


2016

False Confessions from the Viewpoint of Federal Polygraph Examiners

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Walden University

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Bradford Beyer

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2016

Abstract

False Confessions from the Viewpoint of Federal Polygraph Examiners

by

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MA, Argosy University, 2009

MS, Virginia Commonwealth University, 2003

BA, Temple University, 1996

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Forensic Psychology

Walden University

January 2017

Abstract

While confessions are a powerful form of evidence, innocent people sometimes confess to crimes they did not commit. Many researchers have studied false confessions through laboratory experiments with university students or by focusing on proven cases of false confession. These approaches have led many researchers to form a conceptual framework that law enforcement interrogative methods are a key cause of false confessions. A gap exists in the literature as few researchers have queried law enforcement about false confessions or consulted with officers who specialize in interrogation. For this study, a qualitative case study approach was used to explore the experiences of 13 federal law enforcement polygraph examiners who specialize in interrogation. Telephone interviews were conducted regarding their approach to criminal interrogation, their experiences with false confessions, and the circumstances when false confessions were elicited. NVivo software was used to organize the data. Common themes in interview responses were identified and reduced to a simplified format that could be understood in the context of the research questions. The themes identified that participants conduct themselves professionally, they treat criminal subjects respectfully, they avoid unethical interrogative practices, and false confessions result from individual subject characteristics and police misconduct. No participants reported eliciting a false confession. These findings suggest that false confession researchers may have a biased view of how law enforcement officers interrogate due to their overreliance on laboratory experimentation and their focus on false confession cases. This study promotes positive social change by increasing truthful confessions, decreasing false confessions, and providing a more accurate view of what occurs during real world criminal interrogations.

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Dedication

I would like to dedicate this dissertation to the men and women of the United States who have so selflessly chosen to serve the people of their communities, the residents of their states, and the citizens of this great country as law enforcement officers. While it may be difficult for some to understand the sacrifice you make each day as you take your place in that thin blue line, there are innumerable others who live safely because you do. While there are many who are afforded the luxury of not being exposed to the evil that human beings can bring upon one another, there are countless others who realize that this is a luxury that your dedication pays for. While there are some during these trying times who seek to cast aspersions on your profession, there are incalculable others who know the critically important role that you play in our society. I would also like to dedicate this dissertation to the law enforcement polygraph examiner. Your ability to answer the unanswered questions; your capacity to connect with those in crisis; and your relentless pursuit of the truth provides an invaluable service to your colleagues, the citizens of this nation, and the ideals of criminal justice.

Acknowledgements

I would like to acknowledge the many people who made this incredible journey possible. Above all, I would like to express my sincerest thanks to my beautiful and brilliant wife who has so readily and selflessly given her support throughout this arduous process; who listened to every idea; who offered invaluable recommendations; and who innately knew when to pump me up and when to calm me down. Without you, this dissertation would be incomplete. Without you, my life would be incomplete. Thank you.

I would also like to thank my two beautiful sons. Although I made every effort to coach, to be at your school, to play in the yard, and to take you to bed, there were clearly times that this journey has taken me away from you. You guys always understood and you never complained. You will never know how much your impromptu hugs meant as I sat in front of the computer hour after hour. I hope in some way this process has shown you the importance of hard work and the value of education. You guys are my best friends. Thank you.

I would also like to thank my parents who, throughout my life, have demonstrated what it means to work hard. Mom, you have always showed me that there is no substitute for simply rolling up your sleeves and getting to work, and there is no better feeling than getting the job done. Pop, you have always showed me the importance of dedicating yourself to the task at hand and maintaining a good attitude. Your many years of night school have clearly rubbed off. I thank you both for your unyielding example of what it means to be a good person.

I would like to thank my in-laws who always asked about my progress; my sister Robin who always expressed her pride and encouragement; and my seemingly millions of nieces and nephews who are truly the sprinkles (or jimmies) on my ice cream cone of life.

I would also like to thank my Chair, Dr. James Herndon, for his support and insight throughout this process. It has been a comfort knowing that as I rowed the boat, I had an experienced coxswain keeping me in the middle of the channel. Similarly, I would like to thank my Committee Member, Dr. Robert Meyer. Your help is greatly appreciated and our discussions about polygraph were an enjoyable and welcome relief to the demands of the dissertation process. I thank you both for your efforts in making this happen.

Lastly, I would be remiss without offering my profound thanks to the management within my organization (you know who you are) who saw the value in this project and supported my efforts. Without you, this would not have been possible. Thank you.

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Chapter 1: Introduction to the Study

Introduction

As of August 2016, the Innocence Project claimed that through their efforts, 343 individuals have been exonerated by DNA testing since the organization's inception in 1992 (Innocence Project, 2016). According to its analysis of the first 325 of these cases, the Innocence Project (2016) determined that 27% of the individuals were wrongfully convicted due, at least in part, to their false confessions. Claims like these have led to a considerable amount of academic research regarding the phenomenon of false confessions. A considerable portion of false confession research has involved laboratory experiments with university students (Forrest et al., 2012; Gyuill et al., 2013; Hasel & Kassin, 2009; Kassin & Fong, 1999; Kassin & Kiechel, 1996; Kassin & McNall, 1991; Kassin et al., 2005; Kassin & Norwick, 2004; Kebbell et al., 2006; Klaver et al., 2008; Levine et al., 2010; Mastroberardino & Marucci, 2013; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010; Villar et al., 2013; Woody & Forrest, 2009). Some researchers have suggested that the results produced during laboratory experimentation may be difficult to extrapolate to the real world of law enforcement due to the artificiality of the laboratory setting, the ethical limitations that preclude a direct replication of the stressors associated with actual criminal interrogation within a laboratory setting, and the inherent differences between the university student and criminal offender populations (Kassin et al., 2010a, Narchet et al., 2011). In Chapter 2, I more thoroughly outline the nature and scope of the existing false confession research.

Despite the fact that criminal interrogations in the real world are conducted by law enforcement officers, very few studies have sought input from them about their approaches to interrogation, their interrogative methods, and their experiences with false confessions (Frantzen & Can, 2012; Kassin et al., 2007). Even fewer studies have chosen to direct their inquiries at law enforcement officers who specialize in the interrogation of criminal subjects. Lastly, little to no research has elected to gather information from law enforcement officers through in-depth qualitative interviews. The purpose of this study was to more fully describe and analyze the interrogation processes and related methodologies that are associated with true and false confessions as reported by experienced law enforcement interrogators who specialize in conducting real-world interrogations. I accomplished this using a case study research methodology involving qualitative interviews with federal law enforcement polygraph examiners. Chapter 3 includes a more thorough explanation of the research methodology for this study.

Background

Upon conducting a case study of two recent examples of wrongful convictions caused by false confessions, Johnson and Drucker (2009) recommended that future research be directed toward potential contributors to false confessions such as interrogation techniques, the use of deception by interrogators, prolonged interrogation periods, and the false belief by interrogators that they are skilled in accurately detecting deception among criminal subjects. In light of confirmed cases of false confessions and subsequent wrongful convictions, a great deal of research has been directed at the phenomenon of false confessions. Some of those researching the false confession phenomenon have sought to gather perceptions and opinions of the phenomenon from the

general public. For example, upon surveying citizens in multiple states, Henkel, Coffman, and Dailey (2008) found that the majority of respondents believed that interrogations routinely involve coercive interrogation techniques that contribute to false confessions, and include lying to subjects about physical evidence, threatening harsher punishment for noncooperation, and suggesting more lenient treatment in response to a confession. Other researchers have chosen to study what mock interrogation subjects think about the interrogation process. For example, after conducting an experiment with university students, Gyuill et al. (2013) suggested that innocent subjects tend to underestimate the threat posed by interrogations and may therefore be at an increased risk for false confessions. They then suggested that future research should address the pressure associated with real-world criminal interrogations in which the stress is much more significant than that associated with laboratory experimentation (Gyuill et al., 2013).

A considerable number of researchers have addressed the interrogation techniques used by law enforcement interrogators that are believed to cause innocent subjects to falsely confess to crimes they did not commit. For example, Perillo and Kassin (2011) addressed the use of the bluff technique in which interrogators falsely claimed to have evidence that will soon be tested in a laboratory, thereby leading the suspect to believe that the results of the examination will prove their guilt. After conducting three experiments with university students, Perillo and Kassin (2011) concluded that the bluff technique increases the likelihood of a false confession. Swanner and Beike (2010) considered a second type of interrogative technique, identified as “incentives”, in which law enforcement interrogators offer subjects such inducements as decreased punishment in exchange for secondary confessions against their criminal coconspirators. After

conducting experiments with university students, Swanner and Beike (2010) concluded that incentives increased both true and false secondary confessions of wrongdoing by a suspected coconspirator. Through their own experimentation with university students, Nash and Wade (2009) examined the impact of doctored video evidence on the rendering of true and false confessions, and concluded that individuals who were shown doctored video evidence of their guilt were more likely to confess to, and internalize, the crimes for which they were being accused. Narchet, Meissner, and Russano (2011) similarly conducted experiments with university students in exploring the interaction between investigator bias, the selection of interrogative techniques, and the rendering of false confessions by innocent subjects. Narchet et al. concluded that when interrogators entered an interrogation with a bias that the subject of the interrogation was guilty, they were more likely to employ minimization interrogation techniques that increased the likelihood of false confessions. Narchet et al. suggested that future research be conducted to assess interrogation techniques that lead to an increase in true confessions without increasing the likelihood of false confessions.

Newring and O'Donohue (2008) evaluated the effect of the interrogation techniques of direct positive confrontation and the minimization of possible consequences on false confessions and false witness statements by conducting laboratory experiments with college students. Newring and O'Donohue concluded that the use of minimization techniques during an interrogation increased the likelihood that a subject would confess to, and implicate their co-conspirators in, committing a criminal act. They recommended that future research be directed toward establishing a link between the application and intensity of interview techniques on false confessions. After conducting

laboratory experiments with university students, Klaver, Lee, and Rose (2008) concluded that increased interrogative suggestibility among interrogation subjects, the use of minimization techniques by the interrogators, and the increased plausibility in the experimental transgression design led to an increase in false confessions. Klaver et al. then recommended that future research address individual and situational factors, as well as interrogation techniques and their impact on false confessions, particularly among children and older adults.

As indicated in the research I have outlined thus far, false confession research appears to rely heavily on laboratory experimentation with university students to draw conclusions about what occurs in the real world of police work and criminal interrogation. Very few studies have attempted to obtain the perceptions of law enforcement officers regarding interrogation and false confessions (Frantzen & Can, 2012; Kassin et al., 2007). The few studies that have consulted with law enforcement have primarily focused on local law enforcement officers, many of whom have had very little training in, or experience with, criminal interrogation (Kassin et al., 2007). To address this important gap in the literature, I focused on federal law enforcement polygraph examiners who have received in-depth standardized training in, and routinely conduct, criminal interrogations. In this study, I explored the experiences of federal law enforcement polygraph examiners regarding true and false confessions and their overall approach to interrogation. By focusing on this population, I offer critical real-world law enforcement context to the phenomenon of false confessions instead of relying on unrealistic experimentation with university students. Such an approach to the

phenomenon of false confessions allowed me to collect more valid and reliable information regarding what actually takes place in the interrogation room.

Problem Statement

While confessions are an extremely strong form of evidence within the criminal justice system, innocent people sometimes falsely confess to crimes they did not commit (Perillo & Kassin, 2011). As I have noted, the Innocence Project (2016) reported that approximately 27% of the first 325 cases of documented wrongful convictions it analyzed were caused, at least in part, by false confessions from innocent persons. The realization that innocent people sometimes falsely confess to crimes they did not commit has led social scientists to study what factors may be contributing to this phenomenon (Narchet, Meissner, & Russano, 2011). Many false confession researchers have focused on the investigative actions and interrogation methods employed by law enforcement officers as potential causes of false confessions (Frantzen & Can, 2012; Hasel & Kassin, 2009; Kassin, 2012; Kassin, Meissner, & Norwick, 2005; Levine, Kim, & Blair, 2010; Meissner & Kassin, 2002; Nash & Wade, 2009; Perillo & Kassin, 2011). These types of studies have often concluded that it is the actions of law enforcement officers and the methods they use to interrogate criminal subjects that are the primary causes of false confessions (Bradford & Goodman-Delahunty, 2008; Drizin & Colgan, 2004; Kassin et al., 2010; Levine, Kim, & Blair, 2010; Ofshe & Leo, 1997; Perillo & Kassin, 2011).

Much of the false confession research has relied heavily upon laboratory experimentation with university students (Forrest et al., 2012; Gyll et al., 2013; Hasel & Kassin, 2009; Kassin & Fong, 1999; Kassin & Kiechel, 1996; Kassin & McNall, 1991; Kassin et al., 2005; Kassin & Norwick, 2004; Kebbell et al., 2006; Klaver et al., 2008;

Levine et al., 2010; Mastroberardino & Marucci, 2013; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010; Villar et al., 2013; Woody & Forrest, 2009). Due to the artificiality of these experimental designs, conclusions cannot necessarily be applied to real-world police work and interrogation (Kassin et al., 2010a, Narchet et al., 2011). Very few researchers have consulted with law enforcement officers regarding their experiences with interrogation and false confessions (Frantzen & Can, 2012; Kassin et al., 2007). The few researchers who have consulted with law enforcement have primarily focused on local law enforcement officers, many of whom have had very little training in, or experience with, criminal interrogation (Kassin et al., 2007). This is an important gap in the literature. In this study, I focused on federal law enforcement polygraph examiners who had received in-depth standardized training in, and routinely conduct, criminal interrogations. The purpose of this study was to explore the experiences of federal law enforcement polygraph examiners regarding their general approaches to criminal interrogation, their experiences with true and false confessions, and the circumstances at the time that they may have experienced a false confession. By focusing on this population, I offer critical real-world law enforcement context to the phenomenon of false confessions as opposed to relying on unrealistic experimentation with university students. This allowed for the collection of more valid and reliable information as to what actually takes place in the interrogation room.

Purpose of the Study

The purpose of this qualitative case study was to explore the experiences of federal law enforcement polygraph examiners who specialize in criminal interrogation

regarding the manner in which they approach the interrogation of criminal subjects and the interrogative methods that they believe are the most and least effective in obtaining a truthful confession. I also sought to explore the extent to which federal law enforcement polygraph examiners have experienced false confessions, and the circumstances at the time that such confessions were obtained.

Research Questions

1. How do federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession?
2. To what extent have federal law enforcement polygraph examiners experienced false confessions?
3. What were the circumstances in which federal law enforcement polygraph examiners experienced false confessions?

Conceptual Framework

The phenomenon of false confessions relates to the tendency of innocent persons to provide detailed admissions to criminal acts that they did not commit (Kassin & Gudjonsson, 2004). Following are several conceptual frameworks that researchers have used to explain the phenomenon of false confessions.

False Confessions as a Breakdown in Legal Decision-Making

Kassin (2005) proposed a conceptual framework in which he suggested that false confessions occur as a result of a series of decision-making errors at various points during the criminal justice process, including law enforcement's inability to accurately identify deception, the tendency of innocent people to waive their rights, the tendency of innocent

persons to appear guilty, law enforcement's use of coercive interrogative techniques, and the inability of those in the legal process to identify a false confession.

Phenomenology of Innocence

Kassin (2005) put forth a conceptual framework he identified as the "phenomenology of innocence" in which he suggested that innocent people believe that their innocence will protect them from negative outcomes which can cause them to incriminate themselves during an unwarranted interrogation.

Investigator Bias

Meissner and Kassin (2002) developed a conceptual framework they identified as "investigator bias" in which they suggested that due to their training and experiences, law enforcement officers maintain a perceptual bias that the subjects with whom they come into contact are being deceitful. This bias may cause officers to perceive interview subjects as deceptive, which may lead to the use of more powerful interrogative methods.

Cognitive Behavioral Model

Gudjonsson (1989) attempted to explain the factors that influence a person's decision to confess during interrogation through his cognitive-behavioral model. This model proposes that when attempting to assess why people confess, the following five factors should be considered: (a) social factors relating to the subject's feelings of isolation, need for approval, and need for affiliation; (b) emotional factors relating to the subject's feelings of distress and anxiety; (c) cognitive factors relating to the subject's thoughts and interpretations of the interrogation situation, to include such considerations as the strength of the evidence against him; (d) situational factors relating to pre-existing circumstances associated with the subject, such as his previous exposure to the legal

system; and (e) physiological factors relating to the subject's physiological arousal including heart rate, blood pressure, and perspiration.

Law Enforcement Actions as a Cause

In my review of much of the false confession research, I found that various researchers maintain a conceptual framework that the actions of law enforcement interrogators, as well as the interrogative tactics they employ, are largely responsible for false confessions (Frantzen & Can, 2012; Hasel & Kassin, 2009; Henkel, Coffman, and Dailey, 2008; Johnson and Drucker, 2009; Kassin, 2012; Kassin, Meissner, & Norwick, 2005; Levine, Kim, & Blair, 2010; Meissner & Kassin, 2002; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Swanner & Beike, 2010).

I more thoroughly discuss these conceptual frameworks in Chapter 2. While researchers have used these frameworks in attempts to explain why and how false confessions occur, I sought more realistic insight from law enforcement officers who actually interrogate real-world criminal subjects. Focusing on the experiences of criminal interrogators allowed me to collect more valid and reliable information while simultaneously presenting a more realistic picture of law enforcement interrogations and real-world false confessions.

Nature of the Study

I used a qualitative case study approach because it allowed for a rich and detailed understanding of the research questions. Given that very few false confession researchers have consulted with the law enforcement population, and even fewer have done so in a qualitative manner, this type of research approach was needed to provide an in-depth

understanding of what actually occurs during the interrogation process. For the purposes of this study, the concept of “interrogation” related to the point in the interview process when questioning becomes accusatory. “Approaches” to interrogation involved the polygraph examiner’s overall philosophy and interrogative techniques that he or she believed were most likely to result in a truthful admission of guilt. A “false confession,” or an admission of guilt from an innocent subject, was identified by either the interrogators or the investigators requesting the polygraph examination through case facts that were inconsistent with the confession. This identification occurred either at the time of the interrogation or during subsequent investigation after the confession was made. The extent to which the polygraph examiner had experienced a false confession was recorded as the number of times that he or she had actually received a false confession. Circumstances surrounding the false confession involved the interrogative techniques used by the polygraph examiner and/or factors like those put forth in Gudjonsson’s cognitive-behavioral model that may have been present at the time of the interrogation.

Definitions

The following list of terms provides relevant definitions related to this study. While other definitions to these terms may exist, they may not represent my intended use for the present study.

Approach: Polygraph examiners’ overall philosophy and interrogative techniques that they believe are most likely to result in a truthful admission of guilt.

Bluff technique: A less deceptive version of the false evidence ploy (FEP) in which interrogators pretend to have evidence without specifically stating that this evidence necessarily incriminates the subject. Unlike an FEP in which false evidence is

presented that conclusively links the subject to the crime, the bluff technique merely gives the subject the impression that future discovery of their true guilt is imminent (Perillo and Kassin, 2011).

Confession: “A detailed written or oral statement in which a person admits to having committed some transgression, often acknowledging guilt for a crime” (Kassin & Gudjonsson; 2004, p. 35).

Denial: An activity that occurs when a criminal subject maintains his innocence and refuses to accept responsibility for the criminal act under investigation.

Documenting a confession: The manner in which the polygraph examiner/interrogator memorializes the subject’s admission of guilt. It may involve such techniques as having the subject write a statement; writing the statement on behalf of the subject and having them sign it; audio or video-recording the statement; having the subject reiterate his confession to another law enforcement officer who was not present during the interrogation; etcetera.

False confession: An inaccurate admission of guilt rendered by an individual who is not responsible for, or involved in, the criminal transgression for which they are being interrogated.

False evidence ploy (FEP): An interrogative technique in which law enforcement interrogators attempt to strengthen their accusations of guilt by presenting the subject with purportedly overwhelming evidence of their guilt when such evidence does not actually exist. This tactic may involve the interrogator falsely informing the subject that their fingerprint, blood, or hair was found at the scene of the crime; an eyewitness has

positively identified the subject as the perpetrator; or the subject has failed a polygraph examination relating to their involvement in the criminal act (Perillo & Kassin, 2011).

Federal law enforcement polygraph examiner: A current employee of a federal law enforcement agency who has received training in the psychophysiological detection of deception (PDD) from the United States Department of Defense polygraph school in Ft. Jackson, South Carolina, and who currently conducts polygraph testing and related interrogation.

Federal system: The jurisdiction within the United States criminal justice system in which violations of federal law are investigated by federal law enforcement officers and prosecuted by Assistant United States Attorneys.

Interrogation: A formalized and accusatory manner of questioning in which the investigator attempts to elicit truthful information relating to the criminal matter being investigated once the subject has been identified as deceptive (Kassin et al., 2007). It involves an investigator's attempts to persuade the subject to provide accurate and truthful information relating to their involvement in the criminal matter at hand (John Reid & Associates, 2016).

Interrogative technique: Any method of questioning designed to increase the likelihood that the subject will confess to a specified transgression.

Interview: A relatively informal question and answer session with a victim, witness, or subject related to a criminal matter. The questioning is non-accusatory and designed to gather information from the individual relating to their version of events while simultaneously assessing the interview subject's level of credibility (Kassin, 2008; Moston & Stephenson, 1992; Newring & O'Donohue, 2008; Reid & Associates, 2016).

Maximization: A category of interrogation techniques in which interrogative methods are designed to scare and intimidate subjects by directly confronting them with accusations of guilt, exaggerating the seriousness of their purported criminal actions, and refusing to accept their denials (Russano et al., 2005).

Minimization: A category of interrogation techniques in which interrogative methods are designed to offer subjects sympathy, gain their trust, present them with face-saving explanations for their behavior, and minimize anticipated legal consequences (Russano et al., 2005).

Miranda rights: The constitutional rights that must be read to a criminal subject prior to the onset of an interrogation. Though the exact wording of these rights may vary across law enforcement jurisdictions, they generally include: (a) you have the right to remain silent; (b) anything you say can be used against you in court; (c) you have the right to an attorney; and (d) if you cannot afford an attorney, one will be appointed for you if you wish (*Miranda v. Arizona*, 1966).

Offering the subject a deal: An interrogation technique in which an interrogator outright promises the subject something in return in exchange for their confession such as a lesser sentence, a promise that the subject will not be prosecuted, etcetera.

Post-test: The portion of a polygraph examination in which the polygraph examiner has determined whether the examinee has passed or failed the examination and then advises the examinee of the results. For the purposes of this study, the post-test is synonymous with an interrogation given that it involves the subject being directly accused of the crime under investigation and then questioned in order to obtain a confession.

Sleep deprivation: An interrogative technique designed to increase the likelihood that a subject will confess to a specified transgression by increasing their fatigue through prolonged periods of questioning and interrogation.

True confession: A truthful and accurate admission of guilt rendered by an individual who actually committed the criminal transgression for which they are being interrogated.

“Wear down” technique: An interrogative technique used by law enforcement officers in which they deliberately detain subjects for lengthy periods of time until they confess to a specified transgression (Conti, 1999).

Assumptions

The first assumption I made in formulating this study was that false confessions are an important concern within the U.S. criminal justice system. I assumed, based on the literature relating to wrongful convictions, false confessions, and law enforcement interrogative methodologies, that false confessions occur with enough frequency that they not only destroy the lives of those criminal subjects who choose to confess falsely, but the entire legal system that seeks to punish the guilty and protect the rights of the innocent. I anticipated that this study would provide insight regarding the extent to which false confessions occur within the federal criminal justice system and the manner in which federal law enforcement polygraph examiners interrogate criminal subjects. Another primary assumption was that the results of this research will contribute to the existing body of knowledge relating to the false confession phenomenon and the interrogative practices of law enforcement officers.

In conducting this qualitative research study, I also agreed to four underlying philosophical assumptions outlined by Creswell (2013). There exists an ontological assumption which relates to the nature of reality and the fact that multiple socially-constructed realities exist (Creswell, 2013). Regarding experiences with false confessions and interrogative methodologies, there appears to exist a difference in realities between what academic researchers have concluded based on their laboratory experimentation with university students, and what law enforcement practitioners report about their actual experiences. From an ontological standpoint, I assumed that multiple realities exist regarding the phenomenon of false confessions and the interrogative experiences of law enforcement officers. Based on this assumption, I chose to employ a case study approach using qualitative interviews to collect in-depth information which may further elucidate the difference between these realities. Moreover, I anticipated that by interviewing multiple participants, richer and more detailed information would be collected about the realities put forth by federal law enforcement polygraph examiners.

Creswell (2013) also identified epistemological assumptions in which a researcher makes assumptions about how knowledge can be obtained and whether it is possible to distinguish between what is true and what is false. In this study, I assumed that it was possible, via in-depth interviews, to understand the meanings federal law enforcement polygraph examiners give to the experience of interrogating criminal subjects and eliciting true and false confessions. More specifically, I assumed that in conducting 12-15 qualitative interviews with members of this population, I would obtain meaningful information regarding interrogative methodologies used by actual law enforcement officers and their experiences with false confessions. In addition, I assumed that when

being questioned about these issues, the interview participants would be honest in their responses. This assumption was based on my belief that by explaining to the participants that their identities would remain confidential and they were free to withdraw from the study at any point without ramifications, I would be more likely to obtain honest responses.

Another philosophical assumption made in qualitative research is the axiological assumption that the values, perspectives, and biases of the researcher can influence the manner in which a study is conducted and how the data is interpreted (Creswell, 2013). For this study, I assumed that I would be able to create interview questions and analyze the subsequent data in a manner that was free of subjectivity and bias. To support this assumption, I have clearly and openly outlined my background, potential biases, and worldview in Chapter 3 in an attempt to mitigate the effect that these factors may have had on the research. Based on this axiological assumption, I anticipated that the interview participant would also bring to the study their own values, experiences, and worldviews that could interact with mine. For this reason, I selected qualitative interviews as a data collection technique with the anticipation that rich and detailed information would help to mitigate the effects of my unique biases and those of the participants'.

A final philosophical assumption that I applied to this study relates to methodology. According to Creswell (2013), methodological assumptions relate to the selection of a suitable research strategy. In this study, I assumed that false confessions are a ubiquitous experience of which law enforcement officers who specialize in the interrogation of criminal subjects would be familiar. Moreover, I assumed that in-depth,

face-to-face interviews were a suitable means of capturing federal law enforcement polygraph examiners' experiences with both false confessions and interrogative methodologies. As outlined in Chapter 2, many false confession researchers have focused on laboratory experiments with university students, and to a far lesser extent, survey research with law enforcement officers who do not necessarily specialize in the interrogation of criminal subjects. I based this study on the methodological assumption that by asking open-ended questions to federal law enforcement polygraph examiners who specialize in criminal interrogation, I could collect rich and detailed information that provides greater insight and context to the phenomenon of false confession than what has otherwise been collected through laboratory experimentation and survey research.

Scope and Delimitations

I designed this study to gain insight into the phenomenon of false confessions and the interrogative practices of actual law enforcement officers. My concern with the existing research into these areas stemmed from researchers' overreliance on laboratory experimentation with university students in arriving at conclusions they believe to represent what occurs in the real world of law enforcement interrogation. I believed that my decision to focus on the insights and experiences of federal law enforcement polygraph examiners regarding their interrogative practices and their experiences with false confessions would help to fill a gap in the current research. As outlined in Chapter 2, much of the false confession research is based on laboratory experiments with college students, and is thus significantly constrained by ethical mandates. The paucity of research that has included insight from law enforcement officers regarding these issues has generally been focused on the collection of information through impersonal surveys

with predominantly local law enforcement officers who do not necessarily specialize in the interrogation of criminal subjects. In this study, I therefore sought rich and detailed information using qualitative interviews with a highly specialized, yet inherently overlooked, population.

Various delimitations existed within this study. One such delimitation related to the geographic constraints of the interviews. It was necessary, due to the decentralized nature of the unspecified law enforcement agency from which I recruited research participants, to conduct the interviews by telephone. It is important to note however, that while regional differences may serve to skew findings when a study addresses only one geographical law enforcement agency, federal law enforcement agencies are often comprised of personnel hired from across the United States that are then transferred to any number of offices across the country. This proved to be the case for the federal law enforcement agency from which I drew participants. For example, while a federal law enforcement polygraph examiner in San Francisco may have been interviewed for this study, the fact that he or she may be working in California does not reflect the fact that he or she was raised in a rural Midwestern state. In addition, because each of the polygraph examiners I selected for this study were trained, certified, and assigned duties in a standardized manner through their agency, I expected that their insights and experiences would have more to do with their organizational similarities than their geographical differences. Therefore, the homogeneity of the population from which I drew the sample was based on their profession and specialization, rather than their representativeness of the greater society.

As outlined above, the population I studied was the first delimiting factor I addressed based on the fact that this highly-specialized population of interrogators had not yet been studied. Another delimiting consideration was the particular aspect of the false confession phenomenon that I explored through this research. As highlighted in Chapter 2, there are numerous aspects to this phenomenon that have been addressed in the existing false confession research. I focused primarily on the viewpoints and experiences of federal law enforcement polygraph examiners—a unique group of law enforcement interrogators who have undergone significant training in interviewing and interrogation, and who routinely conduct interrogations of criminal subjects. By focusing on such a specific subgroup of law enforcement officers, transferability of the findings to the greater law enforcement community may be problematic. However, it is important to note that I designed this study to more thoroughly understand the phenomenon of false confessions and the interrogative practices employed by federal law enforcement polygraph examiners. For this reason, I concluded that the benefits of gaining insight from a relatively small and unique group of interrogative specialists outweighed any potential concerns with transferability.

Limitations

Certain limitations existed within this study. One such limitation involved my relationship to the research participants. More specifically, given that I am a member of the same group from which I obtained research participants, I knew many of the polygraph examiners selected for participation. However, I consider my membership in the group as a strength of the research design because such membership allowed for an existing knowledge base that permitted an inherent understanding of experiences,

organizational factors, and shared vernacular that allowed me to obtain much more in-depth information than researchers who are not members of the group. Because I did know some of the participants, there is a possibility that the research participants may have engaged in some form of impression management in which they may have felt hesitant to fully disclose their questionable interrogative techniques that may have contributed to true and false confessions.

Another potential limitation to this research was related to my potential biases. Given that I am employed as a federal law enforcement officer who routinely conducts interrogations (the very group which many of the false confession researchers hold responsible for the elicitation of false confessions), I naturally approached the research with a potential bias in favor of law enforcement officers. I thus had concerns as to whether this potential bias may have led to possible distortions in interview data collection.

To address these and other potential limitations, I used a variety of methods to ensure validity and trustworthiness in the study. For example, I considered my use of a suitably sized sample to reach data and thematic saturation to be a form of triangulation in that the information provided by multiple participants served to validate the information provided by other participants. In addition, Lather (as cited by Creswell, 2013), noted that it is possible to ensure validity in qualitative research by employing triangulation in which multiple data sources are consulted. Within this study, these multiple data sources were the 13 participants selected for interview.

Validity and trustworthiness was similarly ensured through the process of member checking. As noted by Lincoln and Guba (as cited by Creswell, 2013), member checking

is a critical aspect of qualitative research, and involves the researcher soliciting participants' input on the validity of the information collected. For the purpose of this study, I sought to ensure validity and trustworthiness by providing the research participants with a preliminary draft of their respective reports of interview to verify the validity and accuracy of the information I collected during the course of the interviews. I also ensured validity and truthfulness in the study by using an audit trail. As noted by Patton (2002), an external audit of the research process, data collection, and subsequent analysis, as conducted by a disinterested expert, can provide researchers a certain degree of confidence in the validity of their findings. For this reason, I sought an audit trail conducted by an expert not associated with the study. Given these methods, I hold that the study yielded valid and trustworthy results.

Based on the fact that I am a sworn law enforcement officer, a polygraph examiner, and specialize in the interrogation of criminal subjects, I maintain a worldview that may be inherently different from academic false confession researchers who are not employed in the field of law enforcement, who consult with advocacy groups like the Innocence Project, and/or who testify on behalf of the defense. While some may consider this difference in worldview as a source of potential bias, I consider it as a balance to the existing research which has largely ignored the insights of law enforcement officers in the study of false confessions. Despite being professionally trained to avoid biased behavior, I am not immune to the potentiality of biased thoughts. However, I made every effort to ensure that my own thoughts neither influenced the interviewing of research participants, nor affected the collection and analysis of data. To assist in the monitoring of any potentially biased thoughts, I provided interview questions to a trained colleague

for review to ensure that no bias appeared in the wording of the questions. Having been trained as a polygraph examiner and interrogator in the identification of nonverbal cues, I remained vigilant about the existence of such cues in the interviewing of the research participants. Based on Creswell's (2013) recommendation that qualitative researchers utilize the process of reflexivity to continuously examine their own biases, I maintained reflective notes regarding my personal thoughts, feelings, problems, and prejudices as a means of monitoring potential biases that may have negatively impacted this research.

Glesne and Peshkin (as cited by Creswell, 2013), referenced the use of "backyard" research in which studies are conducted in the researcher's own organization or work setting. While this type of research offers a more convenient means of collecting data, it also opens the researcher to potential problems associated with the biased reporting of data. This study can be considered backyard research as it involved the interviewing of fellow polygraph examiners employed within my own law enforcement agency. In gaining access to this population, I not only discussed this study with the head of the polygraph unit within my agency, but also furnished him a copy of my prospectus. The supervisor reviewed the prospectus and sanctioned the anticipated qualitative interviews with the polygraph examiners employed within the agency. The purpose and intentions of this study were further disclosed to, and approved by, multiple layers of management within the organization.

The potential problems associated with this backyard study were minimized by the fact that I have no supervisory, instructor, or administrative power over the members of this population. In addition, I employed multiple reliability procedures to mitigate qualitative validity concerns associated with this backyard research. More specifically, I

(a) checked generated reports to ensure that no obvious mistakes were made during the documentation process, (b) routinely compared the collected data with the specified codes as a means of preventing a shift in the meaning of the codes during the coding process, and (c) enlisted the assistance of a colleague to cross-check codes to verify that agreement existed in the use of similar codes for the same passages of text.

While some may argue that the negatives of a backyard research design outweigh the benefits, it is important to note that an overwhelming benefit of such a design in this study is the fact that I was granted access to an otherwise reluctant and suspicious population. As noted by Ainsworth (2002), law enforcement officers tend to be a closed culture that does not often welcome interruptions from outside entities. For this reason, research involving law enforcement is often limited to organizations that are willing to invite researchers into their agencies (Kassin et al., 2002). In light of this problem of access, Bull and Soukara (2009) identified that a sufficiently good relationship, which may take many years to establish, must be formed between law enforcement agencies and psychological researchers before they are willing to allow for the comprehensive scrutiny of their interviewing processes. Some may argue that in the case of federal law enforcement agencies, such access may be even more difficult for a researcher to obtain. However, given that I am a sworn law enforcement officer and polygraph examiner employed by the agency from which research participants were recruited, the concerns associated with backyard research were outweighed by the unique and unbridled access to an otherwise inaccessible population.

In addition to the clarification of the potential biases I brought to this study, I also employed other validity strategies to ensure accuracy in the findings. For example, I

utilized member checking to verify the accuracy of the reported information by providing the participants with a draft of their respective reports of interview and asking them to verify that the findings accurately reflect the information they provided during the course of the interview process. I also ensured that rich and detailed descriptions of themes developed through the collected data were used to increase the validity of the findings. As various perspectives were collected during this research, I documented negative or discrepant data as a means of enhancing the overall credibility of the information. As recommended by Creswell (2013), I also used a peer debriefer who reviewed the study and made inquiries, thereby ensuring validity through consistency in interpretation.

In an attempt to ensure the ethical protection of interview participants, I obtained approval from the Walden University Institutional Review Board (IRB) prior to the initiation of the study. Prior to scheduling the interviews, I furnished all of the research participants an informed consent agreement which clearly explained that their participation in the study was voluntary, they were permitted to withdraw from the study at any time without adverse consequences, and I was not in a position to influence their careers either positively or negatively. After the participants were afforded an opportunity to read the form and I answered any potential questions, I asked the participants to sign the consent form, thereby indicating their willingness to participate in the study. The signed consent forms were returned to me prior to the initiation of the interview process. No material rewards or incentives were offered to the interview subjects to obtain their consent to participation in the study. A copy of the consent form is included as Appendix B.

To ensure the anonymity of the participants, I used a computerized random code generator to create a code that was unique to each participant to replace their names on study materials. In addition, the information provided by the participants was aggregated to further de-identify the participants. To gain access to the participants, I obtained a letter of cooperation from their organizational management. A copy of the letter is included as Appendix A. As previously disclosed, this study was backyard research in that I conducted it within the my own organization. Potential ethical concerns inherent in this type of research were mitigated by the fact that I hold no supervisory, instructor, or administrative authority over the potential participants. Therefore, I considered participation in the study truly voluntary. In the event that a potential interview subject elected not to participate in the study, they were simply removed from consideration without adverse consequences and a new interview subject was identified.

In keeping with ethical procedures, I further advised the participants of the treatment of the data. I explained to the participants that while their participation in the study and the information they provide would remain anonymous, a final amalgamated report of participants' experiences and insights, as put forth in this dissertation, would be provided to both the head of the polygraph unit and the agency's pre-publication unit. The release of this information was requested by the polygraph unit as a means of more thoroughly understanding the manner in which the organization's polygraph examiners approach interrogation and their experiences with false confessions. The release of information to the polygraph unit would also provide data that may assist in the creation of a best practices approach to criminal interrogation and the development of more effective training protocols for the organization. Similarly, I would provide a copy of the

dissertation to the organization's pre-publication unit for review to ensure that no sensitive law enforcement information is released to the general public. Despite these necessary review processes, I will keep the collected data in my possession in a locked file cabinet for a period of five years after the completion of the study. At that time, the collected data will be destroyed. I stored the electronic data collected during the course of this study on a back-up hard drive accessed through my password-protected personal computer. This electronic data will similarly be destroyed after five years.

Significance

This study is unique in that I sought realistic insight from law enforcement officers who actually interrogate real-world criminal subjects, as opposed to relying on unrealistic experimental studies with university students. Focusing on the insights of criminal interrogators allowed for more valid and reliable results and recommendations. I anticipate that the results of this study will have multiple practical implications within the criminal justice system. For example, the results may lead to the development of interview and interrogation training for all law enforcement officers that may increase the likelihood of truthful confessions while minimizing the likelihood of false confessions. The results may also demonstrate to law enforcement officers the investigative and interrogative utility of the polygraph technique as both an investigative tool and as a conduit to more in-depth questioning of criminal subjects by interrogative specialists. By encouraging law enforcement officers to more frequently request the assistance of polygraph examiners who specialize in interrogation, it is possible that a maximization of truthful confessions and a minimization of false confessions may occur. My study may also encourage judges and juries to evaluate the entire interrogation process instead of the

wholesale suppression of a confession based on the conclusions of unrealistic laboratory experiments. Lastly, this study will contribute to the existing body of false confession research by providing a perspective that has been long overlooked by researchers in this area. I contend that this study will lead to positive social change by increasing the likelihood of successful prosecutions of the truly guilty offenders while simultaneously protecting the truly innocent from wrongful conviction.

Summary

Since 1992, the Innocence Project has identified 88 cases of wrongful conviction caused, at least in part, by individuals who falsely claimed to be responsible for a criminal act (Innocence Project, 2016). Findings like these have spurred a great deal of academic research regarding the phenomenon of false confessions. While much of the research has involved laboratory experiments with university students (Forrest et al., 2012; Gyuill et al., 2013; Hasel & Kassin, 2009; Kassin & Fong, 1999; Kassin & Kiechel, 1996; Kassin & McNall, 1991; Kassin et al., 2005; Kassin & Norwick, 2004; Kebbell et al., 2006; Klaver et al., 2008; Levine et al., 2010; Mastroberardino & Marucci, 2013; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010; Villar et al., 2013; Woody & Forrest, 2009), far fewer researchers have sought to seek input from the law enforcement community about their approaches to interrogation, their interrogative methods, and their experiences with false confessions (Frantzen & Can, 2012; Kassin et al., 2007). To date, no research has elected to conduct in-depth qualitative interviews of law enforcement officers who specialize in criminal interrogation to explore their interrogative methodologies and their experiences with false

confessions. In this study, I more fully describe and analyze the interrogation processes and related methodologies that are associated with true and false confessions, as reported by federal law enforcement polygraph examiners who specialize in conducting real-world interrogations.

In this chapter, I have explained the importance of my research, the specific problem studied, and the research questions that I addressed. I also provided the definitions of key terms, and outlined the philosophical assumptions underlying the study, and the scope and delimitations of the study. Because I sought to significantly contribute to the existing body of knowledge surrounding the phenomenon of false confessions and the interrogative methodologies employed by law enforcement officers, it was first necessary to more fully understand the research that has previously been conducted. In Chapter 2, I discuss the relevant literature surrounding the phenomenon of false confessions and the interrogative methodologies employed by law enforcement officers.

Chapter 2: Literature Review

Introduction

While confessions are an extremely strong form of evidence within the criminal justice system, innocent people sometimes falsely confess to crimes they did not commit (Perillo & Kassin, 2011). False confessions made by individuals who are actually innocent of the crimes for which they are being investigated continue to be a growing source of research within the forensic psychology, sociology, and criminal justice fields. The impetus behind this research stems from the findings of the Innocence Project which identifies itself as a national litigation and public policy organization committed to the use of DNA testing to exonerate individuals who were wrongfully convicted of a crime (Innocence Project, 2016). Researchers involved in the study of false confessions routinely cite the Innocence Project's claims that 15% to 25% of individuals exonerated by the Innocence Project were wrongfully convicted as a result of a false confession (Kassin, 2012; Redlich, Kulish, & Steadman, 2011; Leo & Davis, 2010; Drizin & Colgan, 2004). The Innocence Project (2016) has identified that since the organization's founding in 1992, more than 343 wrongfully convicted individuals have been exonerated as a result of subsequent DNA testing. It is likely that this number represents the tip of the iceberg (Bradford & Goodman-Delahunty, 2008).

The reality that innocent people sometimes falsely confess to crimes they did not commit has led social scientists to study what factors may contribute to this phenomenon (Narchet, Meissner, & Russano, 2011). Research has been conducted in an attempt to identify why innocent people confess to crimes for which they were not involved. Researchers have suggested that some innocent people falsely confess to a crime to

obtain notoriety (Gudjonsson, 2003). Others have suggested that intoxication caused by alcohol or drugs increases the likelihood of a false confession (Evans, Schreber, Compo, & Russano, 2009). Still others have suggested that adolescence (Owen-Kostelnik, Reppucci, & Meyer, 2006) and mental illness or mental retardation (Redlich et al., 2011) are profound risk factors for false confessions. In addition to the individual motivations and personal characteristics of the interrogation subject, a considerable amount of research has been directed at the investigative actions and interrogative methods employed by law enforcement officers (Frantzen & Can, 2012; Hasel & Kassin, 2009; Kassin, 2012; Kassin, Meissner, & Norwick, 2005; Levine, Kim, & Blair, 2010; Meissner & Kassin, 2002; Nash & Wade, 2009; Perillo & Kassin, 2011). False confession researchers have often concluded that the actions of law enforcement officers and the methods they use to interrogate criminal subjects are the primary causes of false confessions (Bradford & Goodman-Delahunty, 2008; Drizin & Colgan, 2004; Kassin et al., 2010a; Levine, Kim, & Blair, 2010; Ofshe & Leo, 1997; Perillo & Kassin, 2011). Such actions and methods include increasing the amount of pressure employed by interrogators (Ofshe & Leo, 1997), presenting false evidence (Forrest, Woody, Brady, Batterman, Stastny, & Bruns, 2012), suggesting that the subject can go home after confessing their crime (Drizin & Colgan, 2004), bluffing subjects about the existence of potentially damaging evidence (Perillo & Kassin, 2011), and subjecting subjects to lengthy periods of interrogation (Kassin et al., 2010a).

Much of the false confession research has relied upon laboratory experiments with university students (Guyll et al., 2013; Klaver, Lee, & Rose, 2008; Mastroberardino & Marucci, 2012; Narchet et al., 2011; Nash & Wade, 2009; Perillo & Kassin, 2011;

Swanner & Beike, 2010). Due to the artificiality of these experimental designs, conclusions cannot necessarily be directly applied to real-world police work and interrogation. Very few researchers have attempted to obtain the perceptions of law enforcement officers regarding interrogation and false confessions (Frantzen & Can, 2012; Kassin et al., 2007). The few that have consulted with law enforcement have primarily focused on local law enforcement officers, many of whom have had very little training in, or experience with, criminal interrogation (Kassin et al., 2007). To address this important gap in the literature, I focused on federal law enforcement polygraph examiners who have received in-depth standardized training in, and routinely conduct, criminal interrogations. In this study, I explored the experiences of federal law enforcement polygraph examiners regarding true and false confessions and their overall approach to interrogation. By focusing on this population, this study offers critical real-world law enforcement context to the phenomenon of false confessions instead of relying on unrealistic experimentation with university students. I hold that such an approach to the phenomenon of false confessions has allowed for the collection of more valid and reliable information as to what actually takes place in the interrogation room.

The following literature review will begin with examples, presented within the literature, of wrongful convictions that involved the elicitation of a false confession. I also discuss possible factors, other than false confessions, that can contribute to a wrongful conviction. Next, I define the concept of criminal confession while discussing the importance of confession evidence within the criminal justice system, and then discuss the legal cases that have served to guide triers of fact in the admission of criminal confessions into evidence. I then address the difference between interviews and

interrogations, as well as the key components of an interrogation and the problems that may contribute to a false confession at each stage of the interrogation process. An exploration of the various personal and situational risk factors follows, and I discuss the techniques associated with modern police interrogation that may influence a criminal subject's decision to truly or falsely confess to a criminal act. I also address how the interrogation process serves to socially influence those who are subjected to this process. Theoretical perspectives, including psychoanalytic, decision-making, cognitive-behavioral, and social-psychological perspectives, that attempt to offer an explanation as to why people choose to accept responsibility for a crime will then be presented. Finally, I discuss the findings of various observational, self-report, and laboratory studies that have sought to explain why people confess within a criminal investigative context.

Literature Search Strategy

This literature review started with an exhaustive search of library databases available to students within the Walden University Library. Given that the phenomenon of false confessions is one that exists at the nexus of the legal system and the field of psychology, I directed my searches toward the psychology and criminal justice databases. I initiated computerized data searches to identify and locate articles pertaining to various aspects that comprise the phenomenon of false confessions. In addition to searching for the term *false confession*, I searched for other concepts including *wrongful conviction*, *confession*, *interrogation*, *Miranda*, *interview strategies*, *interrogation strategies*, *Reid technique*, *deception detection*, *risk factors*, and any articles that related to the nexus between forensic psychology and confession. I initially set searches for a publication period of 2008 to 2016 in order to identify and locate recent relevant studies. Eventually,

I widened the searches to encompass the publication period of 1980 to 2016 to allow for a more comprehensive review of the literature, and to identify and locate seminal works in the field.

I gathered materials from additional libraries associated with electronic EBSCO databases, primarily by using psychological databases such as psycINFO, psycARTICLES, ProQuest Central, SocINDEX, LexisNexis Academic, SAGE Premier, and Google Scholar. The criminal justice databases that I used include ProQuest Criminal Justice, Oxford Criminology Bibliographies, SAGE Premier, LegalTrac, LexisNexis Academic, and Google Scholar. Using the search term *false confession* in PsycINFO yielded 144 results. The virtual Boolean search parameters that I used involved various combinations of keywords such as *false confession*, *confession*, *interrogation*, *interview*, *risk factors*, *tactics*, *deception detection*, *expert witness*, and related variations of the keywords.

While the search term *false confession* returned 144 results, after I separated the terms as Boolean parameters, 150 results were returned, of which 18 were books, 11 were electronic collections, and 122 were peer-reviewed journal articles. Using the Boolean phrase *interrogation AND confession* returned 170 results relating primarily to interrogation strategies, false confessions, expert witness testimony, videotaping interrogations, experiments relating to interrogations and false confessions, and juror perceptions of false confessions.

I used various combinations of search terms when searching other databases. In the ProQuest Criminal Justice database, the phrase *false AND confession* returned 83 results, with many corresponding to articles I had previously obtained through the search

of PsycINFO. A search of *interrogation* AND *confession* yielded 39 results that identified either previously located articles or articles unrelated to the specific topic of false confession. A search of *deception* AND *detection* AND *false confession* yielded 58 results. Among these results were various articles relating to the means of identifying deception among interview subjects. A search of *Miranda* AND *false confession* produced nine results involving articles explaining how the *Miranda* warnings are viewed by interrogators, the ways they are supposed to safeguard confessions, and strategies that law enforcement officers have created to overcome these warnings. A search of the terms *risk factors* AND *false confessions* produced five results that included articles relating to personal, situational, and interrogative methodology factors that may contribute to false confessions.

There has been approximately 108 years of academic and legal interest in the phenomenon of false confessions, dating back to Munsterberg (1908). However, the majority of false confession research appears to have been conducted in the last 30 years. A keyword search of *false confession* in Google Scholar produced 131,000 results with Gudjonsson (1992) listed as the first response. Gudjonsson (1992) led all other researchers produced in the search with 834 citations. Among the most commonly cited articles in the literature relating to false confessions includes Gudjonsson (2003), Leo and Drizin (2004), and Kassin and Kiechel (1996). There is also a long history of U.S. legal cases addressing the issue of false confessions and the admission of confessions before the courts as evidence. A search of legal case law regarding this topic produces 30,400 results with *Frazier v. Cupp* (1969) listed as the first response.

Conceptual Framework

False Confessions as a Breakdown in Legal Decision-Making

The phenomenon of false confessions relates to the tendency of an innocent person to provide a detailed admission to a criminal act that they did not commit (Kassin & Gudjonsson, 2004). Kassin (2005) proposed a conceptual framework in which he identified false confessions as a breakdown at various decision making points throughout the American legal process including: a) law enforcement interviewers target innocent people for interrogations because they are incapable of accurately assessing deception; b) innocent people subject themselves to criminal interrogation by naively waiving their constitutional rights to remain silent and to seek legal counsel; c) once in the interrogation room innocent people unwittingly appear anxious and defensive which makes them appear guilty; d) innocent people can then be induced into falsely confessing by law enforcement's use of deceptive and psychologically oriented interrogation methods; and e) law enforcement officers, attorneys, and triers of fact are incapable of accurately identifying false confessions when they see them. Believing that the interrogation "tactics" employed by police are often responsible for the rendering of false confessions, Kassin (2005) defined the concept of interrogation as:

a guilt-presumptive process, a theory-driven social interaction led by an authority figure who holds a strong a priori belief about the target and who measures success by his or her ability to extract a confession. It is possible that police who commit themselves to this course of action are, at times, not merely blinded by their initial beliefs but motivated to reinforce them (e.g., by a desire for closure, to help secure a conviction) (p. 219).

Phenomenology of Innocence

In attempting to explain why innocent people may subject themselves to the possibility of a criminal interrogation, Kassin (2005) put forth a conceptual framework that he identified as the “phenomenology of innocence”. Through this conceptual framework, Kassin explained that innocent subjects operate under the misperception that their innocence will protect them from negative outcomes which, in turn, can cause them to make decisions that ultimately increase the possibility that they may incriminate themselves during an unwarranted interrogation. An example of such a potentially devastating decision is when an innocent subject waives their *Miranda* rights and agrees to continue speaking with law enforcement investigators. Once the subject agrees to be interviewed by law enforcement officers, the subject’s behavior is constantly assessed for signs of deception that will trigger more and stronger interrogative methods (Meissner & Kassin, 2002; Narchet et al., 2011).

