Research-Based Instructions Induce Sensitivity to Confession Evidence

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Evidence is mixed on whether or not laypersons have sufficient knowledge of false confession risk factors. Procedural safeguards such as judicial instructions may assist jurors who are unable to effectively evaluate confession evidence. Participants were randomly assigned to one of five conditions that varied in the quality of a confession and the presence of instructions on coercive interrogation techniques. The results indicate that instructions induce sensitivity by altering verdict decisions and perceptions of evidence strength and confession voluntariness in line with the quality of the interrogation. Furthermore, the presence of instructions in low-quality interrogations resulted in participants completely discounting the confession. These findings suggest that research-based instructions on coercive interrogation techniques may be an effective safeguard against the use of potentially unreliable confession evidence.

Keywords: confession; interrogation; judicial instructions; juror decision-making.

Introduction

Confession evidence is one of the most persuasive types of evidence presented to jurors (Kassin & Neumann, 1997). Confessions are found to be convincing despite evidence that laypersons and even law enforcement personnel perform at chance levels when attempting to decipher whether an actual confession is true or false (Kassin, Meissner, & Norwick, 2005). This inability to accurately determine a confession's veracity may explain the number of documented wrongful conviction cases where jurors convicted based, at least in part, on a defendant's false confession (now up to 12% of all exonerations; National Registry of Exonerations, 2016).

Much research attests to the potential for a variety of interrogation tactics to induce a false confession (for a review, see Kassin,

Drizin, et al., 2010). The use of psychologically coercive tactics might serve as indicators of confession (un)reliability for jurors who are tasked with evaluating such evidence in court. However, it is unclear whether jurors have the ability to effectively evaluate confession evidence on their own (Kassin & Sukel, 1997; Palmer, Button, Barnett, & Brewer, 2016; Woestehoff & Meissner, 2016) or if safeguards such as instructions may assist jurors in this endeavor. Thus, the current study assesses participants' sensitivity to confession-quality manipulations both on their own and with judicial instructions.

Interrogation Techniques

Numerous archival, observational, and experimental studies have identified situational

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risk factors that elevate the likelihood of a false confession (see Kassir, 2008; Kassir, Drizin, et al., 2010; Kassir & Gudjonsson, 2004). Such risk factors include prolonged isolation (Drizin & Leo, 2004), maximization techniques such as confronting and accusing a suspect with real or fabricated evidence (Horselenberg et al., 2006; Horselenberg, Merckelbach, & Josephs, 2003; Kassir & Kiechel, 1996; Kassir & McNall, 1991; Perillo & Kassir, 2011), and minimization techniques that downplay the seriousness of a crime by offering sympathy and/or understanding for why a crime may have been committed (Kassir, Appleby, & Perillo, 2010; Kassir & McNall, 1991; Klaver, Lee, & Rose, 2008; Russano, Meissner, Narchet, & Kassir, 2005). While physical force or the threat of physical force renders a confession inadmissible, the use of psychologically coercive interrogation techniques is not prohibited by United States law (Garrett, 2010; see also Kassir, Drizin, et al., 2010) and thus may be admissible in court. If this occurs, it becomes the jury's duty to determine whether a defendant's confession is reliable.

Jurors' Evaluation of Interrogation Techniques

Laypersons generally have difficulty distinguishing between true and false confessions (for a review, see Kassir, 2008; see also Kassir et al., 2005). Jurors find confessions to be persuasive evidence even when they may be coerced (Drizin & Leo, 2004; Kassir & Sukel, 1997), potentially due to a failure to accurately assess the power of the situation on another's behavior (i.e., the fundamental attribution error; Ross, 1977). That is, jurors may focus on the disposition of the confessor to the exclusion of the situation in which the confession was obtained (Kassir & Sukel, 1997). Confessions also have the potential to taint jurors' perceptions of other evidence (Kukucka & Kassir, 2014; see also Kassir, Bogart, & Kerner, 2012), and jurors become increasingly convinced of a confession's reliability when the

suspect has provided more specific details surrounding the crime (Appleby, Hasel, & Kassir, 2013). Yet, specificity may not be a reliable measure of honesty, as police often provide crime details to suspects during the course of an interrogation when attempting to elicit a confession (Garrett, 2010).

