when police officials (special) and police officials (general) are compared, although the former has a showing of results which excel those of the latter, as the former has too small a number of tested persons the numerical value is not only that much unstable but it must be taken into consideration that there are two following reasons. One of the reasons is that the police officials (special) are considerably younger in age than the police officials (general) and this fact, seen from the general principle, is considered to be the reason that the degree of reliability of their testifying is high[12]. The other is that as the police officials (special) have taken as little time as half the time the police officials (general) have taken before their identifying they found themselves under that much advantageous condition for identification. These points being considered, we must say that although the police officials (special) are a group of what we call superior persons who were socially selected, there are some points of doubt whether they have superior ability also in the way of testifying ability of this kind as might be expected.

However on the other hand, generally viewed, there is something that makes us think that the so-called excellent group of persons after all excel in their ability of testifying. In such comparative argument we do not doubt that it is necessary to consider the length of time before identification because of the following fact. The time before identification by police officials (special) is not long as in the case of the groups of police officials (general) and women's university students but in the case of male university students it is seven days and in the case of judicial apprentices it is fifteen days and although the

[12] Uematsu, Tadashi, "Reliability of Testimony—its Sexual and Age Difference—", p. 219, Japan Criminal Law Society's Selection (3), 1959.

intervals of time in these cases are far longer it must be noted that they show this degree of high accuracy rate.

(b) As police officials (general) have a police official's career for more than ten years, instances are not few in which they have been engaged in the work of investigation for that period of time. Even if otherwise they have been employed, they naturally have special experience of the policeman so that there is room for supposition that generally they may be more skilled in identification of this kind than people in general, but from the results of experiment, I could not get a corroboration that they are skilled so much. Accurately to bring it to light it is necessary that comparison should be made with the result of experiment on groups of other ordinary persons at least similar to them in point of age but as the result of this experiment does not show up the rate of accuracy so superior that it overwhelms age and other handicaps, their skill cannot be estimated too high. It is to be added that according to the result of the experiment by Shigeo Saeki of Tokyo Metropolitan Police Board that he carried out under my suggestions, it is seen, in this respect, that the proof that investigating police officials (commonly called police detectives) are superior to other police officials doing other general work in their ability of this kind of identification could neither be obtained. Accordingly, what has been stated so far may be said to be right.

(c) As to which is superior in the ability of the testifying of this sort in comparing males and females no assertion can be made, as females have been experimented upon only once, but inference can be made that perhaps females may be inferior. As the result of another research that I made also shows that in the experiment wherein painted pictures were used it was made clear that females were found to be inferior at the level of university students[13], the result also agrees with the above. In this experiment, only the women's university students among others are extremely low in the rate of answering accuracy. Seen from the lapse of time till identification as the length of time was 24 hours in the case of women's university students, in comparison with the seven days of male university students, the former was extremely short, but in their accuracy rate they are far inferior.

Here is one problem. That is a question asked by a participant in the 27th General Meeting of Japanese Association of Applied Psychology held on May 4, 1959 when the outline of this research was presented. The participant asked whether, if females' photos had been used as experiment materials, the result might have been different. I have not yet ascertained this. At present it is impossible to take stock in the idea that identification will be more sure in the case of the same sex of the identifier with that of the person to be identified. However, this matter shall be investigated in the near future.

[13] Uematsu, op. cit., p. 199.