

Perceptions of Coercion: A Comparison of Perspectives

by

Jeffrey Kaplan

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### Abstract

When a confession is retracted, issues of coercion and voluntariness are important and often contested matters in criminal courts. Counsel may wish to call an expert witness to testify about the coercive pressures of certain interrogation tactics, personal traits that increase suspect vulnerability, and the possibility of false confession. Such testimony must meet certain criteria (e.g., *Daubert v. Merrell Dow*, 1993; *R v. Mohan*, 1994), and is often ruled inadmissible on the grounds that it does not inform the jury beyond their common knowledge (Cutler, Findley, & Loney, 2014; Kassin et al., 2018). To investigate common understanding of coercion in interrogation, I examined jury-eligible laypersons' ( $n = 50$ ) perceptions of the coerciveness of items representing minimization techniques, maximization techniques, prohibited tactics, and suspect risk factors. Their ratings were compared with those of two groups of content experts: social scientists specializing in interrogation and confession ( $n = 50$ ) and criminal justice officials experienced in conducting interrogations or evaluating confession evidence ( $n = 20$ ). The two groups of content experts showed a high level of agreement, though laypeople gave significantly lower ratings to the coercive potential of all sets of items representing interrogation techniques. Given the disparities between laypersons' and experts' perceptions of coercion in interrogation, and the connection between coercion and false confession (Drizin & Leo, 2004; Kassin et al., 2010; Leo & Ofshe, 1998), the results suggest the need for expert guidance to inform jurors about coercive factors which may render a confession unsafe and unreliable.

### **Perceptions of coercion: A comparison of perspectives**

Suspect interviews and interrogations are invaluable information-gathering tools, and among an investigator's primary resources. Statements made under police questioning have helped solved countless crimes, led to the recovery of missing persons, and prevented the commission of future crimes (Leo, 2008). Not only is a confession a relatively straight forward piece of evidence to acquire, it is also a particularly inculpatory one; the outcome of an interrogation is regularly the deciding factor determining whether a case is prosecuted, and the case's ultimate disposition (Kassin & Neumann, 1997; Leo & Ofshe, 1998). Police interrogation, however, does not always effectively get at the ground truth of a criminal incident, in part due to its coercive potential. Coercive strategies in interrogation are considered to be those which limit the suspect's perceived viable options (Leo & Liu, 2009), and then apply pressure as to overcome a suspect's free will and move them towards a given course of action (i.e. confession) (Inbau et al. 2004).

In approximately 21-28% of wrongful convictions, where the accused was ultimately exonerated by DNA evidence, a false admission and confession were contributing factors (Innocence Project, 2018; Scheck, Neufeld, & Dwyer, 2000). Confession evidence holds considerable weight with jurors because, while most recognize that false confessions exist (Chojnacki, Cicchini, & White, 2008; Henkel, Coffman, & Dailey, 2008; Leo & Liu, 2009), the prospect seems unlikely to most laypeople and contrary to common sense (Kassin, 2017; Leo, 2001). Even if a suspect retracts his or her statements and opts to proceed to trial, the evidentiary weight of an admission and confession is often enough to convince the courts of the suspects' guilt (Kassin, 2012 ; Leo, 2008), in some circumstances trumping exculpatory DNA evidence (Appleby & Kassin, 2016).

A suspect in police custody and under investigation is not completely without rights or unaided by safeguards against miscarriages of justice. There are certain *prohibited tactics* that have been ruled as unlawful by the criminal courts and are explicitly banned by law enforcement training. For instance,

it is well established that assaulting the suspect or using any other enhanced interrogation techniques (i.e. torture) is an illegitimate method of extracting confessions (*Brown v. Mississippi*, 1936; *King v. Warickshall*, 1783). Deprivation (*R v. Hoilett*, 1999) and explicit promises and threats (*R v. Oickle*, 2000) are also considered unlawful in most jurisdictions. The small number of prohibited tactics, however, still allow investigators a relatively large degree of freedom in how they conduct interrogations.

Although using physical coercion to force a confession may be mostly a thing of the past in North American law enforcement, instances of highly psychologically coercive strategies being employed are still common place (Leo, 2008). This is problematic, as it has long been recognized that such coercive tactics carry the risk of false confessions (Munsterberg, 1908). An innocent suspect who is confronted with police certainty in his or her guilt and bombarded with accusations and implications of harsh punishment over a long period of time may eventually become pliable to making a confession in order to escape the immediate situation or take advantage of some perceived leniency (Innocence Project, 2016; Moore & Fitzsimmons, 2011). Coercive pressures may be exacerbated by isolating a suspect before interrogation (Brandon et al., 2010; Cutler, Findley, & Moore, 2014) and become more pronounced in interrogations that proceed for hours on end (Blair, 2005; Kassin et al, 2010). The psychological duress experienced in exceptionally coercive interrogations may even be as likely to produce false confessions as the use of physical violence (Leo, 2008). Minors and those with intellectual disabilities are particularly vulnerable to the tactics and strategies commonly used in interrogations (Gudjonsson & Henry, 2003; Kassin et al., 2010; Leo & Ofshe, 1998), and are more likely to falsely confess (Clare & Gudjonsson, 1995; Redlich & Goodman, 2003; Scott-Hayward, 2007) and falsely plead guilty even when factually innocent (Redlich & Shteynberg, 2016). Both groups are over represented in wrongful convictions (Cutler, Findley, & Moore, 2014; Garrett, 2008).

After a confession has been secured, other safeguards apply at the adjudication level. The trier

of fact, and ultimately the jury trial itself, is meant to be a safeguard against wrongful conviction. This role is most effectively served when the trier of fact understands the relevant circumstances underlying the evidence that speak to its reliability. To inform jurors about factors that increase the risk of false confession, legal counsel may retain an expert witness with the intention of calling him or her to testify in criminal court and thereby educate the jury. The expert may intend to educate jurors about the effects of coercive interrogation practices (e.g. the presentation of false evidence or implications of leniency) or suspect risk factors that increase the likelihood of false confession (e.g. being a minor or having an intellectual disability). This testimony can be highly informative; Blandon-Gitlin, Sperry, and Leo, (2011) found that introducing expert testimony relating to confession evidence could influence jurors' perceptions of the coerciveness of certain interrogation techniques, the voluntariness of a suspect's statements, and the verdict itself. Jurors also welcome expert testimony on interrogation and confession, and report that they would find it useful in weighing confession evidence (Costanzo, Shaked-Schroer, & Vinson, 2010).

