

False Confessions: How Can Psychology So Basic Be So Counterintuitive?

Saul M. Kassin

John Jay College of Criminal Justice of CUNY

Recent advances in DNA technology have shined a spotlight on thousands of innocent people wrongfully convicted for crimes they did not commit—many of whom had been induced to confess. The scientific study of false confessions, which helps to explain this phenomenon, has proved highly paradoxical. On the one hand, it is rooted in reliable core principles of psychology (e.g., research on reinforcement and decision-making, obedience to authority, and confirmation biases). On the other hand, false confessions are highly counterintuitive if not inconceivable to most people (e.g., as seen in actual trial outcomes as well as studies of jury decision making). This article describes both the psychology underlying false confessions and the psychology that predicts the counterintuitive nature of this same phenomenon. It then notes that precisely because they are so counterintuitive, false confessions are often “invisible,” resulting in a form of inattentive blindness, and are slow to change in the face of contradiction, illustrating belief perseverance. This article concludes by suggesting ways in which psychologists can help to prevent future miscarriages of justice by advocating for reforms to policy and practice and helping to raise public awareness.

Keywords: interrogation, false confessions, confirmation bias, social influence, wrongful convictions

In the 10-part Netflix documentary *Making a Murderer*, which aired in 2015, there is an episode in which 16-year-old Brendan Dassey, of Manitowoc County Wisconsin, is seen sitting passive and helpless in an interrogation room (Demos & Ricciardi, 2015). He is flanked by two trained detectives trying to prosecute a murder case against Dassey’s uncle, Steven Avery, and hoping to get Dassey to implicate Avery in a confession. Dassey had an IQ of 70 and lacked confidence in his own assessment of reality. At one point, he says to his mother, “Mom, I’m stupid.” At another point, he tells her, “They got into my head.”

Dassey was interrogated four times over a 48-hr period (Demos & Ricciardi, 2015). During these sessions, detec-

tives accused him, asserting that they already knew what happened and had physical evidence to prove it. When Dassey protested his innocence, they called him a liar and threatened to arrest him. Meanwhile, a transcript of Dassey’s interrogation shows that detectives offered a range of inducements, pretending to befriend Dassey and assuring him that “we’re here to help ya” (p. 443). They offered moral justification, suggesting that Avery was to blame: “It’s not your fault, remember that” (p. 451), and “you’ve done nothing wrong” (p. 453). Once Dassey succumbed to the demand for an admission, they asked highly leading questions, thereby communicating facts about the crime. Eventually, Dassey said that he assisted Avery in the murder. Moments later, in a jaw-dropping exchange that put on display how profoundly misled he was, Dassey asked whether he would get back to school in time for a project he had to present.

On the basis of his confession, Dassey was convicted of first-degree murder and sentenced to life in prison. His appeals were denied; the Wisconsin Supreme Court would not review his case. That was the status quo when *Making a Murderer* aired to millions of viewers and provoked a public outcry. Dassey’s attorneys then filed a federal habeas corpus petition, and a federal judge overturned the conviction on the ground that Dassey’s confession was coerced. Months later, a panel of the Seventh Circuit Court of Appeals upheld this ruling. As the state fights this decision, Dassey remains incarcerated.

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Correspondence concerning this article should be addressed to Saul M. Kassin, Department of Psychology, John Jay College of Criminal Justice of CUNY, 524 West 59th Street, New York, NY 10019. E-mail: skassin@jjay.cuny.edu

The Scope of the Problem

In his classic treatise on evidence, John Henry Wigmore (1904/1985) described confession, even when recanted, as the most potent evidence presentable in court. Other legal scholars have echoed this opinion (e.g., McCormick, 1972). Alongside this long-standing assessment as to the persuasive power of confession evidence, however, is the realization that confessions are fallible—sometimes reported secondhand by motivated police or informants, raising questions as to authenticity; and at other times induced from a suspect through a highly pressured process of interrogation, raising questions about voluntariness and coercion.

In *Brown v. Mississippi* (1936), the United States Supreme Court banned the use of physical beatings and third-degree tactics, thus inspiring psychological methods of interrogation. This new approach was captured by the Reid technique, developed in the 1940s by criminologist Fred Inbau and Chicago Police Officer John Reid. Their approach was codified in their text *Criminal Interrogations and Confessions* (Inbau & Reid, 1962; for the most recent edition, see Inbau, Reid, Buckley, & Jayne, 2013; for a historical overview, see Leo, 2008). Four years later, the Supreme Court delivered a then-controversial ruling in *Miranda v. Arizona* (1966) that required police to inform all suspects in custody of their constitutional rights to silence and to counsel. In its opinion, the Court referred to the psychological approach to interrogation as inherently coercive; hence, any interrogation or statement taken from a suspect must be preceded by a knowing, intelligent, and voluntary waiver of these rights.

The notion that anyone of sound mind would confess to a crime he or she did not commit is not intuitive to the average person. Yet history points to numerous instances (e.g., Bedaut & Radelet, 1987; Borchard, 1932). False confession is not a new or isolated phenomenon. Although a prevalence rate cannot be calculated, two national databases provide informative data. As of July 1, 2017, the Innocence Project reported that false confessions have contributed to 28% of the first 350 postconviction DNA exonerations in the United States (www.innocenceproject.org/). As these cases must be resolved by DNA, the sample consists exclusively of rape and murder cases. The National Registry of Exonerations—which tracks all known exonerations in the United States from 1989 to the present, by all means, not just DNA—has reported that false confessions have contributed to 13% of its 2,054 cases (www.law.umich.edu/special/exoneration/Pages/about.aspx). Within this larger and more diverse population, the number of false confessions climbs to 22% in murder cases.

