Examining How Lineup Practices of Canadian and U.S. Police Officers Adhere to Their National Best Practice Recommendations*

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ABSTRACT

Canadian (*N* = 117) and U.S. (*N* = 167) police officers completed a survey about their lineup construction and administration practices. We compared their responses to the respective national best-practice recommendations (BPRs) in place at that time; the two nations had five similar and four different recommendations. We predicted that if officers' lineup practices were to correspond with best-practice recommendations, officers' reports of their practices should be similar when national BPRs were similar, and differ in line with their country's BPRs when BPRs differed. We generally found the predicted pattern of results. Findings were especially striking when the BPRs differed. Some practices were largely in line with BPRs (e.g., double-blind testing), others corresponded to some extent (e.g., sequential lineups), and others were largely not followed (e.g., informing witnesses that it is as important to exonerate the innocent as it is to convict the guilty). However, even though our hypotheses were generally supported, there was considerable variation in practices that did not correspond with BPRs. We interpret these findings as demonstrating that BPRs have some influence on practices. Our findings illustrate the importance of assessing user reactions to BPRs and examining barriers to implementation of BPRs. The findings also indicate that BPRs can influence practice but demonstrate that, in the absence of the stronger action of setting legally binding policies, considerable departure from BPRs occurs.

***Keywords*:** eyewitness identification; lineups; best practice; Canada/U.S. comparison; police

I. INTRODUCTION

There is long-standing evidence of a connection between miscarriages of justice and identification errors.[7] Post hoc analyses of exonerations have demonstrated that eyewitness misidentifications were a contributing factor in approximately one-third of those wrongful convictions—29.0% in the U.S.[8] and 36.4% in Canada.[9] In these cases, many of the eyewitness errors can be directly linked to practices which research has shown increase identification errors. This research has in turn informed national best practice recommendations (BPRs). In order to understand the relationship between these BPRs and police practice, we identified the BPRs made in Canada and the United States and surveyed officers in both jurisdictions about how they carry out eyewitness identification procedures (i.e., their actual practices).

In this article, we discuss the development of national BPRs in Canada and the United States, review previous surveys to contextualize our goals, identify similarities and differences between the countries' BPRs, and then report point-in-time survey data that reflects the extent to which lineup practices in Canada and the U.S. conformed to the national BPRs existing at the time.

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7 See e.g. Edwin M Borchard, *Convicting the Innocent: Errors of Criminal Justice* (New Haven: Yale University Press, 1932); Samuel R Gross & Michael Shaffer, "Exonerations in the United States, 1989–2012" (2012) University of Michigan Law School Public Law and Legal Theory Working Paper Series, Working Paper No 277, 7th Annual Conference on Empirical Legal Studies Paper, online: <papers.ssrn.com/sol3/papers.cfm?abstract_id=2092195>; Nancy K Steblay, Jennifer E Dysart & Gary L Wells, "Seventy-Two Tests of the Sequential Superiority Effect: A Meta-Analysis and Policy Discussion" (2011) 17:1 Psychol Pub Pol'y & L 99 at 139.

8 The National Registry of Exonerations, "% Exonerations by Contributing Factor," online: <www.law.umich.edu/special/exoneration/Pages/ExonerationsContribFactorsByCrime.aspx>. We note that this website keeps a running tally of all US exonerations since 1989 and updates its database of contributing factors with each new exoneration. This number is current as of March 11, 2018.

9 Andrew M Smith & Brian L Cutler, "Introduction: Identification Procedures and Conviction of the Innocent" in Brian L Cutler, ed, *Reform of Eyewitness Identification Procedures* (Washington, DC: APA, 2013) 3 at 21.

II. DEVELOPMENT OF NATIONAL BEST PRACTICE RECOMMENDATIONS (BPRS)[10]

The creation of 'best practice' recommendations for identification procedures was spurred by cases of wrongful convictions in which mistaken eyewitness identification due to poor procedures and/or practices played a role. The procedures leading to these wrongful convictions were sufficiently widespread that policy-makers have developed and disseminated BPRs at a national level. We discuss these BPRs in the following sections.

A. National Institute of Justice (NIJ; United States)

In 1998 the then-U.S. Attorney General, Janet Reno, assembled the Technical Working Group for Eyewitness Evidence to develop a set of evidence-based BPRs for law enforcement officials regarding the collection and preservation of evidence from eyewitnesses to crimes. The purpose of this group was to develop standard practices that would promote the reliability and accuracy of eyewitness evidence. The final report was published in 1999 and released at a national level.[11] We use the term 'U.S. BPRs' hereafter to refer to the BPRs put forth by the NIJ.

B. The Sophonow Inquiry (Canada)

Thomas Sophonow was convicted of a murder in Winnipeg, Manitoba based largely on eyewitness evidence. His conviction was overturned by the Manitoba Court of Appeal in 1985 and, in 2000, the Winnipeg Police Service officially cleared Sophonow of the murder. A government inquiry into the factors that contributed to his wrongful conviction concluded that

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10 Additional and/or updated best practice recommendations and legislation have been published in recent years (e.g., US, National Research Council, *Identifying the Culprit: Assessing Eyewitness Identification* (Washington, DC: The National Academies Press, 2014); Memorandum from Sally Q Yates, Deputy Attorney General, "Memorandum for Heads of Department Law Enforcement Components All Department Prosecutors" (6 January 2017), online: <www.justice.gov/file/923201/download>; however, we limit our discussion to BPRs that existed prior to our data collection (i.e., could have influenced the practices of our respondents).

11 US, National Institute of Justice, Office of Justice Programs, Department of Justice, *Eyewitness Evidence: A Guide for Law Enforcement* (1999), online: <www.nij.gov/pubs-sum/178240.htm> [NIJ].

the police made several errors in collecting the eyewitness evidence.[12] The Sophonow Inquiry included specific recommendations in its final report as to how lineups should be conducted.

C. Report on the Prevention of Miscarriages of Justice (RPMJ; Canada)

Following several high-profile cases of wrongful convictions and their inquiries (including the aforementioned Sophonow Inquiry), the Federal/Provincial/Territorial Heads of Prosecution Committee convened a working group in 2002 to inform police and prosecutors about the factors associated with wrongful convictions and to make BPRs. The resulting document[13] included recommendations specific to eyewitness identification and testimony. The RPMJ BPRs did not contradict any BPRs made by the Sophonow Inquiry. Hereafter, 'Canadian BPRs' refers to the Sophonow and RPMJ BPRs collectively.

D. Benefits of Best Practice Recommendations (BPRs)

The three national level BPRs described above offered important benefits to the law enforcement community. First, BPRs encourage uniform procedures within a country. For example, in the second author's first-hand experience, from extensive experience consulting with Canadian police and courts prior to the Sophonow Inquiry, lineup size had varied between provinces (e.g. 6 in Nova Scotia, 8 in Alberta, 10 in Manitoba, and 12 in Ontario).

Second, the BPRs encouraged the use of evidence-based identification procedures (i.e., procedures that had been tested and found to have validity and reliability). Examples of such procedures include the explicit caution

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12 Manitoba, Commission of Inquiry Regarding Thomas Sophonow, by Peter Cory, *The Inquiry Regarding Thomas Sophonow: The Investigation, Prosecution and Consideration of Entitlement to Compensation* (Manitoba: Attorney General, 2001).

13 Canada, Department of Justice, *Report on the Prevention of Miscarriages of Justice*, by the Federal/Provincial/Territorial Heads of Prosecutions Committee (Ottawa: DOJ, 2005) at i–iii, online: <www.justice.gc.ca/eng/rp-pr/cj-jp/ccr-rc/pmj-pej/pmj-pej.pdf> [*Prevention of Miscarriages of Justice*].

that the perpetrator may not be in the lineup,[14] the sequential lineup,[15] and matching fillers to descriptions versus the appearance of the perpetrator.[16] Recent news reports regarding the lack of scientific validity of forensic techniques such as bite mark[17] and hair analysis[18] highlight the importance of using evidence-based techniques and procedures in law enforcement.

E. Recommendations Versus Mandates

Although these BPRs came from high-level bodies, they were not legally mandated changes. Even though not binding, some police officers appear to be adhering to BPRs.[19]

III. PREVIOUS SURVEYS OF IDENTIFICATION PROCEDURES

Minimal research has examined how police carry out identification procedures and none of these surveys examined the relationship between BPRs and practice in the way we examined it. Of the extant literature, two surveys[20] were published prior to our data collection, while another two surveys[21] collected data around the same time as our survey.

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14 Roy S Malpass & Patricia G Devine, "Eyewitness Identification: Lineup Instructions and the Absence of the Offender" (1981) 66:4 J Applied Psychology 482.

15 RCL Lindsay & Gary L Wells, "Improving Eyewitness Identification from Lineups: Simultaneous Versus Sequential Lineup Presentation" (1985) 70:3 J Applied Psychology 556.

16 CAE Luus & Gary L Wells, "Eyewitness Identification and the Selection of Distracters for Lineups" (1991) 15:1 L & Human Behavior 43.

17 Radley Balko, "How the Flawed 'Science' of Bite Mark Analysis Has Sent Innocent People to Prison," *The Washington Post* (13 February 2015), online: <www.washingtonpost.com/news/the-watch/wp/2015/02/13/how-the-flawed-science-of-bite-mark-analysis-has-sent-innocent-people-to-jail/>.

18 Spencer S Hsu, "FBI Admits Flaws in Hair Analysis Over Decades," *The Washington Post* (18 April 2015), online: <www.washingtonpost.com/local/crime/fbi-overstated-forensic-hair-matches-in-nearly-all-criminal-trials-for-decades/2015/04/18/39c8d8c6-e515-11e4-b510-962fcfabc310_story.html?utm_term=.b73e59107012>.

19 Jennifer L Beaudry & RCL Lindsay, "Current Identification Procedure Practices: A Survey of Ontario Police Officers" (2006) 4:4 Can J Police & Security Studies 178.

20 *Ibid*; Michael S Wogalter, Roy S Malpass & Dawn E McQuiston, "A National Survey of US Police on Preparation and Conduct of Identification Lineups" (2004) 10:1 Psychology, Crime & L 69.

21 Edie Greene & Andrew J Evelo, "Cops and Robbers (and Eyewitnesses): A Comparison

Of the pre-existing surveys, Beaudry and Lindsay's survey[22] was mainly completed by police officers in Ontario, Canada—thus limiting its scope—and the data for Wogalter, Malpass, and McQuiston's survey[23] was collected in 1992, predating the 1999 publication of the U.S. federal BPRs.

