

Social Psychology and the Law

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Focus of this Chapter

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Research Closeup: The Recovered Memory Debate

In 1984, a 22-year-old college student named Jennifer Thompson was raped at knifepoint by an intruder in her apartment. Despite the terror and pain of being raped, Jennifer was determined to bring the rapist to justice. She paid careful attention to the man's facial features, hair, and identifying marks, trying to commit them to memory so that she could identify the man later.

Based on her memories, Jennifer identified a man in a police photo as her rapist. Jennifer felt completely confident that this man, Ronald Junior Cotton, was the man who had raped her. Jennifer was confident enough to pick Cotton out of a lineup of possible suspects. In fact, she was so confident that she testified against Cotton in a criminal trial.

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Although Cotton maintained his innocence, the trial ended in a guilty verdict, and Cotton was sentenced to life in prison. However, the case took a surprising turn when another prison inmate named Bobby Poole began bragging that he actually had been the man who raped Jennifer. Based on Poole's assertion, the state retried its case against Cotton. During the second trial, Jennifer once more testified that Cotton had raped her. When she was asked if she had ever seen Poole, she testified, "I have never seen him in my life. I have no idea who he is." As a result, Ronald Cotton was sent back to prison.

Cotton remained in prison, protesting the verdict, for 11 more years. In 1995, the state agreed to run DNA tests on the physical evidence from the rape. Jennifer willingly provided a blood sample, and ended up being shocked by the results: Bobby Poole, the man she thought she had never seen before, was the man who had raped her. In Jennifer's own words,

“The man I was so sure I had never seen in my life was the man who was inches from my throat, who raped me, who hurt me, who took my spirit away, who robbed me of my soul. And the man I had identified so emphatically on so many occasions was absolutely innocent.” (Thompson, 2000).

Based on this DNA evidence, Ronald Cotton was released from prison, after serving 11 years for a crime he did not commit.

This story raises a number of important questions. How reliable are eyewitness identifications? Jennifer Thompson was inches away from Bobby Poole during the rape, yet she was not able to identify him as her assailant. Does stress affect eyewitness identification? Clearly, Jennifer experienced a great deal of physical and emotional trauma as a result of being raped; could that trauma have contributed to her misidentification of Ronald Cotton? Does the construction of police lineups and photospreads affect eyewitness identification? Jennifer selected Ronald Cotton from a set of police photos as well as from a lineup; were there safeguards that the police could have used to protect him from misidentification? Does the confidence of an eyewitness relate to the accuracy of his or her testimony? Jennifer was extremely confident about her identification of Cotton until DNA evidence exonerated him 11 years later; should the police and jurors have accepted her word? How do juries make decisions about guilt or innocence, and what factors influence their decisions? The jurors in both trials seemed to give more weight to Jennifer’s testimony than to Cotton’s testimony; why was this the case? Finally, is discrimination a problem in the legal system? Jennifer Thompson is a White woman and Ronald Cotton is a Black man; could race have influenced the verdict?

These questions are only a few of the questions that social psychologists have asked about the law and legal system. In this chapter, we will examine social psychological research about many aspects of legal behavior.

What is Social Psychology and Law?

Many types of psychologists conduct research related to the legal and criminal justice systems. To give only a few examples, clinical psychologists study the ways that psychopathology relates to violent crime. Developmental psychologists examine the ability of children and teenagers to make important decisions, such as whether to have an abortion or sign a contract. Cognitive psychologists study memory and judgment processes involved in issues such as child sexual abuse allegations, employment discrimination, and medical malpractice. Psychologists who study sensation and perception investigate the effects that environmental conditions such as poor lighting or fog have on the reliability of eyewitness identification.

In this chapter, we will focus on the contributions that social psychologists have made to understanding behavior in legal contexts. As you have seen throughout this book, social psychologists study a wide range of topics related to social thought and behavior. It therefore is not surprising that social psychological research has been conducted on a number of legally relevant topics. Some of the issues we will discuss in this chapter include eyewitness identification and testimony, false confessions, lie detection, jury decision-making, expert testimony, attitudes toward the death penalty, and discrimination in the legal system. In addition, there is a great deal of social psychological research on legally relevant aspects of rape, sexual harassment, and domestic violence. However, because these topics were covered in depth in Chapter 13, we will not discuss them further here.

You may wonder why social psychologists are interested in studying the legal system. There are several reasons why social psychologists conduct research about the law. First, social psychology provides a framework for understanding human behavior in legal contexts. Social psychologists have developed theories about the way people think about other people and groups, the relationship between people's attitudes and behavior, the nature of interpersonal relationships, how people respond to authority, how people behave in groups, and when people are likely to help or hurt others. Understanding these psychological processes can provide important insights into legally relevant behaviors. Second, the legal system provides a unique opportunity for social psychologists to test theories in complex "real-world" situations. As you have seen, a great deal of social psychological research is conducted in laboratory settings. Studying the legal system helps psychologists see how behavior occurs in complex, personally relevant, and/or emotion-laden contexts. Finally, some social psychologists study legal issues because they are concerned with social justice. By conducting scientifically rigorous research into legal topics such as misconceptions about rape or mistaken eyewitness identification, social psychologists may be able to help ensure that justice is served.

Eyewitness Identification and Testimony

Instances of mistaken eyewitness identification, such as the story about Jennifer Thompson that began this chapter, may not be rare occurrences. In fact, some scholars believe that eyewitness error is the leading cause of wrongful conviction, resulting in the incarceration of thousands of innocent individuals (Huff, Rattner, & Sagarin, 1996). Consistent with this assertion, a considerable amount of research has demonstrated that eyewitness identifications frequently are inaccurate (Wells, 1997). In one study (Brigham, Maass, Snyder, & Spaulding, 1982), two research confederates posing as customers visited 63 convenience stores. In order for

the clerks to notice them, the confederates behaved in an unusual manner. For example, one confederate paid for a pack of cigarettes entirely with pennies, then asked the clerk for directions to a faraway location. Two hours later, a pair of men dressed in suits came into the store, identified themselves as law interns, and asked the clerks to identify each of the confederates from a group of six photographs. The clerks correctly identified the confederates only 34.2% of the time. In other words, only two hours after interacting with the confederates, the clerks misidentified them more than 65% of the time!

Why are eyewitness identifications so unreliable? Social psychologists distinguish between two groups of factors that influence eyewitness identification, estimator variables and system variables (Wells, 1978). Estimator variables are factors related to the eyewitness and/or the situation in which an event was witnessed. The distance at which the witness saw the event, the amount of fear the witness experienced, and the race of the witness and perpetrator all are examples of estimator variables. In contrast, system variables are factors that are under the direct control of the criminal justice and/or legal systems. Biases in police lineups and suggestive questioning by police or attorneys are examples of system variables.

Before discussing individual system and estimator variables, it is useful to think about three psychological processes that are involved in eyewitness identifications: Acquisition, storage, and retrieval. Acquisition is the process of perceiving and interpreting information. In order to provide reliable testimony, a witness must notice important aspects of the event, such as the physical characteristics of the perpetrator and his or her exact sequence of behaviors. The witness also must interpret these events accurately. Imagine that a witness sees a man with his hands on the neck of another person who is lying on the street. It makes a great difference whether that witness interprets the behavior as strangling the individual or checking whether the

individual has a pulse! Storage is the process of keeping acquired information in memory.

