

# Assessing Witnesses

Judicial Studies Committee  
Skills Course

# Ekman & O'Sullivan Study (American Psychologists, 1991)

## **Study**

How do various "groups" in society compare when trying to detect a liar?

## **Study Groups**

Police, psychiatrists, polygraphers, Secret Service officers, students, judges

## **Experiment**

Videotaped interviews shown to study groups and asked to assess witnesses based on demeanour (non-verbal communication)

# Results and conclusions

Correct assessments made:

Students: 56%

Police: 55%

Judges: 56%

Psychiatrists: 57%

Secret Service Officers: 64%

- Apart from Secret Service Officers, most groups could only assess whether someone was telling the truth slightly better than by chance
- Wide disparity within groups – some individuals including some judges scored significantly below chance (30% or less)
- Follow-up study 1999 – new test but still based on demeanour
  - most still did poorly, though some were highly accurate
  - those who did well were better at detecting lies than in detecting truth (might be problematic if accused is telling truth, say re. alibi)

# Further research – Prof N Bala (Canada, 2005)

## **Study**

Credibility of child witnesses

## **Study Groups and Results**

Law students: 44%

Police, lawyers, social workers, doctors, victim  
support: 51%

Child protection workers: 54%

Judges: 56%

# Reliance on the Unreliable

- Demeanour may indicate truthfulness but can be misleading
- Prof. J W Rand, “The Demeanour Gap” – “persons who only saw a transcript were better able to determine accuracy” (62%)
- During a trial/proof witnesses appear briefly in an artificial environment and you do not know what this individual looks like when they are telling the truth (the “hearing dilemma”)

# There is no “Pinnochio effect”

(Mann, Vrij & Bull- real life police interviews, UK, 2002)

- Stereotypical nervousness, e.g. averting gaze, fidgeting, greater hand and arm movement, increased stuttering, hurried speech or fillers (“ah”, “um” or “er”) were NOT clearly demonstrated by liars
- In fact liars increased their pauses and decreased their hand movements. Suspects who were lying made fewer eye blinks
- Contradicts generally-held belief that liars can’t look you in the eye

# Other Research Conclusions

- No reliable relationship between confidence in one's ability to detect lies and one's actual ability
- Experienced fact finders make as many or more mistakes as others when decision is based on demeanour
- The more police officers endorsed police manuals and relied on stereotypical cues like gaze, posture changes, self manipulation, hand over mouth, the **worse** they were
- Individual differences due to personality or cultural background can make the judges task more difficult
- For example, introverts and socially anxious people can appear less credible than socially skilled people



# -continued...

- Jurors tend to find attractive people more credible (UK, 2003)
- Judges at summary level in US did the same (1981) and gave attractive people shorter sentences
- In civil cases attractive people received larger awards
- Adults with large eyes are perceived as warm and naïve
- Psychopaths are persuasive and practised liars – they show little anxiety about lying (2003)
- Liars tend to recount a story in chronological order whereas truth tellers tend to include more spontaneous corrections (UK, 2004) – “the Truthful Witness Paradox”

# “Just when you thought it was safe .....

- Traditionally consistency has been considered one of the most important measures of witness credibility
- Self-contradiction is believed to be a result of a defect in memory or honesty of a witness
- So credibility is frequently attacked by highlighting inconsistencies in statements.

## But the science says.....

- Inconsistencies of testimony are not always related to accuracy (Fisher & Cutler, USA, 1996)
- Memory is a product of questioning. So if the question posed to a witness changes from one interview to next, their recollection may change
- The way in which a question is posed can affect how a witness remembers an incident (Loftus & Palmer, USA, 1974)
- Effective questioning can result in new information (Reminiscence)
- Reminiscence is natural process of memory and can produce reasonably accurate statements.

- Truth-tellers will be relying on their memory so they could lose details, add new information or change details over time.
- Someone who is highly motivated to lie may rely on a well rehearsed script and a strategy to present a consistent report each time they are questioned.
- They may provide just enough information to be convincing but avoid being caught out

# Some valid indicators

## **Truthful statements (Porter, etc., US, 2001):**

- Generally remain consistent and coherent over time
- Include sufficient detail
- Are less concerned about impression (e.g. will admit memory failure)
- Have a clear logical context

## **Untruthful statements: Some deception clues**

- More pauses
- Slower speech
- Excessive detail if time to prepare
- Repeat information

# Conclusions

- Effective detection of truth requires an eclectic combination of techniques
- Credibility assessment is not simply a matter of common-sense
- Judicial decision makers should think critically about their decision making and be aware of the dangers of relying simply on their intuition
- Consider context and how memory works
- Be aware of own constraints and possible biases