

#51 (BILL BROOKS)

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Jerry Ratcliffe:

Reducing Crime podcast features conversations with influential thinkers in the police service and leading crime and policing researchers.

Reducing Crime features conversations with influential thinkers in the police service, and leading crime and policing researchers. A cop for over 45 years, Bill Brooks is the chief of the Norwood Massachusetts Police Department. He's also an award-winning expert on eyewitness identification, and has worked closely with the Innocence Project. We discuss the police pullback, generational change in policing, and the latest approaches to eyewitness identification.

Jerry Ratcliffe:

Welcome to Reducing Crime, I'm your host Jerry Ratcliffe. The new up tempo theme is here to stay. I asked on Twitter, and generally you were supportive. But the most support was from my girlfriend, and I know where my bread's buttered. So if you don't like the change, blame Shelley.

My guest this month is William G. Brooks III, or Bill. I first met Bill Brooks when he was the chair of the data and reporting working group, of the 2020 Presidential Commission on Law Enforcement and the Administration of Justice, to which I gave some testimony. Bill is the Chief of Police for Norwood, Massachusetts, a town of about 30,000 people a few miles from Boston, where he leads a team of about 60 police officers. As you'll hear, he's been a cop for over 45 years, Chief Brooks is a graduate of the FBI National Academy, and sits on the board of the directors of the International Association of Chiefs of Police.

Bill's an expert in the area of eyewitness identification, he's a member of the Supreme Judicial Court's study committee on eyewitness identification, and also served on a related committee at the National Academy of Sciences. He presents nationally on behalf of the Innocence Project, and was the 2012 recipient of the Innocent Network's Champion of Justice Award. In 2015, he received the Civil Rights Award for Individual Achievement from IACP, the International Association of Chiefs of Police.

In May this year Bill was in Washington DC for Police Appreciation Week, so we had a chance to grab breakfast on the Old Town Alexandria Waterfront. In the background you'll hear some people and birds, a lot of birds. So please come and join us for coffee, eggs benedict, and some Nouvelle cuisine attempt at French toast.

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Jerry Ratcliffe:

There is a brunch menu here, oh and I found the wine menu. I don't know, 10:30 in the morning, it's probably a little enthusiastic.

Waiter:

Something to drink for you? Still water coming.

Bill Brooks:

Could I just have a coffee, please?

Waiter:

Coffee.

Jerry Ratcliffe:

Yeah, the same, fill up please. Cheers, thank you. How long have you been on the board of directors, International Association of Chiefs of Police?

Bill Brooks:

I've been on the board eight years, I think they've forgotten to let me go.

Jerry Ratcliffe:

What made you decide to get involved with that kind of thing?

Bill Brooks:

Back in the day I was the Deputy Chief in Wellesley, and my chief was Terry Cunningham, and he was the incoming president and he said, "Hey, would you ever be interested in the board of directors?" And I said, "Yeah, I'd love to do that." It's great, yesterday we had a conversation about gun crime and inter city violence, and that sort of thing.

Jerry Ratcliffe:

Is that a problem?

Bill Brooks:

Yes, it's a... Well, I love the fact that everybody keeps talking about the pandemic and gun crime, and there was a pandemic everywhere.

Jerry Ratcliffe:

Yeah, I can't see the link.

Bill Brooks:

I see the people who might have availed themselves of services didn't have the opportunity to get to them, and there's some of that. But the pandemic was everywhere, there wasn't a 30% increase in homicide in Sweden and France and other places.

Jerry Ratcliffe:

I should probably refine that. I can see, at least some initial societal upheaval early on, but a lot of that is now dissipated.

Bill Brooks:

Mm-hmm.

Jerry Ratcliffe:

And as you say, all these other countries have not had massive increases in crime. The difference is we have guns, we have guns everywhere.

Bill Brooks:

A lot of guns, a lot of guns. I also think maybe shopper effect of the police being back on the heels and the criminals being emboldened. And I think a lot of that happened. I know that George Floyd influence was everywhere in the world, but I think more so here. And I think that criminals have been emboldened and that I think that that allowed shooters who might have hesitated to not hesitate. Then there's of course the meteoric rise in gun sales. This what we were talking about yesterday, I'm co-chair of the firearms committee. Now the highest weeks of gun sales, 9 of the 10 highest weeks were in 2020 and 2021, which I think then gives opportunity for theft and gives opportunity for straw purchases and gives opportunity for that kind of stuff, so.

Jerry Ratcliffe:

We're here at, in DC during police appreciation week, so you've had a chance to be speaking to a lot of people at the IACP. If you just listen to sociologists on Twitter, they poo poo the idea that police have pulled back. But how are people here feeling about that? Because you just mentioned the police pull back. I mean, it seems fairly obvious to me.

