

Thursday, March 10, 2016

Government

Water district's general counsel pays \$50K to settle SEC claims

The general counsel of California's largest agricultural water district will pay the U.S. Securities and Exchange Commission \$50,000 to settle claims of his involvement in misleading investors on a \$77 million bond offering that he jokingly referred to as "a little Enron accounting."

Education

UC Berkeley School of Law dean takes steps down amid sexual harassment lawsuit

Lawsuit filed by former assistant to Sujit Choudhry follows internal investigation, discipline

California Supreme Court

State high court to broadcast oral arguments

The state Supreme Court will begin to regularly broadcast oral arguments live on the Internet as part of a sustained push to open up the judicial branch to the public.

Litigation

Federal suit alleges Monsanto weedkiller caused farmer's death

As Monsanto Co. tries to vindicate its use of carcinogenic chemicals in state court, the agrochemical giant will also have to defend the science behind its weedkiller in the Central District, following a wrongful death lawsuit filed Wednesday.

Judges and Judiciary

Judge faces disqualification motion for contributions

A plaintiff whose case was decided by Ventura County Judge Henry J. Walsh has asked the court to retroactively disqualify the judge due to recent revelations that he received campaign contributions from a defendant and attorneys who work at several law firms involved in the case, while it was ongoing.

Mergers & Acquisitions

Dealmakers

A roundup of recent transactions across the state and the lawyers involved.

Criminal

Focus on detecting sex crimes today

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Focus on detecting sex crimes today

Elizabeth Loftus is a professor of psychology and social behavior and professor of law at UC Irvine.



For more than four decades, I have been studying the human memory. Over the years, a growing body of research, including my own, has found that, contrary to what some may think, the human memory is not like a recording device. You can't perfectly preserve events, to be played or rewound and replayed

at will. Instead, our memories are more like a Wikipedia page: they can be edited by us and other people, and more so with each year that goes by.

Thus, when I saw Senate Bill 813, recently introduced in the California Legislature, which aims to do away with California's statute of limitations for sex crimes, it immediately caught my eye.

Generally speaking, California already allows prosecutors to bring charges against someone accused of sexual assault up to 10 years after the crime was committed. If the victim was under the age of 18 when the crime was committed, then prosecution can begin at any time before the victim turns 40. Prosecution can also begin at any time through DNA evidence.

But the current regulations do not permit a prosecution of someone after 50 or 60 years have passed. As a memory expert, I can understand why these limits were put in place.

Scientists have long known about the "forgetting curve," which revealed that, as time passes, people are unable to retrieve information that they would have earlier be able to remember accurately. The loss of memory can be quite significant, especially after many years go by.

So it is easy to see that as time goes by in criminal cases, not only does physical evidence become more difficult to obtain, identify, or preserve, but memories too begin to fade. This is the case for everyone involved - from detectives to defendants, victims, and witnesses alike. It's just part of the human condition.

Think about it. Do you remember what you did or where you were between the hours of 2 p.m. and 7 p.m. on a Sunday two years ago? How about 20 years ago?

To further complicate things, your memories don't just begin to blur with the passage of time, they can also become more susceptible to outside influence.

Over the years, my students and I have conducted hundreds of experiments involving over 30,000 individuals that document how the introduction of misinformation induces memory distortion. These studies have shown that people's recollections can be influenced when they witness an event and are later exposed to even the most subtle new and misleading information about it, for instance if they are interrogated in a suggestive way or if they talk to other people who give their own version and details of the events.

In my memory studies, participants first saw a complex event, such as a simulated accident or scene. Next, half the participants received subtle misleading information about the accident, while the other half received no information. Finally, all of the participants tried to remember the original scene or event. The results showed that many of the participants who were exposed to misinformation "remembered" details that were not part of the original scene or event. For instance, participants recalled a conspicuous barn, broken glass and tape recorders when there were none in the original; a white instead of a blue vehicle in a crime scene; and Minnie Mouse when they had actually seen Mickey Mouse.

Taken together, these studies show that suggestions can become incorporated into a person's memory, along with dreams, imagination, fears and desires, and that these things can alter the memory. Again, this impacts the memories of everyone involved in a criminal prosecution, including the defendant, other witnesses and the investigators.

These studies have also shown that memories are more easily modified, for instance, when the passage of time allows the original memory to fade.

Combined, these factors and a diminishing access to physical evidence can have serious implications for wrongful convictions.

According to the Innocence Project, 337 people have been exonerated nationwide through DNA evidence after being wrongly convicted of a crime, with eyewitness misidentification playing a role in 70 percent of those cases. What's more, 2015 saw a record number of exonerations across the country - 149 people that we know of so far - according to the National Registry of Exonerations. But 2015 wasn't bucking a trend, on the contrary: The rate of exonerations has been increasing rapidly for several years.

This, to be sure, is cause for alarm. After all, the impacts of a wrongful conviction are truly devastating and long-lasting, not just for those wrongly convicted, their families, and loved ones, but also for victims who have relied on the legal system seeking justice. Not to mention that for every innocent person who is convicted, there is a real criminal out there, possibly committing more crimes.

The state's efforts may prove more productive if they were aimed at detecting the crimes soon after they happen, rather than decades later.

Elizabeth Loftus is a professor of psychology and social behavior and professor of law at UC Irvine.

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(Mis)remembering sexual assault

December 24, 2014

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Judges and Judiciary

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Perspective

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Letter to the Editor

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Judicial Profile

Gonzalo P. Curiel
U.S. District Court Judge
Southern District (San Diego)

Corporate Counsel

Yasmin Zarabi
Vice President of Legal and Compliance Hearsay Social Inc. San Francisco

Education

Trial against Thomas Jefferson kicks off in San Diego
Michael C. Sullivan, a partner at Paul, Plevin, Sullivan & Connaughton LLP, who represents Thomas Jefferson School of Law, told jurors that plaintiff Anna Alaburda suffered no damages.