Legal cases often progress slowly, so a great deal of time may pass between a witnessed event, police questioning, and courtroom testimony. It therefore is crucial that witnesses maintain the information they have acquired. Finally, retrieval is the process of recalling information that they have stored in memory. Witnesses may have to retrieve the information they know at several time points, including police questioning, lineup identification, and courtroom testimony. Keep these three processes in mind as you read about estimator and system variables; try to figure out which process is influenced by each variable.

Estimator Variables.

Viewing opportunity. In order for a witness to acquire accurate and complete information about an event, she needs to be able to see and/or hear it clearly. A person who witnesses an event that happens twenty yards away on a clear day will be able to provide better testimony than will a person who witnesses an event that occurs one hundred yards away on a rainy night. It therefore is not surprising that the United States Supreme Court has held that a witness's opportunity to view an event and his or her degree of attention to the event are factors that should be considered when evaluating eyewitness testimony (Neil v. Biggers, 1972). A meta-analysis of over one hundred studies on eyewitness identification and facial recognition confirms this insight. Witnesses are more likely to correctly identify faces when they are able to look at them longer and when they are able to devote a greater degree of attention to the faces during the acquisition phase (Shapiro & Penrod, 1986). Unfortunately, witnesses often fail to recognize the effects of poor viewing conditions. Lindsay, Wells, and Rumpel (1981) found that individuals who witnessed an event under poor viewing conditions were just as likely to make an identification as were individuals who witnessed an event under better viewing conditions.

Stress and arousal. Individuals who witness crimes often experience stress or other negative emotions. Witnesses may be angry that a crime is taking place, worried about a person who is being victimized, and/or fearful that they may be harmed themselves. A considerable amount of research has shown that these negative emotions affect eyewitnesses' memories. Individuals who witness a negative emotional event tend to have accurate memories of the event itself, but less accurate or complete memories of what happened before and after the event (Christianson, 1992). For example, a person who witnesses a violent mugging is likely to have accurate memories of the actual assault, but less accurate memories about what the mugger did after the attack.

Weapon focus. Imagine that you are depositing money into your bank account when the person behind you pulls out a gun. That person points the gun at you and threatens to use it if he is not given all of the teller's money immediately. Chances are, you will keep your eyes glued to the gun while the teller is getting the money. As a result, you may end up remembering more about the gun than about the actual bank robber. This phenomenon, known as the weapon focus effect, has been demonstrated in several studies (Steblay, 1992). The weapon focus effect may occur because witnesses who are trying to evaluate their level of danger find it most useful to keep their eyes on any weapons. In addition, the novelty of weapons for most people may draw in their attention.

Notably, the weapon focus effect occurs whether or not a witness is in physical danger. In a study by Kramer, Buckhout, and Eugenio (1990), participants watched a slide presentation in which a person walked through a room carrying either a bloody meat cleaver or a magazine. Even in this non-arousing situation, the participants who saw the meat cleaver remembered fewer details about the walker than did the participants who saw the magazine.

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Own-race bias. Witnesses tend to be more accurate when they identify individuals who are members of their own race rather than another race (Anthony, Copper, & Mullen, 1992; Bothwell, Brigham, & Malpass, 1989; Chance & Goldstein, 1996; Meissner & Brigham, 2001; Shapiro & Penrod, 1986). This own-race bias is an example of the outgroup homogeneity effect first discussed in Chapter 6. People are able to distinguish between members of their own racial group, but often have the experience that people in other racial groups “all look alike.” This effect tends to be stronger in White individuals than in Black individuals (Anthony et al., 1992). Research suggests that cross-racial contact can diminish the own-race bias (Chance & Goldstein, 1996). The finding may help explain why Black individuals are more accurate at identifying White individuals than White individuals are at identifying Black individuals. Black individuals tend to have more exposure to White individuals than vice versa; as a result, Black individuals may develop a greater ability to distinguish between White people.

Retention Interval. Retention interval refers to the amount of time that passes between witnessing an event and making an identification or providing testimony. It may not surprise you to learn that the accuracy of eyewitness identifications decreases with time. The longer the interval between witnessing an event and making an identification, the less accurate the identification tends to be (Shapiro & Penrod, 1986; Wells, 1997).

One reason that accuracy decreases over time involves forgetting. As time passes, people forget details that could help them make accurate identifications. However, the relationship between time and forgetting is not linear. There is a “forgetting curve” in which accuracy drops

dramatically soon after an event, then diminishes much more slowly afterward (Wells, 1997). For example, imagine you see a robbery. You will be able to remember the most information right after the event. After 24 hours, the amount of information you will be able to remember will drop dramatically. However, the decline in your memory will soon level off. A year later, the passage of 24 hours will not make much difference in the amount of information you can remember. Another reason why accuracy decreases with time is because, as time goes on, people are more likely to be exposed to things that can influence their memory. For example, witnesses can “contaminate” each other’s memories by talking to each other. If one witness says that she remembers a detail, such as hair color, other witnesses often will claim to “remember” that detail, too (Loftus & Greene, 1975; Shaw, Garven, & Wood, 1997).

System Variables

Suggestive questioning. As noted earlier, system variables are factors that are directly under the control of the criminal justice and/or legal system. One of the most important ways that the criminal justice and legal systems can affect eyewitness identification and testimony involves questioning techniques. A substantial body of research has demonstrated that the way that witnesses are questioned influences not only the responses that they provide, but also their long-term memories of the event (e.g., Belli, Windschitl, McCarthy, & Winfrey, 1992; Lindsay & Johnson, 1989; Loftus, 1975, 1979; Loftus, Miller, & Burns, 1978; Loftus & Palmer, 1974; McCloskey & Zaragoza, 1985; Roebbers & Schneider, 2000).

Some questions are suggestive even though they are not deliberately misleading. For example, seemingly minor changes in the wording of a question can influence the way people respond to it. In a classic study (Loftus & Palmer, 1974), participants watched a video of a car accident. They then were asked to estimate the speed that the cars were going at the time of the

accident. The critical variable was the word used to describe the accident. Specifically, participants estimated the speed at which the cars “contacted,” “hit,” “bumped,” “collided,” or “smashed.” As seen in Table 5.1, participants who were asked about the speed at which the cars “contacted” gave estimates that were nine miles per hour lower than did participants who were asked about the speed at which the cars “smashed.” These results suggest that witnesses’ interpretations of what they have seen are influenced by the way an event is described or labeled.

However, some questions are deliberately misleading. For instance, people may ask witnesses questions that contain misleading postevent information, that is, information about non-existent details or events that did not actually happen. In another study by Loftus (1975), participants watched a similar video of a car accident. Afterwards, the participants were asked one of two questions: “How fast was the white sports car going while traveling along the country road?” or “How fast was the white sports car going when it passed the barn while traveling along the country road?” In reality, there was no barn in the video. However, 17.3% of the participants who were asked the second question later reported that they had seen a barn, compared with only 2.7% of participants who were asked the first question. Thus, questions that include postevent information can make us believe that we remember something that did not actually exist – even something as big as a barn!