Bill Brooks:

I will guess not pulled back intentionally, but when I say about back on their heels, then maybe a little bit more hesitant to .. gee that guy. I wonder if he's .. I'm not going to talk him. Yeah. I'm not going to roll up on that guy. It's not that they're not doing radio calls or not that they're even not stopping people who they think were just involved in a crime, but there's all of that activity out on the street where a cop might have rolled up and said, Hey, what's up guys.

Jerry Ratcliffe:

It's all that discretionary proactive activity. And it seems to have disappeared.

Bill Brooks:

And it's not even so much on the police I think. Because I actually do think that the pullback has been slight, but the perception of criminals I think is that it's there. I can tuck a gun on my waistband and the guys on the gang unit are not going to roll up on me. And as a result, they're carrying guns, there's guns on the street. And if there's guns on the street, then they're more likely to become involved in something retaliatory or swing back on somebody who they think is a threat. And I'd think that there's some of that, so.

Jerry Ratcliffe:

In Philadelphia, I know that stops have dropped to a fraction of what they used to be. But the actual number of guns that are being seized has increased, which either means that cops out there on the streets who are doing stops have suddenly become geniuses at spotting guns in every single stop, or it's much more likely indicative that the volume of gun carrying on the street is just skyrocketed.

Bill Brooks:

That's right. I also think that they asked a question about do lawful gun sales drive crime? The interesting measure, the ATF has a time to crime measure they look at, which is when they do an e-trace on a gun and they follow it back to when an FFL sold that gun as guns sales have gone up, the time to crime has decreased. So the amount of time it takes for that gun to show up somewhere in the waistband of a shooter or at a crime scene or something like that has decreased. Guns are being left in cars. I think in Houston last year, 4,000 guns stolen from cars, just in Houston, which is amazing.

Jerry Ratcliffe:

Its incredible, isn't it.

Bill Brooks:

So a lot of guns, a lot of guns on the street. A lot of people carrying guns, who might not have carried them before. And a lot of people out there who perceive a threat. So this stuff isn't simple, I think obviously. But people out there who perceive a threat who think maybe are more likely to get shot, are going to carry a gun for self-defense defending themselves, right now because they got the gun on them. They're more likely to use it. So there's that rolled in.

Jerry Ratcliffe:

Yeah. That's all right, rolling the clock back, trying to get back to where we were. 2, 3, 4, 5 years ago is going to be a real struggle because it doesn't seem like the political will is there.

Bill Brooks:

I think it takes a longer time to bring crime down than it takes to drive it up.

Jerry Ratcliffe:

Yeah. So you're not going to be unemployed anytime soon then?

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Bill Brooks:

I don't think so. No, there's always stuff for cops to do. It's funny. I've been on the job 45 years and people have said to me, it's not a good time to be a cop. And I've always said there's never been a really good time to be a cop, right?

Bill Brooks:

The 60s were a disaster, the 70s were awful, high crime in the 80s, high crime in the 90s, crack, cocaine, all that stuff. And then there was terrorism. There's never been a really good time to be a cop.

Jerry Ratcliffe:

There's always been some drama. 45 years then, that's fantastic. Congratulations.

Bill Brooks:

I'm starting to get the hang of it.

Jerry Ratcliffe:

Yeah. So what was August Vollmer like? did you meet him in person?

Bill Brooks:

Yes. Very good. Yeah, no, It has been a long time.

Jerry Ratcliffe:

These last two years have certainly had a massive change. I mean, I've been around policing 37, 38 years now. I've never seen anything like this.

Bill Brooks:

When I say there's never been a good time to be a cop. This has been particularly troubling time. And people that kind of look at you that you thought maybe at a glance, you would've gotten the impression that they trusted you or liked you or tolerated you or whatever. And then you could almost see in their eyes, there was a period of time there that they didn't. Yeah. I must say that in the community where I work has just been tremendous support and all along, almost as bad as it got on the streets from the cities, with the protests, the stronger the support came in, the community I'm from.

Bill Brooks:

And I think there's probably a lot of communities that were like that. It was almost back to the post 9/11 period where you would you'd be standing in a line at the coffee shop and you'd get up there, and they'd say that guy who walked out, just paid for your coffee. And that was going on around the time the George Floyd protests were going on. And I think it was just people just trying to show their support for us. So I've been very fortunate in my community.

Jerry Ratcliffe:

Yeah. How long have you been in Norwood now?

Bill Brooks:

So I bounced around, I was a detective Sergeant there when I left Norwood to go to Wellesley, the site of the middle five miles of the Boston marathon. And then I came back 10 years ago as Chief.

Jerry Ratcliffe:

So you've really bounced around essentially the sort of Boston suburbs.

Bill Brooks:

I've worked for three departments all in the same county.

Jerry Ratcliffe:

What sort of size departments are we talking about?

Bill Brooks:

Westwood 30, Wellesley's 45 and Norwood's coming up on 65.

Jerry Ratcliffe:

So many people from other countries just can't conceptualize what it's like to be in a police department with under a hundred officers.

Bill Brooks:

I know. And I understand that, but if we were a huge department, we'd be probably working in a precinct with 60 officers. And there are places where the precinct captain is almost like a chief of police and you hear that referred to.