Of the surveys conducted around the same time, the Police Executive Research Forum (PERF) was a large, comprehensive U.S.-only survey regarding police eyewitness identification procedures.[24] Aside from the inclusion of Canadian officers in our survey, there are other notable differences between their approach and ours. First, the PERF survey targeted individuals who responded on behalf of their agency. Questions were thus framed largely in terms of the agency (e.g., "Does your agency…", "Who in your agency…", "Which of the following does your agency…") or in terms of training procedures (e.g., "Our training includes the following general guidelines…"). In contrast, we asked respondents about their own, individual practices as these practices can vary within a department and officers may not follow agency policy. Second, the PERF survey limited responses to whether procedures were or were not done, which assumes that procedures were either always or never done the same way within each department. In contrast, we asked officers about the frequency with which they had used certain procedures, as all-or-nothing adherence is unlikely. Third, the two surveys included unique questions. For example, PERF asked a greater number of, and more detailed, questions regarding the training officers received in constructing and administering lineups. In turn, we asked more detailed questions regarding adherence to various aspects of the sequential lineup.

Finally, Greene and Evelo[25] sampled Canadian and U.S. robbery detectives who attended professional training conferences and discussed

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of Lineup Administration by Robbery Detectives in the USA and Canada" (2015) 21:3 Psychology, Crime & L 297; Police Executive Research Forum, "A National Survey of Eyewitness Identification Procedures in Law Enforcement Agencies" submitted to the National Institute of Justice (8 March 2013), online: <www.policeforum.org/assets/docs/Free_Online_Documents/Eyewitness_Identification/a%20national%20survey%20of%20eyewitness%20identification%20procedures%20in%20law%20enforcement%20agencies%202013.pdf> [PERF].

22 Beaudry & Lindsay, *supra* note 19.

23 Wogalter, Malpass & McQuiston, *supra* note 14.

24 PERF, *supra* note 15.

25 Greene & Evelo, *supra* note 15.

whether the detectives' reported practices followed BPRs. Again, there are notable differences between their survey and ours. First, Greene and Evelo compared both countries' practices only to the BPRs from the U.S. In contrast, we examine the extent to which practices of Canadian and U.S. officers adhere to their respective BPRs. We contend that comparing BPR adherence is better done with reference to the similarities and differences between respective jurisdictions, as this approach takes into consideration that BPRs between jurisdictions are not always the same. Second, we consider guideline areas not discussed by Greene and Evelo (e.g., lineup size, filler selection, and showups).

IV. THE CURRENT SURVEY

Our goal was to investigate the relationship between BPRs and police identification practices. We selected the aforementioned BPRs as the basis of our analysis for several reasons. First, there were no national policy mandates or legislation regarding identification procedures in either country when we conducted the survey (and to our knowledge, there still are not), so the BPRs we use for analysis were the only existing BPRs at a national level. Second, all recommendations were released nationally and should apply to all officers within a country. Third, the BPRs have been cited in all levels of court cases, providing a level of prominence and legitimacy.

Thus, we examined the extent to which practices conformed to BPRs. To this end, we contrasted practices in Canada and the U.S. because both BPRs were published around the same time and covered many of the same topics. What is especially interesting is that the Canadian and U.S. BPRs make the same recommendations for some topics, but different recommendations for others. It stands to reason that if the BPRs are related to practice: a) where recommendations are the same, practices should largely be in line with the BPRs and the same (or at least similar) in both countries, and b) where recommendations are different, practices should differ between countries in a way that is consistent with their respective BPRs. This logic forms the analytic basis for this article.

We note that while we make comparisons between the practices of Canadian and U.S. officers, the between-country comparisons in and of themselves are not the foci of the article. Rather, these comparisons are used

as a vehicle through which to examine the possible impact of BPRs on practice.

A. Inclusion Criteria for Specific Recommendations

We included procedural recommendations in our analysis if the U.S. BPRs and at least one of the two Canadian BPRs recommended how some aspect of an identification procedure—lineup or showup—should be conducted. Though we collected data on many topics of interest, many topics did not meet this criterion for inclusion (i.e., either only one of, or neither, of the countries' BPRs made a recommendation on the topic). In total, we address nine procedural recommendations.

Same best practice recommendations

1. Instructions to witnesses: importance of exonerating innocent

The U.S. and RPMJ BPRs recommend including an instruction indicating that exonerating the innocent is just as important as convicting guilty parties.

2. Instructions to witnesses: perpetrator may or may not be in lineup

All BPRs recommend informing witnesses that the perpetrator may or may not be in the lineup.[26]

3. Multiple suspect lineups

Eyewitness researchers recommend that lineups contain only a single suspect.[27] The U.S. BPRs explicitly recommend using only one suspect per lineup. The Canadian BPRs do not make an explicit recommendation regarding the number of suspects in a lineup; however, both Canadian BPRs strongly imply that lineups should contain only a single suspect as "suspect" is never pluralized.

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26 See e.g. Malpass & Devine, *supra* note 8; Nancy K Steblay, "Lineup Instructions" in Cutler, *supra* note 3 at 65–86; Gary L Wells et al, "Eyewitness Identification Procedures: Recommendations for Lineups and Photospreads" (1998) 22:6 L & Human Behavior 603.

27 See e.g. Neil Brewer & Matthew A Palmer, "Eyewitness Identification Tests" (2010) 15:1 Legal & Criminological Psychology 77 at 79; Gary L Wells & John W Turtle, "Eyewitness Identification: The Importance of Lineup Models" (1986) 99:3 Psychological Bull 320 at 328.

4. Filler selection

All BPRs recommend that fillers match the witness' description of the perpetrator and, if this approach is not possible, that fillers should match the suspect's appearance.[28]

5. Feedback to witnesses

All BPRs recommend against providing feedback to witnesses regarding identification decisions.[29] We note variation in the wording as the U.S. BPRs caution against feedback only after an identification, the Sophonow BPRs caution against feedback after either identification or non-identification, and the RPMJ BPRs caution against feedback being given by other officers (i.e., not the lineup administrator) and/or witnesses. Given that all BPRs were concerned with the contaminating effect of providing post-lineup feedback to witnesses, we considered these recommendations to be sufficiently similar.

Different best practice recommendations.

6. Lineup size

U.S. BPRs recommend a *minimum* (their emphasis) of five lineup fillers (i.e., a six-person lineup) whereas the Sophonow BPRs recommend at least a 10-person lineup (i.e., suspect plus nine fillers). There is no mention of lineup size in the RPMJ BPRs. No BPRs mention an upper limit to lineup size.

7. Simultaneous versus sequential presentation

Proper sequential lineup presentation requires that witnesses view lineup members one at a time, make decisions as to whether each lineup member is or is not the perpetrator at the time they see him or her, are not allowed to see lineup members again once a decision is made, and do not know how many lineup members they will see.[30] The U.S. BPRs include

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[28] See e.g. Luus & Wells, *supra* note 10 at 53; Wells et al, *supra* note 20 at 633; Roy S Malpass, Colin G Tredoux & Dawn McQuiston-Surrett, "Lineup Construction and Lineup Fairness" in RCL Lindsay et al, eds, *The Handbook of Eyewitness Psychology: Volume II: Memory for People* (Mahwah, NJ: Lawrence Erlbaum Associates, 2007) 155.

[29] See e.g. Brewer & Palmer, *supra* note 21 at 90; Gary L Wells & Amy L Bradfield, "'Good, You Identified the Suspect': Feedback to Eyewitnesses Distorts Their Reports of the Witnessing Experience" (1998) 83:3 J Applied Psychology 360.

[30] Lindsay & Wells, *supra* note 9; RCL Lindsay et al, "Beyond Sequential Presentation:

procedural recommendations for conducting both simultaneous and sequential lineups. In a simultaneous lineup, a witness views all lineup members at the same time. The U.S. BPRs also explicitly state that while sequential lineup procedures are included in the guide, there is no preference for the sequential over simultaneous lineup.[31] In contrast, both the Sophonow and RPMJ BPRs specifically recommend sequential presentation.[32]

8. Double-blind administration

Under double-blind administration the officer conducting the lineup does not know which lineup member is the suspect, thereby avoiding cues (intentional or otherwise) from the officer that may indicate to the witness which lineup member is the suspect.[33] Although the U.S. BPRs did not include a specific recommendation regarding double-blind administration, they do state that some researchers recommend double-blind lineup procedures. Both the RPMJ and Sophonow BPRs recommend double-blind administration.

9. Showups[34]

The U.S. BPRs include procedures for conducting showups, saying showups are to be used when "circumstances require the prompt display of a single suspect to a witness."[35] There is no mention of showups in the Sophonow Inquiry, but the RPMJ BPRs discourage showups, saying that they should only be used "in rare circumstances, such as when the suspect

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Misconceptions and Misrepresentations of Sequential Lineups" (2009) 14 Legal & Criminological Psychology 31 at 32; RCL Lindsay et al, "Sequential Lineup Presentation: Patterns and Policy" (2009) 14:1 Legal & Criminological Psychology 13; Steblay, Dysart & Wells, *supra* note 1.

31 NIJ, *supra* note 11 at 9.

32 *Prevention of Miscarriages of Justice*, *supra* note 13 at 46.

33 See e.g. Wells et al, *supra* note 20 at 627; Brewer & Palmer, *supra* note 21 at 82; Jacqueline L Austin et al, "Double-Blind Lineup Administration: Effects of Administrator Knowledge on Eyewitness Decisions" in Cutler, *supra* note 3 at 139–160.

34 Both Canadian and US BPRs define showups as the *live* presentation of a single suspect to a witness. The Canadian BPRs explicitly define a showup as such, whereas "live-only" presentation is implied by the wording of the US BPRs (e.g., "Consider transporting the witness to the location of the detained suspect to limit the legal impact of the suspect's detention."), and no mention is made of the photo presentation of showups.

35 United States, National Institute of Justice, *supra* note 5 at 27.

is apprehended near the crime scene shortly after the event."[36] Although they are not explicitly different, the wording represents different recommendations. The U.S. BPRs are cautionary but do not actively discourage showups—stating only that care must be taken when using showups due to the procedure's suggestiveness. The RPMJ BPRs, however, actively discourage showups by labelling them as something that should rarely be used and used only in a particular set of circumstances.