There are three major theories about how postevent information affects memory. The first is the overwriting hypothesis. This hypothesis posits that postevent information actually replaces the information that witnesses initially encode about an event, changing existing memories in a permanent manner (Loftus, 1979). The overwriting hypothesis suggests that memory is similar to writing something on a chalkboard; it can be erased and replaced with something else. An alternative theory involves forgetting. According to this theory, people

simply forget details from a witnessed event. When they are asked questions about material they have forgotten, they use other available information, including postevent information, to answer those questions. Thus, according to the forgetting hypothesis, postevent information does not change existing memories; it just fills in the gaps left by forgetting (McCloskey & Zaragosa, 1985). A third theory, source monitoring theory, suggests that people retain memories for both original event and postevent information. The problem is, people frequently have problems with a process called source monitoring, that is, identifying where they learned various pieces of information. As a result, people may mistakenly conclude that pieces of postevent information came from their observations of an event (Johnson, Hashtroudi, & Lindsay, 1993).

Source monitoring theory suggests that eyewitnesses can distinguish their original memories from postevent information if they are helped to identify the sources of their knowledge. There is evidence that this prediction is valid, at least for adult witnesses. In a study by Lindsay and Johnson (1989), participants examined a picture of an office that had many objects (e.g., a pencil holder) in it. They then read a misleading description of the office that included objects that were not actually in the picture. Finally, the participants were asked to identify which objects they actually had seen. The study found that participants who were asked yes-no questions (e.g., “Did you see a coffee cup?”) made a large number of mistakes; they claimed that they had seen objects that were only described in writing. In contrast, participants who were asked source-monitoring questions (e.g., “Did you see a coffee cup in the picture or did you read about it in the text?”) were able to identify where they learned about the object with much greater accuracy.

The fact that people can report both original and postevent information when specifically asked indicates that the overwriting hypothesis is not the best explanation for errors in

eyewitness testimony. Although memory change and forgetting undoubtedly affect eyewitness testimony in certain circumstances, source monitoring theory currently provides the best explanation for eyewitness suggestibility effects.

Lineup biases. A critical part of police investigations involves identification procedures in which witnesses are asked to identify a particular suspect as the perpetrator of a crime. Usually these identifications are made from either a photospread (i.e., a group of police photos) or from an in-person lineup.

Lineups can be constructed several ways. Notably, the construction of lineups can have a tremendous effect on the accuracy of eyewitness identifications. Show-ups occur when a single suspect is presented to a witness who is supposed to say whether or not that person is the perpetrator. For example, a police officer who catches someone running away from a crime scene may bring him to a witness and ask, “Is this the man who mugged you?” Show-up identifications tend to be inaccurate because they strongly suggest that the person is the actual criminal. Lineups are less suggestive when more than one potential suspect is included.

Simultaneous lineups occur when several potential suspects are shown next to each other and the witness is asked to select the perpetrator. However, identifications from simultaneous lineups also are problematic because of the type of reasoning processes that witnesses use in making identifications. Specifically, simultaneous lineups encourage relative judgments, that is, decisions about which person looks most like the perpetrator rather than decisions about whether or not the perpetrator actually is present (Wells, 1984). Eyewitnesses make the most accurate identifications when they are presented with sequential lineups (Cutler & Penrod, 1988; Lindsay, Lea, & Fulford, 1991; Lindsay & Wells, 1985). In sequential lineups, potential perpetrators are shown one at a time, and witnesses must decide whether one person is the perpetrator before

seeing the next person. This type of lineup results in more careful attention to each person, as well as more careful decision-making. It also reduces the use of relative judgments.

Another part of composing a lineup involves choosing foils. Foils are people other than the suspect who are in the lineup. Lineups can be constructed so that a particular suspect stands out like a sore thumb. For example, a suspect may be the only Latino in a group of six Asian individuals. It therefore is critical to choose appropriate foils. Research has demonstrated that identifications are more accurate when all of the foils look like the witness's initial description of the perpetrator, and none of the foils stand out from each other (Wells, 1993).

Insert Photo 3 About Here

In addition to composition, the instructions given to eyewitnesses during lineups are extremely important. Some lineup instructions can be highly suggestive. For example, if a police officer asks a witness, "Which person is the one who hurt you?" she may imply that the real perpetrator actually is present in the lineup, making it more likely that the witness will make identifications (Stebly, 1997). As a result, identifications from lineups are more accurate when witnesses are told explicitly that the actual perpetrator may or may not be present in the lineup.

Notably, social psychological research on eyewitness identification and testimony is being noticed and utilized by important policy makers. In the fall of 1999, the U.S. Department of Justice released a series of guidelines for police to use when dealing with eyewitnesses. Included in the task force that created the guidelines were six social and cognitive researchers who conduct research on eyewitness identification and testimony (Wells, Malpass, Lindsay, Fisher, Turtle, & Fulero, 2000). As a result, the guidelines were based in large part on the social

psychological research reviewed in this section. For example, the guidelines recommend that police officers use open-ended questions (e.g., “Tell me what you saw”) rather than leading questions. They also recommend that police officers explicitly tell eyewitnesses that the perpetrator may or may not be present in the lineup. By influencing national guidelines for police procedures, social psychological research may play an important role in improving the quality of eyewitness identification and testimony.

 Insert Research Close-up on Recovered Memories About Here

Criminal Defendants

In the previous section, we discussed research about eyewitnesses, that is, individuals who provide police and jurors with information about suspected criminals. What about criminals themselves? There are a number of important psychological issues related to criminal defendants. Many of these issues fall under the domain of clinical or forensic psychology; for example, forensic psychologists may investigate the relationship between psychopathy and crime or study factors that predict recidivism in criminal offenders. Other issues are more relevant to social psychology. In this section, we will review social psychological research about false confessions and lie detection, as well as research on the ways that defendant characteristics such as race can influence jury decision-making.

False Confessions

When police officers question criminal suspects, they generally try to get those suspects to make confessions, that is, to admit that they are guilty of committing a crime. Although it may seem odd to think that someone would confess to a crime that he or she did not commit,

false confessions do occur. Kassin and Wrightsman (1985) identified three different types of coerced false confessions. Sometimes people make voluntary false confessions; for example, a father may falsely confess to a crime in order to keep his child from going to jail. Other times, false confessions may be coerced. Coerced-compliant false confessions occur when people are pressured to admit guilt, but privately continue to believe in their own innocence. In the case Brown v. Mississippi (1936), the U.S. Supreme Court overturned murder convictions for three men who falsely confessed to murder in order to stop the police from whipping them with steel-studded leather belts. In contrast, coerced-internalized false confessions occur when people come to believe that they committed crimes that they did not commit. A highly publicized case of coerced internalized false confession involved a man named Paul Ingram. Ingram was arrested after his adult daughters recovered memories of sexual and satanic ritual abuse. Ingram initially claimed to be innocent. However, after numerous questioning sessions in which he was hypnotized and asked leading questions, Ingram began to believe that he in fact had abused his daughters. Despite the fact that no physical evidence of the abuse was ever found, Ingram pleaded guilty to several counts of third-degree rape (Ofshe & Watters, 1994).

The cases mentioned in the last paragraph involve false confessions that were elicited by physical torture, hypnosis, and suggestive questioning. Notably, social psychological research suggests that false confessions may occur even under less extreme circumstances. In a study by Kassin and Kiechel (1996), students were instructed to type a series of letters on a keyboard. The students were told not to hit the ALT key, as that would cause the computer to malfunction and the data from the study to be lost. After each student typed for 60 seconds, the computer crashed, and the experimenter accused the student of hitting the ALT key. The experimenter then gave the student three opportunities to confess to hitting the key. First, the experimenter

asked the student to sign a written confession stating that he or she caused the computer to crash by hitting the ALT key. Next, the student was asked to explain what had happened to a confederate posing as another participant in another room. Finally, the student was asked to describe everything that he or she remembered, including how he or she might have hit the ALT key.

