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## **Witness, False Testimony of**

The false testimony of witnesses has the potential to allow guilty suspects to evade conviction and cause innocent individuals to be falsely convicted. Eyewitness research indicates that false witness evidence can result from errors in memory, suggestive investigation procedures, malingering and inability to distinguish truth and lies. However, Due to complexities in the charging and recording process as well difficulties in establishing the ground truth the extent of witness error and deception within the criminal justice system is unknown. Whereas eyewitness evidence is overly relied upon by jurors, alibi witness evidence is generally presumed to be deceptive by jurors.

Relatively little research attention has focused upon deliberately deceptive witnesses, with a general focus instead upon eyewitness inaccuracy as an unintentional process. Memory is not perfect with the potential for errors to occur in the information taken in at the time of an event, the storage of that information and the later recall. Encoding can be affected by inattention to the event, poor visibility and stress at the time of witnessing the event caused, for example, by violence or the presence of a weapon. If the crime is not thought about for a long period of time the details can be lost in a process of decay. Finally interference at the time when the memory is retrieved can cause distortions and errors. Much research has examined how suggestive police questioning, positive feedback and repeated exposure to line-up procedures can cause eyewitnesses to have a vastly distorted memory of a crime despite honest intentions to recall the event accurately. The work of Loftus and Palmer in particular highlighted that the terminology used in questioning could cause participants to overestimate the speed a car was travelling prior to an accident, falsely recall broken glass being present, and remember incorrect information on road signs.

The focus upon witness error instead of deception may result from the fact that, generally speaking, witnesses have less motivation to lie than suspects. Suspects have nothing to lose by lying as successful deception may help them evade conviction and failed lies are unlikely to attract charges in addition to their index offence charges. In contrast to this, witnesses who would otherwise not be at risk of prosecution stand only to lose should their lies be discovered. This lesser motivation to lie, and consequent rarity of witness deception, is the likely reason that most of the deception research has examined detection of suspect rather than witness deception. However, there are two broad reasons why eyewitnesses may provide deliberately deceptive accounts; malingering, and fear of offender retribution.

Malingering refers to the fabrication of information for some form of personal gain whether that be financial, the desire to hurt someone, or the heightened levels of attention experienced as a result of the false claim. In extreme cases this can lead to the false accusations of a crime occurring. There are many documented cases of false allegations of rape, sexual assault, physical assault and stalking in particular. These accounts can often be very convincing although there is a suggestion that deceptive witnesses assert more frequently that they are telling the truth. Moreover, comparisons of genuine accounts of rape with simulated accounts from non-victims, false accounts tend to contain less unusual sexual behaviours and more references to verbal and physical violence. It is generally agreed that malingering is relatively rare and that a more common cause of witness deception is intimidation.

Fear of offender retribution seems to be valid with approximately 50% of vulnerable witnesses reporting intimidation from the defendant and their family prior to trial. The effect

of in-court witness intimidation can be overcome through safeguarding measures such as the use of CCTV links and screens to hide the witness. However intimidated witnesses may be more prone to deception in order to prevent the case reaching court. Research investigating deception in fearful witnesses has employed an experimental paradigm in which participant eyewitness to a mock crime are instructed to either attempt to correctly identify the offender (truthful), or to imagine that their family would be harmed should they fail to protect the offender (deceptive). This research demonstrates that witnesses tended to protect the offender through overestimating their height, age and weight in descriptions given to the police. Interestingly, deceptive witnesses tend to state that the offender is not present in the suspect line-up and reach this decision much faster than truthful participants.

As jurors do not perceive impartial eyewitnesses as deliberately deceptive, they presume they must be accurate. This means that jurors place a disproportionately large amount of faith in the accuracy of eyewitnesses potentially to the detriment of the case. Moreover, when evaluating eyewitness evidence jurors often rely on factors that are not reliable indicators of accuracy. For example, although jurors perceive witness confidence as indicative of accuracy, research shows that there is actually no correlation between confidence and accuracy. However, when participants are specifically instructed to detect which of several witness accounts are genuine and which are deceptive, deception detection abilities show the same truth bias found in studies examining suspect deception detection.

