

**Techniques and Controversies in the Interrogation of Suspects:  
The Artful Practice versus the Scientific Study**

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Over the past decade, the topics of false confessions and police interrogations have received a great deal of deserved attention, both from the scientific community (for reviews see Gudjonsson, 2003; Kassin, 2005; Kassin & Gudjonsson, 2004) and the popular press (e.g., Grisham, 2006). High profile cases of proven false confession, such as the Michael Crowe and Joshua Treadway case, provide tragic examples of the cracks--or sometimes gaping holes--in the criminal justice system. Michael Crowe was 14 years old when his sister Stephanie was found murdered in their home. After a total of nine hours of intense interrogation, which included several false evidence ploys (e.g., claims that he failed the infallible Computer Voice Stress Analyzer test, and that the victim had Michael's hair in her hand), Michael succumbed to the pressure and falsely confessed. Joshua, Michael's friend and believed co-perpetrator, was interrogated on tape for a total of 22 hours, and eventually falsely confessed as well. Fortunately for Michael and Joshua, their innocence was revealed when Stephanie's blood was discovered on the sweatshirt of a homeless drifter, Richard Tuite, who was subsequently tried and convicted.

Cases such as Crowe's and Treadway's have been instrumental in furthering public awareness regarding the influence of problematic interrogation techniques in leading to false confessions and the inadequacy of current safeguards within the legal system that might otherwise prevent such miscarriages of justice. As a result, psychologists are increasingly asked to provide expert testimony on these topics in the courtroom (see Costanzo & Leo, 2007; Davis & Leo, 2006; Fulero, 2004; Kassin, in press; Quintieri & Weiss, 2005).

In this chapter, we review three defining issues related to the interrogation of suspects by police, addressing the controversies, the techniques employed, and the extant research. We then discuss gaps in our knowledge germane to courtroom testimony and dispel common myths and misconceptions. Throughout this chapter, we attempt to make clear the distinction between the science comprising the expert witness' research/testimony and the artful practice of interrogation. In disputed confession cases, triers of fact must weigh the research that supports the experts' testimony against the legitimacy of the interrogation techniques that led to the alleged confession. It is in this context we frame our discussion.

#### *Police Interrogation: An Overview of the Techniques and Controversies*

Contemporary interrogation techniques must be discussed in regard to false confessions, particularly those that emanate from police pressure. There are several exemplary and comprehensive reviews of police interrogation techniques and related research now available (Davis & O'Donohue, 2003; Gudjonsson, 2003; Kassin, 2005; Lassiter, 2004; Leo, in press). By all accounts, contemporary police interrogators utilize "psychology" in their efforts to obtain confessions (Inbau, Reid, Buckley, & Jayne, 2001; Kassin, 2005; Leo, 1996; 2004). However, it is important not to mistake the process of interrogation as a "science," like psychology. Interrogators are not trained in, nor do they employ, the scientific method, which generally involves the formulation and testing of hypotheses in support of, or in an attempt to falsify, a general theory. We focus on three controversial aspects that highlight the non-scientific nature of interrogation, namely (a) the detection of deception, (b) the presumption of guilt, and (c) the techniques employed in real-world interrogations. As will become clear, these aspects are intertwined. The interrogator's perceived ability to detect when suspects are deceitful is the process that leads to perceptions of guilt, and to the interrogation techniques employed thereafter (Meissner & Kassin, 2004). At the point of interrogation, this process of biased hypothesis testing on the part of the interrogator can lead to the use of these other problematic tactics, such as confronting suspects with guilt and disallowing denials, questioning suspects for long periods, presenting false evidence, and minimizing responsibility. Such techniques were developed absent scientific inquiry or verification that might allow for an assessment of their diagnostic value in extracting true confessions of guilt. Below we introduce these concepts and controversies and then describe the psychological research that has sought to address them.

### *Deception Detection*

An important distinction between *Interviews* and *Interrogations* is often made in manuals of police interrogation (see Inbau et al., 2001; Chapter 1). During the Interview period (such as the “Behavioral Analysis Interview”, or BAI, proposed by Inbau et al., 2001), the investigator is trained to conduct a non-accusatorial interview to determine whether the person of interest is indeed “the suspect” and should therefore be formally interrogated. A major part of this determination of guilt is a reliance on non-verbal behavioral cues and analyses of linguistic styles that are believed to indicate deception. For example, Reid and associates offer training in human lie detection that is purported to increase the accuracy with which investigators can distinguish between truth and deceit to 85% (<http://www.reid.com>). As we discuss below, research has not supported the theory that behaviors or response styles reliably distinguish truth from deception, as opposed to nervousness, stress, or being too hot, for example. Science has also not supported the notion that investigators are adept at detecting deception in interviews, regardless of whether the suspect is guilty or innocent.