The students in Kassin and Kiechel's (1996) study showed high rates of both compliant and internalized false confessions. As seen in Table 5.2, 69% of the students in the study made compliant false confessions by signing the written statement. Approximately one-third of those students demonstrated signs of internalization; 28% freely told the confederate that they made the computer malfunction, and 9% described memories of hitting the ALT key. Notably, the rate of false confession was especially high in one experimental condition. In that condition, the students had been instructed to type quickly, making it more plausible that they accidentally could hit the ALT key. In addition, a second confederate, who was in the room during the study, claimed that she had seen the student hit the key. Students in this plausible event – witness condition signed the written condition 100% of the time, admitted guilt to the second confederate 65% of the time, and described memories of how they hit the ALT key 35% of the time.

Thus, people often will confess to deeds that they did not actually commit, especially when the behavior seems plausible and when other people claim that they are guilty. What are the potential consequences of such false confessions in legal contexts? Research has shown that a confession is one of the most powerful pieces of evidence that can be presented in court. Kassin and Neumann (1997) presented mock jurors with a simulated murder trial. There was very little direct evidence tying the defendant to the crime. In one condition, jurors heard that the defendant had confessed to the crime but then retracted his confession; 62% of those jurors

voted to convict the man. In contrast, in another condition, jurors heard that an eyewitness had identified the defendant in a lineup; only 27% of those jurors voted to convict the defendant.

Lie Detection

What happens when a suspect does not confess to a crime and there is not enough physical evidence to conclusively link him or her to the act? How can the police determine whether the suspect is lying about his or her involvement with the crime? Conversely, how can people who are falsely accused of criminal behavior clear their names?

In Chapter 3, you learned that people who are lying often give off nonverbal cues, such as blinking or tilting their heads. However, even with this nonverbal leakage, people usually are not able to detect lies at much above the level of chance (DePaulo, 1994; Frank & Ekman, 1997). Despite their training and experience in crime investigation, law enforcement professionals may not be an exception (DePaulo & Pfeifer, 1986; Ekman & O'Sullivan, 1991; Kohnken, 1987; Vrij, 1994; Vrij & Mann, 2001). Ekman and O'Sullivan (1991) conducted a study in which a variety of law enforcement professionals, including members of the Secret Service, lie detection specialists from the Central Intelligence Agency (CIA), Federal Bureau of Investigation (FBI), and National Security Agency (NSA), and California police department, watched videotapes of ten individuals who were instructed to either tell the truth or lie about their reactions to a film. Judges, psychiatrists, and college students also participated in the study. Of all these groups, only Secret Service members were able to detect lying at levels above chance – and even they were accurate only 64% of the time. Notably, none of the other groups differed from each other; the student sample performed just as well as did the lie detection specialists from the CIA, FBI, and NSA. In addition, there was no correlation between participants' evaluations of their overall

ability to detect lies, their beliefs about how well they performed on the research task, and their actual (objective) lie detection abilities.

The fact that law enforcement professionals generally are not able to tell when someone is lying at better than chance levels is problematic when one considers the high stakes involved in criminal investigations and prosecutions. If police officers and judges cannot reliably tell whether suspects are telling the truth or lying, how can we be sure that innocent suspects are not going to jail and that guilty individuals are not being released? One technique that commonly is used to help police officers involves polygraph or “lie detector” tests. During these tests, suspects answer questions while hooked up to a machine that records various physiological responses. In the most common version of the polygraph test, the control question test, the suspect is asked questions about his or her involvement with the crime (e.g., Did you embezzle \$40,000 from your employer?), as well as control questions about unrelated wrongdoings (e.g., Have you ever told a lie?). According to the logic of the test, an innocent person should become more aroused when answering control questions about previous wrongdoings (which he or she did commit) than when answering questions about the crime (which he or she did not commit; Iacono & Patrick, 1999). In contrast, a guilty individual should become more aroused when answering questions about the crime.

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The accuracy of polygraph tests is a debated issue. Although advocates of the test (often professional criminal investigators) claim that polygraph testing is accurate approximately 90% of the time (Raskin, Honts, & Kircher, 1997), most research published in peer reviewed scientific

journals suggests that the accuracy rate is much lower, between 57-76% for the control question test (Iacono & Lykken, 1997; Iacono & Patrick, 1999). The latter level of accuracy is not much higher than chance, which in the context of innocent v. guilty decisions is 50%. In addition, research has shown that guilty individuals who are given a small amount of information about the logic of polygraph testing can “beat” the test (i.e., appear innocent) by increasing their physiological responses to the questions about previous misdeeds (Honts, Raskin, & Kircher, 1994). Hence, even with polygraph testing, police officers may not be able to consistently and accurately determine whether suspects are telling the truth.

The Influence of Defendant Characteristics on Jury Decision-Making

If there is evidence suggesting that a suspect committed a crime, but he or she does not confess, it is likely that a prosecutor will attempt to try the case in court. When this happens, a jury of citizens or a judge listens to the evidence against the suspect (now called a defendant) and then decides whether he or she is guilty and, if so, how he or she should be punished.

The United States legal system is based on the idea that every person is equal before the law. Under that philosophy, the only thing that should affect jurors’ decisions about defendants is the evidence presented against them; no matter who they are, defendants should be convicted if there is strong evidence of their guilt and acquitted if there is only weak evidence of their guilt. Unfortunately, a considerable amount of research, both experimental and archival, indicates that a number of factors other than evidence also influence the judgments that jurors make about defendants. Consistent with research about physical attractiveness discussed in Chapter 8, a meta-analysis of 80 juror decision-making studies (Mazzella & Feingold, 1994) found that physically attractive defendants are less likely to be found guilty than are physically unattractive defendants; for certain crimes, like rape and robbery, physically attractive defendants also

receive more lenient sentences. The meta-analysis found a similar effect for socioeconomic status (SES); high SES defendants are less likely to be found guilty and, when convicted, receive lighter sentences than do low SES defendants.

One of the most commonly studied defendant characteristics is race. Several archival studies of legal outcomes have shown that Black defendants receive disproportionately harsh sentences compared to White defendants. One of the most famous archival studies is Baldus, Woodworth and Pulaski's (1990) analysis of death penalty sentences in the state of Georgia. In this study, the researchers examined hundreds of capital cases in Georgia, coding information about more than 200 variables that might affect the outcomes of the trials. The study found that, even controlling for all of these other factors, Black defendants were more likely to be sentenced to death than were White defendants. This bias was especially pronounced in cases involving White victims.

Many laboratory studies also have investigated racial bias in guilt and sentencing judgments made by mock jurors. These studies have generated somewhat inconsistent results, with some studies showing discrimination against Black defendants, other studies showing discrimination only under certain circumstances, and still other studies showing no discrimination at all (Mazzella & Feingold, 1994; Sommers & Ellsworth, 2001). For example, Pfeifer and Ogloff (1991) found that participants who were given jury instructions about the presumption of innocence and the need to set aside personal prejudices made similar judgments about Black and White defendants; however, participants who were not given such instructions were more likely to find the Black defendant guilty.