The admissibility of expert testimony may also be challenged by opposing counsel, and disallowed. Reasons for excluding expert testimony include a lack of scientific basis or scientific consensus on the testimony to be proffered, that the witness in question is not a qualified expert, or that the testimony would not inform the jury of anything that is not already common knowledge (*Daubert v. Merrell Dow*, 1993; *Frye v. U.S.*, 1923; *R v. Mohan*, 1994). Regarding this last point, determinations of the average jury-eligible citizen's understanding of evidence are largely subjective and often unguided by empirical research on public knowledge. The ambiguity surrounding what can be assumed to be within the ken of jurors has resulted in expert witness admissibility decisions being somewhat inconsistent (Chojnacki et al., 2008; Perez, 2012). Some courts have ruled that it is already well known that police interrogations have the potential to elicit false confessions and that jurors are capable of effectively evaluating confession evidence without expert testimony (e.g., *R. v. Bonisteel*, 2008; *Riley*

*v. State*, 2004). Others have disagreed and allowed expert testimony on interrogation and confession into evidence (e.g. *US v. Belyea*, 2005), and the issue remains in question. In this research, I empirically examine judicial assumptions about lay knowledge concerning coercion in police interrogations.

### **Research on Perceptions of Interrogation, Coercion, and Confessions**

To this point there have been a few key studies examining public perceptions of police interrogation. Henkel et al. (2008) surveyed undergraduate students ( $n = 116$ ) and community members ( $n = 169$ ) regarding their beliefs about factors that may influence false confessions. Chojnacki et al. (2008) similarly surveyed a sample of jury-eligible community members ( $n = 502$ ) on their perceptions of police interrogation and false confessions. Leo and Liu (2009) and Blandon-Gitlin, Sperry, and Leo (2011) attempted to uncover common perceptions relating directly to the coerciveness of interrogation tactics, in addition to their potential for eliciting both true and false confessions. The former used university undergraduates as participants ( $n = 264$ ), the latter surveyed a community sample of jurors recruited outside of a California courthouse ( $n = 126$ ). Costanzo et al. (2010) recruited a sample of jury-eligible community members through a research firm ( $n = 461$ ) using quotas to ensure that their sample would be demographically representative of jury-eligible members of the public.

These studies have examined the topic from slightly different angles and framed their exact research questions in different ways. Some have surveyed participants about their perceptions of the prevalence of false confession, the length of interrogations, or vulnerabilities associated with youth or intellectual disability. Many have also studied lay perceptions of various *minimization* and *maximization techniques* (Kassin & McNall, 1991). Broadly speaking, the latter convey certainty in guilt and threaten harsh punishment, and the former downplay the seriousness of the offence and imply leniency. Experimental research has previously demonstrated that the specific maximization techniques of presenting false evidence and bluffing about evidence increase the likelihood of false

confession (Kassin & Kiechel, 1996; Perillo & Kassin, 2010). Minimization techniques that imply leniency are also particularly effective at eliciting both true and false confessions (Horgan et al., 2012; Klaver, Lee, & Rose, 2008; Russano et al., 2005). The use of both sets of techniques has been present in cases of false confession arising from criminal investigation (Drizin & Leo, 2004; Leo & Ofshe, 1998; Scott-Hayward, 2007).

There have been some differences in perceptions of interrogation, coercion, and confessions across the samples surveyed. Some of these differences may be in part due to location, participant education and demographics, and the exact formulation of the survey questions. A number of commonalities can be seen throughout the results as well. Across all of these studies, it appears that most laypeople recognized that false confessions occur, though estimates of prevalence varied. Participants in Henkel et al. (2008) and Costanzo et al. (2010) gave relatively high estimates, but those in the latter indicated that they would be extremely unlikely to ever falsely confess to a crime. The vast majority of participants from these studies also agreed that legally prohibited tactics such as the use of physical violence or torture were coercive, likely to produce a false confession, and/or should render a statement inadmissible. While violence and threats have been consistently recognized as coercive or unlawful by laypersons, only a slight majority of participants in Henkel et al. (2008) recognized the legal ramifications of other prohibited tactics such as denying the suspect food or water, not reading the suspect their legal rights, and explicitly intimidating the suspect.

The research thus far also suggests that laypeople likely underestimate the strength of the connection between maximization techniques, coercion, and false confession. Participants in Leo and Liu (2009) and Blandon-Gitlin et al. (2011) indicated that they saw the presentation of false evidence as psychologically coercive, but they did not believe it was likely to elicit a false confession. Regarding other strong maximization techniques such as “repeatedly accusing a suspect of committing the crime” (Blandon-Gitlin et al., 2011, p. 244), less than half of participants in this study believed such

techniques to be highly coercive, and only 15% believed that they would likely result in a false confession. Those surveyed by Leo and Liu (2009) and Blandon-Gitlin et al. (2011) did not believe that psychological coercion was likely to elicit a false confession in general. Only 26% of participants in Henkel et al. (2008) believed that a high amount of stress and psychological coercion were leading causes of false confessions. These opinions regarding the lack of connection between psychological coercion and false confessions are contradicted by experimental evidence (Kassin & Kiechel, 1996; Russano et al., 2005), and examinations of false confessions from actual cases (Drizin & Leo, 2004; Kassin et al., 2009; Leo & Ofshe, 1998). On the other hand, 94% of the relatively well-educated participant sample surveyed by Chojnacki et al. (2008) recognized that psychological coercion could potentially elicit a false confession, and only 6% responded that an innocent suspect would never confess under such pressures.