### *Presumption of Guilt*

By definition, interrogations are guilt-presumptive processes – they are focused upon extracting a confession by suspects who are believed to be guilty of the crime (Inbau et al., 2001; Meissner & Kassin, 2002; 2004). As a result, some interrogators claim that they do not interrogate innocent people (see Kassin, 2005). For example, Inbau and colleagues (2001) suggest that interrogation procedures should only be applied against those found to be deceptive in a pre-interrogation interview and thereby believed to be guilty of the crime. In presuming guilt, the potential for “confirmation bias” is inherent (see below). Together, the use of questionable deception detection techniques and a strong presumption of guilt on the part of the investigator can be dangerous to innocent suspects, placing them at risk for the pressures of interrogation (Kassin 2005; Meissner & Kassin, 2004).

### *Modern Interrogation Techniques*

Throughout history, investigators have resorted to a wide variety of techniques intended to breakdown a suspect’s resistance and yield a confession. Interrogation techniques have evolved from overtly coercive, “third degree” tactics (e.g., beatings, extreme sleep deprivation; see Leo, 2004) to modern-day practices that involve more subtle, yet effective, psychologically based techniques. One of the most heralded and widely cited procedures in the U.S. is known as the *Reid Technique* of investigative interviewing. Other techniques often cited by law enforcement, including the Kinesic Interview (Walters, 2003) and others (Butterfield, 2002; MacDonald & Michaud, 1992; Schafer & Navarro, 2004) advocate essentially the same types of procedures for extracting a confession (Narchet, Coffman, Russano, & Meissner, 2004). As Kassin and Gudjonsson (2004) summarize, interrogations can be thought of as involving three general phases involving: (a) *custody and isolation*, in which the suspect is detained in a small room and left to experience the anxiety, insecurity, and uncertainty associated with police interrogation; (b) *confrontation*, in which the suspect is presumed guilty and told (sometimes falsely) about the evidence against him/her, is warned of the consequences associated with his/her guilt, and is prevented from denying his/her involvement in the crime; and finally (c) *minimization*, in which a now sympathetic interrogator attempts to gain the suspect’s trust, offers the suspect face-saving excuses or justifications for the crime, and implies more lenient consequences should the suspect provide a confession.

Reid interrogation techniques, among others, can be effective in eliciting true confessions (e.g., see Leo, 1996; Russano et al., 2005) largely as a result of social influence processes that have been shown to produce powerful effects in psychological studies of conformity (Asch, 1956), obedience to authority (Milgram, 1974), and compliance to requests (Cialdini, 2001) – but could such techniques also yield false confessions? Inbau et al. (2001) argue that innocent suspects will not be compelled to confess with these methods, primarily due to the belief that such individuals are

excluded from interrogation based upon a successful pre-interview. However, there is no scientific data supporting the effectiveness of interrogation procedures in eliciting *diagnostic information* from a suspect (i.e., a greater likelihood of true vs. false information). In contrast, numerous researchers have expressed concern that some of the techniques regularly employed by law enforcement may, in fact, place innocent suspects, particularly those with identified risk factors, in jeopardy of making false self-incriminating statements (Gudjonsson, 2003; Hartwig, Granhag, Stromwall, & Vrij, 2005; Kassin, 2005; Kassin & Gudjonsson, 2004; Meissner & Russano, 2003; Redlich, 2004).

#### *Psychological Research Relevant to these Controversies*

To be sure, police interrogation techniques can be successful in eliciting admissions of guilt from true perpetrators, and it is unlikely that the use of such techniques produces more false than true confessions (simply given the likely base rates associated with innocent vs. guilty suspects). However, the overarching controversy associated with interrogation methods is that these techniques can in fact lead to false confessions when employed on innocent suspects. While there has been a notable surge in the frequency of false confessions discussed in the media, the actual rate of false confessions is difficult, if not impossible, to determine (cf. Leo & Ofshe, 1998). Drizin and Leo (2004) documented 125 cases of proven false confession in the U.S. since the 1966 *Miranda v. Arizona* decision, while Davis and Leo (2006) cite more than 300 cases of false confession in the literature. In essence, there are numerous compelling arguments for why the current number of identified false confessions represents just the tip of the iceberg (see Drizin & Leo, 2004; Gross, Jacoby, Matheson, Montgomery, & Patil, 2005). Below we review the psychological research that has assessed the three controversies in police interrogation we outlined above and that are partly responsible for this false confession phenomenon.