Sommers and Ellsworth (2000, 2001) recently proposed that the inconsistent findings in these studies can be explained by aversive racism theory (Gaertner & Dovidio, 1986). As you

learned in Chapter 6, aversive racism theory asserts that, in the contemporary United States culture, most people believe in equality but still have some negative beliefs and feelings about Black individuals. Because of their belief in equality, most people attempt to suppress prejudiced thoughts and act in a non-biased manner. However, when they are unaware of the influence of race or when their behavior can be justified by factors other than race, these individuals still engage in discrimination. Aversive racism theory make the counterintuitive prediction that jurors will be more likely to discriminate against Black defendants in trials where the race of the defendant is not made salient. When a trial has racial overtones, jurors' beliefs about equality should be activated, so they should monitor themselves closely for signs of bias. On the other hand, when the race of the defendant is not salient, jurors should be less likely to monitor their behavior. As a result, they may make judgments that are biased against Black defendants, then use non-racial explanations to justify those decisions. For example, a juror may say that he or she believed that a Black defendant was guilty because a character witness said that the defendant was a dishonest person.

To test this explanation, Sommers and Ellsworth (2000) manipulated the salience of race in an assault trial. Half of the participants read about a Black or White defendant who slapped his girlfriend in public, saying "You know better than to talk that way about a man in front of his friends." The other half of the participants received materials that were identical, except that the defendant said "You know better than to talk that way about a Black [White] man in front of his friends. In the first condition, where race was not salient, White participants made significantly higher guilt judgments for the Black defendant than for the White defendant. In contrast, in the second condition, where race was salient, there were no differences between White participants' judgments about the Black and White defendant. Notably, Black participants made more lenient

judgments about the Black defendant in both conditions, apparently because they saw both situations as racially charged. Sommers and Ellsworth's research therefore suggests that racial discrimination is likely to occur in many criminal and civil trials; however, jurors are not likely to be consciously aware that they are making biased judgments. This research suggests that trial outcomes are more likely to be fair when jurors are reminded about their egalitarian beliefs prior to making judgments about the defendant's guilt or innocence.

Juries

The Bill of Rights gives U.S. citizens the right to be tried before an impartial jury. Thus, many criminal and civil trials are at least initially decided by a group of ordinary individuals who are brought in from the community to hear a case and render a verdict. However, there is a great deal of controversy surrounding the U.S. jury system. A primary question involves how jurors evaluate the complex and often contradictory evidence presented at trial (Ellsworth & Mauro, 1998). There have been debates about whether jurors are competent to resolve many legal disputes (Wrightsmann, Greene, Nietzel, & Fortune, 2002) and whether the jury system can be reformed to enhance the quality of justice (Hans, Hannaford, & Munsterman, 1999).

Given the importance of trial by jury in our legal system, it is not surprising that social psychologists have conducted a considerable amount of research on jury decision-making. In this section, we will discuss some of the insights about jury selection, juror decision-making, jurors' comprehension of judicial instructions, and jury deliberations that have emerged from this research.

Jury selection

At the beginning of each trial, a process known as voir dire is held in order to select jurors. During voir dire, judges and/or attorneys question potential jurors about opinions or

biases that could adversely affect their ability to render a fair verdict. If there is reason to believe that a juror would not be able to decide a case fairly, then that juror is dismissed from further participation in the case. In addition, the attorneys can use a limited number of peremptory challenges to dismiss jurors whom they would rather not have on the jury. Peremptory challenges can be used to eliminate jurors for a number of reasons, including occupation and perceived personality traits. However, they cannot be used to dismiss jurors on the basis of race or gender (Batson v. Kentucky, 1986; J.E.B. v. Alabama, 1994).

An important question related to the voir dire process involves whether juror characteristics are related to their verdicts (Greene, Chopra, Kovera, Penrod, Rose, Schuller, & Studebaker, in press). The rationale for allowing attorneys to make peremptory challenges is that they will be able to eliminate unfavorable jurors; thus, it is important to know whether individual characteristics, such as personality traits, are meaningfully associated with juror verdicts. To address this question, researchers have examined the extent to which demographic variables, personality characteristics, and juror attitudes predict juror verdicts in simulated and real legal cases.

The evidence that demographic variables influence verdicts is somewhat inconsistent. Although early research by Simon (1967) found that juror occupation, gender, income, religion, and age did not affect verdicts, more recent evidence suggests that gender can predict juror verdicts in sex crime cases involving women or children (Bottoms & Goodman, 1994; Kovera, Levy, Borgida, & Penrod, 1994). Earlier, we also saw that race can affect jurors' judgments about Black defendants (Sommers & Ellsworth, 2000). Thus, jurors' verdicts may be influenced by their demographic variables when group membership is particularly relevant to the facts of a case.

In addition, meta-analyses have shown that personality characteristics such as authoritarianism can influence juror verdicts. More authoritarian jurors are more likely to convict defendants than are less authoritarian jurors (Narby, Cutler, & Moran, 1993). Likewise, jurors' attitudes about specific issues involved in a case are modest but significant predictors of their verdicts (Greene, et al. in press).

Death penalty attitudes and death-qualification. Cases involving the death penalty raise particularly important issues for jury selection. In capital cases, voir dire often is used to eliminate potential jurors who do not support the death penalty. Proponents of this death qualification process claim that individuals who do not support the death penalty may vote to acquit a guilty defendant in order to keep that individual from receiving the death penalty. However, opponents of death qualification assert that excluding people who do not support the death penalty results in a biased jury. For example, research has found that women and minorities are significantly more likely to hold attitudes that would exclude them from jury duty in a capital trial (Filkins, Smith, & Tindale, 1998; Fitzgerald & Ellsworth, 1984). Individuals who support the death penalty also tend to be more prosecution-oriented, punitive, and concerned about crime control than are individuals who do not support the death penalty (Fitzgerald and Ellsworth, 1984; Haney, Hurtado, & Vega, 1994). Translating those attitudes to behavior, three recent meta-analyses indicate that individuals who support the death penalty are more likely to convict defendants than are individuals who oppose the death penalty (Allen, Mabry, & McKelton, 1998; Filkins et al., 1998; Nietzel, McCarthy, & Kern, 1999). Finally, eliminating potential jurors who oppose the death penalty also can affect the quality of the deliberation process. A study by Cowan, Thompson, and Ellsworth (1984) compared deliberations by juries with a mixture of pro- and anti-death penalty jurors with deliberations by

death-qualified juries. The mixed juries were more critical of the prosecution's case, remembered more of the case facts, and found the case more difficult to decide. Thus, using jury selection to dismiss jurors who oppose the death penalty is likely to result in a less critical, more conviction-prone jury that may not be representative of the community from which it is drawn.

Insert Photo 5 About Here

The Story Model of Juror Decision Making

During trials, jurors frequently are asked to make sense of a great deal of complicated evidence and contradictory testimony (Hastie, 1993). How do jurors integrate all of that information into a single verdict? Nancy Pennington and Reid Hastie (e.g., 1988, 1992, 1993; Hastie & Pennington, 1995, 2000) proposed the Story Model as a way to explain juror decision making. According to the Story Model, jurors use the evidence presented in trials to create stories about the events in question. For example, jurors may create a story about a robbery at a local convenience store that includes information about an alleged robber's motive and goals (e.g., whether he needed money for child support) and his actions toward the clerk (e.g., whether he pointed a gun at her). The story also may include situational characteristics (e.g., whether other people were present) and the outcome of the encounter (e.g., stolen money). By representing trial evidence in terms of characters who are involved in plots that led to certain outcomes, jurors can make sense of the overwhelming amount of information they are given.