Surveys of laypersons indicate that techniques falling under the umbrellas of maximization and minimization are perceived as being coercive, but are also perceived as only being likely to induce a true confession rather than a false one (Blandón-Gitlin, Sperry, & Leo, 2011; Leo & Liu, 2009; for poor juror knowledge concerning false confession risk factors, see Henkel, Coffman, & Dailey, 2008). Additionally, the results of several experimental studies suggest that mock jurors are insensitive to the coercive nature of interrogations. For example, jurors perceive greater pressure to confess when maximization is used compared to minimization and the absence of any tactics, but this does not result in changes to perceptions of fairness or verdict decisions (Moffa & Platania, 2007; see also Moffa & Platania, 2009). Similarly, jurors acknowledge that a confession obtained via explicit threats is coercive, but they convict nonetheless (Kassir & Sukel, 1997). It is possible that jurors infer the defendant's guilt based on the intense effort by police, or that they simply discount those risk factors and rely solely on the presence of a confession to determine guilt.

In contrast, recent evidence suggests that laypersons and college students, on their own, can somewhat discriminate between interrogations that vary in coerciveness (Woestehoff & Meissner, 2016) as well as between confessions that vary in their consistency with other evidence (Henderson & Levett, 2016; Palmer et al., 2016). Woestehoff and Meissner (2016) posit that media exposure may have increased the public's awareness of false confessions, although additional research is needed to determine whether or not jurors are now capable of evaluating confession quality on their own.

Safeguards

The United States courts have in place a variety of safeguards to prevent wrongful conviction by assisting jurors with evaluating evidence (e.g., judicial instructions, expert testimony). Borrowing from the eyewitness literature, safeguards are designed to help jurors evaluate the quality of the evidence presented to them such that convictions increase with high-quality evidence and decrease with low-quality evidence (i.e., sensitivity; Cutler, Dexter, & Penrod, 1989). However, a safeguard may make jurors skeptical of all confession evidence, regardless of its quality (i.e., skepticism; Cutler et al., 1989).

Evidence is mixed on whether various safeguards can improve jurors' ability to effectively evaluate the reliability of confession evidence. Regarding expert testimony, findings suggest null effects (Henderson & Levett, 2016, Study 2; Moffa & Plantania, 2007, 2009), skepticism (Woody & Forrest, 2009; see also Woestehoff & Meissner, 2016, who found both null and skepticism effects), and sensitivity (Blandón-Gitlin et al., 2011; Gomes, Stenstrom, & Calvillo, 2016¹; Henderson & Levett, 2016, Study 3). As a result, jurors may be less likely to convict even when evidence is of high quality.

Given the potential for bias (i.e., skepticism) as well as the additional cost and time, courts generally prefer judicial instructions over expert testimony (Sheehan, 2011; see also *New Jersey v. Henderson*, 2011). Kassir and Wrightsman (1980) proposed that instructions on coercive interrogation techniques 'could serve as the vehicle by which to correct jurors' biases' (p. 144). However, various iterations of instructions have seemed to be unable to improve jurors' ability to discern the quality of confession evidence. For example, it has been found that instructions concerning the credibility of the defendant and the police (Gomes et al., 2016) as well as instructions focused on voluntariness, reliability, fairness, or some combination of these factors (Kassin & Wrightsman, 1981) do not influence verdict

decisions. However, instructions on fairness and reliability appear to reduce perceptions of confession voluntariness (Kassin & Wrightsman, 1981). This latter effect occurs regardless of confession quality, which suggests that this particular set of instructions induces some skepticism, but not enough to influence jurors' verdict decisions.

