aspects of the investigation.

Much of the eyewitness research conducted by psychologists has focused on making identification procedures as fair as possible (to the suspect/the accused). This involves reducing the likelihood of false identifications while enabling correct identifications to occur. One very relevant issue is how witnesses are questioned/inter- viewed, which was covered in chapter 4. Here, we will focus on assisting witnesses/victims to identify the perpetrator by face or by voice. In many countries, but not yet all, it is now recognized that showing a witness just one face (e.g. using a photograph or the actual suspect him/herself – the latter is called a ‘show-up’) and asking if this is the perpetrator is not a good procedure. To be of any real value, the witness should be shown several similar- looking people with no undue guidance as to which person to choose. This kind of procedure has become standard police practice in several countries (it has been mandated by law in England and Wales for twenty years) and is strongly recommended in the USA in the 1999 Attorney General’s Guidelines (which were informed by the research of psychologists).

However, even with good procedures in place witnesses still make identification errors. With regard to identification parades/line-ups, these can be of four major types which are either in a parade that does actually contain the perpetrator, (a) choosing the wrong person or (b) not choosing anyone, or (ii) in a parade that happens not to contain the actual perpetrator, (c) choosing the innocent suspect or (d) choosing one of the other people present (that are usually in psychology referred to as ‘foils’ or ‘distractors’). Most of the relevant psychological research has focused on developing fair procedures designed to reduce the frequency of error type (a).

Another aspect of criminal investigations that psychological research has examined to try to reduce errors is that involving hypnosis. Many people have an inadequate appreciation of what hypnosis actually involves and what its limitations are. More than fifty years ago some police forces (e.g. in the USA) began to use hypnosis in attempts to assist witnesses recall more of what they had experienced. At that time both police officers and the general public believed that memory was like a movie film and that what investigators needed to do was to help the witness to access such a memory. (As described earlier in this chapter, psychological research has demonstrated such a belief to be inadequate.) In their praiseworthy pursuit of evidence in very serious and difficult to solve cases some police officers found that witnesses who were hypnotized then recalled information about the crime that they had not previously recalled. Indeed, some of this extra recall turned out to be correct and so the police concluded that it was due to the hypnosis, ignoring the possibility that it could have been due to other factors necessary for hypnosis (e.g. a quiet, uninterrupted room and a relaxed, focused witness).

Later research has demonstrated that when people are hypnotized they may well be more suggestible (e.g. go along with leading or suggestive questions): nowadays police use of hypnosis is relatively rare. Most criminal psychologists now seem to be of the opinion that ‘evidence’ obtained under hypnosis should not be allowed in court. A further aspect of witness evidence that psychological research has demonstrated to be error prone is that of voice identification (sometimes referred to as earwitness testimony).

earwitness testimony.

In many crimes the perpetrators speak and therefore might later be identified by earwitnesses. Furthermore, in some crimes witnesses may not be able to see the perpetrators but can hear their voices. Thus work by criminal psychologists on voice identification is important.

the value of voice identification evidence.

In the early 1980s Brian Clifford and I conducted a programme of research studies for the Government that was given an impetus by the publication of the Devlin Report mentioned earlier in this chapter. The Devlin Committee, which reported to the Home Secretary in 1976, stated that as far as its members were concerned no research had been conducted on voice identification but that ‘research should proceed as rapidly as possible into the practicality of voice parades ... or any other appropriate methods’. In a 1984 book chapter in which we reviewed our research (and that of others) we concluded that:

Until future, more realistic studies argue to the contrary we would recommend that prosecutions based solely on a witness’ identification of a suspect’s voice (if the suspect is a stranger) ought not to proceed, or if they do proceed they should fail. We say this because, even though the topic of ear-witnessing presently lacks any theoretical underpinnings, we are of the opinion that ear-witnessing and eyewitnessing are similarly and considerably error prone. This is not to say that voice identification should not be used as an aid to the prosecution or the defence, but it should not form any major part of the evidence presented in court.

(This statement was in line with the Devlin Committee’s view on the value of visual identification/eyewitness evidence.)