B. The Issue of Causality

It is important to clarify that we are not seeking to make definitive causal claims regarding the impact of BPRs on practice; that is, we do not seek to state conclusively that the national BPRs caused practices (as reflected by patterns in the data), nor that they are the only plausible influence on police practice. It is impossible to isolate causal factors because there are multiple influences on actual practice aside from the national BPRs (e.g., departments or provinces/territories/states may have their own policies). However, our hypotheses and analytic strategy are a unique way to explore whether BPR documents are influential (as they are intended to be).

C. The Current Study

To summarize, we conducted an in-depth survey of Canadian and U.S. police officers about the procedures they used when administering lineups and show-ups. We wanted to determine the extent to which their reported identification practices aligned with their respective national BPRs, and the extent to which differences and similarities in BPRs between Canada and the United States were reflected in police practices. Relevant to this latter aim, we hypothesized that if the BPRs were related to practice:

1. We would find little or no between-country differences for the five topics on which the Canadian and U.S. BPRs made the same or similar recommendations.
2. We would find between-country differences for the four topics on which the Canadian and U.S. BPRs made different recommendations and those differences would align with the countries' respective BPRs.

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36 *Ibid.*

V. METHOD

A. Participants

Canadian and U.S. officers (N = 284) involved in carrying out police identification procedures completed an online survey about their practices. Participation in the survey was on a volunteer basis and participants were not compensated for their time.

Respondents were 117 Canadian and 167 U.S. officers. Canadian respondents were from 9 provinces and 2 territories: Alberta (n = 8; 6.84%), British Columbia (n = 36; 30.77%), Manitoba (n = 1; 0.85%), New Brunswick (n = 4; 3.42%), Newfoundland (n = 24; 20.51%), Northwest Territories (n = 2; 1.71%), Nova Scotia (n = 7; 5.98%), Ontario (n = 18; 15.38%), Quebec (n = 2; 1.71%), Saskatchewan (n = 13; 11.11%), and the Yukon (n = 2, 1.71%).

U.S. respondents were from 34 states that covered all regions of the United States: Alabama (n = 1; 0.60%), Alaska (n = 2; 1.2%), Arizona (n = 2; 1.2%), Arkansas (n = 2; 1.2%), California (n = 9; 5.39%), Colorado (n = 5; 2.99%), Delaware (n = 3; 1.80%), Florida (n = 19; 11.38%), Georgia (n = 2; 1.20%), Hawaii (n = 2; 1.20%), Idaho (n = 2; 1.20%), Illinois (n = 10; 5.99%), Iowa (n = 2; 1.20%), Maine (n = 4; 2.40%), Maryland (n = 4; 2.40%), Massachusetts (n = 1; 0.6%), Michigan (n = 4; 2.40%), Minnesota (n = 6; 3.59%), Missouri (n = 10; 5.99%), Nebraska (n = 2; 1.20%), New Jersey (n = 1; 0.60%), New Mexico (n = 4; 2.40%), New York (n = 21; 12.57%), North Carolina (n = 2; 1.20%), North Dakota (n = 1; 0.60%), Ohio (n = 8; 4.79%), Oklahoma (n = 1; 0.60%), Oregon (n = 1; 0.60%), Tennessee (n = 1; 0.60%), Texas (n = 22; 13.17%), Virginia (n = 7; 4.19%), Washington (state, n =3; 1.80%), Wisconsin (n = 2; 1.20%), and Wyoming (n = 1; 0.60%).

In order to ensure anonymity, we did not ask for potentially identifying information, such as gender, rank, name of police service, or the name of the city/town the officers served. We did obtain other non-identifying, general information, such as years of experience as an officer and lineup administrator, level of government, and population of area policed (see Table 1).

B. Materials and Procedures

1. Invitation letters

Letters contained background information about the researchers and the aims of the survey, as well as the survey link and contact information.

2. Survey

The survey contained detailed questions regarding photo lineup construction and administration, and showup usage.[37] We used previous surveys,[38] research, policy, and best-practice eyewitness recommendations to develop questions. The authors developed and edited the survey questions, which were then vetted with a senior member of the Ontario Provincial Police (OPP) for enhanced clarity and relevant terminology.

The survey was web-based and hosted by SNAP Surveys. Officers who agreed to participate provided limited demographic information and answered questions about their identification practices. Officers were asked to respond based on how they had been constructing and/or administering their identification procedures in the preceding 12 months. Officers only responded to questions relevant to their own practices. Thus, if an officer indicated in one question that they did not do a certain procedure (e.g., the sequential lineup), the survey skipped subsequent questions on that topic. As a result, *N*s for analyses frequently do not match the total number of officers who participated in the survey.

C. Recruitment Procedure

We collected data from February 2008 to July 2009. The survey was reactivated briefly for the month of January 2011 due to a third-party recruitment opportunity.[39] We tried to 'cast a wide net' through multiple recruitment strategies (detailed below) in order to reach the greatest number

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37 We also asked officers questions regarding usage of live lineups (during which lineup members are physically present when a witness is viewing the lineup) and video lineups (at which lineup members are presented to a witness via video). Too few officers reported using either of these presentation methods for reasonable analyses; thus, the current paper addresses only photo lineups.

38 Beaudry & Lindsay, *supra* note 13; Wogalter, Malpass & McQuiston, *supra* note 14.

39 We do not believe that collecting data over these two timeframes significantly impacted our results, as all data collection occurred after the national BPRs referenced earlier were issued and before any subsequent BPRs were issued.

of individuals possible. What this means is that we cannot calculate a response rate because we do not know the total number of people who received the invite (e.g., the survey link could have been passed on, some emails were returned as undeliverable, some emails may never have reached the appropriate targets or, even if they did, some may not have been opened).

1. Email recruitment

We located publicly available email addresses for police officers on the internet, including database-type websites and websites of individual police departments. This netted 282 email addresses for Canada and 2549 email addresses for the U.S. Approximately 13% of emails were returned as undeliverable.

Some officers contacted via email replied that they could not complete the survey without a superior's approval (e.g., Chief of Police), so we targeted police chiefs for subsequent recruitment and asked them to have one or more of their officers complete the survey.

2. Post mail recruitment

Letters were sent by post to the chiefs of the police services in the three largest cities in each province and state, except in cases where the cities did not have their own police force. In many sparsely populated areas in Canada, the only police presence is Canada's federal police service, the Royal Canadian Mounted Police (RCMP). Three provinces—Ontario, Quebec, and Newfoundland—also have provincial police services: the Ontario Provincial Police (OPP), the Sûreté du Québec, and the Royal Newfoundland Constabulary, respectively. We sent the invitation via post to these services.

3. Third-party recruitment

Several contacts were made in attempts to have the survey distributed by individuals within policing organizations. The contacts were either pre-existing or acquired at academic conferences. Contacts were provided with the survey URL and asked to examine and distribute it to any relevant individuals.

D. Analyses

Our analytic strategy differed depending on the types of response options.

i. Never, rarely, sometimes, usually, or always (NRSUA) questions

These questions asked officers to indicate, using the five NRSUA options, how often they conducted a procedure. We analyzed the NRSUA questions using 2 (Canada/United States) x 5 (N/R/S/U/A) Fisher's Exact tests because it is robust to low expected frequencies (which emerged in our data because of the number of response options).

Post-hoc analyses for NRSUA questions compared Canada and the United States for each of the five possible responses (e.g., Canada vs. United States for 'never' responses), resulting in five comparisons. In order to minimize the possibility of finding differences by chance due to conducting multiple tests, we applied a Bonferroni correction of $\alpha = .05/5 = .01$ for post-hoc analyses.

2. Number entry questions

When officers were required to enter a number or a percentage, we examined differences between Canada and the United States using independent samples *t*-tests. Values presented in brackets denote 95% confidence intervals.

3. Rarely, description, always questions

To examine filler selection strategies, we provided officers with a list of 27 physical characteristics and asked them to indicate whether they considered these characteristics "rarely," "only if mentioned in the witness' description" (description), or "always" when selecting lineup fillers based on their similarity to the suspect. This question is addressed only descriptively.

4. Yes/no questions

Yes/No questions were analyzed using a 2 (Canada vs. United States) x 2 (Yes vs. No) chi-square test.

VI. RESULTS AND DISCUSSION

To recap, we expected that if BPRs influenced practice, we would find no between-country differences when the BPRs made the same/similar

recommendations. Conversely, we expected to find between-country differences when the BPRs made different recommendations.

Prior to examining how well police practices match up to each of the BPRs, we briefly describe endorsement of procedures overall, as well as by jurisdiction. As indicated in Table 2, police officers in both countries—in line with BPRs —instructed the witness that the perpetrator may or may not be in the lineup, did not use multiple suspect lineups, and used appropriately-sized lineups. Yet, contrary to BPRs, some police officers reported that they did not instruct witnesses that it is just as important to exonerate the innocent as it is to convict the guilty and did not use double-blind administration.

Results and discussion are provided in further detail for each of the recommendations, followed by a general discussion.

A. Same Recommendations

1. Instructions to witnesses: Importance of exonerating innocent

There was no significant difference between Canadian and U.S. officers in how often they informed witnesses that it was as important to exonerate the innocent as it was to convict the guilty (see Table 3, line A). Although both countries' BPRs recommended that officers provide this instruction, officers' responses indicated that they, by and large, did not adhere to this recommendation. About 25% of officers in both countries reported always giving this type of instruction. Contrary to the BPR, the largest percentages of officers in Canada (55.13%) and the U.S. (43.80%) said they never did this. So, as expected, no differences were found between countries, but practices in neither country were consistent with BPRs.

2. Instructions to witnesses: Absence versus presence of perpetrator

Providing witnesses with the *may-or-may-not-be-present* instruction prior to showing them a lineup is unbiased because it reminds the witness that identifying someone from the lineup is not the only decision they can make and that they can also respond with uncertainty or say they do not see the perpetrator in the lineup. Police in both countries reported similar, and high, rates of adherence to this BPR (see Table 3, line B). The majority of Canadian (97.44%) and U.S. (85.12%) officers said they always instructed witnesses that the perpetrator may or may not be in the lineup. Again, our hypothesis was supported.

However, this is not the entire story. While failing to provide *the may-or-may-not-be-present* warning results in biased instructions, instructions can also be biased in other ways; for example, when officers overtly or implicitly indicate that the perpetrator is in the lineup and that the witness' "job" is to choose someone. Biased instructions such as these increase choosing and false identification rates,[40] and can be easily conveyed to witnesses (e.g., by asking them to "select the person they saw commit the crime").