Jerry Ratcliffe:

Yeah.

Bill Brooks:

So I think probably the policing is the same.

Jerry Ratcliffe:

The principles are the same, but the scale is different.

Bill Brooks:

That's right. Principles are the same. I would like a system like the UK where there's 40 some odd police departments. There's the home secretary and people are kind of on the same page and in the US there's 18,000 police departments and it's difficult to get progressive change implemented.

Jerry Ratcliffe:

Do you think that's a cause of it? The scale of the number of departments and the sizes, the small size of so many departments, do you see that as a real barrier to progress?

Bill Brooks:

It's certainly an obstacle. Even if IACP comes out with a great idea or a policy that would make great sense. How do you reach 18,000 police departments? And you can.

Jerry Ratcliffe:

You have model policies, but there's just no requirement on the departments to actually adopt them.

Bill Brooks:

That's right. Because at the end of the day, every police chief kind of reports to his board of alderman who don't know an awful lot about policy. And unless one of them read it somewhere and says, Hey chief, how come you haven't adopted such and such a policy, then nobody under authority is making the police do that. I mean, Massachusetts is small, we've got 351 cities or towns. And as our chief Ed Flynn used to say, every officer wears a patch on his sleeve, embroiders their day in the 1700s, when they split away from the town next to them and became their own community.

Jerry Ratcliffe:

By the sounds of your accent, you grew up in that area.

Bill Brooks:

Yes. Can you detect them from the Boston area?

Jerry Ratcliffe:

Yeah, I was going to put you down as south Philly.

Bill Brooks:

No, I live my whole life there. Yeah.

Jerry Ratcliffe:

45 years in the job, the changes have been huge.

Bill Brooks:

The changes have been huge and it was very enforcement oriented. A higher number of arrests usually indicated better work. And the higher number of tickets indicated better work. And I've said to officers, I remember sitting on my Harley when I was a motorcycle cop and backed into a driveway during the rush hour, waiting for somebody in a perfectly functioning vehicle to drive by with an expired inspections ticket. So I could pull out and the guy just wanted to like the local police, but I would pull him over because he didn't have his current inspect when he was supposed to, write him a citation because writing the citation was deemed a good thing. And I think, I and other officers like me probably did some damage back in those days. Whereas now we're more data driven in the way we do traffic enforcement. I don't want inspection tickets written unless it's for someone who is driving a poorly functioning vehicle, I really want concentration on texting while driving and that sort of thing.

Jerry Ratcliffe:

But you are a little bit more progressive and thoughtful and you are having influence over policy at the national level. There are loads of police chiefs out there that are still driving that kind of stuff. That's what they still ask for, that's the metric. That's how the city makes a little bit of money. I get the feeling in some places that I've gone and visited a police department that's 20 years behind everybody else.

Bill Brooks:

I don't know, I am talking about it. Police Chief magazine. We hope that people read the magazine when it comes out because we're really some good articles by some wicked smart people.

Jerry Ratcliffe:

I'm not saying you're stereotype a Boston accent, but you actually just said wicked smart.

Bill Brooks:

If I use it again... people like you are wicked smart to people like me. But yeah, I suppose that there were those ways, I go to roll call and I talk to the offices and with our command staff, I'm saying, look, I no longer care about that. I care about, we've had pedestrian accidents along a particular street that I want pedestrian enforcement done on the street where fed pedestrian crashed.

Jerry Ratcliffe:

Right. But what do you say to those young cops that are trying to come to notice? They're trying to get promoted. They're trying to stand out from the rest of the crowd. Does that satisfy them?

Bill Brooks:

If you're doing the job properly in the right way and you're being respectful and polite on all traffic stops, I'll eventually hear about it. If you're doing good police work, the good police work is this now.

Jerry Ratcliffe:

Trying to identify what makes a good cop these days. And I was on that hellhole of a site, Twitter.

Bill Brooks:

Oh God.

Jerry Ratcliffe:

Which is where optimism goes to die. And it's one of those few times when you go, this wasn't the worst day on Twitter. And there was a thread that you participated in, but you contributed a really interesting comment. And I don't know if it was something you'd been thinking about for a while, it was spur of the moment. But you tweeted something that I thought was really good in terms of what it is to be a cop's cop, because the conversation was around what a police officer is seeing respect in other cops. And I took a note of it.

Jerry Ratcliffe:

And you said I've been a cop coming up on 45 years. Cop's cop has always been a compliment to be a cop's cop means that you have all the attributes that people are spar to if they wish to be the very best in the policing profession, it often means that you took the job for the right reasons. If you led an unblemished career, have a good reputation for justice and fairness, know how to carry out all the duties required of you. And most of all, people are confident that if they call you, you'll handle, whatever situation is presented to you, you may have earned the title. And I thought that was fantastic. It really encapsulate what it is. Did it just come to you in the spur of the moment on Twitter?