Five years later, in 1989, an overview on earwitness identification written by several respected North American psychologists (Deffenbacher et al. 1989) examined all the published research on the accuracy with which people (in experiments) are able correctly to identify a voice they heard previously. In their concluding paragraph they stated:

Inasmuch as the results we have reported are optimal in that wit- nesses were not stressed and there was no attempt at voice dis- guise, recognition accuracy at realistic delays and speech sample durations was so low that we would agree with Bull and Clifford’s (1984) conclusions. Depending on the parameters involved, recognition of an unfamiliar voice may have a sufficient probability of accuracy that it could be of use in a police investigation. Unless further more ecologically valid studies argue to the contrary, however, ear-witnessing is so error prone as to suggest that no case should be prosecuted solely on identification evidence involving an unfamiliar voice.

A later overview of research on voice identification was published in 1995. In that chapter a Canadian professor of psychology reviewed not only twelve publications of his own but also some twenty-two publications by other people on the topic of voice identification. The overview stated that ‘One of the myths still held by many laypersons and officials in the criminal justice system is the belief that eyewitness memory, including voice recognition, is merely common knowledge’ and that ‘Most voice identification issues of concern to the court, of course, are for voices of strangers ... identification for unfamiliar voices must by treated with caution.’

Thus research by psychologists (and others) seemed to have established that it would be unwise, in the criminal setting, to rely solely on ear-witness evidence.

In December 1998 the author of this chapter was invited by the British Academy of Forensic Sciences to present a paper on earwitness testimony. In August 1999 the national Court of Appeal (in the case of Roberts) reported in its written judgement that the lawyers for the appellant (i.e. the convicted man who was appealing the conviction) had placed before it that 1998 paper and the court noted that among the points made were the following:

voice identification is more difficult than visual identification;

voice identification of a stranger’s voice is a very difficult task, even where the opportunities to listen to the voice are relatively good;

voice identification is more likely than visual identification to be wrong;

ordinary people seem as willing to rely on identification by earwitnesses as they are on identification by eyewitnesses;

in the light of the above points, the warning given to jurors of the danger of a miscarriage of justice in relation to witnesses who are identifying by voice should be even more stringent than that given to jurors in relation to the evidence of eyewitnesses. It should be brought home to jurors that there is an even greater danger of the earwitnesses believing themselves to be right and yet, in fact, being mistaken;

earwitness identification is so prone to error that it should not be relied upon for a conviction unless some other supporting or confirming evidence is available.

In the light of these points the Court of Appeal decided, in the particular case before it, that ‘We do not think that the identification, which rested almost wholly on the voice of the appellant as he spoke to the police officers, was good enough to enable us to say that this conviction was safe and consequently we quash this conviction.’

In some criminal trials judges do not agree with requests from the defence lawyers that earwitness evidence may be so error- prone that such evidence should not be allowed to form part of the prosecution case. Instead, they sometimes allow an expert witness (such as myself) to testify (e.g. inform the jury) (i) about research findings on the general reliability of earwitnessing (such as that mentioned above) and (ii) on factors directly relevant to the ear- witness evidence being presented in that particular trial. Regarding the latter I have, for example, conducted experiments for and testified in different trials concerning whether people could tell which one (the suspect’s) of several voices in the ‘voice parade’ played by the police to the rape victim was the only one that was an edited voice sample (from a police interview), the others speaking in a monologue; whether people could tell which voice (again of a suspect) was the only one not reading from a script;

the extent to which the suspect’s voice stood out from the other voices as better matching the voice description given by the witness of the perpetrator’s voice (e.g. in terms of having ‘an Irish accent’ or in another case being ‘high pitched’).

Conclusions.

The main impetus for criminal psychologists to address the issue of witness testimony has come from concerns about false convictions. However, it must be noted that the frailties of the human mind also mean that the real perpetrators of crime may not be apprehended unless the police improve their procedures in accord with the findings of relevant psychological research. Thousands of research studies have now been published but in relatively few countries have the police updated their identification procedures and/or governments updated their regulations to take full account of what psychology has discovered to assist in the conviction of the guilty.