Investigator Bias

This process of constantly assessing the subject for signs of deception is particularly problematic in light of Meissner and Kassin’s (2002) conceptual framework of “investigator bias”. Investigator bias relates to the tendency of law enforcement officers, due to their training and experiences, to maintain a perceptual bias that the subjects with whom they come into contact are being deceitful. This bias may explain why innocent individuals who consent to being interviewed are inherently perceived as deceptive and subsequently subjected to additional, and more powerful, interrogative strategies.

Cognitive-Behavioral Model

It has been suggested that once criminal subjects, regardless of their guilt, are subjected to law enforcement's interrogative "tactics", they are at an increased risk for rendering a confession (Conti, 1999; Russano, Meissner, Narchet, and Kassin, 2005). Gudjonsson (1989) attempted to explain the factors that influence a person's decision to confess during interrogation through his cognitive-behavioral model. Gudjonsson proposed that when attempting to assess why people confess, the following five factors should be considered: a) social factors relating to the subject's feelings of isolation, need for approval, and need for affiliation; b) emotional factors relating to the subject's feelings of distress and anxiety; c) cognitive factors relating to the subject's thoughts and interpretations of the interrogation situation, to include such considerations as the strength of the evidence against him; d) situational factors relating to pre-existing circumstances associated with the subject, such as his previous exposure to the legal system; and e) physiological factors relating to the subject's physiological arousal including heart rate, blood pressure, and perspiration. Gudjonsson's cognitive-behavioral model led to future studies relating to false confessions by researchers who sought to explain this phenomenon through individual personality factors, interrogative risk factors, and the use of various interrogation means and methods.

Law Enforcement Actions as a Cause of False Confessions

There is a conceptual framework within the study of false confessions in which researchers suggest that the actions of law enforcement interrogators, as well as the interrogative tactics they employ, are predominantly responsible for false confessions, and potentially wrongful convictions, within the United States criminal justice system. For example, Johnson and Drucker (2009) attributed the false confessions rendered in

their case studies to lengthy interrogations, coercive polygraph feedback, and the deceptive actions of the interrogators. Henkel, Coffman, and Dailey (2008) reported that laypersons often believe that coercive interrogation techniques like exaggerating the physical evidence against an interview subject, threatening harsher punishment for non-cooperation, and implying that a confession will lead to more lenient prosecutorial treatment, are responsible for false confessions. Additional research has attributed an increase in false confessions to law enforcement interrogative methods like the bluff technique (Perillo & Kassin, 2011); offering incentives of decreased punishment in exchange for a confession (Swanner & Beike, 2010); faking digital evidence (Nash & Wade, 2009); and using minimization interrogation techniques (Narchet et al., 2011; Newring & O'Donohue, 2008). These are but a few studies comprising the vast body of false confession research in which researchers cast blame on law enforcement officers and their interrogation methods for the elicitation of false confessions from innocent subjects. The tendency to blame law enforcement interrogative methods for false confessions exists despite the fact that these same interrogative techniques have also proven successful in the elicitation of confessions from truly guilty parties (Conti, 1999; Russano et al., 2005).

As recommended by Narchet et al. (2011), I sought to identify the law enforcement interrogation methods that contribute to truthful confessions and minimize the elicitation of false confessions. The conceptual framework which has historically guided research into the phenomenon of false confessions has helped to provide a lens for my study in which I focused on the very individuals purportedly responsible for the elicitation of false confessions. More specifically, I focused my attention on law

enforcement interrogators and the interrogative techniques they employ to more thoroughly describe and analyze the methods that real-world interrogators use to elicit true, and possibly false, confessions. As many researchers contend that law enforcement interrogators are responsible for false confessions, perhaps it is both prudent and long overdue that a researcher has sought to obtain rich and detailed information regarding interrogation techniques and false confession experiences from actual law enforcement officers who specialize in the field of criminal interrogation.

Literature Review

Current Examples of False Confessions

While some may find it inconceivable that an innocent person would ever accept responsibility for a crime they did not commit, numerous examples of this phenomenon nevertheless exist. Johnson and Drucker (2009) explored two modern instances in which innocent people falsely confessed to criminal acts that subsequently led to their wrongful conviction and lengthy imprisonments. Based on news articles and case transcripts, Johnson and Drucker first discussed the high profile case of Byron A. Halsey. In November 1985, Halsey was living with a woman and her two young children in a rooming house in Plainfield, New Jersey. On November 15, 1985 the bodies of the children were discovered in the basement of the building. Investigation identified that the children had been sexually assaulted, murdered, and mutilated, the news of which led to a significant amount of media coverage. As one of multiple suspects in the case, Halsey spent more than 13 hours with police on the day in which the bodies were discovered. After lengthy periods of questioning, Halsey wrote and signed a non-incriminating statement and agreed to be polygraphed in the matter (Johnson & Drucker, 2009).

On the following day, Halsey met with officers shortly after 7:00 in the morning until well after midnight. During this time, Halsey underwent additional questioning, met with the prosecutor assigned to the case, and consented to a two-hour polygraph. Halsey then offered a second non-incriminating statement that differed at times from the details of his initial statement. Per the testimony offered by police officers at Halsey's trial, Halsey was advised that he had failed his polygraph examination and then began sobbing and speaking "jibberish". At this time, Halsey made statements that, while incriminating, were inconsistent with available case facts. From approximately 6:30pm until after midnight, Halsey sat with investigators and wrote a five-page confession that was more consistent with the information and evidence available to law enforcement at that time. Based in part on his confession, Halsey was later convicted at trial and sentenced to prison. As a result of modern advances in DNA technology, Halsey was later excluded as a possible source of the DNA found at the crime scene. Moreover, the DNA evidence was determined to match that of a fellow rooming house resident and prosecution witness who had subsequently been incarcerated for multiple other sexual assaults in the Plainfield, NJ area. On May 15, 2007, after having served 19 years in prison, Halsey was finally exonerated and released (Johnson & Drucker, 2009).

Johnson and Drucker (2009) similarly explored the case of Jeffrey Deskovic. Exactly four years to the day after Halsey was first interviewed by police, 15-year-old Angela Correa went missing in the area of Peekskill, New York. Two days later, her strangled and beaten body was found in a park with apparent signs of sexual assault. Deskovic, a student at Correa's school, soon became a person of interest in her death due to his attendance at three of Correa's wakes and what appeared to investigators to be an

unusually high degree of emotion from Deskovic who had no previous relationship with the victim. Over the course of approximately six weeks, Deskovic had numerous contacts with investigators, some of which were initiated by Deskovic. The investigators began operating under the assumption that Deskovic was conducting a personal investigation into Correa's death. During some of these contacts, officers interviewed Deskovic for numerous hours and, on January 25, 1990, Deskovic agreed to submit to a polygraph examination. After being informed that he had failed the examination, and after being subject to a lengthy interrogation, Deskovic confessed to raping and killing Correa (Johnson & Drucker, 2009).

Despite a lack of physical or eyewitness evidence, and contrary to the scientific evidence that excluded Deskovic as the source of the semen discovered on Correa's body, Deskovic was convicted during a jury trial. His conviction seemed to be related to his signed written confession. Believing that the jury inaccurately arrived at a guilty verdict, the judge in the case gave Deskovic the minimum sentence of 15 years to life. On November 11, 2006, after serving 16 years in prison, Deskovic was exonerated after the DNA profile developed in Correa's case was found to match that of a man serving a life sentence for a homicide committed years after Correa's death (Johnson & Drucker, 2009). As these cases help to illustrate, people can and do confess to crimes for which they are not responsible.

Historical Examples of False Confessions

It is important to note that false confessions are not a recent phenomenon, nor are they a uniquely American phenomenon. Chapman (2013) demonstrated this point in her description of the case of John Perry occurring in 17th Century England. Chapman

reported that in 1660, Perry was directed to search for his master, William Harrison, who had gone out to collect rent money. After being gone for a significant period of time, it was assumed that Perry had robbed and killed Harrison. When Perry eventually returned home, he was quickly questioned about the suspected robbery and homicide. While Perry initially maintained his innocence, he later confessed at the urging of the Justice of the Peace that he helped to dispose of Harrison's body after Perry's mother and brother killed Harrison. Perry then provided a detailed confession of his crime and the crimes of his family members. Despite the fact that Perry soon recanted his confession, it was still utilized to convict Perry, his mother, and his brother at trial. Two years after Perry and his family were executed, Harrison unexpectedly returned home and reported that he had been kidnapped and held in Turkey until he was able to mount an escape (Chapman, 2013). These types of false confessions continued into the late 1600s in the United States as innocent people, under the influence of extreme duress and torture, confessed to being involved in witchcraft in Salem, Massachusetts. Such examples help to identify not only the dangers associated with confessions rendered by innocent persons, but also the sheer power that confession evidence holds within the legal process. While the wrongful convictions outlined above were significantly influenced by each subject's decision to render a false confession, it is important to note that there are other factors that contribute to wrongful convictions.

Causes of Wrongful Convictions

In light of the efforts of advocacy groups like the Innocence Project (2016) that seek to use modern advancements in DNA technology to exonerate wrongfully convicted persons, at least 343 cases of proven wrongful convictions have been identified since the

group's founding in 1992. A review of these cases identified that there are various factors that have led to these failures of the criminal justice system. As noted by Kassin (2005), eyewitness misidentifications existed in nearly 75% of wrongful conviction cases. Eyewitness misidentifications occur when purported eyewitnesses to a criminal event offer inaccurate testimony before the court that the person on trial was responsible for the crime at hand (Kassin, 2005). Hasel and Kassin (2009) also identified that it is possible for wrongful convictions to occur as a direct result of police interrogative misconduct. An example of such misconduct can be observed in the case of Paul Ingram. Kassin (as cited by Chapman, 2013), reported that Ingram was an extremely religious father of six children, a sheriff's deputy, and the county chairman of the Republican Committee in the State of Washington. Ingram was accused of participating in Satanic rituals that involved the rape of his daughter and the murder of approximately 25 young children. Ingram eventually confessed to these crimes after participating in 23 separate interrogations in which he was hypnotized informed by a mental health professional that sex offenders repress their crimes; strongly encouraged by his minister to confess to these crimes; and fed specific details of the crime by investigators (Chapman, 2013). False confession researchers have suggested that such high-pressure tactics represent the types of misconduct that could cause an innocent person to falsely confess to a crime they did not commit. During Ingram's retrial nearly 15 years later, it was determined that the high-pressure tactics employed by law enforcement officers led to the wrongful conviction of Ingram (Chapman, 2013). Misconduct by the police is particularly concerning as it can lead to not only the conviction of the innocent, but it can also allow the truly guilty go free (Hill & Moston, 2011).

Prosecutorial Misconduct

In addition to law enforcement misconduct, wrongful convictions can also occur as a result of prosecutorial misconduct (Kassin, 2012). An example of such unethical behavior can be observed in Morrison's reporting on the case of Billy Wayne Cope (as cited by Chapman, 2013). Cope stood accused of sexually assaulting and strangling his 12-year-old daughter in her bedroom in 2001. During the course of the investigation, misconduct by the police contributed to Cope's false confession. This included the police falsely informing Cope's wife that the semen found on their daughter's body belonged to Cope and then directing her to visit Cope in jail and convince him to confess while secretly wearing a recording device. The prosecutor in this case deliberately overlooked the exculpatory DNA evidence that linked the semen found at the scene to a serial offender, James Sanders, who had no apparent relationship to Cope. Instead, the prosecutor used the coerced confession elicited from Cope, as well as the DNA evidence linked to Sanders, to prosecute both men for acting together to rape and murder Cope's daughter (Chapman, 2013). In reporting on the case of Bruce Godschalk who was wrongfully-convicted of two rapes in King of Prussia, Pennsylvania in 1987, Rimer (as cited by Kassin & Gudjonsson, 2004) noted that prosecutorial reliance on a confession that is directly contradicted by DNA evidence is not uncommon. As these examples demonstrate, wrongful convictions can, and do, occur when prosecutors are involved in legal misconduct.

Defense Attorney Actions

Wrongful convictions can also occur as a result of the actions of the defendant's own attorney (Hasel & Kassin, 2009). Such bad lawyering may involve a defense

attorney who is too unmotivated or too busy to effectively mount a legal defense for their client and instead convinces an otherwise innocent client to plead guilty to a lesser charge. Witness or informant perjury has also been reported to be a key contributor to wrongful convictions (Newring & O'Donohue, 2008). For example, it is possible for an innocent person to be wrongfully convicted as a result of a witness or informant who, whether for their own benefit or to assist authorities, blatantly lies about an innocent subject's involvement in a crime. Faigman, Kaye, Saks, and Sanders (as cited by Kassin & Gudjonsson, 2004), similarly noted that flawed forensic examinations of case evidence can also contribute to the wrongful prosecution and conviction of an innocent person. Despite the various potential causes of wrongful convictions outlined above, many researchers have chosen to focus their efforts on the role that false confessions, and more particularly the actions and interrogative methods of law enforcement officers in obtaining such confessions, play in this phenomenon (Bradford & Goodman-Delahunty, 2008; Drizin & Colgan, 2004; Kassin et al., 2010a; Levine et al., 2010; Ofshe & Leo, 1997; Perillo & Kassin; 2011). However, to more fully understand the role that confessions may play in wrongful convictions, this concept must first be defined.

Confessions

As defined by Kassin and Gudjonsson (2004), a confession is “a detailed written or oral statement in which a person admits to having committed some transgression, often acknowledging guilt for a crime” (p. 35). The concept of confession has been found to be particularly important in three specific areas of human interaction: religion, psychotherapy, and the criminal justice system (Kassin & Gudjonsson, 2004). Within the first two contexts, confession can often be considered a form of spiritual or psycho-

emotional cleansing. For example, a confession occurring within a place of religious worship or before one's God, is often associated with the cleansing of one's soul. Similarly, within the context of psychotherapy, confession is often associated with the patient's healing and therapeutic release of painful experiences and/or poor behaviors (Kassin & Gudjonsson, 2004). Within the criminal justice system, however, a confession rendered by a criminal subject may instead be construed as a potentially damning form of evidence that may very likely be used against the subject in future criminal proceedings. For this reason, the criminal confession and the anticipated repercussions associated with such admissions of guilt, stand in stark contrast to religious and psychotherapeutic admissions of wrongdoing.

The Strength and Legal Impact of Confessions

In addition to the legal repercussions, the sheer evidentiary power associated with a criminal subject's admission of guilt places the criminal confession in a unique category. Confession evidence has historically stood as somewhat of a gold standard in proving a criminal defendant's guilt (Kassin, 2012; Perillo & Kassin, 2011). The criminal confession has been found to be so strong, in fact, that Meissner and Kassin (2002) have described it as a prosecutorial weapon of such power that it can impact not only the outcome of a specific criminal case, but the criminal justice system as a whole. As noted by Kebbell, Hurren, and Roberts (2006), a confession greatly benefits the criminal justice system in two important ways: a) armed with a confession, prosecutors are significantly more likely to obtain a criminal conviction; and b) being that the criminal subject has already confessed to their crime, victims and witnesses are less likely to be called upon to offer testimony during court proceedings. For these reasons, the

confession is strongly pursued by law enforcement officers and highly valued by prosecutors. Costanzo (as cited by Russano et al., 2005), also noted that confessions benefit the entire criminal justice process by encouraging those who have rendered a confession to plead guilty, thereby streamlining the legal process and alleviating the pressures associated with an overtaxed criminal justice system.

As noted by Conti (1999), as far back as the 17th Century, confessions were treated as a conviction; physical torture was routinely employed to obtain confessions from criminal subjects; and all confessions, regardless of the manner in which they were extracted, were admitted as evidence before the court. This posed a particular problem because confessions have historically been considered the gold standard of legal evidence (Perillo & Kassin, 2011). The importance of confession evidence stems from the fact that confession evidence is extremely difficult to defend against at trial and juries are more likely to return a guilty verdict when confession evidence exists (Leo & Davis, 2010). However, criminal matters are inherently unlikely to even make it to the trial stage after a confession is received. This is because once a confession is received: a) police tend to close their case; b) police consider the matter solved; and c) police overlook additional evidence that may prove the subject's innocence (Drizin & Leo, 2004). The strength of confession evidence has also been demonstrated to influence the professional conclusions of other criminal justice system actors such as polygraph examiners, fingerprint experts, eyewitnesses, and prosecutors, all of whom have been found to change their professional opinions in light of confession evidence (Kassin, 2012). Additional problems with confession evidence stem from the fact that police cannot accurately identify deception; triers of fact inherently tend to trust even coerced confession evidence; and certain

psychological interrogation techniques can cause innocent people to falsely confess (Kassin, 2008). This last point has caused many researchers to direct their attention toward the interview and interrogation methods employed by law enforcement officers. It is therefore important to define and differentiate between these two methods of questioning a person of investigative interest.

Interviews vs. Interrogations

Interviews

If a confession is to be used against a criminal subject at trial, it is imperative that a confession be freely and voluntarily given (Kassin, 2008; Kassin et al., 2010; Redlich, 2004; Woody & Forrest, 2009). To more fully understand the extent to which a person's admission of guilt was voluntary, it becomes necessary to understand the manner in which confessions are obtained. The questioning of criminal subjects during a law enforcement investigation can be broken down into two main categories: interviews and interrogations. As defined by John Reid and Associates (2016), one of the premier firms dedicated to interview and interrogation instruction, an interview is a relatively informal question and answer session with an individual related to a criminal matter. This can include victims and witnesses as well as subjects. The questioning during an interview is non-accusatory and gauged at gathering information from the individual while simultaneously assessing the interview subject's level of credibility (Kassin, 2008; Newring & O'Donohue, 2008). During an interview, the subject is generally asked to provide their version of events with little prompting from the investigator (Moston & Stephenson, 1992).

Interrogations

Unlike an interview, an interrogation is typically a more formalized and accusatory manner of questioning in which the investigator attempts to elicit truthful information relating to the criminal matter being investigated once the subject has been identified as deceptive (Kassin et al., 2007). An interrogation therefore involves an investigator's attempts to persuade the subject to provide accurate and truthful information relating to their involvement in the criminal matter at hand (John Reid & Associates, 2016). Newring and O'Donohue (2008) noted that an interrogation is rarely the first step in an investigation as the preceding collection of evidence may ultimately determine whether a criminal subject is selected for interrogation. As these definitions suggest, interviews and interrogations represent a process marked by increasingly more persuasive questioning techniques. However, it is the interrogation and the techniques employed during the interrogation portion of the questioning process that have raised concerns by numerous false confession researchers (Guyll et al., 2013; Kassin et al., 2010; Bradford & Goodman-Delahunty, 2008; Klaver et al., 2008; Drizin & Colgan, 2004; Ofshe & Leo, 1997).

In the past, law enforcement officers employed a form of questioning identified as the "third degree" in which physical and emotional pain was inflicted upon a criminal subject in an attempt to obtain a confession (Kassin & Gudjonsson, 2004). However, U.S. courts have come to reject confessions obtained in such a manner (Kassin, 2005). In response to the rejection of such high-pressure and abusive tactics, law enforcement has chosen to use more professional and psychologically-based questioning methods (Conti, 1999; Klaver et al., 2008; Narchet et al., 2011). According to Kostelnik and Reppucci (2009), the most commonly cited and most widely disseminated training manual on the

interviewing and interrogation of criminal subjects is the Reid technique. In this technique, law enforcement officers are instructed through a 9-step interrogative process how to socially influence subjects by confronting them with their guilt, refusing to accept denials, offering them sympathy and face-saving explanations for their criminal acts, and then having them document their confession in a written statement (Inbau et al., 2001). While this technique abandons physical and emotional pain in exchange for more psychosocial influence, Ofshe and Leo (1997) maintain that these techniques are merely a means of injuring the interrogation subject without leaving a mark.

False Confessions as a Legal Construct

While it should be recognized that most confessions received by law enforcement officers are likely true (Davis & Leo, 2012; Moston & Engelberg, 2011), confession evidence has also been found to be fallible (Kassin, 2008). At times, criminal subjects offer confessions that are not true (Chapman, 2013). Based on this potentiality, Kassin and Gudjonsson (2004) categorized statements received subsequent to a law enforcement interrogation into four basic categories: a) “true confessions” in which the truly guilty subject honestly accepts responsibility for their actions; b) “false confessions” in which a truly innocent subject falsely accepts responsibility for a crime they did not commit; c) “true denials” in which the innocent subject honestly denies their criminal wrongdoing; and d) “false denials” in which a truly guilty subject falsely denies their criminal actions. Although the exact numbers of each type of statements is not known, it is the difficulty associated with identifying which type of statement has been received by an investigator that poses a problem for the criminal justice system (Kassin & Gudjonsson, 2004). Denials, both true and false, do not necessarily present a problem to a potential subject as

they are unlikely to lead to criminal repercussions for the subject. Research, however, has established that both true and false confessions increase the likelihood that judges and juries will arrive at a guilty verdict (Kassin et al., 2010). While a guilty verdict in the case of a true confession demonstrates that the criminal justice system has worked appropriately, the same judgment in the case of a false confession can inarguably be construed as a travesty of justice.

Advocacy groups like the Innocence Project that seek to exonerate wrongfully convicted persons through advances in DNA technology (Innocence Project, 2016), have helped to illustrate the injustices associated with false confessions. Due to the strength of confession evidence in general, judicial concern has arisen over the fact that there appears to be an overreliance on confession evidence by juries. As a result, a series of judicial decisions and safeguards have been reached in an attempt to exclude unreliable confessions from being brought before the court as evidence, thereby minimizing the possibility of a wrongful conviction (Kassin et al., 2010). A key safeguard within the U.S. criminal justice system relates to the legal question of whether confession evidence can be presented at trial (Kassin & Gudjonsson, 2004). A great number of legal opinions have helped to shape this question throughout American history. For example, in *Bram v. United States* (1897), the U.S. Supreme Court ruled that for a confession to be admitted as evidence before the Court, the confession must not have been elicited by threat, violence, or any direct or implied promises. The Supreme Court later applied these same conditions to state courts in the case of *Brady v. United States* (1970).

The Supreme Court further addressed the issue of confessions in the case of *Brown v. Mississippi* (1936). In this case, three Black male subjects were taken into

custody by police at which time they were denied counsel and then threatened, beaten, and tortured until they each signed a written confession. In *Brown*, the Supreme Court reversed the convictions and ruled that any confession evidence that is obtained through torture and brutality must not be entered as evidence before the court. Four years later, the Supreme Court similarly addressed the roll of mental abuse in obtaining confessions in the case of *Chambers v. Florida* (1940). In this case, Robert Darsey, an elderly white man, was robbed and murdered in Pompano Beach, Florida. During a roundup of between 25 and 40 black men, Chambers and his three co-defendants were transported to the Dade County Jail in Miami, Florida, where they were subjected to prolonged interrogation and circumstances designed to inspire terror and encourage confessions. The Supreme Court eventually overturned the convictions of Chambers and his co-defendants and ruled that the prolonged interrogation of these men not only violated their 14th Amendment right to due process, but also raised concerns that their admissions of guilt were compelled and possibly false. In another landmark decision, the Supreme Court ruled in the case of *Culombe v. Connecticut* (1961), that while no clear-cut litmus test exists for the admission of a confession into evidence, such evidence should be excluded if it is obtained by physical violence, a threat of harm or punishment, promises of leniency or prosecutorial immunity, and when the subject is not notified that they have the constitutional right to counsel and to remain silent.

In *Haynes v. Washington* (1963), Haynes was arrested and questioned by police for approximately 16 hours about his involvement in a robbery. Despite his repeated requests, Haynes was denied an opportunity to call an attorney or his wife until he cooperated with law enforcement by providing a written confession. While Haynes was

convicted based on his subsequent confession, the Supreme Court overturned his conviction and ruled that his will was overborne and his confession was compelled by a coercive environment and inducements created by law enforcement officers. *Haynes* represented another example of the Supreme Court evaluating the voluntariness of a confession based on a due process standard, this time based on the fact that Haynes was held incommunicado and continuously interrogated in a coercive environment. A year later, in *Escobedo v. Illinois* (1964), the Supreme Court ruled that criminal subjects have the right to counsel during law enforcement interrogations according to the Sixth Amendment.

The rulings in *Culombe* and *Escobedo* served as a precursor to the ruling put forth by the Supreme Court in the landmark decision of *Miranda v. Arizona* (1966). In this case, the Court determined that when a criminal subject is taken into custody, they must be informed of their constitutional rights to silence and to counsel. Now known as the “*Miranda* Warnings”, law enforcement officers are required to advise subjects of the previously noted constitutional rights through statements such as: a) you have the right to remain silent; b) anything you say can be used against you in court; c) you have the right to an attorney; and d) if you cannot afford an attorney, one will be appointed for you if you wish (*Miranda v. Arizona*, 1966). While the exact wording of these warnings may vary between law enforcement jurisdictions (Kassin & Gudjonsson, 2004), they are all designed to ensure that the criminal subject voluntarily, and with the full knowledge of the meaning of each of these warnings, has willingly agreed to speak with law enforcement officers, thereby permitting any subsequent statements they make to be admitted as evidence before the court.

Types of False Confessions

As counterintuitive as it may seem to the layperson, innocent people sometimes confess to crimes they did not commit. This decision can have a devastating impact on not only the confessor, but on a criminal justice system that is designed to bring justice to all persons (Pimentel, Arndorfer, & Malloy, 2015). Although it has been suggested that false confessions happen at an alarming rate (Klaver et al., 2008; Narchet et al., 2011), it is extremely difficult to identify how often false confessions actually occur (Kassin, 2005; Kassin et al., 2010a; Kassin & Fong, 1999; Malloy, Shulman, & Cauffman, 2014). Leo (as cited by Conti, 1999), noted that it is impossible to even estimate how often false confessions occur because: a) police interrogations are often secret interactions that have historically not been recorded; b) law enforcement organizations do not typically maintain data on the number of interrogations that are conducted within their agency; and c) it is inherently difficult to identify what occurred in the interrogation room that prompted the confession. According to the Innocence Project (2016), of the first 325 confirmed cases of wrongful conviction, 88 cases (27%) involved some form of false confession or false admission. Despite recent efforts by groups like the Innocence Project to more fully understand this phenomenon, false confessions have been addressed by scholars as far back as the early 20th Century. For example, in 1908, Hugo Munsterberg wrote that false confessions are a normal behavioral reaction to the abnormal situation of being arrested and interrogated by law enforcement and the emotional shock produced by such events (Kassin & Gudjonsson, 2004). A key problem associated with false confessions is that they set off a chain of legal events that can be hard to overcome despite the false confessor's actual innocence (Kassin, 2012).

Taxonomy of False Confessions

Based on their review of false confession cases and social-psychological theory, Kassin and Wrightsman (1985) created a taxonomy of false confessions in which they identified three specific types of false confessions: a) voluntary false confessions; b) coerced-compliant false confessions, and c) coerced-internalized false confessions.

Voluntary false confessions. A voluntary false confession is a self-incriminating statement that is given with little to no interrogative pressure from law enforcement (Kassin & Wrightsman, 1985). Examples of this type of confession have been observed in laboratory experiments. For example, in conducting an experiment with 219 undergraduate students to investigate the role that personality, interrogative techniques, and the plausibility of an alleged transgression may have on the elicitation of a false confession, Klaver et al. (2008) identified that a small number of student participants immediately confessed to the specified transgression before any experimental elicitation efforts were made. Similarly, in experimentally exploring the influence of specific interview and interrogation tactics on the elicitation of false confessions among 52 undergraduate students, Newring and O'Donohue (2008) reported that 23% of the participants falsely confessed to pressing a forbidden computer key after simply being asked to explain what had happened. These findings support the premise that some individuals will simply confess to a crime they did not commit regardless of the pressure or interrogative methods used upon them (Kassin, 2005; Levine et al., 2010). Kassin and Gudjonsson (2004) suggested that voluntary false confessions may occur for a variety of reasons to include the subject's pathological need for notoriety; a conscious or unconscious desire to be punished in response to the guilt they harbor for previous

transgressions; an inability to differentiate reality from fantasy because of mental illness; and/or a desire to protect the truly guilty party.

Coerced-compliant false confessions. While not all false confessions are coerced by the interrogative efforts of law enforcement officers (Chapman, 2013), some confessions occur as a direct result of the interrogative pressure and techniques employed by law enforcement interrogators. For example, coerced-compliant false confessions occur when criminal subjects falsely confess to a criminal act due to the interrogative inducements of law enforcement officers (Kassin & Wrightsman, 1985). As suggested by Kassin and Gudjonsson (2004), these types of false confessions may be a direct result of the subject's desire to escape the aversive environment of the interrogation room; to avoid the specific or implied threats put forth by the interrogator; or to obtain a reward that has been specified or implied by the interrogator. The criminal subjects who render a coerced-compliant false confession do so as an act of public compliance, believing that the short-term benefits of confession outweigh the long-term costs associated with continued denial (Kassin & Gudjonsson, 2004). As noted by Perillo and Kassin (2011), criminal subjects generally confess as an act of social compliance resulting from the perception that there is no other means to escape their current situation but through confession.

Coerced-internalized false confessions. Unlike coerced-compliant false confessions in which an innocent subject consciously and deliberately arrives at the decision to falsely confess, coerced-internalized false confessions involve a more serious concern. In these types of confessions, vulnerable individuals respond to highly suggestive and pressure-filled interrogative techniques by not only confessing to a crime

they did not commit, but actually coming to believe that they are truly responsible for the criminal act, at times creating false memories in the process (Kassin & Wrightsman, 1985). While the premise that some people can falsely internalize their guilt may be difficult to believe, a number of experimental studies have reported that university students could be brought to internalize their confessions through the interrogation techniques used by law enforcement (Forrest, Wadkins, & Larson, 2006; Klaver et al., 2008; Nash & Wade, 2009; Perillo & Kassin, 2011). In her analysis of the research relating to this topic, Leding (2012) concluded that the interrogative methods employed by law enforcement officers, while effective in obtaining a truthful confession from a criminal subject, can also cause innocent subjects to not only falsely confess, but to actually confabulate details to go along with the false confession. The likelihood of this occurring is then heightened by such factors as anxiety, fatigue, pressure, confusion, and increased suggestibility (Conti, 1999). Assuming that there are varying motivations that underlie the differing types of false confessions, it may prove beneficial to first understand the theoretical and conceptual attempts that have been made to explain the act of confession in general.

Theoretical Explanations of Confession

In a survey of potential jurors' perceptions of false confessions, participants reported that the possibility that a person would falsely confess to a crime that they did not commit was both unlikely and counterintuitive (Leo & Liu, 2009). These same potential jurors often reported that they personally would never falsely confess to a criminal act (Leo & Liu, 2009). Still, false confessions can and do occur (Pimentel, Arndorfer, & Malloy, 2015). However, based on the realization that a confession may

guarantee a person's prosecution and conviction, it is a wonder why even a truly guilty person would confess to committing a crime since doing so is arguably against their best interest. Yet, guilty people also confess to their criminal actions. The fact that both true and false confessions occur within the criminal justice system has motivated some researchers to explore what may contribute to a person's decision to confess either truly or falsely.

Evolutionary Theory

According to Bering and Shackelford (2005), confessions, even false confessions, are understandable from an evolutionary psychology perspective. Gold and Weiner (as cited by Bering & Shackelford, 2005), explained that when a person shows remorse at the time of their confession, others are more likely to believe that the confessor's shame and embarrassment suggests that they have suffered enough and that they are unlikely to recidivate. As a result, the confessor is likely to benefit from a reduction of punishment and feelings of forgiveness from those whom receive the confession. From an evolutionary standpoint, these benefits may ultimately save the confessor's life. Similarly, Bering and Shackelford suggested that evolutionary benefits are equally understandable when one considers a confession made to any ally. When a person confesses to an ally, the ally provides them with social aid in the form of: a) physical protection from hostile members of the group who may seek retribution; b) the ally's willingness to speak on behalf of the confessor; and c) the ally's recommendations of alternative and lesser forms of retribution. As these explanations suggest, both true and false confessions can be rationally understood through an evolutionary psychology lens.

Psychoanalytic Theory

From a psychoanalytic perspective, Reik (as cited by Conti, 1999), suggested that human beings have an unconscious and compulsive need to confess. Reik goes on to suggest that while human beings have instinctual impulses that strive to be expressed, society may come to condemn these expressions. For this reason, the ego can only come to express certain instinctual impulses through the act of confession (Conti, 1999). As a result, confessions to either real or imagined offenses allow the individual to overcome their own guilt and remorse as the superego attempts to negotiate between the id and the ego (Kassin & Gudjonsson, 2004). Reik believed that the unconscious motivation to confess helps to satisfy the individual's underlying desire for punishment which can only be satisfied through an admission of guilt (Conti, 1999). Berggren (as cited by Kassin & Gudjonsson, 2004), further elaborated that in order to obtain a desired degree of catharsis, the individual must confess to a person in a position of authority such as a member of the clergy or a representative of law enforcement. While Reik's psychoanalytic approach to confessions may help explain the reason why people truly confess, it does not necessarily offer insight as to why someone would falsely confess as there should be no underlying desire to minimize guilt if the subject did not actually commit a crime.

Confession as a Conscious Decision

Others have suggested that confession is more conscious than subconscious. According to Hilgendorf and Irving (as cited by Walsh and Bull, 2012), most criminal subjects make conscious decisions during law enforcement interviews based on their individual perceptions of anticipated outcomes. In putting forth their decision-making model, Hilgendorf and Irving sought to explain an interrogation subject's decision to confess as a series of choices they must make (Bradford & Goodman-Delahunty, 2008).

According to this model, the interrogation subject is presented with a critical decision-making process during the course of the interrogation involving various decision-making steps such as whether to speak with police, whether to be honest in one's responses, and whether or not to confess. Each decision is therefore based on the subject's personal perceptions as to the available actions they can take, the anticipated outcomes of their actions, and the values of the anticipated consequences of their behavior (Bradford & Goodman-Delahunty, 2008).

Confession as a Social Interaction

Other false confession researchers have attempted to explain the phenomenon of false confessions by viewing the confession as an intense social interaction between the interrogator and the interrogation subject (Kassin, 2005). Of particular relevance is Latane's (1981) Social Impact Theory. This theory suggests that the effects of other people can influence an individual. Latane proposed that when an individual is the target of the influence of others, the impact will ultimately be determined by the strength, immediacy, and the number of people providing the influence. As these factors increase, so too will the social impact on the individual. Kassin (2005) suggested that Social Impact Theory can explain the social pressure to render a false confession based on the strength of the influence employed by police interrogators through both their authority and their interrogative methods, as well as the number of officers that interact with the subject. Each of these effects combine to influence the person's decision to confess.

Cognitive-Behavioral Model

Gudjonsson (1989) proposed a cognitive-behavioral model in attempting to explain the factors that ultimately influence a person's decision to confess, either

truthfully or falsely, during an interrogation. Gudjonsson proposed that when attempting to assess why people confess, the following five factors should be considered: a) social factors relating to the subject's feelings of isolation, need for approval, and need for affiliation; b) emotional factors relating to the subject's feelings of distress and anxiety; c) cognitive factors relating to the subject's thoughts and interpretations of the interrogation situation, to include such considerations as the strength of the evidence against them; d) situational factors relating to pre-existing circumstances associated with the subject, such as their previous exposure to the legal system; and e) physiological arousal including heart rate, blood pressure, and perspiration. Each of these considerations is believed to interact in such a way as to cause the interrogation subject to confess, sometimes falsely. Similar to Gudjonsson's position that confessions occur as a result of various personal and situational factors, Moston, Stephenson, and Williamson (1992) offered that confessions occur as a result of the interaction of various personal and situational factor such as: a) the interrogation subject's background characteristics such as age, sex, and personality; b) the characteristics of the criminal offense such as the nature of the crime and its severity; c) the strength of the evidence against the subject based on their personal perceptions; and d) the questioning styles used by the law enforcement interrogators.

While the theories and conceptual frameworks outlined above address the issue of both true and false confessions through a variety of perspectives, Kassin and Gudjonsson (2004) noted that these various explanations share certain similarities. For example, criminal interrogation subjects make the decision to confess when they are motivated to do so; when the purported evidence of their guilt appears significant; when they have a

strong desire to alleviate their shame or guilt; when they have reached a point where they can no longer handle the stress associated with their isolation and interrogation; when they are subjected to a myriad of social-psychological interrogative methods; and when the subject comes to perceive the benefits of confession as outweighing the consequences of continued denial (Kassin and Gudjonsson, 2004). Despite the attempts of these theories and conceptual frameworks to explain why confessions occur, people may not arrive at the decision to confess in a homogenous manner. As all people are different, their individual characteristics may place them at varying risks to confess. How these personal factors may influence the likelihood of confession becomes particularly concerning when the confessions are false.

Personal Risk Factors for False Confessions

As noted by Kassin (2008), some people are dispositionally more likely to render a false confession due to their inherent malleability which may arise from various personal characteristics. The following is a discussion of the personal risk factors that may predispose a person to falsely confess:

Youth

One such consideration relates to the age of the subject being interviewed (Moston & Engelberg, 2011). In an analysis of 125 false confessions brought about by law enforcement interrogations, Drizin and Leo (2004) reported that a disproportionate number of false confessors (approximately 35%) were juveniles under the age of 17. Similarly, Gross and Shaffer (as cited by Pimentel et al., 2015) concluded after analyzing the National Registry of Exonerations that adolescents are three times more likely than adults to render a false confession. Malloy et al. (2014) presented similar findings after

interviewing 193 young men ranging in ages from 14 to 17 who had been incarcerated for serious criminal activity. In their study, 17.1% of the participants reported that they had made false confessions to law enforcement officers in the past, and 18.1% reported making a false guilty plea in the past (Malloy et al., 2014). The tendency of juveniles to render false confessions may stem from developmental characteristics associated with adolescence such as impulsivity, a strong susceptibility to social influence, a decreased level of status, and immature judgement and decision making. Adolescents also tend to exhibit poor legal decision-making based on an age-related lack of understanding of the legal system, an inability to fully understand or discern the strength of the evidence against them, and developmental immaturity (Malloy et al., 2014).

Additional characteristics that may predispose adolescents to falsely confess include their deference to adult authority and the significant amount of time that they spend with their peers which could cause them to be more likely to protect a friend by taking the blame for a criminal act they did not commit (Pimentel et al., 2015).

Theorizing that juveniles may be at an increased risk of falsely confessing due to a strong desire to take the blame for an acquaintance, Pimentel et al. (2015) addressed this issue experimentally with 99 adults (college students) and 74 adolescents (high school students). Each participant was randomly assigned to either receive or not receive a favor from a confederate. Each participant was then put in a position to observe the confederate cheating on a task. The participants were then observed to determine whether they were willing to accept responsibility for the confederate's cheating. Results indicated that 59% of the adolescents took the blame for the confederate's cheating as compared to 39% of adults. Pimentel et al. (2015) therefore concluded that youth is a

predisposing characteristic for false confessions based upon the nature of adolescents' peer relationships and their willingness to protect a friend through a false acceptance of responsibility.

Mental Illness

In addition to youth, mental illness has also been identified as a personal characteristic that is likely to increase the probability that a person will render a false confession upon being interrogated by law enforcement. Teplin, as cited by Redlich (2004), conducted a study in which it was concluded that persons with mental illness were 67 times more likely to be arrested than individuals without mental health symptoms. In light of this fact, it is not surprising that mentally ill subjects are disproportionately represented in the ranks of those subjects who have been wrongfully convicted (Redlich, 2004). As previously noted, for a confession to be admitted as evidence within a court of law, admissions must be voluntary and uncoerced (*Bram v. United States*, 1897; *Brady v. United States*, 1970). Although an argument could be made that a mentally ill subject, based on their mental health condition, is not capable of rendering a voluntary confession, the United States courts have not necessarily agreed with this assumption. For example, in the case of *Colorado v. Connelly* (1986), the defendant, Francis Connelly, raised the argument that the murder confession that he made to police during a schizophrenic episode rendered him incompetent and his confession should therefore be considered inadmissible. However, the Supreme Court ruled that it cannot automatically be assumed that a subject's confession was a direct result of their mental health. Instead, it must be demonstrated that the interrogating officers acted

inappropriately and employed techniques which coerced the subject to confess (*Colorado v. Connelly*, 1986).

While the ruling in *Connelly* concludes that the interrogative techniques utilized during a law enforcement interrogation are more at issue than a subject's mental health symptoms, it has nevertheless been suggested that the subject's mental illness may make them more susceptible to the interrogative methods used by law enforcement. Drizin and Leo's (2004) analysis of 125 cases of interrogation-induced false confessions identified 28 mentally retarded individuals who had falsely confessed to law enforcement, thereby suggesting that mental retardation may prove to be a dispositional vulnerability for false confession. Shaw and Budd (as cited by Kassin & Gudjonsson, 2004), reported that mentally retarded individuals tend to be more compliant with a heightened desire for approval, particularly from persons of authority. These tendencies may help to explain the disproportionately high number of mentally retarded subjects in Drizin and Leo's analysis. Criminal subjects presenting with mental illness also exhibit the characteristics of disorganized thought, poor executive functioning, attention deficits, and impaired decision making that predisposes them to render incriminating statements when interrogated (Redlich, 2004). Redlich, Summers, & Hoover (2010) identified that the inherent vulnerabilities associated with mental illness such as proneness to confusion and a lack of assertiveness place the mentally ill at risk for being the victims of wrongful conviction. Based on such positions, Redlich et al. (2011) examined true and false confessions made by 65 adult inmates diagnosed with mental illness, 30 of whom reported making true confessions and 35 of whom claimed to have falsely confessed. Based on the findings, they concluded that, when compared to the mentally ill subjects

who truthfully confessed to their crimes, mentally ill false confessors: a) were typically questioned more times by investigators; b) took a longer time to confess; c) perceived the purported evidence of their guilt as weaker; and d) reported greater external pressure, as opposed to internal pressure, to confess. These findings support the premise of Kassin et al. (2010) that criminal subjects with mental illness are a highly vulnerable population in regards to the phenomenon of false confessions.

Race

When considering individual characteristics that could predispose a criminal subject to falsely confess, the concept of race cannot be overlooked. Najdowski (2011) identified that upon analyzing samples of criminal subjects who have rendered false confessions to law enforcement, Blacks are more overrepresented than their White counterparts. Najdowski theorized that this may be a result of an inherent threat perceived by Blacks based on existing stereotypes. More specifically, it is possible that an innocent Black subject may become so concerned about being perceived in light of negative Black stereotypes that they may actually respond to interrogations with more nonverbal behaviors than Whites. It is possible that law enforcement interrogators may then misidentify these nonverbal behaviors as indicators of deception, assume that the innocent Black subject is guilty, and then subject them to more coercive interrogation techniques than would otherwise be employed against innocent White subjects. This process may eventually result in such a strong motivation to escape the high-pressure interrogation that an innocent Black subject will falsely confess to a crime that they did not commit (Najdowski, 2011).

The impact of race on false confessions can also be observed in mentally ill populations. In examining false confessions and false guilty pleas among mentally ill offenders, Redlich et al. (2010) noted that minority false admissions are increased even among the mentally ill. Redlich et al. surveyed 1,249 mentally ill offenders currently engaged in the criminal justice system about whether they have ever falsely confessed to a crime or entered a false guilty plea in court. In analyzing the results, Redlich et al. concluded that not only does mental illness appear to play a role in a subject's decision to falsely confess, but mentally ill minority offenders were more likely to have self-reported that they had previously falsely confessed than their White counterparts. In light of these studies, the individual characteristics of youth, mental illness, and race may all have an impact on whether a person subjected to law enforcement interrogation decides to falsely confess. Other false confession researchers have noted that a person's personality facets may similarly influence the decision to confess falsely.

Personality Factors

Gudjonsson (as cited by Kassin et al., 2010), suggested that pervasive personality traits like suggestibility and compliance, as well as full-blown personality disorders, can put an individual at risk for a false confession. In surveying 1,080 Icelandic students regarding true and false admissions they may have previously made to teachers, parents, and/or law enforcement, Gudjonsson, Sigurdsson, Bragason, Einarsson, and Valdimarsdottir (2004) identified that false confessions and false denials were significantly associated with antisocial personality traits. In a later survey of 10,472 student participants in Iceland regarding their experiences with law enforcement interrogations and their history of confession, Gudjonsson, Sigurdsson, Asgeirsdottir,

and Sigfusdottir (2006) identified that 7.3% of students who reported having been interrogated by police in the past also reported that they had falsely confessed to crimes they had not committed. They further concluded that these same individuals reported having poor self-esteem and increased levels of anxiety, depression, and anger (Gudjonsson et al., 2006), thereby suggesting that certain personality traits and disorders may contribute to a subject's decision to falsely confess. Based on a previous survey of 1,896 Icelandic students who reported having previously been interrogated by law enforcement, Gudjonsson, Sigurdsson, Asgeirsdottir, and Sigfusdottir (2007) discovered an association between the decision to falsely confess and unpleasant and traumatic life events such as victimization, death of a loved one, and a history of substance abuse. In considering a potential relationship between false confessions rendered during custodial interrogations and group bullying behavior, Gudjonsson, Sigurdsson, and Sigfusdottir (2010) concluded that individuals who reported a history of being bullied and bullying others were also more psychologically vulnerable to, and likely to give, a false confession during law enforcement interrogation.

Compliance and Interrogative Suggestibility

Various other psychological factors have been identified as potential contributors to a person's risk of rendering a false confession. Based on anecdotal evidence observed through the analysis of DNA exoneration cases, Kassin (2008) identified the dispositional variables of compliance and interrogative suggestibility as potential risk factors for false confessions. Gudjonsson (as cited by Kassin & Gudjonsson, 2004), identified that the psychological concept of compliance is comprised of two key components: a) an eagerness to please others in social interactions while protecting one's own self-esteem;

and b) a desire to avoid confrontation and conflict when interacting with other people, particularly those who are believed to be in a position of authority. Kassin also suggested that when the subject of a criminal interrogation possesses an increased level of compliance, they are at an increased risk of accepting responsibility for a crime they have not committed. Gudjonsson and Clark (as cited by Nurmoja & Bachmann, 2008), defined interrogative suggestibility as the degree to which a person accepts the information that is communicated to them during a period of formal questioning and which can cause that person to be misled and alter their initial answers. As noted by Kassin, individuals with a heightened level of interrogative suggestibility can actually come to have their memories altered by the questions posed by law enforcement interrogators. Both compliance and interrogative suggestibility have therefore come to be considered dispositional vulnerabilities for false confession (Kassin, 2008).

In an experiment involving 219 university students, Klaver et al. (2008) tested the premise of interrogative suggestibility by employing Kassin and Kiechel's (1996) ALT key experimental paradigm. In the experiment, participants were interrogated about pressing a computer key during a research study which, due to a purported glitch, caused the computer to crash. Klaver et al. identified that 43 of the 219 participants (19.6%) falsely confessed to pressing the forbidden key and 10% of the participants came to actually believe that they had pressed the forbidden key, thereby internalizing the confession. Klaver et al. further concluded that higher levels of suggestibility, as measured by the Gudjonsson Suggestibility Scale (GSS), increased the likelihood that the participant would falsely confess. In a similar study of interrogative suggestibility and compliance, Mastroberardino and Marucci (2013) conducted two separate experiments

with university students. Through their experimentation, Mastroberardino and Marucci concluded that while participants were more likely to go along with the information presented by the experimenter, they were less likely to internalize the experimenter's information as true.

Additional Dispositional Risk Factors

Other dispositional vulnerabilities relating to false confessions include Attention Deficit Hyperactivity Disorder (ADHD). In studying male prisoners, Gudjonsson, Sigurdsson, Bragason, and Newton (2008) concluded that ADHD symptoms were significantly associated with the psychological risk factor of compliance. Moreover, those individuals exhibiting these symptoms were more likely to report that they had given a false confession to law enforcement in the past (Gudjonsson et al., 2008). Additional personal risk factors that may cause an innocent person to become predisposed to falsely confessing include drug and alcohol use. Evans et al. (2009) reported that criminal subjects who are intoxicated or under the influence of drugs at the time of their interrogation are at a greater risk for providing a false confession.

As suggested by the researchers outlined above, various personal risk factors may serve to predispose a person to falsely confess. Despite the role that these personal risk factors might play, other false confession researchers have sought to hold the interrogator and the interrogation process as the primary causes of false confessions. As noted by Kassin et al. (2010), a criminal interrogation is a process designed to overcome the denials of subjects who are believed to be guilty so that a legally admissible admission of wrongdoing can be used as evidence against them at trial. Being that interrogation is a process, the first key decision that must be made at the outset of the interrogation is

whether the subject will consent to speaking with the law enforcement officer. This is a critical decision that may have potentially devastating consequences for an individual brought to the police office for questioning.

***Miranda* Warnings**

Law Enforcement Efforts to Encourage the Waiver of Rights

An important consideration that may ultimately influence a false confession is the subject's decision to waive their *Miranda* rights. As previously noted, the Supreme Court's ruling in the landmark case of *Miranda v. Arizona* (1966) has helped to establish very specific warnings that must be provided to an interview subject once they are taken into custody to ensure that any statements that the interview subject may give are voluntary. However, a subject's decision to waive their rights has come to be viewed as a critical juncture in the interrogation process and one that Kassin and Norwick (2004) refer to as a "risky choice". Historically, gaining access to the interrogation room for the purpose of conducting social science research has been extremely difficult (Kassin & Norwick, 2004). In his seminal work, Leo (1996) was given the opportunity to personally observe 122 criminal interrogations conducted by 45 police detectives. He also reviewed 60 hours of videotaped interrogations provided by two additional police departments. This study marked the first time that such research had been conducted since the 1960s. At the conclusion of his observations, Leo concluded that law enforcement interrogations are, in essence, confidence games in which interrogation subjects are manipulated and their trust is betrayed. Leo also identified that the confidence game begins with the recitation of the *Miranda* warnings whereupon law enforcement officers start their cultivation of the unwitting subject. Upon reading the

warnings, law enforcement interrogators were reported to subtly employ psychological strategies against the interview subject to convince them to willingly waive their rights and continue speaking with the investigator. Leo noted that the psychological techniques used by law enforcement to this end included strategically building rapport, offering sympathy, pretending to be an ally, minimizing the importance of the *Miranda* warnings, subtly nodding as they read the warnings to the subject, and/or referring to the process of reading the *Miranda* warnings as a mere formality.

The Frequency With Which Rights are Waived

If the techniques to convince a subject to waive their rights are actually employed by law enforcement officers as Leo (1996) claimed, they appear to be successful as most interview subjects choose to waive their rights and continue speaking with law enforcement. In surveying 631 law enforcement officers about their interviewing and interrogation practices, respondents reported that approximately 81% of the subjects they interview elect to waive their rights prior to being interviewed (Kassin et al., 2007). Some researchers have suggested that this willingness to waive one's *Miranda* rights puts the interview subject in peril of potentially rendering either a true or false confession (Kassin, 2005; Kassin & Norwick, 2004). This fact is particularly troubling based on Leo's conclusion that innocent subjects are even more likely to waive their rights than their guilty counterparts. The increased likelihood that innocent subjects will waive their *Miranda* rights therefore places innocent subjects at an increased danger of rendering a false confession (Kassin, 2005; Kassin & Norwick, 2004; Leo, 1996).