The stories behind the numbers in these populations—and elsewhere—are a varied lot. They involve men and women; children, adolescents, and adults; people throughout history and from countries all over the world. Sometimes innocent

individuals implicate not only themselves but others who are innocent as well. In a number of cases, multiple false confessions were taken from different individuals—as in the Norfolk Four, the Englewood Four, the West Memphis Three, and the Beatrice Six, to name just a few (www.innocenceproject.org). In certain rare instances, serial false confessions to multiple crimes are taken from the same individual—as in the case of Henry Lee Lucas, of Texas, who confessed to hundreds of murders in the 1980s, many of which were later discredited (Gudjonsson, 1999), and Sture Ragnar Bergwall, of Sweden, also known as Thomas Quick, who confessed to more than 30 murders before being exonerated recently and released from prison (Josefsson, 2015; Råstam, 2013).

As in the cases just noted, some false confessions have involved high-profile stories headlined in the news. In the infamous Central Park jogger case in New York City, for example, five innocent teenagers ages 14–16 confessed to the rape of a jogger in 1989. Four of these confessions were on videotape. Although convicted at trial, they were officially exonerated in 2002 and compensated in 2014 (see Burns, 2011; Kassin, 2002). This story was the subject of a documentary titled *The Central Park Five* (Burns, Burns, & McMahan, 2012). In another case that drew worldwide attention, 20-year-old Amanda Knox, an American college student, gave a “spontaneous declaration” implying her involvement—and that of another innocent individual—in the 2007 murder of British roommate Meredith Kercher in Perugia, Italy. Knox was convicted in 2009 but ultimately vindicated by Italy’s Supreme Court in 2015 (Burleigh, 2011). Her story, too, was the subject of a recent documentary (Blackhurst & McGinn, 2016).

In contrast to these latter instances, unknown numbers of false confessions are relatively hidden from public view. This happens when exculpatory information—and sometimes discovery of the actual perpetrator—leads prosecutors to drop the charges against the innocent confessor. It also occurs for less serious crimes for which confessors later plead guilty in lieu of a public trial, thereby thwarting postconviction scrutiny. Over 95% of all criminal prosecutions in the United States are resolved by a guilty plea, raising questions about the extent of an “innocence problem” (e.g., Rakoff, 2014; Redlich, Bibas, Edkins, & Madon, 2017). Moreover, wrongful conviction databases have revealed that false confessors are more likely to plead guilty than are innocents prosecuted on the basis of other types of evidence (National Registry of Exonerations, 2015).

Finally, it is important to note that while attention is focused on false confessions arising in the criminal justice systems of the world, other instances of historical note have occurred in military settings, wherein prisoners of war, hostages, and other detainees have been coerced into compliance, or “brainwashed” into confessing, often on camera for propaganda purposes, to transgressions or war crimes

they did not commit (Schein, 1961). Still others occur in work settings, where loss prevention investigators seek to recover losses caused by employee theft, a multibillion-dollar-a-year problem in the retail industries. Although the extent of this problem cannot be quantified, several cases have been discovered in which employees had confessed during internal workplace interrogations to stealing money or merchandise, often agreeing to pay the company back—only later to be proved innocent (Elbein, 2014). It is important to note that although the criminal justice system imposes constitutional due process constraints on the confession-taking process, military and employment venues are not similarly limited.

The Study of Confessions: Historical Overview

In 1908, Harvard psychology professor Hugo Münsterberg published his prescient book *On the Witness Stand: Essays in Psychology and Crime*. In an unnumbered sixth chapter titled “Untrue Confessions,” he relayed a story about a Chicago man convicted of murder based solely on a confession to police. Münsterberg was troubled by the confession itself and how it was taken. Yet the defendant was convicted—and within the week “he was hanged for a crime of which he was no more guilty than you or I” (p. 140). Münsterberg fully grasped the commonsense potency of confession evidence in court, noting that “it would be inconceivable that any man who was innocent should claim the infamy of guilt” (p. 142). He also grasped that confessions were fallible. He speculated on the psychological causes of false confessions, using words such as *hope, fear, promises, threats, suggestion, cunning calculations, passive yielding, shock, fatigue, melancholia, auto-hypnosis, dissociation, and self-destructive despair*.

Münsterberg’s insights lay dormant for more than half a century. Inspired perhaps by the Supreme Court’s ruling in *Miranda*, a smattering of psychologically oriented papers appeared in the 1960s. In an article titled “Inducing Belief in False Confessions” Bem (1966) reported on a laboratory experiment showing that saying (induced confession) can lead to believing (feelings of guilt). Zimbardo (1967) analyzed the social influence tactics of police interrogations in the inaugural issue of *Psychology Today*. Occasional law review articles also appeared—articles such as Driver’s (1968) “Confessions and the Social Psychology of Coercion,” published in the *Harvard Law Review*. Of particular note, Wald, Ayres, Hess, Schantz, and Whitebread (1967) published in the *Yale Law Journal* an observational study of 127 interrogations in New Haven, Connecticut. To my knowledge, this was the first such study of its kind.

Paralleling the dual concerns among legal scholars and in the courts that police-induced confessions are both highly potent and fallible, researchers starting in the 1980s and 1990s began to scrutinize a range of issues on both fronts.

Specifically, four independent but overlapping blocks of research came together to produce the current state of knowledge:

1. Drawing on social psychology, Kassin and Wrightsman (1980, 1981) conducted mock jury studies showing that people did not sufficiently discount confessions even when it was legally and logically appropriate to do so. Having demonstrated the potency of confession evidence, they went on to critique the Reid approach to interrogation, which relies heavily on trickery and deception. On the basis of known historical instances, they also went on to propose a taxonomy of three types of false confessions—*voluntary, coerced-compliant, and coerced-internalized* (Kassin & Wrightsman, 1985; also see Kassin, 1997; Wrightsman & Kassin, 1993).