#### *Research on Deception Detection Performance*

More than three decades of research on deception detection (for reviews, see Bond & DePaulo, 2006; Vrij, 2000) has produced a clear, consistent, and unequivocal pattern of findings: 1) there is *no one behavioral cue* that is definitely indicative of deception, and 2) people (including law enforcement) generally perform *no better than chance* at detecting deception. In regard to the first, DePaulo, Lindsay, Malone, Muhlenbruck, Charlton, and Cooper (2003) quantitatively examined 1,338 estimates of 158 cues of deception (e.g., pressed lips, facial pleasantness, self-references) across 120 independent studies, and determined that although there are some cues that associate with deceit, these same cues also associate with anxiety and ambivalence, for example. DePaulo et al. concluded that it is not yet possible to distinguish between behavioral cues that are the result of lying, the result of being accused of lying, or simply the result of speaking in public. Further, Vrij, Mann, and Fisher (2006) examined the efficacy of Reid and associates' BAI method (Inbau et al., 2001) specifically in discerning the verbal and non-verbal behaviors of truth tellers from liars. In opposition to what the BAI purports, Vrij et al. found that truth tellers were significantly more likely to provide evasive answers, to cross their legs, and shift posture, and were less likely to name someone who did not commit the crime than were liars. Thus, not only did Vrij et al. (2006) demonstrate that truth tellers and liars shared many of the same behaviors, in some instances, truth tellers exhibited behaviors the BAI attributes to liars!

The second consistent finding is that vast majority of studies have found accuracy rates to approximate chance detection performance (Vrij, 2000), despite interrogation training claims of 85% levels of accuracy when evaluating the deception of suspects. A recent meta-analysis of the literature by Bond and DePaulo (2006) evidenced that, across studies, participants averaged 53% accuracy in deception detection tasks. Even professionals who have to make daily decisions of whether people are lying do not demonstrate high rates of accuracy when detecting deception (Meissner & Kassin, 2002; O'Sullivan & Ekman, 2004). Indeed, training on typical interrogation deception detection techniques has been shown to have a deleterious effect on accuracy (Kassin & Fong, 1999; Meissner & Kassin, 2002; see also, Bond & DePaulo, 2006). That is, studies with college students and police

officers found that trained participants were less accurate than naïve participants, but were nevertheless significantly more confident in their abilities to detect deception.

In sum, most, if not all, of the available evidence suggests that interrogators who place weight on non-verbal and linguistic cues as indicators of deceit are prone to error. There are numerous examples of proven false confessions in which these supposed clues of deception were misread. For example, police viewed Michael Crowe as “inappropriately bereaved” (Hansen, 1999) upon first impression. This determination of deception led investigators into a process of behavioral confirmation in which multiple psychologically coercive interrogation techniques were used to extract a confession from Crowe – a confession that was eventually deemed to be false with the apprehension and conviction of the true perpetrator.

#### *Research on the Presumption of Guilt*

Presumptions during forensic interviews of any kind can lead to obstructions in truth gathering. *Investigator bias* (aka ‘tunnel vision’) is believed to play a significant role in the process leading to the false confession phenomenon (see Meissner & Kassin, 2004) in that it may initiate confirmation bias, the phenomenon in which information that is consistent with one’s hypothesis or expectations is given credence, whereas information that is inconsistent is discounted, ignored, or actively re-interpreted to be consistent with the hypothesis (Darley & Fazio, 1980; Nickerson, 1998).

In a series of studies, Kassin, Meissner, and colleagues (Kassin & Fong, 1999; Kassin, Meissner, & Norwick, 2005; Kassin et al., 2003; Meissner & Kassin, 2002, 2004) have demonstrated how training in deception detection can lead police officers and others to produce a bias in their perception of *deception* or *guilt* on the part of suspects, and in turn how this bias can trigger a guilt presumptive interrogation process. First, Meissner and Kassin (2002) demonstrated that, in comparison to untrained college students, both students trained in the use of verbal and nonverbal deception cues and police investigators with significant experience in interviewing suspects were more likely to demonstrate a bias towards perceiving *deception* on the part of suspects, regardless of the veracity of their claims. Second, Kassin et al. (2005) found that police investigators were also more likely to demonstrate a bias towards perceiving *guilt* in true and false confession statements of actual inmates when compared with student participants. Thus, it appears that 1) police investigators are biased towards viewing suspects as deceptive, and 2) that this bias towards deception is uni-directional in that suspects perceived as lying are also perceived to be guilty rather than innocent (see also Meissner & Kassin, 2004). In the end then, the pivotal decision of whether or not to interrogate a suspect is based upon prejudgments of guilt that are confidently made but biased toward guilt and frequently in error.

What impact does an investigative bias have on the process of interrogation? Kassin et al. (2003) sought to examine this question by manipulating participant-interrogators’ expectations of guilt prior to a forensic interview. Those with expectations of “guilt” conducted longer interrogations, used more interrogation techniques, and were more likely to ask guilt-presumptive questions and to perceive suspects as guilty (even though half of the suspects were innocent). In turn, suspects that were paired with interrogators in the guilt-expectation-condition appeared more defensive to neutral observers, leading these observers to view suspects as significantly more guilty than suspects paired with interrogators in the innocent-expectation-condition. This pattern was found regardless of the suspects’ actual guilt or innocence. Similar patterns of confirmation bias to the exclusion of contradictory evidence are apparent in many false confession cases, such as Peter Reilly and Billy Wayne Cope.