Innocence as a Risk Factor

Building upon Leo's (1996) observation that law enforcement officers employ psychological strategies to coax interview subject to waive their rights, Kassin and Norwick (2004) conducted a study with 144 college students who were randomly assigned to enter a room and either steal a \$100 bill from a drawer or to simply open and shut a drawer. Upon being interviewed about the mock theft, the participants were read one of three *Miranda* warnings: a) a neutral condition in which the warnings were simply recited; b) a sympathy-minimization condition in which the *Miranda* process was described to the participants as merely a formality, participants were also offered a drink of water and were encouraged to relax, and the impending questioning session was represented as an opportunity for the participant to tell their side of the story; and c) a hostile-close minded condition in which the *Miranda* warnings were prefaced by the interviewer stating that the participant was guilty and the interviewer was not interested in hearing any lies from the participant. At the conclusion of each of the *Miranda* warning conditions, the participants were provided a form and asked to indicate their willingness to waive their rights and the reasons that contributed to their decision.

Kassin and Norwick (2004) identified that 58% of all suspects chose to waive their rights. However, there was no support for Kassin and Norwick's hypothesis that sympathy and a minimization of the importance of the *Miranda* warnings would increase the likelihood that participants would waive their rights. For the guilty participants, only 36% chose to waive their rights and reported that they believed that the interviewer would infer guilt if they did not do so. Conversely, 64% of the guilty participants elected not to waive their rights believing that remaining silent was in their best interest. Of particular concern was the fact that 81% of the innocent participants chose to waive their

rights with 72% reporting that they waived their rights because they had nothing to hide. Based on the high percentage of innocent participants who decided to waive their rights, Kassin and Norwick concluded that innocence may actually put innocent persons at risk of a false confession because their tendency to waive their *Miranda* rights and continue speaking with law enforcement placed them at an increased risk of being subjected to an unwarranted interrogation. It is important to note that according to these findings, while the innocent are more likely to waive their rights, it does not appear that they choose to do so because of psychological manipulation by law enforcement officers as posited by Leo.

The Biasing Effect of *Miranda* Warnings

Another concern of the *Miranda* warnings relates to what they represent within the legal process. As noted in the Supreme Court's *Miranda* ruling (1966), the need to advise a subject of their constitutional rights is triggered once the subject is taken into custody and no longer free to leave. Frantzen and Can (2012) suggested that the mere recitation of the *Miranda* warnings to a subject may suggest within the mind of the law enforcement interrogator that enough evidence of guilt must exist for the subject to have been taken into custody in the first place. As noted in their experiment involving 104 university students, Kassin, Goldstein, & Savitsky (2003) set out to test the hypothesis that the presumption of guilt inherent in criminal interrogations initiates a process of behavioral confirmation in which law enforcement interrogators turn to more coercive interrogative techniques based on their belief that the individual they are interviewing is guilty.

In the Kassin et al. (2003) experiment, 52 of the participants were assigned to commit a mock theft (the guilty group) or were assigned to a group that did not engage in the theft (the innocent group). The remaining 52 participants served as interrogators, some of whom were led to believe that their interrogation subjects were guilty and some of whom were led to believe that their interrogation subjects were innocent. Kassin et al. concluded that the interrogators who presumed that their subject was guilty were more likely to: a) ask guilt-presumptive questions; b) employ more interrogative techniques; and c) place more pressure on the subject to confess. Within the interrogation process, Frantzen and Can suggested that the reading of the *Miranda* warnings to an interview subject is likely to increase the interrogators presumption of guilt which, in turn, could lead to an increase in the use of coercive tactics to obtain a confession. This increased pressure can prove particularly problematic for the innocent person who decides to waive their rights and continue with the interview process.

Interrogation-Relation Regulatory Decline

In addition to the guilt-presumptive nature of the *Miranda* warnings, Davis and Leo (2012) introduced the concept of “interrogation-relation regulatory decline” (IRRD) and applied it to this part of the interview/interrogation process. Davis and Leo defined IRRD as a person’s decline in their self-regulation abilities caused by the interrogation process which serves to impair their ability to make rational decisions and exert their own will while being questioned by authorities. An example of where IRRD can prove problematic during the interview/interrogation process relates directly to the *Miranda* warnings. Davis and Leo first suggested that law enforcement interrogators have devised strategies to create the illusion that subjects do not actually have the right to invoke their

Miranda rights and terminate the interview. Instead, interrogators give interview subjects the impression that the impending questioning is inevitable and the subject is not expected to refuse the questioning that is about to be initiated. While some may suggest that the *Miranda* warnings are designed to inform the interview subject that they have the right to refuse questioning, due to IRRD, interview subjects develop the inability to both remember and understand the importance of these rights, while simultaneously losing the capacity to resist the interrogator's efforts to suggest that these rights do not actually exist (Davis & Leo, 2012). While the researchers outlined above suggest that the *Miranda* warnings may not actually protect innocent subjects as intended, other aspects of the interrogation process have been reported to equally raise concern for the innocent.

Deception Detection Abilities of Law Enforcement Officers

Prior to the onset of the interrogation, a pre-interrogation interview is typically conducted with the subject. During the interview phase, the questioning is predominantly neutral and geared toward gathering information from the subject (Inbau et al., 2001). This is a critical point in the questioning process because the interview ultimately determines whether the individual will be subjected to an interrogation (Inbau et al., 2001). The key factor in determining whether an interrogation is warranted stems from indications that the interview subject is being deceptive in their responses (Inbau et al., 2001). In his personal discussions with law enforcement officers, Kassin (2005) reported that officers express a great deal of confidence in their ability to identify when a subject is lying and interrogation is warranted. Because the ability to identify deception is such a critical juncture in the interrogation process (Willen & Stromwall, 2012), a sizeable

amount of false confession research has been directed at law enforcement's proficiency at accurately identifying deception in interview subjects.

Human Accuracy in Detecting Deception

While law enforcement officers have historically reported a keen ability to detect deception in the subjects they interview (Frantzen & Can, 2012; Hill & Moston, 2011; Kassin et al., 2007), Kassin and Fong (1999) suggested that this confidence may be misplaced. This is particularly concerning as law enforcement officers are the first determinant of whether a criminal subject should be interrogated (Meissner & Kassin, 2002). In an early review of accuracy in deception detection, Zuckerman, DePaulo, and Rosenthal (1981) focused on three specific issues: a) strategies people employ to deceive and the behaviors associated with their efforts at deceiving; b) behaviors associated with the judging of deception; and c) accuracy associated with detecting lies. Through their review, Zuckerman et al. (1981) concluded that human beings' ability to accurately identify deception is generally better than chance. They also concluded that the ability to accurately identify deception is determined by the channels available to the assessor. Two particularly telling channels include body cues and speech cues, both of which increase the assessor's likelihood of accurately identifying deception when available. Similarly, the assessors "adeptness" in construing and interpreting the verbal nuances of another's speech ultimately determines their success in deception detection (Zuckerman et al., 1981).

Through a meta-analysis of research relating to accurately identifying deception, Bond and DePaulo (2006) concluded that when people are not given special training to detect deception, they can distinguish between truth and deception with an accuracy rate

of approximately 54%. When breaking down this accuracy rate further, they found that human beings can correctly identify truthful information with an accuracy rate of approximately 61% and lies with an accuracy rate of approximately 47%. Bond and DePaulo further concluded that people are able to correctly identify verbal lies more easily than audible lies. Lastly, Bond and DePaulo concluded that when an individual is motivated by a strong need to be believed, they tend to appear more deceptive. Although not specifically directed toward law enforcement officers, these findings are concerning as law enforcement officers who interview criminal subjects must identify and interpret verbal and non-verbal cues in deciding whether an interrogation is warranted. It is therefore important to identify the effect that training, experience, and special aids may have on a law enforcement officer's ability to accurately identify deception.

Law Enforcement Accuracy in Detecting Deception

Earlier research efforts at assessing human success in detecting deception led to additional research which focused on this same ability within the profession of law enforcement. Kassin and Fong (1999) examined the abilities of people to distinguish true and false denials rendered during the course of a criminal interrogation through laboratory experimentation. In this experiment, 16 male college student participants engaged in various mock crimes such as vandalism, shoplifting, breaking & entering, and computer break-in, and were subsequently subjected to a mock arrest and questioning session. Innocent participants were instructed to be honest while guilty participants were instructed to lie to the interrogator by denying their involvement. To increase the consequences associated with honest and deceptive responses, those participants who were ultimately judged as guilty were to be detained at the campus security office for five

minutes while those who were ultimately judged as innocent would receive \$5. Forty additional college student participants were randomly assigned to receive 30 minutes of Reid interrogation training or to receive no training at all. These 40 participants were then shown videos of the interrogations of each of the 16 participants who participated in the mock criminal activity. After reviewing each interrogation, which ranged from 3.5 to 6 minutes, the 40 observing participants were asked to identify which denials were true and which were false. Kassin and Fong identified that the observers were unable to distinguish between truthful and deceptive subjects and that the Reid-trained participants were not only less accurate than those in the naïve control group at distinguishing between true and false denials, but they were more confident in their judgements. Based on these findings, Kassin and Fong concluded that the Reid technique may not be effective, and may actually prove to be counterproductive as a method for accurately identifying truthful and deceptive responses from an interview subject. An argument could be made, however, that the artificiality of this experiment, particularly the use of college students, the use of mock criminal activity with minor consequences, the brief periods of interrogation, and the miniscule amount of training in the Reid technique, could make Kassin and Fong's extrapolation of their findings to real-world law enforcement and criminal interrogation difficult.

Building on research like that of Kassin and Fong (1999), Meissner and Kassin (2002) addressed the ability of law enforcement officers to accurately identify deception by comparing the judgments of actual police investigators to trained and naïve college students while simultaneously examining the impact that experience and training may have on judgment accuracy. Their sample was comprised of 44 law enforcement

investigators (25 local officers from Florida and 19 local officers from Ontario) who were then shown the 3.5 to 6.0 minute interrogation videos from the Kassin and Fong experiment. Participants were then asked to judge whether the subjects were truthful or deceptive in their denials. When compared to the responses of the college student participants in Kassin and Fong's earlier experiment, results indicated that neither training nor prior experience as a law enforcement officer appeared to increase accuracy in identifying deception. Meissner and Kassin also concluded that experience and training appeared to increase the likelihood that a law enforcement officer would view an interrogation subject as deceitful. Meissner and Kassin's findings therefore seemed to support previous research that suggested that law enforcement officers maintain an investigator bias that causes them to see deception in others. If Meissner and Kassin's findings are to be believed, law enforcement officers' increased tendency to see deception in others may translate into an increase in subjecting innocent people to unwarranted interrogations.

Garrido, Masip, and Herrero (2004) arrived at similar conclusions when examining the abilities of Spanish police officers' and university students to accurately identify truth and deception. With a participant pool comprised of 121 Spanish police officers and 146 undergraduate students, Garrido et al. instructed the participants to view videos of both truthful and deceptive statements and then identify which statements were true and which were false. The results indicated that the police officer respondents had an overall accuracy rate of approximately 47% while the student participants had an accuracy rate of approximately 59%. Garrido et al. concluded that this difference was a function of the law enforcement officers' strong tendency to judge the statements of the

interview subjects as deceptive. Other researchers have similarly indicated that the nonverbal cues that are reportedly suggestive of deception and which are frequently taught to law enforcement officers such as gaze aversion, rigid posture, and fidgeting have not been found to be diagnostic of guilt or innocence (Kassin et al., 2010).

Problems with Testing Detection Deception in the Laboratory

As noted by Bradford and Goodman-Delahunty (2008), if the ability to correctly identify deception within an everyday social context is important, this same ability is of critical importance within the criminal justice system, particularly among law enforcement interrogators. In reviewing 39 studies relating to the abilities of laypeople to identify deception, Vrij (as cited by Bradford & Goodman-Delahunty, 2008), noted that a considerable portion of the empirical research involved research participants being shown videotapes of interviews with innocent and guilty subjects and then asking them to identify both the accuracy of the statements and the cues that contributed to their assessment. Vrij identified a mean accuracy rate in these studies which hovered only slightly above chance. However, such an overreliance on artificial laboratory experiments may call into question the conclusions that law enforcement personnel are inherently unreliable, and at times, actually worse than untrained college students in their ability to accurately identify deception.

An argument could be made that the deception assessments made by university research participants who received 30 minutes of interview training, or the responses of university research participants who participated in mock crimes of no real consequence, may not be suitable for drawing conclusions about deception detection accuracy of law enforcement officers. In fact, this very argument was made by O'Sullivan, Frank,

Hurley, and Tiwana (2009) who suggested that the tendency of most lie detection researchers to rely on university student participants may have contributed to the false conclusion that human beings, to include law enforcement professionals, are only slightly better than chance at identifying deception. O'Sullivan et al. noted that the experimental studies specifically designed to test law enforcements' ability to accurately identify deception and the lies on which officers are asked to render judgements do not actually reflect the lies they observe within their profession. In a meta-analysis of deception detection research, O'Sullivan et al. concluded that when law enforcement officers are tasked with identifying deception in high stakes lies, like those involving serious rewards or punishments for the interrogation subject, they are significantly more accurate than those officers who are tested in low stakes situations.

Based on the position that the significance of the lie matters when assessing law enforcement's ability to accurately identify deception, Frantzen and Can (2012) sought to compare lie detection confidence levels between violent crime and property crime detectives while similarly comparing lie detection confidence levels for law enforcement officers engaged in custodial and non-custodial interviews. Frantzen and Can also sought to analyze the relationship between officers' lie detection confidence levels based on the interrogative technique that was employed. While many of the previous researchers had focused upon experimental research with university students in controlled settings, Frantzen and Can chose to seek the insights of law enforcement officers by collecting self-report surveys from 135 detectives in local (i.e. municipal and county) law enforcement agencies in Texas. In analyzing this data, they determined that respondents had a mean lie detection confidence level of 75% which is significantly higher than

chance and notably higher than the lie detection abilities reported in experimental research studies. Frantzen and Can therefore concluded that this high degree of confidence was due in part to the fact that law enforcement officers, by the nature of their profession, have access to corroborating evidence like witness statements and physical evidence that is likely to support their lie detection judgments. While the researchers outlined above suggest that innocent people may be unnecessarily subjected to criminal interrogations due to the inability of law enforcement to accurately identify deception, others have reported that situational risk factors exist that pose a serious risk to innocent subjects who are brought in for questioning.

Situational Risk Factors for False Confession

Inbau et al. (2001) created an effective interrogative process that has been taught to countless law enforcement officers for decades. Kassin and Gudjonsson (2004) suggested that the 9-step process comprising the Reid interrogation technique can be broken down into three primary processes: isolation, confrontation, and minimization. As recommended by Inbau et al., when criminal subjects are taken in for questioning, they are generally separated from friends, family, and social support networks so that they can be questioned privately. This separation is designed to ensure privacy, to permit the law enforcement officer to maintain control over the interview and interrogation process, and to increase the stress associated with the subject's continued denials by holding them incommunicado in an unfamiliar environment (Kassin et al., 2010). Kassin (2008) also suggested that isolation increases both the subject's anxiety level and their desire to escape the interrogation process. In light of the stress associated with isolation, Kassin and Gudjonsson (2004) concluded that the likelihood of a false confession

increases as the duration of the interrogation increases. These positions have helped to create a research interest in the duration of law enforcement interrogations.

Interrogation Duration

After reviewing 600 audio- and video-recorded police interviews in England between 1989 and 1990, Baldwin (1993) concluded that nearly 75% of the interviews lasted less than 30 minutes. In a similar study in which 50 audiotaped police interviews in England relating to a variety of criminal offenses were reviewed, Bull and Soukara (2009) determined that the interviews ranged from 5 minutes to 3 hours. Citing various observational studies, Kassin et al. (2007) noted that routine law enforcement interrogations in the United States range between 20 minutes and one hour. However, in their analysis of 125 confirmed cases of false confessions caused by law enforcement interrogation techniques, Drizin and Leo (2004) identified that the mean duration of these interrogations was 16.3 hours with 34% lasting between 6 and 12 hours and 39% lasting between 12 and 24 hours. As noted by Davis and Leo (2012), the longer an interrogation lasts the more uncomfortable, fatigued, and anxious a criminal subject may become. It is therefore not surprising that false confessions tend to happen over prolonged periods of time (Kassin et al., 2010). During extremely long periods of interrogation, sleep deprivation may further compromise a subject's ability to resist falsely confessing (Kassin et al., 2010). Based on the profound differences in the duration of routine police interrogations and confirmed false confessions cases, it appears that interrogations of an egregious length are a situational risk factor for false confessions. This begs the question, are 16-hour interrogations typical for law enforcement officers or do they represent instances of police misconduct?

Directly Confronting the Subject

Directly confronting a guilty subject with evidence of their guilt is another key component of the Reid technique of interviewing and interrogation (Inbau et al., 2001). The confrontation process involves the law enforcement interrogator directly accusing the subject of participating in the criminal matter at hand, possibly supporting these assertions with real or fictitious evidence (Kassin, 2008). Strong assertions of guilt then increase the subject's feelings of despair and inevitability that could increase the likelihood of a false confession (Kassin, 2008). Aronson (as cited by Kassin & Gudjonsson, 2004), suggested that when a person considers the anticipated outcome as inevitable, they may come to agree with the anticipated outcome. When applied to criminal interrogation, Aronson's premise means that when a criminal subject comes to believe that their admission of guilt is inevitable, they will eventually acquiesce and provide a confession. This may explain why an interrogator's direct confrontation of a criminal subject may increase the likelihood of a false confession.

Minimization

In the minimization portion of the Reid technique's 9-step process, the law enforcement interrogator applies various tactics in an attempt to morally justify the subject's criminal actions (Kassin, 2008). These tactics include offering the subject sympathy; giving the appearance of understanding; rationalizing the crime; and providing alternative explanations for the criminal act by suggesting that the act was committed accidentally or out of self-defense (Kassin et al., 2010a). All of these efforts are employed as a means of inferring that if the subject confesses, they will be treated in a more lenient fashion (Kassin, 2008; Kassin et al., 2010a; Kassin & McNall, 1991;

Narchet et al., 2011). This hope of more lenient treatment may help to explain why a person is likely to falsely confess when presented with minimization tactics. While the Reid technique provides investigators with an interview and interrogation process designed to obtain valuable investigative information and confessions, it is important to note that law enforcement still have a wide variety of interrogative techniques available to them. These techniques are often cited by false confession researchers as the cause of many false confessions and they often portray law enforcement interrogators and their methods as ruthless and unyielding.

Interrogative Techniques

Despite the fact that unique personal characteristics and certain situational risk factors have been shown to influence a person's decision to both truthfully and falsely confess when interrogated by law enforcement, some researchers have suggested that it is the interrogative methods employed by law enforcement officers that are actually responsible for causing false confessions (Frantzen & Can, 2012; Hasel & Kassin, 2009; Kassin, 2012; Kassin et al., 2005; Levine et al., 2010; Meissner & Kassin, 2002; Nash & Wade, 2009; Perillo & Kassin, 2011). Based on anecdotal evidence from cases of wrongful conviction proven through DNA evidence, some interrogative techniques employed by law enforcement officers are believed to be overly coercive (Kassin, 2008; Kassin et al., 2010a). As noted by Narchet et al. (2011), once an investigator determines that a subject is being deceptive, a more aggressive interrogation process is initiated in which increased social pressure and manipulative interrogative methods are employed. The law enforcement officer then chooses one or more interrogative techniques that they believe will yield an incriminating response from the subject (Frantzen, 2010). As

recently as the 1930s, these techniques involved such physically and psychologically coercive acts as beating a subject, simulated drowning, putting lighted cigarettes on their body, whipping them with a rubber hose, explicitly threatening them with harm, shining a blinding light in their eyes, and withholding sleep, food, and water from them (Kassin et al., 2010a). Based on various legal rulings, these abusive techniques have been replaced by more psychologically-oriented methods (Conti, 1999; Kassin et al., 2010a; Klaver et al., 2008; Narchet et al., 2011) that are believed to convince the subject that the benefits of confession outweigh any perceived disadvantages (Moston & Stephenson, 1992) and that confession is ultimately in the subject's best interest (Kassin et al., 2010a). Kassin et al. therefore suggested that law enforcement officers approach confessions with the sole focus of raising the anxiety and despair associated with the subject's continued denials while simultaneously minimizing the anxiety associated with confessing.

Minimization vs. Maximization

While various techniques are available to law enforcement officers to accomplish the goal of eliciting a confession, Kassin and McNall (1991) reduced them into two main categories: maximization techniques and minimization techniques. Maximization techniques involve interrogative methods designed to scare and intimidate the subject by directly confronting them with accusations of guilt, exaggerating the seriousness of their purported criminal actions, and refusing to accept their denials (Russano et al., 2005). Conversely, minimization techniques are designed to offer the subject sympathy, gain their trust, present them with face-saving explanations for their behavior, and minimize anticipated legal consequences (Russano et al., 2005). In their novel experimental paradigm used with 330 undergraduate students, Russano et al. studied the influence of

psychologically based interrogation techniques on the likelihood of true and false confessions. The participants were paired with a confederate and both were instructed to solve various logic problems, some of which were to be solved individually and some of which were to be solved jointly. In the “guilty” condition, the confederate violated experimental rules by asking the unwitting participant for help on an individual problem. The participants who provided the answer were considered guilty. In the “innocent” condition, the confederate did not ask the participant for help. All of the participants were then interrogated. Unlike Kassin and Kiechel’s (1996) often-cited ALT key experiment in which university participants were interrogated about pressing the forbidden ALT key and crashing the computer system, Russano et al. considered their experimental paradigm to be more realistic as the crime of cheating was more serious in nature and required an intentional act.

Russano et al. (2005) then tested minimization techniques that implied leniency as well as an explicit offer of leniency via a specified “deal”. Russano et al. identified that guilty persons were 3.53 times more likely to confess (71.6%) than innocent persons (20.3%). Participants were 1.66 times more likely to confess when minimization was used (57.4% vs. 34.5%) and the participants who were offered a deal were 1.43 times more likely to confess (54.1% vs. 37.8%). When the minimization technique was employed AND an explicit deal was offered, the likelihood of both true and false confessions increased even further. Based on these findings, Russano et al. concluded that minimization techniques imply leniency in a manner similar to an actual “deal” where leniency is explicitly stated. This may explain why false confessions are likely to increase with the use of minimization techniques.

By employing the computer crash paradigm created by Kassin and Kiechel (1996) and building on the research of Russano et al. (2005), Newring and O'Donohue (2008) sought to identify the extent to which the Reid technique contributes to false confessions and false witness statements. The experiment involved 52 university students who participated in five stages of the experiment: a) presentation of the control question (what happened?); b) a request for a written statement; c) an observation of their verbal behavior as they created the written statement; d) being asked to verbally review their statement; and e) being asked to explain what had happened. This last stage involved the application of a specific Reid Technique by reducing the suspect's feelings of guilt by minimizing the moral seriousness of the offense. Newring and O'Donohue indicated that the Reid technique, in particular the technique of minimization, may contribute to both false confessions and false witness statements.

Leo (as cited by Woody and Forrest, 2009), offered three explanations for why it is difficult for some people to believe that an innocent person would ever falsely confess to a crime: a) it is difficult for some people to believe that an innocent person would go against their own self-interest by falsely confessing; b) some people believe that they would never, under any circumstances, accept responsibility for a criminal act they did not commit; and c) few people fully understand the coercive nature of police interrogation methods and the degree of manipulation and deception that is employed during the interrogative process. For example, some researchers have suggested that law enforcement officers employ such interrogative tactics as "good cop/bad cop" (Newring & O'Donohue, 2008); sleep deprivation (Davis & O'Donohue, 2004); subjecting subjects to extremely lengthy interrogations (Chapman, 2013); manipulating the subject through

psychological coercion (Leo & Drizin, 2010); increasing pressure on the subject (Najdowski, 2011); offering the subject a deal in exchange for their confession (Russano et al., 2005); employing deception and deceit (Conti, 1999); using trickery (Kassin et al., 2007); lying to the subject's loved ones about the subject's guilt (Chapman, 2013); minimizing a subject's sensory stimulation through physical isolation (Conti, 1999); and subjecting subjects to numerous interrogation sessions (Chapman, 2013). These researchers present a picture of law enforcement interrogators as single-minded individuals who will say and do anything, without stopping, until a confession is obtained. This premise is supported by Leding's (2012) position that because the law enforcement officer has already determined the subject to be guilty, and because the officer will not accept the subject's denials, the interrogator "will use whatever means necessary to elicit a confession" (p. 265). It is possible that American law enforcement officers are perceived in such a manner because of the nature of their interrogation training. As noted by Kassin et al. (2010a), police officers in the U.S. only receive brief interrogation training while at the academy, and perhaps some specialized training when they are promoted to their detective bureaus. Similarly, law enforcement officers with insufficient training too often enter into an interrogation based solely on a hunch that the subject is guilty, a conclusion arrived at hastily during the pre-interview (Kassin et al., 2010a). If this is to be believed, the interrogative methods used by law enforcement officers who are insufficiently trained can have disastrous consequences for innocent subjects.

False Evidence Ploy

In addition to the tactics listed above, there are a variety of other interrogative techniques that have been identified as potentially problematic. For example, Kassin (2008) identified the False Evidence Ploy (FEP) as a particularly concerning interrogative strategy. In this approach, law enforcement interrogators attempt to strengthen their accusations by presenting the subject with purportedly overwhelming evidence of their guilt when such evidence does not actually exist (Perillo & Kassin, 2011). This tactic may involve the interrogator falsely informing the subject that their fingerprint, blood, or hair was found at the scene of the crime; an eyewitness has positively identified the subject as the perpetrator; or the subject has failed a polygraph examination relating to their involvement in the criminal act (Perillo & Kassin, 2011). Researchers' reviews of wrongful convictions in the U.S. involving some form of false confession identified that the FEP technique was employed in numerous cases (Drizin & Leo, 2004; Leo & Ofshe, 1998). Kassin (2005) went even further by claiming that the FEP technique was implicated in the overwhelming majority of cases of false confessions rendered as a result of police inducement.

While Inbau et al. (2001) have recommended the FEP technique to law enforcement officers, Nash and Wade (2009) noted that various false confession researchers have suggested that this interrogative method may induce innocent persons to falsely confess to a crime they did not commit. For example, Kassin and Kiechel (1996) created a seminal research paradigm in which university students purportedly participating in a computer-based study of reaction times were warned not to press the ALT key on the computer's keyboard as a glitch in the system would cause the computer to crash. Experimenters then deliberately crashed the computer and interrogated the

innocent participants about pressing the forbidden ALT key. Half of the participants were presented with false eyewitness testimony that they had been observed pressing the ALT key. Based on the results, Kassin and Kiechel concluded that the presentation of false evidence, particularly false eyewitness testimony, increased the likelihood of a false confession. While the results of this study and the ALT key paradigm have been widely cited throughout the false confession literature, it is important to remember that this research was conducted with university students who were not only interrogated about a non-criminal act with no significant consequences, but they were interrogated about an act that could easily have occurred accidentally.

Types of False Evidence Ploys

Kassin and Kiechel's (1996) ALT key paradigm led to multiple other studies in which the paradigm was used to investigate other factors that may potentially contribute to the rendering of a false confession (Forrest et al., 2006; Forrest, Wadkins, & Miller, 2002; Horselenberg, Merckelbach, & Josephs, 2003; Redlich & Goodman, 2003). In using variations of the ALT key paradigm, researchers have replicated the effects of FEPs on the elicitation of false confessions (Kassin, 2008). Henkel et al. (2008) suggested that the use of the FEP in law enforcement interrogations is commonplace and Kassin et al. (2007) documented the fact that nearly all of the law enforcement officers they surveyed (92%) reported using this technique at least some of the time. Leo (as cited by Forrest et al., 2012), categorized FEPs into three individual categories: Demeanor FEPs, Testimonial FEPs, and Scientific FEPs. Leo described Demeanor FEPs as false claims made by interrogators that the subject's appearance or behavior are indicative of the subject's guilt (as cited by Forrest et al., 2012). An example of this type of FEP might

sound like, “I can see by the look in your eyes that you did this.” According to Leo (as cited by Forrest et al., 2012), Testimonial FEPs involve the interrogator falsely claiming that an eyewitness, co-conspirator, or surveillance video has placed the subject at the scene of the criminal offense. Lastly, Leo described Scientific FEPs as false claims made by the interrogator that the subject has left unequivocal physical evidence like blood or a fingerprint at the crime scene (as cited by Forrest et al., 2012). Each of these false presentations of supposed evidence is designed to elicit a confession by convincing the subject that the evidence against them is overwhelming and conclusive (Nash & Wade, 2009).

Doctored Video Evidence

While FEPs have been shown to encourage false confessions, Nash and Wade (2009) expanded this concept by investigating whether being presented doctored video evidence, or being informed that video evidence exists, would cause subjects to believe that they are guilty of the specified transgression. In their experimental design, Nash and Wade filmed university students as they participated in a computerized gambling task in which they were instructed to take fake money from a specified stack of cash (identified as the “bank”) when correctly answering a question. Participants were further instructed that when a question was answered incorrectly, they were to return money to the bank. The participants were later accused of taking money from the bank even though they had incorrectly answered a question. All of the participants were then told that a video exists in which they are seen taking the money after an incorrectly answered question, and half of the participants were actually shown a doctored video of them taking money after an incorrectly answered question. The results indicated that 100% of the participants in each

group signed a written confession that they had incorrectly taken the money and the majority of each group (60% and 67%) internalized the confession by coming to believe in their own guilt. It was therefore concluded that the existence of doctored-video evidence can elicit false confessions (Nash & Wade, 2009).

To overcome the potential argument that taking money from the bank on one occasion may have merely been an accidental transgression, Nash and Wade (2009) conducted a second experiment in which participants were accused of incorrectly taking money from the bank on three separate occasions, a reportedly less plausible transgression. In the group that viewed doctored video evidence depicting them incorrectly taking money on three occasions, as well as the group that was simply informed that such evidence exists, 93% signed a written confession that they had incorrectly taken money on all three occasions. For the group that was only informed that this evidence exists, 60% internalized their confession while 87% of those who observed the video internalized their confession. Nash and Wade therefore concluded that even in the event of a less plausible transgression, doctored video evidence can elicit false confessions. While Nash and Wade admitted that their cheating paradigm differs dramatically from actual criminal activity as these transgressions could have been accidental, they maintained that many people will confess and come to internalize the act when confronted with false-video evidence. An argument could be raised, however, that a video depicting an innocent subject engaged in a serious and willful criminal offense like rape or murder may not so readily lead to confession and internalization from an innocent subject. This premise is partially supported by the fact that false confessions decreased by 7% in Nash and Wade's second experiment involving a slightly less

plausible transgression. In light of this finding, it is possible that in the real-world of law enforcement where stakes run high, innocent people presented with doctored video evidence may be less likely to confess to a felony offense they did not actually commit.

Bluff Technique

The ALT key paradigm put forth by Kassin and Kiechel (1996) was also employed in the study of a lesser form of the FEP identified as the “Bluff Technique”. According to Perillo and Kassin (2011), the bluff technique is a less deceptive version of the FEP in which interrogators pretend to have evidence without specifically stating that this evidence necessarily incriminates the subject. An example of this may sound like, “We have discovered several fingerprints at the crime scene and they have been sent to the laboratory for analysis.” Unlike an FEP in which false evidence is provided that conclusively links the subject to the crime, the bluff technique merely gives the subject the impression that future discovery of their true guilt is imminent. Perillo and Kassin then conducted a series of three experiments to explore the effects of the bluff technique with university students. Two of the experiments involved the ALT key paradigm and the third involved a version of the cheating paradigm put forth by Russano et al. (2005). In the first two studies, the participants were instructed that they would be participating in a reaction time study and were warned not to press the ALT key because it would cause the computer to crash and research data would be lost. As in previous studies, the computer was deliberately crashed by researchers at which time the participants were questioned about pressing the ALT key. The results of these two studies indicated that participants were more likely to confess when told that their keystrokes had been recorded on a server which would be analyzed once the professor arrived and entered the

necessary server password. Of those who received the bluff technique, 75% cited the bluff as the reason they falsely confessed. Interestingly, the false confessors added that they believed that once the actual evidence was analyzed, their innocence would be proven and they would be exonerated.

In the third study, participants who were purportedly recruited to study individual and joint problem-solving tasks, were randomly assigned to a control group or to a group in which they would be asked by a confederate to help them cheat during the study. In half of the interrogations, the Bluff Technique was employed by informing participants that a hidden camera had been running and was downloaded directly to a hard drive that would soon be accessed. Results indicated that the bluff technique caused 50% of the innocents to falsely confess to cheating with 88% citing the bluff technique as a reason for their false confession. These findings supported the hypothesis that the bluff tactic harms the innocent by falsely giving them the impression that an analysis of the bluffed evidence will serve to exonerate them. Interestingly, it was also reported that 75% of the innocents who failed to confess also cited the Bluff Technique as their reason not to confess. These findings support the premise that the Bluff Technique will protect innocent subjects as their denials will be bolstered by the realization that no incriminating evidence will be uncovered. It is important to note that in addition to the Bluff Technique being identified by innocent participants as a reason for their false confession, many participants cited a collection of miscellaneous other reasons for confessing. One such explanation included the fact that there were low stakes associated with their confession (Perillo & Kassin, 2011). This may again suggest that not only do laboratory

experiments with college students not necessarily translate to real-world criminality, but when offenses become more serious, innocent people are less likely to falsely confess.

Potential Problems with Presenting False Evidence

Despite claims that the presentation of false evidence by law enforcement interrogators is both common (Forrest et al., 2012) and highly controversial (Perillo & Kassin, 2011), there remains an inherent downside to the use of this technique that may discourage its use by law enforcement. In attempting to explore how the strength of evidence may impact a subject's likelihood of confession, Kebbell et al. (2006) conducted an experiment with university students in which participants were asked to commit the mock crime of stealing a cell phone from an adjacent room. They were then asked to report their likelihood of confessing in a mock police interview based on witness evidence of varying strength that was presented to them. Kebbell et al. anticipated that participants would be more likely to confess when presented with more detailed eyewitness evidence against them. This hypothesis was not found to be true. In addition, results indicated that inaccurate eyewitness information decreased the likelihood of a participant's confession. Based on their findings, Kebbell et al. concluded that law enforcement officers should be certain that the evidence they present to an interrogation subject is accurate as inaccurate evidence may decrease the likelihood of obtaining a confession. When applied to the false presentations of evidence, law enforcement officers run the risk that the presentation of inaccurate evidence will cause a truly guilty subject to strengthen their denials.

It should be noted that lying to a criminal subject in the form of an FEP can have practical risks. Experienced interrogators have reported that this type of deceit can cause

the subject to catch the interrogator in a lie which will then negatively impact the ability to obtain a confession (Wisconsin Criminal Justice Study Commission, 2007). An example of where an FEP could possibly backfire on the interrogator may be observed when a law enforcement officer falsely claims that a subject's fingerprint was observed at the crime scene but the truly guilty subject knows that they wore gloves at the time of the offense. For the truly guilty subject, such a false presentation of evidence may only strengthen the subject's denials as the subject now realizes that the interrogator is lying. Similarly, for a truly innocent subject, a false presentation of evidence may actually bolster their claims of innocence as they come to realize that they were never at the crime scene and could not possibly have left a fingerprint. These practical risks may help to explain why experienced interrogators rarely employ the FEP technique (Wisconsin Criminal Justice Study Commission, 2007) and why other law enforcement officers report only using this technique occasionally (Kassin et al., 2007).

Law Enforcement Officers as Con Artists

A notable portion of false confession researchers continue to portray law enforcement interrogators as highly coercive beings who will stop at nothing until they obtain a confession. This sentiment can be observed in the words of Simon (as cited by Brandl, 2014) who, after shadowing Baltimore Police Department homicide detectives for a year, suggested that once law enforcement officers engage in interrogation, they become:

a salesman, a huckster as thieving and silver-tongued as any man who ever moved used cars or aluminum siding, more so, in fact, when you consider that he's

selling long prison terms to customers who have no genuine need for the product. (p. 195)

In researching false confessions, the belief that law enforcement officers routinely employ trickery, deceit, and manipulation to coerce false confession from innocent subjects may be based on the fact that case studies of proven false confessions are frequently identified, analyzed, and/or referenced. As a result, it is possible that false confession researchers have developed a biased view of law enforcement interrogative techniques which, in turn, may cause people to believe that police interrogation is merely the product of police viciousness (Conti, 1999).

Examples of Extreme Interrogative Coercion

Kassin (1997) noted that innocent subject Paul Ingram was interrogated on 23 occasions over the course of five months, was subjected to hypnotism, and furnished graphic details of the crime before confessing to raping his daughters as part of a Satanic ritual. Kassin (2007) also wrote about the case of Billy Wayne Cope who confessed to strangling and molesting his daughter after 17 hours of questioning over the course of four days, being held in jail overnight without food or water, being physically isolated from his friends and family, being denied legal counsel, and being falsely advised that he had failed the polygraph examination he had just been administered regarding this issue. Conti (1999) similarly referred to law enforcement's use of the "wear down" technique in which officers deliberately detain subjects for lengthy periods of time until they confess, adding that an innocent person could be made to confess to almost anything under the stress of constant questioning and suggestion. As if in support of this premise, Ofshe and Leo (1997) presented the case of Tom Sawyer who falsely confessed to sexual assault

and murder after 16 hours of being interrogated and threatened by law enforcement officers. Kassin (2005) similarly referenced a case in which an unidentified man confessed to murdering his wife after being subjected to 19 hours of interrogation and being falsely informed that blood was located in his vehicle and submitted for laboratory analysis.

An argument could be made that by focusing on proven cases of false confession like those outlined above, false confession researchers have developed a negative view of law enforcement officers and their interrogative methods. Hill and Moston (2011) identified the egregious tactics like those outlined above as clear examples of “police malpractice”. This begs the question, do these interrogative practices represent unfortunate examples of unethical behavior by law enforcement officers, or do they represent business as usual in the interrogation room? Questions also arise as to whether the interrogative methods used by law enforcement officers are truly responsible for false confessions? In attempting to answer these questions, it becomes necessary to address other problematic police behaviors that are associated with the phenomenon of false confessions.

Police Actions and False Confessions

In addition to the interrogative techniques they employ, other behaviors of law enforcement officers have been found to be problematic in reference to the phenomenon of false confessions. For example, some false confession researchers have assumed that police automatically accept false confessions as true and prosecutors automatically use false confessions to prosecute the subject (Lassiter, 2010; Leo & Davis, 2010). These assumptions stem in part from the belief that law enforcement officers are unable to

identify a false confession when they are presented with one (Kassin, 2012). Others have suggested that once a law enforcement officer obtains a confession, regardless of the truthfulness of the confession, the law enforcement officer immediately closes the case with no additional investigation (Kassin, 2012; Leo & Davis, 2010). The problem is further exacerbated by the fact that people fail to discount confessions even when they are later retracted by the subject and judged by a trier of fact to have been obtained as a direct result of police coercion (Kassin, 2012). For these reasons, Lassiter (2010) concluded that false confessions virtually guarantee that the innocent person who falsely admits to a crime will ultimately be prosecuted and convicted. Kassin (2005) therefore noted how vitally important it is for law enforcement officers and prosecutors to accurately identify false confessions when they occur.

The Inability of Police to Identify a False Confession

Despite the importance of correctly identifying false confessions, it is extremely difficult for law enforcement to differentiate truth from fiction (Bradford & Goodman-Delahunty, 2008; Malloy et al., 2014). One reason for this stems from the fact that in the real-world of policing, many false confessions are highly accurate, detailed, and even offer potential motives and reports of specific emotions at the time of the offense (Bradford & Goodman-Delahunty, 2008; Kassin, 2012; Perillo & Kassin, 2011). Based on the fact that some false confessions contain true details of the crime to which an innocent person would not be privy, some have suggested that law enforcement officers may feed this information to the subject purposefully to bolster the false confession, or inadvertently through leading questions (Kassin, 2005; Kassin, 2012). When the ability of human beings to accurately detect deception has been tested, it has been concluded

that distinguishing truth from lies is not an easy undertaking (Levine et al., 2010). It has also been concluded that because they are both highly believable and because they appear to lack an obvious motive for deception, false confessions are extremely difficult to identify (Levine et al., 2010). Levine et al. conducted three experiments with university students to examine the extent to which truthful confessions and false confessions can be accurately identified. During the first two experiments, students reviewed 27 interviews containing both true and false denials and confessions. In the first experiment, students were only able to accurately identify a false confession 11.6% of the time. During the second experiment, students believed false confessions 73.7% of the time. Because both studies used student participants as judges of truth, Levine et al. sought to test the ability of law enforcement officers in identifying true and false confessions. After conducting a third experiment in which law enforcement officers with varying levels of experience were given a similar task, Levine et al. reported that police officers accurately identified false confessions only 23.4% of the time. Levine et al. therefore concluded that confessions are more often believed than denials regardless of their actual veracity.

Linguistic Differences between True and False Confessions

While it may be difficult to distinguish true confessions from false confessions, some differences between the two do exist. For example, Ali and Levine (2008) examined the differences in language usage during truthful and deceptive confessions and truthful and deceptive denials rendered during a cheating experiment. Findings indicated that dishonest subjects exhibited fewer negative emotions, less discrepancy, fewer modal verbs, more modifiers, and dishonest subjects tended to speak for a longer duration. Building on this research, Villar, Arciuli, and Paterson (2013) attempted to identify

linguistic indicator differences between true and false confessions. Villar et al. anticipated that the formulation of a false confession would require the innocent subject to create a statement that includes specific details they may not be aware of such as facts related to the criminal act under investigation. Conversely, a truly guilty person who denies their wrongdoing must suppress their full knowledge of the crime details in feigning their ignorance. Believing that the difference in these two types of lies may impact the use of nouns, verbs, and adjectives, Villar et al. examined the linguistic differences in true and false confessions rendered by university students. The findings indicated that there are measurable linguistic differences between true and false confessions, especially as they relate to the use of adjectives. More specifically, when students provided a false confession, they tended to use fewer adjectives than when they provided a truthful confession (Villar et al., 2013). This study is noteworthy as it supported the premise that it may be possible to actually identify when a confession is false.

Testing the Veracity of Confessions

Other strategies are available to law enforcement officers to assist in their ability to accurately identify a false confession. One such strategy involves the interrogator's disclosure of evidence to a criminal subject as a means of testing their veracity. Hartwig, Granhag, Stromwall, and Vrij (2005) examined how the timing of the interrogator's disclosure of evidence to the criminal subject may assist in identifying any deception exhibited by the subject. In an experiment in which university students engaged in mock criminal activity, Hartwig et al. concluded that when interrogators waited until later in the interrogation to disclose evidence of the subject's guilt, they were able to accurately

identify deceptive statement 67.6% of the time. Noting that lying is a cognitively demanding activity, Vrij, Fisher, Mann, & Leal (2006) put forth a cognitive load approach to identifying deception in a criminal subject. This cognitive load approach specifies that individuals choosing to lie to investigators are required to engage in numerous extra tasks in an attempt to appear truthful. Lying subjects are therefore tasked with maintaining consistency in their story, making correct inferences about what the interrogator is asking, anticipating future questions, and controlling one's behavior. Identifying these tasks as a subject's cognitive load, Vrij et al. noted that law enforcement officers can become much more adept if they pay attention to, and tax, a person's cognitive load with strategies like asking the subject to tell their story in a reverse order or providing distractions as they give their statement. As these researchers suggest, there are strategies available to law enforcement officers to identify whether a person is being honest in their statements and in their confessions.

As previously noted, some false confession researchers have suggested that: a) law enforcement officers automatically accept the confessions they receive; b) they cannot identify false confessions with any reliability; c) they automatically close their cases once confessions are obtained; d) prosecutors naturally prosecute individuals who provide false confessions; and e) people are unable or unwilling to discount false confessions even when they are recanted or proven to be obtained by coercion (Lassiter, 2010; Leo & Davis, 2010). It is uncertain to what extent these suppositions reflect the realities of actual police interrogation. False confession researchers often portray law enforcement officers as vicious, unrelenting, and willing to employ whatever means necessary to obtain a confession (Brandl, 2014; Chapman, 2013; Conti, 1999; Kassin,

2012; Lassiter, 2010; Leding, 2012; Leo, 1996; Leo & Davis, 2010; Leo & Drizin, 2010; Narchet et al., 2011; Woody & Forrest, 2009). Other researchers have further suggested that the techniques employed by police are so coercive in nature that they can cause an innocent person to admit to a crime in which they had no involvement (Bradford & Goodman-Delahunty, 2008; Drizin & Colgan, 2004; Kassin et al., 2010a; Levine, Kim, & Blair, 2010; Ofshe & Leo, 1997; Perillo & Kassin, 2011). Still, some researchers have suggested that in the world outside of the laboratory and apart from the advocacy institutions, the actions, abilities, and interrogative approaches of law enforcement officers appear much different.

Interrogation and False Confessions in the Real World

Whereas false confession researchers employing laboratory experiments and the analysis of wrongful conviction cases like those outlined above suggest that law enforcement officers and their interrogative tactics are the primary causes of false confessions, different conclusions are often reached when real-world interrogations are observed. For example, Baldwin (1993) concluded after reviewing 600 recordings of criminal interrogations in England that when people confessed to a criminal act, they tended to do so early in the interview, likely because this is the time when evidence of guilt is presented to the subject. An argument could be made that since many of these confessions happened toward the beginning of the interview, interrogative tactics were unlikely to play a significant role as the confessions happened so quickly. Baldwin's findings are also consistent with those of Moston, Stephenson, and Williamson (1992) who took a random sample of 1,067 cases investigated by the Metropolitan Police in London and concluded that police officers only obtained admissions from subjects when

the evidence against them was ostensibly strong. Both of these findings support the position of Kebbell et al. (2006) that the elicitation of a confession may have more to do with the thoroughness of the investigation than the interrogation strategies employed by law enforcement. Through his review of the 600 recordings of criminal interrogations outlined above, Baldwin also noted that the majority of subjects did not move from denial to confession during the course of the interrogations. For these reasons, Baldwin posited that the interrogator's efforts had little to do with the eventual outcome of the interrogation.

Evidence Strength

Others have also suggested that evidence strength is much more likely to influence confessions than the interrogative methods that are employed. For example, in their study involving Australian students engaged in mock criminal activity, Kebbell et al. (2006) reported that the subject's perception of the strength of the evidence against them was the largest determinant of whether a confession was rendered by the subject. In their review of the relevant literature, Moston and Engelberg (2011) determined that not only are confessions more likely to occur when the evidence presented to a criminal subject is strong, but the subject's ultimate decision to confess is more likely to be influenced by factors relating to their personal characteristics (i.e., age, criminal history); the specified criminal act (i.e., type and severity); and various situational factors (i.e. provisions of legal advice, presence of a support person, etc.). Moston and Engelberg also concluded that while it is perceived that interrogative methods are critical to obtaining a confession, a myriad of other variables are at play that have a greater influence on the interrogation outcome than the interrogative methods employed.

Foreign Law Enforcement's Perceptions of What Works

Bull and Soukara (2009) conducted four interrelated research studies that sought to explore what actually occurs within the interrogation room. In the first study, law enforcement officers from a relatively large police department in England who routinely interview criminal subjects were questioned about what they believed were the most necessary skills an interrogator must possess in order to be effective. Participants identified preparation, knowledge of the topic, the ability to build rapport with the subject, listening, questioning, flexibility, open-mindedness, and compassion/empathy as the most critical skills for effective interrogation (Bull & Soukara, 2009). When questioned about the techniques they tended to employ when dealing with an uncooperative subject, most participants reported that presenting evidence of guilt to the subject had the greatest impact. When asked about the importance of obtaining a confession from the subject, almost all of the participants replied that it was "Not at all important". The participants also noted that it is important for officers to enter the interview/interrogation room free of bias. Similarly, Soukara, Bull, and Vrij, (as cited by Bull & Soukara, 2009), noted that law enforcement participants reported that their interrogative actions were not typically influenced by the way the subject looks or behaves. These findings obtained from real-world law enforcement interrogators in the United Kingdom stand in stark contrast to the descriptions of American law enforcement officers and their interrogative methods offered by much of the existing false confession research.

In a second study, Bull and Soukara (2009) analyzed 80 of the 200 interviews provided by law enforcement officers relating to a variety of criminal offenses ranging

from reckless driving to homicide. The interviews were rated on the prevalence of the 17 most commonly identified interrogative methodologies in the existing research. These techniques, and the extent to which they were used in the 80 selected interviews, are as follows: a) presenting the subject with evidence (79); b) open-ended questions (79); c) leading questions (73); d) repetitive questioning (67); e) emphasizing contradictions in the subject's statement (>50%); f) positively confronting the subject with accusations of their guilt (>50%); g) challenging the subject's account of events; h) gentle prodding (<50%); i) showing concern for the subject (<50%); j) interrupting the subject (<50%); k) suggesting scenarios of what may have occurred (<50%); l) handling the subject's mood (<50%); m) remaining silent (<50%); n) maximizing the offense (1); o) minimizing the offense (Never); p) intimidating the subject (Never); and q) suggesting that the situation is futile (Never). Of the 80 interviews that were examined, 31 people rendered a confession. Bull and Soukara noted that 5 of the confessions happened very early in the interview. In addition, it was reported that many of the techniques outlined above were used during interviews in which no confession was obtained. Lastly, there did not appear to be a positive correlation between the use of the interrogative techniques listed above and the elicitation of confessions (Bull & Soukara, 2009). Contrary to previous findings, many interrogative techniques employed in real-world criminal interrogations do not automatically lead to confessions, and some people confess in the absence of these techniques. It was also reported that the only statistically significant correlation between interrogative technique and confession was a negative one relating to challenging the subject's account of events. Bull and Soukara suggested that when interrogators chose to challenge a subject's depiction of events, they were less likely to render a confession.

Thus, it appears that in the real world of law enforcement interrogation, confronting a subject more harshly may make them less likely to confess.

In a third study, Bull and Soukara (2009) examined 50 additional audiotaped interviews provided by police to identify any potential relationships between the interviewer's behavior and the behavior of the subject. Bull and Soukara focused on the following interview skills: a) rapport building; b) communication; c) open-mindedness; d) presumptiveness (assuming guilt); e) flexibility (the ability to change interview techniques to fit the subject's behavior/attitude); and f) responsiveness to the subject (displaying a positive reaction to the subject's behavior/attitude). Bull and Soukara also evaluated the following behaviors of the interview subject: a) cooperation; b) responsiveness to the interviewer; c) plausibility of the subject's account; and d) resistance (unwillingness to answer questions). Upon examining the relationship between interviewer and subject behaviors, Bull and Soukara concluded that subjects were more responsive to, and cooperative with, the interviewer when the interviewer was open-minded, flexible, responsive to the subject, and took time to build rapport. Similar to the findings of the previous study, Bull and Soukara presented a different picture of what takes place in a real-world criminal interrogation.

In their final study, Bull and Soukara (2009) selected 40 additional interviews from the 200 provided by police in which a confession occurred toward the middle or end of the interview. These interviews were selected under the premise that interrogative techniques are more likely to have contributed to the confession since the confession occurred later in the interview. The interrogative techniques that were employed and the frequency in which they were noted are as follows: a) disclosure of evidence (100%); b)

open-ended questions (100%); c) repetitive questions (93%); d) leading questions (75%); e) handling the subject's mood (73%); f) emphasizing contradictions in the subject's statement (65%); g) positively confronting the subject with accusations of their guilt (60%); h) interrupting the subject (55%); i) remaining silent (35%); j) challenging the subject's account of events (28%); k) suggesting scenarios of what may have occurred (20%); l) gentle prodding (15%); m) showing concern for the subject (10%); and n) suggesting that the situation is futile (3%). Bull and Soukara offered that these findings appear to indicate that a subject's ultimate decision of whether to confess may be at least partially influenced by the strategies of presenting the subject with evidence of their guilt, using open-ended questions, and asking repetitive questions. It was also noted by Bull and Soukara that the interrogative tactics of greatest concerns to some false confession researchers such as the bluff technique, false evidence ploys, minimization, and so on, were rarely present in actual police interviews in the United Kingdom. In light of these findings, there appears to be a disconnect between what some false confession researchers are concluding, especially when employing studies involving experimental paradigms with college students engaged in non-criminal offenses, and what actually occurs in real-world interrogations. It cannot be overlooked, however, that the studies outlined above involved the experiences and interrogative techniques of law enforcement officers in the United Kingdom. Would the same conclusions be reached after an analysis of American interviews and interrogations?