From there, Kassin and colleagues distinguished between *maximization* tactics (confronting the suspect with incriminating evidence and refusing to accept denials) and *minimization* tactics (offering sympathy and moral justification, which implies lesser culpability) that constituted the Reid technique, demonstrating that promises of leniency are pragmatically implied to suspects even if not explicitly stated (Kassin & McNall, 1991); they introduced the first ethical laboratory paradigm for inducing innocent participants to confess to crashing a computer (Kassin & Kiechel, 1996); they developed a second, more flexible paradigm that enabled researchers to induce cheating in some participants but not others as a way to test for factors that increase the diagnostic value of true versus false confessions (Rusano, Meissner, Narchet, & Kassin, 2005); they introduced the phenomenology of innocence, a state of mind that can lead innocent people to waive all rights and paradoxically, at times, to confess (Kassin & Norwick, 2004; Perillo & Kassin, 2011; for a discussion of how innocence puts innocents at risk, see Kassin, 2005); they extended early jury research, showing that mock jurors vote for conviction on the basis of confessions they saw as coerced (Kassin & Sukel, 1997), even when told that the confession was obtained illegally (Kassin & Sommers, 1997) and even when DNA tests excluded the confessor (Appleby & Kassin, 2016); and they examined the extent to which laypeople and police can distinguish between true and false confessions and denials (Kassin & Fong, 1999; Kassin, Meissner, & Norwick, 2005; Meissner & Kassin, 2002).

2. A second line of research was inspired by *Miranda v. Arizona* (1966), wherein the Supreme Court required police to inform suspects in custody of their rights to silence and counsel and obtain a waiver of these rights voluntarily, knowingly, and intelligently (for an overview, see Smalarz, Scherr, & Kassin, 2016). Early on, psychologists were concerned that certain citizens, because of their youth or limited intellect, lacked the capacity to comprehend and apply these essential constitutional rights. In pioneering research, Thomas Grisso (1981, 1998) devised instruments for testing

Miranda-related comprehension. Using these tests, he and others found that young adolescents do not fully grasp their rights and how to implement them (Goldstein, Condie, Kalbeitzler, Osman, & Geier, 2003; Oberlander & Goldstein, 2001; Zelle, Romaine, & Goldstein, 2015).

Additional research showed that *Miranda* warnings across the country are highly variable in vocabulary and content (Rogers, Harrison, Shuman, Sewell, & Hazelwood, 2007); that situational stress can further limit comprehension (Rogers, Gillard, Wooley, & Fiduccia, 2011; Scherr & Madon, 2013); that police employ subtle but effective tactics to elicit waivers, accounting for the near-80% waiver rate (Leo, 1996; Leo & Thomas, 1998); and that innocent people in particular are likely to forego their rights (Kassin & Norwick, 2004; Moore & Gagnier, 2008). Of importance, and underlying the public's reaction to Dassey, this line of research sparked interest in juvenile justice questions and a broader concern about the methods used to interrogate children and adolescents (Cleary, 2014; Feld, 2013) and the developmental risk of false confessions (Grisso et al., 2003; Malloy, Shulman, & Cauffman, 2014; Owen-Kostelnik, Reppucci, & Meyer, 2006; Redlich & Goodman, 2003).

3. A third line of relevant research to emerge in the 1980s occurred in Great Britain, where some hotly disputed confession cases from the previous decade—most notably, the Guildford Four and the Birmingham Six—were discovered, sparking calls for reform. New empirical research was conducted—including observational studies of police interrogations and their outcomes (Irving & McKenzie, 1989; Moston, Stephenson, & Williamson, 1992; Softley, 1980); reforms that limited police deception and required that all interrogations be recorded were enacted (Home Office, 1985). Shortly thereafter, a new approach to interrogation was developed through a collaboration of police officers, psychologists, and lawyers. The mnemonic PEACE describes the five elements of this approach (“Preparation and Planning,” “Engage and Explain,” “Account,” “Closure,” and “Evaluate”); see Clarke & Milne, 2001). This model has served as a precursor to *investigative interviewing*—a popular approach today that focuses more on information gathering than on confession taking (Bull, 2014; Shepherd & Griffiths, 2013; Williamson, 2006).

Regarding the psychology of false confessions, Gisli Gudjonsson and his colleagues, similarly influenced by developments in Great Britain, pioneered a clinical focus on individual differences in vulnerability. During the 1980s, Gudjonsson had worked on the Birmingham Six and Guildford Four cases. Gudjonsson and MacKeith (1982) introduced the term *memory distrust syndrome* to account for the cognitive changes that suspects often experience while giving false confessions (for an overview, see Gudjonsson, 2017). He also developed a compliance scale (Gudjonsson, 1989) and the Gudjonsson Suggestibility Scales (Gudjonsson, 1997) to measure an individual's dispositional suscep-

tibility to influence. This research highlighted the link between individual differences in the tendency to confess or resist confession. This work is summarized in two early books (Gudjonsson, 1992, 2003) and in a more recent review of research on psychological vulnerabilities that emanate from certain personality traits, psychological disorders, intellectual impairments, and transient mental states (Gudjonsson, 2010).