In regards to what constitutes coercive psychological pressure, the general public appears to take a conservative definition. Specifically, minimization techniques that downplay seriousness and culpability do not seem to be a strong part of the lay concept of coercion. In the studies where it was addressed, minimization tactics were generally not thought of as coercive at all; expressed and implied leniency were not rated by participants as coercive or likely to elicit a false confession (Blandon-Gitlin et al., 2011; Leo & Liu, 2009). These perceptions were not out of line with earlier research; Kassin and Sukel (1997) also found that mock jurors were unlikely to discount confessions obtained through minimization techniques such as implications of leniency. Understanding how some of the more subtle minimization techniques imply mitigated punishment and appear attractive even to an innocent suspect may require an understanding of social and cognitive psychology. Minimization techniques may not appear coercive to the untrained observer; at face value and from a layman's perspective, the investigator sympathizing with a suspect and offering face-saving moral excuses may even appear to reduce the coercive pressures of the interrogation.

Whether it is within common knowledge that certain suspect traits and characteristics can serve as risk factors for false confession is still unclear. Some participants in Henkel et al. (2008) and Chojnacki et al. (2008) appeared to be sensitive to the vulnerabilities associated with mental illness, intellectual impairment, and youth status, though there seemed to be a lack of concurrence. Henkel et al. (2008) found that mental illness was rated as a strong influence in falsely confessing to a crime by their participants, though only half of the participants from Chojnacki et al. (2008) agreed with this proposition. There was even less agreement that the suspect being a juvenile would significantly impact the likelihood of interrogation eliciting a false confession, with most participants from Chojnacki et al. (2008) indicating that they were “uncertain.”

### **Research on Expert Opinion of Interrogation and Confessions**

There has only been some limited research surveying criminal justice officials regarding their perceptions of interrogation. Kassin et al. (2007) surveyed investigators regarding the general prevalence of false confessions (they estimated that approximately 5% of innocent suspects confessed). Meyer and Reppucci (2007) surveyed officers about their use of interrogation with juvenile suspects, and found that although officers acknowledged that juveniles might be more suggestible, more easily intimidated by authority figures, and exercise poorer judgment, they indicated making few adjustments when interrogating children and youth. They also did not believe that children and youth were more likely than adults to falsely confess. Similar results were found in a national survey and follow-up study of 1,828 American police officers (Reppucci, Meyer, & Kostelnik, 2010). Cleary and Warner (2016) surveyed 340 law enforcement officers and found that self-reported patterns of tactic use did not differ depending on whether an adult or youth suspect was being interrogated. These findings would strongly suggest that officers make few to no adjustments when interrogating child and youth suspects as compared to interrogating adults, and may be indicative of an insensitivity to suspect risk factors in general.

Only recently have researchers surveyed social scientists for their insights into interrogation procedures. Kassin et al. (2018) surveyed psychologists specializing in interrogation and confession in an effort to establish areas where there is a high consensus (and reveal areas where there is disagreement) among experts. There was near uniform agreement that prohibited tactics such as making explicit threats or promises and the use of physical torture are liable to elicit false confessions, and that the research supporting those propositions is reliable enough to be presented by an expert witness in court. The majority also agreed that there was reliable research supporting the connection between the presentation of false evidence and false confession. There was a similarly high level of consensus among psychological experts that minimization techniques that imply leniency hold the potential to elicit false confessions, and that there is a sufficiently reliable body of research for this information to be presented in a court of law. More than 90% also agreed that there is sufficient evidence that minors and those with intellectual impairments are more vulnerable to false confession. There was also a high rate of consensus regarding other suspect risk factors such as being sleep deprived and having an overly suggestible and compliant personality. There was notably less agreement on the propositions that it is possible to tell the difference between a true and false confession in the absence of other evidence, or that a suspect may voluntarily falsely confess in the absence of coercive pressures.

What can be gleaned from the research so far is that laypeople, criminal justice officials, and social scientists all recognize that false confessions occur. Laypeople and social scientists are in agreement that third degree tactics and enhanced interrogation techniques are both coercive and likely to elicit a false confession. The forensic psychologists surveyed by Kassin et al. (2018) indicated that minimization techniques have been reliably linked to false confession, though this does not appear to be common knowledge among laypeople. Kassin et al. (2018) also found a high level of consensus among forensic psychologists that maximization techniques such as intimidation and false evidence

ployed are coercive practices that carry a risk of false confession. Laypeople generally make some acknowledgement that these tactics are coercive, though do not necessarily draw the connection between them and false confessions. Regarding suspect traits such as youth status or having an intellectual disability, the psychological community seems to be in agreement that these are risk factors for false confession, though the extent to which this is common knowledge among criminal justice officials or laypeople is ambiguous, with some evidence suggesting that it is not. While the psychological community appears to be in consensus about coercive factors known to influence false confessions, it is still not apparent that these issues are fully within the ken of jury members (or even criminal justice officials). There is not yet enough data to make firm conclusions on many of these issues. A more direct comparison of all three groups would add clarity to where these groups agree, and where opinions and understanding diverge.

### **Current Study**

My review of interrogation practice was conducted in furtherance of a larger project, the development of a psychometrically based *Coercion Assessment Instrument* (CAI). Construction of the CAI necessarily began with a thorough review of models of interrogation, and what is known to occur in police interrogations from past observational studies. In an effort to empirically operationalize coercion, 192 items addressing various aspects of coercion were identified and assembled into an initial draft of the CAI. Items were drawn from a number of sources including police training manuals (Inbau et al., 2013), observational studies of interrogations (e.g., Kelly, Miller, & Redlich, 2016; King & Snook, 2009; Leo, 1996), meta-analyses (e.g., Kelly et al., 2013; Russano et al., 2005) and surveys of police officers (e.g., Kassin et al., 2007; Meyer & Reppucci, 2007). These items made up the questions of the survey, and data gathered from this study were used to shape and refine the CAI in a number of ways. Coercion ratings from our two groups of content experts were utilized for the purposes of item reduction, item combination, the quantification of each item's coercive potential, and

grouping items by domain. These analyses are outside the scope of the current paper.