American Law Enforcement Perceptions

In the first study of its kind in the United States, Kassin et al. (2007) conducted a self-report survey of police practices and beliefs by obtaining and analyzing 631 surveys

from law enforcement officers within the United States and Canada. Kassin et al. first identified six specific areas of interest related to false confessions: a) law enforcement's ability to distinguish between truthful and deceptive statements; b) issues pertaining to Miranda rights; c) interrogation methods utilized to obtain confessions; d) the length of interrogations; e) the rates of false confessions; and f) the recording of interrogations and confessions. Prior to this study, there existed a dearth of research in which law enforcement officers were asked for their perceptions regarding such issues. Upon analyzing the survey responses from the 631 law enforcement participants, Kassin et al. identified that 67% of respondents reported giving oral Miranda warnings to their interview subjects and 29% reported giving them written Miranda warnings. This suggests that in the real world, the overwhelming majority of law enforcement officers do, in fact, advise interrogation subjects of their constitutional rights before the onset of the interrogation. It was similarly reported that 81% of subjects waived their rights and 13% later invoked them during the course of the interrogation. This suggests that approximately one-third of interrogation subjects were neither coaxed into waiving their rights by law enforcement trickery, nor were they coerced to such an extent that they did not have the ability to end the interrogation process by invoking their constitutional rights. Respondents also reported that 67.57% of the individuals they interrogated made self-incriminating statements (with 38.4% giving partial statements and 30.01% giving full confessions) and 32.14% made no admissions whatsoever. As most confessions are likely true (Davis & Leo, 2012; Moston & Engelberg, 2011), these findings suggest that a sizeable portion of those interrogated by law enforcement officers exhibited an ability to

resist what has been portrayed in the research as overwhelmingly coercive interrogative techniques.

When Kassin et al. (2007) asked about the interrogative methods employed, 73% of the law enforcement respondents reported that they have “never” intimidated a criminal subject during an interrogation. Upon questioning respondents about the length of their interrogations, it was concluded that the average length of criminal interrogations was 1.6 hours with the longest interrogations averaging 4.95 hours. Lastly, the respondents reported that 4.78% of the innocent subjects they interrogated gave false confessions. However, upon closer examination of this number, Kassin et al. identified that only 0.97% of the false confessions that were reported were full confessions. These findings suggest that law enforcement officers approach interrogations differently, they employ less coercive interrogative methods, and they experience less false confessions than what has been concluded in laboratory experimentation and wrongful conviction case studies. While the study conducted by Kassin et al. was groundbreaking in that it was the first study to seek insight from American law enforcement officers regarding these issues, their sample was comprised almost solely of local law enforcement officers who did not necessarily specialize in the interrogation of criminal subjects.

Reid Training

Kostelnik and Reppucci (2009) built on the research of Kassin et al. (2007) by analyzing the difference between officers who have been trained in the Reid technique and those who have not regarding their sensitivity to the developmental maturity of juvenile interrogation subjects. Kostelnik and Reppucci surveyed 1,828 police officers (514 of whom had been trained in the Reid technique) about their perceptions and

practices when interrogating children, adolescents, and adults. Results indicated that officers trained in the Reid technique were less sensitive to the developmental maturity and competencies of young subjects, and they typically did not consider these factors when selecting psychologically coercive interrogation strategies. While this study is unique in that it is one of the few studies that have sought input from actual law enforcement officers regarding interrogation techniques and perceptions, the study focused primarily on juveniles. The sample was also predominantly comprised of patrol officers who are less likely to have received specialized training in interrogation and are less likely to engage in criminal interrogations than their investigator counterparts. This study is also limited by the fact that it fails to address any specific interrogation techniques so it is difficult to identify exactly what participants may have been considering when questioned about interrogations and interrogative strategies.

Interrogation Strategies

Further building on the research of Kassin et al. (2007), Frantzen (2010), collected self-report data from 43 police investigators in Texas and followed up with personal interviews involving 18 of the respondents. Their line of questioning was designed to help identify law enforcements' perceptions of strategies that influence criminal interrogations. The participating officers were specifically questioned about the following interrogative methods and their opinions on the effectiveness of each: a) appealing to the subject's conscience; b) appealing to the subject's guilt; c) explaining to the subject the importance of their cooperation; d) identifying contradictions in the subject's account of events; e) highlighting the interrogator's expertise or authority; f) confronting the subject with actual evidence of their guilt; g) praising or flattering the

subject; h) offering moral justifications and/or psychological rationalizations for the subject's criminal act; i) minimizing the moral seriousness of the criminal act; j) undermining the subject's confidence in his denials; k) invoking metaphors of guilt; and l) employing the Reid technique of interrogation. Results indicated that offering moral justifications and/or psychological rationalizations for the subject's criminal act, as well as confronting the subject with existing evidence of his guilt, were perceived by participating law enforcement officers to be the most effective interrogative strategies. Participants also identified that appealing to the subject's conscience and building rapport as a means of facilitating a dialogue with the subject were also highly effective interrogation strategies (Frantzen, 2010). This study is particularly noteworthy as Frantzen highlighted the fact that very few research projects have sought to explore the perceptions of law enforcement regarding interrogation strategies and even fewer have done so in conjunction with the phenomenon of false confessions. Frantzen's findings also demonstrated that, despite the horror stories of police interrogation atrocities as outlined by advocacy groups and some false confession researchers, law enforcement officers did not report relying on coercion to obtain confessions, nor do confessions tend to exist without corroborating physical evidence.

Based on these studies, it appears that researchers dealing with actual law enforcement officers present a different picture of how law enforcement officers approach interrogations and actually interrogate criminal subjects. For example, Bull and Milne (as cited by Lassiter, 2010), suggested that law enforcement in the United States has developed an ethos of interviewing in which a confession is the primary goal and a close-minded, oppressive, and suggestive interviewing style is then employed to obtain

the highly sought-after confession. However, upon surveying 2,769 officers from the Queensland Police Department in Australia, Hill and Moston (2011) reported something different. Their surveys were designed to record the perceptions of law enforcement officers regarding the importance of investigative interviewing as well as the extent to which certain interviewing techniques were employed. Of the 2,769 respondents, 2,040 were uniformed police officers while only 382 were self-identified as detectives. It was further identified that the respondents did not report frequent interrogative experience and many noted a lack of interview and interrogation training. Contrary to Bull and Milne's suggestion that American law enforcement is primarily motivated by the desire to obtain a confession, Hill and Moston identified that 82% of Queensland officers reported that they question criminal subjects to gather evidence, to establish the truth, to obtain the subject's version of events, to obtain information, or to identify a potential motive. Conversely, only 17.2% of the respondents reported that their primary goal during an investigative interview was to obtain a confession. Respondents also reported that they were more likely to use "appropriate" interviewing techniques than "inappropriate" interviewing techniques (Hill & Moston, 2011).

The PEACE Model

Walsh and Bull (2010) attempted to delineate which interrogative techniques are most effective with suspects by comparing interviewing abilities with interview outcomes. In doing so, they used aspects of the "PEACE" model. The PEACE model is an approach to interviewing criminal subjects that has been recently adopted in England. The acronym PEACE is based on the effective interviewing phases of "Preparation and Planning", "Engage and Explain", "Account", "Closure", and "Evaluation". In this

study, Walsh and Bull examined 115 taped police interviews with criminal subjects as well as 27 transcripts from benefit fraud interviews in England between 2004 and 2007. Results indicated that when law enforcement officers spend more time preparing and planning prior to their interviews, the overall quality of the interviews increased. Walsh and Bull also concluded that effective communication skills and the ability to be flexible in the interview were the primary predictors of a quality interview. Lastly, Walsh and Bull reported that 63% of those interviewers who were rated as “satisfactory” or “skilled” were successful in obtaining confessions while 88% of those interviewers who were identified as needing additional interview training received either complete denials from their subject or partial admissions. This study is noteworthy as the findings suggest that it is the interviewer and their abilities, not the interview/interrogation techniques, that lead to confessions. In addition, as half of the subjects in the sample confessed to interviewers who were judged to be less than satisfactory, this supports the findings of previous research that some suspects enter the interrogation room fully intending to confess and will do so regardless of the abilities of the interviewer (Bull & Soukara, 2009; Hilgendorf & Irving, 1981; Pearse & Gudjonsson, 1996). Walsh and Bull’s findings may bolster the argument that if true confessions from eager subjects do not reflect the interrogator’s skill level or the particular interrogative strategy used, then false confessions from eager subjects should similarly not reflect the interrogator’s skill level or choice of interrogative methods.

Walsh and Bull (2012) addressed how real-world interviewers overcome denials by examining 85 recorded interviews of subjects of benefit fraud in England. In particular, Walsh and Bull addressed the skill levels and attitudes of interviewers and the

degree to which they may successfully move subjects from denial to confession. They also examined whether the weight of evidence plays a role when subjects decided to confess. Walsh and Bull's findings indicated that the PEACE techniques of disclosing evidence, using open-ended questions, asking leading questions, emphasizing contradictions in the subject's statement, challenging the subject's account of events, and demonstrating persistence, were present in the majority of the interviews. They also discovered that when the interviewers employed more questionable techniques like using leading and/or repetitive questioning, the subjects were less likely to confess. Walsh and Bull then concluded that the techniques identified by some researchers to be unethical such as minimization, maximization, intimidation, and suggesting that the subject's situation was futile, were rarely used. Overall, the result of this study suggest that confessions were more likely to be obtained when skilled interviewers demonstrated positive attitudes and employed appropriate questioning methods recommended within the PEACE model of interviewing.

Dominance vs. Humanity

The findings in the 2010 and 2012 studies conducted by Walsh and Bull supported the earlier work of Holmberg and Christianson (2002) who surveyed 83 men who had been convicted of murder or sexual offenses in an attempt to identify their perceptions of interrogation techniques. Upon analyzing the surveys, Holmberg and Christianson identified two primary interviewing approaches used by law enforcement officers. The first approach was marked by dominance in which the interrogator was emotional, impatient, and aggressive in condemning the subject and offered the subject little time to reflect or make comments. The second approach was marked by humanity

in which the interrogator exhibited an interest in the subject as a human being and showed concern about the subject's needs. Results indicated that when the interrogator acted in a dominant manner, the murderer and sexual offender respondents reported feeling greater fear, stress, and paralysis that precluded them from confessing. However, when the interrogator treated the subject with humanity and respect, they were more likely to confess to their criminal offenses (Holmberg and Christianson, 2002). Similarly, Kebbell, Hurren, and Mazerolle (as cited by Walsh & Bull, 2012), reported that inmates were more likely to be compliant with interviewers when the interviewer exhibited compassion, understanding, and honesty, and when the interview did not act aggressively, or judgmentally toward the inmate. Conversely, inmates reported that they became more resistant to the interviewer when the interviewer was aggressive, dishonest, and appeared to be biased toward the inmate's guilt. Frantzen (2010), in his survey of Texas police investigators, also found that respect and building rapport were also critical elements in obtaining a confession. Findings like these suggest that it is humane treatment and respect, not coercion and trickery, that lead to the elicitation of confessions.

Summary

Various types of research designs have been used to address the phenomenon of false confessions. These designs include individual case studies (Johnson & Drucker, 2009); analyses of archival case documents (Drizin & Leo, 2004); reviews of recorded interrogations (Bull & Soukara, 2009, Moston, Stephenson, & Williamson, 1992; Walsh & Bull, 2010; Walsh & Bull, 2012); and retrospective self-reports of criminal subjects (Gudjonsson et al., 2006; Gudjonsson et al., 2010; Malloy et al., 2014; Redlich et al., 2010). In this chapter, I reviewed the literature relating to the study of the false

confession phenomenon. My review began with examples of wrongful convictions throughout history that were caused by false confessions. I also discussed true and false confessions as legal constructs and the legal history of Supreme Court rulings relating to the voluntariness of confession evidence. I reviewed the different types of false confessions and the theoretical attempts to explain why a person would admit to a crime they did not commit. I discussed personal risk factors, such as youth, mental illness, race, and personality factors that may predispose a person to falsely confess, as well as the situational risk factors like isolation, confrontation, minimization, and the length of the interrogation. I presented a variety of research studies exploring coercive interrogative methods like false evidence ploys, the bluff technique, and manipulation designed to encourage people to waive their Miranda rights and to confess to criminal wrongdoing. I also discussed the problematic actions of law enforcement officers, to include their inability to identify deception in criminal interview subjects, their ready acceptance of false confessions, their inability to accurately identify a false confession, and their tendency to immediately close investigations once a confession is obtained. While my review presented various studies which suggested that law enforcement officers, their interrogative methodologies, and their investigative actions are primarily responsible for the phenomenon of false confessions, I presented other studies that minimize the role that interrogative methods play in the elicitation of false confessions. These additional studies indicated that law enforcement officers rely more on traits and skills like compassion, honesty, understanding, effective communication, listening, rapport building, and the presentation of evidence when conducting an interrogation.

A sizeable portion of the false confession research has centered around college students to include surveying college students about their experiences with law enforcement interrogations (Gudjonsson et al., 2004; Gudjonsson et al., 2006; Gudjonsson et al., 2007), their knowledge and impressions of false confessions (Henkel et al., 2008), and their perceptions of false confessions as a potential juror (Leo & Liu, 2009). An even larger portion of the false confession research has dealt with laboratory experiments using university student participants (Forrest et al., 2012; Gyll et al., 2013; Hasel & Kassin, 2009; Kassin & Fong, 1999; Kassin & Kiechel, 1996; Kassin & McNall, 1991; Kassin et al., 2005; Kassin & Norwick, 2004; Kebbell et al., 2006; Klaver et al., 2008; Levine et al., 2010; Mastroberardino & Marucci, 2013; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010; Villar et al., 2013; Woody & Forrest, 2009). It was not until 2007 that false confession researchers sought to ask American law enforcement officers about their perceptions of interrogations and false confessions (Frantzen, 2010; Frantzen & Can, 2012; Hill & Moston, 2011; Kassin et al., 2007; Kostelnik & Reppucci, 2009). As I have previously stated, the differences in the conclusions drawn from these varying research designs are notable.

It is possible that laboratory experiments conducted with university students are yielding different results than the studies in which law enforcement officers are directly questioned because of the artificial, and often unrealistic, nature of laboratory experimentation. For example, while actual police work deals with criminal offenses of varying degrees of seriousness, numerous experimental studies have focused on minor transgressions such as pressing an unauthorized key on a computer keypad (Kassin &

Kiechel, 1996; Klaver et al., 2008; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Swanner & Beike, 2010), cheating on a research study task (Guylly et al., 2013; Levine et al., 2010; Perillo & Kassin, 2011; Pimentel et al., 2015; Russano et al., 2005), committing a mock crime (Kassin & Fong, 1999; Kassin & Norwick, 2004; Kebbell et al., 2006; Nash & Wade, 2009); and simulating deception (Meissner & Kassin, 2002). Not only are these infractions legally insignificant, but they are not associated with any serious repercussions (Kebbell et al., 2006). Researchers have made attempts to create legal repercussions within the confines of the laboratory such as giving student participants \$2 instead of \$10 for confessing during the experiment (Newring & O'Donohue, 2008); giving student participants \$10 and then having it taken away if a confession is given; telling student participants that they will be held at the campus security office for 5 minutes if they are judged to be deceptive (Kassin & Fong, 1999); and telling student participants that if they decide to confess, the professor overseeing the experiment would have been notified about the student's transgression (Russano et al., 2005).

The artificiality inherent in false confession laboratory experiments is a result of ethical mandates that prevent participants from being exposed to more coercive, high-pressure, and confrontational questioning or being subjected to harsher sanctions like those seen in the criminal justice system (Guylly et al., 2013; Leding, 2012). It is therefore not possible to recreate the realities of actual criminal interrogation in laboratory experiments (Klaver et al., 2008; Moston & Stephenson, 1993; Russano et al., 2005). Similarly, time, resources, and logistical constraints exacerbate the artificial nature of the laboratory environment. These constraints can be observed in researchers' attempts to

test the effects of interrogation training by providing university students with only minutes of interrogation training immediately before the experiment (Kassin & Fong, 1999; Meissner & Kassin, 2002). Similarly, the limitations of experimental research have forced false confession researchers to draw conclusions based on laboratory interrogations that last for only a few minutes (Kassin & Fong, 1999; Meissner & Kassin, 2002; Narchet et al., 2011; Newring & O'Donohue, 2008; Willen & Stromwall, 2012). Additional examples of laboratory artificiality can be observed in studies where university students confess to an infraction by signing a pre-printed confession statement (Klaver et al., 2008; Narchet et al., 2011; Newring & O'Donohue, 2008; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010); and where students are required to play the role of criminals despite the inherent differences that exist between the student and criminal populations (Frantzen & Can, 2012). Based on the artificial nature of the laboratory, some researchers have cautioned against extrapolating laboratory research findings to real-world police work (Kassin et al., 2010a, Narchet et al., 2011).

In addition to laboratory experiments with university students, false confession researchers have also conducted observational studies in which they directly observe interrogations. This can be particularly challenging as law enforcement agencies are often selective in who they allow in their interrogation room (Kassin et al., 2007). In his seminal work, Leo (1996) was permitted an opportunity to directly observe 122 interrogations at a major urban police department in the United States and review 60 recorded interrogations from two additional police departments. As noted by Leo, his mere presence in the interrogation room may have caused an effect bias; an inherent and potentially unquantifiable flaw inherent in the observational research designs. As

previously noted, some false confession researchers have sought to explore the phenomenon of false confessions by analyzing cases of confirmed wrongful convictions where false confessions were elicited (Chapman, 2013; Johnson & Drucker, 2009; Kassin, 2005; Kassin et al., 2010a; Leo & Davis, 2010). As noted by Kassin et al. (2007), relying on these false confession stories can be problematic because they represent an inherently biased sample of cases. In addition, Moston and Engelberg (2011) suggested that relying on such case studies and anecdotes represents an area of police interviewing and interrogation research that chooses to focus on false confessions rather than true confessions. As stated by Moston and Engelberg, focusing on false confessions over true confessions “is considerably more than an issue of semantics, with a focus on one (or the other) of these topics being associated with widely divergent worldviews, research methodologies, and social agendas” (pp. 524).

Based on the inherent weaknesses of previous false confession research designs, my study sought to obtain valuable information relating to interrogation techniques and experiences with false confessions from specialists who routinely interrogate criminal subjects. Few studies have explored law enforcements’ perceptions of what takes place inside the interrogation room (Frantzen, 2010), and the knowledge that has been gathered from these perceptions is very limited (Blair, 2005; Kassin et al., 2007). Bull and Soukara (2009) noted that very few published studies have addressed what actually takes place during police interviews and interrogations; fewer still have examined the interrogative techniques employed by law enforcement interrogators; and almost none have analyzed the potential relationship between the use of interrogative methodologies and the elicitation of confessions.

As previously discussed, it was not until 2007 that false confession researchers decided to seek American law enforcement input about their interrogation techniques as they relate to false confessions (Kassin et al., 2007). However, this line of questioning was conducted via questionnaires received from predominantly local law enforcement officers from the United States and Canada who did not necessarily specialize in interrogation and who had varying degrees of interrogation experience. While the study by Kassin et al. sparked additional efforts at asking law enforcement officers for their insight, many of these studies also utilized surveys with either local law enforcement officers (Frantzen, 2010; Kostelnik & Repucci, 2009) or law enforcement officers from foreign countries (Hill & Moston, 2011). As noted by Frankfort-Nachmias and Nachmias (2008), surveys have several disadvantages. Of particular concern is the fact that surveys are limited to the use of very simple questions designed to collect data with no opportunity for follow-up inquiries. As a result, the data collected through the survey research outlined above is inherently limited by the amount, type, and depth of information that can be collected. Although Bull and Soukara (2009) conducted qualitative interviews with law enforcement officers regarding interrogation techniques, these interviews not only focused on law enforcement officers in England, they also failed to specifically address the phenomenon of false confessions. Frantzen (2010) conducted 18 qualitative interviews with law enforcement officers who had responded to his earlier survey. However, these interviews were conducted with only local law enforcement officers who did not specialize in interrogation, and the interviews did not specifically address the phenomenon of false confession.

My study sought realistic insight from federal law enforcement polygraph examiners who receive in-depth standardized training in interrogation and who routinely conduct interrogations of criminal subjects. Much of the existing false confession research has suggested that law enforcement officers are predisposed to perceive guilt in a criminal subject (Narchet et al., 2011) and/or they are incapable of correctly identifying deception in criminal subjects (Bond & DePaulo, 2006; Bradford & Goodman-Delahunty, 2008; Frantzen & Can, 2012; Gudjonsson et al., 2010; Hill & Moston, 2011; Kassin et al., 2007; Lassiter, 2010; Masip et al., 2012; Meissner & Kassin, 2002; Russano et al., 2005), both of which are believed to cause innocent people to be subjected to unnecessary interrogations. By exploring the experiences of federal polygraph examiners in my study, investigative hunches were replaced with failed polygraph examinations, thereby removing some of the concerns associated with targeting innocent people for interrogation. In addition, as interrogation training has often been referenced in the literature (Frantzen, 2010; Hill & Moston, 2011; Kassin & Fong, 1999; Kostelnik & Repucci, 2009; Meissner & Kassin, 2002; Narchet et al., 2011), obtaining insight from highly-trained and specialized law enforcement examiners also proved to be beneficial. In light of the suggestion that polygraph examiners can enter a polygraph suite with a pre-conception that the subject is guilty and therefore misuse the polygraph as a wedge to move a subject towards confession (Conti, 1999), my study helped to shed light on the extent to which such misuses of the polygraph technique are employed. As previously discussed, commenting on a subject's demeanor, or falsely presenting evidence that a subject's demeanor is indicative of guilt, can be an interrogative method used by officers (Forrest et al., 2012; Moston & Stephenson, 1993; Woody and Forrest, 2012). Polygraph

examiners are in the unique position of being able to point to recorded physiological changes within the subject that are actually suggestive of guilt. Lastly, Kassin et al. (2010) have suggested that advising a criminal subject that they have failed a polygraph examination can be so coercive that the National Research Council Committee to Review the Scientific Evidence on the Polygraph has offered warnings about the possibilities of a polygraph-induced false confession. This study helped to shed light on how, and the extent to which, the polygraph can be used to induce a false confession from an innocent subject. As noted by Kassin et al. (2010b), there exists a clear need for a partnership between scientists and practitioners to bring genuine reform regarding law enforcement interrogative practices and false confessions. This study serves as a step toward that reform.

Chapter 3: Research Method

Introduction

According to advocacy groups like the Innocence Project, the phenomenon of false confessions, in which innocent subjects falsely accept responsibility for a criminal act they did not commit, is often cited as a primary cause of wrongful convictions within the United States criminal justice system (Innocence Project, 2016). Such claims have led to a great deal of academic research regarding this phenomenon. A considerable portion of false confession research has involved laboratory experiments with university students (Forrest et al., 2012; Gyll et al., 2013; Hasel & Kassin, 2009; Kassin & Fong, 1999; Kassin & Kiechel, 1996; Kassin & McNall, 1991; Kassin et al., 2005; Kassin & Norwick, 2004; Kebbell et al., 2006; Klaver et al., 2008; Levine et al., 2010; Mastroberardino & Marucci, 2013; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010; Villar et al., 2013; Woody & Forrest, 2009). Researchers have suggested that the results produced during laboratory experimentation may be difficult to extrapolate to the real world of law enforcement due to the artificiality of the laboratory setting, the ethical limitations that preclude a direct replication of the stressors associated with actual criminal interrogation within a laboratory setting, and the inherent differences between the university student and criminal offender populations (Kassin et al., 2010a, Narchet et al., 2011). Despite the fact that criminal interrogations in the real world are conducted by law enforcement officers, very few researchers have sought input from officers about their approaches to interrogation, their interrogative methods, and their experiences with false confessions (Frantzen & Can, 2012; Kassin et al., 2007). Even

fewer researchers have chosen to direct their inquiries at law enforcement officers who specialize in the interrogation of criminal subjects. Lastly, little to none have elected to gather information from law enforcement officers through in-depth qualitative interviews. In this study, I therefore sought to more fully describe and analyze the interrogation process and related methodologies that are associated with true and false confessions as reported by experienced law enforcement interrogators who specialize in conducting real-world interrogations and who employ interrogative techniques that have led to the elicitation of true, and possibly false, confessions.

In the previous chapter, I examined the phenomenon of false confessions as a whole, as well as the specific interrogative methodologies that are believed to contribute to their elicitation. In this chapter, I describe the research methodology I selected for this qualitative exploration of the false confession phenomenon. More specifically, I describe my method for exploring and analyzing the experiences of federal law enforcement polygraph examiners regarding their approach to criminal interrogation, their use of interrogative techniques, and their experiences with eliciting true and false confessions. I also provide a discussion of the case study research methodology and its appropriateness for use in this research. Lastly, I outline the ethical considerations related to this study and the strategies I used to ensure trustworthiness.

Research Design and Rationale

Research Questions

The research questions that guided this study were based on a conceptual framework which suggests that the interrogative and post-interrogative actions of law enforcement interrogators and the interrogative methods they employ are largely

responsible for false confessions, and thereby wrongful convictions, within the United States criminal justice system. I designed the following research questions to guide this qualitative study:

1. How do federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession?
2. To what extent have federal law enforcement polygraph examiners experienced false confessions?
3. What were the circumstances in which federal law enforcement polygraph examiners experienced false confessions?

Definition of Central Concepts

For the purpose of this study, *federal law enforcement polygraph examiners* are defined as law enforcement officers who: a) are currently employed by a federal law enforcement agency; b) have attended the Psychophysiological Detection of Deception (PDD) course at the National Academy for Credibility Assessment (NACA) or its predecessors, the National Center for Credibility Assessment (NCCA) and the Department of Defense Polygraph Institute (DoDPI), in Ft. Jackson, South Carolina; and c) are currently serving as polygraph examiner within their agency. The concepts of *true* and *false confessions* are defined respectively as truthful and accurate admissions of guilt rendered by individuals who actually committed the criminal transgression for which they were interrogated, and false and inaccurate admissions of guilt rendered by individuals who were not responsible for, or involved in, the criminal transgressions for which they were interrogated. *Interrogative methodologies* are defined as the specific

techniques employed by the federal law enforcement polygraph examiner to question a criminal subject believed to be responsible for a criminal act.

Research Tradition

I did not consider using quantitative research methodologies for this study for a variety of reasons. For example, researchers use quantitative research methodologies to test objective theories by identifying and analyzing the relationship between specified variables in an attempt to determine whether variables are related to one another pursuant to a stated theory (Creswell, 2013). Conversely, qualitative researchers attempt to explore or more fully understand the meaning that individuals or groups attribute to a specified issue that impacts human beings or society by exploring what individuals think and/or how they feel about a specified issue or problem (Creswell, 2013). As noted in the previous chapter, a considerable portion of the existing research has been quantitative, primarily in the form of experimental laboratory studies with college students. Far fewer researchers have sought to more fully understand the phenomenon of false confessions through direct inquiries made of law enforcement officers who specialize in the interrogation of criminal subjects. Given that I was seeking a more thorough and richer understanding of the phenomenon of false confessions, I did not consider using quantitative methodologies. Moreover, research questions used in quantitative research generally take the form of hypotheses in which the researcher formulates a tentative statement that predicts the expected relationship between variables, and then tests that statement through empirical methods (Bordens & Abbott, 2008). For this reason, I chose qualitative research methodologies over quantitative methods given that I did not seek to identify relationships between specific variables.

Patton (2002) identified various qualitative strategies that researchers can employ when attempting to more thoroughly explore or understand a social or human problem. These qualitative strategies include narrative research, phenomenological research, grounded theory research, ethnographic research, and case study research (Patton, 2002). According to Creswell (2013), narrative researchers explore the lives of one or two individuals by conducting interviews to collect their personal stories, reporting their respective experiences, and then organizing this information into a logical story. A phenomenological research approach offers a description of the meaning of the experiences of several persons in regards to a specified phenomenon by describing the similarities shared by the research participants as they individually experience the phenomenon being studied (Creswell, 2013). In a grounded theory research approach, the researcher seeks to discover or create a theory based upon information obtained from a large number of individuals who have experienced the specified process, action, or interaction, which can then serve to explain these constructs (Creswell, 2013). Researchers use an ethnographic research approach to describe and interpret the shared patterns of behavior, beliefs, and language that are developed by a large group of people who exist and/or interact in the same location, thereby focusing the inquiry on an entire cultural group as a means of describing and interpreting how the group goes about learning and transmitting shared values, behaviors, and belief structures (Creswell, 2013).

The final qualitative research approach identified by Patton (2002) is the case study approach. In case study research, the researcher thoroughly explores a particular issue, problem, or individual through an in-depth analysis of cases that are bound by a specific time, activity, or contextual framework (Creswell, 2013). To accomplish this,

the researcher collects rich and detailed information from sources of information such as interviews, documents, reports, and observations for a select number of cases. With this information, a thorough description of the selected case(s) is provided and themes are identified (Creswell, 2013). As previously noted, I used a case study approach to explore the phenomenon of false confessions in this study. Because I did not seek to explore any particular individual's life, to understand the essence of a particular lived experience, to develop a specific theory, or to describe and interpret the shared patterns of a group sharing one culture, I determined that a narrative, phenomenological, grounded theory, or ethnographic approach to the problem was neither suitable nor effective. As such, I selected a case study methodology as the most appropriate means of providing an in-depth description and analysis of specific cases in which law enforcement interrogators have conducted real-world interrogations utilizing interrogative techniques that have contributed to the elicitation of both true and false confessions.

Role of the Researcher

In keeping with conventional qualitative research practices, I served as the main instrument for the collection of data in this particular study. As previously noted, the collection of data in this study was accomplished through my in-depth interviews with federal polygraph examiners. Based on the primacy of this role, it became necessary for me to address any potential biases that may have hindered the study. As noted by Frankfort-Nachmias and Nachmias (2008), while personal interviews have the distinct advantage of flexibility that is found to be lacking in other research methodologies, personal interviews also suffer from a lack of standardized data collection. This lack of standardization renders the personal interview approach highly vulnerable to interviewer

bias. In an attempt to counteract the possible negative effects of any such biases, I chose to identify and address potential sources of bias.

As a federal polygraph examiner, I first became familiar with the phenomenon of false confessions in a federal case in which I obtained a potentially damning admission elicited from a criminal subject who stood accused of causing the death of his 15-week-old daughter while orally raping her. At the time of the trial, the defense hired a well-known expert in the field of false confessions to testify that I, and other investigators, employed coercive techniques during the defendant's interrogation which can lead to false confessions. Moreover, the expert witness suggested that the defendant presented with dispositional risk factors that caused him to be more susceptible to falsely confessing (*U.S. v. Deuman*, 2012). Although the expert witness was not permitted to testify at trial, I developed an interest in the phenomenon of false confessions and I identified numerous research studies that seek to hold the interrogative methodologies of law enforcement officers responsible for the elicitation of false confessions from innocent subjects (Frantzen & Can, 2012; Hasel & Kassin, 2009; Kassin, 2012; Kassin, Meissner, & Norwick, 2005; Levine, Kim, & Blair, 2010; Meissner & Kassin, 2002; Nash & Wade, 2009; Perillo & Kassin, 2011). Through my extensive literature review, I have identified that a notable portion of the false confession research portrays law enforcement's interrogation of criminal subjects in a manner that is markedly different from my own approach to criminal interrogation. This realization piqued my interest regarding the extent to which other federal polygraph examiners' interrogative methodologies reflect the positions put forth by false confession researchers.

Based on the fact that I am a sworn law enforcement officer, a polygraph examiner, and specialize in the interrogation of criminal subjects, I maintain a world view that may be inherently different from academic false confession researchers who are not employed in the field of law enforcement, who consult with advocacy groups like the Innocence Project, and/or who testify on behalf of the defense. While some may consider this difference in world view as a source of potential bias, I considered it a balance to the existing research which has largely ignored the insights of law enforcement officers in the study of false confessions. Despite being professionally trained to avoid biased behavior, I am not immune to the potentiality of biased thoughts. However, I made every effort to ensure that my own thoughts neither influenced the interviewing of research participants nor affected the collection and analysis of data. To assist in the monitoring of any potentially biased thoughts, I provided interview questions to a trained colleague for review to ensure that no bias appeared in the wording of the questions. Having been trained as a polygraph examiner and interrogator in the identification of verbal and nonverbal cues, I remained vigilant about the existence of such cues in the interviewing of the research participants. Based on Creswell's (2013) recommendation that qualitative researchers utilize the process of reflexivity to continuously examine their own biases, I maintained reflective notes of my personal thoughts, feelings, problems, and prejudices as a means of monitoring potential biases that may negatively impact my research.

Glesne and Peshkin (as cited by Creswell, 2013), referenced the use of "backyard" research in which studies are conducted in the researcher's own organization or work setting. While this type of research offers a more convenient means of collecting data, it also opens the researcher to potential problems associated with the biased

reporting of data. This study can be considered backyard research as I interviewed fellow polygraph examiners employed within my own law enforcement agency. In gaining access to this population, I discussed this research study with the head of the polygraph unit and furnished him a copy of the my prospectus. The supervisor reviewed my prospectus and sanctioned the anticipated qualitative interviews with the polygraph examiners employed within the agency. I further disclosed the purpose and intentions of my study with multiple layers of management within the organization who also provided approval. The potential problems associated with this backyard study are minimized by the fact that I have no supervisory, instructor, or administrative power over the members of this population. In addition, I also employed multiple reliability procedures to mitigate qualitative validity concerns associated with this backyard research. More specifically, I:

- a) checked generated reports to ensure that no obvious mistakes were made during the documentation process;
- b) routinely compared the collected data with the specified codes as a means of preventing a shift in the meaning of the codes during the coding process;
- and c) enlisted the assistance of a colleague to cross-check codes to verify that agreement existed in the use of similar codes for the same passages of text.

While some may argue that the negatives of a backyard research design outweigh the benefits, it is important to note that an overwhelming benefit of my study is the fact that I was granted access to an otherwise reluctant and suspicious population. As noted by Ainsworth (2002), law enforcement officers tend to be a closed culture that does not often welcome interruptions from outside entities. For this reason, research involving law enforcement is often limited to those organizations that are willing to invite researchers into their agencies (Kassin et al., 2002). In light of this problem of access,

Bull and Soukara (2009) identified that a sufficiently good relationship, which may take many years to establish, must be formed between law enforcement agencies and psychological researchers before they are willing to allow for the comprehensive scrutiny of their interviewing processes. Some may argue that in the case of federal law enforcement agencies, such access may be even more difficult for a researcher to obtain. However, as I am a sworn law enforcement officer and polygraph examiner employed by the agency from which research participants were recruited for this study, the concerns associated with backyard research were outweighed by the unique and unbridled access to an otherwise inaccessible population.

In addition to the clarification of the potential biases I brought to this study, I also employed other validity strategies to ensure accuracy in the findings. For example, I utilized member checking to verify the accuracy of the findings by providing the participants with the final report and asking them to verify that the findings accurately reflected the information the participants provided during the course of the interview process. I also ensured that rich and detailed descriptions of themes developed through the collected data were used to increase the validity of the findings. As various perspectives were collected during this research, I documented negative or discrepant data as a means of enhancing the overall credibility of the information. As recommended by Creswell (2013), I also used a peer debriefer who reviewed the study and made inquiries, thereby ensuring validity through consistency in interpretation.

Methodology

Participant Selection Logic

For this study, I identified 13 polygraph examiners currently employed within a federal law enforcement agency to participate in qualitative interviews regarding their experiences in conducting interrogations of criminal subjects and obtaining truthful and false confessions. More specifically, I questioned these polygraph examiners about the manner in which they approached the interrogation of criminal subjects to maximize the likelihood of a true confession, the extent to which they have experienced false confessions, and the circumstances at the time that they experienced a false confession. As the previously identified research questions required specific knowledge and use of interrogative techniques, the sample from which potential participants could be obtained was relatively small. For this study, I selected federal law enforcement polygraph examiners currently serving within an unspecified federal law enforcement agency as the subgroup to study primarily due to their homogeneity. All federal polygraph examiners are required to obtain training in interviewing, interrogation, and the administration of polygraph examinations through a three-month course sponsored by the federal polygraph school located at Ft. Jackson, South Carolina (DoD, 2016). After this training, it is necessary for the new polygraph examiners in the unspecified agency to participate in a year-long internship period in which they engage in various forms of polygraph testing under the direct observation and supervision of senior polygraph examiners. Based on the standardized training process, as well as the similarity in assigned job responsibilities, I considered the federal polygraph examiners in this agency as a homogenous group suitable for this research study. Because this research involved a case study approach designed to explore the experiences of law enforcement interrogators regarding their interrogative techniques and their elicitation of both truthful and false

confessions from criminal subjects, it was necessary for me to select a sample from a very specialized subgroup.

I employed a purposive sampling method which, according to Patton (2002), involved me using my subjective judgment in an attempt to select sampling units that represent the specified population (Patton, 2002). More specifically, I employed a homogenous sampling method. Homogenous sampling is a purposive sampling method in which the final sample is comprised of units that share similar characteristics or traits. This sampling method is often employed when the research questions specifically relate to the characteristics of a particular group that will later be examined in detail (Patton, 2002). As previously noted, my study explored the experiences of federal polygraph examiners, a homogenous group that shares similar backgrounds, training, and job responsibilities. As the research questions outlined above specifically related to this group because of their specialization in criminal interrogation, I believed that a homogenous sampling technique was the most suitable sampling technique for this study. In addition to identifying a suitable sampling technique, it was also necessary for me to identify a suitable sample size.

A key consideration in selecting an appropriate sample size involves the concept of saturation. Glaser and Strauss (as cited by Guest, Bunce, & Johnson, 2006), identified saturation as the point in data collection when the researcher begins experiencing a continuous collection of the same or similar data with no new data being identified. In their empirical study of saturation and sample size, Guest et al. (2006) operationally defined saturation as the point in which continued data collection and analysis fails to produce the need for additional changes in an established codebook. In my study,

saturation occurred when no new information was collected during interviews with federal law enforcement polygraph examiners. In addition, Romney, Batchelder, and Weller (as cited by Guest et al., 2006), developed consensus theory in which they posited that experts tend to agree with one another based upon their shared expertise and, for this reason, relatively small samples may be suitable for the collection of highly accurate information. Guest et al. reported reaching a saturation point after only 12 interviews. For these reasons, I found a sample size of 13 federal law enforcement polygraph examiners to be suitable as a saturation point was realized after 13 interviews from such a homogenous group were conducted.

Instrumentation

As outlined above, my data collection methodology for this study involved personal interviews with the participants. There are various ways in which a qualitative interview can be conducted (Creswell, 2013; Frankfort-Nachmias & Nachmias, 2008; Patton, 2002). Generally speaking, qualitative interviews involve a limited number of predominantly open-ended questions to elicit views and opinions from participants through direct and interpersonal questioning (Creswell, 2013; Frankfort-Nachmias & Nachmias, 2008). In this study, interviewing allowed me to more fully understand the phenomenon of false confessions and the interrogative techniques of federal polygraph examiners. During the interview process, I asked the participants questions relating to the manner in which they approach criminal interrogations to increase the likelihood of a true confession, their experiences in obtaining false confessions, and the interrogative circumstances when a false confession was obtained.

In this study, I employed an interview protocol to assist in the collection of data. As noted by Creswell (2013), an interview protocol is a form created by qualitative researchers to assist in the recording and documenting of information obtained during the course of a qualitative interview. Typically, interview protocols consist of: a) a heading which records the date and place of the interview as well as the names of the interviewer and interviewee; b) instructions for the interviewer which serve to standardize the interview procedures; and c) the questions to be asked of the participant (Creswell, 2013). The researcher then records information obtained during the interview by either making hand-written notes, through audiotaping, or through videotaping (Creswell, 2013). Based on my years of law enforcement experience with interviewing and comprehensive notetaking, as well as the bureaucratic problems associated with the audio or video-recording of federal law enforcement officers, I decided to record the information I obtained during the qualitative interviews through the use of hand-written notes. I then used these notes to generate a report of interview from which I identified and analyzed themes. A copy of the interview protocol I designed for this study is included as Appendix C.

Procedures for Recruitment, Participation, and Data Collection

For this study, I collected data via an interview protocol that I administered to research participants via telephonic interviews. As outlined above, the participants in this study were federal law enforcement polygraph examiners currently employed within an unspecified federal law enforcement agency. Because of the decentralized nature of the organization, it was necessary for me to conduct interviews of participants via telephone as many of them are currently assigned to distant states. The duration of my interviews

ranged from 52 to 87 minutes. I documented the information provided by the participants through hand-written notes which I subsequently memorialized in a typed interview report.

Data Analysis Plan

As my research design involved the case study methodology, I personally analyzed the respective data for more in-depth study and comparison by using each interviewee as a unit of analysis. I then compared and contrasted the individual case studies in an attempt to identify the interrogative techniques employed by law enforcement interrogators and their potential contributions to the elicitation of both true and false confessions from criminal subjects. I accomplished this through an analysis of the content of the interviews. In conducting an inductive analysis of the data, I looked for patterns of responses as they related to the manner in which federal law enforcement polygraph examiners approach criminal interrogations, the interrogative techniques that they believe contribute to true confessions, the interrogative techniques that they believe contribute to false confessions, the extent to which they have experienced false confessions, and the situation at the time that they have experienced a false confession. As patterns of responses were found, I developed a coding scheme in which to classify and organize the data. I also utilized the NVivo qualitative software package to consolidate the large amount of information gleaned from the interviews and to code the information into related chunks of data. NVivo allowed me to more thoroughly search for potential patterns of responses and themes as I continuously reevaluated the codes.

Issues of Trustworthiness

Credibility

To address the potential limitations of this study, I utilized a variety of methods to ensure credibility in the study. According to Shenton (2004), whereas the quantitative researcher addresses the issue of internal validity, the qualitative researcher address credibility. In qualitative research, credibility relates to the extent to which research findings are congruent with reality (Shenton, 2004). To ensure credibility, I used a suitably sized sample to reach data and thematic saturation which I considered a form of triangulation as the information provided by multiple participants served to validate the information provided by other participants (Creswell, 2013). In this study, I therefore ensured credibility by interviewing a suitable number of participants until saturation was reached. I similarly ensured credibility through the process of member checking. As noted by Lincoln and Guba (as cited by Creswell, 2013), member checking is when the researcher solicits participants' input on the validity of the study's findings and the researcher's interpretations. This is a critical aspect of qualitative research. For this study, I sought credibility by providing the research participants with a preliminary draft of their respective reports of interview and asking for confirmation that the report completely and accurately reflected the information they provided. My final means of ensuring credibility involved the use of an audit trail in which an external audit of the research process, data collection, and the subsequent analysis was conducted by a disinterested expert (Patton, 2002). Through an audit trail, the researcher can obtain a greater degree of confidence in the credibility of their findings. For this study, an audit trail was conducted in the form of the my doctoral committee as recommended by Patton (2002).

Transferability

An additional validity concern relates to the extent to which research findings can be generalized to larger populations and different settings, a concept identified as external validity (Frankfort-Nachmias & Nachmias, 2008; Patton, 2002). However, it is important to note that qualitative research has less to do with generalizability and more to do with particularly describing the specified phenomenon and developing themes (Creswell, 2013). In this study, I was less concerned with generalizing my findings to all of law enforcement than I was attempting to more fully understand the concepts of false confession and interrogation through the viewpoints of federal law enforcement polygraph examiners. However, as suggested by Creswell (2013), I used thick description as a means of conveying the findings from this study. Through such rich descriptions, I was able to present a richer and more realistic discussion of the collected information and the fieldwork sites, thereby obtaining a certain degree of transferability. Shenton (2004) offered that while research consumers may be the ultimate arbiters as to whether their own situations relate to the situations presented in a particular qualitative study, it is the responsibility of the researcher to ensure that enough information is provided to allow the consumer to make an informed decision as to whether the study findings can be generalized to the consumer's own situation. For these reasons, I took care in providing thick description so that consumers of the research can identify the extent to which my findings can be applied to their own unique situations.

Dependability

While quantitative research is concerned with the issue of reliability, qualitative research addresses the issue of dependability (Shenton, 2004). Qualitative researchers seek to ensure dependability by employing techniques that demonstrate that if the study

at hand was repeated in the exact same manner, using the exact same participants and methodology, the same results would occur (Shenton, 2004). To ensure that dependability was obtained in the current study, I took care to thoroughly outline the research process so that others seeking to replicate my study would confidently be able to do so. This was accomplished through my rich descriptions of how I designed and implemented this study, my exhaustive descriptions of what actually took place in the field, and my evaluation of the effectiveness of the research methodology employed for the study. I believe that my thoroughness helps to explain and demonstrate the methods I used to ensure the dependability of this study.

Confirmability

As noted by Shenton (2004), the concept of confirmability for qualitative research is akin to objectivity in quantitative research. In this study, confirmability related to the care I took to ensure that the experiences and information I collected originated from the interview participants and not from my personal beliefs. I accomplished confirmability through what Patton (2002) defined as the triangulation of qualitative data sources and a review by inquiry participants. Triangulation of qualitative data sources refers to the comparison and cross-checking of information obtained by different means within the qualitative methodology in an attempt to identify consistency (Patton, 2002). In this study, the information I obtained from the interview participants was not only compared and cross-checked among participants, but it was also compared to the conclusions of the existing research. A review by inquiry participants involved my having the study participants review their respective reports of interview for accuracy, completeness, and

fairness (Patton, 2002). I used these strategies as a means of minimizing the potentiality of investigator bias.

Another strategy designed to ensure confirmability involves the concept of reflexivity. According to Creswell (2013), reflexivity is the process in which the researcher reflects on how their potential biases, experiences, and background may influence the interpretations of the collected data and the ultimate conclusions drawn from the researcher's analysis of the data. As previously discussed, I thoroughly outlined my potential biases brought about by my career in law enforcement and my specialization in criminal interrogation. By clearly and reflexively outlining these factors, I attempted to counteract the influence that my potential biases may have on data analysis, interpretation, and the conclusions I reached in this study. Moreover, my use of reflective notes also helped to identify and manage any potential sources of bias as the research process continued.

Ethical Procedures

In an attempt to ensure the ethical protection of interview participants, I obtained approval from the Walden University Institutional Review Board (IRB) prior to the initiation of the study (approval number 06-15-16-0389799). I provided all of the research participants an informed consent agreement via email which clearly explained that their participation in the study was voluntary, they were permitted to withdraw from the study at any time without adverse consequences, and I was not in a position to influence their careers either positively or negatively. After the participants were afforded an opportunity to read the form and I answered any questions, I asked the participants to sign the consent form, thereby indicating their willingness to participate in

the study, and return the consent form to me via email or facsimile. The signed consent forms were returned to me prior to the initiation of the interview process. I did not offer any material rewards or incentives to the interview subjects to obtain their consent to participation in the study.

To ensure the anonymity of the participants, I used a computerized random code generator to create a code that was unique to the participant to replace their names on study materials. To gain access to the participants, I obtained a letter of cooperation from their organizational management. As previously disclosed, I considered this study to be backyard research in that it was conducted within my own organization. Potential ethical concerns inherent in this type of research were mitigated by the fact that I hold no supervisory, instructor, or administrative authority over the participants. Therefore, I considered the participation in this study to be truly voluntary. In the one instance in which a potential interview subject elected not to respond to my invitation to participate in the study, I simply removed them from consideration without adverse consequences and identified a new interview subject.

In keeping with ethical procedures, I further advised the participants of the treatment of the data. I explained to the participants that while their participation in the study and the information they provide will remain anonymous, a final amalgamated report of participants' experiences and insights as put forth in my dissertation would be provided to both the head of the polygraph unit and the pre-publication unit. The release of this information was requested by the polygraph unit as a means of more thoroughly understanding the manner in which the organization's polygraph examiners approach interrogation and their experiences with false confessions. My release of information to

the polygraph unit will also provide information that may assist in the creation of a best practices approach to criminal interrogation and the development of more effective training protocols for the organization. A copy of my dissertation was similarly provided to the organization's pre-publication unit for review to ensure that no sensitive law enforcement information is released to the general public. Despite this necessary review process, the collected data was kept in my possession in a locked file cabinet where it will remain for a period of five years after the completion of my study. At that time, I will destroy the collected data. I stored the electronic data collected during the course of this study on a back-up hard drive accessed through my password-protected personal computer. I will similarly destroy this electronic data after five years.

Summary

False confessions made by innocent subjects are often cited as a primary cause of wrongful convictions within the United States (Innocence Project, 2016). While a considerable portion of the research into the false confession phenomenon has involved laboratory experiments with university students, it is not always possible to extrapolate the findings of such studies to the real-world of law enforcement interrogation (Kassin et al., 2010a, Narchet et al., 2011). Very few researchers have sought input from the law enforcement community about their approaches to interrogation, their interrogative methods, and their experiences with false confessions (Frantzen & Can, 2012; Kassin et al., 2007). I therefore sought to more fully describe the phenomenon of false confessions, as well as the interrogative processes associated with the elicitation of confessions, as offered through the viewpoints of federal law enforcement polygraph examiners who specialize in the interrogation of criminal subjects. As discussed, qualitative interviews

with this population offered critical real-world law enforcement context to the phenomenon of false confessions and allowed me to collect more valid and reliable information as to what actually takes place in the interrogation room.

In this chapter I identified the central concepts associated with this study while simultaneously outlining the rationale for my selection of the case study approach for exploring the phenomenon of false confessions. I also discussed my role as the sole interviewer, as well as my worldview, professional experiences, and potential biases. In an attempt to allow other researchers to replicate this study, I thoroughly presented the participant population, the recruitment process, and the selected sample size. I used my handwritten notes made during the qualitative interviews to generate an interview report from which I identified and compared themes. In this chapter I further discussed the various strategies that I employed to ensure credibility, transferability, dependability, and confirmability throughout the research process. Similarly, I outlined the ethical procedures that I took to protect the research participants and to maintain the highest degree of ethical research. In Chapter 4, I present the results of my study.

Chapter 4: Results

Introduction

The purpose of this qualitative case study was to explore the experiences of federal law enforcement polygraph examiners who specialize in criminal interrogation regarding the manner in which they approach the interrogation of criminal subjects and the interrogative methods that they believe are the most effective in obtaining a truthful confession. I also sought to explore the extent to which federal law enforcement polygraph examiners have experienced false confessions and the circumstances at the time that such confessions were obtained. Given that very few false confession researchers have consulted with the law enforcement population, and even fewer still have done so in a qualitative manner, I sought an in-depth understanding of what actually occurs during the interrogation process through a rich and detailed understanding of the research questions.

To address the research questions, I used a qualitative case study approach to gather a more thorough understanding of: a) how federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession, b) the extent to which federal law enforcement polygraph examiners have experienced false confessions, and c) the circumstances of the interrogation when federal law enforcement polygraph examiners actually experienced a false confessions. In Chapter 4, I discuss the data collection process including the study setting, the demographics of the research participants, and the manner in which I conducted data collection. I then present the methodology I employed to analyze the data and the process I used to identify major themes and subthemes present within the data. Next, I

discuss the evidence of trustworthiness that serves to support the study. In the final section of this chapter, I report the identified themes in a manner that thoroughly addresses the stated research questions.