Importantly, 64.10% of Canadian and 38.02% of U.S. officers said they told witnesses "to select the person they saw commit the crime" (i.e., presented biased instructions). Unfortunately, contrary to the BPRs, 17.95% of Canadian and 37.19% U.S. officers said they always presented these biased instructions (see Table 3, line C).

Some officers who adhered to BPRs by giving the unbiased pre-lineup instruction also reported giving a biased instruction, such that witnesses should select the person they saw commit the crime. In fact, 17.9% of Canadian and 33.8% of U.S. officers reported always giving both the unbiased and biased instructions. No research definitively speaks to the effect of providing witnesses with both biased and unbiased instructions, although research by Clark et al.[41] suggests that this practice likely increases choosing rates. In their study, providing seemingly-innocuous prompts suggestive of the perpetrator's presence such as "Take your time," "Look at each photograph carefully," and "So, is there anyone else in the lineup who looks more like him than anyone else?" decreased the probative value of suspect identifications, even when witnesses were also given unbiased instructions.

It is possible that some officers who stated that they used the biased pre-lineup instructions only did so conditionally, in that—prior to seeing the lineup—witnesses were instructed to select the perpetrator only if they saw that perpetrator in the subsequent lineup. Based on the wording of our survey question (i.e., officers were asked how often they said that statement or something similar), we cannot disambiguate between how many officers included the biased instruction without limitation and how many included the instruction conditionally. The distinction is important, as limiting the biased instruction may reduce its deleterious effects. For example, witnesses

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40 Brewer & Palmer, *supra* note 21 at 83.

41 Steven E Clark, Tanya E Marshall & Robert Rosenthal, "Lineup Administrator Influences on Eyewitness Identification Decisions" (2009) 15:1 J Experimental Psychology: Applied 63.

may perceive the instruction as a simple explanation of how to respond, rather than an inference that the perpetrator is present (especially when given in tandem with the unbiased instruction). However, it is also possible that the biased instruction will have the same effect, whether or not it is given conditionally, especially considering how seemingly innocuous statements negatively affect probative values.[42]

In summary, procedures in both countries followed the BPR of providing unbiased lineup instructions. Nonetheless, we have strong concerns that also including biased instructions may undermine the effectiveness of the *may-or-may-not* instruction.

3. Multiple suspects

We asked officers to indicate, using the NRSUA scale, how often they constructed multiple-suspect lineups in the event that a particular case: a) had a single perpetrator but multiple suspects, or b) multiple perpetrators and multiple suspects.

Responses were similar for both situations. Regardless of whether there was one or multiple perpetrators, the officers did not significantly differ in how often they used multiple-suspect lineups (see Table 4, line A for single perpetrator; line B for multiple perpetrators). The majority of Canadian (76.79%; both single- and multiple-perpetrator) and U.S. officers (80.67% for single-perpetrator and 82.35% for multiple-perpetrator) reported that they never included multiple suspects in a lineup.

Our hypothesis was supported. In line with the BPR, most officers in both countries reported never presenting multiple suspect lineups for either single- or multiple-perpetrator crimes. Yet, approximately 20% of officers in each country reported using multiple-suspect lineups at least some of the time, and small percentages in both countries reported always using multiple-suspect lineups (5.36% in Canada, 1.68% in the U.S., see also Table 4). This practice is concerning given that multiple-suspect lineups increase false identifications.[43]

4. Filler selection

BPRs for both countries state that officers should use a match-to-description approach when selecting fillers and, if that is not feasible, to use

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42 See e.g. *ibid* at 74.

43 Brewer & Palmer, *supra* note 21.

a match-to-appearance (or the suspect) approach.[44] To examine how officers selected fillers, we asked respondents to indicate whether they considered several physical and photographic characteristics of potential fillers "rarely," "only if mentioned in the witness' description" (description), or "always" when selecting lineup fillers (see Table 5).

If officers followed the BPRs for filler selection, we would expect that the largest percentages of officers would report using either the "description" or "always" options for each characteristic. In fact, strict adherence to this BPR should find officers only selecting the description option, yet there were few characteristics where this was the most commonly selected option.

Given that officers frequently did not rely on the witnesses' description when selecting fillers, one interpretation is that, contrary to the BPRs, officers are primarily using a match-to-appearance approach. However, there is another interpretation. Officers in both countries reported that they were most likely to always consider these seven characteristics: race, age, photo background, photo quality, hair color, hair length, and facial hair. Thus, officers in both countries report considering similar features as important for filler selection, and it makes sense to match fillers to a suspect on these characteristics, whether or not they are mentioned in the witness' description (i.e., a "default values" approach[45]). In the words of one U.S. officer who completed the survey: "Our computer program for the fillers, would generally match the description of the suspect. I would not put a filler

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44 Many people mistakenly believe that the match-to-suspect strategy must lead to fair lineups. The second author has consulted in cases where this is clearly not true. In one case, a black man who committed a murder was described by the only witness as "Somali". Police constructed a lineup of black men highly similar in appearance, but only one of the fillers and the suspect were Somali. The witness had no trouble indicating which lineup members were Somali. The fact that police, members of the court, and an eyewitness expert could not make this distinction is not relevant – the witness could and thus the lineup was biased. This pattern explains why lineup members must match the description provided by the witness, not just appear similar to the suspect in the opinion of those constructing the lineup.

45 We note that characteristics other than the ones described here could certainly bias a lineup. See, for example, Jamal K Mansour, Michelle I Bertrand & RCL Lindsay, "What Might Be Missed and Noticed? Novel Biases in Lineup Construction" (Paper delivered at the meeting of the American Psychology-Law Society in Portland, OR, USA, March 2013) [unpublished]; RCL Lindsay, Ronald Martin & Lisa Webber, "Default Values in Eyewitness Descriptors: A Problem for the Match-to-Description Lineup Foil Selection Strategy" (1994) 18:5 L & Human Behavior 527.

in that was totally opposite to the suspect. Just because a person forgot to mention the size of the nose, I would not put someone with a[n] extra large purple nose, if everyone else had a[n] average nose." The alternate interpretation is that officers report always considering these features when selecting fillers because these features essentially overlap between both match-to-description and match-to-suspect. If the perpetrator's race were mentioned in the witness' description, the officer would match fillers based on the described race. However, if the witness did not mention the perpetrator's race, or if the suspect was of a race different than described, officers would still match fillers to the suspect's race in order to avoid biasing the lineup (i.e., to adhere to the BPR). Given the characteristics officers reported they always consider are those that could easily bias a lineup if they differed between suspect and fillers (e.g., race, hair colour, and age), this latter interpretation makes sense. Of course, this does not necessarily mean that officers always constructed unbiased lineups.

Unfortunately, our question format does not allow us to parse out which of these explanations is more likely, or whether officers selected fillers based on some other rationale (e.g., regardless of circumstance, they always consider the same set of characteristics). Thus, we find support for our hypothesis that filler selection practices are similar between countries, but only tentative—and not clear-cut—evidence that practice is in keeping with the spirit of the BPRs.

5. Feedback to witnesses post-lineup

We asked officers how frequently they provided feedback to witnesses about their lineup selections (as a percentage of total lineups) and, if they indicated that they gave feedback, how often they did so prior to obtaining a confidence statement. We asked about suspect and filler selections separately. A correction was applied to our test statistics to account for unequal variability in the Canadian (n = 78) and US (n = 121) samples.

i. Feedback on suspect selections

We found differences regarding the percentage of times officers told witnesses they had selected the suspect. Canadian officers reported doing so an average of 10.78% of the time (SD = 27.00), whereas American officers reported doing so an average of 39.34% of the time (SD = 44.29), $t(196.45) = 5.65$, $p < .001$, $d = 0.82$ [0.52, 1.12]. Of the officers who reported giving such feedback, all Canadian officers (n = 18) reported that they never gave this feedback to a witness before obtaining a confidence statement (0.00%);

whereas, American officers (n = 70) reported giving feedback before obtaining a confidence statement 16.83% of the time (SD = 35.07), $t(69.00) = 4.01$, $p < .001$, $d = 1.06$ [0.51, 1.60].

ii. Feedback on filler selections

On average, Canadian officers reported informing witnesses when they had selected a filler 12.18% of the time (SD = 30.38), whereas American officers reported doing so 28.07% of the time (SD = 40.71), $t(192.72) = 3.14$, $p = .002$, $d = 0.46$ [0.17, 0.74]. Of the officers who reported giving such feedback, Canadian officers (n = 15) never informed witnesses of their filler selection before obtaining a confidence statement (0.00%); in contrast, American officers (n = 56) reported giving feedback before obtaining a confidence statement 20.63% of the time (SD = 38.46), $t(55) = 4.01$, $p < .001$, $d = 1.17$ [0.55, 1.77].

In partial contrast to our hypotheses, jurisdiction-based differences in practice emerged. If BPRs were related to practice, we expected no officers in either jurisdiction would provide feedback on suspect identifications, and that Canadian officers would not give feedback on filler selections. Contrary to the first prediction, American officers were more likely than Canadian officers to provide feedback on suspect selections. The latter prediction was supported: American officers were more likely than Canadian officers to provide feedback on filler selections. It is worth noting that a majority of officers in both countries did not provide feedback to witnesses, and most officers who did give feedback did not do so until after obtaining a confidence statement; thus, officers' practices were largely in line with BPRs.

Even so, the small but substantial minority (6.62%) of American officers who provided feedback following suspect identifications and prior to confidence statements is a clear failure of practice adhering to national BPRs. Providing feedback to a witness about their identification decision can significantly and substantially alter their stated level of confidence.[46] As previously mentioned, the U.S. BPRs recommend against providing feedback to a witness—but only if the witness identifies someone and only prior to getting a confidence statement. The wording implies that it is acceptable for officers to give feedback on non-identifications, and that it also is acceptable to give feedback on an identification, provided that they

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[46] Wells et al, *supra* note 20; Wells & Bradfield, *supra* note 23 at 376.

do so after the witness states their confidence. Our results suggest that officers may interpret the BPR to mean that feedback is acceptable under some circumstances. However, even if officers do not provide feedback until after a witness' decision, such feedback can still potentially inflate the witness' confidence and make them more convincing to judges and/or jurors.[47]

B. Different Recommendations

If police practices were in line with BPRs, we expected the Canadian and American officers' practices to differ on the following four topics because their recommendations differed.