My objective in this paper was to compare the beliefs of laypeople, criminal justice officials (CJO), social science experts (SSE), regarding coercion in interrogation and to ultimately shed light on the need for expert testimony to educate jurors in cases of alleged false confession. Though the relatively scant research conducted thus far suggests that laypersons' perceptions strongly conflict with those of experts, they have never been directly compared to one another in the same study using the same scales. The CJO experts were senior law enforcement officials, criminal defense lawyers, and prosecutors with experience conducting interrogations or evaluating confession evidence. The SSEs were academics and American Psychology-Law Society (AP-LS) members who self-identified as experts on the topic. I obtained coercion ratings from the three groups relating to minimization and maximization techniques, prohibited tactics, and suspect risk factors in order to examine and compare their perspectives.

## **Hypotheses**

**Hypothesis 1.** Research suggests that social scientists are relatively sensitive to the coerciveness of implications of leniency contained within minimization techniques. Law enforcement officers are often trained to use minimization techniques, such as those found in the theme building component of the Reid Technique (Inbau et al., 2013), and so long as there is no explicit promise of leniency there is no violation of the suspect's legal rights (*R v. Oickle*, 2000). From the perspective of CJOs, minimizing the seriousness of the crime and offering justification may be professionally normalized. Therefore, my first hypothesis was that the SSEs would rate minimization techniques as more coercive than would the criminal justice officials and laypeople.

**Hypothesis 2.** Previous survey research (i.e. Blandon-Gitlin et al., 2011; Leo & Liu, 2009) indicated that laypeople do not perceive minimization techniques to be coercive at all, whereas CJOs should at very least be aware of how directly communicating leniency is unlawful (*R v. Oickle*, 2000),

and is prohibited by interrogation training (Buckley, 2017). Therefore, the second hypothesis was that laypeople would give lower coercion ratings to minimization techniques as compared to both groups of content experts.

**Hypothesis 3.** Based on the low estimates of the coerciveness of presenting false evidence and its perceived lack of connection to false confessions observed in Henkel et al. (2008), Leo and Liu (2009), and Blandon-Gitlin et al. (2011), I hypothesized that laypeople would give lower coercion ratings to maximization techniques than both CJOs and SSEs. Whether this pattern would also be seen in perceptions of maximization techniques in general had remained relatively unexplored to this point.

**Hypothesis 4.** Due to the prohibited tactics being considered unlawful and/or highly discouraged by interrogation training manuals, CJOs were expected to immediately recognize them as such and be more sensitive to their coercive properties than the other participant groups. On that basis, the fourth hypothesis was that criminal justice officials would rate prohibited items as more coercive than SSEs and laypeople.

**Hypothesis 5.** A lack of familiarity with criminal and procedural law on the part of community members was clearly demonstrated by Henkel et al. (2008) and Leo and Liu (2009). For instance, a third to half of participants in Henkel et al. (2008) were unaware that actions such as the deprivation of necessities or making threats are prohibited and likely to result in statements being ruled as inadmissible. Therefore, the fifth hypothesis was that laypeople would give lower coercion ratings to the prohibited items than the two groups of content experts.

**Hypothesis 6.** By the very nature of their training, psychologists should be aware of the vulnerabilities associated with risk factors such as mental illness, intellectual disability, and youth status. There also appears to be a high level of consensus on these risk factors among social scientists (Kassin et al., 2018), though not among CJOs (Meyer & Reppucci, 2007) or laypeople (Henkel et al., 2008; Chojnacki et al., 2008). The sixth hypothesis was that SSEs would rate the suspect risk factors

as increasing susceptibility to coercion to a higher degree than the other two groups.

### **Method**

**Participants.** For ease of analysis, I had intended to collect even sample sizes of 50 participants per group. A total of 161 participants completed the survey: 87 laypeople, 54 SSEs, and 20 CJOs (9 senior law enforcement officers, 7 criminal defense attorneys, and 4 prosecutors) from Canada and United States (though one of the CJO participants was based in Ireland at the time of the study). The proprietors of Qualtrics Survey Software recruited the jury-eligible community sample on our behalf. Each community member was compensated with \$3.30, as per Qualtrics norms. As a qualifying condition participants from this sample were jury-eligible and therefore met the criteria of being between the ages of 18-65, residing in Canada, and had no convictions for indictable offences. Of the 87 participants, 14 were removed due to indicating they were not familiar with the word coercion (i.e. they responded “don't know” or “not sure”) or for giving incorrect definitions (e.g., “to tell the truth”). An additional six participants were removed due to suspicions of random responding. Because I had intended to compare equal groups of 50 participants, 17 data cases were randomly selected for exclusion to arrive at 50.

SSEs with self-identified research interests or applied experience with interrogation and confessions were recruited from the AP-LS using their email list. Our letter of invitation specifically requested those with “experience in police interviewing of suspects and witnesses, coercion, or false confessions.” Fifty four completed the survey, and from this sample four cases were randomly selected for exclusion to arrive at my target sample size of 50. CJO participants were contacted and recruited via telephone, email, social media, or through their organization. The average tenure in the criminal justice system among CJOs was 23 years ( $SD = 10.96$ ). Each criminal justice participant was compensated with their choice of \$25 CAD or a \$20 USD gift card for their assistance. Recruiting CJOs who were both qualified and willing to participate proved more difficult than anticipated, and

ultimately I had to settle for a minimum sample size of 20.

The final sample used for this study consisted of 120 participants (50 laypeople, 50 SSEs, and 20 CJOs). No CJOs discontinued the survey after beginning. The drop out rate of SSEs and laypeople is unknown, as the data were not available. The final group of participants were 38.3% male ( $n = 46$ ) and 61.6% female ( $n = 74$ ), and had an average age of 45.10 ( $SD = 14.23$ ). The sample was 77.5% ( $n = 93$ ) Caucasian, 7.5% ( $n = 9$ ) East Asian, 5% ( $n = 6$ ) South Asian, and an additional 10% ( $n = 12$ ) identified as another ethnicity or multiple ethnicities. Age and ethnicity did not significantly vary between groups, though the CJOs were more likely to identify as male than participants of the other two groups  $\chi^2(2, N = 120) = 20.334, p < .001$ .