Setting

In this study, I utilized a qualitative case study approach which I designed to explore the experiences of federal law enforcement polygraph examiners regarding false confessions and their interrogative methodologies. This study was guided by the following research questions: a) How do federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession? b) To what extent have federal law enforcement polygraph examiners experienced false confessions? And c) What were the circumstances in which federal law enforcement polygraph examiners experienced false confessions?

Obtaining Participants

After obtaining authorization from the Walden University Institutional Review Board to begin data collection (Approval number 06-15-16-0389799), I consulted an internal list of federal law enforcement polygraph examiners currently employed by the federal law enforcement agency that agreed to participate in this study. I sent an introductory email to federal law enforcement polygraph examiners who are currently assigned to various parts of the United States requesting their participation in this study. During a mandatory polygraph conference held in San Diego, California in May 2016, I introduced myself to all of the agency's polygraph examiners and briefly explained the purpose of this research project. I then requested the assistance of the attendees, in the event that I contacted them in the future. In light of this brief presentation, the polygraph

examiners who were forwarded the introductory email were already aware of the research project.

In total, 14 federal law enforcement polygraph examiners currently employed by the agency were forwarded the introductory email. As previously discussed in Chapter 3, I posited that a sample of 12 to 15 participants would be sufficient to reach data saturation. Of the 14 polygraph examiners who received an introductory email, 13 readily replied and expressed their interest in participating in the study. The 14th polygraph examiner never replied. Based on the standardized training process, as well as the similarity in assigned job responsibilities, federal polygraph examiners in the agency were considered a small and homogenous group. I employed a purposive sampling method in which I used my subjective judgment in an attempt to select sampling units that represented the specified population. More specifically, I employed a homogenous sampling method so that the final sample was comprised of units that share similar characteristics or traits,—in this case a homogenous group whose members shared similar backgrounds, training, and job responsibilities.

Demographics

The final sample was comprised of 13 federal law enforcement polygraph examiners currently employed by the federal law enforcement agency and currently stationed throughout the United States. The participants are currently assigned to 12 different cities in 10 different states with three participants being assigned in northeastern states, two in southeastern states, three in southcentral states, one in a southwestern state, one in a western state, and three in midwestern states. Eight of the participants were white males, three were white females, one was a black male, and one was a male of

Hispanic descent. The participants ranged in age from 42 to 55, with a mean age of 50. The participants' law enforcement experience ranged from 15 to 31 years, with a mean length of 22.3 years in law enforcement. All but three of the participants noted that the entirety of their law enforcement experience was gained through employment with their current agency. The participants' experience as a federal law enforcement polygraph examiners ranged from 5 to 11 years, with a mean polygraph experience level of 7.8 years.

Data Collection

Once the 13 participants agreed to participate in the study, I emailed them the consent form with instructions to read the consent form, sign it, and return it to me via fax or email prior to the scheduling of an interview. Due to the decentralized nature of the federal law enforcement agency, I conducted all interviews via telephone. The telephone interviews were conducted during weekdays between the hours of 9:00 am and 5:00 pm. I used a standardized interview protocol to question the participants about myriad issues regarding their interrogative practices and their experiences with false confessions. The duration of the interviews ranged from 52 minutes to 87 minutes, for a total of 15 hours of interviews.

Due to the recording policies of the federal law enforcement agency, the telephone interviews were not recorded. However, because I am a trained federal law enforcement officer who has been conducting in-depth interviewing for more than 18 years, I took copious notes during the course of the interviews to allow for the creation of a thorough report of each. My handwritten notes totaled 94 pages, which I used in the creation of 13 reports of interview, totaling 129 typed pages. Each report was drafted

within three days of the interview and then forwarded to the respective participants via email so that each participant could review their report of interview and verify its accuracy. Once the participants made the necessary corrections or verified the accuracy of the reports, I analyzed the data.

Data Analysis

The reports of interview were organized in a question and answer format based on the previously discussed interview protocol. The interview protocol consisted of a total of 33 questions organized into the following six categories: a) the participant's background, b) the participant's approach to criminal interrogation, c) the participant's experiences with and opinions of false confessions, d) the participant's personal procedures in conducting polygraph examinations and interrogations, e) the participant's use and opinions of various interrogative methods, and f) the participant's experiences after an interrogation. Given that I organized the reports of interview based on the interview protocol, they shared a standardized format which facilitated the analysis of participant responses.

To assist in the organization and analysis of the qualitative data collected from the interview protocol, I used the qualitative software package NVivo. More specifically, I used NVivo to organize the rich and detailed qualitative information collected from the interviews into 28 nodes which I created to represent the various themes and topics addressed during the course of the interviews. The following is a list of the nodes that I created and a brief definition of the type of information contained in each node:

- Auto Conviction: Information contained in this node was related to participants' experiences with whether federal prosecutors automatically convict a subject based on his/her confession.
- Bluff Technique: Information contained in this node was related to participants' thoughts about the interrogative method known as the "bluff technique".
- Cases Not Closed: Information contained in this node was related to participants' experiences which suggest that federal cases are not automatically closed once a confession is obtained.
- Confessions Benefit: Information contained in this node was related to participants' opinions that confessions ultimately benefit a criminal subject.
- Confessions Harm: Information contained in this node was related to participants' opinions that confessions ultimately harm a criminal subject.
- Confessions Unsure: Information contained in this node was related to participants' opinions that they are uncertain whether confessions ultimately benefit or harm a criminal subject.
- Denying Attorney: Information contained in this node was related to participants' opinions on denying a criminal subject an opportunity to speak with his/her attorney as an interrogative technique.
- Difference in Treatment: Information contained in this node was related to participants' experiences which suggest that criminal subjects are treated differently in the federal system when they confess as compared to when they continue their denials.

- Effective Techniques: Information contained in this node was related to which interrogative techniques the participants believed were effective in eliciting a true confession.
- Egregious Post-Test: Information contained in this node was related to what participants consider an inappropriate or egregious length of time to interrogate a criminal subject.
- Experienced FC: Information contained in this node was related to the extent to which participants have experienced a false confession.
- False Evidence Ploy: Information contained in this node was related to participants' thoughts about the interrogative method known as the "false evidence ploy".
- FC Circumstances: Information contained in this node was related to the circumstances of the interrogation in which a participant may have received a false confession.
- Ineffective Techniques: Information contained in this node was related to which interrogative techniques participants believed are ineffective in eliciting a truthful confession.
- Interrogative Approach: Information contained in this node was related to how the participants described their general approach to interrogating criminal subjects.
- Miranda Process: Information contained in this node was related to participants' personal processes they use in explaining to subjects their Miranda rights.

- No Difference in Treatment: Information contained in this node was related to participants' experiences which suggest that criminal subjects are not treated differently in the federal system when they confess as compared to when they continue their denials.
- Offering a Deal: Information contained in this node was related to participants' thoughts about the interrogative technique of offering a subject a deal in exchange for their decision to confess.
- Post-Test Length: Information contained in this node was related to participants' reports of how long their interrogations typically last.
- Pre-Test Length: Information contained in this node was related to the typical length of time from the time that the participants introduce themselves to the subject to the point that the participants initiate the interrogation.
- Sleep Deprivation: Information contained in this node was related to participants' thoughts about the interrogative technique of depriving a subject of sleep to facilitate the elicitation of a confession.
- Statement Process: Information contained in this node was related to participants' personal processes they use to memorialize a subject's verbal confession.
- Tell if False: Information contained in this node was related to participants' insights of how they would identify whether a confession is false.
- Tell if True: Information contained in this node was related to participants' insights of how they would identify whether a confession is truthful.

- What I Would Never Do: Information contained in this node was related to which interrogative techniques participants would never use.
- Why They Confessed: Information contained in this node was related to the reasons that subjects have given to participants for deciding to confess.
- Why Think Confessed : Information contained in this node was related to participants' opinions for why subjects may truthfully confess to a crime.
- Why Think FC Occur: Information contained in this node was related to participants' opinions for why subjects may confess to a crime that they did not commit.

The information provided by each participant regarding the topical areas outlined above was compiled into the respective nodes created in NVivo. I then analyzed the information contained in each node and identified recurring themes based on similarities in participant responses. I then consolidated the themes and documented them in the form of an amalgamation of in-depth answers to the questions posed in the interview protocol. These themes are more thoroughly discussed in the results section of this chapter.

Evidence of Trustworthiness

Credibility

To address the potential limitations of this study, I used a variety of methods to ensure credibility. According to Shenton (2004), the qualitative researcher addresses credibility to identify the extent to which research findings are congruent with reality. To ensure credibility, I used a suitably sized sample of 13 participants to reach data and thematic saturation. Obtaining information from 13 participants served as a form of

triangulation in that the information provided by one participant could be validated by the responses of the other participants (Creswell, 2013). In this study, I ensured credibility by interviewing a suitable number of participants until saturation was reached. I similarly ensured credibility through the process of member checking as recommended by Lincoln and Guba (as cited by Creswell, 2013). In this approach, I solicited participants' input on the validity of the study's findings and my interpretations by providing the participants with a preliminary draft of their respective reports of interview. I then requested the participants to review their reports of interview to verify the accuracy of my interpretations and to obtain any additional impressions or recommendations. My final means of ensuring credibility in this study involved the use of an audit trail. According to Patton (2002), this involves an external audit of the research process, data collection, and the subsequent analysis by a disinterested expert to obtain a greater degree of confidence in the credibility of the study's findings. For this study, an audit trail was performed through an audit conducted by my doctoral committee

Transferability

An additional validity concern relates to the extent to which research findings can be generalized to larger populations and different settings, a concept identified as external validity (Frankfort-Nachmias & Nachmias, 2008; Patton, 2002). As noted by Creswell (2013), qualitative research has less to do with generalizability and more to do with particularly describing the specified phenomenon and developing themes. Therefore, instead of attempting to generalize the findings of this study, I was attempting to more fully understand the concepts of false confession and interrogation through the viewpoints of federal law enforcement polygraph examiners. Based on Creswell's (2013)

recommendation for obtaining a suitable degree of transferability, I used thick descriptions as a means of conveying the findings from this study and presenting a richer and more realistic discussion of the data collected. As the consumers of the research will ultimately decide on whether their respective situations relate to the situations presented in this study (Shenton, 2004), I also provided a considerable amount of thick and rich information to allow the consumer to make an informed determination as to whether these findings can be generalized to their own unique situation.

Dependability

Qualitative researchers seek to ensure dependability by employing techniques that demonstrate that replication of the study in the exact same manner, using the same participants, and an identical methodology, would yield similar results (Shenton, 2004). To ensure the requisite dependability, I took care to thoroughly outline the research process so that others seeking to do so can confidently replicate this study. I also accomplished a necessary degree of dependability through rich descriptions of the research design and its implementation, as well as an evaluation of the effectiveness of the research methodology.

Confirmability

In this study, confirmability relates to the care taken to ensure that the experiences and information collected originate from the interview participants and not from the beliefs of the writer. I therefore accomplished confirmability through the triangulation of qualitative data sources and a review by participants. Triangulation of qualitative data sources refers to the comparison and cross-checking of information obtained by different means within the qualitative methodology in an attempt to identify consistency (Patton,

2002). In this study, I compared the information obtained from the interview participants and cross-checked it among participants by having them review their individual reports of interview for accuracy, completeness, and fairness. Another strategy designed to ensure confirmability involves the concept of reflexivity. According to Creswell (2013), reflexivity is the process in which the researcher reflects on how their potential biases, experiences, and background may influence the interpretations of the collected data and the ultimate conclusions drawn from the researcher's analysis of the data. For this study, I thoroughly outlined my potential biases as influenced by my career in law enforcement and my specialization in criminal interrogation. By clearly and reflexively outlining these factors, I essentially counteracted the influence that my potential biases may have on data analysis, interpretation, and the subsequent conclusions reached in this study.

Results

The first research question in this study addressed how federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession. To more fully understand their overall approach to criminal interrogation, I asked participants a variety of questions relating to not only their theoretical approach to interrogating a criminal subject, but also: a) their personal procedures in conducting certain aspects of the polygraph examination and the subsequent interrogation; b) the interrogation methods that they believe can contribute to both a true and false confession; and c) their experiences with the federal criminal justice system after a confession is elicited from the subject. The following is a discussion of the results to these areas of inquiry.

General Approach to Interrogating Criminal Subjects

Upon being questioned about their general approach to interrogating a criminal subject, the participants offered a variety of descriptions of how they conduct themselves when performing a criminal interrogation. My review of these descriptions revealed that the interrogative approaches offered by participants appear to center around three general interrogative aspects: a) the tone of the interrogation; b) the manner in which the interrogators present themselves; and c) the way the participants treat the subject.

Tone of the interrogation. In describing the tone of their interrogations, the participants most frequently used the terms “low key”, “reserved”, “laid back”, and “conversational”.

How participants present themselves. In describing the manner in which the interrogators present themselves to criminal subjects, the participants used terms like “friendly”, “nice”, “neutral”, “non-confrontational”, and “objective”.

How participants treat subjects. The participants used a variety of terms to describe how they treat criminal subjects during an interrogation. These descriptions identified that the participants treat criminal subjects with “respect” and “dignity” while creating an environment that is “nonjudgmental”. Some of the participants further explained that they attempt to present themselves as a “good listener” who desires to hear the subject’s side of the story and to more fully understand them. Lastly, participants explained that when interrogating a criminal subject, they attempt to serve as a “father confessor”, an “ally”, a “therapist”, a “priest”, “a counselor”, a “father figure”, and the “guy in the white hat”. As one participant explained, taking on these types of roles causes the subject to be more receptive to the interrogator. Another participant’s general approach essentially summarized all of the participants’ descriptions outlined above.

This participant simply described his general approach to criminal interrogation with the adage, “You get a lot farther with sugar than salt.”

Participant Opinions on Why Subjects Confess to Them

Trust. When questioned about why they believe that guilty people have previously chosen to confess to them, the most frequently cited answer given by participants referenced the concept of trust. Whether this was described as a strong sense of rapport developed between the subject and the participant, or whether it was described as being “straight forward”, “up front”, “honest”, or “credible” with the subject, many of the participants suggested that guilty people confess to them because they trust them.

Kindness. Another frequently cited reason as to why guilty people confess involves the participant simply being “nice” to the subject. Similar descriptions offered by the participants include being “fair”, “respectful”, and “not a jerk”. Regardless of the descriptions used, many of the participants posited that guilty people confess to them because they treat the subject kindly and humanely. Treating subjects nicely and respectfully may be closely associated with why two participants believed that guilty subjects confess to them because they “like” the participant and because the subject feels “comfortable” talking to them.

Desire to confess. Participants also noted that some subjects confess because they have a strong underlying desire to relieve themselves of the guilt that they are feeling and they are simply looking for a way to do so. One participant offered that people have confessed to him because he has afforded them an opportunity to unburden themselves, and he therefore has “given them the lifeline that they’ve been waiting for”.

Lying is no longer an option. Some participants suggested that subjects choose to confess because they have come to the realization that they cannot lie to the participant any longer and they therefore have no other choice but to confess.

Miscellaneous reasons. Other participants identified that they have been successful in eliciting truthful confessions from guilty subjects by building rapport with the subject, creating an environment that is free of judgment, attempting to understand them, opening lines of communication, and reframing the criminal actions committed by the subject. As noted by one participant, some people will naturally confess to anyone who is decent to them while others will never confess to anyone, but the majority of subjects fall somewhere in between.

Reasons Given by Subjects for Truthfully Confessing

Many of the participants advised that in the course of their jobs, they either routinely ask criminal subjects why they decided to confess to them, or the subjects spontaneously explained to the participants why they chose to confess. My review of these explanations identified four basic categories of why criminal subjects reportedly confessed after being interrogated by the participants: a) how the subject was treated by the participant; b) the environment created by the participant; c) what the participant did that others in law enforcement have not; and d) the subject's personal motivations. The following is a discussion of the explanations for confessing as reported to the participants by previous criminal subjects.

How the subject was treated by the participant. Many of the participants reported that criminal subjects have previously claimed to have confessed to them

because of how they were treated. The type of treatment noted by subjects include the following:

Being treated well. A majority of the participants advised that previous subjects informed them that they confessed because the participant treated them well. Subjects have given various descriptions of what it means to have been treated well by the participant. This includes such explanations as “Because you were nice to me”; “You treated me like a person”; “You didn’t judge me”; and “You were professional to me.”

Being nonjudgmental. Multiple participants advised that previous subjects reported that they had chosen to confess to the participant because the participant did not belittle them or judge them for the criminal actions that they committed.

Respect. Respect also seemed to be a recurring explanation for why criminal subjects chose to confess during the course of an interrogation. For example, one participant noted that criminal subjects reported confessing to the participant because, “You treated me like a man.” Other participants identified that subjects have chosen to confess to them, “because you bought me lunch”, and because the participant “couldn’t have treated (the subject) any better”.

Professionalism. It was also reported by participants that subjects have claimed to have confessed to participants because they were treated professionally and because the participant thoroughly explained to the subject what was going to take place during the course of the polygraph examination.

The environment created by the participant. My review of the participants’ responses identified that many subjects reportedly confessed because of the welcoming environment created by the interrogator. For example, participants advised that subjects

claimed to have confessed because, “You’re like a therapist”; “You seem to understand”; “I feel comfortable talking to you”; and “I’ve never been able to talk about this with anyone”. Several participants noted that subjects reported confessing because the participant made it feel as if the time was right to do so and because the participant actually listened to the subject. This desire to be heard and understood can be observed in such subject statements as, “You’re the only person that ever listened to me”; “Because you asked me and then listened to what I said”; and “You’re the first one who has taken the time to talk to me about this”. The desire of some criminal subjects to be understood can also be observed in the response of one participant who advised that he often hears from subjects, “I wish I could talk to you more”.

What the participant did that others in law enforcement have not. Many participants reported hearing from subjects that they had chosen to confess because the participant did not behave like others in law enforcement. For example, some participants reported receiving explanations from subjects for why they had chosen to confess like, “Because you didn’t yell at me like the other people did” and “You’re the only person in law enforcement that I have trusted.” The importance that subjects place on the ability to trust interrogators can also be observed in the words of one participant who noted that subjects have reported confessing to him because, “I felt that you weren’t bullshitting me”. Participants similarly advised that subjects informed them that they confessed to the participants because no other law enforcement officer bothered to ask them what happened and because the subjects were afraid to disclose this information to other law enforcement officers.

The subject's personal motivations. In addition to the various reasons for confessing outlined above, many participants identified that subjects often confess to them because of underlying personal motivations. The following is a list of subjects' motivations as reported by the participants.

Guilt. Sometimes subjects are anxious to relieve themselves of the burden that their criminal actions and their repeated denials place upon them. Because of this internal pressure, some subjects look to the interrogator and the interrogation as a conduit or opportunity to relieve themselves of this strain. This can be observed in subjects' explanations previously provided to participants to include, "I've been wanting to get this off of my chest"; "I've been carrying this around for a long time"; and "I've been looking to get it off my chest and this was the first opportunity." At times the subject feels guilty for the crime that they committed and they desperately want to rid themselves of the burden of their guilt. As a result, participants advised that the interrogation room can serve as the perfect avenue to rid themselves of this guilt.

Nobody ever asked me. Participants offered that guilty subjects sometimes choose to confess during the course of an interrogation because, "No one ever asked me about it" prior to the interrogation.

Inevitable detection. Participants also suggested that subjects sometimes confesses because they assumed that they would eventually be caught, so continued denials were useless.

Procedure for Reviewing *Miranda* Rights

As noted in the literature review, false confessions can sometimes be linked to the manner in which a subject's *Miranda* rights were reviewed. For this reason, I questioned

participants about their personal processes in reviewing a subject's *Miranda* rights with them prior to the polygraph examination. My review of the participants' answers to this question revealed that there is a great deal of similarity in how federal law enforcement polygraph examiners currently assigned to the federal law enforcement agency review *Miranda* warnings with a subject. The following is a discussion of these noted similarities.

***Miranda* review as an administrative process.** Many of the participants reported that they present the *Miranda* rights review as an administrative duty that the participant is first required to go through with the subject before a polygraph examination can be administered. Participants advised that they further explain to the subject that the need for these rights to be reviewed is a result of the fact that: a) the subject is entitled to certain rights as a United States citizen; b) the polygraph is voluntary and their consent is needed; and c) the subject is presently being questioned in the office of the participant's agency.

Suggestion that the subject may already be familiar with their rights. Some of the participants noted that they advise the subject that they likely already know their *Miranda* rights. For example, if the subject has been arrested in the past, some participants will explain that these rights have likely been read to the subject on a previous occasion. Conversely, if the subject has never had any previous involvement in the criminal justice system, some participants will suggest that the subject has likely heard these rights recited during a movie or television show.

Subject is free to leave. Prior to reviewing the subject's rights, the majority of the participants advised that they also inform the subject that they are not under arrest and

are free to leave at any time. Some of the participants go so far as to show the subject where the exit is located and assure them that the door is unlocked.

Standardized *Miranda* form. All of the participants reported that in reviewing the subject's *Miranda* rights with them, they utilize their agency's standard "Advice of Rights" form which they either provide to the subject as a hard copy or that they display on the screen of their laptop computers so that the subject can see it.

Reviewing the rights. Nearly all of the participants advised that they read the rights aloud to the subject as the subject follows along. Most participants advised that they go through each right individually. One participant advised that 60% of the time, she reads the rights to the subject, but the remaining 40% of the time she has the subject read the rights aloud to the participant so that she can assess their intelligence. Another participant advised that in approximately 25% of the cases, she will consider the subject to have the requisite education to allow them to read the *Miranda* rights to themselves. Conversely, another participant offered that 99% of the time, he allows his subjects to read the *Miranda* warnings themselves after confirming that they can read and write English.

Verification of intelligence. Many of the participants advised that they ask questions to verify the subject's intelligence and English proficiency. Participants advised that attempts to ascertain a subject's intelligence and their ability to understand their rights generally focuses on how far they have gone in school and their ability to read and write English. However, one participant noted that he will also inquire about the subject's mental health status (i.e. whether the subject hears voices or sees things that are not there), and whether they prepare their own taxes. Some of the participants offered

that they seek to verify the intelligence of the subject in anticipation of potential defense challenges that the subject did not actually understand his or her *Miranda* rights at the time that they were reviewed.

Confirmation of understanding. After reviewing the subject's rights with them, nearly all of the participants reported that they ask the subject if they have understood the rights that were just reviewed or whether they need any additional clarification about the meaning of any particular right. The participants added that they then answer the subject's questions and/or elaborate on the meaning of the specified right before they continue to the actual waiver portion of the form.

Waiver of rights. Once the subject advises that they understand their rights, the participants noted that they move on to the waiver portion of the "Advice of Rights" form in which the subject volunteers to actually waive his or her rights. While some of the participants offered that they read the waiver portion of the form aloud to the subject, most of the participants reported that they have the subject read the waiver portion of the form so that the participant can verify the subject's English proficiency, their ability to comprehend, and to confirm that the subject was paying attention.

Execution of the *Miranda* form. All of the participants reported that once the rights are reviewed, the subject's questions are answered, and the subject has read and agrees to waive their rights, the participant will have the subject sign the form. Several of the participants stated that they often have a witness, typically the investigator, present during the *Miranda* process and similarly ask them to sign the form as a witness.

Importance of *Miranda*. The importance of the *Miranda* process was noted by many of the participants. For example, one participant offered that he takes his time in

reviewing the subject's rights and does not simply "gloss through" the process. He added that he spends sufficient time to review these rights with a subject because he is not trying to trick anyone and because he wants to receive a waiver from the subject that will "stand the test of time" when it comes to future legal challenges raised by the defense.

Another participant suggested that if an interviewer/interrogator appears afraid to give a subject his *Miranda* rights, then the subject will be afraid to waive them. For this reason, the participant is very straightforward with his review of the subject's rights.

Procedure for Documenting a Confession

As previously discussed in the literature review, many of the laboratory experiments with university students involve confessions in which the student participant simply signs a pre-printed form acknowledging their guilt to a specified infraction. To more fully understand how real-world confessions are documented, I questioned participants about their personal procedures for memorializing a verbal confession once it is elicited from a criminal subject. All of the participants identified that upon obtaining a confession from a criminal subject, they typically attempt to memorialize the confession through a written statement. My review of the participants' respective processes identified that the confession documentation process appears to be made up of five separate steps: a) transition; b) documentation; c) review/verification; d) corrections and additions; and e) execution.

Transition. Once a confession is elicited from the subject, the participants offered a variety of explanations and techniques that they use to encourage the subject to document their confession in the form of a written statement. Examples of how this transition is conducted include explaining to the subject that everything that the subject

has told the participant is important, “so let’s document it”. Other participants explain to the subject that a written statement will preclude any discrepancies or misunderstandings in what the subject has said and serves to get “everything on the table”. Some participants also suggested that the transition to a written statement can include the participant first explaining to the subject that the participant wants to report the subject’s information to the prosecutor in a fair manner and that the participant does not want to add or miss anything. The participant then explains to the subject that the best way to do this is to prepare a written statement that accurately reflects what the subject has said.

Another participant stated that she explains to the subject the importance of clearly and concisely documenting what the subject has said so that nobody thinks that the participant has put words in the subject’s mouth. An additional transition was reported as the participant explaining to the subject that they now are going to create a summary of what the subject has disclosed because the participant and the subject have talked about a lot of things and the participant does not want to forget anything. One participant stated the he explains to the subject that he is only able to provide facts in his report. As such, the participant informs the subject that he cannot write in his report that the subject is sorry for what he has done because this would be the participant’s opinion. Therefore, the best way to document the subject’s feelings is through a written statement.

Documentation. Once the transition is made from the verbal confession to the written confession, it becomes necessary to actually document the subject’s confession. The participants advised that creating the written statement typically takes two forms: a) the subject writing the statement for themselves; or b) the participant writing the statement on behalf of the subject.

The subject writes the statement. Many of the participants advised that they prefer to have the subject write their statement on their own and in their own handwriting provided that they exhibit the requisite intelligence to do so. As one participant noted, there is no more incriminating evidence than a confession written in the subject's own hand and using his own words and verbiage. While most participants advised that they typically provide the subject a pen and paper to write their statement, some advised that they offer the subject an opportunity to type their statement on the participant's laptop if they prefer. While several participants noted the evidentiary strength of having the subject write the statement in their own hand, one participant noted that in giving subjects the option, most find it more convenient to type their statement on the participant's laptop.

Using the subject's own words. To ensure that all of the relevant information is captured, some of the participants advised that they summarize the subject's verbal confession and then request that the subject write the confession in their own words. One participant commented that he typically advises the subject that it is important to write the statement in his own words because the people who read the statement are going to want to see that the words are coming from the subject's heart and that he is taking responsibility for his actions. Another participant advised that he reiterates the subject's verbal confession in small chunks of information and then has the subject write the specified chunk of information in their own words as the participant watches over their shoulder. The participant does this as a means of ensuring that all pertinent information provided in the verbal confession is documented in the written statement.

Leaving the subject alone to write the statement. Some participants advised that they typically leave the room and allow the subject to have peace and quiet as they write or type their statement.

Writing the statement as a collaborative effort. For some participants, the crafting of the subject's written statement is explained to the subject as a collaborative process between the subject and the interrogator. This collaboration involves the participant reiterating or reminding the subject of the information that they provided in their verbal confession so that the subject can use their own words to include this information in their written statement. Some participants reported that such collaboration helps to keep the subject focused and allows for the verification and inclusion of important information into the subject's written statement.

The interrogator writes the statement. While one participant advised that she never writes a subject's statement for them, many of the participants stated that they typically offer this to the subject as an optional way of documenting their verbal confession. Many participants suggested that they will write the subject's statement on their behalf if the subject is unable to do so because they are too emotional, if they can't read and write English, if they have poor handwriting, if they are incompetent with computers, or if they otherwise "balk" at the idea of writing down their confession. Other reasons for why subjects opt to have the interrogator write their confessions for them include the fact that the subject may be low functioning or uneducated, they anticipate having difficulty writing the statement by hand, they have poor spelling, or they are embarrassed by their handwriting.

The interrogator writes the statement as a collaborative effort. The participants noted that when they write the statement on the subject's behalf, they typically type the statement on their laptop computers. Most of the participants described this as a collaborative process. Some of the participants request that the subject sit next to them in full view of the laptop screen while the statement is being typed. Many of the participants also advised that they construct the statement line-by-line with either the subject dictating their confession one sentence at a time or the participant asking the subject direct questions relating to the verbal confession and then typing the subject's answers. Some of the participants also noted that they immediately read each sentence to the subject after it is typed to verify its accuracy. As described by one participant, this can be a "painstaking" process.

Review/verification. Regardless of whether the subject writes their own statement or the interrogator writes the statement on their behalf, all of the participants reported that they employ some form of verification to ensure that the information contained in the statement is accurate and truthful. This review/verification process occurs at different times for different participants. For example, some participants verify the accuracy of each sentence after the sentence is written or typed. Other participants will review the accuracy of the statement after each paragraph. One participant advised that as the subject reads the statement out loud, he has them initial each paragraph, thereby signifying that he has reviewed each paragraph and each paragraph is truthful and accurate. In addition to having the subject verify the accuracy of smaller parts of the statement, the majority of the participants also have the subject review the statement in its

entirety once it is completed. Generally, this verification involves the statement being reviewed or read aloud by the subject, the participant, or both.

Many of the participants advised that once the statement is completed, they will read the statement to themselves or out loud to the subject as a means of ensuring that the subject has completely documented all pertinent information that they had provided in the verbal confession. Some of the participants advised that they read the statement aloud so that the subject can hear the statement in its totality and verify its accuracy. One participant noted that she reads the statement out loud so that the lead investigators, who are generally observing the interrogation via microphone or through one-way mirrors, can hear what the subject has confessed to. Other participants offered that they may read the subject's statement out loud if the subject is poorly educated. Many participants reported that once the statement is completed, they have the subject review their statement to ensure that it is accurate. Some participants identified that they direct the subject to read the statement out loud to verify that the statement is truthful and accurate.

Using investigators to verify the subject's statement. As a means of verifying that the subject has reviewed and concurs with the accuracy of the statement, some participants reported taking additional measures. For example, some participants request that the lead investigators enter the room so that the statement can be read in their presence by either the subject or the participant. The subject is then asked to verify the truthfulness and accuracy of the statement in the investigators' presence. One participant identified that he has the subject add a line to the statement that confirms that the subject has read the statement out loud in front of the investigator and that the statement is true and accurate. It was similarly reported that investigators are sometimes asked to sign the

statement advising that they were present when the subject reviewed the statement and verified its accuracy.

Corrections and additions. Another commonality I identified in reviewing the participants' statement writing process relates to the need to make corrections or additions to a subject's statement. For example, many participants noted that when the subject is permitted to write their own statement, they often forget or outright withhold important information that they had previously disclosed in their verbal confession. A review of the subject's statement serves to identify these omissions and affords the participant an opportunity to request that the subject add the missing information to their statement. Many of the participants advised that once they identify an omission, they will first verify that the subject had previously disclosed the missing information and then explain to them that it is important that all of the information be documented in the statement. At this time, the participants will request that the subject add the missing information to their statement by stating something like, "This looks good, but we talked about (issue X). I think it is important to your story to add this detail so that it shows that you are taking ownership and responsibility of what you have done."

Many of the participants also noted that it is relatively common to identify errors or mistakes while reviewing the subject's written statement. It was reported that it is also possible for the subject's statement to contain something that is illegible or something that is confusing. If corrections are needed on a statement drafted on the participant's computer, the corrections will be re-typed. If similar corrections are noted on a handwritten statement, participants identified that they will have the participant cross out

and initial the mistake. After such corrections are made, participants frequently have the subject review the statement again and verify its accuracy with the noted corrections.

Execution. Each of the participants identified that once the typed/written document is completed and confirmed as accurate, they will have the subject sign the statement indicating that the statement is true. Some participants noted that if they wrote the statement on behalf of the subject, the subject may be asked to add a statement indicating that the statement was written on their behalf by the participant, but the subject reviewed the statement and confirmed that it is accurate.

Recording. Many of the participants noted that their agency does not generally record interviews and rarely allows for the recording of polygraph examinations. However, while the majority of the participants advised that they have the subject write their confession by hand or they type the statement on behalf of the subject, some participants reported that they have recently begun to record specific aspects of the polygraph examination. For example, one participant advised that since late 2014, he began recording his interrogations of criminal subjects within his particular jurisdiction, the majority of which involve allegations of child sexual abuse. Another participant noted that upon being requested to conduct polygraph examinations in state cases, he will record the entire polygraph pre-test interview and post-test interrogation. Yet another participant stated that he has begun recording entire interrogations after the polygraph examination is administered. When a case involves multiple criminal acts, such as multiple bank robberies, one participant reported that he prefers to record the subject's statement as the creation of a written statement can become unwieldy.

Duration of the Pre-Test Interview

I asked participants to estimate the average length of time between the participant and the subject being introduced and the start of the post-test interrogation. For the purpose of this study, this period of time was referred to as the polygraph “pre-test”. Several of the participants reported that it is difficult to confidently identify the average length of their pre-test because various factors can influence how long this period of time may last. For example, participants suggested that this period of time may last longer if the case is particularly complex, if the subject is talkative, if the subject is providing a significant amount of previously undisclosed information, and if the interrogator senses that he or she may be able to convince the subject to confess their crimes prior to the administration of the polygraph examination. While the shortest average pre-test was reported to be 45 minutes, the longest average pre-test was reported to be between 2 ½ and 3 hours. However, the majority of participants estimated their pre-tests to last between 1 hour and 2 hours in length.

Duration of the Post-Test

I asked participants to estimate the average duration of their post-test interrogations. Many of the participants reported that it is difficult to give an exact average of how long their interrogations last as there can be a great deal of variance. Some participants noted that they have interrogated subjects for as little as a couple of minutes to as long as 18 hours, with most estimating that their interrogations rarely go beyond 4 or 5 hours. However, the majority of the participants suggested that their average interrogations last between 2 and 3 hours. The shortest interrogation noted by a participant was 30 minutes and the longest average interrogation length was identified as 6 hours. The participant with the lowest average interrogation length (30 to 60 minutes)

reported that in his particular jurisdiction, the federal courts have expressed concerns for polygraph examinations that last longer than 2 ½ hours, and defense attorneys begin to make accusations that the participant “brow beat” their client if the examination and interrogation last longer than this amount of time. For this reason, the participant stated he generally tries to keep his entire polygraph examination, to include the interrogation, to less than 2 ½ hours.

For the participant who reported the longest average interrogation length, she advised that her interrogations generally last until the person leaves the room. More specifically, the participant advised that she operates by the adage that, “We don’t quit until they quit.” This was clarified to mean that the participant will keep talking to a subject until they ask to speak with an attorney. This sentiment was echoed by another participant who similarly advised that he would talk to a criminal subject for as long as they were willing to talk to him. Despite this willingness to interrogate for as long as the subject remains in the interrogation room voluntarily, the average interrogation lengths were reported by these particular participants to be 4 to 6 hours and 2 to 3 hours respectively.

Egregious Lengths of Post-Test Interrogations

When I questioned participants about what they consider to be an egregious length of time to interrogate a criminal subject, many of them noted that this is a difficult question to answer as various factors may influence what is considered egregious. Such factors may include the nature of the case, the extent to which the subject was interviewed by investigators prior to the polygraph, and the characteristics of the subject. For example, one participant noted that if the case involves allegations of child

pornography, this may require a longer interrogation as these types of criminal subjects are much more reluctant to admit their sexual attraction to children. Conversely, if the subject suffers from mental health issues, if the subject has a poor ability to deal with stress, if the subject is being yelled at by the interrogator, and/or if there is a high degree of coercion, then it will be necessary to terminate the interrogation much sooner.

The majority of the participants offered that the ultimate determinants of how long an interrogation should last also depends upon: a) whether the subject remains in the interrogation room voluntarily; b) whether the subject continues to be willing to speak with the interrogator; and c) whether the subject is regularly receiving food, water, cigarette, and bathroom breaks. If these conditions are met, some participants reported that interrogations lasting as long as 6 to 8 hours, or even longer, are acceptable. If these conditions are not met, some participants reported that interrogations lasting between 5 and 8 hours may be considered egregious. The largest number of participants suggested that interrogations in which the aforementioned conditions are not met become egregious when they last longer than 8 hours. My review of the findings determined that federal law enforcement polygraph examiners pay attention to the length of their interrogations as they are aware that they may be questioned or criticized in court if they interrogate a subject for a prolonged period of time. Despite this possibility, some of the participants reported that they would be willing to interrogate a subject for as long as the subject is willing to speak with them voluntarily.

Effective Interrogative Techniques

Upon being questioned about what they believe are the most effective interrogative techniques for eliciting a truthful confession, participants noted a relatively

large number (26) of techniques that they believe contribute to the elicitation of a truthful confession. My review of these techniques identified that they seem to fall into two relatively distinct categories. The first category related to how interrogators conduct themselves and how they treat the subject. For the purpose of this discussion, I identified this category as “interpersonal approaches”. The second category involved actual “interrogative strategies” employed by the participants and designed to encourage the subject to admit to their criminal wrongdoing. The following is a discussion of these two categories.

Interpersonal Approaches. The following is a discussion of the interrogative techniques relating to how the participant interacts with the subject to effectively elicit a truthful confession.

Understanding and empathy. The most frequently reported interpersonal approach employed by the participants involved understanding and empathizing with the subject. The majority of the participants identified that when interrogating a criminal subject, they take care to try and understand the subject’s point of view, a process that multiple participants referred to as “empathy”. This motivation to understand others was described by one participant as her desire to hear the subject’s side of the story and to understand why they did what they did. She further noted that in her experience, subjects actually do have reasons for their criminal actions and, as a federal law enforcement polygraph examiner, she strives to understand these reasons. Another participant expressed that his attempts at using empathy with a criminal subject involves asking himself, “What would I want if I was in the (polygraph) chair? How would I want to be

treated?” Yet another participant reported that he routinely informs criminal subjects that he is not there to judge them, but to simply try and understand why things happened.

While understanding the subject may ultimately benefit the interrogator by providing them valuable insight as to what the subject did and why they did it, participants also noted that this desire to understand may also benefit the subject. One participant suggested that all people desire to be understood and that, “we all need affirmation”. He then added that if an interrogator can provide that needed affirmation during the course of the interrogation, then they are much more likely to be successful in having the subject tell their side of the story. Another participant similarly described that his efforts to understand and empathize with subjects during the course of an interrogation resemble, “more of a therapist approach as opposed to the traditional law enforcement approach”. Despite the importance participants placed on empathy and understanding, they frequently noted that the understanding and empathy must be genuine in order to be successful. As offered by one participant, an interrogator has to be careful not to fake empathy as a criminal subject “can see through it in a heartbeat”.

Friendliness. The next most frequently cited interpersonal approach referenced by participants involved interacting with the subject in a friendly manner. Many of the participants advised that to effectively elicit a truthful confession, it is necessary to engage the subject with friendliness. Participants reported that being friendly is important because “people confess to people they like”. It was similarly offered that “the nice guy gets the confession”, and “people don’t talk to people they don’t like”. In light of such beliefs, many of the participants stated that they strive to be friendly towards the subject because it serves to put the subject at ease, it leads to the subject’s development

of positive feelings toward the interrogator, and it encourages the subject to speak with the interrogator by making the subject feel more comfortable. One participant similarly noted that she has found it effective to be likable with the subject by being nice, soft-spoken, and approachable. Another participant identified that he tries to be a priest, a counselor, a father, and a friend to the subject as they are more likely to be receptive to, and speak openly with, someone they like and trust.

While the merits of acting in a friendly manner toward the subject were repeatedly referenced, it was also noted on multiple occasion that friendliness must be expressed at the outset of the interrogation and not held in reserve. More specifically, participants noted that while it may be necessary to become confrontational with a criminal subject, especially in light of continued denials and inconsistencies, it is easier to go from friendly to confrontational than it is to go from confrontational to friendly. Participants also put forth that there must be a balance between being friendly and professional. The dangers of being overly friendly with a subject was described by some participants as being too “buddy-buddy”, a mistake that can cause the interrogator to lose control of the interrogation.

Rapport building. Another effective interpersonal approach noted by participants related to building rapport with the subject. In fact, one participant reported that the most important technique for obtaining a truthful confession may be to build rapport with the subject. This is because people are more likely to open up to a person when they are getting along with them. “They will tell their best friend things that they would never tell anyone else”. This participant further explained that building rapport allows for the collection of more information about the subject and what is important to them. This

information can then be used for the development of theme material that can be used during the course of the interrogation. Other participants similarly expressed the importance of rapport building. For example, one participant suggested that because people tend to be attached to, and talkative with, people with whom they share a commonality, the participant has found it beneficial to try and find commonalities with a subject on which they can both connect. Another participant similarly offered that when interrogating a criminal subject, the participant looks for commonalities with the subject in an attempt to develop rapport with them. Through this search for commonalities and the development of rapport, interrogators can make a connection with the subject and avoid making the subject feel blamed or judged for the criminal act they committed.

In addition to searching for commonalities between the subject and the interrogator, participants noted that rapport can sometimes be easily established with the simplest of gestures. For example, one participant stated that an easy way to begin establishing rapport with a subject involves shaking the subject's hand when first meeting them. The participant added that this is particularly important with inmates who may not be used to being shown this type of respect. Regardless of how the rapport is built, many of the participants identified that building rapport is not only crucial, but it can have various positive effects on the relationship. For example, it was offered that rapport also helps to decrease the subject's anxiety level and makes the subject feel that they are working with the interrogator.

Advocates and allies. Another frequently reported interpersonal approach that effectively leads to the elicitation of truthful confessions involves being an "advocate" or "ally" for the subject. This interpersonal approach involves the creation of an

environment of teamwork between the interrogator and the subject. One of the participants explained that he accomplishes this by fully explaining to the subject what the participant will be doing during their time together and that the participant is working on the subject's behalf. Another participant explained that he attempts to create such an environment by utilizing rapport building strategies to allow the subject to feel that they are engaged together in the interrogation process. Participants also noted that it is important for the subject to know that the participant is not there to hurt the subject, but to serve as an ally and help the subject to the extent that the participant can do so.

In attempting to convince the subject to talk to him, one participant explained that he sets out to prove to the subject that the participant is his "biggest ally". In a similar vein, another participant stated that she presents herself as an "advocate" for the subject in that she is the only person who can get the facts of the subject's situation across to the investigators working the case. She also makes it a point to inform the subject that she does not "get paid any more money" if the subject confesses. Instead, the participant is able to advocate for the subject by helping the subject tell their story. While very few of the participants stated that they ever become confrontational with a subject, one participant noted that even when it is necessary to more directly confront a subject, he does so as an advocate. For example, upon hearing something contradictory in the subject's statement, the participant may say something similar to, "I have to challenge you with what you just said because the prosecutor isn't going to be able to make sense of this." Overall, the participants frequently reported that working as an advocate or ally with the subject is much more effective in eliciting a confession than working against the subject as an adversary.

Trust and respect. In addition to the interpersonal approaches discussed above, the participants reported that treating a subject with trust and respect is very important if a truthful confession is to be successfully elicited. As noted by one participant, if a subject does not trust the interrogator, they will not feel comfortable telling their story. The importance of trust was expressed by another participant who suggested that if the interrogator is caught in a lie, the subject will “shut down”. If the subject believes that you are trying to trick them, then you are simply “one more law enforcement officer who is out to get them”. It is therefore critically important that the interrogator be straightforward with the subject. In this participant’s experience, criminal subjects appreciate her straightforwardness. She added that people generally want to get the load off of their chest and it feels good to “vent” if you trust the person to whom you are venting. For this reason, this participant advised that she strives to develop a trusting relationship with the subject. Another participant similarly highlighted the importance that trust plays during the course of an interrogation. He suggested that in creating an environment of trust, he immediately explains to the subject that the participant will be honest with them if the subject provides that same honesty in return. This participant further explained that it is necessary for the participant to create an environment where the subject comes to respect and trust him if the interrogation is going to be effective.

As suggested by this last comment, respect is directly associated with trust when it comes to the interrogation of a criminal subject which may explain why many of the participants identified respect as a key interpersonal approach. One participant advised that he makes great efforts during the course of a criminal interrogation to create an environment of “mutual respect” between himself and the subject. Another participant

offered that by treating a subject respectfully, the subject is not only put at ease, but they feel more comfortable talking to the participant. Yet another participant suggested that the need for respect is nearly universal. This participant reported that if you treat a person with respect and dignity, you will likely receive the same from them in return. In his experience, respect is particularly important with the Hispanic and Native American cultures, as well as those who have already come into contact with the criminal justice system. The need for mutual respect between the subject and the interrogator was succinctly expressed by still another participant who stated, "People confess to people they respect".

Being professional. In addition to the interpersonal approaches already discussed, the participants offered various other interpersonal approaches that can be effective in eliciting a truthful confession from a criminal subject. One such approach relates to the interrogator interacting with the subject in a "professional" manner. While the attributes of being friendly with the subject have already been discussed, one participant suggested that there must be a balance between the interrogator's friendliness and his or her professionalism. The concept of professionalism was described in various ways by the participants. For example, multiple participants suggested that it is more appropriate and effective to address the subject in a "low key" and "conversational" tone as opposed to being confrontational, raising your voice, and being "in your face". Similarly, participants suggested that maintaining "neutrality" with a subject can be effective as it serves to increase the interrogator's credibility with the subject. Simply put, participants noted that the interrogator's level of professionalism when interacting

with a criminal subject can ultimately have an impact on the subject's decision to confess.

Being nonjudgmental. Participants also identified that the interrogator's ability to remain nonjudgmental of the subject during the course of the interrogation is a key interpersonal approach. Many participants suggested that creating an environment in which the subject can feel comfortable to truthfully disclose their criminal actions without the fear of being judged by the interrogator is critically important. One participant noted that from the outset of the interrogation, he explains to the subject that he is not there to judge them, but to understand what has taken place. It was a recurring theme among the participants that if the interrogator is successful at making a connection with the subject while giving the appearance that the interrogator is accepting and nonjudgmental of the information that the subject is providing, then the interrogator is much more likely to have the subject openly disclose their criminal activities.

Being Genuine. While the participants identified a variety of interpersonal approaches that are likely to increase the elicitation of a truthful confession, they also noted that these efforts to engage with the subject on an interpersonal level must be genuine. Being "straightforward", "up front", and "genuine" with the subject, as opposed to the use of manipulation and trickery, were often cited by participants as a necessary component of a successful interrogation. Participants frequently reported that it is important for interrogators to be themselves when engaging a criminal subject in an interrogation. In fact, one participant offered that upon becoming a polygraph examiner, the participant's biggest fear was that he was going to have to be someone that he is not. He further clarified that while he was concerned that he would have to be aggressive or

act like a “jerk” in order to obtain confessions, he was pleased to learn that being himself and acting toward the subject with kindness is a more effective approach. The premise of being “straightforward” and “up front” with a subject was more thoroughly described by one participant as acting in an “honest” and “credible” manner to include explaining to the subject how the federal criminal justice system works, how their cooperation will benefit them within the system, and how the information provided by the subject will be furnished to the federal prosecutor by the participant.

Interrogative strategies. My review of participant responses identified that while interpersonal approaches were more frequently referenced as being effective in eliciting a truthful confession from a criminal subject, there are also interrogative strategies that can equally prove effective. It is important to note that several participants reported that the strategies that they choose to employ depend on the subject, their backgrounds, their education level, etcetera. The following is a discussion of the interrogative strategies identified by the participants.

Themes. The most frequently referenced interrogative strategy deemed as effective in eliciting a truthful confession by participants relates to the use of themes during the interrogative process. The majority of the participants reported using this technique. Theming was defined by one participant as offering the subject an “out” or a “face-saving way” of explaining their criminal activity which serves to minimize the seriousness of the subject’s criminal acts. Themes were also described by participants as potential explanations or rationalizations for why they may have committed the crime. Similarly, themes were described as “hooks” or stories that an interrogator can tell to provide the subject with the “lifeline” that they are looking for. For example, one

participant explained that if it becomes apparent that the subject's family is important to them, using a theme that involves the subject's family may be effective in convincing them to confess. Another participant identified his particular process of theme development as "cognitive dissonance" in which he seeks to overcome a subject's need for self-preservation by creating a rational explanation for the subject's criminal actions that is less stressful. In essence, this participant redefines why the subject engaged in the specified criminal behavior as opposed to focusing on whether the subject actually committed the crime. This creates an environment in which the subject can be honest about their criminal actions without feeling judged by the participant.

In developing themes, participants reported that they attempt to identify logical explanations for why the subject may have committed the crime and then present those potential explanations to the subject. However, one participant noted that it is important for the themes to be meaningful to the subject and reflect why the subject may have engaged in the crime based on what the interrogator was able to learn about the subject during interview preparation and during the pre-test interview. For this reason, the participant noted that it is critically important to try and learn as much information as possible about the subject prior to the polygraph test and to pay attention to what the subject is actually saying during the pre-test interview as this will increase the effectiveness of the themes.

Participants also identified themes as being effective because they offer the subject a nicer way to confess to what they did. As opposed to suggesting that the subject is a criminal, themes give the subject an "avenue out" that makes the subject look better in admitting his crimes. Themes can also address how the subject will feel better if they

admit to their criminal actions. Lastly, participants reported that themes are effective in eliciting a truthful confession because they serve to rationalize why the subject committed the crime, minimize the seriousness of the offense, and project the blame onto someone or something other than the subject. This process of rationalization, minimization, and projection helps subjects to more easily explain and justify their criminal behavior in a “face-saving way” while still acknowledging that the crimes they have committed are wrong. Participants explained that these types of themes help to make the subject feel that while they may have done something bad, they are not a criminal. As noted by one participant, “even the biggest creeps don’t want to be made to feel like a creep.”

Attacking inconsistencies. Another frequently referenced interrogative strategy that has proven effective in the elicitation of truthful confessions involves the interrogator attacking inconsistencies in a subject’s statements. Many participants advised that they prefer to let the subject tell their stories while the participant listens carefully for information that does not seem consistent or logical. One participant described this process as allowing the subject to “roll out his lies”. Upon identifying inconsistencies or misstatements in their stories, the participants then expose and attack these obvious attempts at deception. Participants noted that this strategy of “trapping them in a known lie” is particularly effective when it is combined with the fact that the subject has just failed a polygraph examination. One participant referred to this strategy as a “one-two punch”. Highlighting inconsistencies in a subject’s statement also convinces the subject that the interrogator is not “buying” their lies and that continued deceit is no longer an option. Another participant stated that consistently identifying a subject’s deception and

confronting them on this deception can also decrease the subject's motivation to continue lying and encourage them to respond honestly from that point forward.

Presentation of evidence of guilt. Some participants suggested that presenting a subject with case facts can prove effective in eliciting a truthful confession from a criminal subject. Some participants reported that it is extremely effective to present the subject with case facts that clearly identify the subject's guilt as this can increase the likelihood of obtaining a confession. Presenting such proof of guilt can be especially effective if the subject was not aware that the interrogator was in possession of such information. Participants identified that this type of evidence may include cell phone evidence, photographs, GPS data, or other information that may conclusively identify, or strongly suggest, that the subject is responsible for the criminal act under investigation. Participants suggested that upon being presented with such evidence, the subject knows that "the jig is up" and a truthful confession is more likely to occur. Participants further noted that when the interrogator presents this evidence or case facts to the subject in the form of a surprise revelation, it can be particularly effective in eliciting a truthful confession. Similarly, using this type of information to rationally suggest that the subject's guilt is already known and it would therefore be of greater benefit for the subject to tell their side of the story as opposed to relying on others to do so was also noted by some participants to be effective.