6. Lineup size

Canadian and American officers reported using different lineup sizes (i.e., suspect + n fillers), $t(102.41) = 24.66$, $p < .001$, $d = 3.42$ [2.87, 3.96]. On average, Canadian officers ($n = 88$) reported using approximately 11 lineup members ($M = 10.99$, $SD = 1.79$), with most indicating using either 10- (35.23%) or 12-person (47.72%) lineups. In contrast, American officers ($n = 127$) reported using approximately 6 lineup members ($M = 6.08$, $SD = 0.64$). Our hypothesis was clearly supported with majorities of officers in both countries using lineups of the size (or larger) recommended by their respective BPRs. Despite the variation in their reports, 86.36% of Canadian officers used at least 10 lineup members. American officers' responses varied little; 98.43% used at least 6 lineup members.

The Canadian results raise the question: why are two lineup sizes commonly used in Canada? Inspection of the reported lineup sizes in each province indicates that provinces known to use 10- or 12-person lineups prior to release of the Sophonow recommendations[48] continued using the same size lineups, whereas provinces using less than 10-person lineups increased their lineup sizes to meet the minimum recommended size of 10.

Lineup size is one issue that may reflect BPRs following practice rather than the reverse. U.S. police typically used six-person lineups prior to the

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47 Melissa Boyce, Jennifer Beaudry & RCL Lindsay, "Belief of Eyewitness Identification Evidence" in Lindsay et al, *supra* note 22 at 501–525.

48 We note that no formal source for this knowledge exists; rather, this information regarding lineup sizes pre-Sophonow is based on the experience of the second author, who has extensive consulting experience across Canada.

publication of the NIJ BPRs so no change was needed. In Canada, the Sophonow Inquiry recommended 10-person lineups, which were already the norm in Manitoba, the province where the Inquiry took place. Thus, BPRs recommended the status quo in both instances. However, the increase in lineup size in provinces that had previously used smaller lineups (e.g., Alberta) suggests that practices were altered in these provinces in order to comply with the Canadian BPRs.

The jurisdictional differences in lineup size lead to questions regarding the applicability of research findings to Canadian lineups. Canadian officers used lineups that are (approximately) twice the size of those used by U.S. officers; however, most lineup research is conducted with 6-person lineups. Does research with 6-person lineups generalize to larger lineups? There is a small amount literature regarding the effects of nominal lineup size on identification decisions,[49] some of which has found that correct identifications in simultaneous lineups decrease as nominal lineup size increases. Further research is needed to determine the generalizability of research with 6-person lineups to procedures in Canada, the United Kingdom (video and live lineups typically contain 9 people while photo lineups contain at least 12), and Australia (lineup size varies by state, but Victoria Police use 8 and 12 people for live lineups and photo lineups,[50] respectively).

7. Simultaneous versus sequential presentation

Because officers may not employ all aspects of the sequential lineup, we defined the sequential lineup within the survey by its most well-known feature: that a witness would view each lineup member one at a time. We also asked the officers if they used the other components of the "sequential

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[49] See e.g. Michelle I Bertrand et al, "Is Increasing Lineup Size an Alternative to Sequential Presentation? The Question Revisited and Revamped" (Poster presented at the meeting of the American Psychology-Law Society in St. Petersburg, Fla, USA, March 2006) [unpublished]; Natalie Kalmet, RCL Lindsay & Michelle I Bertrand, "The Effects of Larger Lineups and Multiple Poses on Identification Accuracy" (Paper presented at the meeting of the American Psychology-Law Society in Portland, OR, USA, March 2013) [unpublished]; Avraham M Levi, "Much Better than the Sequential Lineup: A 120-Person Lineup" (2012) 18:7 Psychology Crime & L 631; Glenn J Nosworthy & RCL Lindsay, "Does Nominal Lineup Size Matter?" (1990) 75:3 J Applied Psychology 358.

[50] We note that, in the United Kingdom and Australia, photo lineups are referred to as 'photoboards,' but we have used 'photo lineup' here to be consistent with the terminology we use throughout the paper.

package" through a series of questions specific to each of the different aspects.[51]

Officers who reported using a sequential lineup were asked how frequently they used them. We found that sequential lineups were never used by 16.4% of Canadian and 35.2% of U.S. officers, while they were always used by 71.23% of Canadian and 28.17% of U.S. officers.

In order to obtain a more nuanced understanding of the frequency of use of sequential lineups, we also asked officers who said they had used sequential lineups to indicate the percentage of time they used them. Canadian officers (n = 73) reported conducting a greater percentage of their lineups sequentially (M = 74.74%, SD = 42.35) than did American officers (n = 71, M = 34.96%, SD = 44.65), $t(142) = 5.49$, $p < .001$, $d = 0.92$ [0.57, 1.26]. Of the officers who reported using sequential lineups, Canadian officers (n = 61) reported using this procedure for a greater percentage of their lineups (M = 89.44%, SD = 28.56) as compared to U.S. officers (n = 46, M = 53.96%, SD = 45.31), $t(71.20) = 4.66$, $p < .001$, $d = 0.91$ [0.50, 1.32]. Notably, of these officers, 85.2% of Canadian and 43.5% of U.S. officers administered all of their lineups sequentially (i.e., 100% of the time).

Our hypothesis was supported: in line with their country's BPRs, Canadian officers reported using the sequential lineup more frequently than U.S. officers.

i. Sequential lineup rules

Although the presentation of one lineup member at a time is the most salient and memorable feature of the sequential lineup procedure, the procedure actually comprises a package of features.[52] Taken together, these components are designed to reduce a witness' tendency to compare amongst lineup members.[53] Given the potential for misunderstanding or misapplying the procedure, we asked officers how frequently they used different aspects of the sequential procedure. One of the features (blind administration) is addressed in the following section as it is considered to be important across all lineup procedures. Using the NRSUA scale, officers who reported showing lineup pictures to witnesses one at a time were asked several

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51 Lindsay & Wells, *supra* note 9.

52 Lindsay et al, *supra* note 24.

53 *Ibid*; Lindsay & Wells, *supra* note 9.

questions about how often they used certain procedural techniques (see Table 4).

a. View each lineup member only once

As seen in Table 4 (line C), U.S. officers (58.70%) were more likely than Canadian officers (45.90%) to always allow a witness to go through a lineup more than once if the witness did not choose anyone after viewing all lineup members once (i.e. after the first lap). Canadian officers (32.79%) were more likely than U.S. officers (8.69%) to never allow a witness to go through a lineup more than once if the witness did not choose anyone on the first lap.

b. Number of Yes responses allowed

There was a marginally significant (p = .054) difference in how frequently Canadian and U.S. officers allowed a witness to select multiple lineup members and then decide among these members at a later time (see Table 4, line D). The most common response for Canadian and American officers indicated that they never allowed multiple selections. However, 4.92% of Canadian and 19.57% of American officers always allowed witnesses to do this.

c. **Witness naïve about the number of lineup members**

A greater percentage of Canadian (48.33%) than American (19.56%) officers reported never informing witnesses about how many lineup members would be shown; a smaller percentage of Canadian (36.67%) than American (69.57%) officers reported always doing so (see Table 4, line E).

ii. Year of sequential lineup adoption

Lindsay and Wells published the first paper on the sequential lineup in 1985.[54] In examining the relationship between BPRs and practice, it is useful to know how frequently such procedures were in use before the BPRs were developed. We asked our officers in which year they first used the sequential lineup (see Figure 1). Although some officers reported adopting it before the issuance of the BPRs, most began using it only after the BPRs were issued. While we cannot parse out the reasons officers began using the sequential lineup (e.g., whether they changed their procedure from simultaneous to sequential, or whether the sequential lineup is what they always used), it is clear that the BPRs preceded usage for a large number of officers.

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54 Lindsay & Wells, *supra* note 9.

iii. Sequential lineup conclusions

Many researchers promote sequential over simultaneous lineups because sequential lineups reduce false identifications more than they reduce correct identifications, thereby providing more diagnostic information.[55] The benefits of sequential lineups are reduced when aspects of the package are violated.[56] We found considerable cross- and within-jurisdictional variation in adherence to the complete sequential lineup procedure, with many officers not fully employing sequential lineup procedures. Our hypothesis that Canadian and U.S. practices would differ appears supported. However, we do caution that while Canadian officers appear to follow the entire sequential lineup "package" more closely, this does not mean that the majority are doing so and, in some cases, large percentages are not. Of the Canadian officers who had used the sequential lineup, only 26.23% reported always employing the "sequential package."[57] None of the U.S. officers reported carrying out all aspects of the sequential lineup. An important point to note, however, is that these additional aspects of the sequential lineup[58] are not mentioned in any of the BPRs—even though the U.S. BPRs provide instructions on how to carry out a sequential lineup—so it is possible that officers think the one-at-a-time presentation is all that is required for proper sequential procedure.

8. Double-blind procedures

We asked officers questions regarding how often the lineup administrator was an officer who did versus did not know who the suspect in a lineup was. Answers were recorded using the NRSUA options.

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55 Steblay, Dysart & Wells, *supra* note 1.

56 See e.g. Ruth Horry, Matthew A Palmer & Neil Brewer, "Backloading in the Sequential Lineup Prevents Within-Lineup Criterion Shifts That Undermine Eyewitness Identification Performance" (2012) 18:4 J Experimental Psychology: Applied 346; RCL Lindsay, James A Lea & Jennifer A Fulford, "Sequential Lineup Presentation: Technique Matters" (1991) 76:5 J Applied Psychology 741; Nancy K Steblay, Robert W Tix & Samantha L Benson, "Double Exposure: The Effects of Repeated Identification Lineups on Eyewitness Accuracy" (2013) 27:5 Applied Cognitive Psychology 644.

57 Lindsay et al, *supra* note 24.

58 Lindsay & Wells, *supra* note 9.

i. Officer in charge of the case

A greater percentage of Canadian (54.70%) than American (5.99%) officers reported that the officer in charge of the case never conducted the lineup, and fewer Canadian (18.80%) than American (69.46%) officers reported that this usually happened (see Table 4, line F).

ii. Double-blind administration

More Canadian than American officers reported another officer—who was not involved in the case and who did not know the suspect's identity—always (47.01% versus 3.59%) or usually (24.79% versus 4.19%) conducted the lineup. Conversely, fewer Canadian than American officers reported that double-blind administration was never (9.40% versus 56.89%) or rarely (10.26% versus 25.15%) their procedure (see Table 4, line G).