**Survey.** The 192 items identified through literature review were assembled into a survey. The items can be broadly divided into investigator behaviours (i.e. interrogation tactics), suspect risk factors, environmental factors (e.g. interrogation setting and length), and suspect behaviours. Within investigator behaviours were the items representing minimization techniques, maximization techniques, and prohibited tactics. The study was hosted by Qualtrics, and participation took place completely online. The survey began by capturing age, gender, and ethnicity. CJOs were also asked about their positions (i.e. law enforcement, defense, prosecution, or judge), and how many years they had worked in the criminal justice system.

Ninety-eight of the items of the CAI fell into the survey category of investigator behaviours, and these were the first items presented to participants in randomized order. The question text above these items read: "Given your own personal understanding of coercion in police interviews and interrogations, how coercive would you rate the following occurrences:" Coercive pressures can be applied as to increase anxieties and force a course of action, yet the mental health care field also suggests they can be reduced by increasing perceptions of autonomy (Norvoll & Hem, 2017). Therefore, participants made their ratings for each investigator behaviour and environmental factor on

seven-point Likert scales ranging from -3 (*coercion reducing*) to 3 (*coercion increasing*), with a 0 point for neutral and an additional option to mark items as “vague or unclear.”

Sixty-four items of the survey represented suspect behaviours that may be indicative of being under coercive duress, and 18 represented environmental factors, though those responses are not analyzed in this paper. Finally, the 13 suspect risk factors were presented as survey items. The question text above these items read: “Given your own personal understanding of coercion in police interviews and interrogations, to what degree do the following characteristics increase a suspect's susceptibility to coercion?” Likert scales ranged from 1 (*not at all*) to 7 (*to a large extent*). Participants again had the option of indicating an item is “vague or unclear.”

The survey concluded with two open-ended questions: "Were there any important concepts/items we missed relating to coercion in interrogation, or items you believe should be added?" and "Were there any other comments or concerns you would like to express?" Additionally, participants were asked “In the context of police interviews and interrogations, how would you personally define coercion?” This question was counter-balanced so that half of the participants received it at the beginning of the survey and the other half at the end of the survey.

## **Procedure**

Participants were first emailed a letter of invitation along with a link to the survey. The survey began by obtaining informed consent. The first questions captured the basic demographic information of age, gender, and ethnicity. CJO participants were asked a few additional questions about their position. The survey then presented all of the items of the CAI in random order within their item group (investigator behaviour, risk factor, etc.) and asked participants to rate their potential for coercion on 7-point Likert scales. Participants were then thanked and given the opportunity to make comments or voice any concerns. CJO participants were also invited to a semi-structured interview following the survey to discuss their thoughts on the CAI and assist us in making refinements to the instrument's

framework; these interviews are outside the scope of the current paper.

## Results

### Reliability Analyses and Consensus Among Experts

Items were grouped into subsets representing 9 minimization techniques (Cronbach's  $\alpha = .837$ ) and 19 maximization techniques ( $\alpha = .913$ ) as defined by Kassin and McNall (1991), 14 items reflecting tactics prohibited by case law or law enforcement training ( $\alpha = .904$ ), and 13 suspect risk factors ( $\alpha = .902$ ). The scale scores represented the average rating over the set of items within the scale. These items are listed in appendices A1 through A4.

Basic reliability analyses were a prerequisite to averaging the items into a scale, though we were also interested in the level of consensus among our two groups of experts. This was investigated using a two-way random intraclass correlation (absolute value) analysis on the ratings from our two groups of content experts. By this measure there was a high consensus among experts regarding the prohibited items and suspect risk factors, with intraclass coefficients of .846 and .833, respectively. There was a relatively strong amount of agreement regarding minimization (average intraclass coefficient = .758) and maximization techniques (average intraclass coefficient = .752).

### Hypothesis Tests

I performed separate one-way ANOVAs with each scale score as the dependent variable and profession as the independent variable (CJOs, SSEs, and laypeople). Results of the hypothesis tests are summarized in Table 1. Coercion ratings of minimization techniques significantly differed between the three groups,  $F(2,117) = 8.40$ ,  $p < .001$ ,  $\eta^2 = .13$ . The Games-Howell post hoc procedure was used to examine mean differences between groups due to unequal sample sizes, and in some cases unequal variances. Hypothesis 1, which predicted that SSEs would find minimization techniques more coercive than CJOs was not supported. Post hoc tests revealed that the coercion ratings from SSEs ( $M = 1.08$ ) and CJOs ( $M = 1.40$ ) did not significantly differ ( $t = 1.44$ ,  $p = .313$ ,  $\eta^2 = .03$ , CI 95% =  $-.13, .78$ ).

Hypothesis 2, which stated that laypersons would give lower coercion ratings to minimization techniques than the other two groups was supported. Layperson's coercion ratings ( $M = .49$ ) were lower than those of both the CJOs ( $t = -3.45, p = .001, \eta^2 = .15, CI = -1.44, -.38$ ) and SSEs ( $t = 3.034, p = .009, \eta^2 = .09, CI = -.98, -.20$ ). Notable among the items representing minimization techniques, laypersons considered it much less coercive to understate the seriousness of the offence ( $M = .68, SD = 1.57$ ) than did CJOs ( $M = 2.35, SD = .93, t = -5.48, p < .001, \eta^2 = .34, CI = -2.28, -1.06$ ) or SSEs ( $M = 2.16, SD = 1.20, t = -5.29, p < .001, \eta^2 = .23, CI = -2.04, -.93$ ). Another strong difference was found for the item "the investigator offered legal or pseudo-legal justification(s)/implied non-criminal intent." Laypersons' ratings were near the neutral point ( $M = .26, SD = 1.64$ ), and significantly differed from the ratings offered by CJOs ( $M = 2.05, SD = .99, t = -5.56, p < .001, \eta^2 = .35, CI = -2.44, -1.15$ ) and SSEs ( $M = 1.72, SD = 1.21, t = -5.06, p < .001, \eta^2 = .21, CI = -2.03, -.89$ ).