Miscellaneous interrogative strategies. Participants identified various other techniques that they find effective in eliciting a truthful confession. For example, one participant prefers to give the subject the impression that future polygraph testing will take place and she wants the subject to pass the subsequent polygraph. The participant

advised that she employs this strategy as a way of encouraging the subject to disclose additional information that they believe may help them to pass the next polygraph test. Another participant stated that he finds it effective to use “proxemics” during the course of his interrogations. The participant described this as strategically moving toward or away from a subject during the course of the interrogation or gently touching a male subject’s knee when they lose themselves in thought. Yet another participant offered that using periods of silence that encourage the subject to fill the silence with their own thoughts can be an effective strategy in convincing the subject to talk. A final strategy reported to be effective by participants is the use of an emotional appeal. One participant defined this approach as asking the subject to consider how society will view them, how their family will view them, or how they will view themselves regarding their criminal actions.

The desire to confess. Regardless of the interpersonal approach or interrogative strategy employed by the interrogator, participants suggested that a truthful confession must ultimately be desired by the subject. In other words, the subject must want to confess and their confession must be voluntary. As such, participants offered that people need a reason to confess. Some participants reported that it is necessary to convince the subject that confessing their criminal actions will ultimately benefit them. Sometimes this benefit may involve the realization that within the federal system a confession leads to a decrease in their eventual sentence. At other times, the benefit may be the suggestion that the subject will feel better upon admitting and taking responsibility for their criminal wrongdoings. Regardless of how the benefit is presented, one participant reported that he

always makes the subject's confession feel like a positive release and a positive endpoint to the interrogation process.

Ineffective Interrogative Techniques

Upon being questioned about which techniques are ineffective in obtaining a truthful confession, the participants offered a variety of interrogative techniques and interrogator behaviors that they believe are ineffective in obtaining a truthful confession. The following is a discussion of the participants' responses.

Disrespectful behavior. The majority of the participants responded to this question by focusing on interrogator behaviors that can be considered disrespectful. For example, the majority of the participants reported that "yelling" and "screaming" at the subject is not an effective interrogation technique. They frequently reported that if the subject is being yelled at by the interrogator, there is no incentive for them to talk to the interrogator. As asked by one participant, "Why would they talk to you?" Participants also reported that interrogative methods in which the interrogator is "loud", "aggressive", yells at the subject, or calls them a "liar" are ineffective at eliciting a confession because nobody wants to be on the receiving end of this type of behavior. Participants further explained that people have an underlying human desire to be respected. As a result, when people are treated disrespectfully, they "shut down" and they exit the interrogation room. As suggested by one participant, it is very hard for an interrogator to "come back from being an unpleasant person". It was similarly reported by a participant that "mean people suck", and "nobody want to talk to somebody who makes them feel like shit".

From an interpersonal perspective, a participant suggested that yelling and screaming at a subject is ineffective because nothing is being communicated between the

subject and the interrogator. Moreover, this type of behavior indicates that the interrogator has lost control of what they intended to do which is to have the subject tell their side of the story. Another participant offered that this type of “TV stuff” indicates that the interrogator is “losing his cool”, he or she is no longer in charge of the interrogation, and the subject “got your goat”. It was suggested by many of the participants that these types of behaviors prevent the interrogation room from feeling like a safe place to talk and decreases the likelihood of successfully eliciting a confession. They also noted that being disrespectful to a criminal subject who has had previous experiences with the criminal justice system is particularly ineffective because many criminal subjects already have the perception that law enforcement is bad and this type of behavior will confirm those perceptions. Participants added that yelling at a subject and acting toward them in an aggressive manner will cause the subject to shut the interrogator out, increase their defiance, and strengthen their denials. While this behavior may resemble “all the things you see on TV”, participants advised that it does not actually work in convincing a subject to confess to their criminal activity.

Anger, insincerity, and disinterest. Participants reported that a confession is also unlikely to occur if the interrogator acts in an angry, argumentative, insincere, biased, disinterested, or egotistical way with the subject. Showing anger toward a subject or becoming argumentative with a subject was reported to cause subjects to become “defensive” and disinclined to talk to the interrogator. Similarly, being insincere, showing a lack of interest in the subject by not listening to them, leaving the room, texting, and giving the subject the appearance that all the interrogator cares about is

getting a confession from the subject and then going home, will cause the subject to distrust the interrogator and decrease the likelihood of a confession.

Badgering, intimidating, and judging the subject. In addition to how the interrogator acts toward the subject, the participants suggested that the interrogator can also engage in activities that can prove ineffective in eliciting a confession. Such activities include badgering, intimidating, judging, and threatening the subject.

“Badgering” a subject was defined by a participant as “beating them over and over” with the fact that they had failed a polygraph examination. “Intimidation” was clarified by participants to include, verbally abusing a subject, keeping them in the interrogation room for a prolonged period of time without giving them breaks, playing “good cop/bad cop” with the subject, and/or forcing the subject into a corner where they are pressured into making a decision that is not of their own volition. Playing “good cop/bad cop” was noted by one participant as being particularly ineffective because everyone knows what the interrogator is attempting to do.

Multiple participants also referenced the ineffectiveness of judging the subject. Participants further described this as belittling the subject and making them feel bad about themselves for the criminal act that they committed. “Threatening” behavior was clarified to include the interrogator not only threatening or bullying the subject, but also doing the same thing to the subject’s family. Participants offered that threatening a subject may involve an interrogator saying something similar to, “I’m going to make it my personal business to screw you” if I find that you are lying to me. Multiple participants reported that threatening a subject or their family has equally little value as the actions outlined above.

False evidence, poor theming, and feeding information. Participants identified additional ineffective interrogative actions that can be employed by an interrogator such as presenting the subject with false evidence, using inappropriate themes, making promises to the subject, and/or feeding the subject case facts and information. Presenting the subject with false evidence of their guilt was found to be ineffective in eliciting a true confession because the interrogator could easily be identified as lying which could cause the subject to distrust the interrogator, rapport will be destroyed, and the interrogator will lose all credibility with the subject. A participant also offered that randomly using themes that are not meaningful to a subject are unlikely to lead to the elicitation of a confession. Some participants noted that making false promises to the subject is also an ineffective interrogative technique. Such promises include statements that suggest that a subject can go home or will not be criminally charged if they simply provide a confession. Lastly, participants reported that it is ineffective to “feed” a subject information about the case so that their confession matches existing case facts and available evidence.

Participant Opinions on Problematic Interrogative Techniques

As previously discussed in the literature review, the existing research on false confessions is replete with interrogative techniques reportedly employed by law enforcement interrogators that are problematic and may potentially contribute to the elicitation of a false confession. I presented the participants with the following interrogative techniques and asked them for their opinions and insights regarding these techniques. The following is a discussion of participant responses.

Sleep deprivation. For the purpose of this question, “sleep deprivation” was defined for the participants as deliberately keeping a subject awake to weaken their mental state and increase the likelihood of a confession. The majority of the participants identified this technique as unacceptable. Participants offered various explanations for why they found sleep deprivation to be an unacceptable technique. The most frequently cited reason involved the reliability of the information obtained through the use of such a technique. As one subject noted, people need to sleep and a person’s brain does irrational things when it is sleep-deprived. For this reason, many of the participants noted that when a subject is in such a weakened state, the veracity of their information cannot be trusted. Similarly, participants offered that sleep deprivation can make the subject more susceptible to coercion, decrease their voluntariness to stay in the interrogation room, and potentially lead to a false confession. Participants also suggested that because human beings need to sleep, they may ultimately choose to confess simply to escape the interrogation and give themselves an opportunity to rest. In light of these concerns, participants reported that a confession that was obtained through the use of sleep deprivation will undoubtedly be challenged in court.

Several of the participants offered that they viewed sleep deprivation to be an acceptable practice as it is not illegal to keep a person awake to answer questions. However, one of these participants also advised that depriving a person of sleep is not necessary to obtain a truthful confession so he tends to avoid using this approach. Multiple participants also advised that as long as the subject remains in the interrogation room voluntarily, they would be willing to continue the interrogation even if it was late at night and both the interrogator and the subject were tired. Some participants also

reported that interrogating a tired subject is even less of a concern when the criminal case is important and exigent circumstances exist such as in a case of kidnapping. Still, the majority of the participants generally found the sleep deprivation technique unacceptable. One participant advised that as federal law enforcement polygraph examiners, “We are in the truth-seeking business, not the confession-seeking business.” Under this premise, he suggested that doing things correctly and legally to get to the truth is more important than obtaining a confession of questionable veracity via unacceptable practices. Other participants described sleep deprivation as “unfair”, “Gestapo-type tactics”, and “against my moral compass”. One participant even joked that she personally has no interest in staying up all night waiting for a criminal subject’s mental state to weaken.

Offering the subject a deal. Every participant questioned about the interrogative technique of offering the subject a deal in exchange for their confession identified this technique as unacceptable. All of the participants suggested that they are not in a position to offer the subject a deal, nor do they have the authority to do so. As noted by one participant, since they do not have the authority to speak on behalf of the court or the prosecutor, any deal that he would offer would constitute a “blatant lie”. Participants also advised that offering the subject a deal without the authorization or concurrence of a prosecutor could also be considered “unconstitutional”, “illegal”, and “unethical”.

Multiple participants advised that they say things to the subject to encourage their confession, but still fall far short of a promise. For example, one participant informs subjects that the court is set up to give the subject a certain degree of credit through the Federal Sentencing Guidelines for confessing and accepting responsibility for their criminal actions. Other participants advised that the only thing they promise the subject

is that the participant will act as the subject's spokesperson and present the subject's information to the federal prosecutor in a positive light. Yet another participant reported that while she never promises a subject anything, the best thing she can tell a subject is that they will ultimately be better off if they choose to confess. However, one participant stated that offering the subject a deal without prosecutorial concurrence and authorization was not only illegal, but it gives a "black eye" to the interrogator, his agency, and all of law enforcement.

Presenting a subject with false evidence. For the purpose of this question, "presenting a subject with false evidence" or the False Evidence Ploy (FEP) was explained to participants by offering them an example. This example was similar to: "I know that you are responsible for this crime because we found DNA on the victim's body, sent it to the laboratory, and it was conclusively determined that the DNA belongs to you." Upon being questioned about their opinions on this technique, the number of participants who found the FEP technique acceptable was nearly equally split with the number of participants who found it unacceptable. Multiple participants similarly reported that they found the technique both acceptable and unacceptable depending on the circumstances.

The FEP technique is acceptable. Participants offered various reasons for why they found the FEP technique to be acceptable. The following is a discussion of those reasons.

It is acceptable to lie in an interrogation. Some participants noted that the FEP technique is acceptable as it is legally permissible for an interrogator to lie to a subject during an interrogation. A participant also suggested that the FEP technique is

acceptable because the subject is lying to the interrogator so it becomes necessary at times for the interrogator to lie in return as a means of “evening the playing field”.

The subject still has options. One participant identified that the FEP technique is acceptable because the lie does not necessarily trap the subject in a box because they still have the following options available to them: a) they can admit their crimes; b) they can offer an excuse as to why the evidence against them exists; or c) they can continue to completely deny their involvement in the criminal act.

It only works on the guilty. The FEP technique was found to be acceptable by one participant because of the nature of the technique itself. For example, the participant suggested that if the subject did not commit the crime, then the presentation of false evidence will not cause them concern because they would know that they are not responsible for the crime. Conversely, the truly guilty subject would have a great deal of concern in the presence of the false evidence that was presented because they would know that they actually committed the crime in question. To illustrate this point, the participant noted a situation in which he used the FEP technique with a subject who ultimately proved to be innocent. Upon hearing the false evidence that the participant provided, the subject responded to him by stating simply, “Good luck with that.” For the participant, this served as an example of how an innocent person will not be swayed by the presentation of false evidence.

Another participant reported that he employed the FEP technique during an interrogation he conducted prior to becoming a polygraph examiner. This participant explained that he had created a false laboratory report that identified that the suspected bank robber’s fingerprints were located on a bank robbery demand note. Although the

participant never showed the subject the lab report, he informed the subject that he had the report in his possession and the subject subsequently confessed. The participant offered this situation as an example of how the FEP technique can work on the truly guilty party as this subject readily confessed without actually reviewing the fabricated laboratory report because he knew that he had been caught.

The FEP technique is unacceptable. While many of the participants identified the FEP technique as acceptable, slightly more participants identified it as an unacceptable interrogative method. Participants offered various reasons for this conclusion. These reasons are discussed below.

How the FEP technique can backfire. Despite the fact that some of the participants have used the FEP technique in the past, the majority of the participants offered that it is a technique that can easily backfire. For example, some participants suggested that anyone with some level of intelligence who identified the presentation of false evidence as a lie would likely be strengthened in their denials because they would know that the interrogator was lying. Participants offered examples of how this could occur by suggesting that the subject may never have touched the victim's body, or they may have worn gloves or a condom during the commission of the crime. If the interrogator then falsely claimed that the subject's fingerprints or DNA was found at the crime scene, the subject would readily be able to identify the false evidence as a lie.

The majority of the participants identified that being caught in such a lie would be a tragic error on behalf of the interrogator because the interrogator would instantly lose all credibility and trust that he or she had tried so hard to establish with the subject. Similarly, participants reported that being caught in this type of lie would instantly

destroy rapport and the subject would come to distrust the interrogator. Some participants also suggested that if the subject catches the interrogator in a lie, they will come to the conclusion that the interrogator is not an ally, the interrogator is trying to con or trick them, and the interrogator is one more law enforcement officer who is out to get them. Participants also stated that catching an interrogator in a lie during the presentation of false evidence would cause the subject to conclude that if the interrogator has to lie in such a manner, then the interrogator must not have any real evidence against them. If this conclusion is reached the subject will gain confidence that all they have to do is keep denying their crime because the interrogator does not have any facts or evidence linking them to the crime that is under investigation. This will strengthen the subject to continue their denials, the interrogation and the subject will shut down, and the likelihood of a confession would be drastically decreased.

Participant hesitancy in using the FEP technique. In light of the concerns outlined above, one participant described the interrogator's use of the FEP technique as "playing a card that he doesn't have". As a result, many of the participants offered various reasons for why they are hesitant to employ the FEP technique. For example, one participant reported that he does his best not to lie to the subject about things in which the participant could be readily caught in a lie. Instead, the participant prefers to use "inferences" that may be suggestive of a subject's guilt. Similarly, another participant advised that while he has used the FEP technique previously, he does not like using it unless there is a good chance that the false evidence could likely be true. Yet another participant cautioned that it is very important for an interrogator to do their research before using this technique by reviewing evidence and case facts so that they do not use a

lie that cannot be backed up. Multiple participants also noted that they would never use such false evidence as the only piece of evidence against a subject. Instead, the participants advised that they would only use this technique as a means of convincing a subject to confess if the participant had additional supporting case facts.

Ethical concerns. Some participants offered that outright claiming that the interrogator is in possession of evidence that conclusively proves the subject's guilt, such as DNA evidence or a false scientific report, "crosses the line". This technique was also described by some participants as not only "unacceptable", but "unethical", and "not right". One participant stated that in his particular jurisdiction, a confession obtained through the use of such false evidence would invariably be suppressed by the court. Another participant noted that if she expects the subject to be truthful with her, then she should be truthful with the subject to a certain extent as well. Some participants also reported that it would be unacceptable if the FEP technique is used without any supporting evidence or case facts. Whereas some of the participants identified that they try to only use this technique when they have a reasonable belief that the false evidence is likely true, one participant suggested that the FEP technique is unacceptable if an interrogator is simply making a "stab in the dark" by randomly lying about case evidence to a subject.

The potential impact of the FEP technique on false confessions. Some participants concluded that the FEP technique is also unacceptable based on the impact that this technique may have on the elicitation of a false confession. For example, a participant reported that it is possible that the FEP technique may psychologically force a subject to confess. Another participant suggested that the FEP technique, when

combined with an aggressive interrogator and a subject of low intelligence, could potentially cause a false confession. Others stated that when an interrogator falsely provides a subject with scientific evidence (like DNA evidence) that is highly suggestive of guilt and then combines this false presentation with a promise of leniency, the likelihood of a false confession is increased. A false confession was also suggested to be more likely as the result of an oppressive interrogative environment caused by the use of the FEP technique against a “lower-functioning” subject. This premise was supported by another participant who offered that it is possible that an unintelligent person could be tricked into confessing to a crime they did not commit because they do not understand the nature of the evidence and were tricked into confessing. In light of the concerns outlined above, the majority of the participants considered this technique to be not only unacceptable, but risky to both the interrogation and the voluntariness of the confession.

The bluff technique. This technique was described to participants as an inferential method in which the interrogator advises the subject, for example, that fingerprints were located at the crime scene, submitted to the laboratory for analysis, and the impending analysis will soon identify the person responsible for the crime. Each of the 13 participants reported that they found this to be an acceptable interrogative technique, and several participants admitted that they have actually employed this interrogative technique in the past. Participants offered various reasons for why this technique is acceptable.

Non-accusatorial. Unlike the FEP technique outlined above, participants identified the bluff technique as non-accusatorial and more of an “innuendo” or “suggestion” as opposed to an outright accusation of guilt. Because this method does not

cite specific evidence that directly accuses the subject of a crime like the FEP, many participants suggested that this approach is acceptable.

Protection of the interrogator's credibility. Participants reported that since the bluff technique does not specifically accuse the subject of criminality through the direct presentation of known false evidence, the bluff technique protects the interrogator from being caught in a lie. As noted by two participants, the benefit of this technique is that it keeps the interrogator's "credibility in check" because the interrogator is not actually putting their "word on the line".

Possibility that the bluff may be true. In addition to the lack of a direct accusation, several participants suggested that the bluff technique does not involve an "outright lie" because bluffs like that outlined above may actually be true. For example, several participants noted that a logical investigation is likely to involve such evidentiary techniques as analyzing fingerprints and DNA collected from the crime scene. For this reason, participants noted that the suggestion by an interrogator that such physical evidence is currently being analyzed by laboratory officials is not likely to be a deceptive statement. Still, multiple participants advised that they would not necessarily word a bluff in such a manner. Instead, they suggested that they would be more inclined to ask the subject a question similar to, "Is there any reason that we're going to find your fingerprint on that door?" Participants suggested that wording the bluff in this manner encourages the subject to provide an explanation in advance of the purported laboratory analysis that may contradict previous statements made by the subject, thereby providing the interrogator an opportunity to confront the subject about inconsistencies in their statement.

It protects the innocent. Many of the participants found the bluff technique to be an acceptable practice based on its anticipated protection of innocent subjects. These participants suggested that when the bluff technique is employed, the truly guilty person will come to the conclusion that once the evidence is analyzed, their guilt will be made clear to investigating officials and they will “know that they are caught”. These same participants also noted that the bluff technique will actually strengthen or bolster the innocent subject’s denials of wrongdoing and cause them to “hunker down” during the interrogation because they will know that the analysis of the purported evidence will soon prove their innocence. As some participants suggested, the innocent subject will be “thankful” that evidence that will ultimately prove their innocence is being analyzed and they will therefore not be “sitting there thinking this is going to be a problem”.

Preventing the subject from speaking to an attorney. Upon being questioned about the interrogative technique of denying the subject an opportunity to speak with an attorney, participants offered various insights. The following is a discussion of those insights.

Illegality. All 13 of the participants reported that this was an unacceptable practice. Participants advised that the primary reason for why this interrogative method is unacceptable centered on the fact that denying the subject an opportunity to speak with his attorney violates the Constitution. Participants further reported that this practice is “unethical”, it violates the rights specifically explained to the subject during the *Miranda* process, and it stands in stark contrast to the participants’ profession as a law enforcement officer in which they swore to uphold the Constitution. As noted by one

participant, not allowing the subject to confer with his attorney is “against everything we stand for”.

Immediate termination of the interrogation. In being queried about this interrogative approach, the majority of the participants readily expressed that once a subject requests to speak with their attorney, the interrogation process must be terminated. Such an evocation of a subject’s right to counsel was described by participants as “a bright line in the sand” which clearly indicates that “I’m finished talking to him”, or more specifically, “game over”.

Future legal challenges. Participants reported that engaging in such a practice will undoubtedly lead to legal challenges from the defense which could foreseeably lead to the suppression of the confession, thereby rendering this important piece of evidence unusable. One particular participant highlighted the point that the confessional end does not justify the interrogative means by stating, “It is our job to get information that can be used. If it can’t be used, what good is it?”

The evocation must be unequivocal. Despite the unanimity in expressing how and why denying the subject an opportunity to speak with their attorney is unacceptable, several participants noted that it is important that such an evocation of one’s rights be clearly articulated. In other words, some participants suggested that a subject’s request to speak with an attorney must be unequivocal. They noted that a question like “Do you think I need an attorney?” does not rise to the level of an unequivocal evocation of one’s right to counsel. In light of such ambiguity, the majority of the participants advised that they would continue the interrogation until an unambiguous request to speak with counsel is made. However, the participants frequently noted that their actions in light of a

subject's request to speak with an attorney will have future legal ramifications. In demonstrating this awareness, one participant stated, "I will be on the stand one day and I don't want to give the appearance that I acted unethically or crossed the line."

Interrogative Techniques that Participants Would Never Use

Upon being questioned, participants advised that there are some techniques and behaviors that they would never use within the interrogation room. The following is a discussion of participant responses.

Torture. Nearly every participant readily identified that they would never torture a subject. The participants identified that this includes any activity that would cause the subject physical or psychological harm.

Deprivation. The majority of the participants also identified that they would never deprive the subject of such basic necessities as sleep, water, food, or bathroom breaks. Similarly, many of the participants reported that they would never deny the subject of such constitutional rights as their right to speak with an attorney or their right to end the interrogation.

False evidence. For the various reasons outlined above, many of the participants advised that they would never deliberately provide false evidence to a criminal subject.

Unethical and illegal behavior. Participants frequently reported that they would never engage in any behavior in the interrogation room that could be considered unethical or illegal such as misrepresenting what the subject said in the interrogation room, feeding them information, or pushing them to simply agree with what the participant wants them to say.

Displays of aggression and coercion. Many participants stated that they would never act toward the subject in an aggressive manner. This includes such behaviors as yelling or screaming at the subject, pounding on the table, and/or exhibiting hostility or anger toward the subject. Participants also reported that they would never threaten a subject or their family, make false or unauthorized promises to the subject, or engage in any activity that could be considered coercive and possibly overcome the subject's free will. Participants further clarified that they would not do anything in the interrogation room that would preclude a subject's confession from being anything but truthful and voluntary.

Does a Confession Benefit or Harm a Subject?

I questioned participants, based on their experiences, whether a confession ultimately benefits or harms the subject within the federal criminal justice system. My review of their responses identified that there was an equal split with three of the participants responding that a confession ultimately benefits a subject and three responding that a confession ultimately harms the subject. The largest number of respondents (7) responded that a confession both benefits and harms the subject.

Confessions benefit the subject. The participants reporting that a confession serves to benefit a subject offered a variety of reasons that can be broken down into three main categories: a) legal benefits; b) attitudinal benefits; and c) personal benefits.

Legal benefits. Participants suggested that when a subject renders a confession within the federal criminal justice system, the Federal Sentencing Guidelines provide the subject with two points for their acceptance of responsibility which ultimately translates into a decrease in the subject's sentence. In addition, participants reported that a

confession benefits a subject because it affords the federal prosecutor the option of charging a subject with a lesser offense which also translates to a lesser sentence. Participants also noted that once a subject confesses, they are more likely to plead guilty which allows them to receive a better deal from the federal prosecutor which also translates to a lesser sentence. When taken in the totality, the majority of federal law enforcement polygraph examiners questioned for this study suggested that a confession ultimately benefits a criminal subject because they are more likely to receive a decrease in their sentence.

Attitudinal benefits. Participants identified that attitudinal benefits are also experienced by the subject as a result of their confession. Participants reported that the criminal justice system, being comprised of human beings, takes into account a person's acceptance of responsibility. One participant noted that, "when you confess, most humans have a place in their heart for that." Moreover, when the subject's confession is then heard by others, "people want to believe that you are sincere and remorseful" for the criminal acts that you have committed. This participant noted that "our (legal) system takes that into account". Participants also suggested that while the criminal justice system as a whole may take a subject's acceptance of responsibility into account, the attitudes of those employed within the system are also positively influenced by a subject's confession. As a representative of the federal criminal justice system, one participant commented, "We respect the people who admit their mistakes and fully cooperate." In a similar vein, another participant offered that law enforcement officers and prosecutors like to see people cooperate which, in turn, causes these groups to feel more positively toward subjects who choose to confess. Participants also suggested that

when a subject confesses and decides to cooperate, investigators and prosecutors similarly do their best to cooperate with the subject. In light of these attitudinal shifts subsequent to a confession, participants reported that criminal subjects who admit to, and take responsibility for, their criminal actions are more likely to experience a “smoother” legal process.

Personal benefits. In addition to the legal and attitudinal benefits outlined above, participants reported that a confession can also personally benefit the subject. One participant identified that when a subject decides to confess, they allow for the full and accurate documentation of what actually occurred. Put another way, the confession benefits the subject personally by affording him an opportunity to “get his story out”. Similarly, a participant noted that on a limited basis, the subject may benefit by confessing to his actions as the subsequent investigation may identify that the actions taken by the subject were not actually criminal in nature.

Confessions harm the subject. Despite the benefits of confessing outlined above, federal law enforcement polygraph examiners questioned in this study also identified that a confession ultimately harms a subject. The following is a discussion of the reasons why participants believe that a confession actually harms the criminal subject.

Evidence strength. Many participants suggested that a confession harms the subject because of the strength of confession evidence. Participants reported that a subject’s confession to a criminal act is a very strong piece of legal evidence that can be used against a subject at trial and which can prove incredibly difficult for the subject’s attorney to defend against. Due to the potency of this type of evidence, many participants

reported that a confession ultimately harms the subject because it increases the likelihood that the subject will be prosecuted and convicted.

Loss of leverage. One particular participant reported that once a subject confesses, they have lost their “leverage” to bargain with federal prosecutors for a lesser charge or sentence.

Little supporting evidence. Participants also reported that a confession can be harmful if the subject is taken “right off the street” and he confesses to a crime when very little evidence against him exists. Another participant reported that in her experience, confessions are often sought when investigators do not have strong evidence against a subject. Both of these statements highlight the fact that it is not in the best interest of a criminal subject to confess when there is little evidence against them.

Are Confessors Treated Differently?

In light of their personal experiences, I questioned participants about whether criminal subjects are treated differently by the federal criminal justice system when compared to those who choose to continue their denials. While two of the participants reported that they have not noticed a difference in how confessors and non-confessors are treated by the federal criminal justice system, the remaining participants identified that they have seen a difference in treatment between these two groups. The following is a discussion of the reported differences in treatment as reported by the participants.

Lesser sentences. The majority of the participants reported that criminal subjects who confess their crimes tend to receive a lower sentence than those who do not. Participants noted that these lower sentences were generally a result of the prosecutor’s tendency to charge a confessor with a lesser offense, their tendency to offer the subject a

better deal or plea agreement, and their tendency to offer lower sentencing recommendations to the court. Participants also advised that the Federal Sentencing Guidelines provide confessors with two points for their acceptance of responsibility which lowers the calculations that ultimately determine their sentence. Contrary to the experience of the confessor, one participant noted that when a subject fails to admit their crimes and then loses at trial, they tend to have “the book thrown at them”.

Smoother legal process. In addition to their observations that confessors tend to receive a lesser sentence, participants also noted that confessors generally fair better in the criminal justice system process than their counterparts who continue their denials. Multiple participants reported that in their experience, it is typically easier for investigators and prosecutors to work with a subject who confesses their crimes. As one participant reported, “a good conversation” can begin between the investigators and the subject once the subject decides to confess. This generally tends to translate to a subject experiencing a legal process that is much “smoother”, more “cordial”, and significantly less adversarial.

Appreciation and empathy. Participants reported that criminal subjects who confess their crimes tend to receive more empathy from the investigators who come to appreciate the subject’s willingness to accept responsibility for their actions. To the contrary, participants reported that the same appreciation and empathy is not shown towards those who deny their criminal actions. In fact, some participants reported that investigator tends to work harder against such individuals. One participant commented that from a philosophical position, it is ironic that people are ultimately penalized for using all of the constitutional rights that they are afforded by choosing not to cooperate

with the government in bringing a criminal case against them. However, the majority of the participants agreed that those who do confess tend to receive the best possible resolution whereas those who fail to confess and take their matter to trial generally receive the worst possible outcome.

Are Cases Automatically Closed in Response to a Confession?

Based on their experiences, I asked participants if federal investigations are automatically closed once a confession is elicited from a criminal subject. All of the participants reported that cases are not automatically closed once a confession is obtained. Each participant also noted that despite the elicitation of a confession in a federal case, additional investigation must be conducted. Participants similarly reported that this additional investigation is designed to “corroborate”, “substantiate”, “validate”, or “verify” the confession rendered by the subject. One participant noted that the use of additional investigation to corroborate a subject’s confession is particularly important to him as he “couldn’t sleep at night” knowing that a subject was convicted based on a confession that he elicited and for which there were no supporting case facts. Participants also noted that additional investigation is required subsequent to a confession to identify additional victims, subjects, and witnesses; to prove basic facts of the case; to collect information from co-conspirators; and to confirm that the subject is actually guilty of the crime to which he confessed.

Despite the need for additional investigation after a confession is received, several participants suggested that the extent of the subsequent investigation may still be influenced by the receipt of a confession. More specifically, depending on the nature of the offense, it is possible that some investigative measures may not need to be conducted

in light of a confession. For example, if the case involved a single offense conducted by a single actor, it would be unnecessary to interview co-conspirators or collect information from additional crime scene locations. Similarly, a confession may serve to focus any subsequent investigative efforts on specific aspects of the specified criminal offense.

Participants noted that even in situations in which the interrogation of the subject occurs at the end of the case and additional investigation might appear unnecessary, some subsequent investigative efforts are still likely to be undertaken to verify any new information provided in the confession. Some participants also noted that additional investigation is necessary because a confession alone is “never enough” to win at trial. Participants suggested that a confession that is not supported by case facts and evidence will likely be challenged by defense attorneys. For this reason, additional evidence is needed as a confession “can be tossed at any time”. In the event that a confession is successfully suppressed by the court, the prosecution will then be left with only the evidence that was collected by investigators during the course of the investigation.

Do Federal Prosecutors Automatically Convict a Subject Based on their Confession?

In light of their experiences, I asked participants whether prosecutors automatically convict a subject once they render a confession. All but one of the participants reported that, in their experience, federal prosecutors do not automatically convict a subject based on their confession. The remaining participant advised that she is not sure whether federal prosecutors automatically convict a subject based on their confession because, as a polygraph examiner, she is not always privy to the prosecutorial actions that are taken against a subject once he or she departs her polygraph room. Still, this participant noted that while a subject is likely to be prosecuted more quickly in light

of their confession, federal prosecutors are inherently unlikely to prosecute a subject based on their confession alone. This was a prevailing sentiment among participants. One participant who has served as a law enforcement officer on the local, state, and federal levels noted that in his experience, “no prosecutor on any level would ever consider prosecuting a subject based solely on a confession”. Another participant reported that she has never conducted a polygraph examination in which she obtained a confession and the subject was subsequently prosecuted based solely on their confession.

While some participants noted that a confession is a strong piece of evidence that is generally desired by federal prosecutors, each of the participants advised that even when a confession is obtained during the course of a polygraph examination, federal prosecutors still require additional investigation. Participants offered that additional post-confession investigation is designed to obtain evidence that will corroborate, verify, or support the subject’s confession. One participant similarly suggested that the collection of corroborating evidence will help to prevent the veracity of the confession from later being called into question by defense attorneys. Participants also reported that evidence that supports a subject’s confession strengthens a federal prosecutor’s case and ensures that their case against the subject will be “air-tight”. As expressed by one participant, “confessions rarely stand alone.” In regards to the overwhelming desire of federal prosecutors to obtain additional evidence beyond the confession, another participant expressed her frustration by stating, “It’s never enough for them.”

Experiences with False Confessions

The second and third research questions addressed in this study were related to the extent to which federal law enforcement polygraph examiners have experienced false

confessions and the circumstances at the time that these false confessions were received. To gain a more in-depth understanding of their experiences with false confessions, I asked the participants a variety of questions regarding not only their experiences with false confessions, but also how they go about assessing the veracity of a confession, and why they believe a subject would falsely confess to a crime they did not commit. The following is a discussion of the results of these inquiries.

Participants Experiences with False Confessions

Upon being questioned about whether they have ever experienced a false confession, all 13 participants reported that, to their knowledge, they have never elicited a false confession, or have received word or evidence that a confession that they had obtained, was false. Two of the participants offered that while they are aware that false confessions do occur, they believe that they occur on a very limited or infrequent basis.

Circumstances at the Time a False Confession was Elicited

Although none of the participants reported experiencing a false confession, four of the participants advised that they experienced confessions that had bothered them over the course of their careers. For example, one participant noted that he had administered a polygraph examination to a 19-year-old male subject who was suspected of having been involved in criminal sexual conduct. After a failed polygraph examination and subsequent interrogation, the subject gave a simple signed statement which documented that he had engaged in the specified criminal act and had simply forgotten having done so due to his heavy marijuana usage. The participant advised that he had used the theme that the subject had engaged in the criminal act and had forgotten due to his heavy marijuana use, but the subject seemed too agreeable to this particular theme. In fact, after

the participant introduced this theme to the subject, the subject stated simply, “I guess that is how it happened.”

The investigators watched the interrogation on camera and afterwards the participant provided them with the subject’s written statement. While the participant did not mistreat the subject in any way, the interrogation felt like the participant was “intellectually browbeating” the subject with the theme outlined above. The participant noted however, that his “gut” still says that the subject actually committed the act and the available evidence supports this conclusion. The participant also noted that the entire polygraph examination, to include the interrogation, lasted less than four hours which the participant noted is not an exorbitant length of time. Still, while no exculpatory information has been received to date to suggest that the subject’s statement was anything but truthful, the participant offered that this particular confession did not have the same feeling as others he has received.

Another participant described one instance in which he wondered about a false confession prior to his becoming a polygraph examiner. The matter involved a female subject who was suspected of mailing a threatening letter. Although there was no direct evidence that the subject had committed the act, the subject’s behavior suggested that she was responsible for the crime. The subject later claimed that the confession she had given was false and that she had confessed to the crime out of duress. The participant stated that there was nothing unusual about his interrogation, and his interrogative approach with the woman was consistent with the interrogative approach he uses with all subjects. The participant learned from subsequent investigation that the subject likely suffered from mental health issues. In fact, the subject actually served all of her sentence

in a psychiatric hospital. The participant also noted that while the subject claimed to have been coerced into a false confession, on the day that the trial was due to begin, the subject pled guilty. The participant added that the only reason he had concerns about this particular situation is because the woman raised the claim that she had falsely confessed and because she had mental health issues that could have potentially caused her to confess for the purpose of gaining notoriety. Despite these concerns, the participant is confident in the subject's guilt and he has no concrete reason to doubt her confession. Moreover, no information has ever been received that would suggest that someone else was responsible for this crime.

Another participant identified two instances in which he felt he was close to experiencing a false confession. In the first instance, while interrogating a young man about a reported sexual assault of a minor, the subject appeared to become "really stressed out" after a couple of hours of interrogation. The subject then said to the participant, "Just tell me what you want me to say and I'll say it." Hearing this statement and suspecting that the subject was simply trying to escape the situation and stop the pressure of the interrogation, the participant "backed off" and re-directed his line of questioning. The participant then informed the subject that he was not going to put words in the subject's mouth. The participant then decreased the pressure in his questioning of the subject at which time the subject confessed to sexually assaulting the minor.

This same participant advised that the second example of a near false confession he had experienced occurred in a manner that was nearly identical to the first. As with the first example, the subject ultimately confessed in the second example as well. While the participant is confident in the confession and guilt of both subjects, these situations

came to the participant's mind because both subjects asked the participant to tell them what to say and in both situations a decrease in the pressure led to their confession. In neither situation did the participant receive any information or evidence that the subjects' confessions were anything but truthful.

The final participant's experience with a false confession related to an interrogation that he had witnessed. The participant advised that prior to becoming a polygraph examiner, he transported a subject with information of criminal activity to the local State Police office. After being interrogated by a State Police detective, the subject admitted to various criminal acts that he had not committed. While watching the interview/interrogation on camera, the participant observed that the detective clearly intimidated the subject, "lambasted" him, yelled at him, and fed the subject the information that the detective wanted to hear. Upon driving the subject home, the subject advised the participant that the detective was incessant in his questioning so the subject decided to tell the detective what he wanted to hear as a means of making the questioning and intimidation stop.

Identifying a True and False Confession

When I questioned them about their ability to distinguish between a truthful and a false confession, the participants offered various ways they could differentiate these types of confessions. The following is a discussion of their responses.

False confessions. The participants identified the following potential indicators which may suggest that a confession is not truthful.

Inconsistency with existing case facts. The participants overwhelmingly reported that they would suspect a confession may be false if the information that the subject provides in the confession does not match existing case facts or evidence.

Insufficient details. An additional indicator of a potential false confession frequently reported by the participants involves a lack of details in the subject's statement. More specifically, the participants identified that they would be suspicious of the veracity of a confession if the subject is unable to provide details of the crime to include specifics relating to how the crime was committed, the location, the victim, and/or their motive for committing the crime.

Pleasing the interrogator. Many participants advised that they would suspect that a confession may be false if the subject appeared to simply be agreeing with the interrogator or trying to please him or her as opposed to actually taking ownership for their criminal actions.

Questionable statements. The participants identified that an additional factor that may be suggestive of a false confession relates to questionable statements made by the subject. The participants clarified that statements like, "Yeah, if that's why you say I did it..." or "If I say I did it, can I go?" may suggest that the confession is false. Similarly, if prior to rendering the confession the subject makes statements like, "If you want me to admit that I did it..." or "What do you want me to say?", participants are more likely to question the truthfulness of the subject's confession. Further examples of questionable language include the subject stating things like, "Are you happy now?"; "There, I said it"; and "Did I tell you what you wanted to hear?" after they admit that they committed the crime in question. Participants also advised that they would be more likely to question

the veracity of a confession if, when pressed for specifics in their confession, the subject responded with comments like “I don’t remember” or “I don’t know.”

Ulterior motives. Participants offered that they would also question the truthfulness of a confession if the subject appears to have ulterior motives for their confession such as a desire for notoriety, to protect another person, or to be charged with a lesser crime. Participants also noted that if the subject appears to be confessing based solely on a motivation to end the interview/interrogation, participants would also be more suspicious of the confession’s veracity.

Nonsensical information. Participants identified that they might consider a confession to be untruthful if it contains inconsistencies and inherently does not seem to make sense. As noted by one participant, a false confession is a lie, and “a lie by its nature doesn’t fit.”

Miscellaneous indicators of a false confession. The participants offered various other potential factors that may suggest that a confession is untrue. For example, if the subject provides a confession too quickly; if they are rendering a confession, especially in a well-publicized case, for which they were not previously considered a subject; or if the subject appears to simply be reiterating case information that the participant had previously given them, then the participants would be more inclined to believe that the confession is false.

True confessions. The participants identified the following indicators which may suggest that the subject’s confession is true and accurate.

Consistency with existing case facts. When questioned about how they would go about identifying a truthful confession, the participants unanimously noted that the

confession must match and be consistent with existing case facts that have not previously been publicized or fed to the subject by the participant or other law enforcement personnel.

Guilty knowledge. Multiple participants noted that a truthful confession will likely contain information that only the truly guilty person would know.

Sufficient and consistent detail. Participants reported that a truthful confession is likely to be detailed and address the “who, what, where, when, and why” regarding the crime in question. In addition, these particulars will be consistently reported during both the verbal and written confessions given by the subject.

Subject behavior and emotions. Some of the participants advised that they determine the truthfulness of a confession based on the subject’s behavior. For example, one participant noted that truthful confessions tend to occur “bit by bit” with the true details of the offense gradually being released by the subject. Other participants reported that they look to the subject’s emotions and non-verbal behavior as a means of determining the veracity of the confession. Some participants explained that a subject rendering a truthful confession tends to have some type of physical release at the time of the confession such as a change in expression or posture that would indicate the subject’s resignation that the truth of their guilt has finally been disclosed. One participant noted, this release may include the subject tearing up, looking the interrogator in the eye, and/or displaying some change in emotion. Another participant identified that he looks for emotion from a subject rendering a truthful confession as the subject will be put in a position in which they have to emotionally and mentally relive the crime as they recall the events surrounding their criminal actions. Other physical indicators suggestive of a

truthful confession include the subject dropping their head, crying, and similar signs that the subject is actually feeling the vulnerability associated with their confession.

Testing confessions. Many of the participants offered that they actually conduct personal tests to verify the accuracy of the subject's confession. Multiple participants reported that when reviewing the subject's confession, they will ask the subject questions or make statements that deliberately contain false information to identify whether the subject corrects the participant or simply agrees with them. The participants do this as a means of testing the subject's veracity. Other participants offered that they deliberately withhold important case facts that only the truly guilty party would know. This is done to verify that the information provided in the confession is truthful. Still other participants advised that they will call upon the lead investigators to either observe the interrogation or enter the interrogation room once the confession is elicited to verify the accuracy and plausibility of the subject's confession. Participants clarified that the lead investigators are used in this capacity as they have access to significantly more case facts than the participant does as a polygraph examiner.

Interrogative Techniques That May Contribute to False Confessions

Although none of the participants were able to identify an instance in which they personally elicited a known false confession from a criminal subject, they were nonetheless aware of interrogative techniques that may potentially cause a false confession. Upon being questioned about such techniques, the participants offered various answers. The following is a discussion of those responses.

Stress and coercion. The most frequently reported potential cause of false confessions reported by participants was the creation of an overly stressful or coercive

interrogative environment. According to the participants, such an environment may include an interrogator, or multiple interrogators, who use hostile, aggressive, or overbearing interrogative techniques such as being verbally abusive, physically abusive, or intimidating the subject through the use of threats against the subject or their family. Participants referred to this type of an approach as “browbeating” a subject. Acting toward the subject in such a manner can create so much stress for the subject and place them under such an inordinate degree of duress that the subject will do and say anything, to include giving a false confession, just to end the interrogation. This type of an environment may also put the subject in a position that they feel that they have no other choice but to confess. Participants described this type of an approach as “unscrupulous” and a clear indicator of the interrogator’s “unprofessionalism”.

False evidence. Participants reported that another interrogative approach that may contribute to the elicitation of false confessions included the presentation of false evidence. Regarding the presentation of false evidence, some participants suggested that the use of “crazy lies” like suggesting that DNA analysis conclusively revealed that the subject was at the scene of the crime, could potentially cause an innocent person to falsely confess. Participants stated that such problematic lies about false evidence may sound like, “We have all of this evidence against you and you will get the death penalty unless you tell me”, or “We found your DNA and the prosecutor is going to charge you right now.” Participants stated that the problem with lying to a subject to such an extent is that it causes the subject to feel trapped. However, one participant noted that in her experience as a federal law enforcement polygraph examiner, by the time the subject is brought in for a polygraph examination, the evidence against the subject has generally

already been established with them. This makes lying about evidence more difficult for a federal law enforcement polygraph examiner.

False promises. Participants offered that making false promises to the subject could potentially contribute to a false confession. Of particular concern are promises in which the subject is led to believe that if they simply confess to the crime at hand, the interrogator will allow them to go home. Participants similarly suggested that false confessions may occur if promises are made by the interrogator in which the subject is led to believe that if they confess they will receive a lesser charge, a lesser sentence, or in the extreme, “Tell me you did this and I can make it all go away.”

Pushing for agreement. Participants noted that interrogating in a manner in which the subject is pushed to simply agree to what the interrogator is saying is also problematic. For example, participants suggested that if the interrogator attempts to lead or sway the subject into confessing by asking closed-ended questions and feeding them case information, it is possible that a false confession could be elicited. Participants similarly identified that it is concerning when an interrogator creates the written confession for the subject and then simply forces them to sign it. Participants described this type of behavior as “clumsy police work” in which the interrogator assumes that the subject is guilty and then believes that it is their responsibility to get the subject to admit to it. In essence, one participant offered that conducting an interrogation in such a manner forces the subject into a corner where they are pushed to make a decision that is not of their own volition and could potentially lead to a false confession.

Lengthy periods of interrogation. Participants identified that lengthy periods of interrogation may also contribute to the elicitation of a false confession. For example,

participants suggested that a false confession may possibly occur if the subject is isolated in an interrogation room for an extremely long period of time without sufficient water, bathroom, and meal breaks. Multiple participants offered that if the subject is interrogated for 10 to 12 hours or longer without requisite breaks, it is possible that the subject may simply give up and decide to confess falsely without thinking of potential legal ramifications, all in an effort to end the interrogation. Participants likened this type of an approach to “brow beating” or “torture” in that the subject will simply say anything to end the questioning.

Subject Characteristics that May Contribute to a False Confession.

Despite the problematic interrogative actions outlined above, many of the participants reported that false confessions are not always influenced by the actions of the interrogator. Instead, false confessions can also be caused by the personal characteristics of the subject. The following is a discussion of all such characteristics as noted by the participants.

Low intelligence, mental illness, and youth. The majority of the participants reported that a false confession is more likely to occur if the person is uneducated or has a low IQ. Similarly, the majority of the participants also suggested that if the subject is suffering from a mental health condition, it is possible that a false confession could be elicited from the subject. Many of the participants noted that the youth and immaturity of the subject may also be a potential contributor to false confessions. Participants offered that intelligence, mental illness, and youth may be of concern because they can cause the subject to be more easily manipulated by an interrogator who is overly aggressive in their interrogative approach.

Personality and substance abuse. Participants reported that the subject's personality may also be a potential cause of false confessions. More specifically, participants suggested that if the subject is a "pleaser" who simply seeks to agree with the interrogator's assertions, a false confession may occur. Similarly, if the subject is the type of person who desires attention and notoriety, they too may be more likely to confess to something they did not do as a means of obtaining recognition. Multiple participants also offered that a subject may potentially give a false confession if they are under the influence of drugs or alcohol at the time of the interrogation.

Protecting the truly guilty. Many participants noted that at times, criminal subjects may render a false confession as a means of protecting the truly guilty party, especially if the truly guilty party is a close friend or family member.

Summary

In this chapter I provided information relating to how federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of eliciting a true confession. Participants identified that the interrogator's tone, the manner in which they present themselves, and how they treat the subject during the course of an interrogation plays an important role in eliciting a truthful confession. Participants suggested that subjects truthfully confess to them because the participants create a relationship of trust with the subject by treating them with kindness. Subjects have also reported to the participants that they ultimately confessed because the participant treated the subject kindly, professionally, and respectfully without judging them for their wrongdoing. Subjects also reported confessing to participants because of the welcoming and understanding environment the participants created in the

interrogation room. Participants also identified that they have been successful in convincing subjects to truthfully confess because they listened to the subjects and were honest with them when other law enforcement officers failed to do the same. Together, these interrogative approaches combined in such a way that criminal subjects felt comfortable relieving themselves of their guilt in the presence of the participants.

Participants further discussed the general approaches that they take in interrogating criminal subjects and similarly outlined their procedures for reviewing a subject's *Miranda* rights as well as their process for memorializing the subject's verbal confession in a written statement. To more accurately reflect what takes place in the interrogation room, the participants also estimated the average duration of their pre-test interviews and post-test interrogations as 1-2 hours and 2-3 hours respectively. The majority of the participants reported that an interrogation could be considered egregious if it lasts for more than eight hours without sufficient breaks.

In addition to describing their general approaches to criminal interrogation, the participants offered significant insight into which interrogative techniques are effective in eliciting a truthful confession from a criminal subject, which techniques are ineffective, and which techniques may potentially contribute to a false confession. Participants noted that interpersonal interrogative approaches like exhibiting understanding, empathy, and friendliness toward a subject, as well as building rapport with them, acting as their advocate, and genuinely treating them in a respectful, professional, and nonjudgmental manner, will increase the likelihood of obtaining a truthful confession. They similarly identified that employing interrogative strategies like theme development, attacking inconsistencies in the subject's statement, and presenting the subject with evidence of

their guilt, can also increase the likelihood of a truthful confession. Still, participants noted that the subject must ultimately have a strong desire to confess if a confession is to be obtained.

Participants offered valuable insight into the interrogative methods that they believe are ineffective in convincing a subject to truthfully confess to their criminal actions. They identified these interrogative methods and behaviors as exhibiting disrespect, anger, insincerity, and disinterest toward the subject. Participants also identified that badgering, intimidating, and judging a subject will also prove ineffective. Lastly, participants advised that presenting a subject with false evidence, using poor themes, and feeding them information for the purpose of obtaining a confession are also ineffective strategies. When I questioned them about problematic interrogative methods identified in the existing research such as sleep deprivation, offering the subject a deal in exchange for their confession, and denying them an opportunity to speak with an attorney, participants overwhelmingly identified these as unacceptable practices. Conversely, the majority of the participants reported that the Bluff Technique is an acceptable practice, and half of the participants found that the false evidence ploy is also acceptable. Despite the wide array of interrogative practices discussed by the participants, there are some techniques like torture, deprivation, aggressive or coercive interrogative practices, the presentation of false evidence, and any technique that could be considered unethical or illegal, that participants advised they would never use.

To more fully understand the participants' approach to criminal interrogation, I questioned participants about their opinions of whether a confession ultimately harms or benefits a criminal subject. Participants were equally split on this issue with some

advising that a confession helps a criminal subject because it leads to lesser charges and lighter sentences, it makes the legal process more cordial and less adversarial, and it allows the subject to get their story out as opposed to allowing investigators and witnesses to describe what took place. Other participants suggested that a confession harms the subject because a confession is an extremely powerful form of evidence which, once rendered, decreases the subject's leverage in negotiating with prosecutors. Still, nearly all of the participants observed in their careers that those subjects who confess generally receive lesser sentences, they experience a smoother legal process, and they are met with more appreciation and empathy from investigators and prosecutors. Participants also reported that federal investigations are not automatically closed in light of a confession, nor do prosecutors automatically convict a subject based on their confession. In both situations, additional investigation is required to validate the subject's confession.

The second research question in this study involved the extent to which federal law enforcement polygraph examiners have experienced a false confession. The participants unanimously reported that they have never personally experienced a false confession, nor have they ever received proof or exculpatory information that a confession they previously elicited was false. The final research question addressed the circumstances at the time that a false confession was elicited by participants. Although participants advised that they have never personally received a false confession, four of the participants recounted experiences in which they have either witnessed a representative from another agency elicit a false confession, or they received confessions which gave them pause despite corroborating evidence and/or a guilty plea. In light of the vast amounts of insight and information outlined above, I will interpret these findings

in Chapter 5 and provide a discussion of this study's limitations, recommendations, and implications for social change.

Chapter 5: Findings, Conclusions, Implications

Introduction

The purpose of this qualitative case study was to more fully explore the experiences of federal law enforcement polygraph examiners regarding the manner in which they approach the interrogation of criminal subjects and the interrogative methods that they believe are the most and least effective in obtaining a truthful confession. Federal law enforcement polygraph examiners were selected for study based on their specialization in the interrogation of criminal subjects. In this study, I also sought to explore the extent to which this population has experienced false confessions and the circumstances of the interrogation when false confessions were elicited. As previously noted, there exists a paucity of false confession research in which the law enforcement population was directly consulted, and even less research has been conducted where law enforcement was consulted regarding false confessions and interrogative methodologies in a qualitative manner. Therefore, I designed this study to obtain a more in-depth understanding of what actually occurs during the interrogation process through the collection of rich and detailed information relating to the following research questions:

1. How do federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession?
2. To what extent have federal law enforcement polygraph examiners experienced false confessions?
3. What were the circumstances in which federal law enforcement polygraph examiners experienced false confessions?