Bill Brooks:

Yeah. I don't think I had to assemble that in my mind. I guess what I've always thought. There are times when you'll hear chaos on the radio and I'll kind of turn up my portable and I'll call the desk and I'll say, what's going on up there. They'll say, well, an oil tanker just drove over and we think it's stolen and they're chasing people through the odds. And my question is always who we got up there and the dispatch will name the carpet. I'll go, okay. Right. Because you know it's going to be handled.

Jerry Ratcliffe:

It's a little bit like that Baltimore phrase that cropped up in The Wire "natural police" or as they say natural po-lice.

Bill Brooks:

Yes, that's right.

Jerry Ratcliffe:

But the tricky part is, we are looking to think about recruitment and training and hiring and promotion. How do we identify those characteristics? I mean, you can't identify that in a promotion exam that's a pile of multiple choice questions.

Bill Brooks:

No you can't. So we use a system of stats with a multiple choice exam.

Jerry Ratcliffe:

You still have faith in these multiple choice? Here's a book, read it tests.

Bill Brooks:

Only just for the far ends of the spectrum, not the close calls in the middle that are five points apart. No.

Jerry Ratcliffe:

It's good for an initial filter.

Bill Brooks:

It's kind of a management device. And that will say, listen, give me everybody who scored 85 and above, who's from our community and give me the veterans from our community. And that's kind of our first pool, thorough interviews, and

really thoroughly looking into the candidates. I'm not interested that you've had four security guard positions. I'm interested that you are a bagger at the local supermarket. And the manager tells me if I attend more of him, I'd be happy.

Jerry Ratcliffe:

Somebody who can talk to people.

Bill Brooks:

Somebody who can talk to people, somebody who's respectful. Somebody who comes in all the time, who's present all the time. Who's reliable. I want somebody who's a good employee.

Jerry Ratcliffe:

You're really talking about people who've got a good communication skills because I've been spending a whole chunk of time with the transit police recently in Philadelphia, working with cops who are engaging with people, we see more and more of it across the country. They've got mental health issues, behavioral health issues, drug, addictions, homelessness, all these kind of ... the vulnerable community. And there is a push to have the social outreach role increase with social workers and decrease the policing footprint. And I'm looking at this going, I'm not entirely sure there's going to be a big difference in the outcomes of this because I see some cops doing really good jobs. They just have spent a lot of time speaking to the most vulnerable people and they do a pretty good job with it. Not all of them, but most of them do.

Bill Brooks:

I'm glad to hear say that because you don't hear it that often. I think that a lot of people disagree with me here, but I think that going back to the whole kind of defund concept of let's take money away from the police, we can probably spend it better somewhere else. We don't have to send the police on mental health jobs, we should send people who are trained to do that kind of work. I think some mental health experts would tell you that what they were trained to do is not to stand outside somebody's bedroom at 3 o'clock in the morning. And when you think of it, a police officer's job is to respond to the scene where there may be a crisis, calm it enough, where the person gets into, in our case in Massachusetts, gets into an ambulance and takes a ride to the hospital where they can get further attention.

Jerry Ratcliffe:

You still have the capacity to give people further attention in hospitals in Massachusetts? I am coming to move. The complaint that so many of the cops have is the same complaint that I think that the social workers are going to have, which is you've put me in this role and you've given me none of the infrastructure and support necessary to do the job well. There aren't the hospital places, there aren't the beds and shelters, there isn't the infrastructure there.

Bill Brooks:

And that part is very, very true because we take the same people to the emergency department several times in the same month. Now I'm not blaming the people that the emergency department, but I don't think that's what they're built for either. [inaudible 00:18:07]

Jerry Ratcliffe:

You've already eaten, haven't you this morning?

Bill Brooks:

I'm fine with the bread and butter. Go ahead and have breakfast.

Jerry Ratcliffe:

Eggs benedict, please. Cheers. Thank you.

Waiter:

Okay. Thank you.

Jerry Ratcliffe:

Lovely.

Bill Brooks:

Do you have muffins?

Waiter:

We have French toast.

Jerry Ratcliffe:

You know, want to.

Bill Brooks:

Okay, I'll have French toast.

Jerry Ratcliffe:

Good man, there you go.

Bill Brooks:

It's nothing like a muffin by the way.

Jerry Ratcliffe:

See, I knew you could be tempted.

Bill Brooks:

Well now it's practically lunch.

Jerry Ratcliffe:

That's some marvelous justification, with that same justification, it's almost cocktail hour.

Bill Brooks:

That's a good point. But the kinds of calls that people think about when they think about the police responding, I think cops do a much better job than the public polices. More than once I've had a doctor call me and say, I was trying to deal with my patient, but the officer's doing a better job and I step back and let him finish it because he was connecting with her in a way that I was just struggling with.

Jerry Ratcliffe:

Isn't that great to hear?

Bill Brooks:

It's unbelievable. And I think the general public would shake the head and go, no, really well that's unusual, but I can tell you it's happened more than once.