In summary, the extant research on deception detection and presumptions of guilt in interrogation settings suggests that use of this two-pronged approach can lead innocent individuals to be perceived as “guilty” and thereby subjected to the pressures of a guilt-presumptive interrogation. Once inside the interrogation room, individuals are faced with psychologically based interrogation techniques that are believed to be reliably effective in yielding “true” confession evidence. If

innocent, such a process of investigative bias can place individuals at risk for providing false confessions (see Kassin, 2005).

#### *Research on Police Interrogation Techniques and False Confessions*

The range of interrogation techniques and approaches advocated within the criminal justice community (e.g., Inbau et al., 2001; Walters, 2003) are frequently based upon the authors' many years of experience as police investigators and the conduct of hundreds (if not thousands) of interrogations. It is important to note, however, that these techniques have never been subject to any scientific evaluation by the authors/users. Nevertheless, the increase in identified false confessions within our criminal justice system has spawned a great deal of scientific research evaluating the role of modern day interrogation practices in this phenomenon.

Two broad methods have been employed to study the impact of interrogation techniques, namely field/archival research and laboratory research. First, field/archival research has included individual case studies (e.g., Gudjonsson & MacKeith, 1990), archival analyses of actual case documents (e.g., Leo & Ofshe, 1998; Drizin & Leo, 2004), observations of live or taped interrogations (e.g., Moston, Stephenson, & Williamson, 1992; Ofshe & Leo, 1997), and surveys of police investigators (e.g., Kassin et al., in press). One notable example involves a study by Leo (1996) in which he observed over 300 live and videotaped interrogations documenting the techniques employed by investigators. Leo found that interrogators tended to employ the psychologically oriented techniques found in traditional training manuals, but seldom resorted to tactics courts have deemed coercive, including explicit threats and physical intimidation.

The second research methodology utilized is experimental laboratory research methods. In an effort to extend both internal and external validity, Russano, Meissner, Narchet, and Kassin (2005) developed a novel laboratory paradigm to assess the effects of interrogation techniques on the likelihood of both true and false confessions. In this paradigm, participants in the "guilty" condition are enticed by a confederate to share information on a problem they are both solving – an act that violates the experimental rule against sharing information and that is later characterized as "cheating" by the experimenter. Participants in the "innocent" condition perform the same problems with a confederate, but these participants are never enticed to share information. Later, all participants are accused of cheating (with the academic implications thereof), are interrogated by an experimenter who remains blind to the participants' actual guilt-innocence, and are asked to sign a confession statement. Russano and colleagues varied the interrogation techniques used by their experimenters to include the presentation of an explicit offer of leniency (a "deal") and exposure to minimization tactics (i.e., the interrogator expressed sympathy, provided face-saving excuses, and emphasized the importance of cooperation). Results indicated that guilty participants (72%) were significantly more likely to confess than innocent participants (20%); however the use of interrogation techniques generally increased both true and false confession rates. For example, an explicit offer of leniency increased true confessions by a factor of 1.57 and increased false confessions by a factor of 2.33 when compared with the no-tactic control condition. Similarly, the use of minimization techniques increased true confessions by a factor of 1.76, while also increasing false confessions by a factor of 3.00. When these tactics were combined, true and false confessions increased by factors of 1.89 and 7.17, respectively.

Taken together, it appears that the interrogation techniques advocated by professionals within the field (e.g., Inbau et al., 2001; Walters, 2003) often produce true confessions by guilty suspects, but simultaneously increase the risk of false confessions by innocent individuals who are subjected to these same procedures. Is it true that the use of "pre-interrogation interviews" established by the advocates of these procedures will safeguard the likelihood that innocent individuals will be subject to a guilt-presumptive interrogation? Actually, the contrary may be more likely – namely, that innocent individuals will find themselves assessed as deceptive, and thereby guilty, during the course of a pre-interrogation interview, and that this investigative bias will lead investigators to conduct

long, aggressive, and guilt-presumptive interrogations in search of the “truth.” Furthermore, the available psychological research suggests that the techniques advocated by Inbau et al. (2001), among others, are not diagnostic in their extraction of information. Rather, scientific research has demonstrated these techniques increase the likelihood of *both* true and false confessions.

In addition to the body of scientific research investigating the techniques that generate confessions (either true or false), there is a growing body of research on factors specific to suspects that can lead to statements against oneself. Results from field and laboratory research converge on the identification of several risk factors, most notably young age and mental impairment (Gudjonsson, 2003; Owen-Kostelnik, Reppucci, & Meyer, 2006; Redlich, in press). Juveniles are overrepresented in proven false confession cases (Drizin & Leo, 2004) and in one laboratory study were found to be significantly more likely than adults to sign false confession statements (Redlich & Goodman, 2003). Mental impairment--both intellectual/developmental deficits (Perske, 1991) and mental illness (Redlich, 2004)--is present in a significant minority of false confession cases, and is positively associated with suggestibility and negatively associated with understanding and appreciation of the *Miranda* warning and requirements pertaining to adjudicative competence (Everington & Fulero, 1995; Hoge, Poythress, Bonnie, Monahan, Eisenberg, & Feucht-Haviar, 1997; Viljoen, Roesch, & Zapf, 2002).