To address the research questions outlined above, I administered federal law enforcement polygraph examiners currently employed by a federal law enforcement agency and presently assigned to various offices across the United States a standardized interview protocol through qualitative telephonic interviews. I subsequently organized and analyzed the data through the qualitative software package NVivo. The collected data was organized into the following six areas of inquiry: a) the participant's background, b) the participant's approach to criminal interrogation, c) the participant's experiences with and opinions of false confessions, d) the participant's personal procedures in conducting polygraph examinations and interrogations, e) the participant's use and opinions of various interrogative methods, and f) the participant's experiences after an interrogation. An analysis of the data collected pursuant to these areas of inquiry allowed for the development of various themes that directly addressed the stated research questions.

Participants suggested that subjects truthfully confess to them because of the tone of their interrogations, the way they present themselves to the subject, and the manner in which they treat the subject. Participants frequently identified their interrogative tone as "low key," "reserved," "laid back," and "conversational." Participants also noted that they present themselves to the subject as "friendly," "nice," "neutral," "non-confrontational," and "objective." Participants also reported that they treat subjects well by a) creating a relationship of trust, b) treating the subject with kindness and respect, c) conducting themselves professionally, d) failing to judge the subject for their criminal actions, e) creating a welcoming and understanding environment for the subject, f) listening to the subject when other law enforcement officers do not, and f) being honest

and straightforward with the subject. Participants also noted the importance of openly and honestly explaining a subject's rights to them in a manner that is free of trickery and manipulation, and documenting their confession in an open and collaborative manner. Participants estimated the average duration of their pre-test interviews and post-test interrogations as 1-2 hours and 2-3 hours respectively. A majority of participants reported that an interrogation could be considered egregious if it lasts for more than eight hours without sufficient breaks.

Participants identified that interpersonal interrogative approaches like exhibiting understanding, empathy, and friendliness toward subjects, as well as building rapport with them, acting as their advocate, and genuinely treating them in a respectful, professional, and nonjudgmental manner, are effective techniques in obtaining a truthful confession. Interrogative strategies like theme development, attacking inconsistencies in the subject's statement, and presenting the subject with evidence of their guilt, were also identified as effective interrogative techniques. Participants reported that ineffective interrogative techniques and behaviors include exhibiting disrespect, anger, insincerity, and disinterest toward the subject or badgering, intimidating, and judging them during the course of the interrogation. Additional ineffective interrogative techniques included presenting a subject with false evidence, using poor themes, and feeding subjects information for the purpose of obtaining a confession.

Problematic interrogative methods identified in the existing research such as sleep deprivation, offering the subject a deal in exchange for their confession, and denying the subject an opportunity to speak with an attorney, were overwhelmingly identified by participants as unacceptable practices. However, the bluff technique was largely

identified by participants to be an acceptable practice, while half of the participants identified the false evidence ploy as similarly acceptable. The participants noted that there are some techniques like torture, deprivation, aggressive or coercive interrogative practices, the presentation of false evidence, and any form of unethical or illegal behavior that they would never employ during the course of an interrogation.

Participants were split on whether a confession ultimately harms or benefits a criminal subject. Some participants suggested that confessions help by decreasing charges and sentences, creating a more cordial and less adversarial legal process, and offering the subject an opportunity to truthfully tell their story about what took place. Other participants suggested that confessions are harmful because they are powerful forms of evidence that decrease the subject's leverage in negotiating with prosecutors and increase the likelihood of conviction. Despite the potential harm associated with the confession, nearly all of the participants reported that confessors generally receive lesser sentences, experience a smoother legal process, and receive more empathy and appreciation from investigators and prosecutors. Participants advised that, in their experience, confessions do not lead to the automatic closing of investigations or automatic prosecution. None of the participants reported ever eliciting a false confession or learning that a confession they had previously elicited was false. However, four of the participants recounted experiences in which they have either witnessed a false confession or questioned the possibility that a confession they received may have been false.

Interpretation of the Findings

To answer the stated research questions, I asked participants the following questions from the interview protocol:

1. What is your general approach to interrogating criminal subjects?
2. Why do you think guilty people confess to you?
3. What reasons have people given you for truthfully confessing?
4. To what extent have you experienced false confessions?
5. If you experienced a false confession, what were the circumstances?
6. How can you tell if a confession is true or false?
7. Why do you think a person would falsely confess to a crime they did not commit?
8. How do you go about reviewing a subject's Miranda rights?
9. How do you go about documenting your confessions?
10. When conducting a polygraph examination, what is your typical length of time between the introduction and the start of the post-test/interrogation?
11. How long do your interrogations typically last?
12. What do you think is an inappropriate or egregious length of time to interrogate someone?
13. What interrogative techniques do you believe are effective in eliciting a true confession? Why?
14. What interrogative techniques do you believe are ineffective in eliciting a true confession? Why?
15. Which interrogative techniques do you believe are likely to cause a false confession? Why?
16. What are your thoughts about the following interrogative techniques: a) sleep deprivation, b) offering the subject a deal, c) presenting a subject with false

evidence, d) using the bluff technique, and e) preventing them from speaking to an attorney?

17. Which interrogation techniques would you never use? Why?
18. Within the federal system, do you believe that a confession ultimately benefits the subject or harms the subject? Why?
19. In your experience, is there a difference in how criminal subjects are treated by the federal system when they confess as compared to when they continue their denials? If so, what is that difference?
20. In your experience, are cases automatically closed once a confession is obtained? If not, what else takes place?
21. In your experience, do federal prosecutors automatically convict a subject based on his/her confession? If not, what else takes place?

Research Question 1

Research question 1: How do federal law enforcement polygraph examiners approach the interrogation of criminal subjects to maximize the likelihood of a true confession? As previously noted, false confession researchers have often concluded that the actions of law enforcement officers and the methods they use to interrogate criminal subjects are the primary causes of false confessions (Bradford & Goodman-Delahunty, 2008; Drizin & Colgan, 2004; Kassin et al., 2010a; Levine et al., 2010; Ofshe & Leo, 1997; Perillo & Kassin, 2011). Of particular concern are coerced-compliant false confessions whereupon criminal subjects falsely confess as a direct result of the interrogative pressure and techniques employed by law enforcement interrogators (Kassin & Wrightsman, 1985). These types of false confessions may be a direct result of the

subject's desire to escape the aversive environment of the interrogation room, to avoid the specific or implied threats put forth by the interrogator, or to obtain a reward that has been specified or implied by the interrogator (Kassin and Gudjonsson, 2004).

Interrogative actions and behaviors of law enforcement officers. The positions outlined above portray interrogation rooms as coercive, threatening, and manipulative environments from which criminal subjects desperately try to escape, at times by falsely accepting responsibility for crimes they did not commit. In addition to the interrogative methods they employ, law enforcement interrogators have also been portrayed as vicious, unrelenting, and willing to employ whatever means necessary to obtain a confession (Brandl, 2014; Chapman, 2013; Conti, 1999; Kassin, 2012; Lassiter, 2010; Leding, 2012; Leo, 1996; Leo & Davis, 2010; Leo & Drizin, 2010; Narchet et al., 2011; Woody & Forrest, 2009). As previously noted, Bull and Milne (as cited by Lassiter, 2010), suggested that law enforcement in the United States has developed an ethos of interviewing in which a confession is the primary goal and a close-minded, oppressive, and suggestive interviewing style is then employed to obtain the highly desired confession. Simon (as cited by Brandl, 2014), supported this belief in describing the law enforcement interrogator as a "huckster", "thieving", and "silver-tongued". However, the information provided by the federal law enforcement polygraph examiners in this study offers a very different picture.

Contrary to the research outlined above, the participants in this study reflected on how they approach their interrogations and why they believe criminal subjects have chosen to confess to them in the past. Participants noted that rather than employing trickery, deceit, and coercion, criminal subjects confess when the participants build a

trusting relationship within the interrogation room. Instead of being vicious “hucksters” who will stop at nothing until a confession is obtained, the participants reported that they seek to build rapport and interact with criminal subjects in a “straight forward”, “up front”, “honest”, and “credible” manner. Rather than pressuring subjects into a confession, participants noted the importance of being “nice”, “fair”, and “respectful” so that the subject feels “comfortable” telling their side of the story. Instead of threatening a subject, participants suggested that criminal subjects confess because the participants seek to understand the subject, they open lines of communication with the subject, and they create an environment that is free of judgment.

When questioned about the reasons that criminal subjects have previously reported for confessing, the participants provided very similar findings. For example, subjects informed participants that they chose to confess not because of pressure, threats, and trickery, but because the participant interacted with them in a respectful, professional, kind, and non-judgmental manner. Although the researchers outlined above portrayed interrogation rooms as aversive and threatening environments, the participants reported that subjects have often advised them that they chose to confess because the environment created by the participants was welcoming, opening, and understanding. Despite the aforementioned claims that criminal subjects are desperate to escape the interrogation room, some participants identified that subjects found the interrogation room to be therapeutic and, at times, subjects expressed that they would prefer to speak with their interrogator longer. These findings support those of Holmberg and Christianson (2002) who surveyed 83 men convicted of sexual offenses and murder and reported that they were more likely to confess when an interrogator showed interest in

them and their needs and treated them with humanity and respect, as opposed to when the interrogator was aggressive, dominant, and condemning. My findings also support those of Kebbell et al., (as cited by Walsh & Bull, 2012) who reported that inmates were more likely to be compliant with interviewers who were non-judgmental and showed them compassion, understanding, and honesty as opposed to when the interrogator was aggressive and dishonest.

My findings also call into question the claims made by many false confession researchers that it is primarily the interrogative methods employed by law enforcement interrogators that cause false confessions to be elicited (Bradford & Goodman-Delahunty, 2008; Drizin & Colgan, 2004; Kassin et al., 2010a; Levine et al., 2010; Ofshe & Leo, 1997; Perillo & Kassin, 2011). Many participants reported that it is their opinion, as well as the opinions expressed by the subjects they have interrogated, that truthful confessions are personal decisions that are arrived at by the subject and not forced upon them by overzealous law enforcement officers. For example, participants and subjects alike suggested that some criminal subjects confess because they have a strong underlying desire to relieve themselves of the guilt associated with their criminal actions. Similarly, it was suggested that subjects choose to confess because they conclude that the time has come, lying is no longer an option, and their misdeeds will ultimately be detected. These personal motivations support the findings of previous researchers who suggested that some suspects enter the interrogation room with the full intention of confessing and will do so regardless of what the interrogator does (Bull & Soukara, 2009; Hilgendorf & Irving, 1981; Pearse & Gudjonsson, 1996; Walsh & Bull, 2010).

The manipulation of criminal subjects during the Miranda process. As discussed above, I concluded that federal law enforcement interrogators find great value in being honest and straightforward in their interactions with criminal subjects. This stands in stark contrast to Leo (1996) who personally observed 122 criminal interrogations by 45 police detectives and concluded that law enforcement interrogations are nothing more than a confidence game in which the subject is manipulated and their trust is betrayed. Leo further identified that the confidence game actually begins with the recitation of the subject's *Miranda* warnings whereupon interrogators subtly employ psychological strategies against subjects in an attempt to convince them to willingly waive their rights. Leo further identified these psychological strategies as building rapport, offering sympathy, pretending to be an ally, minimizing the importance of the *Miranda* warnings, subtly nodding as they read the warnings to the subject, and/or referring to the *Miranda* review process as a mere formality. While the participants in this study noted the importance of rapport building, demonstrating empathy for the subject, and presenting oneself as an ally to the subject during the course of the interrogation, it is important to note that within the participants' agency, the *Miranda* review occurs at the immediate outset of the polygraph process. As polygraph examinations are a voluntary process, the subject's voluntariness must immediately be ascertained through a review of the subject's *Miranda* rights and a review of the polygraph consent form. Being that the review of these forms occurs within minutes of meeting the subject, it is unlikely that federal law enforcement polygraph examiners are able to successfully build rapport with a subject, offer them sympathy, and present

themselves as an ally to such an extent that they can manipulate the subject into waiving their rights within such a brief period of time as suggested by Leo.

Leo (1996) also concluded that the local detectives he observed minimized the importance of the *Miranda* warnings and referred to them as a mere formality. The results of this study appear to contradict those of Leo. More specifically, many participants in this study reported that they explain that the *Miranda* review process is triggered by the fact that: a) the subject is entitled to certain rights as an American citizen; b) the polygraph is voluntary and their consent is required; and c) the subject is presently being questioned in the office of the participant's agency. Many participants also reported that they highlight the fact that the subject is free to leave, at times even showing them where the exit is located. Participants noted that in reviewing a subject's rights, they verify the subject's understanding of their rights and ask if any additional explanations are needed or whether they have any questions. These types of thorough explanations and attempts at verifying understanding do not appear consistent with Leo's picture of interrogators who are simply trying to minimize the importance of a subject's *Miranda* rights. Similarly, while many of the participants reported that they present the *Miranda* rights review as an administrative duty that the participant is first required to go through with the subject prior to the polygraph, it is important to note that the *Miranda* review *is*, in fact, a mandatory administrative process for their agency. Therefore, presenting the *Miranda* review process in such a manner is not an attempt at *Miranda* minimization, but rather an honest explanation of what is required prior to the administration of a polygraph examination.

Based on Leo's (1996) conclusions, Kassin and Norwick (2004) conducted an experiment with college students who engaged in a mock crime in which they hypothesized that the interrogator's use of sympathy toward the subject and a general minimization of the *Miranda* warnings would increase the likelihood that participants would waive their rights. This was not found to be the case. The results of my study mimic the findings of Kassin and Norwick (2004) in that sympathy and a minimization of the *Miranda* warnings do not increase the likelihood that a subject will waive their rights. The participants in my study reported that they review the *Miranda* warnings word-for-word in a straightforward manner through the use of a standardized "Advice of Rights" form. In other words, the participants in this study did not appear to try and sympathize with criminal subjects in reviewing their rights, nor did they appear to try and minimize the importance of these rights. Instead, they simply read the rights to the subject and allowed the subject to ultimately determine whether they will waive their rights. As noted by participants, they are aware that their actions in the interrogation room will eventually be scrutinized by defense attorneys. In light of this realization, they seek a waiver of rights that is informed and voluntary so that it will "stand the test of time" and withstand any future legal challenges. This contradicts Leo's (2001) premise that law enforcement officers may elicit an "implicit waiver" in which they read the subject their rights but then proceed with questioning as if they did not have a choice.

Contrary to the direct and unequivocal way in which the participants in my study claimed to review *Miranda* rights, Davis and Leo (2012) claimed that law enforcement interrogators have created strategies to give subjects the illusion that they do not actually have the right to invoke their *Miranda* rights and terminate the interview. Similarly, they

suggested that interrogators give subjects the impression that questioning is inevitable and the subject is therefore not expected to refuse the impending questioning (Davis & Leo, 2012). The findings in my study again contradict such a premise. As discussed, participants reported that they advise subjects at the outset that they are not under arrest, they are free to leave and discontinue questioning at any time, and they are not required to speak with the participant if they do not want to. Not only are these rights clearly outlined in the participants' standardized "Advice of Rights" form, but numerous participants advised that they further clarify such rights. Some participants reported going so far as to point out the exit door to the subject, inform them that the door is unlocked, and that they are free to leave the room at any time. My review of the agency's *Miranda* warnings and polygraph consent form further identified that the subjects are informed of not only their *Miranda* rights, but they are advised: a) "If you decide to answer questions now without a lawyer present, you have the right to stop answering at any time." b) "If you agree to take the polygraph test, you have the right to stop the test at any time"; and c) "If you agree to take the polygraph test, you have the right to refuse to answer any individual question." These statements and the manner in which the participants in this study claim to review subjects' *Miranda* warnings appear to contradict the claims made by Davis and Leo that law enforcement interrogators have created strategies to give subjects the illusion that they do not actually have the right to invoke their *Miranda* rights and end the interrogation.

The participants' process of reading the subject their rights verbatim from a standardized form as the subject reads along, further clarifying their rights, asking if the subject understands their rights, and answering any questions the subject may have about

their rights, does not resemble the confidence games suggested by Leo (1996), the manipulation posited by Kassin and Norwick (2004), or the trickery put forth by Davis and Leo (2012). The results of my study also contradict the findings of Kassin et al. (2007) who surveyed primarily local law enforcement officers and identified that 67% of respondents reported giving oral *Miranda* warnings to their interview subjects and 29% reported giving subjects written *Miranda* warnings. As outlined above, participants in my study unanimously reported that they provide the subjects with written *Miranda* forms which they review with the subject. While it is possible that the conclusions reached by Leo after observing the interrogations of local detectives and the conclusions reached by Kassin et al. after surveying primarily local law enforcement may be indicative of an inherent difference between the operating procedures of local and federal law enforcement officers, their conclusions do not appear consistent with the practices of federal law enforcement polygraph examiners.

Manipulation in documenting confessions: The trickery and manipulation that many false confession researchers suggest occurs during law enforcement interrogations also does not seem to take place during federal law enforcement polygraph examiners' processes for documenting confessions. A possible explanation for this stems from the fact that the wide array of false confession laboratory experiments do not accurately reflect how written statements are obtained in the real world. For example, in many laboratory experiments, researchers ask university students to confess to a minor infraction or a mock criminal act by signing a brief pre-printed confession created by the researcher (Klaver et al., 2008; Narchet et al., 2011; Pimentel et al., 2015; Russano et al., 2005; Swanner & Beike, 2010). Examples of such pre-printed laboratory confessions

include, “The other participant admitted to hitting the TAB key and causing the computer to crash” (Swanner & Beike, 2010); “I pressed the ALT key and caused the computer to crash. All data were lost.” (Klaver et al., 2008); and “I (participant’s name) admit to having learned the answers to the test ahead of time.” (Pimentel et al., 2015). While these types of written confessions may be a suitable means of identifying a college student’s admission of guilt within a laboratory context, they do not appear to accurately reflect what occurs within the real world of law enforcement interrogation.

Contrary to the laboratory experiments outlined above, none of the participants in this study reported that they have ever simply written a sentence or two admitting guilt, placed the statement in front of the subject, and instructed the subject to sign it. Instead, the participants reported very similar processes of documenting a confession which generally involve similar steps. The first step involved transitioning from a verbal confession to a written statement by highlighting the importance of accurately documenting what the subject has stated. Many participants also identified that this type of statement precludes miscommunications by accurately reflecting the subject’s admissions. Many of the participants also noted the evidentiary strength of a confession that has been written and signed by the subject.

Whether the subject writes his own statement or whether the participant writes the statement on behalf of the subject, participants consistently reported the process of documenting the verbal confession to be a thorough, and at times, painstaking collaborative effort. Participants also noted that regardless of who wrote the statement, there are multiple points at which the statement is reviewed with the subject. This review process can occur after each sentence, after each paragraph, after each page, or at the end

of the statement. Similarly, this review process can involve having the subject read the statement to themselves or aloud, having the participant read it to themselves or aloud, and/or having the statement reiterated for the investigator. Regardless of how it is accomplished, the participants all advised that they review the statement with the subject to ensure its accuracy and truthfulness. The review process also routinely involves prompting from the participant regarding whether any corrections are needed or additions are warranted.

All of the participants reported that a thorough review process is conducted prior to having the subject sign the written statement. Unlike the signed statements in much of the false confession laboratory experiments, the process outlined above is much longer, much more thorough, and arguably much more suited to the collection of a written statement that is not only true and accurate, but truly volitional and reflective of a conscious choice on behalf of the criminal subject. Moreover, the duration and thoroughness of the participants' documentation process affords the subject much more time to recant their confession or refute any information documented in the statement. Not only does this process contradict the repeated claims of trickery, manipulation, and deceit on behalf of law enforcement interrogators as reported by many false confession researchers, but it also highlights just how unrealistic the "Here, sign this!" approach to obtaining a written confession truly is.

Length of interrogations: As suggested by Kassin et al. (2010a), subjecting criminal subjects to lengthy interrogations is one particular action/technique of law enforcement officers considered to be a primary cause of false confessions. Johnson and Drucker (2009) arrived at a similar conclusion in their false confession case studies of

Byron A. Halsey and Jeffrey M. Deskovic. In fact, Kassin and Gudjonsson (2004) concluded that the likelihood of a false confession increases as the duration of the interrogation increases. Despite the reported concerns of lengthy criminal interrogations, they do not appear to represent typical law enforcement interrogator practices. As previously noted, Baldwin (1993) reviewed 600 recorded police interviews in England between 1989 and 1990 and concluded that nearly 75% lasted for less than 30 minutes. A similar review of 50 recorded police interviews in England revealed that the interviews ranged from 5 minutes to 3 hours (Bull & Soukara, 2009). Within the United States, a survey of law enforcement officer survey respondents concluded that the average length of criminal interrogations was 1.6 hours with the longest interrogations averaging 4.95 hours (Kassin et al., 2007).

Contrary to the relatively brief periods of interrogation outlined above, Davis and Leo (2004) analyzed 125 confirmed cases of false confession caused by law enforcement interrogation techniques and identified that the mean duration of police interrogations in which a false confession was elicited was 16.3 hours. Kassin et al. (2010a) offered that false confessions may occur during prolonged periods of interrogation as the subjects may become increasingly more uncomfortable, fatigued, and anxious as the interrogation goes on. However, upon being questioned about the typical lengths of their polygraph pre-test interviews and post-test interrogations, the participants in this study provided information that was more consistent with the findings of Baldwin (1993), Bull and Soukara (2009), and Kassin et al. (2007) than the findings of Davis and Leo (2004). More specifically, participants reported that their pre-test interviews (i.e., the amount of time it takes to complete *Miranda* and consent forms, conduct the pre-test interview, and

run the polygraph test) average between 1 and 2 hours. The majority of the participants also reported that their post-tests (i.e., interrogations) rarely go beyond 4 or 5 hours with the majority of the participants stating that their average interrogations last between 2 and 3 hours.

Based on the information provided by the participants, when the average pre-test durations are combined with the durations of the average post-test, the average length of a complete polygraph examination in which the subject was found to be deceptive and an interrogation was employed averages between 3 and 5 hours. While these durations are slightly longer than the interrogation range of 5 minutes to 3 hours as reported by Bull and Soukara (2009) and the average interrogation length of 1.6 hours noted by Kassin et al. (2007), it is important to remember that the averages reported in this study include the pre-test interview, the polygraph examination, and the interrogation. As the results of a polygraph examination are not typically presented before the court, it has been my experience that defense attorneys like to question polygraph examiners on the total length of their interview with a subject. Despite the fact that the defense attorneys know that a sizeable portion of the polygraph examiner's "interview" included a polygraph pre-test and the administration of a polygraph examination, they also know that the polygraph examiner is not legally permitted to disclose this on the record. Based on the information provided by the participants, the inability of the polygraph examiner to disclose the length of his or her pre-test interview can make the interrogation of the subject seem as much as 40% longer than it really was. This allows the defense attorney to make it appear to the jury that a polygraph examiner's interrogation was much longer, thereby suggesting that a false confession was much more likely based on the conclusions

reached by false confession studies like those conducted by Kassin et al. (2010), Johnson and Drucker (2009), Kassin and Gudjonsson (2004), and Davis and Leo (2004).

Despite the averages reported by the participants in this study, many participants reported that they would be willing to question criminal subjects for significantly longer periods of time. However, this amenability to increasing the duration of an interrogation was reported to be dependent on various factors. For example, participants noted that they would only be willing to question criminal subjects for longer periods of time if the subject remains in the interrogation room voluntarily, if the subject does not ask for an attorney, if the subject is afforded adequate food, water, bathroom, and cigarette breaks, and if the tone remains conversational. Under these conditions, some of the participants found it acceptable to continue questioning a subject for as long as 6 or 8 hours. The largest number of participants reported that when these conditions are not met, an interrogation lasting longer than 8 hours could be considered egregious. It is interesting to note that this number is slightly less than half of the mean length of the 125 false confessions reviewed by Davis and Leo (2004). In other words, if the participants in this study found an 8-hour interrogations to be egregious, than 16.3-hour interrogations would likely be considered outrageously unethical. While some of the participants reported that they have questioned subjects for as long as 18 hours, such interrogations were reported to be atypical and dependent on the subject's voluntariness and receipt of proper breaks.

Overall, the participants frequently reported that they are aware of the length of their interrogations and the fact that they will have to answer to the length of their interrogations in court. This awareness and the reported lengths of their interrogations suggest that federal law enforcement polygraph examiners do not keep criminal subjects

in interrogation rooms for extended periods of time, and certainly not against the subject's will or without adequate food, water, bathroom, and cigarette breaks. Moreover, federal law enforcement polygraph examiners do not appear to condone egregiously lengthy interrogations like those noted by Davis and Leo (2004) and Johnson and Drucker (2009). The noted differences between the interrogations of federal law enforcement polygraph examiners and those that have led to known false confessions may suggest that there is a marked difference in the interrogative methods of federal law enforcement polygraph examiners and other law enforcement officers. In addition, it is also possible that there is an inherent biasing effect in arriving at conclusions about law enforcement interrogators as a whole based on the apparent malpractice of a few. This premise is supported by Kassin et al. (2007) who stated, "Proven false confession stories represent an inherently biased sample of cases" (p. 384).

Effective Interrogative Techniques: As previously noted, many false confession researchers have suggested that it is the interrogative methods used by law enforcement that are actually responsible for causing false confessions (Frantzen & Can, 2012; Hasel & Kassin, 2009; Kassin, 2012; Kassin et al., 2005; Levine et al., 2010; Meissner & Kassin, 2002; Nash & Wade, 2009; Perillo & Kassin, 2011). Whereas law enforcement previously employed such physically coercive acts as beating a subject, simulating drowning, putting lighted cigarettes on their body, whipping them with a rubber hose, explicitly threatening them with harm, shining a blinding light in their eyes, and withholding sleep, food, and water from them (Kassin et al., 2010a), these methods have more recently been replaced with more psychologically-oriented methods (Conti, 1999; Kassin et al., 2010a; Klaver et al., 2008; Narchet et al., 2011). These newer

psychologically-oriented methods have reportedly been designed to convince subjects that the benefits of confession outweigh any perceived disadvantages (Moston & Stephenson, 1992) and that a confession is ultimately in the subject's best interest (Kassin et al., 2010a).

Interpersonal approaches. The most effective techniques for eliciting a truthful confession as reported by the participants in this study fell into two broad categories: "interpersonal approaches" which include how the interrogator presents themselves to the subject and how they treat the subject, and "interrogative strategies" which include techniques designed to encourage the subject to admit their crimes. The most frequently reported interpersonal approach in my study involved exhibiting understanding and empathy toward the subject by trying to understand the subject's point of view and empathize with their situation. Some of the participants described this as being more of a "therapist", "a priest", or "a friend". Many of the participants also noted the importance of acting toward the subject with friendliness and kindness as "people don't talk to people they don't like". This includes being nice, soft-spoken, and approachable. Participants also noted the importance of building rapport with the subject, establishing commonalities with them, serving as an advocate or ally for the subject, and creating an environment of trust and respect so that the subject can feel comfortable disclosing his crimes without judgment or recrimination.

While some may argue that these interpersonal approaches are merely examples of psychologically-oriented tactics, the participants repeatedly noted how important it is for their interactions with the subject to be genuine as criminal subjects can immediately identify insincerity. Many other participants highlighted the importance of being

professional and neutral in their interactions with criminal subjects. Perhaps these behaviors are not calculated and psychologically-manipulative interrogative tactics employed during the course of an interrogation, but rather the inherent personality traits of those drawn to the specialty of federal law enforcement polygraph. One participant demonstrated this possibility when he reported that he was so concerned that he would have to be mean and aggressive to criminal subjects that he was pleased and relieved to learn that he could simply be himself and act toward subjects with kindness and still elicit confessions. Many other participants echoed this sentiment through the use of such words as being “genuine”, “honest”, “credible”, and “straightforward”. Contrary to the research outlined above, the insights of the participants suggest that federal law enforcement polygraph specialists are not attempting to manipulate subjects, but are instead being genuinely kind and respectful when interacting with them.

Interrogative strategies. In addition to how they present themselves and interact with criminal subjects, the participants also identified interrogative strategies that they believe are particularly effective when questioning a criminal subject. Participants most frequently identified the use of themes as an effective interrogative strategy. According to Kassin (2008), this approach is consistent with the minimization portion of the Reid technique in which law enforcement interrogators attempt to morally justify the subject’s criminal actions. Kassin et al. (2010a) identified that such minimizations include rationalizing the crime and providing alternative explanations for the criminal act by offering that the crime may have been committed accidentally or out of self-defense. The participants in this study described their use of themes in very much the same way. For example, participants described themes as an “out” or a “face-saving way” for a criminal

subject to explain their criminal actions, thereby minimizing the seriousness of the offense.

While some false confession researchers suggest that minimizing the offense is actually designed to infer that the subject will be treated in a lenient fashion if they choose to confess (Kassin, 2008; Kassin et al., 2010a; Kassin & McNall, 1991; Narchet et al., 2011; Newring & O'Donohue, 2008; Russano et al., 2005), the participants in my study frequently reported that their themes are designed to create an environment in which the subject can honestly disclose his criminal actions without the fear of being judged. In addition, as opposed to offering explanations that infer judicial leniency such as accidents or self-defense, participants often reported that they seek to identify logical and meaningful explanations for why the subject may have committed the offense. As noted by one participant, themes are only effective if they are meaningful to the subject. Themes were also identified as being effective because they offer the subject a nicer way to reframe what they have done by rationalizing why they may have committed the crime, minimizing the seriousness of the offense, and projecting the blame onto someone or something else. As opposed to inferring the promise of leniency, the participants in my study reported that themes encourage honesty from the subject by removing barriers such as condemnation, recrimination, and judgment that may preclude forthrightness. The underlying purpose of theming as reported in this study can be observed in the insight of one participant who suggested that, "even the biggest creeps don't want to be made to feel like a creep." It therefore appears that these efforts to reduce the subject's shame through the use of themes are different from minimization purportedly designed to infer future judicial leniency.

Participants identified additional interrogative strategies that are effective in eliciting a truthful confession including attacking inconsistencies in the subject's statement and presenting them with true and clear evidence of their guilt. Participants noted that these approaches may help convince the subject that lying is no longer an option and that the time has come to be honest about their criminal actions. This is consistent with Perillo and Kassin's (2011) conclusion that criminal subjects generally confess as an act of social compliance brought about by the realization that there is no other means to escape their current situation but through confession. These strategies are also consistent with the conclusion that criminal subjects are more likely to confess when the evidence against them is strong (Baldwin, 1993; Kebbell et al., 2006; Moston & Engelberg, 2011; Moston et al., 1992).

The interpersonal approaches and interrogative strategies identified as effective by participants closely resemble some of the interrogative techniques Kassin et al. (2007) listed in their survey of predominantly local law enforcement officers. Upon querying respondents about a myriad of interrogative techniques, Kassin et al. (2007) presented the following techniques in order of their frequency of usage: a) identifying contradictions in the suspect's story, b) establishing rapport and gaining the suspect's trust, c) confronting the suspect with evidence of his guilt, d) offering the suspect sympathy, moral justifications and excuses, and e) minimizing the moral seriousness of the offense. These techniques closely reflect some of the interpersonal approaches and interrogative strategies noted by the participants in my study to be effective in eliciting a truthful confession. This suggests that there may be some level of consistency in how local law enforcement officers and federal law enforcement polygraph examiners interrogate.

The effective interpersonal approaches and interrogative strategies reported by the participants in my study also closely resemble the findings of Bull and Soukara (2009) who questioned law enforcement officers in England about what they believe were the most necessary skills for an interrogator in order to be effective. Bull and Soukara's participants identified the following skills: a) preparation, b) knowledge of the topic, c) the ability to build rapport with the subject, d) listening, e) questioning, f) flexibility, g) open-mindedness, and h) compassion and empathy. These same participants identified presenting the subject with evidence of their guilt as the most impactful interrogative technique (Bull & Soukara, 2009). Bull and Soukara also reviewed interviews by law enforcement officers in England and identified that these officers frequently used techniques very similar to those outlined by the participants in my study to include: a) presenting the subject with evidence, b) emphasizing contradictions in the subject's statement, c) challenging the subject's account of events, d) showing concern for the subject, and e) suggesting scenarios of what may have occurred. These findings were replicated in a similar study by Walsh and Bull (2012). In a third study involving the review of audiotaped interviews of English police officers, Bull and Soukara concluded that criminal subjects were more responsive to, and cooperative with, the interviewer when the interviewer was open-minded, flexible, responsive to the subject, and took time to build rapport.

In collecting self-report data from police investigators in Texas, Frantzen (2010) reported that respondents identified moral justifications and/or psychological rationalizations for the subject's criminal act, confronting the subject with evidence of their guilt, and building rapport as a means of facilitating a dialogue with the subject as

extremely effective interrogative strategies. The aforementioned research in both the United States and Great Britain suggest that law enforcement officers share some similarities when it comes to what they perceive to be effective interrogative techniques. The findings and conclusions in my study similarly support this sense of concurrence among law enforcement officers as to what techniques are effective in eliciting a truthful confession. Contrary to the conclusions of many false confession researchers who believe that law enforcement interrogators rely on coercive, deceitful, and manipulative tactics to elicit confessions (Frantzen & Can, 2012; Hasel & Kassin, 2009; Henkel et al., 2008; Johnson & Drucker, 2009; Kassin, 2012; Kassin et al., 2005; Levine et al., 2010; Meissner & Kassin, 2002; Narchet et al., 2011; Nash & Wade, 2009; Newring & O'Donohue, 2008; Perillo & Kassin, 2011; Swanner & Beike, 2010), the participants in my study mirror the beliefs of many law enforcement professionals the world over; namely, "you get a lot farther with sugar than salt".

How confessions are perceived by participants. In addition to identifying what federal law enforcement polygraph examiners consider to be effective interrogative techniques, it is also important to consider how they view confessions. For this reason, I questioned participants about their impressions as to whether a confession helps or harms a criminal subject. The participants were split in their responses to this question which generally supports claims made by some false confession researchers. For example, some false confession researchers have concluded that people who confess are treated differently at every stage of the criminal justice process when compared to their counterparts who do not confess. These researchers claim that confessors are more likely to be charged, are more likely to be charged with a greater number of crimes, are less

likely to have their cases dismissed, are more likely to have their cases resolved through a plea bargain, are more likely to be found guilty of their crimes, and are more likely to receive harsher punishment once they are convicted (Kassin et al., 2007; Leo & Ofshe, 1998; Drizin & Leo, 2004). The responses of the participants in my study closely resemble these beliefs.

For those participants who reported that a confession ultimately harms the criminal subject, their reasoning tended to center on the strength of confession evidence. More specifically, some participants noted that because confessions are such a powerful form of evidence and extremely difficult for attorneys to defend against, confessions increase the likelihood that the subject will be prosecuted and convicted for their crimes. This belief supports the claims made by some false confession researchers who suggest that confessors are more likely to be charged, are less likely to have their cases dismissed, and are more likely to be found guilty (Kassin et al., 2007; Leo & Ofshe, 1998; Drizin & Leo, 2004). However, it is important to remember that if the criminal subject *is* truly guilty, then they *should* be charged, convicted, and punished for their criminal actions according to the tenets of the criminal justice system. From this standpoint, an argument could be made that the truly guilty subject is not necessarily being harmed by their confession, they are simply more likely to receive the justified and appropriate legal repercussions. While this statement may initiate a discussion relating to the fairness of the legal system which would be better addressed elsewhere, it also suggests that the word “harm” may not actually be the best description of the legal processes brought against a truly guilty subject after their confession.

The participants who believed that a confession ultimately benefits a subject reported that confessions offer legal benefits to the subject because the Federal Sentencing Guidelines provide the subject with two points for their acceptance of responsibility which ultimately translates into a decreased sentence. Participants also identified that a confession benefits the subject legally as it allows the prosecutor to charge the subject with a lesser offense which also translates to a decreased sentence. Lastly, participants noted that subjects who confess are also more likely to plead guilty which means the subject receives a better deal from the prosecutor. These responses completely contradict the claims made by some false confession researchers that confessors are more likely to be charged with a greater number of crimes and are more likely to receive harsher punishment once they are convicted (Kassin et al., 2007; Leo & Ofshe, 1998; Drizin & Leo, 2004). In the experiences of the federal law enforcement polygraph examiners interviewed for my study, the opposite was reported. Although the participants' responses support the fact that confessors are more likely to have their cases resolved by plea bargain, many of the participants in this study found this to be a positive response to a confession as it ultimately translates to the subject receiving a better deal and a lesser sentence.

The participants in my study agreed with the claim that subjects who confess are treated differently at every stage of the criminal justice process, but not in the ways suggested by the aforementioned false confession researchers. When questioned about whether confessors are treated differently than non-confessors, the majority of the participants noted a difference in how confessors are treated by the federal criminal justice system. Participants reported that criminal subjects who confess tend to receive a

lower sentence than those who do not because of the tendency of prosecutors to charge them with a lesser offense, offer them a better deal through the plea agreement process, and recommend lower sentences to the court. Participants also reported that confessors tend to receive respect and appreciation from investigators and prosecutors who, in turn, do their best to cooperate with the subject. These differences in treatment ultimately lead to a legal process that is smoother, more cordial, and significantly less adversarial. Simply put, the participants in the present study did identify that confessors are treated differently at every stage of the criminal justice process than those who deny their criminal wrongdoing; they are treated better.

Ineffective interrogative techniques. In addition to effective interrogative techniques, I also questioned the participants about which techniques they believe are ineffective at eliciting a true confession. The majority of the participants identified that acting toward the subject in a manner that can be considered disrespectful is the most ineffective interrogative approach. The disrespectful behavior noted by the participants included yelling at the subject, being aggressive, calling the subject a liar, and generally engaging in behavior that could be considered “TV stuff”. Participants explained that these behaviors cause the subject to “shut down” and stop listening to the interrogator. Participants reported that this is particularly true for those subjects who have already been involved in the criminal justice system which supports Walsh and Bull’s (2012) findings that inmates become more resistant to interviewers when they act aggressively or dishonestly toward them. This type of behavior also prevents meaningful communication between the interrogator and the subject and prevents the creation of a safe environment for the subject to disclose his wrongdoings without fear of judgment. In essence, the

participants advised that acting toward the subject in a disrespectful manner has the exact opposite effect by causing criminal subjects to become more defensive and strengthened in their denials and drastically decreases the likelihood of a truthful confession.

Participants noted that important factors like communication, trust, and respect are also destroyed when the interrogator acts toward the subject in an angry, insincere, biased, and arrogant manner, or otherwise attempts to badger, verbally abuse, intimidate, or threaten a subject.

Russano et al. (2005) described attempts by the interrogator to scare and intimidate subjects by directly accusing them, exaggerating the seriousness of their criminal acts, and refusing to accept their denials as “maximization techniques”. Ofshe and Leo (1997) concluded that such attempts to increase interrogative pressure is a primary cause of false confessions. Participants in my study seemed to support this premise as they frequently reported that false confessions may occur if interrogators continue to increase coercion and stress in the interrogation room, particularly during lengthy interrogations. For this reason, the participants advised that they are disinclined to use these types of interrogative techniques. They further advised that as opposed to encouraging interactions with the interrogator, this type of behavior actually strengthens denials and shuts down positive interaction between the subject and the interrogator. When considering such pressuring and aggressive tactics, one participant poignantly asked, “Why would they talk to you?” The participants’ disinclination to employ the tactics outlined above supports the findings of Bull and Soukara (2009) and Kassin et al. (2007) who identified that law enforcement investigators in England and the United States claimed to “never” intimidate criminal subjects during interrogations. The

participants in my study reported that attempts to scare, intimidate, and pressure subjects are not only ineffective at obtaining a truthful confession, but they can actually cause false confessions under certain circumstances.

Questionable interrogative practices. My review of the false confession research identified various questionable interrogative tactics that law enforcement officers reportedly employ during the course of a criminal interrogation, many of which were identified during a review of known cases of false confession. These questionable tactics include sleep deprivation (Gyull et al., 2013; Kassin et al., 2010a; Newring & O'Donohue, 2008); offering the subject a deal in exchange for their confession (Drizin & Colgan, 2004; Russano et al., 2005; Swanner & Beike, 2010); presenting a subject with false evidence (Drizin & Leo, 2004; Forrest et al., 2012; Henkel et al., 2008; Kassin, 2005; Kassin, 2008; Kassin et al., 2007; Kassin & Kiechel, 1996; Leo & Ofshe 1998; Nash & Wade, 2009; Perillo & Kassin, 2011); using the bluff technique (Perillo & Kassin, 2011; Russano et al., 2005); and denying the subject an opportunity to speak with their attorney (Kassin, 2007). In light of the claims that these techniques are often employed by law enforcement interrogators, I asked the participants for their opinions regarding these questionable tactics.

Sleep deprivation. The majority of participants identified that sleep deprivation was unacceptable because it led to the collection of unreliable information, it could make subjects more susceptible to coercion, it could decrease the subject's voluntariness to stay in the interrogation room, it could possibly lead to a false confession, and confessions obtained through this technique would undoubtedly be challenged in court. Some of the participants described sleep deprivation as "unfair", "Gestapo-type tactics", and "against

my moral compass”. Not only does this contradict the claims that law enforcement officers routinely deprive subjects of sleep as a means of obtaining a confession, but it demonstrates that federal law enforcement polygraph examiners see very little utility in the use of such a technique. This supports the findings of Kassin et al. (2007) who surveyed law enforcement officers about their interrogative practices and identified that 83% of their interrogations were conducted during typical waking hours, thereby suggesting that the practice of sleep deprivation observed in some high-profile false confessions is “a non-normative exception to the rule”.

Offering the subject a deal. Another technique that some false confession researchers believe to be routinely used by law enforcement interrogators is the offering of a deal to the subject in exchange for their confession (Russano et al., 2005; Swanner & Beike, 2010). Such a deal may involve the offering of incentives of decreased punishment in exchange for a confession (Swanner & Beike, 2010) or outright suggesting that the subject can go home once they confess their crimes (Drizin & Colgan, 2004). Every participant in my study identified this technique as unacceptable. All of the participants also reported that they are not in a position to offer the subject a deal, nor do they have the authority to do so. Many of the participants then referred to this practice as “unconstitutional”, “illegal”, and “unethical”. These positions contradict the premise that law enforcement interrogators find this to be an acceptable practice and routinely use it during criminal interrogations. In fact, in their study of the effects of explicit offers of leniency to university students engaged in experimental infractions, Russano et al. described “deals” as “common police interrogation tactics” . However, in the discussion of their research findings, they admit that the deal technique is generally considered

illegal and not recommended in interrogation manuals. The positions of the participants in my study contradict the claim that offering a deal to criminal subjects is a common law enforcement practice, while at the same time reaffirm that engaging in such a technique is illegal.

False evidence ploy. Another particularly concerning interrogative technique is the False Evidence Ploy (FEP) in which law enforcement officers attempt to strengthen their accusations by falsely informing subjects that they are in possession of evidence that clearly establishes their guilt (Perillo & Kassin, 2011). A review of false confession cases identified that the FEP technique was frequently used during interrogations in which false confessions were elicited (Drizin & Leo, 2004; Kassin, 2005; Leo & Ofshe, 1998). In their laboratory experiment with university students who engaged in a minor infraction, Kassin and Kiechel (1996) concluded that the presentation of false evidence increased the likelihood of a false confession. Henkel et al. (2008) suggested that the use of the FEP technique in law enforcement interrogations is commonplace, and Kassin et al. (2007) identified that 92% of the law enforcement officers that they surveyed reported using the FEP technique at least some of the time.

The participants in my study were split as to whether they found the FEP technique to be an acceptable practice. Those who found it acceptable offered various explanations for this opinion to include: a) it is legally permissible for an interrogator to lie to a subject during an interrogation, b) it does not necessarily trap the subject in a box because they still have the options of admitting their crimes, offering an excuse as to why the evidence against them exists, or continue denying their criminal actions, and c) it only works on the guilty as the innocent subject will know that the false evidence is not

plausible. Those participants who found the FEP technique unacceptable similarly offered explanations for their opinion to include: a) it is perceived as unethical, b) it can potentially cause a false confession when used by an overly aggressive interrogator or against a “low functioning” subject, and c) it could potentially backfire on the interrogator. The majority of the participants, even those who suggested that the FEP technique is acceptable, identified that it is very easy for this technique to backfire. For example, if the subject was able to clearly identify that the interrogator was lying about the subject’s fingerprints being found at the scene of the crime because the subject wore gloves when he committed the act, the interrogator’s credibility would immediately be destroyed. Participants further noted that being caught in this type of lie would destroy any trust or rapport that may have been established, and the subject would come to believe that the interrogator is trying to trick them. Furthermore, participants reported that the subject will shut down, increase their denials, and refuse to confess because they will know that the interrogator has no proof or evidence of their guilt if they are forced to lie during the interrogation.

Based on the inherent danger in this technique, many of the participants expressed that they would only use the FEP technique if they were relatively certain that the false evidence they presented to the subject was true. The participants’ insights about the potential downside of being caught in a lie while employing the FEP technique are supported by the findings of Kebbell et al. (2006) who conducted a laboratory experiment with university students engaged in a mock crime. Kebbell et al. identified that when students were able to identify the evidence against them (e.g. eyewitness information) as a lie, they were less likely to confess. Based on this finding, Kebbell et al. concluded that

it is critically important that law enforcement officers present accurate evidence to criminal subjects since inaccurate evidence will decrease the likelihood of a confession. The positions offered by the participants in my study also support the claims of the Wisconsin Criminal Justice Commission (2007) that: a) the FEP can cause the subject to catch the interrogator in a lie that will negatively impact their ability to obtain a confession, b) false evidence can cause the truly guilty subject to strengthen their denials because they now realize that the interrogator is lying, and c) a truly innocent subject will be bolstered in their claims of innocence because evidence of their guilt could not possibly exist since they were not involved in the crime.

While approximately half of the participants found the FEP acceptable and some of the participants have actually used this approach in the past, they noted that the technique is fraught with potential dangers that would preclude them from using it routinely. This suggests that the FEP technique may not be as frequently used as some false confession researchers claim. In addition, based on the experiences and insights of the participants in my study, it appears that the FEP technique alone may not be enough to convince an innocent subject to falsely confess. The reasons for this are twofold: a) an innocent person will know that they were not involved and evidence of their guilt could therefore not exist; and b) like the guilty subject who catches the interrogator in a lie, an innocent subject who identifies the evidence as false will come to realize that the interrogator has no idea about the crime and has simply been pushed to such desperation that he has to tell lies. However, according to participants, it is possible that there may be other factors at play beyond the presentation of false evidence that actually cause subjects to falsely confess to crimes they did not commit.

Bluff technique. Another questionable interrogative technique that is reported to be commonly used by law enforcement interrogators is the bluff technique, a less deceptive version of the FEP technique in which interrogators pretend to have evidence without specifically stating that this evidence necessarily incriminates the subject (Perillo & Kassin, 2011). Unlike the FEP technique which involves false evidence that conclusively links the subject to the crime, the bluff technique merely infers that the discovery of the truly guilty subject's identity is imminent. Perillo and Kassin conducted a series of laboratory experiments with university students who were accused of pressing a computer key that crashed a computer program and/or cheating during a joint problem-solving activity. Perillo and Kassin concluded in the computer key experiment that the bluff technique increased the rendering of false confessions with 75% of the false confessors claiming that they falsely confessed because they believed that when the actual evidence was reviewed, their innocence would be proven. In the cheating experiment, 88% of the false confessors similarly cited the bluff technique as the reason for their false confession (Perillo & Kassin, 2011).

In my study, all of the participants found the bluff technique to be an acceptable interrogative practice. Various reasons were offered for this opinion to include: a) the bluff technique was not accusatorial, b) the interrogator's credibility remained intact because they could not be caught in a lie, c) there is a very real possibility that the techniques forming the basis of the bluff will actually be conducted as part of a logical investigation, and d) it protects the innocent subject by causing them to strengthen their denials knowing that the soon-to-be analyzed evidence will imminently prove their innocence. Based on their acceptance of the bluff technique, the participants' responses

support the premise that the bluff technique is likely a frequently used interrogative technique. However, many of the participants advised that they would be less inclined to employ the bluff technique by claiming that evidence is currently being evaluated that will ultimately determine the truly guilty party. Instead, many participants advised that they would be more inclined to ask the subject something similar to, “Is there any reason why your fingerprints would be found on that gun?”

The information provided by the participants in the current study contradict the findings of Perillo and Kassin (2011). More specifically, while Perillo and Kassin suggested that the bluff technique increases false confessions, the participants in my study, based on their knowledge and experience in criminal interrogation, suggested that the bluff technique actually disincentivizes a subject from falsely confessing. Participants reported that claiming that evidence will soon be analyzed that will conclusively identify the truly guilty party reinforces the fact that the subject will soon be exonerated. In light of this bluff, participants offered that the truly guilty subject will confess ahead of their imminent discovery while the truly innocent subject will be encouraged to stand firm as proof of their innocence is on its way. These diametrically opposed conclusions relating to the bluff technique exemplify the problem with unrealistic laboratory experiments that do not accurately reflect the stark realities of the criminal justice system.

In the Perillo and Kassin (2011) study, university students stood accused of pressing a computer key or being asked by a confederate to help them cheat during a problem-solving exercise. Both of these transgressions could be considered relatively insignificant acts that potentially lacked volition and would likely lead to equally

insignificant repercussions. Perhaps the fact that so many of the students chose to confess falsely in Perillo and Kassin's experiments has more to do with the insignificance of the offenses than the inherent coercion of the bluff technique. This begs the question, would these students be so ready to render a false confession on the pending analysis of the evidence if they stood accused of bank robbery, rape, or murder? Based on the insights of federal law enforcement polygraph examiners who specialize in the interrogation of criminal subjects suspected of violating federal law, this does not seem likely. In fact, the participants' opinions are supported by the additional findings of Perillo and Kassin which indicated that 75% of the innocent students in their study also cited the bluff technique as the reason why they refused to admit to an offense they did not commit. This finding, when combined with the information provided by the participants in my study, may suggest that the bluff technique is actually more likely to encourage innocent subjects to maintain their innocence than it is to cause them to falsely confess.

Preventing subjects from speaking to their attorney. My review of the false confession research identified that law enforcement officers have been known to engage in the practice of preventing criminal subjects from speaking to their attorney during the course of an interrogation. For example, Kassin (2007) wrote on the case of Billy Wayne Cope who was interrogated for numerous hours, held overnight in jail without food or water, and prevented from speaking with an attorney, before falsely confessing to causing the death of his 12-year-old daughter. In an attempt to identify the extent to which the interrogative technique of preventing a subject from speaking to legal counsel is employed, I asked the participants for their opinions regarding this practice.

Unanimously, the participants reported that it is against the law to deny a subject the right to speak with an attorney and, if the subject unequivocally requests to speak with an attorney, the participants would immediately terminate the interview. The unanimity in this response suggests that Cope's being denied an opportunity to consult with an attorney is more indicative of law enforcement malpractice than typical interrogative methodology.