4. A fourth influence comes from individual and aggregated case studies published by law professors, criminologists, and social scientists. This tradition originates with Borchard's (1932) *Convicting the Innocent*, cited earlier. In a study specifically focused on false confessions, Leo and Ofshe (1998) described 60 cases involving individuals who had confessed and whose innocence had been proven, highly probable, or probable. Cassell (1999) challenged the “actual innocence” of some of these confessors, assessments that Leo and Ofshe (2001) defended in a rebuttal. Drizin and Leo (2004) then compiled a larger sample of 125 proven false confessions and found, for example, that their sample contained a disproportionate number of juveniles.

As noted earlier, a historic milestone within this approach came with the founding of the Innocence Project in 1992, at the Cardozo School of Law in New York City, by lawyers Barry Scheck and Peter Neufeld. Their mission was to use newly available DNA testing to examine prisoners' post-conviction claims of innocence in crimes that contained testable biological evidence. At present, 350 people in the United State alone have been exonerated by DNA, including several who had served time on death row. In 28% of these cases, false confessions by the defendant or someone else were a contributing factor (www.innocenceproject.org/). This sample has provided an invaluable resource for archival research into eyewitness misidentifications, false confessions, flawed forensic sciences, police or prosecutorial misconduct, and other problems (Garrett, 2011; Scheck, Neufeld, & Dwyer, 2000).

Twenty years later, at the University of Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law, respectively, law professor Samuel Gross and Chicago-based journalist Rob Warden launched the National Registry of Exonerations. The registry is now housed primarily at the University of California at Irvine. Whereas the Innocence Project restricts itself to claims resolvable by DNA, the registry encompasses a broader sample of crimes and exonerations resolvable by all forms of new evidence. At present, the registry lists 2,054 wrongful convictions since 1989. All of the cases and the accompanying data files can be obtained from their web page (<http://www.law.umich.edu/special/exoneration/Pages/about.aspx>).

Built upon these four multidisciplinary building blocks of research, the scientific study of false confessions has become a mature subdiscipline of psychology and has at-

tracted talented researchers from all branches of the field. This assessment is supported by a number of metrics. First, Division 41 of the American Psychological Association (APA), also known as the American Psychology–Law Society (AP-LS), published in 2010 a scientific review or “white paper” titled “Police-Induced Confessions: Risk Factors and Recommendations” (Kassin et al., 2010)—only the second such article authorized and approved by AP-LS (the first was on eyewitness identifications; Wells et al., 1998). In addition to myself, a social psychologist, the authors were Steven Drizin, a law professor; Thomas Grisso, a child clinical psychologist; Gisli Gudjonsson, a clinical psychologist; Richard Leo, a criminologist and law professor; and Allison Redlich, a developmental psychologist. Three science advisors also reviewed the article. These advisors were Richard Petty, an expert on attitudes and persuasion; Daniel Schacter, an expert on cognitive neuroscience and memory; and Laurence Steinberg, an expert on adolescence (for a description of the vetting process, see Thompson, 2010).

The APA has also seen fit to cite the science reviewed in the white paper in seven amicus curiae briefs it submitted on false confessions and attendant risk factors (<http://www.apa.org/about/offices/ogc/amicus/index-issues.aspx>). The essential points in these briefs were reiterated in APA’s (2014) Resolution on Interrogations of Criminal Suspects. Also corroborating empirical propositions derived from the literature, a recent survey of 87 confession researchers worldwide revealed a strong consensus within the scientific community that several findings in this literature are sufficiently reliable to present in court (Kassin, Redlich, Alceste, & Luke, in press).

Finally, it is important to note that empirical work in this area proceeds at a rapid pace. Using an array of methods, and with an eye on reform, researchers are examining the effects of video recording on police, suspects, and jurors (Kassin, Kukucka, Lawson, & DeCarlo, 2014, 2017) as well as ways in which improvements to law enforcement practice might increase the accuracy of deception detection judgments (Granhag, Vrij, & Verschuere, 2015) and the statements elicited through interviewing and interrogation (Meissner et al., 2014). New research is also focused on military and human intelligence gathering in settings outside the criminal justice system (e.g., Evans et al., 2014; Oleszkiewicz, Granhag, & Cancino Montecinos, 2014; Redlich, Kelly, & Miller, 2014; Russano, Narchet, Kleinman, & Meissner, 2014; Vrij et al., in press).

False Confessions as Basic Psychology

The psychology underlying false confessions is basic, reflecting the operation of core principles that can be found in any introductory textbook. In particular, consider two broad, well-established research areas familiar to all readers of this journal.

Reaching back to Thorndike’s (1898) *law of effect*, the proposition that rewarded behaviors are “stamped in” (p. 13), the first core principle is that people are highly responsive to reinforcement and subject to the laws of conditioning. Of relevance to a psychological analysis of interrogation, therefore, are hundreds of operant animal studies of reinforcement schedules; punishment; and appetitive, avoidance, and escape learning, as well as behavioral modification applications in clinics, schools, workplaces, the military, and other settings. Looking through a behavioral lens, one is struck by the ways in which interrogators shape suspects through reinforcement—much like rats in a Skinner box—to confess to increasingly detailed narrative accounts of crimes (Herrnstein, 1970; Skinner, 1938).

Turning to cognitive iterations of early behaviorism, interrogation powerfully illustrates human decision-making in a behavioral economics paradigm. A voluminous body of research has shown that people make choices believed to maximize their well-being given the constraints they face—what Herrnstein called *the matching law* (Herrnstein, Rachlin, & Laibson, 1997). With regard to a suspect’s response to interrogation, experiments on temporal discounting show that people tend to be myopic in their orientation, preferring outcomes that are immediate rather than delayed, the latter depreciating over time in their subjective value (Rachlin, 2000).