Because trials usually involve contradictory accounts by the prosecution and the defense, jurors may generate a set of alternative stories. They then must choose between these competing accounts by considering factors such as which story provides the best explanation of the

evidence, which story is the most plausible and internally consistent, and which story best matches the potential verdicts for the trial. Once jurors have identified the best story, they select the verdict that is the best possible match to that account of the events. Thus, the Story Model asserts that jurors reach verdicts through actively interpreting and evaluating the evidence they are given.

One form of evidence for the Story Model comes from experimental studies that manipulate how easy or hard it is for jurors to create stories from the evidence (Carlson & Russo, 2001). If jurors do in fact generate stories to understand trial evidence, then presenting evidence out of order should interfere with juror decision making. Consistent with that logic, Pennington and Hastie (1988) manipulated the order in which the prosecution and defense presented their evidence in a mock trial. The student jurors were most likely to reach a verdict favoring the side that presented their information in chronological order, that is, in a manner similar to a story.

Juror comprehension of judicial instructions

Before juries deliberate, judges give them instructions about issues such as what evidence they are allowed to consider and what verdicts they may reach. A central issue in the debate over the competence of juries is the fact that jurors have difficulty understanding and appropriately using such instructions. Low rates of comprehension of jury instructions have been found in jury simulation studies as well as in actual trials with non-student jurors. For example, Reifman, Gusick, and Ellsworth (1992) reported that jurors called for jury duty in Michigan understood less than 50% of the instructions they were given. Likewise, in death penalty cases, juries are asked to consider aggravating circumstances (i.e., factors that make the crime more serious), as well as mitigating circumstances (i.e., factors that make the crime less serious). However, Haney and Lynch (1994, 1997) found that jurors in capital cases do not seem

to understand the concept of mitigation or the conditions under which mitigating or aggravating circumstances should lead to sentences other than the death penalty. The fact that many jurors may not understand the factors that they are supposed to consider when making death penalty judgments suggests that sentencing decisions in some capital cases may be inappropriate.

Because of the importance of this issue, several possible methods for helping jurors understand judicial instructions have been proposed. One method involves rewriting instructions to be more “user friendly,” for example, by using everyday words rather than legal terminology. Whether rewriting jury instructions can substantially improve comprehension rates remains an open question. Some research suggests that many jurors still misunderstand rewritten instructions. It may be that the complexities of the law will make it difficult for jurors to understand instructions no matter how they are written (Tanford, 1992). Another potential solution involves letting jurors take notes on judicial instructions; this way, jurors can refer back to their notes when they have questions about what they are supposed to do (Heuer & Penrod, 1988, 1989). More research is needed to know whether note-taking is a viable means of improving jurors’ comprehension of judicial instructions.

Jury deliberations

Much of the research we have discussed in this section has investigated the ways that individual jurors understand and evaluate information. However, in actual legal cases, a group of jurors work together to reach a verdict. Thus, it is important to consider how group processes influence jury decision making.

Social psychologists have devoted considerable attention to two issues related to the way that juries function as groups. The first issue involves the size of the jury. The number of individuals required to be in a jury varies considerably, from six or fewer to twelve. In 1973, the

U.S. Supreme Court held that there are no important differences between six and twelve person juries (Colgrove v. Battin, 1973). However, a meta-analysis by Saks and Marti (1997) showed that, compared to twelve-person juries, six-person juries tend to be less representative of the jury pool, spend less time deliberating, and recall less of the evidence presented at trial. In addition, smaller juries place more pressure on jurors to conform to the majority position and thus are less likely than larger juries to consider minority or dissenting opinions. Thus, contrary to the Supreme Court's view, larger juries engage in more extensive deliberations involving a wider range of perspectives.

The quality of juries' deliberation also is affected by the decision rule required for a verdict. Sometimes juries must deliberate to a unanimous verdict, whereas other times they can render a verdict that is supported by a majority of the jurors. Juries using a majority decision rule tend to discuss the trial evidence less thoroughly and arrive at a verdict more quickly than do juries with a unanimous decision rule (Hastie, Penrod, & Pennington, 1983). Moreover, compared with dissenters in unanimous juries, individuals with dissenting opinions who are majority juries express themselves less often and tend to be less satisfied with the final verdict (Greene et al, in press). Thus, the type of decision rule used by juries affects the quality of their deliberations, as well as the subjective experiences of individual jurors.

Expert Testimony

As you have seen in this chapter, social psychologists have learned a great deal about factors that affect important legal behaviors, such as confessions, eyewitness testimony, and jury decision making. At this point, you may be asking yourself whether this research has made any impact on the legal system. In fact, social psychologists have communicated their findings to the legal system in a number of different ways. One of the most common ways for social

psychologists to share their knowledge with the legal system involves expert testimony. Social psychologists frequently are asked to testify about research findings in order to give judges and jurors a “framework” for understanding and evaluating the evidence in a particular case (Monahan & Walker, 1998).

The use of expert psychological testimony in trials appears to be growing steadily, but it has proven controversial. There are two major issues involved with expert testimony: the quality of the testimony and its effect on jurors. The quality of the testimony is important because the courts do not want jurors to consider evidence that is unreliable or inconclusive. Thus, psychologists may only testify about research that meets legal standards for admissibility. Until recently, most U.S. courts relied upon a standard known as the Frye test (Frye v. United States, 1923) when determining the admissibility of scientific evidence. According to this test, research must be “generally accepted” by the relevant scientific community in order to be admissible. However, in 1993, the U.S. Supreme Court decided the case of Daubert v. Merrell Dow Pharmaceuticals, Inc. (1993), which changed the legal standard for the admissibility of expert scientific evidence, including psychological science, in all federal courts as well as in some state courts (Shuman & Sales, 1999; Walker & Monahan, 1996).

In contrast to the Frye decision, which focused exclusively on consensus among scientists, the Daubert decision looked at several indicators of scientific reliability. Under the Daubert decision, judges must make determinations about scientific reliability by evaluating whether the research has been subjected to peer review (i.e., whether other scientists have evaluated it), whether the theory underlying the research is falsifiable (i.e., whether a hypothesis can be disproven), whether the research has any known or potential error rates (i.e., how likely a conclusion is to be false), and whether the research is generally accepted.

A positive outcome of the Daubert decision is that it has led psychologists to carefully evaluate the quality of research on topics such as eyewitness identification, repressed memories, gender stereotyping, polygraph testing, battered woman syndrome, rape trauma syndrome, children as witnesses, and predictions of dangerousness (e.g., Faigman, Kaye, Saks, & Sanders, 1997; Hunt, Borgida, Kelly, & Burgess, in press; Kovera & Borgida, 1997). However, a problem with the decision involves its reliance on judges as the “gatekeepers” or evaluators of scientific evidence. Many judges lack the scientific literacy required by Daubert and therefore may have difficulty weighing the scientific issues involved in admissibility decisions (Gatowski, Dobbin, Richardson, Ginsburg, Merlino, & Dahir, 2001; Kovera & McAuliff, 2000).