Jerry Ratcliffe:

I mean, I love it here in America and America's been very good to me. But one thing I have noticed about being in America is that we want everything and pay for nothing. And you get value for money from policing, because if they're not dealing with a behavioral health or mental health, they're doing crime prevention, they're doing traffic accidents. If you just have a behavioral health specialist, who's only on call for that certain number of safe behavioral health calls when they're not dealing with that, they're not doing anything else.

Bill Brooks:

Right.

Jerry Ratcliffe:

Because that's the one thing that they are there for. Whereas cops that they're not doing one thing, they're doing something else.

Bill Brooks:

That's right.

Jerry Ratcliffe:

Those every man or every woman, general purpose kind of people are often what you end up having if people don't want to pay more taxes for more services.

Bill Brooks:

I think you're right.

Jerry Ratcliffe:

So you started your career, you moved into being a defective?

Bill Brooks:

Yes.

Jerry Ratcliffe:

That was back in the 80s. Was it?

Bill Brooks:

Yeah. I loved that job.

Jerry Ratcliffe:

Different time, right?

Bill Brooks:

I was in that job for 14 years in the detective squad. Yeah. I loved it. Second best job I ever had. Well, maybe the third best job, but I love doing that.

Jerry Ratcliffe:

What was the appeal? I mean, I'm just pleased to speak to somebody who's been really enjoying their police careers.

Bill Brooks:

I don't know that side always interested me. Like, when I would finish a radio call and there was some sort of crime involved. I kind of wanted to circle back. I would want to call in on my day off to say, because is there any more information you need to kind of help on, can I go knock on some doors and can I keep that case? And even in my department now it's something we've encouraged is that we don't send everything to detectives. The more follow ups that patrol officers do, then the more proactive work a detectives can do.

Jerry Ratcliffe:

I think there's another role that is often overlooked. And Anthony Braga has written about this, which is that detectives often have a great deal of insight and understanding into how a case has formed and what systemic weaknesses in our system or what opportunities have been exploited by the offender. But if we only ever use that knowledge to achieve a prosecution, we don't shut those opportunities down. And there's a great prevention opportunity that's being missed by not engaging detectives and investigators more with the idea that they actually have a role in helping to drive crime prevention.

Bill Brooks:

Absolutely. And I almost hate to say, we almost never see house breaks anymore.

Jerry Ratcliffe:

Now you've said it, now, haven't you. There you go.

Bill Brooks:

I know-

Jerry Ratcliffe:

It's like starting the shift with a Q word. I'm not even going to mention it in case somebody's playing this in a cruiser. And I say the Q word and it's like, oh no, no.

Bill Brooks:

When I say it to my command staff, they go, sshhh. But now people do identity theft and call elderly people and try to get them to buy gift cards and all that. Crime may be down, but there's no less evil in the world. Right?

Jerry Ratcliffe:

Yeah. Well, it's less of that up close and personal crime.

Bill Brooks:

Right.

Jerry Ratcliffe:

But for people who don't have that skillset, there seems to be an increase in up close and personal crime as well.

Bill Brooks:

Right.

Waiter:

Eggs Benedict?

Jerry Ratcliffe:

Yeah. Thank you. Oh, that looks fantastic.

Bill Brooks:

Oh, that's great. Thank you very much.

Jerry Ratcliffe:

Eggs Benedict looks fantastic. But the idea of having a medley of vegetables with carrot next to it just feels wrong,.

Bill Brooks:

No, no. And I've never seen French toast that looks like that, but that's okay. I'm sure it's going to be great.

Jerry Ratcliffe:

Value of this being an audio podcast, not a visual one because if a Frenchman saw that he would have a fit. You have become a national, international expert on eyewitness identification. Going back to your detective sergeant days, is that what sparked this interest?

Bill Brooks:

No. It had nothing to do with it. In the 1990s Barry Scheck and Peter Neufeld, the innocence project start using DNA evidence to get people released who have been wrongfully convicted. That happens in the 1990s and as that's going along they begin looking at well, how do those people get in prison in the first place? And what they're finding is that actually more often than not the reason that they got there is because an eyewitness pointed out the suspect and that eyewitness was wrong. And that leads the National Institute of Justice to put together a technical working group on eyewitness evidence. We start looking at what causes errors in these cases and what could be done, if anything, to avoid them. As a result, I get sent off to training. I was no longer a detective. I was a deputy chief in Wellesley and I wasn't thrilled by what I read.

Bill Brooks:

It talked about the police detective shouldn't show his own photo array. To me that sounded like an allegation, but as I listened to the instructor and I listened to the material, I thought, yes, I can see how that would happen. I can see when you're sitting there talking to an eyewitness and you really believe that you've got the right guy and the eyewitness seems to be going by them, how you might in some way show some sort of disappointment. I also remember that witnesses had looked at me when I was showing photo arrays from time to time and I sense that maybe they were looking for something. And then thirdly, if we just changed the way we manage this kind of evidence, it would kind of take away a defense. So anyway, I went back and I rewrote my department policy. Next. I knew I was teaching it at a school for new detectives and speaking at a conference about it. And the innocence project started calling me, asking me, well, could you go to this state and speak.