Our hypothesis was clearly supported in the case of double-blind administration, which is recommended only by Canadian BPRs. Fewer Canadian than U.S. officers reported that the officer in charge of a case conducted lineups, with more Canadian than U.S. officers reporting that lineups were specifically conducted double-blind. This is a clear example of consistency between BPRs and practice within a jurisdiction that results in large differences in practice between jurisdictions. It is important to note, however, that this BPR was not always followed by Canadian officers.

9. Showups

Significantly fewer Canadian (22.22%) than U.S. officers (73.65%) reported using showups in the 12 months preceding the survey, χ^2 (1, N = 284) = 72.97, $p < .001$, $V = .51$. Of officers who had used a showup, Canadian officers reported using approximately 1 showup ($n = 26$, $M = 0.88$, $SD = 1.31$) in the 12 months preceding the survey, which was fewer showups compared to the U.S. officers who reported using 6 to 7 showups ($n = 123$, $M = 6.61$, $SD = 13.32$), $t(132.02) = 4.66$, $p < .001$, $d = 1.01$ [0.56, 1.44].

Our hypothesis regarding showups was supported as there were jurisdiction-based differences in practice consistent with the different BPRs in officers' reports of using showups. We interpret the showup results with caution as the low rate of reported showup usage differs from archival research estimates, which finds showups are commonly used.[59] One possibility for this difference is that the officers who responded to our

[59] See e.g. Bruce W Behrman & Sherrie L Davey, "Eyewitness Identification in Actual Criminal Cases: An Archival Analysis" (2001) 25:5 L & Human Behavior 475 at 477.

survey—whose participation was based on their experience constructing and/or administering lineups in the year preceding the survey—may not be the officers who conduct showups. Specifically, patrol officers may be more likely to use showups than detectives; as a result, our recruitment method may have biased our sample to officers who are less likely to rely on showups. In the words of one officer: "The term 'show up' as used in our department refers to the victim or witness seated in a squad car or otherwise shielded from view of the suspect. The suspect is handcuffed to prevent escape and standing outside the squad car. The suspect is illuminated with squad car spotlights or flashlights if necessary. The distance is usually no more than 50 feet. A show up would only be conducted by uniformed officers when an arrest is made very soon after the crime, usually within minutes. Detectives use the sequential photo lineup for the follow-up investigation and rarely if ever do a show-up [sic]."

VII. General Discussion

The patterns in our data generally support our hypotheses. By and large we found similarities in practices for recommendations that crossed jurisdictional boundaries, and differences in practices for jurisdictionally-unique recommendations. The differences in practice were especially striking in cases where the BPRs addressed the same topic but made different recommendations (e.g., lineup size). While many officers reported practices that were in line with BPRs, there was substantial variation in the officers' responses. For nearly every measure, officers—even within a country—selected the full range of responses. Thus, although practice did generally align with BPRs, our results underscore that BPR adherence needs to be a continued priority in both countries.

A. Causal Relationship Between Best Practice Recommendations and Practice[60]

While we do not seek to make definitive claims that the BPRs caused changes in procedures and practice, our analytic strategy is a unique way to examine the potential influence of BPRs on police officers' practices.

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[60] For discussion on policy adherence in the United Kingdom, see Ruth Horry et al, "Video Identification of Suspects: A Discussion of Current Practice and Policy in the United Kingdom" (2013) 7:3 Policing 307.

Although it is possible that the BPRs did not influence our respondents' practices, the patterns in our data are difficult to explain in the absence of any influence whatsoever of the BPRs. In addition, we provided evidence in the case of sequential lineups that practice was more widespread after the BPRs existed, and note that some officers indicated in their written comments that they were aware of and tried to follow the national BPRs. Taken together, our results suggest that the BPRs likely had some influence on practice, though the influence was neither uniform nor is it likely that the BPRs were the only influence at work.

B. Survey Limitations

Some of the well-known limitations of survey research are present in our survey. Despite our recruiting efforts, our sample is neither representative nor random. As well, responding officers may be more conscientious about their identification practices and therefore more likely to follow BPRs and, conversely, non-responders may have been less likely to adhere to BPRs. These issues, however, are unlikely to have impacted the survey in a manner that would bias the pattern of results. Even if non-responders to our survey would have reported poorer practices than responders, their responses would only strengthen our evidence that more concentrated efforts are needed to obtain BPR compliance. It is unlikely that non-responders were adhering more stringently to the BPRs such that their inclusion would merit a change in our conclusions. Additionally, there are many practices officers reported that are contrary to the BPRs, so it does not seem to be the case that only officers from BPR-adhering departments completed our survey.

Non-representative and non-random samples are common challenges faced by researchers surveying the police on such issues as eyewitness identification procedures,[61] selection of police officers,[62] alibis,[63] and interviewing and interrogation.[64] We note that our diverse recruitment

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61 Beaudry & Lindsay, *supra* note 13 at 182; Greene & Evelo, *supra* note 15 at 310; PERF, *supra* note 15; Wogalter, Malpass & McQuiston, *supra* note 14 at 77.

62 Robert E Cochrane, Robert P Tett & Leon Vandecreek, "Psychological Testing and the Selection of Police Officers" (2003) 30:5 Criminal Justice & Behavior 511 at 530.

63 Jennifer E Dysart & Deryn Strange, "Beliefs About Alibis and Alibi Investigations: A Survey of Law Enforcement" (2012) 18:1 Psychology Crime & L 11 at 21.

64 Saul M Kassin et al, "Police Interviewing and Interrogation: A Self-Report Survey of

strategies and our resultant sample size of 117 Canadian and 167 U.S. officers compares favourably to these other published surveys of police officers: only two had larger sample sizes than we did. As well, the only published survey of both Canadian and U.S. officers[65] had a smaller sample than ours (55 U.S. and 90 Canadian police officers). Despite the limitations we have identified, our research positively adds to the extant literature. Our survey adds previously unknown information. Additionally, where our questions overlap with other published research we have replicated their findings, and because of our larger sample and nuanced questions, expanded on them.

Our ability to assess officers' awareness of BPRs and their impact on practice is limited because we did not specifically ask about their knowledge of the national BPRs or the basis of any possible departmental procedures or policies. Nonetheless, the degree of compliance with BPRs at the day-to-day level of policing, rather than just formal adoption by police services, is the true measure of whether or not a BPR is effectively "adopted." Officers responding to the survey may not have been aware that they were following BPRs. That is, a department may issue a change in identification procedures based on one of the BPRs, but individual officers may only know the outcome (i.e., change in procedure that guides their practice) and not know the basis of or reason for the change. Thus, asking about actual practices still provides important data regarding the influence of BPRs.

Interestingly, when asked at the end of the survey if they had any comments or suggestions, some officers' responses suggested awareness of the BPRs. For example, one Canadian officer said, "We are trying hard to stick to the recommendations under the Sophonow enquiry [sic] even in our small jurisdiction." Another Canadian officer said, "We use many of the recommendations of the Sophonow [sic]." One of the U.S. officers said, "My agency has standardized the lineup procedures (sequential). We have a written form that is supposed to be used on all lineups to advise the viewer of the instructions (based largely on the US Federal guidelines)." Although we cannot infer that officers are largely aware of their respective BPRs, such voluntarily-made comments clearly indicate that at least some officers are aware of them and the BPRs' impact on their practices.

Police Practices and Beliefs" (2007) 31:4 L & Human Behavior 381 at 396.

65 Greene & Evelo, *supra* note 15.

While our data are somewhat dated, our investigation of the possible influence of BPRs on practice is important. Although references directly connecting practices to national BPRs came from spontaneous, anecdotal comments by respondents, the other survey data does provide indirect evidence for this connection. In particular, our results demonstrate that some awareness of and influence by BPRs exists. As such, our survey provides a snapshot regarding the influence of BPRs on practice shortly after the BPRs were issued. Whether a more recent survey—or one 20 years from now—would show further change is somewhat irrelevant to our aims as we are not trying to reflect current practice, but rather to show that the issuance of BPRs is insufficient to prompt changes in police practice.

C. Barriers to Best Practice Implementation and Adherence

Even though the patterns in our data generally support our hypotheses, the data are so variable that even when many officers reported practices in line with BPRs, many did not. In nearly all cases, the full range of responses was selected. This indicates that correspondence between BPRs and practice is not strong enough and research on barriers to BPR implementation and adherence is needed.

We agree with a principle stated in the U.S. BPRs in that we also assume good faith in practices and reporting on the part of officers. It is easy to lay blame on individual officers when BPRs are not followed, yet the reasons why they may not be followed are complex, varied, and unlikely to operate in isolation. These reasons must be understood so that the procedures developed, tested, and subsequently written into BPRs match the challenges faced by police officers in the field and are easily adopted into practice. We discuss below some of these potential barriers and encourage investigation into these areas.

1. Disregarding Best Practice Recommendations

An individual officer may know of the BPR but, for whatever reason, disregard it. We suspect that such actions reflect difficulty in understanding the BPR wording, a lack of specification in parts of the BPRs or the rationale as to why they should be followed, time restrictions, and/or training issues rather than officers deliberately not following BPRs (though we cannot dismiss this as a possible factor). Further, there may be exceptional circumstances where close adherence to BPRs is precluded, or their departmentally-recommended procedures may differ from the BPRs.

2. Lack of desire to change

Officers may not want to change their practices. For example, they may think that their current practices work well. Alternatively, officers may resist change if they perceive that BPRs remove their discretion, question their integrity, or are dictated by people—such as researchers and administrators—who are far removed from policing and do not understand their jobs.

3. Lack of resources

Some departments may feel that while changes to procedure would be an improvement, they would be too costly or difficult to implement. For example, large police services with many officers may more easily implement double-blind administration than small services where it is difficult to find an officer unaware of a suspect's identity.

4. Lack of training

In the second author's experience, unlike other skills, officers seem to learn how to conduct identification procedures by watching other officers rather than undergoing rigorous training themselves. This observation matches up with our data in that over 75% of officers in both countries reported learning to construct lineups "on the job" or from a colleague, while fewer than half reported learning through coursework or professional instruction (see Table 1). Some of the recommendations (e.g., lineup size) are easy to implement regardless of whether training is provided. However for more nuanced recommendations (e.g., filler selection), training would be valuable to provide appropriate guidance and promote consistent approaches to BPR implementation.