In response to this overrepresentation of juveniles and persons with mental impairment in false confessions, John E. Reid and Associates personnel recently recommended that “every interrogator must exercise extreme caution and care when interviewing or interrogating a juvenile or person who is mentally impaired” ([www.reid.com](http://www.reid.com)). Whether this recommendation is known in the interrogator community or if known, is heeded, has not been examined. However, it is important to note that there is a strong and consistent research base indicating that the majority (e.g., 65% or more) of justice-involved juveniles have mental health problems, most of whom have co-occurring substance use issues (see Redlich, in press; Redlich & Drizin, 2007). Thus, many of the juveniles who encounter police officers are likely to have the two primary risk factors for false confession; whether the combination of these two factors cumulatively or exponentially increases the risk is worthy of future research.

#### *Gaps in Scientific Knowledge*

Current scientific knowledge regarding police interrogations and false confessions has greatly increased over the past decade. Innovative laboratory and field studies have highlighted the potential dangers of using certain interrogation techniques (e.g., Drizin & Leo, 2004; Gudjonsson, 2003; Kassin, 2005; Russano et al., 2005), and using them with certain vulnerable populations (e.g., Owen-Kostelnik et al., 2006; Redlich, in press). Despite this boon of research, there remain gaps. Below we discuss issues that researchers studying interrogations and confessions may find beneficial to direct future efforts.

#### *Future Research on Deception Detection*

As described above, there is ample research indicating that individuals, even experienced investigators, perform at chance levels when making determinations of truthfulness. However, what is less clear is *how often* interrogators rely solely on their perceptions of the suspect based upon a pre-interrogation interview when determining guilt, as opposed to incorporating corroborative evidence of guilt in such assessments. Although these “clues to deception” (MacDonald & Michaud, 1992) are included in interrogation training manuals, the frequency with which behavioral analyses are relied upon is unknown. Research examining the “value-added” nature of relying upon available evidence for determining veracity in the context of an investigative interview would appear worthwhile, though one must be certain to distinguish between evidence that is highly diagnostic (e.g., a DNA match) and that which is largely circumstantial in nature (e.g., an apparent motive).

A second area of deception detection that would appear worthy of further research regards the development of evidenced-based techniques that could *improve* the ability of investigators to

distinguish truth from deception. Current research in the deception literature suggests that verbal cues to deception may prove more diagnostic than that of non-verbal behavior (DePaulo et al., 2003). Techniques such as Statement Validity Analysis (SVA; see Kohnken, 2004; Vrij, 2005) and reality monitoring (see Sporer, 2004) show promise in this regard for evaluating the structural and cognitive components of an individual's verbal statement. In brief, SVA is an analysis utilizing a set of criteria purported to distinguish between credible and non-credible reports. A number of important issues, however, prevent the immediate application of these techniques for use by law enforcement, including the reliability of coding statements, the training of coders, and the establishment of cut-off standards for determining the likely veracity of a given statement.

#### *Future Research on the Presumption of Guilt*

Consistent with research directions in the detection of deception, it will be important to gain a better understanding of factors that lead investigators to demonstrate a bias towards perceiving deception or guilt on the part of suspects. Although studies have now suggested that both investigators' experience in law enforcement and their training in methods of deception detection are associated with the observed investigative biases (cf. Kassin et al., 2005; Meissner & Kassin, 2002), and with the use of certain interrogation tactics (Kassin et al., in press), these associations fail to capture the precise psychological mechanisms leading to such biases in the perception of suspects. For example, it is possible that investigators' "base rates" of interviewing *deceptive* individuals are different than that of the average population, thereby distinguishing the deception biases in investigators from that of truth biases shown in normal populations (Vrij, 2000). Furthermore, it would seem important to understand the manner in which investigators might designate an individual to be a "suspect" aside from a finding of deception in a pre-interrogation interview. What types of evidence might justify such a designation and lead an investigator to pursue an individual as a suspect, and how might such evidence influence the process of interrogation?

#### *Future Research on Police Interrogation Techniques and False Confessions*

Much of the research to date on interrogation tactics has focused on factors that might be associated with a risk of false confessions. The paradigm introduced by Russano and colleagues (2005), however, provides researchers with an opportunity to address a critical issue in the study of interrogations and confessions. Namely, the paradigm permits researchers to estimate the *diagnostic value* of confession evidence that is produced by a given interrogation technique (or set of techniques) by estimating the influence on both true and false confessions. To this end, researchers can pursue the development techniques that might *improve* the diagnostic value of an interrogation, thereby producing evidenced-based techniques that can be advocated to law enforcement. We believe such a direction in research is vitally important if we are to shape the art of interrogation into the science of investigative interviewing.