Jerry Ratcliffe:

When you wrote that first change in the department policy, did you get some pushback?

Bill Brooks:

I don't think I've ever worked with detectives who wanted just anyone. They wanted the right person. Sometimes what happens is you're convinced you've got the right person and the witness isn't seeing it.

Jerry Ratcliffe:

In many regards that it's being done with a noble intent.

Bill Brooks:

But it's still problematic. Those same detectives though, if you ask them and I have, how many of you take a deep breath before you show a photo array? Because they all know that this evidence is tough. That people just have a difficult time recognizing the faces of strangers. It's just a difficult human task, but this brings me kind of to the point

where this sort of thing, can't just be done with policy. It's got to be done with training, right? You've got to get up in front of the class. When I teach it's usually four or five hours long and we talk all about wrongful convictions and how they occur and the bad news and the good news, what you can do to help your case along to ensure that you've got the right guy. They do the survey of prosecutors, which I guess is the best way to measure this, asking them how many of their cases relied on an identification by an eyewitness as the-

Jerry Ratcliffe:

Primary piece of evidence.

Bill Brooks:

Primary piece of evidence. And the best they could come up with was about 3%. It doesn't come up in most cases. Most crime is unwitnessed property crime, and most violent crime occurs among people who know each other. So it's only those cases where you're really relying on an observation by a citizen of the face of a stranger. And essentially that's in their memory, that faces in their memory somewhere you hope, you think. So it's something we don't do often. It's an unusual kind of evidence. And as a result, they'd be prone to error if you don't have, number one, good policy guidance, but then also officers who are properly trained.

Jerry Ratcliffe:

I was reading some stuff from overseas that said that this is one of the areas that the United States has really developed great policy and practice on the structures and the ideas that the IACP are leading. And you were on the National academy of Sciences committee that also worked on this. Was that interesting, by the way? I've done one thing with the National Academy of Sciences, and it's kind of fascinating.

Bill Brooks:

Again, I'll use the term, I was surrounded, I was in a room of wicked smart people and they were really great. And it was a nice mix. As in so many efforts in this area, I found myself the only cop in the room.

Jerry Ratcliffe:

You bring the practical aspect to it.

Bill Brooks:

For my role in that is to kind of talk about: listen, when we have a case, when we have a witness, this is what we do, and this is how we do it, and this is why. I hope I was able to bring some of that perspective to the project.

Jerry Ratcliffe:

How is it then that we've got at least policy identified, even if some police departments not using it. Yet so many police departments in a related area, which is investigative interviewing still seem to be in the dark ages. I mean, I still keep hearing about people using the read technique when it's been known for a good couple of decades. Now that the peace model is a superior approach to doing investigative interviewing.

Bill Brooks:

I think that still has a long, long way to go. And I think it does take a while for that information to kind of circulate. Part of the resistance that's out there is recording interviews and we were taught for years to get the admission and then go back and record the confession, not to record for Miranda forward. And there was a court case in Massachusetts in 2004 that the Supreme judicial court didn't say, this is how you have to do it. But they said, if you don't do it this way, there's going to be this stinging jury instruction that comes with it.

Bill Brooks:

So we've been recording interviews since 2004. So I've heard some reluctance, well, they'll be able to see our techniques. I don't really think that's valid. All of analogous to video record every time you show a photo array, what I've said to detectives is video record all of your interviews. It will keep you off the stand and the motion are suppressed. And lots of times say you want to take the stand because the judge says, has everybody seen the movie? Council what's your point? And you go straight to points a lot when everything is recorded.

Jerry Ratcliffe:

I've started to run into police departments, they're giving body worn cameras to their detectives when their detectives are going out doing this kind of work. And I thought that was a great idea. It reduces the chance you'll get jammed up and it's going to enhance the work.

Bill Brooks:

It is. It is. And so I'm not sure why there's that dichotomy between the two.

Jerry Ratcliffe:

When eyewitnesses get things wrong, is that their fault or is that our fault in the police? And I say are, even though I'm no longer in the police, you know what I mean?

Bill Brooks:

But you kind of are. You kind of are. The answer is both or could be either. So if you look at the research, Gary Welch, who again was doing this stuff in the 70s where nobody would listen.

Jerry Ratcliffe:

Do people listen to academics nowadays at all, anyway?

Bill Brooks:

I do find at least when I do a training, they listen to me talking about the academics. So if that's-

Jerry Ratcliffe:

There you go,

Bill Brooks:

Is that close enough?

Jerry Ratcliffe:

Yeah, you're the filter.

Bill Brooks:

Okay.

Jerry Ratcliffe:

You get us in front of the audience without us having to turn up with our tweed jackets and patches on the elbows and unnecessarily long sentences.