Hypothesis 3, which stated that laypersons would perceive maximization techniques as less coercive than the two groups of content experts was supported. The main effect was significant, *Welch's F*(2, 50.68) = 8.27,  $p = .001, \eta^2 = .14$ . Post hoc tests showed that laypersons' coercion ratings ( $M = 1.13$ ) were lower than both the CJOs' ( $M = 1.78, t = -2.886, p = .005, \eta^2 = .11, CI = -1.11, -.20$ ) and SSEs' ( $M = 1.71, t = -3.865, p < .001, \eta^2 = .13, CI = -.88 -.28$ ). As was found in regards to minimization techniques, the two groups of content expert did not differ from each other in their perceptions of the coerciveness of these items ( $t = .50, p = .894, \eta^2 < .01, CI = -.22, .37$ ). Among the individual items, laypersons gave much lower coercion ratings to the presentation of false evidence ( $M = 1.58, SD = 1.56$ ) than the CJOs ( $M = 2.42, SD = .77, t = -2.91, \eta^2 = .12, p = .012, CI = -1.41, -.28$ ) or SSEs ( $M = 2.62, SD = .92, t = -4.045, \eta^2 = .17, p < .001, CI = -1.56, -.53$ ).

Hypothesis 4 stated that CJOs would give higher coercion ratings to prohibited tactics than the other two groups, however this hypothesis was only partially supported. Comparison of coercion ratings for prohibited tactics showed significant differences, *Welch's F*(2, 65.34) = 32.94,  $p = .001, \eta^2$

= .27, but these differences were not between the ratings given by SSEs ( $M = 2.49$ ,  $SD = .57$ ) and CJOs ( $M = 2.63$ ,  $SD = .39$ ,  $t = 1.01$ ,  $p = .471$ ,  $\eta^2 = .02$ ,  $CI = -.13, .42$ ). Laypersons' coercion ratings ( $M = 1.48$ ,  $SD = .84$ ), however, were significantly lower than the CJOs' ( $t = -7.77$ ,  $p = .001$ ,  $\eta^2 = .34$ ,  $CI = -1.55, -.76$ ), and the SSEs' ( $t = -7.016$ ,  $p = .001$ ,  $\eta^2 = .33$ ,  $CI = -1.30, -.73$ ), supporting the fifth hypothesis. This was largely due to laypersons estimating direct promises of leniency as much less coercive than the content expert groups, as layperson's scores on this item ( $M = .84$ ,  $SD = 1.74$ ) in particular conflicted with those of CJOs ( $M = 2.75$ ,  $SD = .55$ ,  $t = -6.91$ ,  $p < .001$ ,  $\eta^2 = .42$ ,  $CI = -1.11, -.20$ ) and SSEs ( $M = 2.47$ ,  $SD = .96$ ,  $t = -5.76$ ,  $p < .001$ ,  $\eta^2 = .31$ ,  $CI = -1.07, -.28$ ).

Hypothesis 6 had predicted that SSEs would give higher ratings to the to the suspect risk factors (as contributing to coercion) than the other two groups. This hypothesis was partially supported. There was a significant main effect, *Welch's F*(2, 42.21) = 8.01,  $p = .001$ ,  $\eta^2 = .11$ . SSEs' ratings ( $M = 6.07$ ), however, did not significantly differ from CJOs' ( $M = 5.55$ ,  $t = 1.97$ ,  $p = .142$ ,  $\eta^2 = .09$ ,  $CI = .10, .93$ ). Laypersons' ratings ( $M = 5.39$ ) did differed from those of SSEs ( $t = -3.80$ ,  $p = .001$ ,  $\eta^2 = .13$ ,  $CI = -1.03, -.33$ ), but did not significantly differ from those of CJOs ( $t = .55$ ,  $\eta^2 < .01$ ,  $p = .843$ ,  $CI = .43, -.76$ ). Laypersons gave particularly lower ratings to the suspect being a minor ( $M = 5.22$ ,  $SD = 1.92$ ) than did SSEs ( $M = 6.69$ ,  $SD = .55$ ,  $t = -5.16$ ,  $p < .001$ ,  $\eta^2 = .32$ ,  $CI = -2.04, -.90$ ) and also believed that a diagnosed intellectual disability was a lesser risk factor ( $M = 5.80$ ,  $SD = 1.35$ ) than SSEs ( $M = 6.84$ ,  $SD = .42$ ,  $t = -5.159$ ,  $p < .001$ ,  $\eta^2 = .32$ ,  $CI = -1.45, -.64$ )

### Discussion

The layperson sample consistently differed from the two groups of experts, perceiving all sets of interrogation tactics as being less coercive than the CJOs or SSEs. I had hypothesized that some differences would emerge between the two groups of content experts. Instead, the CJOs and SSEs were in relatively close agreement with one another, while systematically differing from the opinions of the jury-eligible laypeople.

The findings on lay perceptions of minimization techniques were consistent with the results of Leo and Liu (2009) and Blandon-Gitlin et al. (2008); coercion ratings were extremely low. Results were also in line with what would be predicted from Kassin et al.'s (2018) findings that SSEs consider minimization to have a reliable connection to false confessions. The current research confirmed that the opinions of the two groups significantly depart from one another, and that laypeople have much lower estimates of its coerciveness. Maximization techniques such as repeatedly accusing the suspect of the crime or presenting false evidence were also thought of as less coercive by the layperson sample than the content experts. I had hypothesized this based previous research showing that laypeople believe aggressive and confrontational tactics to be the norm for interrogation (Henkel et al., 2008) and to have little connection to false confession (Blandon-Gitlin et al., 2011; Leo & Liu, 2009). While in some previous studies laypeople had rated most of the prohibited tactics presented to them as coercive, our results show that laypeople substantially underestimate the coercive impact of prohibited tactics relative to experts on interrogation. The list of prohibited tactics was meant to serve as a baseline of what is currently agreed upon to be coercive interrogation practice, and the fact that laypeople did not agree with experts on the coerciveness of these practices highlights the disconnect between common knowledge, law enforcement norms, and social scientific knowledge.

