



# Assessing credibility

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Judgecraft across Europe

Omsenie, Slovakia

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# Outline

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- What is credibility?
- What research is there and what are its limitations?
- What are the non-verbal signs of deception?
- What are the verbal signs of deception?
- What do people believe about non-verbal and verbal signs of deception?



# Outline

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- Does unconscious bias affect the assessment of credibility?
- How good are judges and others at telling the difference between truth and lies in adults?
- How can judges improve their assessment of credibility?



# What is credibility?

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- Truthfulness or honesty
- Reliability
- Understanding
- Effect of other evidence



# What research is there and what are its limitations?

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- 132 studies in English on non-verbal signs of deception
- Field studies
- Laboratory studies



# What are the non-verbal signs of deception?

- Lord Bingham:

'[a witness's] conduct, manner, bearing, behaviour, delivery, inflexion: in short, anything which characterises his mode of giving evidence but does not appear in a transcript of what he actually said.'





# What are the non-verbal signs of deception?

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- Lord Justice Ormerod:

'As a method of communication it is very complex, involving not only what is actually said, but how it is said. Inflections in both questions and answers may be highly significant, and the demeanour, not only of the witness, but of others in court may be revealing.'



# What are the non-verbal signs of deception?

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- Lord Justice Browne:

‘So the main job of the judge at first instance is to decide the facts. How does he do it? When there is a conflict of evidence between witnesses, some judges believe that they can tell whether a witness is telling the truth by looking at him and listening to him. I seldom believed that.’





# What are the non-verbal signs of deception?

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- Lord Bingham:

'The anxious cases are those, which arise not infrequently, where two crucial witnesses are in direct conflict in such a way that one must be lying, but both appear equally plausible or implausible. In this situation I share the misgivings of those who question the value of demeanour as a guide.'

# What are the non-verbal signs of deception?





# What are the non-verbal signs of deception?

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- Liars seem to include longer pauses in their speech than truth tellers
- They wait longer before giving an answer
- They make more word and phrase repetitions
- They make fewer hand and finger movements
- Gaze aversion is not related to deception



# What are the non-verbal signs of deception?

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- Do non-verbal signs vary between groups?
  - Culture?
  - Gender?
  - Age?
- Do non-verbal signs vary in the individual?



# What are the verbal signs of deception?

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- Consistent statements
- Inconsistent statements
  - Common direction to an English jury:

'The fact that on an important subject A has been inconsistent, and the inconsistency is not satisfactorily explained, may lead you to conclude that you cannot rely on A's oral evidence on that subject.'

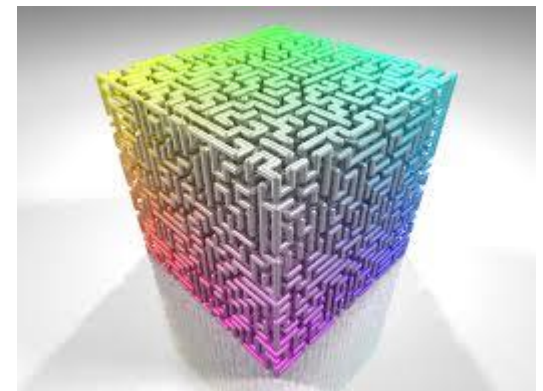
# What are the verbal signs of deception?

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# What do people believe about non-verbal and verbal signs of deception?

- Global Deception Team (2006)
- Beliefs relate to:
  - Gaze aversion
  - Body movements and nervousness
  - Inconsistency
  - Lack of plausibility





# What do people believe about non-verbal and verbal signs of deception?

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- Further beliefs:
  - Untidy people more suspicious than smart people
  - People wearing black more suspicious than those with light clothing
  - Attractive people more honest than less attractive ('facial trustworthiness')





# What do people believe about non-verbal and verbal signs of deception?

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- Professor Aldert Vrij:

'People typically have incorrect beliefs about signs of deception. They associate lying with many signs that have actually no relationship with deception.....on the other hand they are unaware of several signs that are to some extent related to deception.'

# Does unconscious bias affect the assessment of credibility?

- What is unconscious bias?
  - Hidden bias
  - Implicit bias
  - Subconscious bias
  - Automatic bias





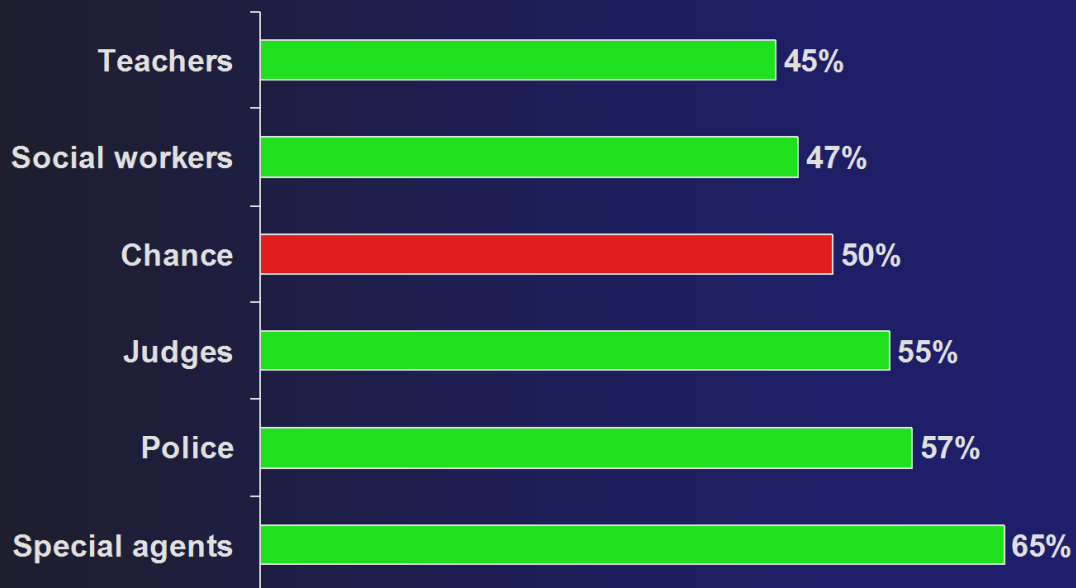
# Does unconscious bias affect the assessment of credibility?

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- Confirmation bias
  - Seeking information that confirms your initial belief
  - Disregarding information that undermines it
  - 'Need for cognitive closure' - NFC

# Telling the difference between truth and lies in adults

## Ability to detect lies



# Telling the difference between truth and lies in adults

- Why do judges not perform better?
  - Witness is a stranger to the judge
  - Too confident?
  - Lack of feedback



# How can judges improve their assessment of credibility?

- Gathering evidence:
  - Do not make up your mind too quickly
  - Be suspicious but do not show it
  - Use an information-gathering style
  - Let the witness repeat himself or herself
  - Ask the witness to elaborate
  - Ask the witness temporal questions



# How can judges improve their assessment of credibility?

- Analysing evidence:

- How consistent is the evidence with agreed or other evidence?
- How internally consistent is the evidence?
- How readily does the witness make concessions?
- What is the most probable?
- How can I mitigate unconscious bias?  
[‘Project Implicit’]



# Assessing credibility

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