The evidence of child witnesses is often treated with considerable suspicion. That is not to say that children are thought to frequently maliciously fabricate information, rather their incomplete cognitive development is seen as preventing them from differentiating between truths and lies. Several countries (such as the US and Australia) actually insist upon an assessment of truth-lie understanding for child witnesses in an attempt to ascertain the validity of their in-court evidence. However, other countries only asks children to promise to tell the truth (Canada), or do not assess children's understanding of truth and lies at all (Scotland). As children have a tendency to agree to information presented to them and a desire to please adults, it is even more important that police avoid suggestive questioning with child witnesses than with adult witnesses.

It is intended that pointing to body parts on an anatomically detailed (AD) doll allows linguistic and developmental barriers to effective communication to be overcome when children are the victim or witness to a sexual offence. However, more recently the use of AD dolls has proved controversial with concern that the everyday use of dolls as a plaything may promote fantasy play rather than truth. In general research into the use of AD dolls suggests that although they increase quantity of information elicited, this is likely to be due to careful accompanying questioning, rather than the AD doll itself. Nonetheless, AD dolls may be useful in gathering children's terminology for various body parts when the anatomically correct terms used by adults may be unfamiliar to the child.

In general, their developing moral standards mean children may not appreciate the consequences of their false information and so fail to feel guilty. This means that there are significant barriers to the accuracy of child witness accounts, and accuracy rates at detecting children's deception are comparable to those of adult deception suspects, being at roughly chance levels.

Research into elderly adults' eyewitness accuracy in general and more specifically consideration of their deception and is at present limited. It appears that older adults show decreased accuracy compared to younger adults however, older adults appear to be over

confident in their memory and identifications. This difference in ability seems to be recognised by jurors and police officers who rate older adults as less capable of giving accurate information than younger adults. However, both of these groups recognise that older adults are not less honest than younger adults; in fact they are perceived as more honest. Given the aging population of many developed countries enhancing the likelihood of crime witnesses being elderly, more research on this issue is needed.

The plethora of research examining suspect deception and eyewitness testimony mean it is surprising that research into the second leading cause of false convictions - weak alibi witness evidence - is limited. Mock detectives provided with both eyewitness and alibi witness statements generally do not differ in their ratings of suspect guilt compared to mock detectives that receive only an eyewitness statement. This shows that alibi evidence carries relatively little weight compared to eyewitness evidence. In fact, real life cases have shown that the presence of up to 40 defence witnesses can be insufficient to deter jurors from believing the testimony of a single eyewitness. This led to the development of the alibi scepticism hypothesis; the idea that evaluators view alibi evidence with considerable suspicion.

Some mock juror research has found a higher frequency of guilty verdicts when defendant's alibis are corroborated by their family compared to corroboration from a stranger, or having no corroboration. It is suggested that this differential treatment of alibi witnesses is due to a presumption of deception amongst individuals with an existing relationship to the defendant. This has led the alibi witness research to categorise alibi witnesses as either motivated (i.e. a parent, partner or sibling) or unmotivated (i.e. a stranger or colleague) to lie for the defendant. There is some basis for this evaluator scepticism as research utilising a mock suspect and mock alibi witness paradigm shows that incriminating evidence is concealed less often for a comparative stranger than for a partner, parent or friend. However, motivated witnesses are not consistently associated with either concealing or revealing implicating information about suspects, showing that there is a complicated relationship between motivated alibi witnesses and alibi honesty. In fact it appears that personality and individual differences are important factors in alibi witness deception.

In summary, witnesses may provide false testimony either deliberately or unintentionally. Unintentionally false accounts may result from poor event encoding and negative influences during memory storage and retrieval. Witnesses for the prosecution are generally thought by jurors to be accurate with malingering and intimidation receiving relatively little research attention. In fact, with the exception of research into children's abilities to differentiate between truth and lies, the psychological literature generally focuses upon witness errors rather than deliberate deception. Research into alibi witness evidence is almost exclusively focused on deception showing that there is considerable support for the alibi scepticism hypothesis and the enhanced suspicion directed towards motivated alibi witnesses.

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See also: Alibi; Childhood, lying in; Relationships, Deception in; Lying: Intentionality of; Malingering; Truth Bias.

#### Further Readings

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