The sixth hypotheses was only partially supported. The CJO participants did not differ from SSEs or laypeople in their estimates of how suspect risk factors increase susceptibility to coercion, and instead fell in between the two in their ratings. SSEs, however, did rate traits and characteristics such as the suspect being a minor or having an intellectual disability as making the suspect more vulnerable to coercion than did laypeople. The differences in perceptions of suspect risk factors between the laypeople and SSEs were consistent with what would be predicted from previous research. Laypeople had been shown to be unclear about how youth status and intellectual disability may affect the likelihood of false confession (Chojnacki et al., 2008; Henkel et al., 2008) while the vast majority of

SSEs were certain of the impact of these risk factors (Kassin et al., 2018), and I extended this to demonstrate that the two groups significantly differ using the same measurement. The results of Meyer and Reppucci (2007) and Reppucci et al. (2010) had suggested differences would emerge between CJOs and SSEs here, at least regarding suspects under the age of majority. This did not occur, as CJOs differed from neither group.

### **Limitations and Future Directions**

As was briefly mentioned, I undertook this research in part to advance development of the CAI. The CAI will be a legally relevant psychological framework for assessing coercion in police interviews and interrogations. As a consequence, the survey specifically focused on the coerciveness of each item, and not each item's connection to false confession. Future research may wish to replicate our comparisons while framing the issue in terms of the likelihood of these items eliciting a true or false confession. I maintain that the research is still valid to admissibility decisions on two grounds. First, in order for a confession to constitute admissible inculpatory evidence it must be made voluntarily (*R v. Piche*, 1971; Smith, Stinson, & Patry, 2012). By definition a coerced statement is not voluntary, and if an admission is allowed into evidence assessing its voluntariness is a matter for the trier of fact. Secondly, the link between coercive interrogation practises and false confession is so strong and direct that evaluating the amount of psychological coercion behind a statement is one of the main criteria for evaluating that statement's reliability and veracity.

Another consequence of the survey being oriented towards the development of the CAI is that it contained a number of item that I expected to be coercion-reducing. For that reason, most of the scales used in the survey ranged from -3 to +3, with the exception of suspect risk factors. For the items that were considered coercive by the three groups, this limited the range of responding. Using essentially a 3-point scale could have been responsible for some of the lack of differences observed between the CJO and SSE participants. Because the scale used to measure suspect risk factors was 1 to 7-point, and

no differences emerged between CJO and SSE participants on that measure, I do not believe it to be highly likely, but it is a possibility none the less. It is also worth mention that many lay participants used the scale to its full range, labelling some of the items making up the scales as “coercion reducing.” The limited range of responses may have also attenuated the differences between the laypeople and content expert groups, masking how pronounced those differences in perceptions of coercion really are. It has been established here that laypeople have a different understanding of police interrogation than CJOs or SSEs, but the strength and extent of the divergence should be further explored while allowing participants a much wider range of responding.

The CJO sample was smaller than I had hoped to recruit. All of the CJOs were highly experienced with interrogations and confession evidence, and that they were experts on the subjects is without question, though there is some question as to how representative they are of North American CJOs. It is difficult to state with certainty whether the same pattern of differences observed here would replicate when comparing different samples of CJOs to SSEs and laypeople. The small sample size also precluded comparing the CJOs by profession (i.e. comparing law enforcement, prosecutors, and defense attorneys) or by region. Future research should survey a much broader range and larger group of CJOs across North America, and hopefully include criminal judges as well.

I presented the items free of any context. During my interviews with CJOs several of them remarked that this made it somewhat difficult for them to judge each item's coerciveness. For example, in regards to the item “the investigator invaded the suspect's personal space” one detective pointed out that this could have very different effects depending on the investigator's physical characteristics. He specifically mentioned that a large and dominant young male investigator doing something of this nature would likely have a stronger coercive effect than if the investigator were an older female detective. Another senior law enforcement official commented that ethnic and cultural differences between the investigator and suspect also have the potential to exacerbate the coercive pressures of

certain interrogation tactics, yet our research made no accounting for this or other circumstances of the interrogation. Depending on the type of study, it may be advantageous for future researchers to have participants judge coerciveness through crime narratives with sufficient context for their judgments.

Reducing coerciveness and the risk of false confessions is an admirable goal, though less coercive interrogations may have the consequence of reducing the number of true confessions secured by police, and thereby reducing the effectiveness of law enforcement. Although possible, a good case can still be made for reducing coercion in interrogation. First, it has been previously demonstrated that reducing the use of strong minimization and maximization techniques can reduce the likelihood of obtaining a false confession without negatively impacting rates of true confessions (Horgan et al., 2012). Second, coercing confessions from criminal suspects - including those who are guilty - by violating their voluntary free will is improper from a jurisprudential standpoint and a violation of that suspect's civil rights (*Canadian Charter of Rights and Freedoms*, 1982; *Miranda v. Arizona*, 1966). To force a suspect to confess by subjecting him or her to high levels of physical or psychological duress is not a legitimate use of the state's power in a democratic society.

## **Conclusions**

Though abuses of interrogation and false confessions may be rare when considered against the backdrops of crimes successfully solved through interrogation, they are sufficiently common as to garner attention from innocence advocacy organizations and others interested in criminal justice reform. False confessions detract from the effectiveness of the criminal justice system in a number of ways, though the most egregious consequence is the wrongful conviction and imprisonment of the innocent. The flip side of this of course is that the conviction of an innocent person consequently results in the guilty party escaping prosecution and remaining at large. While the ramifications of wrongful conviction are felt most strongly by the convicted individual, there are a number of financial and bureaucratic costs for the criminal justice system as well. Such incidents may also result in

diminished public trust in the criminal justice system, which is felt by the whole of society. The need for expert testimony to educate the jury on matters outside of their knowledge is becoming more established, and the time has likely come to more thoroughly explore how expert testimony on coercion in interrogation affects jury decision making. This could be accomplished through mock jury studies, or by analyzing and comparing cases where expert testimony was admitted or ruled inadmissible, particularly cases of known wrongful conviction should the sample size permit. Any effort that creates better judicial triers of fact and reduces wrongful convictions, whether that relates to expert testimony on confession evidence or other areas of forensic science (Findley, 2002; McMurtrie, 2005), is worth implementing.

