

Detecting Deception

The overview that follows is offered to help the trier of fact understand what the science says about detecting lies — whether from a person’s demeanor, speech, or physiology — and what that science means for a legal system that asks jurors and judges to assess credibility every day. The question matters because the law relies heavily on the assumption that an observer can tell a truthful witness from a deceptive one by watching and listening. Its purpose is to define the terms a court is likely to encounter, to summarize the research on lie detection accuracy and its limits, and to do so in plain language and without favoring any party.

How Well People Detect Lies

The most reliable summary of decades of research is that people are poor at detecting deception. Pooling 206 studies and more than 24,000 judges, Bond and DePaulo (2006) found that observers distinguish truths from lies at an average accuracy of about 54% — only slightly better than the 50% expected from guessing. The error is not evenly spread: people correctly classify roughly 61% of truthful statements but only about 47% of lies, reflecting a general “truth bias,” a tendency to judge others as honest. The practical meaning is sobering. Across ordinary conditions, the unaided human observer is close to a coin toss, and high confidence in a credibility judgment does not change that underlying accuracy.

The Myth of the Expert Lie-Catcher

It is widely assumed that experience equips certain professionals — police officers, investigators, judges, customs agents — to spot lies that others miss. The research does not bear this out. On average, such groups perform no better than students or other laypeople, and their accuracy often hovers at or below chance. What experience reliably increases is not accuracy but confidence: seasoned interviewers tend to be surer of their judgments without being more correct, and the relationship between a person’s confidence and the accuracy of a deception judgment is weak. There are occasional exceptions in the literature — one early study found a sample of Secret Service agents performing above chance (Ekman & O’Sullivan, 1991) — but these stand out precisely because they are uncommon. A related and consequential finding is that training people to suspect deception can make matters worse: investigators primed to look for lies become more confident and more suspicious without becoming more accurate, developing a bias toward judging others deceptive (Meissner & Kassin, 2002).

Why It Is So Hard: Weak Cues and Mistaken Beliefs

Two distinct problems undermine lie detection, and the science has come to weigh them differently over time. The first is that people hold mistaken beliefs about how liars behave. The most widespread is that liars avert their gaze — a belief documented as a near-universal stereotype across dozens of countries (Global Deception Research Team, 2006) and shared by police officers, prosecutors, and judges (Akehurst, Köhnken, Vrij, & Bull, 1996) — even though research has found no reliable link between lying and gaze aversion. Beliefs that liars fidget, shift posture, or hesitate are similarly unsupported.

The second, and deeper, problem is that valid behavioral cues to deception are simply weak. A meta-analysis of 158 possible cues found that very few are related to deception at all, and those that are tend to be only faintly diagnostic (DePaulo et al., 2003). A later analysis concluded that the main reason observers fail is not that they rely on the wrong cues but that the cues available to them carry so little reliable information in the first place (Hartwig & Bond, 2011). In other words, even a perfectly calibrated observer could not do much better, because lying does not announce itself through any consistent behavioral signature. There is no “Pinocchio’s nose.” Complicating

matters further, the cue–deception relationship is often strongest when liars are highly motivated — yet, paradoxically, motivated liars who try to suppress telltale behavior frequently appear overcontrolled, so that the effort to seem honest can itself mislead an observer.

Training, “Wizards,” and Their Limits

If accuracy is low, can it be taught? The evidence is discouraging. Early efforts to train police officers in deception cues produced no real improvement (Köhnken, 1987), and later reviews reached similar conclusions, with structured feedback offering only modest and inconsistent gains. A separate claim is that a tiny number of gifted individuals — labeled “wizards” — can detect lies with exceptional accuracy (O’Sullivan & Ekman, 2004). That claim has been sharply contested: a statistical critique showed that the performance attributed to wizardry could be explained by chance, given how many people were screened to find a few high scorers, and concluded that convincing evidence of lie-detection wizardry has not been presented (Bond & Uysal, 2007). The careful reading is that no method or person has been shown to detect lies reliably enough to bear weight in court.

Newer Approaches

More recent research has shifted from passively reading body language to actively structuring an interview so that lying becomes harder to sustain. These cognitive and verbal approaches include imposing mental load (for example, asking an account to be told in reverse order), posing questions a liar would not have anticipated and rehearsed, and disclosing evidence strategically rather than at the outset (Vrij, Granhag, & Porter, 2010; Vrij, Granhag, Mann, & Leal, 2011). Some of these methods improve discrimination above the dismal baseline in controlled studies. But the gains are moderate, the techniques are designed for the investigative stage rather than the courtroom, and none approaches the reliability of a validated diagnostic test. They are tools for guiding an investigation, not for proving in court that a particular person lied.