In a similar vein, much of what has been gleaned from the study of false confessions has concerned police-coerced confessions. The overwhelming majority of false confessions in the Drizin and Leo (2004) sample were of this form, in that the police induced the confessions via coercion and inappropriate interrogation techniques (e.g., overly long interrogations, presentation of false evidence). Whether what has been learned is applicable to voluntary false confessions – a form which is likely to be more prevalent than coerced (see Gudjonsson, Sigurdsson & Einarsson, 2004) – has yet to be investigated. Additionally, most (92% in Drizin & Leo, 2004) proven false confessions have involved murder and rape – two very serious crimes with low base rates of occurrence. False confessions for property, drug, and minor crimes are less likely to be detected (particularly via DNA exoneration), but may be more prevalent (e.g., Sigurdsson & Gudjonsson, 1996). Thus, knowledge is lacking regarding both voluntary false confessions and those offered for low severity crimes.

Finally, knowledge concerning the dispositional vulnerability factors associated with false confessions is incomplete. Although scientists have clearly identified risk factors including young age, mental illness, and low intellect, there are several open questions. For example, mental illness is

a catch-all term representing a variety of disorders with distinct symptoms and trajectories. Whether persons with schizophrenia are more or less likely to falsely confess in comparison to persons with major depression, for example, is not yet known. Further, an increased understanding of the effects of multiple risk factors, both situational and dispositional, is needed. Certain combinations of risk factors may be more predictive of false admissions than others.

#### *Myths and Misconceptions*

There are numerous erroneously held beliefs about police interrogation practices and false confessions, as well as about the study of these topics. Below, we discuss five misconceptions that commonly arise in the context of expert courtroom testimony.

##### *Myth/Misconception 1: False confessions do not exist or are exceedingly rare.*

As discussed previously, numerous cases of false confession have been identified with a recent report by Davis and Leo (2006) citing more than 300 documented instances. Furthermore, police investigators have themselves reported that false confessions from the innocent occur an estimated 5% of the time (Kassin et al., in press). It is therefore clearly a myth that false confessions do not exist. In contrast, believing them to be exceedingly rare is more of a misconception. Although scientists are unable to estimate the precise frequency with which true versus false confessions occur in the real world, most experts agree that the number documented to date represents the tip of a much larger iceberg (Drizin & Leo, 2004). As described above, voluntary false confessions and those offered for lower-severity crimes (than murder and rape) have not been well researched or documented, and it may well be the case that false confessions under such situations are even more likely than those for more severe crimes. Moreover, whereas DNA evidence has played a significant role in the exonerations of innocent individuals who were *convicted* (another limiting factor), DNA evidence is not available in a much larger pool of cases.

##### *Myth/Misconception 2: Only “vulnerable” individuals falsely confess.*

There are many proven false confession cases in which the false confessor had no readily observable dispositional risk factor, such as low intellect or young age (see Drizin & Leo, 2004; Gross et al., 2005). Of course, while it is certainly possible that these proven false confessors had more subtle dispositional risk factors that were not identified, often times, it is the situational factors present, such as investigator tunnel vision, lengthy interrogations, prolonged isolation, and lack of sleep, that make a seemingly “normal” person vulnerable to false confession. Many proven false confessions are the result of the innocent suspect being wrongly targeted and then subjected to coercive interrogation techniques. Christopher Ochoa is one such example. Ochoa, now an attorney, spent more than 12 years in prison for a rape and murder he did commit. After going to the Pizza Hut where the crime had occurred some weeks before, the police became focused on Ochoa (and his friend who was also wrongly convicted) and subjected him to two 12-hour interrogations telling him he would face the death penalty if he did not admit to the crime. Ochoa falsely confessed, signing a statement written by the interrogators. Although we are not aware of a psychological evaluation performed on Ochoa, the abusive circumstances of his interrogation clearly contributed to his false confession, and subsequent false conviction. The literature has many examples like Ochoa’s.

It should also be made clear to judges and juries that an overrepresentation of juveniles, for example, in false confession cases is relative to the number of juveniles in the criminal justice system, not to the number in proven cases. That is, 32% of proven false confessors in the Drizin and Leo (2004) study were younger than 18 years, meaning that the majority (68%) were adults. The over-representation of 32% should be compared to the base rates of 8% of juvenile arrests for murder and 16% for rape (Snyder, in press).

##### *Myth/Misconception 3: The study of police interrogation and false confessions is in its infancy.*

Decades of research have been dedicated to understanding the psychological factors leading to true vs. false confessions. Gisli Gudjonsson published his first review of the field in 1992, while his most recent update in *Handbook* form was published in 2003. Other reviews of the field and its

research efforts have abounded (Kassin & Gudjonsson, 2004), including books by DeClue (2005), Lassiter (2004), Leo (in press), Milne and Bull (1999), White (2003), and Williamson (2005).