Bill Brooks:

Yeah. This is what the research is saying. And then they, okay.

Jerry Ratcliffe:

You're the translator. I think we need more guys like you to do that translation from academia into cop speak.

Bill Brooks:

Well, honestly, when you read a research paper, which I tried to do.

Jerry Ratcliffe:

Good for you, I've stopped trying to do that.

Bill Brooks:

Oh my God. What are the results? Let me flip to the end. And it's not that I'm just trying to get to the results, but what was the research like? What were they trying to do? And what did they find out in the end? That's really what I want to know.

Jerry Ratcliffe:

I feel everybody's pain on that. Because I can see my students like, okay, I made it through one page, the introduction, I made it through some of the literature and they flip a page and there's a pile of equations or it's like, oh, come on.

Bill Brooks:

Oh yeah, yeah. That's tough stuff. So Gary walrus, then he kind of coined these terms, estimated variables and system variables and estimated variables are the things we have no control over. It's like what was the lighting like? Was it cross racial identification? Was a weapon involved? If you've ever investigated a gun robbery, you have witnesses who give an awesome description of the gun.

Jerry Ratcliffe:

Absolutely.

Bill Brooks:

They can't tell you the race of the person holding it. So that's a very real effect called weapon focus.

Jerry Ratcliffe:

And understandably, if you think about it, you have five pounds of pressure, a square inch away from your life ending right there. I'm going to focus on the gun.

Bill Brooks:

Yeah, it was black. And I had a witness say, I could see the points of the bullets and it was shaking a little bit and they don't take their eye off it. No. So there's that, there's the estimated variables. And then there are the system variables, which are the things that the police do have control over. So it's a mix. The system variables are how was the witness instructed? And I think here, it really gets into the training just beyond the policy.

Bill Brooks:

There are policies and this is one of the recommendations by the national academy of sciences was to instruct the witness and make sure you tell them that the person may or may not be in the photo array. But I tell detectives, look, it starts way back. When you talk to that witness and what is clearly going to be an eyewitness case, tell them, look from time to time, we're going to need to show you photographs. And when we do that, we'll be having you come to the station. And then when you make that call, when you think you've got the suspect, you don't say, oh good, Hey, we've got somebody, can you come right down? You really want to call them up and say, do you remember when we said, you may be asked to look at photos? Well, we're going to start tonight. What about after supper?

Jerry Ratcliffe:

Because the defense attorney has the capacity to ask the victim. How was all of this introduced? And if you are going, yeah, we got the guy, we got the guy, they come down and identify him.

Bill Brooks:

That's a problem.

Jerry Ratcliffe:

That's huge. Yeah. That's a big problem.

Bill Brooks:

And You can have a policy or a bill or anything else that says you have to read such and such instructions, but it really comes down to the training. How do you interact with your witnesses at the first stage.

Jerry Ratcliffe:

Was there a moment when you started to more embrace the science around this, get more interested in the research?

Bill Brooks:

Well, I kind of got backed into it.

Jerry Ratcliffe:

Nobody goes into evidence-based policing voluntarily.

Bill Brooks:

That's right. That's right. So what had happened is after I wrote my department policy and I got asked to do some training, well then you have to know what you're talking about.

Jerry Ratcliffe:

Yeah. I've been to some police academies and I'm not sure that's necessarily criteria, but good for you for taking it on board.

Bill Brooks:

You have to kind of know what you're talking about. So I began to read up on it when I could, I had the good fortune to meet Gary Wells and to meet some of the other researchers. We've done research in this area. So I don't have to read all of the research papers. I get to have lunch with them and sit and talk to them. And what did you find out? And I found that very interesting.

Jerry Ratcliffe:

It is amazing when you actually face to face with somebody, they can actually help you with that translation.

Bill Brooks:

Absolutely.

Jerry Ratcliffe:

Because academic journal articles are incredibly difficult to figure out what was important. We tend not to be good writers in terms of identifying the key parts, yeah.

Bill Brooks:

That's true. That's if we even see them, academic research papers are not showing up in our police magazine or how else would we see them? I wouldn't see them any other way.

Jerry Ratcliffe:

Too many academics unfortunately feel that once they've published the journal article, their job is done with that. Unless if you want somebody to pay attention to it, you've got to reach out to them. Get on a podcast, tweet about it, do something to reach out to people who actually might want to use it.

Bill Brooks:

The interviewing and instructing is part of it. I think if I'm talking to someone about whether or not their department is using eyewitness identification, kind of the reform-based procedures is the one question would be, do they let you show your own photo array? Because that's the big one - blind administration. But most departments that are doing this sort of thing, he'll be unheard of for a detective to show his own photo array. The detective puts it together and

instructs the witness. But then if at my department and call a radio car in off the street and say, here's the photo and this is Mr so-and-so and the detective instructs the witness and then says, I'll be right outside. So the officer showing the photos has no idea.

Jerry Ratcliffe:

They have no way that they can actually implicitly or subconsciously lead the witness.