In addition to assessing the quality of psychological evidence, judges also must determine whether expert testimony will be helpful to jurors. In order for expert testimony to be admissible, it must help jurors reach a trial decision without unduly biasing them toward a particular outcome. As a result, social psychologists have conducted jury simulation studies to examine how influential different forms of expert testimony are on jurors’ impressions of witnesses, as well as on their actual trial decisions.

Insert Photo 6 About Here

Because social psychological research focuses on the thoughts, feelings, and behaviors of groups of people, one question related to the influence of expert testimony is whether jurors use generalized findings to form impressions of individual defendants or witnesses. A study by Brekke and Borgida (1988) tested the hypothesis that jurors would make the connection between group-level data and specific witnesses only when that link was made explicit in the expert’s

testimony. The researchers had student jurors listen to an audiotape of a rape trial. In the trial, a psychologist testified about the low level of public awareness regarding sexual assault and refuted some widely held misconceptions about rape and rape victim behavior. In one condition, the psychologist presented this information without tying it to the case; in another condition, the psychologist used a hypothetical example of a rape victim to show the connections between the research and the current case. Brekke and Borgida (1988) found that, when the expert witness connected the research to the case, jurors were more likely to vote for conviction and to recommend harsh sentences for the defendant. They also viewed the victim as more credible and thought it was less likely that she consented to have sex with the defendant. These effects were strongest when the expert witness testified before the other witnesses, giving the jurors a framework to evaluate that evidence. Other research has showed similar effects for expert testimony on battered woman's syndrome (Schuller, 1992), child sexual abuse (Gabora, Spanos, & Joab, 1993; Kovera, Gresham, Borgida, Gray, & Regan, 1997), and eyewitness identification (Fox & Walters, 1986). Thus, expert testimony that draws connections between research and a particular case has a larger influence on jurors than does expert testimony that simply presents a set of research findings.

Research Close-Up: The Recovered Memory Debate

Recently, a new issue related to eyewitness memory has generated a great deal of controversy. Is it possible to experience an extremely traumatic event, but not be able to remember it for years or even decades? During the past two decades, a number of individuals have made this claim. These individuals have asserted that, as adults, they “recovered” memories of childhood sexual abuse that they previously had repressed. In many cases, these recovered memories have included vivid recollections of horrific experiences such as being gang raped, being forced to consume excrement, and being forced to watch adults ritually sacrifice human fetuses (Ofshe & Watters, 1994).

Recovered memories of childhood sexual abuse are extremely controversial among psychologists; in fact, a group of well-known psychologists chosen by the American Psychological Association to summarize scientific knowledge about recovered memories was unable to reach a consensus on most issues (American Psychological Association Working Group on Investigation of Memories of Childhood Abuse, 1998). The biggest debate about recovered memories involves their reliability. Many clinical psychologists and other therapists believe that people are able to completely repress painful memories and then later remember them accurately (Alpert, Brown, & Courtois, 1998; Koss, Tromp, & Tharan, 1995; Poole, Lindsay, Memon, & Bull, 1995). However, as you learned in this chapter, research on eyewitness testimony has demonstrated that people’s recollections of events can be influenced by a number of factors, including suggestive questioning. Many of the adults who have recovered memories of childhood abuse have done so during therapy sessions that relied on highly suggestive questioning techniques (e.g., “You seem like you’ve been abused; why don’t you tell me about that?”), guided imagery (i.e., instructions to visualize specific events), hypnosis, and/or

age regression. As a result, many social, cognitive, and developmental psychologists have questioned the accuracy of recovered memories (Lindsay & Read, 1995; Ornstein, Ceci, & Loftus, 1998; Roediger & Bergman, 1998). One concern is that people may recover memories of actual abusive experiences, but their specific recollections may not be completely accurate. A more serious concern is that, over time, suggestive questioning techniques may cause people to “remember” experiences of abuse that never actually happened.

The reliability of recovered memories has important legal implications. There have been several cases in which adults who have recovered memories of childhood abuse have attempted to sue their alleged abusers or in which prosecutors have attempted to obtain criminal convictions on the basis of recovered memories (Loftus, 1994; Partlett & Nurcombe, 1998). The likelihood that such cases will have just outcomes depends greatly on the reliability of recovered memories. If memories of traumatic events can be repressed and then remembered accurately, then these cases are likely to have fair outcomes. On the other hand, if recovered memories are not accurate or do not reflect actual events, then innocent people may be wrongfully convicted.

A central issue in evaluating the reliability of recovered memories involves determining whether people can “recover” memories of traumatic events that really did not occur. This question is difficult to address because of the ethical problems involved with asking research participants to remember fictitious instances of childhood sexual abuse. Researchers therefore have studied this phenomenon by having participants try to remember other highly emotional events that sometimes happen to children, such as experiences with painful medical procedures.

Porter, Yuille, & Lehman (1999) used this strategy with a group of college student research participants. At the beginning of the study, the researchers sent questionnaires to the participants’ parents. The questionnaires asked the parents to indicate whether their children had

experienced six highly emotional events, such as being attacked by an animal. Based on the parents' responses, the researchers chose a real and non-real experience for each participant.

The students then participated in a series of three interviews. In the first interview, the participants were asked whether they had experienced real and the non-real events. Almost all of the participants immediately remembered the real, but not the non-real event. The interviewer then told the participants four fictitious details about the non-real event that supposedly were provided by their parents. The interviewer encouraged the participants to remember additional details about the event, telling them, "Most people are able to retrieve lost memories if they try hard enough." The interviewer also led the students through guided imagery exercises in which they tried to visualize the non-real event.

During the next two weeks, the students participated in two more interviews that were similar to the first one. They also completed daily writing exercises in which they tried to remember details about the events. The students' memories for the events were assessed at the end of the two weeks. By that time, 26% of the participants had "recovered" a complete memory of the non-real event; they were convinced that the event had happened and were able to describe details about the event other than the four details provided by the interviewer. An additional 30% "recovered" partial memories of the non-real event; they were able to describe some details about the event but were not completely sure that it had happened.

Although the exact nature of repressed and recovered memories still is unclear, Porter et al.'s study provided experimental evidence that people who are exposed to suggestive questioning techniques can develop memories for non-existent, highly emotional childhood events. In the coming years, more studies like this one will help resolve the scientific debate about recovered memories and inform legal policies related to childhood sexual abuse.

Tables

Table 5.1. Speed Estimates Made by Participants in Loftus and Palmer's (1974) Study

"About how fast were the cars going when they...?"	Estimated Miles/Hour
"contacted"	31.8
"hit"	34.0
"bumped"	38.1
"collided"	39.3
"smashed"	40.8

Table 5.2. Rates of False Confession in Kassin & Kiechel's (1996) Study

	All Participants	Plausible Event – Witness Condition
Sign Written Confession	69%	100%
Admit Guilt to Confederate	28%	65%
"Remember" Hitting the Key	9%	35%

Photo Suggestions

Photo 1. The goal of this photo is to illustrate Jennifer Thompson's identification error. The Associated Press has printed Ronald Cotton and Bobby Poole's mugshots side-by-side so that people can see the differences in the way they look. One place that the pictures have been printed is in the Lincoln Journal Star on September 24, 2000 on p. 8A.