Furthermore, the scope of interrogation and confession research is not limited to studies that have directly addressed the topic. As discussed by Kassin (in press), experts have a large body of scientific knowledge to draw from, representing a three-tiered pyramid. At the base of the pyramid are core principles of psychology, such as how people respond to influence tactics (e.g., Cialdini, 2001), how people make decisions under stress, in isolation, or when sleep deprived, the fallibility of human memory and proneness to suggestibility, developmental trajectories, psychiatric symptoms, cognitive functioning, etc. In the middle of the pyramid are research studies specific to police interrogation, deception detection, and false confessions (e.g., Russano et al., 2005). At the vertex of the pyramid are single and aggregated case studies of proven and probably false confessions (Drizin & Leo, 2004; Leo & Ofshe, 1998) that demonstrate common patterns. In sum, in disputed confession cases, there is more than 100 years of psychological science to draw on, including literature from developmental, cognitive, social, personality, forensic, and abnormal psychology.

*Myth/Misconception 4: Jurors do not 'need' expert testimony.*

When judges determine the admissibility of expert testimony, they often consider whether the expert's information is necessary for the jury to render a fair and impartial decision. In other words, does the jury "already know" the information that the expert has to offer? Is it a matter of common sense? Can jurors on their own recognize coerced and/or false confessions? There is a wealth of research to indicate that juries heavily value confession evidence--even when inappropriate to do so--and are subject to biases of human nature, such as Belief in a Just World (Lerner, 1980) and the Fundamental Attribution Error (Gilbert & Malone, 1995). There is converging empirical evidence that jurors find it difficult to ignore confessions in decisions of guilt (Kassin & Neumann, 1997; Kassin & Sukel, 1997; Kassin & Wrightsman, 1980). Similar patterns of results have also emerged in studies examining confession evidence from juvenile suspects (Redlich, Ghetti, & Quas, in press; Redlich, Quas, & Ghetti, in press).

Further, as discussed above, individuals are poor at distinguishing between true and false confessions (Kassin et al., 2005). Indeed, among proven false confessors who chose to go before a jury (Drizin & Leo, 2004), 81% were convicted (an additional 11% of false confessors pled guilty prior to trial despite their actual innocence). Because it would appear that neither police investigators nor potential jurors are likely to serve as safeguards in recognizing coerced or false confessions (Kassin et al., 2005), the testimony of scientific experts becomes that more essential.

*Myth/Misconception 5: Police Interrogation is a Science*

A point we have tried to make explicit throughout the present chapter is that interrogation is more akin to an art than a science (see also Leo, 2004). We believe this is important to understand from two perspectives. First, modern day interrogation techniques were not developed through a process of scientific inquiry – rather, they are the product of interrogative “experience” and the observations of their proponents. As a result, the body of science that has now evaluated these methods has indicated their failures in leading to diagnostic confession evidence, and most importantly their contributions to cases of wrongful conviction. Second, the process of interrogation, as conducted by investigators, lacks that of a scientific process seeking to test hypotheses and assessing the validity of theories regarding human behavior. Rather, the interrogative process as conducted by investigators is often fraught with biases and a search for confirmation that often excludes, ignores, or reinterprets disconfirming evidence. This is important because 1) the authority of the expert and his/her information is often informally compared to the authority and experience of the interrogator, and 2) judgments, such as the suppression of a confession statement by a judge or a finding of guilt vs. innocence by a jury, derive from this comparison. We provide two examples to illustrate the point that if interrogations were more akin to a scientific endeavor, false confessions could potentially be reduced.

The first example relates to falsification. An underlying aim of science is to form theories and then attempt to *disprove* them (Popper, 1972). In contrast, arguably the aim of law enforcement is to form theories (about who, how, and why crimes were committed) and then attempt to *prove* them. The potential for confirmation bias, for example, might be reduced if interrogators worked from a model in which they identified suspects but then had to gather evidence that refuted their suspicions. The process of gathering evidence would remain the same but the mindset of the investigator would be different in that the goal would now be to disprove suspicions. Furthermore, because other evidentiary collectors and examiners (e.g., fingerprint, hair, and DNA testers; see Saks, Risinger, Rosenthal, & Thompson, 2003) are also prone to confirmatory biases or “context effects,” reducing the bias among police interrogators may serve to prevent a chain of further errors in judgment.

The second example relates to the peer-review process. The purpose of peer review is to provide an independent, objective assessment of the methods and results on which conclusions are based, thereby helping to ensure the scientific literature is comprised of reliable research. Peer review also serves as an objective measure of the expert’s qualifications (if an expert had no peer-reviewed publications on the topic at hand, s/he would likely not qualify). Of importance, peer-review is conducted prior to publication. Imagine if the standard was that scientists could publish articles without prior review, and review came only after the article was in circulation for months or years *and* only then was called into question. The fact that the article had been in circulation (and likely cited by others) would alone negate the credibility of its problematic nature. This is what occurs with alleged false confessions: The confession is accepted as an indication of guilt by police and others (e.g., victims and their families, attorneys, trial judge) sometimes for years, and when questioned at a later date, the fact that the confession was accepted as such is used to bolster its credibility.