Yang, Guyll, & Madon (2017) have examined suspect decision-making from the standpoint of subjective expected utility theory (also see Madon, Guyll, Scherr, Greathouse, & Wells, 2012; Madon, Yang, Smalarz, Guyll, & Scherr, 2013). This model generates the prediction that to maximize outcomes, suspects will make denial versus confession decisions by comparing the expected utilities of these respective choices. In a series of experiments, Yang et al. (2017) interviewed participants about prior criminal (e.g., shoplifting) and unethical (e.g., plagiarism) transgressions, where admissions and denials would result in negative consequences that were proximal (having to answer more questions) or distal (having to meet with a police officer in the future). Using this paradigm, these investigators have found that people are more likely to admit wrongdoing in response to anticipated consequences that are probable versus uncertain and proximal versus distal. This perspective helps to explain why someone might make the apparently irrational decision to confess, even if innocent. It also explains a range of findings regarding the risks inherent in certain suspect characteristics (e.g., adolescents, who tend to be impulsive; cognitively disabled individuals who cannot fully anticipate future consequences; individuals with anxiety disorders who have a limited tolerance for conflict) and police interrogation tactics (e.g., isolating suspects, which increases stress and expedient decisions; confrontational tactics that punish denial; minimization tactics that imply leniency upon confession).

Rooted in the observation that people are inherently social beings and that the need to belong is a “fundamental human motivation” (Baumeister & Leary, 1995, p. 497), a second set of core principles states that people are vulnerable to influence from change agents who seek their compliance. Of relevance to an analysis of confessions are the extensive literatures on attitudes and persuasion, informational and normative influences, and the use of sequential request strategies that gain compliance. The literature on obedience to authority is particularly relevant. Examining the manual for the Reid technique of interrogation, one marvels at how “Milgramesque” it is. More than 50 years ago, Milgram (1963) published his classic first obedience experiment in which 65% of participants obeyed an experimenter’s commands to deliver maximally painful shocks to a confederate—up to 450 volts, or so they thought. The results replicated across populations—and have stood the test of time (Burger, 2009). Milgram (1974) described his findings and theorized about the implications in his book *Obedience to Authority* (see Blass, 2004; Perry, 2013).

From Milgram’s laboratory to the interrogation room, the similarities in process are quite striking. In both venues, (a) the subject is alone, isolated from friends and family, in a controlled space; (b) the subject is confronted by a figure of authority—an experimenter in a white lab coat or a detective wearing a badge; (c) the subject then engages a contractual agreement to proceed—volunteering for payment in Milgram’s lab; signing a waiver of *Miranda* rights in advance of interrogation; (d) the authority figure uses deception to reframe the purpose and consequences of the subject’s actions—in Milgram (1963), subjects were told they would test the effects of punishment on a learner by administering painful shocks. In an interrogation, suspects are led to believe that confession serves their personal self-interest better than denial; (e) the authority figure makes a series of unwavering demands. Milgram used four scripted prompts, up to “You have no other choice; you *must* go on” (p. 374). The Reid technique prescribes nine steps, culminating in converting the oral admission into a written confession. Ultimately, (f) full obedience is achieved through escalating acts of compliance, culminating in 450 volts in Milgram—and, of course, a full narrative confession in the interrogation room (for a fuller description of these parallels, see Kassin, 2015).

The principles of reinforcement and decision-making and research on social influence illustrate two ways in which the phenomenon of false confession is embedded in basic psychology. Research on other risk factors can also be traced to basic domains—for example, the study of adolescence (Steinberg, 2014; regarding confessions, see Cleary, 2017; Owen-Kostelnik et al., 2006), sleep deprivation (Harrison & Horne, 2000; regarding confessions, see Frenda, Berkowitz, Loftus, & Fenn, 2016), and the effects of misinformation on

beliefs and memories (Loftus, 2005; regarding confessions, see Nash & Wade, 2009).

Why False Confessions Are Counterintuitive

Most people believe they would never confess to a crime they did not commit, do not understand police interrogation practices, and have only a rudimentary grasp of the person and situation factors that would lead someone innocent to confess (Blandón-Gitlin, Sperry, & Leo, 2011; Henkel, Coffman, & Dailey, 2008). Again, the underlying psychology is basic. When someone voluntarily admits to wrongdoing, in light of the adverse consequences that will follow, people trust that confession. As social perceivers, people are naive behaviorists; they have a natural tendency in attribution to trust statements that others freely make that counter their self-interest (Heider, 1958).

This naive attributional logic makes sense as a general rule. It can pose a problem, however, for the innocent person whose confession was induced through pressure, thereby creating a state of attributional ambiguity as to whether it was voluntary—and, hence, whether it can be trusted. How do social perceivers resolve this ambiguity? The answer to this question is evident from wrongful convictions and mock jury experiments that indicate that confessions have a substantial impact on verdicts.

This research has shown that people do not always discount police-induced confessions when it is legally and logically appropriate to do so. Kassin and Sukel (1997) presented participants with one of three versions of a murder trial transcript. In a low-pressure version, the defendant confessed to police almost immediately upon questioning and then recanted. In a high-pressure version, the suspect was in a state of physical discomfort and interrogated aggressively for hours. A control version contained no confession. In the high-pressure condition, most participants judged the statement to be involuntary and said that it did not affect their decisions. Yet this confession significantly boosted the conviction rate. Indicating a dissociation between perceptions of coercion and guilt, this pattern was replicated in a study involving experienced judges (Wallace & Kassin, 2012).