The U.S. BPRs were accompanied by a training manual for law enforcement trainers,[66] but it was not released until four years after the recommendations were published. Because our data were collected after the training manual was released and there were still large deviations from the BPRs, this suggests that that many officers did not receive and/or follow training that was based on this manual. To our knowledge, both Canadian BPRs recommended (ongoing) training for officers, but neither document included a training guide.

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[66] US, National Institute of Justice, *Eyewitness Evidence: A Trainer's Manual for Law Enforcement* (September 2003), online: <www.nij.gov/pubs-sum/188678.htm>.

5. Lack of clarity in best practice recommendations

Related to issues with training, another important potential barrier is that the BPRs may not be clear or specific enough to engender change that will be consistent from one officer to another. For example, the Canadian BPRs specify that lineups should be presented sequentially—but that is all. None of the other aspects of the procedure are mentioned[67] so officers may think they are conducting sequential lineups when they use the one-at-a-time presentation and are simply unaware of the other aspects of the procedure. Providing step-by-step procedures would help remove such ambiguity.

6. Issues with initial and continued dissemination

Some officers may be unaware these BPRs exist—which in itself would be a failure of the BPRs to have an impact. Most of the BPR documents are freely available online[68] and agencies in both countries made efforts to distribute them widely and at a national level, but we know neither the exact dissemination strategies (e.g., paper copies, emailed documents, providing links to online documents, etc.), nor the breadth of distribution (e.g., to law enforcement at all levels of government, only to those on mailing lists of professional organizations, upon request, etc.), nor the extent to which those who received the BPRs read, understood, or internalized them.

Time may also reduce the ongoing dissemination of BPRs. BPRs may be well-implemented immediately upon release and officers may be trained in conducting procedures correctly, but performance may deteriorate over time as trained officers forget particular aspects, retire, or move on to other duties. The next generation of identification officers may be less aware of and less concerned about BPRs in the absence of controversial cases that draw attention to them.

D. Our Recommendations

In order for BPRs to effect change in practice, we propose that when procedural recommendations are issued, (1) they should be described in detail in BPR documents, and (2) that easily accessible training materials should be issued concurrently with the BPRs so officers have guidance in

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67 Lindsay & Wells, *supra* note 9.

68 The results of the Sophonow Inquiry were previously available online; however, by October 2014, the Manitoba Government had limited access to the Legislative Library.

applying the recommendations. Training materials should describe in detail actions that both align with and contravene BPRs.

Our data illustrates the importance of this last point as some of the reported practices are well-known by researchers to decrease the effectiveness of the procedure (e.g., allowing witnesses to view lineup members more than once in a sequential lineup),[69] but are not discussed in the BPRs and so do not technically violate the BPRs. Officers may not know that they are reducing the effectiveness of the procedure by allowing this behavior from witnesses; therefore, it is important for officers to know if variations in procedures will be detrimental. In addition to promoting uniformity, such an approach would facilitate experimental testing to discover whether the procedures provide evidence that is diagnostic of guilt.

The provision of training materials might be modeled after research ethics certification protocols in universities. In recent years, many universities have developed training procedures for anyone who will be conducting research with human research participants. Before a person is permitted to conduct research, they first must complete a course and pass a test on research ethics. This approach could be adapted to police officers by insisting that only identification evidence collected by an officer certified via training to gather identification evidence would be admissible in court. Such training would also promote procedural consistency, provided the same training was offered to officers nation-wide. This could be accomplished by using the same type of system as universities: web-based training procedures with built-in feedback.[70] Web-based systems have the advantage that they are accessible at any time for further study or review.

E. Is It Time to Mandate Change?

While neither Canada nor the U.S. currently have national-level mandated policies on eyewitness identification procedures, this can change. One mechanism for policy change is for defence lawyers to successfully challenge specific procedures in court, setting a precedent in all courts at and below that court level. While case law is certainly an important

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69 See Lindsay, Lea & Fulford, *supra* note 50; Steblay, Tix & Benson, *supra* note 56.

70 One example is that most (if not all) universities in Canada require faculty and students conducting research that involves human participants to complete the federal government's "Tri-Council Policy Statement 2 Tutorial Course on Research Ethics," online: <www.pre.ethics.gc.ca/eng/education/tutorial-didacticiel>.

mechanism for change, it will not have force of law at a national level unless a case is heard by a country's Supreme Court.

What complicates such endeavours is that the Supreme Courts only hear a small percentage of cases seeking leave for appeal. For example, the Supreme Court of Canada hears only 65–80 of the approximately 500–600 cases seeking leave for appeal annually.[71] Further, such endeavours are very costly. The financial challenges in bringing an appeal before a Supreme Court could present a significant barrier for some of those who would seek leave to appeal. Additionally, even if the Supreme Court does make a decision that mandates the way identification procedures should be conducted, there is no built-in mechanism for updating or changing practices as research in the area progresses. As such, mandating best practices via Supreme Court decisions is a costly and ineffective mechanism for meaningful and ongoing change.

Another mechanism for policy change is for individual police services, or provinces/territories/states, to recommend or mandate best practices. Several states in the U.S. have done exactly this (to the best of our knowledge, no Canadian provinces/territories have done so). For example, Maryland passed a law requiring law enforcement agencies to have written procedures for conducting eyewitness identifications by January 1, 2016.[72] Departments are required to provide the State Police with a copy of their written procedures so they can be compiled and made available for public inspection. Likewise, in 2015, Colorado passed its *Act Concerning Statewide Policies and Procedures for Law Enforcement Agencies that Conduct Eyewitness Identifications*.[73] The Act specified that by July 1, 2016, law enforcement agencies had to develop written eyewitness identification procedures based on well-accepted peer-reviewed research, or use those developed by the Colorado District Attorney's Council. Other states, such as New Jersey, Wisconsin, and North Carolina, have mandated that their law enforcement agencies use specific procedures, such as double-blind sequential lineups

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71 Supreme Court of Canada, "Role of the Court," online: <http://www.scc-csc.ca/court-cour/role-eng.aspx>.

72 Md Code Ann. [Pub. Safety] §3–506 (2017), online: <mgaleg.maryland.gov/webmga/frmStatutesText.aspx?pid=&tab=subject5&stab=&ys=2017RS&article=gps&section=3-506&ext=html&session=2017RS>.

73 US, SB 15-058, *An Act Concerning Statewide Policies and Procedures for Law Enforcement Agencies That Conduct Eyewitness Identifications*, 2015, online: <https://leg.colorado.gov/sites/default/files/images/olls/2015a_sl_110.pdf>.

and the '*may-or-may-not-be-present*' caution regarding the perpetrator's presence in the lineup. Yet, other states do not recommend procedures such as the sequential lineup or double-blind administration, demonstrating the inconsistency in procedural recommendations and/or requirements between states.[74]

The problem evident with individual departments and/or non-national governmental bodies developing their own procedures is that what is specifically mandated will vary between locations. Furthermore, because some provinces/states will not have such mandates, practices will continue to vary widely across individual countries. While efforts to update procedures according to best-practice recommendations are important and commendable, unless all police forces in a country voluntarily adopt such changes—and adopt the same changes—there will be no uniformity. Such changes would require the coordination and cooperation of thousands of law enforcement agencies (e.g., PERF identified 15 685 unique agencies in the U.S).[75] The U.S. and RPMJ BPRs explicitly state that the recommendations are not legal mandates, yet it may be time to move to such a system in order to effect systematic and consistent procedural changes. The most effective training manuals and distribution strategies are irrelevant if procedural recommendations are not adopted.

We echo the sentiments of Beaudry and Lindsay[76] that it may be time to develop a system like that of the Home Office in England and Wales in which identification procedures are legally mandated by the Police and Criminal Evidence (PACE) Act Codes of Practice.[77] Any deviations from these codes of practice must be justified to the court's satisfaction. A key advantage of such a system is that procedures can change as better techniques are developed without requiring changes in laws. For example,

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74 We refer readers to the Police Executive Research Forum report, *supra* note 15, for a more detailed summary regarding the specific procedures each of these states adopted.

75 See e.g. *ibid* at 37.

76 Beaudry & Lindsay, *supra* note 13 at 183.

77 *Police and Criminal Evidence (PACE) Act*, Codes of Practice, Code D (2011), online: <https://www.gov.uk/government/publications/pace-code-d-2017>.

PACE Code D was updated in 2011[78] and 2017.[79] These frequent updates allowed required procedures to change with advances in research.

As Beaudry and Lindsay[80] pointed out, this system may be more easily implemented in Canada than the U.S. because Canada has a single, overarching national criminal code. Unfortunately, the United States cannot have national mandates due to its state and national criminal codes, but this would not preclude the different states from agreeing to mandate the same set of best-practice policies. While certainly not as elegant and simple as a national mandate, this type of cooperative arrangement would essentially function as such and, while not easy to coordinate in an absolute sense, it would certainly be easier to coordinate 50 states compared to over 15 000 individual law enforcement agencies.

F. Conclusions

It is apparent from our analysis that BPRs likely have some influence on practice, even in the absence of legal mandates for change. In some cases, the likely influence of BPRs was striking and obvious (e.g., double-blind administration); in other cases, BPRs and practice did not completely align (e.g., sequential lineups and providing the unbiased may-or-may-not-be-present' instruction to witnesses). In still other cases, BPRs and practice were quite far apart (e.g., providing an instruction that it is just as important to exonerate the innocent as it is to convict the guilty). Although there was some consistency in practice, there was still considerable variation in the practices officers reported carrying out both within and between national jurisdictions.

The production of national-level BPRs requires substantial investments of time and resources. The three sets of BPRs we used for comparison each took approximately 1–2 years to develop and publish and, in the case of the U.S. BPRs, another year was spent developing a related training manual.[81] It is clear from our survey that BPRs and practice do not always correspond and, even when they do, there are still unintended—and almost certainly undesirable—variations in practices.

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78 *Police and Criminal Evidence (PACE) Act 1984* (UK), c 60, Codes of Practice, Code D (2017), online: <https://www.gov.uk/government/publications/pace-code-d-2011>.