If interrogations and statements of admission from proven false confession cases had undergone a process similar to peer-review soon after they were conducted and obtained, these miscarriages of justice may have been identified earlier. Post-confession analyses by independent assessors could (a) determine if objective corroboration existed for the statements, (b) independently verify the source of the guilty knowledge (e.g., did it come directly from the suspect, or was it provided by police during the interrogation, or from media reports read by the suspect prior to interrogation), and (c) examine the level of consistency between crime scene evidence and statements provided by the suspect (see Davis & Leo, 2006). Peer review is an objective standard for expert testimony to be considered admissible; a similar set of standards could be instituted when evaluating the admissibility of confession statements to be used against defendants in our courts.

#### *Conclusions: Communicating Consensus and Controversies*

We believe that much is known regarding factors that can lead to false confessions, and that current police interrogation methods and practice represent little more than an art, much less a science. In regard to legal admissibility standards and contemporary interrogation techniques, we posit the following:

- Scientifically supported techniques: In our opinion, there is no one interrogation technique that is diagnostic of guilt, or one that we feel confident defining as ‘scientifically supported.’ The interrogation techniques advocated by the variety of training manuals available to law enforcement have generally been experientially developed by their proponents, but are absent any scientific basis upon which they might be seen as reliable and diagnostic in approach. Instead, the available scientific research suggests that these methods are just as likely to produce true and false confessions from suspects, particularly those suspects with vulnerabilities. Although well-grounded theories, such as obedience to authority, social validation, and compliance-gaining, provide some scientific support that the psychologically oriented police interrogation techniques used today ‘work’ (i.e., they

produce true confessions) when employed on *guilty suspects*, these same techniques also ‘work’ (i.e., they produce false confessions) when employed on innocent suspects.

- Scientifically unsupported techniques: The ability to detect when suspects are lying versus telling the truth (or guilty versus innocent) is unreliable. Just as evidence collected via lie detectors (polygraph machines) is now inadmissible in court, we believe it is time for the courts to consider the validity and reliability of evidence collected by human lie detectors. Confessions from suspects who were subjected to interrogation on the basis of non-verbal/behavioral deception detection techniques should be examined comprehensively before being presented to jurors, who as noted, are generally unable to distinguish between true and false confessions.
- Scientifically controversial and/or largely untested techniques: While the current research literature has done well to evaluate the perils associated with current interrogative procedures, we believe it could benefit from a shift in direction – focusing rather on the development of evidence-based techniques that could lead to the conduct of more diagnostic interrogations and the extraction of guilty knowledge. There are numerous specific interrogation techniques that are amenable to scientific study in the laboratory and the field that have yet to be examined. For example, and as discussed below, alternatives to adversarial interrogation, such as models that emphasize open-ended questions and “fact-finding” (as opposed to confession-seeking) have shown preliminary effectiveness overseas.

In Great Britain, high profile wrongful conviction cases and subsequent research have led to the development of new interrogation standards, which prohibit the use of psychologically manipulative techniques, mandate the recording of custodial interrogations and the uniform training of interviewers, and institute special precautions for vulnerable suspects. Of utmost importance, investigators are also prohibited from deceiving suspects (Milne & Bull, 1999; Mortimer & Shepherd, 1999). Evaluation research conducted by Clarke and Milne (2001) suggests that these methods have been effective in changing the culture of police interviewing without significantly reducing the likelihood of obtaining confessions in practice, and that these methods appear to reduce the number of unwarranted claims of false confession. Such inquisitorial approaches are deserving of further research and evaluation both in the laboratory and in the field.

To address these bulleted admissibility standards, the electronic preservation of interviews and interrogations from start to finish is essential. This is a reform that is relatively simple to implement and can serve to protect both law enforcement and suspects, eliminating the contradictory he-said-she-said accounts. Electronic accounts of interrogations do not eliminate the need for experts, however. It is important that experts who conduct research on interrogations and confessions be permitted to inform the court regarding the 100-plus years of psychological science informing the process and mechanisms of interrogation and confessions, as well as to dispel commonly held myths. As echoed in other chapters in this volume, experts who consult and/or testify in court have an obligation to present information fairly, accurately, and in its entirety. Because interrogation is best viewed as an art and because the validity of the techniques currently employed is partly dependent upon whom they are employed (guilty vs. innocent), experts in disputed confession cases must be sure to present the science objectively. Among scientists who serve in this capacity as expert witnesses there is much consensus on the techniques that are likely to produce false confessions when the situational and dispositional circumstances are taken into account. Of course, there are those who are in disagreement who fail to appreciate the contributions of the research. In written communications and in the courtroom, it is important that experts communicate this consensus, attend to any perceived controversies, and address the unknowns. In this manner, the totality of knowledge can be imparted allowing judges and jurors to make informed decisions.

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