Other research, too, has indicated that people do not adequately discount confessions—even when the confession was reported secondhand by an informant who was incentivized to implicate the defendant (Neuschatz, Lawson, Swanner, Meissner & Neuschatz, 2008; Wetmore, Neuschatz, & Gronlund, 2014). Consistent with Simon’s (2004) theory that people seek cognitive coherence in processing complex decisions, confessions can also taint—and be tainted by—people’s perceptions of other evidence. In recent mock juror studies, a coercive interrogation eliciting a confession was seen as more acceptable, and the confession as more voluntary, when other incriminating evidence

suggested the defendant's guilt (Greenspan & Scurich, 2016; Shaked-Schroer, Costanzo, & Berger, 2015).

Why are police-induced false confessions, involving such basic psychology, so nonintuitive? Milgram (1963) discovered this incongruity in his classic "Behavioral Study of Obedience." He examined whether laypeople appreciated the power of the situation he had created. He described the method in detail to 14 Yale psychology majors and asked them to plot the distribution of behaviors for 100 hypothetical subjects. In contrast to the 65% full obedience rate he had obtained, students predicted that only 1.2% would administer the highest shock. He also had observers watch actual sessions through one-way mirrors. The result:

Observers often uttered expressions of disbelief upon seeing a subject administer more powerful shocks to the victim. These persons had a full acquaintance with the details of the situation, and yet systematically underestimated the amount of obedience that subjects would display. (p. 377)

Milgram (1974) would later report that a team of psychiatrists predicted that less than 1% of participants would exhibit full obedience.

The basis for the unpredictable nature of false confessions—and destructive obedience—can be found in the literature on social perception. Over a wide range of contexts, research has shown that observers routinely commit the *fundamental attribution error* (Ross, 1977), or *correspondence bias* (Gilbert & Malone, 1995)—that is, they tend to make personal attributions for other people's actions while underestimating the role of situational factors. This pattern was first reported in a study by Jones and Harris (1967), where participants heard a speech or read an opinion essay presumably written by a fellow student. Naturally, participants inferred the student's opinion from his essay when he freely chose the position he espoused. Yet they also inferred the student's opinion even when told that he was assigned to the position he took and had no choice in the matter. This finding is robust. Whether the essay topic was abortion, drug laws, or the death penalty, this result—indicating a relative lack of sensitivity to the situational determinants of behavior—was essentially the same (Jones, 1990).

The link between the fundamental attribution error and perceptions of police-induced confessions can be seen in a possible solution to these problems. In *The Psychology of Interpersonal Relations*, Fritz Heider (1958), the architect of attribution theory, argued that behavior "has such salient properties that it tends to engulf the field rather than be confined to its proper position as a local stimulus whose interpretation requires the additional data of a surrounding field—the situation in social perception" (p. 54). When one listens to a speech, or watches a confession, the actor is figural; the situation is background. When visual perspec-

tives are altered, so are causal attributions (Taylor & Fiske, 1978).

This latter effect has proved consistent in research on the perception of interrogations. In numerous studies, Lassiter and others taped mock interrogations from three different camera angles so that the suspect, interrogator, or both were visible (for an overview, see Lassiter, 2010). Observers in these studies who were visually focused on the suspect judged the situation as less coercive than did those focused on the interrogator. By directing visual attention onto the accused, the camera can thus lead one to underestimate the pressure exerted in the background. Additional studies have confirmed that mock jurors and judges are more attuned to the situational factors that elicit confessions when the interrogator is also on camera (Lassiter et al., 2002; Lassiter, Diamond, Schmidt, & Elek, 2007).

Apart from the commonsense belief that leads one to trust confessions as statements against self-interest, there is a second reason why confessions are so persuasive, even if false: They typically contain not only an admission of guilt but a detailed narrative. Analyzing proven false confessions from the Innocence Project, Garrett (2010) found that 95% contained details about the crime that were accurate when compared to the case files. The confessors in this sample were all innocent, so they did not have firsthand guilty knowledge. Illustrating a process of contamination, it appears that police had communicated these facts during their interrogations. In a second study, Appleby, Hasel, and Kassin (2013) content-analyzed 20 false confessions and found that many contained not only visual and auditory details about the crime but declarations of voluntariness, statements about the confessor's motivation, apologies, and expressions of remorse. In short, many false confessions are exquisitely detailed—and vividness is a cue that increases perceptions of credibility (Bell & Loftus, 1989; Johnson, 2006).

There is one other troubling mechanism by which confessions are potent in court: Precisely because confession evidence is trusted via logic and common sense, it can corrupt the perceptions of eyewitnesses, forensic experts, and others entrusted to provide independent and seemingly corroborating evidence. Consistent with a plethora of research on confirmation biases, experiments have shown that confessions can influence eyewitnesses, alibi witnesses, and forensic examiners (Kassin, 2012; Kassin, Dror, & Kukucka, 2013). This is not a mere laboratory phenomenon. In an archival analysis of Innocence Project cases, Kassin, Bogart, and Kerner (2012) found that four out of five false confessions were accompanied by one or more additional errors, especially invalid or misleading applications of forensic science; more often than not, the confession in these cases was obtained first. In short, the inherent power of confessions is often exacerbated by other incriminating evidence, which creates an illusion of corroboration.

Why Counterintuitive is Problematic

Utter the name Catherine “Kitty” Genovese, and most psychologists know that she was the young woman who late one night in 1964 was stabbed to death in Queens, in an attack that unfolded over the course of 30 min. Despite Kitty’s cries for help, as reported in the *New York Times* (Gansberg, 1964), it was alleged that neighbors who saw and/or heard the commotion did not help or call police. This singular event inspired the study of bystander intervention in social psychology; the early research was summarized in Latané and Darley’s (1970) book *The Unresponsive Bystander*.