In instances in which a confession is retracted and disputed, those who serve on juries could benefit from the information provided by psychological expert witnesses. The jury-eligible laypeople surveyed here significantly underestimated the coerciveness of the interrogation tactics presented, many of which have been linked to false confessions, relative to both social scientists specializing in interrogation or criminal justice officials experienced with it. This was particularly true in regards to promises or implications of various sorts of leniency. Laypersons' estimates of the coerciveness of minimization techniques were near the neutral point, suggesting that laypeople do not believe these sorts of tactics to have any coercive properties. They also underestimated the coerciveness of maximization techniques and prohibited tactics relative to the two groups of experts, and underestimated suspect risk factors and environmental factors relative to the SSEs. In short, without expert guidance jury members cannot be expected to expertly evaluate confession evidence, and this is especially true when incentives or inducements are made to the suspect in exchange for confessing.

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Table 1

*Mean scaled coercion ratings by group*

Scaled Measure	Layman (a)		SSE (b)		CJO (c)	
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
Minimization Techniques	.49 <sub>b,c</sub>	1.07	1.08 <sub>a</sub>	.83	1.40 <sub>a</sub>	.82
Maximization Techniques	1.13 <sub>b,c</sub>	.93	1.71 <sub>a</sub>	.53	1.78 <sub>a</sub>	.66
Prohibited Tactics	1.48 <sub>b,c</sub>	.84	2.49 <sub>a</sub>	.57	2.63 <sub>a</sub>	.39
Suspect Characteristics	5.39 <sub>b</sub>	1.10	6.07 <sub>a</sub>	.63	5.55	1.05

*N* = 120Differences significant to  $p < .01$  denoted by subscript

## Appendix A

## Survey Questions Averaged into Scaled Scores

Table A1

*Minimization Techniques*

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1. The investigator offered moral rationalizations (e.g. blamed desperation, blamed uncontrollable anger. Can also take the form of a question: "give me a reasonable explanation why...")
2. The investigator appealed to the suspect's negative feelings towards individuals or organizations (e.g. accuser/victim, co-accused, etc.)
3. The investigator appealed to the suspect's practical self-interest (e.g. "help yourself out")
4. The investigator negotiated or bargained with the suspect (e.g. put the idea of a deal on the table in exchange for information on others)
5. The investigator expressed sympathy or concern for the suspect and their situation
6. The investigator appealed to the suspect's religion or sense of honour
7. The investigator made it seem as if their role was to represent the suspect as innocent or helpful to higher authorities (i.e. an advocate for the suspect)
8. The investigator significantly understated the seriousness of the offence/sentencing (e.g. that an armed robbery could be construed as a simple theft, that a murder suspect could receive probation)
9. The investigator offered legal or pseudo-legal justification(s)/implied non-criminal intent (e.g. "maybe it was an accident or self defence")

Table A2

*Maximization Techniques*

---

1. The investigator directly accused the suspect of committing or being involved in the crime(s)
2. The investigator listed and summarized evidence
3. The suspect was confronted with fabricated or knowingly unsubstantiated evidence of involvement
4. The suspect was told that he/she failed a polygraph
5. The investigator bluffed or baited the suspect about supposed evidence of involvement (including implications and hypothetical scenarios, e.g. "what do you think finger print analysis will show?")
6. The investigator told or strongly implied to the suspect that they would be convicted regardless of what they said
7. The investigator pointed out the suspect's physical indications of guilt or deception (e.g. body language, shifting eyes)
8. The investigator inflated the reliability of incriminating evidence (e.g. that a polygraph is 100% accurate, that an eyewitness could not be incorrect)
9. The investigator told the suspect a co-accused was in custody and being interrogated, or had given a statement
10. The investigator presented graphic photos or used shocking imagery
11. The investigator was holding/looking through evidence folder (without sharing its contents)
12. The suspect was shown (non-graphic) photos or statements from witnesses or others
13. The investigator used other (non-graphic) visual aids
14. The investigator asked the suspect who they believe committed the crime(s)
15. The investigator capitalized on the suspect's capture shock (where suspect has just been arrested)
16. The investigator overstated the seriousness of the crime (e.g. claiming that a suspect charged with a simple assault is liable to be charged with attempted murder)

17. The investigator described/exaggerated the suspect's future sentencing

18. The investigator accused the suspect of committing a crime(s) other than those currently being investigated

19. The investigator accused the suspect of being someone they are not (e.g. a much more serious or dangerous criminal, a drug addict)

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Table A3  
*Prohibited Tactics*

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1. The investigator threatened financial or professional consequences for non-cooperation
  2. The suspect was not properly informed of their rights
  3. The suspect was informed of legal rights but not given an opportunity to exercise them
  4. The suspect's invocation of legal rights were ignored
  5. The suspect was denied access to necessities (e.g. food, water, washroom)
  6. The investigator struck or otherwise assaulted the suspect
  7. The investigator told the suspect he/she would not leave until they confessed
  8. The investigator threatened a third party whom the suspect holds in positive regard (i.e. family, friends, spouse, etc)
  9. The investigator made a direct promise or strong implication of leniency in exchange for information (e.g. charges dropped or reduced, sentencing reduced)
  10. The investigator made a direct promise or strong implication of immediate release from custody in exchange for information
  11. The investigator made a direct promise or strong implication of psychiatric treatment or counseling in exchange for information
  12. The suspect was offered food or beverage in exchange for information
  13. The suspect was offered access to a telephone in exchange for information
  14. The suspect was offered medication or other necessity in exchange for information
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Table A4  
*Suspect Characteristics*

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1. The suspect was a minor
  2. The suspect had a diagnosed mental illness
  3. The suspect had a diagnosed intellectual disability
  4. The suspect generally appeared to have a mental illness
  5. The suspect was sleep deprived
  6. The suspect generally appeared to have an intellectual disability
  7. The suspect generally appeared to have a low intelligence
  8. The suspect was injured
  9. The suspect was suffering from drug withdrawal
  10. The suspect was intoxicated
  11. The suspect was not completely fluent in English
  12. The suspect had already been interrogated previously regarding the same offence(s)
  13. The suspect was in custody (arrested or detained)
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