Demeanor, Confidence, and Credibility

These findings sit awkwardly with a deep assumption of the trial process: that observers, especially jurors, can gauge truthfulness by watching a witness testify. The research indicates that demeanor is a poor guide. A witness may avert his eyes, sweat, hesitate, or contradict an earlier statement for reasons that have nothing to do with honesty — anxiety, the intimidating setting, cultural norms, memory’s ordinary reconstructive changes, or simple personality. Conversely, a calm, fluent, confident witness may be lying. The single most useful principle to carry from this body of work is the need for multiple hypotheses: a change in physiology, behavior, or speech is at most a signal that something is going on, not proof of deception. Detecting such a change should be the beginning of inquiry into its cause, not the end, because deception is only one of many explanations.

Detecting Deception and the Law

The law has largely absorbed the conclusion that mechanical and expert lie detection is not reliable enough for the courtroom, while continuing to entrust credibility itself to the fact-finder. Polygraph evidence is the clearest example. In *United States v. Scheffer* (1998), the Supreme Court upheld a per se rule excluding polygraph results, emphasizing that there is no scientific consensus that the technique is reliable; many jurisdictions bar or tightly restrict polygraph evidence on the same ground, and its admissibility, where considered at all, is tested under the standards governing scientific evidence — *Daubert v. Merrell Dow Pharmaceuticals* (1993) and *Kumho Tire Co. v.*

Carmichael (1999) in federal court and the states that follow them, and *Frye v. United States* (1923) elsewhere.

A second principle is structural: assessing the credibility of witnesses is the exclusive province of the jury. For that reason, courts generally do not permit a witness — lay or expert — to opine that another witness is truthful or is lying, or to vouch for or against a witness’s believability; the rules on character for truthfulness (Federal Rule of Evidence 608) and on expert testimony (Federal Rule of Evidence 702) both reflect this limit. The constructive role for the science is therefore narrow but real. Properly framed, it can inform the trier of fact that common indicators of lying — nervousness, gaze aversion, inconsistency, hesitation — are not in fact diagnostic of deception, and that confidence and demeanor are weak guides to truthfulness. It cannot tell the court whether a given witness lied; that judgment the law reserves to the jury, and the science’s contribution is to ensure the judgment is not made on cues that do not work.

Special Issues in Legal Practice

The principles described above apply with equal force to every party in a legal proceeding. Memory operates the same way regardless of who is asking the questions, and the science summarized here favors no side. What differs between the parties is not the science but the vantage point — the particular places where memory issues tend to surface, and the particular errors each party is best positioned to guard against. The two summaries below identify those recurring issues. They are offered for orientation, not as litigation strategy; in every case the controlling question is what the evidence in that case will, and will not, support, and the expert’s role is to inform the trier of fact rather than to advocate for either side.

Special Issues for Prosecutors

For the State, the science of deception detection counsels against building a case, or an argument to the jury, on a witness’s or a defendant’s demeanor. Because behavioral cues to lying are weak and widely misunderstood, an investigator’s impression that a suspect “seemed deceptive,” or that a witness “looked honest,” is a fragile foundation, and the research shows that training oneself to look for lies tends to increase suspicion and confidence without increasing accuracy. The errors the prosecution is best positioned to guard against therefore include treating a suspect’s nervousness, gaze aversion, or shifting account as evidence of guilt, and inviting jurors to convict because a defendant or witness did or did not “act guilty.” The constructive use of the science is to anchor credibility determinations in verifiable content — corroboration, consistency with independent evidence, and the conditions under which statements were obtained — rather than in demeanor, and to remember that a calm, confident witness is neither more nor less likely to be truthful for that reason.

Special Issues for Defense

For the defense, the same science cuts against the intuitive but unfounded inferences a fact-finder may draw from a client’s or witness’s demeanor. A defendant who appears anxious, avoids eye contact, or gives an account that shifts over time may be reacting to the stress of accusation, the formality of the setting, cultural norms, or the ordinary workings of memory — not lying — and the research provides no reliable basis for reading such behavior as deception. The recurring task is to ensure that credibility is not decided on cues that do not work: that jurors are not invited to equate nervousness or inconsistency with dishonesty, that purported lie-detection evidence such as the polygraph is held to the governing standards for scientific proof, and that no witness is permitted to vouch for or against another’s truthfulness. Where the governing standard is met, expert testimony may inform the jury that demeanor and confidence are poor guides to honesty (*Daubert v. Merrell Dow Pharmaceuticals*, 1993; *Frye v. United States*, 1923). The aim is not to

claim that anyone can reliably detect truthfulness — the research shows no one can — but to keep the credibility determination free of discredited assumptions.

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