Over the years, a controversy has simmered over the number of bystanders who actually witnessed the event and whether they tried to intervene. With the spotlight shining on Genovese and her neighbors, however, two stories involving false confessions, closely linked to the event, were overshadowed in the historical record. Five days after the Genovese murder, 29-year-old Winston Moseley confessed. His confession was solidified by his ability to lead police to her belongings. That same night, Moseley also confessed in great detail to the stabbing murder of another girl months earlier. But police did not take a formal statement, and he was not prosecuted. Why? Because Queens detectives had relentlessly interrogated into confession an 18-year-old boy named Alvin Mitchell, who was awaiting trial. After a hung jury divided 11 to 1 for acquittal, on the basis of his confession, Mitchell was retried and convicted.

Also that same night, detectives pressed Moseley about the unsolved killing of two Manhattan women, a headline crime dubbed the “career girl murders.” This time he insisted he was not involved. One month later, detectives interrogated 19-year-old George Whitmore and produced a 61-page confession. It was later discovered that Whitmore had an ironclad alibi, so after 3 years in jail and a decade on bond, he was exonerated. In *Miranda v. Arizona* (1966), the Supreme Court cited his case as a “conspicuous” example of police coercion (for a full account of these Genovese-related stories, see Kassin, 2017).

Inattentional blindness is the phenomenon by which people fail to notice a perceptible but unexpected visual stimulus that is in plain sight because attention is focused elsewhere (Mack & Rock, 1998; for a description of the “invisible gorilla” experiments, see Chabris & Simons, 2009). Cognitive psychologists debate whether these failures indicate that people did not “see” the stimulus or saw it but then quickly forgot—which would instead suggest inattentional *amnesia* (Mack, 2003). Either way, although the analogy to Kitty Genovese is admittedly a loose one, it makes a similar point: Social psychologists have been staring at this storied case for over 50 years. Yet like the gorilla pounding its chest in studies of inattentional blindness, the false confession dramas were all but invisible to history.

The failure to notice unexpected events can have consequences. Over the first 20 years of DNA exonerations reported by the Innocence Project, involving 251 cases from 1989 to 2009, 23% contained false confessions as a contributing factor. From 2010 through 2016, however, an astonishing 41% of 98 cases contained false confessions. There is no simple way to interpret why this number has increased so markedly. Certainly, one possibility is that today “we are simply more aware of false confessions” (Barry Scheck, personal communication, April 4, 2017). A lack of awareness can also breed skepticism. This can be seen in an early exchange, previously noted, in which Leo and Ofshe (1998) had identified 60 cases involving proven or probable false confessions. In response, Cassell (1999) argued that nine of these confessors were guilty, challenged three others, and concluded that “the allegedly ‘innocent’ person was in all likelihood properly found guilty at trial or by plea” (p. 572). Without relitigating these cases, it is worth noting that among the confessors whose innocence Cassell had challenged, five—Richard LaPointe, Steven Linscott, Juan Rivera, Martin Tankleff, and Earl Washington—can now be found in the annals of wrongful convictions, fully exonerated (<http://www.law.umich.edu/special/exoneration/Pages/about.aspx>).

Just as commonsense folk psychology may “blind” people from seeing innocence after confession, it may also keep them from accepting innocence even after exoneration. Again, the underlying psychology is basic. In *When Prophecy Fails*, Leon Festinger, Henry Riecken, and Stanley Schachter (1956) joined and observed a small apocalyptic cult led by “Marian Keech,” a woman who said she had received messages from superior beings from another planet. The messages warned that a flood would destroy the world on December 21, 1954. When doomsday came and went, disconfirming the prediction, Keech proclaimed that the world was spared thanks to the “force of Good and light” the group had spread (p. 169). Instead of abandoning the discredited prediction, the group believed it more strongly and proselytized with greater fervor. Festinger (1957) went on to explain this as a motivated instance of cognitive dissonance; from a social-cognitive framework, others would demonstrate this effect in the laboratory and call it *belief perseverance*—the tendency for people to retain strongly held beliefs even after the supporting evidence has been discredited (Anderson, Lepper, & Ross, 1980). Indeed, Greitemeyer (2014) found that when participants read an article, after which they were told that it was retracted because the data were fabricated and not to be trusted, they continued to believe rather than completely discount the findings.

Illustrating this tendency, false confession exonerations often show how difficult it can be to reopen closed minds. In a *New York Times* article titled “The Prosecution’s Case Against DNA,” Martin (2011) described several cases in

which suspects confessed during harsh police interrogations, after which they were excluded by DNA testing. One would think the prosecutors in these cases would have dropped the charges, apologized for the mistake, and reopened investigations. Instead, however, they spun new and implausible theories to reconcile the contradiction—often with success at trial. In a series of mock juror studies, Appleby and Kassin (2016) pitted confessions against exculpatory DNA and found that although people generally trust DNA more than self-report, these prosecutorial theories attenuated the power of exculpatory DNA, significantly increasing the effects of confessions.

Grave consequences can follow from the reluctance to acknowledge false confessions. In a recent experiment, Clow and Leach (2015) had participants read an article about a fictional exoneree who had falsely confessed, was misidentified by an eyewitness, or was implicated by an informant. Results showed that participants continued to harbor doubt as to the innocence of the exoneree who had confessed. Despite exoneration, these wrongfully convicted defendants were stigmatized more than were others.