Summary of effective and ineffective interrogative techniques. The insights offered by the participants in my study regarding effective and ineffective interrogative techniques, closely mirror the law enforcement survey results of Kassin et al. (2007). Based on their findings, Kassin et al. suggested that law enforcement interrogations often involve such techniques and behaviors as contradicting inconsistencies in the subject's statement, trying to establish rapport with the subject in an attempt to gain their trust, confronting subjects with evidence of their guilt, offering the subject sympathy, providing them with moral justifications and excuses for their criminal behavior, and minimizing the moral seriousness of the offense. These techniques and behaviors closely resemble many of the effective interrogative techniques identified by the participants in my study. Kassin et al. similarly noted that their survey participants rarely engage in the following techniques and behaviors: a) expressing impatience, frustration, or anger at the subject, b) threatening the subjects with consequences for not cooperating, and c) physically intimidating the subject. These techniques and behaviors are quite similar to some of the ineffective techniques reported by the participants in my study. It is also interesting to note that Kassin et al. reported a near equal split among their respondents regarding the technique of implying or pretending to have independent evidence of the

subject's guilt with 8% reporting that they "never" use this technique and 7% reporting that they "always" use this technique. Although this technique was referred to as the false evidence ploy in my present study, the participants were also split in near equal numbers regarding the acceptability of presenting the subject with false evidence of their guilt. The fact that the findings of my study regarding effective and ineffective interrogation techniques so closely mirror the findings of the Kassin et al. (2007) survey suggests that there may, in fact, be a similarity in the interrogative techniques of local law enforcement officers and federal law enforcement polygraph examiners.

It is equally important to note that the participants in my study identified numerous behaviors and techniques that they would never employ inside the interrogation room. While Kassin et al. (2010a) identified law enforcement's history of using physically coercive acts such as beating subjects, simulating drowning, putting cigarettes out on their bare skin, and withholding basic necessities like food, water, and sleep, nearly every participant in my study readily advised that they would never engage in torture or engage in any activity that could cause the subject physical or psychological pain. The majority of the participants also advised that they would never deprive the subject of either basic needs like sleep, water, food, or bathroom breaks, nor would they ever deprive someone of their constitutional rights like the right to speak with counsel and/or terminate the interview. These findings support the claims made by false confession researchers that abusive tactics have been replaced with more psychologically-based techniques in light of various legal rulings (Conti, 1999; Kassin et al., 2010a; Klaver et al., 2008; Narchet et al., 2011).

The participants identified various other techniques they would never use during the course of the interrogation. For example, participants frequently reported that they would never conduct themselves in a manner that could be considered unethical, illegal, or for which they will have to answer during cross examination. Such behaviors included yelling, screaming, pounding on the table, exhibiting hostility or anger, threatening the subject or their family, making false or unauthorized promises to the subject, presenting subjects with false evidence, or engaging in any activity that could possibly overcome the subject's free will. Many participants clarified that engaging in this type of behavior during an interrogation could make the subject's subsequent confession untruthful and involuntary which would render the statement useless. The ready ability of participants to identify so many interrogative actions in which they would never engage strongly contradicts Leding's (2012) position that law enforcement interrogators, "will use whatever means necessary to elicit a confession" (p. 265). Moreover, it does not appear that federal law enforcement polygraph examiners are as single-minded, unrelenting, and vicious as some false confession researchers have portrayed.

Research Question 2

Research question 2: To what extent have federal law enforcement polygraph examiners experienced false confessions?

Re-evaluating the frequency of false confessions. As previously noted, all of the 13 participants in my study reported that, to their knowledge, they have never elicited a false confession, nor have they ever received word or evidence that a confession that they had previously obtained was false. This may seem unbelievable in light of advocacy groups like the Innocence Project who, as of August 2016, identified that they have

exonerated 343 wrongfully convicted subjects since the group's inception in 1992. However, it is important to remember that only approximately 27% of these wrongful convictions have involved some form of false confession, bringing the number of proven wrongful convictions caused by false confessions nationwide to approximately 93 in the last 25 years. It is also important to recall that youth has been identified as a huge risk factor for false confessions (Drizin & Leo, 2014; Malloy et al., 2014; Owen-Kostelnik et al., 2006; Pimentel et al., 2015). In their analysis of proven false confession cases, Drizin & Leo (2004) reported that 35% of those individuals who were proven to have provided false confessions were under the age of 17 at the time that they were interrogated. Similarly, Gross and Shaffer (as cited by Pimentel et al., 2015), reviewed the National Registry of Exonerations and identified that adolescents were three times more likely to render a false confession. If these estimates were applied to the number of false confessors exonerated by the Innocence Project, it would suggest that only 23 to 60 of those individuals wrongfully convicted based on false confessions and freed by the Innocence Project over the last 25 years were adults.

Additional factors contributing to false confessions include mental illness (Kassin et al., 2010; Redlich, 2004; Redlich et al., 2010; Redlich et al., 2011); mental retardation (Drizin & Leo, 2004; Redlich et al., 2011); and intoxication at the time of the interrogation caused by the use of drugs or alcohol (Evans et al., 2009). Drizin and Leo (2004) identified that 22% of the proven false confession cases that they had reviewed involved subjects who could be considered mentally retarded. If this statistic is applied to the non-adolescent false confessors exonerated by the Innocence Project outlined above, it may suggest that the true number of non-mentally retarded adult subjects who

rendered a false confession and were freed by the Innocence Project over the last 25 years may be between approximately 18 and 47. This number may likely decrease even further if mentally ill and intoxicated subjects were removed from consideration. To give these numbers context, according to Uniform Crime Report (Federal Bureau of Investigation, 2016) data for the first 21 years of the Innocence Project (1992-2012), there has been an estimated 31,472,665 violent crimes committed in the United States. Although data was not available for the years 2013 through 2016, based on existing trends, it is likely that this number surpasses 36 million violent crimes committed since the Innocence Project began its work. To give this data perspective, of the approximately 36 million violent crimes that have been committed in the United States since 1992, the Innocence Project has proven that .00025% have involved a wrongful conviction caused, at least in part, by some form of false confession. Based on the discussion above, the percentage of adults without mental retardation who had rendered a false confession and were later exonerated by the Innocence Project may be as low as .00005%. Additional perspective can also be gained by the realization that approximately 400 people have been attacked by sharks since the inception of the Innocence Project (National Geographic, 2016) and 1,024 Americans have been struck and killed by lightning (National Oceanographic and Atmospheric Administration, 2016) during this same time period.

Why false confessions occur infrequently. The analysis outlined above not only suggests that the frequency with which false confessions occur may be grossly exaggerated within the existing false confession research, but it offers possible insight as to why the federal law enforcement polygraph examiners interviewed in my study were unable to identify an instance in which they elicited a false confession. Additional

support for why the participants may not have experienced a false confession may stem from the fact that within their agency, juveniles and adolescents are rarely administered polygraph examinations. It is also common practice that if the polygraph examiners employed by this federal law enforcement agency identify during the course of the pre-test interview that the subject is not suitable for testing, then the subject should not be tested. Indicators of examinee unsuitability include mental health concerns, low intellectual functioning, drug or alcohol intoxication at the time of the examination, or extreme fatigue. In addition to participant claims that they do not use problematic and overly coercive interrogative methods, this may explain why no false confessions were reported by the participants.

The fact that the participants have the moral obligation not to administer a polygraph examination to an unsuitable subject also suggests that federal law enforcement polygraph examiners do not consider youth, mental illness, low intellectual functioning, fatigue, or inebriation as enticements for an easy confession, but rather as indicators of unsuitability and potential problems. In short, the findings from my study indicate that: a) federal law enforcement polygraph examiners tend not to test and interrogate those individuals who are likely to be at an increased risk for rendering a false confession; b) they tend not to use those questionable and egregious techniques that have been identified in the research as contributing to false confession; and c) they instead tend to treat subjects in a kind, genuine, respectful, straight-forward, and non-judgmental manner that encourages the subject to discontinue their dishonesty and admit their criminal actions without fear of recrimination. In light of these conclusions, it appears

that false confessions may have more to do with the personal vulnerabilities of the subject and law enforcement malpractice than any particular interrogative technique.

While some false confession researchers may question the fact that none of the participants in the present study reported a known instance of eliciting a false confession, it is important to remember that although false confessions are suggested to occur with alarming frequency (Klaver et al., 2008; Narchet et al., 2011), it is extremely difficult to identify just how often false confessions actually occur (Kassin, 2005; Kassin et al., 2010a; Kassin & Fong, 1999; Malloy et al., 2014). False confession researchers like Bradford & Goodman-Delahunty (2008) suggest that the statistics offered by the Innocence Project (2016) may represent the tip of a vastly larger false confession iceberg. However, if the exact number of false confessions cannot be known, then it is equally plausible that the reported “tip of the iceberg” is actually an exaggeration of a relatively infrequently occurring phenomenon. Leo (as cited by Conti, 1999) identified that it is impossible to even estimate how often false confessions occur because law enforcement interrogations are often secret interactions which, because they largely go unrecorded, makes it difficult to identify what occurred in the interrogation room to bring about the confession. However, my study offers greater and more in-depth insight into what occurs behind the interrogation room doors and how often false confessions occur. While earlier discussion served to clarify what actually takes place in the interrogation room, this discussion suggests that false confessions rarely occur outside of personal subject vulnerabilities and egregious law enforcement behavior. This is further supported by the premise that most confessions received by law enforcement officers are likely true (Davis & Leo, 2012; Moston & Engelberg, 2011).

“I’d know a false confession if I saw one”. Using this title for their laboratory experiment comparing university students and law enforcement officers in their ability to successfully differentiate between true and false confessions, Kassir et al. (2005) concluded that university students were more accurate in identifying the veracity of confessions because law enforcement officers were more likely to judge subjects as guilty. The conclusion of Kassir et al. was supported by the findings of various other researchers (Bradford & Goodman-Delahunty, 2008; Kassir, 2012; Malloy et al., 2014). In light of such findings, some may argue that the participants in the present study were unable to identify an instance in which they elicited a false confession because they are inherently incapable of distinguishing a truthful confession from a false confession. When questioned about how they would go about identifying false confessions, the participants reported that although they have never received one, a false confession is likely to: a) be inconsistent with existing case facts, b) lack sufficient detail about the offense and their criminal motives, c) appear to be motivated by a desire to please or simply agree with the interrogator, d) involve questionable statements like “What do you want me to say?”, e) appear to be motivated by ulterior motives like a desire for notoriety or to protect another person, f) not make sense, g) be given too quickly, h) appear to be a simple recitation of what the interrogator has told them, and i) unexpectedly come from a subject not previously thought to be involved in the specified criminal act. The participants also reported that, in their experience, a true confession is likely to: a) be consistent with existing case facts, b) contain information that only the truly guilty party would know, c) contain sufficient and consistent details about the crime, d) exhibit specific behaviors and emotional indicators such as a gradual release of information,

tearing up, changes in eye contact, and related indicators of emotional changes; and e) demonstrate an ability to correct the interrogator on incorrect or missing details of the confession. This information suggests that federal law enforcement polygraph examiners do, in fact, have mechanisms in which they can differentiate between a truthful admission of guilt and a false confession. This also contradicts the premise that law enforcement investigators and prosecutors automatically accept all confessions as truthful (Lassiter, 2010; Leo & Davis, 2010).

Some false confession researchers have concluded that many false confessions occurring within the criminal justice system contain highly accurate and detailed information including potential motives and reports of specific emotions at the time of the offense (Bradford & Goodman-Delahunty, 2008; Kassin, 2012; Perillo & Kassin, 2011). This occurs when law enforcement officers feed case information to the subject either inadvertently during the questioning process or deliberately as a means of bolstering the confession (Kassin, 2005; Kassin, 2012). While this may complicate the ability of law enforcement officers to accurately identify a false confession, it is important to note that many of the participants in my study specifically identified the activity of feeding the subject case information or details of the crime as ineffective, unethical, and illegal. Participants also acknowledged that the practice of feeding case information to subjects can potentially contribute to a false confession. For these reasons, the participants frequently identified the practice of feeding subjects information as one of the interrogative techniques that the participants would never engage in. Participants' ability to identify the problems associated with feeding subjects information and their reported unwillingness to engage in such behavior may also help explain why

the participants in my study were unable to identify an instance in which they elicited a false confession.

Identifying deception. Because the ability to accurately identify deception is a critical juncture in the interrogation process (Willen & Stromwall, 2012), many researchers have explored the effectiveness of law enforcement officers in identifying deception with most concluding that law enforcement officers are inherently unskilled in this ability (Garrido et al., 2004; Kassin & Fong, 1999; Kassin, 2012; Meissner & Kassin, 2002). However, some critics have argued that these conclusions have been based on unrealistic laboratory experimentation with college students. For example, Vrij (as cited by Bradford & Goodman-Delahunty, 2008) identified that a considerable portion of the empirical deception detection research has involved participants being shown short video clips of interviews with innocent and guilty subject and then being asked to rate the veracity of the statements. Results of such studies have identified a mean human accuracy rate slightly better than chance (Bradford & Goodman-Delahunty, 2008). Due to the artificiality of the laboratory setting, such findings may not be suitably extrapolated to the real world of law enforcement, and especially not to the experiences of federal law enforcement polygraph examiners. The participants in my study reported that they spend a great deal of time with the subject during the course of a polygraph examination. During this time, the polygraph examiner interacts with the subject on a deeply personal level in which they ask them both general and personal questions about themselves, as well as questions about the current investigation. This close interaction affords the polygraph examiner ample opportunity to observe the subject's baseline behavior when presented with innocuous questions which can later be compared with responses to

investigative questions. In addition, unlike a video clip, the polygraph examiner is in control of the questioning during a real-world interview and can therefore ask follow-up questions or explore other avenues of inquiry that would naturally allow for the collection of more in-depth information from which to reach a conclusion about the subject's truthfulness. Furthermore, a real-world interview provides the polygraph examiner with an opportunity to view the subject in their totality. This includes an opportunity to observe all body movements, speech patterns, and behavioral changes during various aspects of the questioning and during a myriad of interview topics as opposed to relying on only the information provided in a 3-minute video clip.

The inherent unfairness in testing the deception detection abilities of a law enforcement officer under such limiting and contrived conditions is akin to: a) showing a baseball commentator one recorded inning of a baseball game and then asking them to conclusively identify which team won the game, or b) providing a university professor with a single homework assignment for one student and then asking them to identify whether the student passed the course. In both of these analogies, the baseball commentator and the university professor would require vastly greater amounts of information before arriving at a well-informed conclusion. However, greater and more varied information is exactly what is withheld from the law enforcement officers in the types of deception detection studies outlined above. O'Sullivan et al. (2009) concurred with this conclusion and suggested that the tendency of most lie detection researchers to rely on these types of laboratory experiments may have led to the false conclusion that law enforcement officers are only slightly better than chance at identifying deception. O'Sullivan et al. (2009) similarly identified that law enforcement officers are

significantly more accurate at identifying deception in a subject engaged in high stakes lies as opposed to law enforcement officers tasked with identifying deception in subjects engaged in low stakes lies

The discussion outlined above offers another potential explanation for why the federal law enforcement polygraph examiners in the present study have not experienced false confessions. For example, by the nature of their employment, the participants are generally tasked with administering polygraph examinations to subjects suspected of committing federal criminal acts or serious violations of state law. In short, the violations for which the polygraph examiner is being called upon are, by nature of the criminal violation itself, high stakes. Based on the conclusions of O'Sullivan et al. (2009), this would suggest that the statements made by the subject, whether true or false confessions or true or false denials, are likely to be more easily distinguished by the polygraph examiner. In addition, because the polygraph examiner has more time to interact with the subject in a controlled environment during both a non-accusatorial interview and a guilt-presumptive interrogation, the polygraph examiner is able to collect greater amounts of information under varying conditions that will allow for a more thorough assessment of the subject's truthfulness. Contrary to the premise of Kassin et al. (2010a) that insufficiently trained law enforcement officers too often interrogate subjects based solely on a "hunch" that they are guilty, a federal law enforcement polygraph examiner determines the need for an interrogation based on the results of a polygraph examination.

Regardless of one's opinion as to the validity and reliability of the polygraph technique, it is difficult to argue that the results of a polygraph examination are more reliable than an investigative hunch. As such, the participants in my study may also not

have experienced a false confession in their careers because: a) they are tasked with questioning subjects under high stakes circumstances, b) they are permitted to obtain more in-depth data throughout the course of the polygraph process, and c) they are possess polygraph examination results as opposed to merely an investigative “hunch”. Each of these factors increases the likelihood that only the truly guilty are subjected to an interrogation by a federal law enforcement polygraph examiner. As previously stated, once a confession has been elicited, the participants have numerous mechanisms available to them that offer the promise of effectively identifying the veracity of the confession.

Although the potential explanations outlined above may help indicate why the participants have not experienced a false confession, it is important to note that their lack of false confessions is not inconsistent with the prevailing research. For example, in surveying 631 police investigators, Kassin et al. (2007) identified that in the experience of their police respondents, 4.78% of innocent subjects provide false confessions. However, only .97% of those false confessions were reported to involve a full confession. This can also be interpreted that according to the law enforcement respondents in the Kassin et al. study, 99.03% of innocent people who are subjected to law enforcement interrogations do not fully confess to crimes they did not commit. Kassin et al. then more directly asked survey respondents to identify the number of times that they have observed an innocent person falsely confess. Respondents indicated that they have observed, on average, .71 false confessions each during their law enforcement careers. While the authors identified this number as “significantly greater than 0” (p. 396), it is important to give this number proper perspective.

According to Kassin et al. (2007), the respondents reported working in the law enforcement profession for an average of 16.37 years and estimated that they have conducted an average of 46.3 interviews per year. When multiplied together, the average number of interviews and interrogations per respondent over an average career of 16.37 years totals 758 interviews/interrogations. This means that as a group, the respondents have conducted a total of 478,298 interviews/interrogations. Still, the respondents only report observing less than 1 (.71) false confession each in their careers. It is also important to note that Kassin et al. specifically asked respondents to “indicate the number of times they had seen an innocent person confess-whether to investigators, friends, or others” (p. 393). While the number of 478,298 interviews/interrogations is an astronomical number in and of itself, this number is likely to grow exponentially if the respondents were actually asked to report false confessions they have observed being rendered to people other than themselves.

Regardless of the total number of interviews or interactions with “investigators, friends, or others” from which the respondents drew their observations, it cannot be overlooked that the respondents averaged seeing less than 1 false confession in their careers. This can be interpreted that false confessions, despite what researchers and advocacy groups might claim, are actually a very infrequently occurring phenomenon. In light of the results of the Kassin et al. (2007) study, it is not inconsistent that the participants in my study reported never having elicited a false confession. Overall, the results of my study and the Kassin et al. study both suggest that while false confessions do occur, they do not appear to happen very often.

Research Question 3

Research question 3: What were the circumstances in which federal law enforcement polygraph examiners experienced false confessions? As previously noted, while the participants in my study reported that they have never elicited a false confession, four of the participants advised that they have experienced confessions over their careers that have caused them concern. The reasons for these concerns involved questionable statements from the subject like, “I guess that is how it happened”; and “Just tell me what you want me to say.” Concerns about the veracity of these specific confessions were also caused by the fact that: a) the subject accepted the theme presented by the interrogator too easily, b) the subject may have had mental health issues, c) the subject may have had the ulterior motive of seeking notoriety, and d) the subject later claimed that they rendered their confession under duress. While these concerns mirror the potential indicators of a false confession that were previously discussed, the participants also reported that other factors were present that made them feel more confident of the subjects’ actual guilt. For example: a) the subject completed a written statement which afforded them ample opportunity to recant their confession, b) available evidence supported the subject’s guilt, c) the subject failed a polygraph examination relating to their involvement in the crime, d) the polygraph examination and interrogation were relatively brief, e) the subject was not mistreated in any way, f) the subject’s behavior was indicative of guilt, g) the participant’s “gut” suggested that the subject was guilty, and h) no exculpatory information was ever received that the subject was actually innocent.

In the one reported instance in which a participant advised that he witnessed a law enforcement officer from another agency elicit a false confession, the participant noted

that the interrogator intimidated the subject, “lambasted” him, yelled at him, and fed the subject the information that the interrogator wanted to hear. The innocent subject later advised the participant that he chose to falsely confess because the interrogator was incessant in his questioning and the subject simply wanted to make the questioning and intimidation stop. The information provided by these four participants highlights the fact that federal law enforcement polygraph examiners are aware of the potentiality of a false confession and are sensitive to the fact that their actions may influence the subject’s decision to falsely confess. This again contradicts the claim that law enforcement interrogators will do anything to obtain a confession and will not stop until one is elicited (Leding, 2012). These participants also exemplify the fact that federal law enforcement polygraph examiners are well aware of what may cause a false confession and make attempts to avoid such practices and behaviors.

What causes false confessions? When questioned about what they believe may cause an innocent subject to falsely confess, the participants identified that the actions of the interrogator may have an impact. These actions were identified as: a) stress and coercion brought about by aggression, physical abuse, threats, or generally unscrupulous and unprofessional behavior, b) the presentation of false evidence or otherwise falsely giving the subject the impression that the evidence of his guilt is overwhelming, c) making false promises such as suggesting the subject can go home or everything will simply go away if they confess, d) simply pushing to have the subject agree with the interrogator’s belief as to what had occurred, and e) interrogating the subject for lengthy periods of time. These responses and their alignment with the existing false confession

research, indicate that the participants have an awareness of not only the possibility of false confessions, but the actions and behaviors that may cause them.

Participants also identified many characteristics or factors specific to the subject that may contribute to the elicitation of a false confession. These characteristics and factors were identified as: a) low intelligence, b) mental illness, c) youth, d) substance abuse, e) a personality in which the subject desires to please the interrogator, and f) the desire to protect the truly guilty party. These responses are consistent with the findings of many false confession researchers. For example, low intelligence/mental retardation (Drizin & Leo, 2004; Kassin & Gudjonsson, 2004; Redlich et al., 2011); mental illness (Redlich, 2004; Redlich et al., 2010); adolescence/youth (Drizin & Leo, 2004; Malloy et al., 2014; Owen-Kostelnik et al., 2006; Pimentel et al., 2015); substance abuse (Evans et al., 2009; Gudjonsson et al., 2007); pre-disposing personality traits (Gudjonsson et al., 2006; Kassin, 2008; Kassin & Gudjonsson, 2004); and the desire to take the blame for a friend (Pimentel et al., 2015) were all suggested to be potential causes of false confessions. The responses provided by the participants in my study not only support the findings of many researchers regarding the potential causes of false confessions, but they also serve to indicate that law enforcement officers do possess insight as to subject characteristics and factors that may potentially cause a false confession. The fact that the participants in my study were so readily able to identify interrogative techniques, interrogator behaviors, and subject characteristics that contribute to false confessions may help explain why they have been able to avoid eliciting false confessions from innocent subjects.

Experiences after the confession. Kassin (2005) put forth a conceptual framework in which he suggested that false confessions occur as a result of a series of decision-making errors occurring at various points throughout the criminal justice process. These critical junctures include: a) law enforcement's inability to accurately identify deception which leads to innocent people being subjected to a needless interrogation, b) innocent subjects' tendency to waive their rights which enables the interrogation, c) innocent subjects' tendency to appear guilty which leads to their interrogation, d) law enforcement's use of coercive interrogative techniques during the interrogation, and e) the inability of those in the legal process to identify a false confession when one occurs. Various similar assumptions have been made regarding the manner in which criminal justice system personnel behave throughout the legal process. For example, some researchers have assumed that police, because of their inability to identify a false confession, automatically accept false confessions as true at which time prosecutors automatically use false confessions to prosecute the subject (Kassin, 2012; Lassiter, 2010; Leo & Davis, 2010). Researchers have also suggested that once a law enforcement officer obtains a confession, regardless of the truthfulness of the confession, the law enforcement officer immediately closes his case with no additional investigation (Kassin, 2012; Leo & Davis, 2010). For these reasons, Lassiter (2010) has concluded that false confessions virtually guarantee that the innocent person who falsely admits to a crime will ultimately be prosecuted and convicted.

In an attempt to identify the extent to which the aforementioned assumptions are true, I questioned the participants in my study about their experiences with confessions after the interrogation. Their responses serve to discredit some of the assumptions made

within the false confession research. For example, Kassin's (2005) position that innocent people are subjected to unwarranted interrogations and their false confessions are automatically accepted as true because law enforcement is incapable of identifying deception does not appear to be true, at least not within the polygraph field. As previously noted, the tendency of most deception detection researchers to rely on laboratory experimentation may have led to the false conclusion that law enforcement officers cannot accurately identify deception (O'Sullivan et al., 2009). When combined with participants' responses identifying the various ways they go about discerning between true and false confessions, as well as the fact that they are in possession of polygraph examination results, the likelihood is minimized that federal law enforcement polygraph examiners will subject innocent people to unwarranted interrogations, that innocent subjects will inaccurately appear guilty, and/or interrogators will accept a false confession as true. Moreover, the thoroughness in which the participants review the *Miranda* warnings with subjects may also decrease the possibility that innocent subjects will forgo invoking their rights in favor of rendering a false confession. Kassin's assumption that law enforcement interrogator's employ coercive interrogative techniques during the course of the interrogation was also refuted by the participants' identification of effective and ineffective interrogation methods. In short, the responses of the participants in my study suggest that Kassin's conceptual framework of false confessions being a result of a breakdown in legal decision-making during the criminal justice process does not accurately reflect what occurs within the specialization of federal law enforcement polygraph.

The results of my study also refute various other assumptions regarding what purportedly takes place once a confession is received. For example, the assumption that once a confession is obtained, regardless of its veracity, law enforcement officers close their cases with no further investigation (Kassin, 2012; Leo & Davis, 2010) does not appear to be an accurate reflection of the criminal justice process. The participants in my study unanimously reported that investigations are not closed once a confession is obtained and additional investigation is typically needed to validate the information provided in the confession and to identify additional victims, subjects, and witnesses. Participants similarly reported that “confessions rarely stand alone” and federal prosecutors routinely desire additional corroborating evidence that will make their case “air-tight”. These responses refute Lassiter’s (2010) conclusion that false confessions guarantee the charging, prosecution, and conviction of innocent people. It is also not surprising that the assumptions made by many false confession researchers do not accurately reflect the real-world criminal justice system as their assumptions are often based on unrealistic laboratory experiments that also do not reflect the real-world of law enforcement interrogation.

Limitations of the Study

Based on the qualitative nature of my study, it is important to identify the limitations of this methodology. One such limitation involves my relationship to the research participants. Because I am a member of the same population from which the participants were recruited, I had at least a passing relationship with the participants. This “backyard” approach to the study of false confessions proved to be a strength in that I had a natural understanding of the participants’ experiences, a knowledge of

organizational considerations, and was well-versed in the vernacular utilized by this population. Although I had some concerns about impression management on behalf of the participants due to my being a member of the population, there were no obvious indications that the participants were trying to influence my perceptions regarding their interrogative techniques or their experiences with false confessions. I arrived at this conclusion based on their behavior, their willingness to answer questions, their forthrightness, and the consistency of their answers across the entire participant pool. While I was unable to identify any overt signs of impression management, this does not completely discount the obvious limitation of this study that the participants may have attempted to influence my impressions during questioning.

Any concerns about my potential biases in light of my employment as a federal law enforcement polygraph examiner were mitigated through the use of various validity measures including the use of triangulation via a suitably sized sample from which data and thematic saturation was reached. Through this triangulation, participant responses validated the information provided by other participants. The additional concerns posed by my employment within the agency were also outweighed by the unmitigated access I received to a population that would not otherwise be available to traditional academic researchers. Despite the fact that data and thematic saturation yielded an inherent consistency in the responses of the participants, there still remains the possible limitation that my membership in the group may have somehow influenced participant responses.

Another potential limitation to this study is the fact that the participants were highly-trained and specialized polygraph examiners currently employed by a federal law enforcement agency. An obvious limitation therefore exists relating to the

generalizability of the findings to not only polygraph examiners employed by other federal, state, and local law enforcement agencies, but also to law enforcement officers in general who have not been trained in the field of polygraph. Some of these limitations are mitigated by the fact that all federal law enforcement polygraph examiners receive the same training at the same federal training facility which makes generalizability of this study's findings to other federal law enforcement polygraph examiners less concerning. Despite the fact that 23% of the participants in the study were women and 15% were minorities, generalizability may also be influenced across gender and cultural lines. Generalizability based on regional differences was less of a concern as federal law enforcement polygraph examiners were selected from all regions of the country. However, it is important to note that in the agency from which participants were recruited, the current duty assignments of law enforcement personnel do not necessarily reflect their respective areas of upbringing. In other words, just because a law enforcement officer in the agency is currently assigned to the west coast of the United States does not mean that he or she was raised in that particular area. Furthermore, because of the standardization of the training, education, and experiences within the agency, it is unlikely that regional differences may have influenced participant responses. Finally, as my study was qualitative in nature, it is important to recall that I was less concerned with generalizing my findings to all of law enforcement than I was attempting to more fully understand the concepts of false confession and interrogation through the viewpoints of federal law enforcement polygraph examiners.

Limitations also exist as a result of the manner in which I conducted the interviews. Telephone interviews, by their nature, rely on language, tone, and inflection

in the participant's voice and preclude the interviewer from observing body language and other nonverbal cues. This can prevent important nonverbal indications of problem areas of questioning from being observed. However, between the member checking process, the collection of rich and detailed information, the data and thematic saturation that was achieved, and the consistency of information across the entire participant pool, I do not believe that the inherent limitations of telephone interviews negatively impacted my study.

Another potential limitation of my study relates to the lack of interview transcription. As previously noted, due to recording policies within the law enforcement agency from which participants were recruited, it was neither permissible nor appropriate for me to record my interviews. This required me to document my interviews via written reports. Some may perceive this as a potential limitation in that a written report, as compared to an interview transcript, is more likely to overlook or misreport important information. However, based on the fact that I am an experienced federal law enforcement officer whose basic job responsibility it is to interview citizens, collect information, and document that information in written reports that withstand legal scrutiny, the written reports that I generated were more thorough and well-documented than what would likely be produced by individuals without this same level of training and experience. In addition, the member checking process allowed me to confirm that the information provided by the research participants was accurate and complete.

A final potential limitation of this study relates to the nature of the polygraph process and those individuals who agree to submit to polygraph testing. As previously noted, the polygraph process is a voluntary process. As presented in both the "Advice of

Rights” form and the polygraph consent form, polygraph examinees are immediately advised that they are not required to speak with the polygraph examiner, nor are they required to take the polygraph test. In addition, while many law enforcement interrogations may occur in response to an unanticipated arrest of a criminal subject, within the polygraph profession, subjects are often asked about their willingness to be tested before they are ever brought to the law enforcement office for testing. In essence, because polygraph subjects are typically brought to the law enforcement office by appointment, the subjects have already expressed a willingness to cooperate and participate in the polygraph process prior to arriving at the office. For this reason, it is possible that there may be some tangible differences between a criminal subject who is arrested on the street and transported to the police station in the back of a squad car for an interview and a criminal subject who is transported to, or arrives at voluntarily, a law enforcement office for a scheduled polygraph examination. This difference may also impact the ability to extrapolate the findings of this study to non-polygraph related areas of law enforcement interviewing and interrogation.

Recommendations

In light of my findings, I have developed various recommendations. These recommendations center on the inherent weaknesses of much of the existing false confession research. The first weakness relates to laboratory testing. As previously noted, O’Sullivan et al. (2009) highlighted the very real fact that when it comes to the study of law enforcement’s ability to detect deception, the tendency of most lie detection researchers to rely on laboratory experimentation involving brief video clips of honest and deceptive subjects may have led to the false conclusion that law enforcement officers

are incapable of identifying deception to any significant extent. However, this conclusion changed when law enforcement officers were tasked with identifying deception in more high stakes situations (O'Sullivan et al., 2009). The same argument could be made regarding the choice of many researchers to study false confessions through laboratory experimentation with university students. What a student may or may not do in light of accusations that they have cheated, pressed a computer key, committed a mock crime, or any other minor transgression, cannot necessarily be extrapolated to what a criminal subject may or may not do in light of accusations of serious offenses like murder, rape, or child pornography. Where a confession in the laboratory could lead to such minor punishments as a loss of college credit promised for participating in the research, a loss of \$8 that was promised to the student for participation, or having to sit in the campus security office for five minutes, a confession in the real world holds the promise of lengthy terms of imprisonment, loss of rights, fines, loss of one's family, loss of employment, and humiliation. The unnatural and unrealistic nature of the laboratory setting is no more evident than in the Kassin and Kiechel (1996) and the Perillo and Kassin (2011) studies.

As previously presented, Kassin and Kiechel (1996) created a seminal research paradigm in which university students were warned not to press the ALT key on a computer keyboard because an existing glitch would cause the computer system to crash. The presentation of false evidence, in the form of false eyewitness testimony, to half of the students led to the conclusion that the presentation of false evidence increases the likelihood of false confessions. Pressing a forbidden computer key during a test of response times is not a serious transgression, nor is it an act of illegality that holds the

promise of substantial punishment. Similarly, pressing the ALT key could very well occur accidentally or even unbeknownst to the student. . This is a far cry from such volitional and illegal acts as murder, rape, robbery, arson, and child sexual abuse. Moreover, it begs the question of whether an innocent person would be so willing and ready to confess when presented with a false eyewitness that claims to have seen them robbing a bank. Despite these notable differences, false confession researchers continue to claim that the presentation of false evidence that caused university students to falsely confess in the laboratory equally increase the likelihood that an innocent person accused of a heinous act will also falsely confess.

In the Perillo and Kassin (2011) study, university students were accused of pressing a computer key or aiding a confederate in cheating. They were then presented with the bluff technique in which it was inferred that a subsequent review of available evidence would identify what truly occurred. Perillo and Kassin reported that many of the innocent students falsely confessed because they believed that the subsequent investigation would eventually clear them. This stands in stark contrast to the reports of the participants in my study who identified that the bluff technique would likely strengthen an innocent subject's denials because they would know that the subsequent investigation would clear them. Similar to the Kassin and Kiechel (1996) study, it would be interesting to see how many innocent people in the real world would readily offer a false confession, and potentially wait in jail, believing that the subsequent investigation will clear them of the murder, rape, robbery, or child sexual abuse charges for which they stand accused.

As suggested with both of these studies, it is possible that the findings of many false confession laboratory experiments are inappropriately and unfairly being extrapolated to the real world of law enforcement interview and interrogation. Under the premise that the laboratory setting, transgressions, techniques, and punishments do not accurately or adequately reflect the real world of law enforcement, how can the conclusions drawn from these same studies be applied to the real world of law enforcement interrogation? This question was a motivating factor behind my study. As suggested by the participant responses in my study, and similar to the findings of other studies involving actual law enforcement officers and their experiences (Baldwin, 1993; Bull & Soukara, 2009; Frantzen, 2010; Hill & Moston, 2011; Kassin et al., 2007; Kebbell et al., 2006; Moston et al., 1992; Walsh & Bull, 2010; Walsh & Bull, 2012), there appears to be a disconnect between how law enforcement officers actually interrogate criminal subjects and how they are perceived to conduct interrogations in many false confession research studies. For this reason, I strongly recommend that future false confession research efforts jettison the laboratory in exchange for real world experiences with actual law enforcement officers.

Despite this recommendation, it is important to note that there also exist certain concerns in conducting research through the analysis of proven cases of false confession. Whether it be an analysis of proven false confession cases (Drizin & Leo, 2004) or reports of specific cases of individuals who have confessed falsely (Chapman, 2013; Johnson & Drucker, 2009; Kassin, 1997; Kassin, 2005; Kassin, 2007; Ofshe & Leo, 1997), it is possible that conclusions are being made that all of law enforcement interrogates in a manner similar to the interrogative methods used in these cases of

proven false confession. This is extremely problematic because, as noted by Kassin et al. (2007), “Many of these stories recount horrific tales of psychologically – and, in some cases, physically – abusive interrogations of children and adults, including many who were cognitively impaired ” (p. 382). As suggested by the participant responses in my study, the techniques employed during many of these proven cases of false confession do not represent the normal business practices of law enforcement officers. Instead, many of the participants in my study identified these techniques as unethical and illegal. To assume that these egregious behaviors are accepted and used by all of law enforcement is no more accurate or fair than judging the entire religion of Islam based on the actions of a few violent extremists or concluding that all of Major League Baseball uses steroids because of the admissions made by a handful of past players. As Hill and Moston (2011) noted, the egregious tactics utilized in many of the proven false confession cases represent examples of “police malpractice”. Concluding that these behaviors are anything more than the anomalous actions of unprofessional officers would be another false assumption as to what typically occurs in the real world of law enforcement. I therefore recommended that future false confession researchers seeking to more fully understand this phenomenon through an analysis of proven false confessions do so with the full understanding that these unethical and illegal behaviors are the exception to the rule as my findings suggest.

In light of the results of my study and my earlier analysis, it appears that false confessions may not be as frequently occurring as some false confession researchers might suggest. In addition, when false confessions do occur there may exist various contributing factors including the subject’s youth, mental health, intelligence,

intoxication/drug use, and personality facets. Innocent subjects may also falsely confess to gain notoriety or to protect the truly guilty party. While I have discussed these contributing factors at length, it is important to highlight that they exist irrespective of the interrogative methods employed by the law enforcement interrogator. It is therefore neither fair nor accurate to automatically impugn the interrogative technique that was employed at the time that the false confession was elicited when various other factors may actually be more culpable. Instead, I recommend that future research efforts be directed at more fully identifying the extent to which false confessions actually occur and what took place within the interrogation room when the false confessions were rendered. This can best be accomplished by additional research into the real-world experiences of law enforcement interrogators. As the participants in my study were unable to identify instances in which they have personally elicited a false confession, perhaps similar inquiries should be made with non-federal and/or non-polygraph examiner personnel.

Implications

My study may contribute to positive social change in a variety of ways. While most confessions elicited by law enforcement officers are likely truthful (Davis & Leo, 2012; Moston & Engelberg, 2011), there remains concern over false confessions, and rightfully so. Whether it is through advocacy work of groups like the Innocence Project that seek to exonerate the wrongfully accused, or law enforcement that seeks to apprehend and convict the individuals who choose to violate the laws of their communities and this country, it can be assumed that both entities have a strong desire to have the truly guilty person caught. Unfortunately, good intentions do not always translate to a flawless process and innocent people are sometimes punished for crimes

they did not commit. My study has helped to more fully understand the phenomenon of false confessions by gaining insight into the interrogative techniques of federal law enforcement polygraph examiners who are highly trained and specialize in the interrogation of criminal subjects. Through qualitative interviews with this population, I collected rich and detailed information regarding interrogative methods and behaviors that are likely to effectively elicit confessions from guilty subjects and those interrogative methods and behaviors that are ineffective in doing so. With this knowledge, law enforcement officers and their agencies can begin to develop a best practices approach to the interrogation of criminal subjects so that their efforts will be more likely to apprehend the truly guilty party. This will bring about positive social change by increasing the safety of our communities.

The information provided during my study has also identified those interrogative techniques which are not only ineffective at eliciting a truthful confession, but may actually lead to a false confession. A false confession can have a deleterious effect on society in a variety of ways: a) a false confession is likely to cause an innocent person to be punished for a crime for which they are innocent, b) punishment of the false confessor allows the truly guilty subject to remain on the street and continue their illegal behavior against the community, and c) the punishment of an innocent person in light of their false confession causes the members of society to lose trust and confidence in the law enforcement officers who are hired to protect their communities. My study has helped to identify potential causes of false confessions as reported by experts in the field of criminal interrogation. Law enforcement agencies can use this information to help identify problematic, unethical, and illegal interrogative practices which may not only

lead to travesties of justice for innocent subjects, but may also expose their departments and officers to potentially devastating legal ramifications.

My research may also bring about positive social change through the deeper exploration of how frequently false confessions actually occur. As noted from the outset of my study, it is extremely difficult to fully identify how often false confessions are elicited (Conti, 1999; Kassin, 2005; Kassin et al., 2010a; Kassin & Fong, 1999; Malloy et al., 2014). However, through in-depth qualitative interviews with interrogative specialists, my study has helped to identify that false confessions may not be as prevalent as some would suggest. The polygraph examiners I interviewed in this study may not have experienced false confessions because of the manner in which they are trained, their specialization as polygraph examiners, and/or the manner in which they interrogate. This is a positive outcome as this population was able to offer invaluable information about how to potentially avoid the problem of false confessions. My study also assisted in identifying that false confessions are not caused solely by law enforcement actions. Sometimes factors and motivations unique to the subject may have a greater influence on their decision to falsely confess. Through the insights offered by the participants in my study, perhaps it is possible to gain a better understanding of how the subject and the interrogator interact to cause a false confession. Studies like this therefore offer the promise of one day being able to readily identify unethical interrogators and at-risk subjects so that false confessions can be avoided.

Conclusion

The purpose of this qualitative case study was to more fully explore the experiences of federal law enforcement polygraph examiners regarding the manner in

which they approach the interrogation of criminal subjects and the interrogative methods that they believe are the most and least effective in obtaining a truthful confession. Through this approach it has become clearer that law enforcement officers, at least federal law enforcement polygraph examiners, do not interrogate subjects in the manner suggested by many false confession researchers. It appears based on the findings of my study that federal law enforcement polygraph examiners, and likely many law enforcement professionals, are not vicious creatures that enter an interrogation room with an assumption that the subject is guilty. Nor does it appear that they use whatever means necessary to reach their singular goal of obtaining a confession. Instead, the ultimate motivations of this population were succinctly expressed in the statements of two of its members: “We are in the truth-seeking business, not the confession-seeking business”, and “It is as equally important to exonerate the innocent as it is to convict the guilty”.

The participants reported using methods that are similar to those of a therapist, a priest, and a friend. The participants repeatedly noted that nobody wants to talk to someone who is mean, rude, or disrespectful towards them. Some cynics and those dedicated to the belief that law enforcement is inherently evil may suggest that these are simply interrogative tactics. However, it appears more likely that a certain type of person who realizes that “You get a lot farther with sugar than salt” or asks themselves, “How would I want to be treated?”, may be drawn to the polygraph specialization. This is not to suggest that all law enforcement officers interrogate in this same manner. It does suggest however, that many false confession researchers have gotten it wrong and that treating people kindly, respectfully, and honestly gets confessions. To the contrary,

instead of causing false confessions, interrogative tactics like the use of aggression, trickery, and manipulation actually cause subjects to terminate the interrogation.

Based on the information provided by the participants in my study, it appears that much of the false confession research has resulted in false assumptions about the real world of law enforcement interrogation. An overreliance on artificial laboratory experimentation with university students that does not accurately reflect the realities of the criminal justice system appears to have led to a host of false assumptions about what actually takes place behind the doors of America's interrogation rooms. My study has offered a peak behind those doors through the lived experiences of highly-trained and specialized criminal interrogators. By sharing their insight and experiences, the participants in my study present a different picture of criminal interrogation and highlight various false assumptions offered by many false confession researchers. Most notably, the participants reported that they encourage discussion with subjects by building trust, building rapport, and being open, kind, professional, and respectful to the subject. They are typically honest and straightforward in their engagements with criminal subjects. They rely on themes that rationalize the subject's criminal behavior, provide the subject with alternative explanations for their actions, and allow the subject to admit to their wrongdoing without the fear of being judged. While they believe that a confession may increase the likelihood of the subject's conviction, they also believe that the confession will lead to lesser charges, lighter sentences, and a smoother and more cordial legal process. They know that "TV stuff" like yelling at the subject, being aggressive, and calling the subject a liar will only make the subject "shut down". They do not believe in depriving the subject of sleep, offering the subject deals, or preventing the subject from

speaking with their attorney, and they note the inherent dangers associated with bluffing the subject or presenting the subject with false evidence.

The participants in my study also identified that while they do believe that false confessions occur, they do not believe that they happen very frequently. In their own experiences, the participants reported that they have never elicited a false confession. They suggested that this is because they do not interrogate in an unethical or unprofessional manner, nor do they tend to administer polygraph examinations to adolescents, the mentally ill, subjects of low intelligence, or subjects who are intoxicated due to drug and alcohol use. They readily identified that when false confessions do occur, it is usually because of strong coercion, aggression, physical abuse, threats, the presentation of false evidence, lengthy periods of interrogation, and generally unscrupulous or unprofessional behavior on behalf of the interrogator. They also reported that cases are not automatically closed once confessions are received and prosecutors rarely convict a subject based solely on their confession.

The insights and experiences outlined above are inconsistent with many of the assumptions and conclusions reached by some false confession researchers. The reasons why participants do not engage in unethical or inappropriate techniques can be summarized in the words of two participants. One participant noted, "I will be on the stand one day and I don't want to give the appearance that I acted unethically or crossed the line." The other participant added, "It is our job to get information that can be used. If it can't be used, what good is it?" These statements indicate that participants are keenly aware that what they do in the interrogation room today will appear in court tomorrow. For this reason, they act with professionalism in the interrogation room to

prevent any future legal challenges. It is those law enforcement interrogators who sacrifice their professionalism in exchange for a criminal confession who are of concern. Just as a confession from an innocent subject represents a travesty of justice, so too does the assumption that all of law enforcement is guilty of the egregious interrogative actions of a few.

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Appendix A



[Redacted]

[Redacted]

In Reply, Please Refer to
File Number:

[Redacted]
Washington, DC 20024
April 4, 2016

Dear Bradford J. Beyer:

Based on my review of your proposed research study, I give my permission for you to conduct the study entitled "False Confessions from the Viewpoint of Federal Polygraph Examiners" within [Redacted] Polygraph Unit. As part of this study, I authorize you to conduct interviews with [Redacted] polygraph examiners and use the data obtained through these interviews for use in your dissertation. Individuals' participation will be voluntary and at their own discretion.

The Polygraph Unit will allow you to interview polygraph examiners currently assigned to the Polygraph Program regarding their experiences with false confessions and their interrogative methodologies. We reserve the right to withdraw our participation in this study at any time if our circumstances change.

I confirm that I am authorized to approve your involvement in this project and the plan that you have proposed to me complies with the Polygraph Unit's policies.

I understand that the data collected will remain entirely confidential and may not be provided to anyone outside of your supervising faculty without permission from the Walden University IRB. I also understand that neither [Redacted] nor the identities of any polygraph examiners, will be disclosed in your dissertation. Lastly, I understand that a copy of your dissertation will be provided to the Polygraph Unit and the Pre-Publication Unit for review at the completion of your project.

Sincerely yours,

[Redacted signature]

[Redacted]
Unit Chief
[Redacted] Polygraph Unit

Appendix B

CONSENT FORM

You are invited to take part in a research study about your approach to criminal interrogation, your interrogation methods, and your experiences with false confessions. The researcher is inviting federal law enforcement polygraph examiners who are currently conducting polygraph testing for a federal law enforcement agency to be in the study. This form is part of a process called “informed consent” to allow you to understand this study before deciding whether to take part.

This study is being conducted by a researcher named Bradford J. Beyer, who is a doctoral student at Walden University. You may already know Brad as a co-worker and fellow polygraph examiner, but this study is separate from that role.

Background Information:

The purpose of this study is to explore the experiences of federal law enforcement polygraph examiner regarding true and false confessions, their overall approach to criminal interrogation, and the interrogative methodologies they employ.

Procedures:

If you agree to be in this study, you will be asked to:

- Participate in an interview in which you will be questioned about how you approach the process of criminal interrogation, the interrogative methods you believe are most effective in eliciting truthful confessions, and any experiences you may have with false confessions. The interview may be conducted in-person or via telephone and is anticipated to last for approximately one hour.

Here are some sample questions:

- What is your general approach to interrogating criminal subjects?
- To what extent have you experienced a false confession?
- If you have ever experienced a false confessions, what were the circumstances?
- Why do you believe criminal subject confess to you?
- What do you consider to be egregious interrogative methods?

Voluntary Nature of the Study:

This study is voluntary. Everyone will respect your decision of whether or not you choose to be in the study. No one at your agency will treat you differently if you decide not to be in the study. If you decide to join the study now, you can still change your mind later. You may stop at any time.

Risks and Benefits of Being in the Study:

Being in this type of study involves some risk of the minor discomforts that can be encountered in daily life, such as fatigue. Being in this study would not pose risk to your safety or wellbeing.

This study may potentially benefit you, your agency, and your profession by offering valuable insight into real-world criminal interrogations that can lead to better training, the development of best practices for criminal interrogation, and presenting a more accurate picture of what actually takes place in real-world interrogations

Payment:

No incentives or rewards are being offered to you to obtain your consent to participate in this study.

Privacy:

Any information you provide will be kept confidential. The researcher will not use your personal information for any purposes outside of this research project. Also, the researcher will not include your name or anything else that could identify you in the study reports. Data will be kept in a locked file cabinet for a period of five years after the completion of the study. At that time, the collected data will be destroyed. The electronic data collected during the course of this study will be stored on a back-up hard drive accessed through the researcher's password-protected personal computer. This electronic data will also be destroyed after five years.

Contacts and Questions:

You may ask any questions you have now. Or if you have questions later, you may contact the researcher via his home phone (XXX-XXX-XXXX) or through his university email address (Bradford.beyer@waldenu.edu). If you want to talk privately about your rights as a participant, you can call Dr. Leilani Endicott. She is the Walden University representative who can discuss this with you. Her phone number is 612-312-1210. Walden University's approval number for this study is **IRB will enter approval number here** and it expires on **IRB will enter expiration date.**

The researcher will give you a copy of this form to keep.

Obtaining Your Consent

If you feel you understand the study well enough to make a decision about it, please indicate your consent by signing below.

Printed Name of Participant

Date of Consent

Participant's Signature

Researcher's Signature

Appendix C

Qualitative Interview Questions

1. Background

- 1.1 Participant information:
 - Age
 - Gender
 - Total length of time in law enforcement
 - Length of time as an agent
 - Length of time as a polygraph examiner
- 1.2 Extent of interview/interrogation training

2. Approach to criminal interrogation

- 2.1 What is your general approach to interrogating criminal subjects?
- 2.2 Why do you think guilty people confess to you?
- 2.3 What reasons have people given you for truthfully confessing?

3. False confessions

- 3.1 To what extent have you experienced false confessions?
- 3.2 If you experienced a false confession, what were the circumstances?
- 3.3 How can you tell if a confession is true or false?
- 3.4 Why do you think a person would falsely confess to a crime they did not commit?

4. Personal procedures

- 4.1 How do you go about reviewing a subject's Miranda rights?
- 4.2 How do you go about documenting your confessions?
- 4.3 When conducting a polygraph examination, what is your typical length of time between the introduction and the start of the post-test/interrogation?
- 4.4 How long do your interrogations typically last?
- 4.5 What do you think is an inappropriate or egregious length of time to interrogate someone?

5. Interrogative Methods

- 5.1 What interrogative techniques do you believe are effective in eliciting a true confession? Why?
- 5.2 What interrogative techniques do you believe are ineffective in eliciting a true confession? Why?
- 5.3 Which interrogative techniques do you believe are likely to cause a false confession? Why?
- 5.4 What are your thoughts about the following interrogative techniques:
 - A. Sleep deprivation?
 - B. Offering the subject a deal?
 - C. Presenting a subject with false evidence?
 - D. Using the bluff technique?
 - E. Preventing them from speaking to an attorney?
- 5.5 Which interrogation techniques would you never use? Why?

6. Experiences after the interrogation

- 6.1 Within the federal system, do you believe that a confession ultimately benefits the subject or harms the subject? Why?
- 6.2 In your experience, is there a difference in how criminal subjects are treated by the federal system when they confess as compared to when they continue their denials? If so, what is that difference?
- 6.3 In your experience, are cases automatically closed once a confession is obtained? If not, what else takes place?
- 6.4 In your experience, do federal prosecutors automatically convict a subject based on his/her confession? If not, what else takes place?