Bill Brooks:

And the witness knows it. So the witnesses isn't looking to them for a hint because they've been told officer Riley here has no information about the case that doesn't know anything about the photographs. And so they're not looking for that hint and the officer doesn't know how to get, I don't know. And he says to the detective afterwards, I don't know if it's good or bad, but she picked number five, and she said, she was sure. And the detective said, well know if that's not him, it's a filler or that is him and good job.

Jerry Ratcliffe:

Is there a recommended number of fillers? If you actually have a suspect photograph, is there a recommended number of fillers to use?

Bill Brooks:

The recommendation is six.

Jerry Ratcliffe:

Six fillers plus the suspect.

Bill Brooks:

I'm sorry, six photographs, one being the suspect and five being fillers.

Jerry Ratcliffe:

Got it.

Bill Brooks:

And no doing three suspects, three fillers. If you have three suspects, let's say in a three person, offense, you do three photo arrays, each being five fillers and one suspect.

Jerry Ratcliffe:

Got it.

Bill Brooks:

But in my department and in a lot of places where I've taught, I've said build out the filler by two. Show a photo array of eight. At some point in time, there'll be a motion. Or if you do something like me, where showed a photo array and one of the fillers has braces and they object to that particular filler, say that's okay. I've got others.

Jerry Ratcliffe:

Right, that's a good idea.

Bill Brooks:

By adding two, doesn't take away from anything, but it might get you through a motion.

Jerry Ratcliffe:

Absolutely fascinating area. And it's at that combination of police work, investigative work, but also science into human psychology.

Bill Brooks:

The good news about it all. So there's research, it shows that when a witness makes an identification fast and you see it, particularly if you videotape, so if you bring person into an interview room and we set them down and the detectives gives the instruction, leaves the room and then the patrol officer to start showing the photo and we show them one at a time, a sequential array.

Jerry Ratcliffe:

They show a photograph, then remove that photograph.

Bill Brooks:

Remove it out of sight.

Jerry Ratcliffe:

Okay. So then you can't compare them all against each other. So it's one at a time and then it's removed.

Bill Brooks:

Yep. That's right. And the science that goes both ways on that. But I'm a sequential guy because I remember the days of Polaroids and I have to explain to some of the cops in the class what Polaroids are. I remember witnesses picking them up and handing me fillers as they narrowed the field. We don't want to know which one looks the most like the bad guy. We want to know if you recognize him. And I know that sounds close, but they're different if you're using the right procedures and the witness gets to that one, it makes an identification within a few seconds. And then when asked shows high confidence, there's research, it shows there's a very good likelihood that's the guy, right? Provided that you've used the appropriate. If the person showing the photos knows which one is the suspect, all bets are off. It doesn't count.

Jerry Ratcliffe:

And does the guidance suggest there are particular places that you should never put the suspect? Should they never be number one or never be number six?

Bill Brooks:

As long as he's not number one, you really do want the witness to reject the filler. Although they can be the last person when you show it sequentially, the witness should not know that. So in other words, and Jen Dysart I think came up with this term of 'back loading' that you either hold the folder up so that they can't see when you're getting to the last photo, because you don't want a witness who believes gee, they wouldn't have called me down here if he wasn't here.

Jerry Ratcliffe:

Right.

Bill Brooks:

This is the last photo. I rejected the others. It must be this guy.

Jerry Ratcliffe:

You don't even tell the witness how many photos they're going to see.

Bill Brooks:

Correct. They don't know.

Jerry Ratcliffe:

Fascinating.

Bill Brooks:

They don't know.

Jerry Ratcliffe:

Well, look, Bill, this is a really fascinating area so I can see why you got into it because the science behind it is really, really interesting. What's next for you?

Bill Brooks:

I'm flying home to Boston today. I'll be back at the roll call Monday morning. My son just came on the job. So, that's been an interesting twist to my career.

Jerry Ratcliffe:

Congratulations.

Bill Brooks:

He's working at my department, which meant that when he came up on the list, I had to recuse myself, call the State ethics commission and write to my town manager and remove myself, and the deputy chief ran the process. After graduation, he came to the department and we swore in the new officers and I pinned him with my shield from 40 years ago.

Jerry Ratcliffe:

Fantastic.

Bill Brooks:

He's finished field training and we shipped him off to midnights, which is what we do. Right.

Jerry Ratcliffe:

There you go. Yeah. 45 years. Congratulations. And thanks for spending some time with me this morning and putting up with this non-French French toast.

Bill Brooks:

Its very good actually.

Jerry Ratcliffe:

That was episode 51 of reducing crime recorded in Washington, DC in May 2022. A link to some of the reports we discussed can be found at reducingcrime.com/podcast, where you can also find transcripts of this, and every episode. New episodes are announced on Twitter @_ReducingCrime. Subscribe at SoundCloud, Apple podcast, Spotify, pretty much anywhere. So you don't miss an episode.

Jerry Ratcliffe:

Be safe and best of luck.