This stigma is not a laboratory-only phenomenon. In *Wright v. Commonwealth of Pennsylvania*, Anthony Wright was convicted of a rape and murder he did not commit on the basis of a confession. As in many other states, Pennsylvania offers prisoners a right to postconviction DNA testing to establish innocence. Wright was denied, however, because, he was told, a defendant who had confessed is barred from DNA testing. The APA submitted an amicus brief in this case (<http://www.apa.org/about/offices/ogc/amicus/wright.aspx>); in February of 2011, the state supreme court overruled the lower courts (the DNA later indicated that Wright was innocent). Similarly, in *Warney v. State of New York*, Doug Warney—a mentally retarded man convicted of murder based on a richly detailed confession—was DNA-exonerated and released from prison. When he sought reparations through the state's compensation statute, however, he was deemed ineligible because his wrongful conviction resulted from his "own conduct"—that is, the police-induced false confession. The APA filed an amicus brief in this case as well (<http://www.apa.org/about/offices/ogc/amicus/warney.aspx>); in March 2011, the New York State Court of Appeals unanimously decided in Warney's favor.

The Need to Engage: Policy, Practice, and Public Awareness

As the opening story of Brendan Dassey illustrates, convictions based on confessions arise from two problems: (a) innocent people are often cajoled into confession through personal weakness and/or coercive police interrogations, and (b) prosecutors, judges, juries, and appeals courts tend to believe these false confessions. In the service of social justice, psychologists—armed not only with a cache of

forensically focused studies and wrongful convictions but with core principles of psychology—are uniquely positioned to help solve both sets of problems through active engagement in three Ps: *policy*, *practice*, and *public awareness*.

On matters of public policy, which can come through the courts or state legislatures, the most significant safeguard is to require the electronic recording of interrogations—the entire process, not just the confession. This policy took hold in Great Britain in 1985. Currently, it is mandated in 25 states and the District of Columbia. As stated in our AP-LS white paper: "Without equivocation, our most essential recommendation is to lift the veil of secrecy from the interrogation process in favor of the principle of transparency" (Kassin et al., 2010, p. 25).

There is a historical and ongoing debate concerning this practice. Many law enforcement agencies have opposed the recording of interrogations for reasons that are both pragmatic (e.g., concerning the scope of such a requirement and consequences in case of equipment malfunction) and prosecutorial (i.e., apprehensive about how it would affect police, suspects, judges, and juries). Yet proponents have argued that the presence of a camera would inhibit police from using highly coercive tactics, perhaps reducing the incidence of false confessions, and that recordings would provide a fuller, more accurate account of how statements were produced, perhaps increasing fact-finding accuracy. New empirical research has supported these propositions (Kassin et al., 2014; Kassin, Kukucka, et al., 2017). In response to additional research and testimony before criminal justice commissions and state legislatures, perhaps remaining states will follow.

Turning from matters of policy to practice, the research community has agreed that a number of reforms to interrogation practices are needed. Desirable reforms include finding ways to protect vulnerable suspect populations and curtailing the use of coercive interrogation practices. At a more macro level, retraining police in the use of PEACE and other forms of investigative interviewing would prove particularly reformative. Initiated in the United Kingdom, such changes have also been made in Norway and New Zealand. As seen in early efforts in Canada, however, training police to break old habits and adopt a new paradigm can be a slow, uphill climb (see Snook, Eastwood, Stinson, Tedeschi, & House, 2010).

It is clear that certain police practices should be modified. When *Making a Murderer* aired, much of the public outcry pertained to the interrogation of Dassey. Among confession researchers, there is widespread agreement that juveniles are at acute risk in an interrogation (Kassin, Redlich, et al., in press). The Supreme Court has recognized this problem. In *J. D. B. v. North Carolina* (2011), the Court held that police must consider an individual's age when determining whether the person is in custody and should be Mirandized.

The International Association of Chiefs of Police (IACP) is also in step with research on adolescence. The IACP in 2012 published *Reducing Risks: An Executive's Guide to Effective Juvenile Interview and Interrogation*.

Despite increased awareness, a survey of 340 police officers nationwide indicated that they interrogate youth in the same manner as adults (Cleary & Warner, 2016). In fact, John Reid and Associates now offers courses to educators on how to interrogate students in school using the same techniques taught to homicide detectives. In a situation where *Miranda* does not apply, where parents are not informed, where students' presence is compulsory—essentially putting them in “custody,” and where disobedience evokes disciplinary action, the interrogation of juveniles using the Reid technique in school is perilous and should be stopped (see Crane, Nirider, & Drizin, 2016; Starr, 2016).

Last but not least, there is a dire need for psychological experts to raise public awareness about rights and risks. Influencing policy from the top down is one way to instigate reform; another is to inform the public and inspire change from the bottom up. There are several mechanisms for doing this—giving public lectures, offering expert testimony in court, writing opinion editorial articles, talking to journalists and respected news media, and working with podcast and documentary filmmakers looking to tell the stories of individuals wrongfully convicted. Trained in the model of the “pure scientist,” not everyone is comfortable with this posture. Yet one might argue that it is short-sighted to spend years addressing a problem of concern, getting funded, designing experiments, analyzing data, and publishing in journals, only to stop short of serving as a spokesperson when it matters most. Indeed, with false confessions implicating core principles of psychology, all readers of this journal have something to contribute. If psychologists do not speak up, that void will be filled by others less informed.

This point brings us back to Wisconsin's Brendan Dassey. Having exhausted all state appeals, he was on track to serve out a mandatory life sentence with no possibility of parole until 2048. Then Netflix aired *Making a Murderer*. Millions of viewers watched; many were enraged; soon, a federal court had overturned the conviction on the ground that Dassey's confession had been coerced. At present, it is unclear how this particular story will be resolved. What is clear, however, is that the film raised public awareness in a way that may ultimately benefit the administration of justice in this case and others in the future.

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