Photo 2. The goal of this photo is to illustrate the weapon focus event. A good picture might show either a person pointing a gun at the camera or a person holding up another individual with a gun. In either case, the gun should be prominent so that readers can see how their attention is drawn to the weapon rather than the criminal.

Photo 3. The goal of this photo is to show how line-up construction can affect eyewitness identification. A good picture would show a line-up with several people where one person sticks out from the others in terms of height, race, or other distinguishing characteristics.

Photo 4. The goal of this photo is to illustrate polygraph testing. A good picture would show a person hooked up to a polygraph machine while an examiner asks questions.

Photo 5. The goal of this photo is to show a picture of a defendant in a criminal trial who faced the death penalty. One suggestion is to use a photo of Timothy McVeigh who received the death penalty or to find a photo of defendants in states like Texas where there are large numbers of death row inmates.

Photo 6. The goal of this photo is to show an expert witness who has provided scientific expert testimony in court. A photo of psychologist Elizabeth Loftus, who has testified in a number of eyewitness identification cases, is one option. Or the photo could be a still photo from the videotaped testimony of one of the DNA expert witnesses from the O.J. Simpson trial.

Key Terms

Acquisition

Coerced-compliant false confessions

Coerced-internalized false confessions

Control question test

Death qualification

Estimator variables

Expert testimony

Jury decision rule

Jury size

Overwriting hypothesis

Own-Race Bias

Retrieval

Sequential lineup

Show-up

Simultaneous lineup

Source monitoring theory

Storage

Story model

System variables

Voir dire

Voluntary false confession

Weapon Focus

Definitions

Acquisition: The process of perceiving and interpreting information.

Coerced-compliant false confession: When a person is pressured to confess to a crime but continues to privately believe that he or she is innocent.

Coerced-internalized false confession: When an innocent person is pressured to confess to a crime, then comes to privately believe that he or she actually committed the crime.

Control question test: A method of polygraph testing in which a person's physiological responses to questions about a crime are compared with his or her physiological responses to questions about personal wrongdoings. An innocent person is expected to be more aroused when answering questions about personal wrongdoings, whereas a guilty person is expected to be more aroused when answering questions about the crime.

Death qualification: Refers to the process of jury selection in capital cases. Prospective jurors are asked to consider whether they could convict a defendant of a crime if they know that the defendant may receive the death penalty if they vote to convict. Jurors who express reservations about conviction under these circumstances are "death qualified" and excluded from the jury panel.

Estimator variables: Factors affecting eyewitness identification that are related to the witness or to the situation in which the event was witnessed. The witness's arousal level and the viewing conditions at the time of the event are examples of estimator variables.

Expert testimony: Testimony provided by qualified experts about pertinent research findings that help judges and jurors understand and evaluate the evidence in a particular legal case. The expert testimony serves to educate judges and jurors about issues that are not commonly understood.

Jury decision rule: Refers to the decision standard required by law to reach a deliberated jury verdict. The decision rule can involve unanimity (requiring that jurors deliberate to a unanimous verdict) or majority rule (requiring that jurors arrive at a verdict supported by a majority of the jurors).

Jury size: Refers to the exact number of individuals required for a jury, ranging from six or fewer to twelve. Research suggests that the quality of jury deliberations can be affected by the size of the jury deliberating a case.

Overwriting hypothesis: The hypothesis that information received by witnesses after seeing an event permanently replaces their original memories of the event.

Own-race bias: A phenomenon in which eyewitnesses tend to be more accurate when identifying members of their own race than members of another race.

Retrieval: The process of recalling information that is stored in memory.

Sequential lineup: A lineup in which potential perpetrators shown one at a time. The witness must decide whether each person is the perpetrator before seeing the next person.

Show-up: A lineup in which a single suspect is presented to an eyewitness who must determine whether that individual is the perpetrator.

Simultaneous lineup: A lineup in which several potential suspects are shown next to each other and the witness is asked to select the perpetrator.

Source monitoring: The process of identifying the source of a piece of information stored in memory. According to source monitoring theory, eyewitnesses sometimes include postevent information in their descriptions of an event because they do not incorrectly identify the source of that information.

Storage: The process of keeping information in memory.

Story model: The most theoretically developed and empirically tested model of juror decision making in social psychology. The model assumes that jurors use the evidence presented at trial to form in their minds stories about the events in question, and then evaluate alternative story accounts on different criteria. According to the model, jurors then select the verdict that is the best possible match to that story account of the events.

System variables: Factors affecting eyewitness identification that are under the direct control of the criminal justice or legal systems. Lineup construction and questioning techniques are examples of system variables.

Voir dire: Voir dire (French for “to tell the truth”), or the jury selection that takes place at the beginning of every trial, is the process by which jurors are eliminated from serving on a jury. Jurors who exhibit biases, who are unable to be open-minded about the case, are excused by the judge. The presumption is that the elimination of such prospective jurors from jury service will result in the improved quality of jury deliberations and verdicts.

Voluntary false confession: When a person freely and willingly confesses to a crime he or she did not commit

Weapon focus: A phenomenon in which eyewitnesses remember more information about the weapon used to commit a crime than about the criminal who was holding the weapon.

Critical Thinking Questions

1. This chapter discusses a number of factors that can cause eyewitnesses to mistakenly identify an innocent person as a criminal. Based on what you have learned, do you think there are certain circumstances under which eyewitnesses should not be allowed to testify or make identifications?
2. In this chapter, you learned that people sometimes are pressured to confess to crimes that they did not commit. What techniques should the police be allowed to use when they are trying to get a suspect to confess? What techniques should be forbidden? If the case goes to trial, should the police be required to describe the circumstances under which the defendant confessed?
3. Based on what you learned about prejudice reduction in Chapter 13, what could be done to reduce bias against Black defendants?
4. The chapter discussed research on jury selection and the process of voir dire. One key assumption of voir dire is that the process will result in higher quality jury deliberations and verdicts. How should improved decision quality be measured, in this context? What would you want to know to be reassured that the removal of prospective jurors whose biases might interfere with their ability to hear the trial facts fairly, in fact, led to better jury decisions?
5. There appears to be a significant relationship between death penalty attitudes and conviction-proneness, such that those who support the death penalty are much more likely to convict a defendant than those who oppose the death penalty. What do you think the legal system should do about this pro-prosecution biasing effect of death qualification? How would you persuade the courts to pay closer attention to the empirical evidence?

6. Jury deliberations reflect group decision making processes; groups and not individuals render the final verdict. What did you learn from the chapter on behavior in groups that could be applied to an understanding of jury behavior?
7. The Story Model of juror decision making suggests that jurors are not merely passive courtroom participants. Instead, they are actively involved in the evaluation and interpretation of trial evidence in order to understand the evidence. What are the practical implications of this approach to studying juror decision making? Should attorneys structure their presentation of the evidence in certain ways, and if so, how so? Should judges rethink the way they present jury instructions?
8. It is reassuring to read in the chapter that the legal system is concerned about the scientific quality of expert testimony admitted in legal trials. But based on what you read about the use of expert psychological testimony, a “battle of the experts” each wielding different science-based opinions could still take place. What do you think should be done to decrease the likelihood that such a “battle of the experts” will result in jurors and judges just ignoring the expert testimony, instead of being educated by the testimony?

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