79 *Ibid.*

80 Beaudry & Lindsay, *supra* note 13.

81 Lindsay & Wells, *supra* note 15.

Table 1. ***Experience-, training-, and job-related demographics for Canadian and U.S. officers surveyed***

	Officer location	
Demographic category	Canada	U.S.
Mean years of experience		
As officers	14.85 (8.37)	17.87 (7.36)
Constructing lineups	8.85 (7.97)	9.38 (7.00)
Administering lineups	10.13 (7.73)	9.79 (7.09)
Training constructing lineups		
"On the job"/No formal training	77.61%	83.59%
From a colleague	77.61%	76.56%
From written guidelines	64.18%	39.84%
Coursework/Professional instruction	41.79%	36.72%
Breadth of experience		
Constructed & administered lineups	85.47%	95.21%
Only constructed	0.85%	2.40%
Only administered	13.68%	2.40%
Mean number of lineups		
Constructed	8.98 (21.84)	20.50 (49.05)
Administered	7.25 (19.94)	18.74 (37.43)
Level of government		
Municipal/Local	66.67%	95.21%
Provincial/State	29.06%	4.27%

Federal	4.27%	0.60%
Population of area served ≥100,000 people	82.91%	81.44%

Note: For mean years of experience, standard deviation is provided in parentheses. For training constructing lineups, officers could endorse as many options as applied to them. For mean number of lineups, officers were asked how many photo lineups they had constructed and administered in the 12 months preceding the survey; standard deviation is provided in parentheses. For level of government, officers reported the level of government at which their particular unit operated.

Table 2. ***Compliance of Canadian and U.S. officers' lineup procedures with best practice recommendations***

	Recommendation	Canada	U.S.
1	Instructions to witnesses: importance of exonerating innocent	25.64	29.75
2	Instructions to witnesses: perpetrator may or may not be in lineup	97.44	85.12
3	Multiple suspect lineups (single perpetrator)	76.79	80.67
	Multiple suspect lineups (multiple perpetrators)	76.79	82.35
4	Filler selection	~	~
5	Feedback on suspect selections	89.22	60.66
	Feedback on filler selections	87.82	71.93*
6	Lineup size	86.36	98.43
7	Sequential presentation	71.23	28.17*
	Usage of full sequential procedure	26.23	0.00*
8	Double-blind administration	47.01	9.40*
9	Showups	~	~

Note: Numbers in columns represent the percentages of officers who reported practices that were fully compliant with best practice recommendations (i.e., they either 'never' or 'always' did the recommended procedure, or reported doing it 100% of the time). Asterisks indicate that a country had no specific recommendation to carry out that procedure, but numbers are provided for context of practices between countries. Numbers are not provided for filler selection and showups as the data was not amenable to summary in this format.

Table 3. ***Percentage of Canadian and U.S. officers surveyed who gave the following instructions (or something similar) to a witness prior to conducting a lineup.***

		n	Never	Rarely	Sometimes	Usually	Always	Fisher's	*p*
A) Instruct witnesses that it is as important to exonerate the innocent as it is to convict the guilty	Canada	78	55.13	5.13	7.69	6.41	25.64	6.44	.16
	U.S.	121	43.80	14.05	4.13	8.26	29.75		
B) Instruct witnesses that the perpetrator may or may not be in the lineup	Canada	78	1.28	0.00	0.00	1.28	97.44	7.40	.08
	U.S.	121	4.96	0.83	3.31	5.79	85.12		
C) Instruct witnesses to select the person they saw commit the crime	Canada	78	64.10*	3.85	7.69	6.41	17.95*	14.93	.004
	U.S.	121	38.02*	9.92	8.26	6.61	37.19*		

Note: Fisher's tests were conducted for differences between jurisdictions across the five response categories. Numbers in columns are the percentages of respondents choosing that option. Asterisks indicate significant post-hoc comparisons (Canada versus U.S.) at .01 level (Bonferroni corrected).

Table 4. ***Percentage of Canadian and U.S. officers surveyed who followed various best practice recommendations***

		n	Never	Rarely	Sometimes	Usually	Always	Fisher's	*p*
Same Recommendations									
A) Frequency of using multiple-suspect lineups when case had single perpetrator but multiple suspects	Canada	56	76.79	5.36	10.71	1.79	5.36	5.86	.18
	U.S.	119	80.67	11.76	5.04	0.84	1.68		
B) Frequency of using multiple-suspect lineups when case had multiple perpetrators and multiple suspects	Canada	56	76.79	7.14	7.14	3.57	5.36	4.40	.32
	U.S.	119	82.35	10.08	5.04	0.84	1.68		
Different Recommendations									
C) Sequential lineups: Allow witnesses to go through the lineup more than once if they do not choose anyone the first time	Canada	61	32.79*	8.20	0.00*	13.11	45.90	21.32	<.001
	U.S.	46	8.69*	0.00	15.22*	17.39	58.70		
D) Sequential lineups: Allow witnesses to pick more than one person and decide between them at a later time	Canada	61	60.66	19.67	13.11	1.64	4.92	8.88	.054
	U.S.	46	43.48	13.04	17.39	6.52	19.57		

E) Sequential lineups: Accurately inform the witness of how many people they will be seeing	Canada	60	48.33*	5.00	5.00	5.00	36.67*	14.51	.003
	U.S.	46	19.56*	0.00	6.52	4.35	69.57*		
F) How often lineups are conducted by the officer in charge of the case	Canada	117	54.70*	7.69	14.53	18.80*	4.27	117.23	<.001
	U.S.	167	5.99 *	2.40	8.98	69.46*	13.17		
G) How often lineups are conducted by an officer not otherwise involved in the case and who does not know which lineup member is the suspect (double-blind administration)	Canada	117	9.40*	10.26*	8.55	24.79*	47.01*	144.04	<.001
	U.S.	167	56.89*	25.15*	10.18	4.19*	3.59*		

Note: Fisher's tests were conducted for differences between jurisdictions across the five response categories. Numbers in columns are the percentages of respondents choosing that option. Asterisks indicate significant post-hoc comparisons (Canada v US) at .01 level (Bonferroni corrected).

Table 5. ***Percentage of Canadian (N = 67) and U.S. officers (N = 128) surveyed who selected lineup fillers based on their similarity to the suspect with regard to 27 characteristics***

	CANADA			USA		
Criteria	Rarely	Description	Always	Rarely	Description	Always
Race/Ethnic group	0.00	16.42	83.58	1.56	1.56	96.88
Age	0.00	25.37	74.63	0.78	15.63	83.59
Background of the Photo	23.88	2.99	73.13	16.41	10.16	73.44
Photographic Quality	25.37	8.96	65.67	14.84	10.16	75.00
Hair Colour	8.96	29.85	61.19	5.47	10.16	84.38
Hair Length	7.46	37.31	55.22	5.47	14.06	80.47
Facial Hair	5.97	38.81	55.22	3.13	19.53	77.34
Eye-gaze	38.81	7.46	53.73	34.38	10.94	54.69
General Facial Features	25.37	25.37	49.25	18.75	21.09	60.16
Hair Style	17.91	38.81	43.28	14.06	21.88	64.06
Photo Recency	52.24	5.97	41.79	34.38	16.41	49.22
Skin Complexion	26.87	35.82	37.31	7.81	25.78	66.41
Eye Glasses	19.40	43.28	37.31	10.94	32.03	57.03
Weight/Build	23.88	43.28	32.84	16.41	22.66	60.94
Face Shape	47.76	22.39	29.85	27.34	32.81	39.84
Distinguishing Marks	35.82	37.31	26.87	23.44	34.38	42.19

Eye Colour	47.76	29.85	22.39	22.66	34.38	42.97
Pose	68.66	8.96	22.39	50.78	17.97	31.25
Nose	43.28	37.31	19.40	32.81	41.41	25.78
Lips	49.25	31.34	19.40	36.72	38.28	25.00
Height	53.73	29.85	16.42	42.19	18.75	39.06
Forehead	56.72	28.36	14.93	42.19	35.16	22.66
Chin	55.22	29.85	14.93	38.28	39.84	21.88
Cheeks	58.21	28.36	13.43	37.50	39.06	23.44
Eyebrows	55.22	32.84	11.94	37.50	38.28	24.22
Neck	64.18	26.87	8.96	42.19	35.94	21.88
Clothing	86.57	5.97	7.46	60.94	18.75	20.31

Note: Response options were: "Rarely", "Only if included in the witness' description" (description), and "Always". The options are ordered from greatest to least based on the Canadian officers' "always" responses.

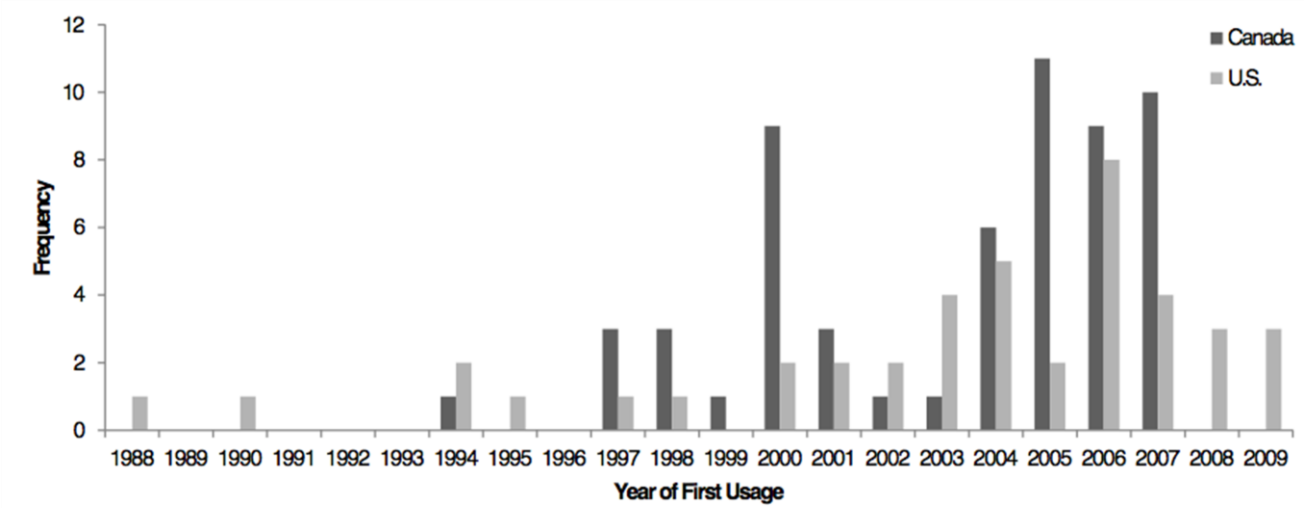

Figure 1. **Year in which Canadian and U.S. officers surveyed reported first using the sequential lineup.**
Note: The U.S. best practice recommendations came into effect in 1999, the Sophonow best practice recommendations came into effect in 2001, and the RPMJ best practice recommendations came into effect in 2005.