The limited research in this area indicates that instructions on coercive interrogation techniques does not sensitize jurors to interrogation quality. However, recent evidence suggests eyewitness identification instructions based on sound psychological research can induce sensitivity among jurors (Jones, Bergold, Berman, & Penrod, 2015; Pawlenko, Safer, Wise, & Holfeld, 2013). For example, the Interview-Identification-Eyewitness (I-I-Eye) method appears to increase jurors' sensitivity to the quality of identification procedures, increasing the likelihood of a guilty verdict when quality is high and decreasing the likelihood when quality is low (Pawlenko et al., 2013). Similar results have been obtained in the United States with a modified version of newly implemented eyewitness instructions in the state of New Jersey (see *New Jersey v. Henderson*, 2011; see also Jones et al., 2015; though cf. Dillon, Jones, Bergold, Hui, & Penrod, 2017). This American court ruled that jurors in all cases involving eyewitness evidence must receive instructions intended to assist jurors in evaluating witnessing and identification conditions (*New Jersey v. Henderson*, 2011).

Current Study

The current study seeks to assess verdict and other relevant legal decisions based on participants' ability – on their own or with the assistance of judicial instructions – to evaluate interrogation quality. The *Henderson* Court assigned a special master to evaluate the testimonies of numerous eyewitness identification experts, leading to the creation of instructions based on established psychological research

(*New Jersey v. Henderson*, 2011; for the instructions, see New Jersey Supreme Court, 2012). The use of research-based eyewitness instructions is already spreading across the United States (e.g., *Commonwealth v. Gomes*, 2015 in Massachusetts). Thus, the time is ripe to identify whether similar research-based instructions on false confession risk factors can sensitize jurors to interrogation quality. The current study's novel set of instructions follows the format of the *Henderson* instructions and builds on previous versions of confession instructions (Gomes et al., 2016; Kassin & Wrightsman, 1981). The content of such instructions could provide useful information regarding factors influencing false confessions, and inform potential jurors no matter the jurisdiction. This is especially relevant given that wrongful convictions have been documented in a number of countries (Weathered, 2012).

Without instructions, the presence of a confession – regardless of how it was obtained – may serve as a heuristic for guilt (Drizin & Leo, 2004; Goldman, 2003; Kassin & Sukel, 1997). In other words, jurors assume the defendant must be guilty simply because he or she confessed. However, it is possible that the use of research-based instructions may engage a deeper level of information processing by drawing jurors' attention to the situational constraints in the interrogation room that might not otherwise be considered. This follows the premise of dual-process models, such as the heuristic-systematic model (Chaiken, 1980), which has also been used to explain the effects of expert testimony (e.g., Jones & Kovera, 2015; Levett & Kovera, 2008). When information is processed heuristically, individuals do not critically examine a message and instead look to shortcuts to determine the quality of the message. In contrast, systematic processing is analytical and comprehensive, and involves individuals scrutinizing the content of a message. However, ability and motivation limit the extent to which systematic processing is used (Chen & Chaiken,

1999). Assuming that jurors are motivated to fulfil their duty to determine the weight of the evidence, the proposed research-based instructions may increase their ability to systematically process the evidence. Thus, an instruction sensitivity effect was hypothesized (see also Henderson & Levett, 2016; Moffa & Plantania, 2009). It was expected that an interaction would be observed between interrogation quality and instructions such that guilty verdicts, evidence strength, voluntariness, and detective credibility would be higher when interrogation quality was high and lower when interrogation quality was low, but *only* when instructions were used (Hypothesis 1).

The effect of instructions on jurors' decisions may also materialize in other ways: (1) instructions may reduce the likelihood of jurors convicting (as well as reducing perceptions of evidence strength, voluntariness, and detective credibility) whenever a confession is introduced (i.e., skepticism); or (2) they may have no effect at all. It is also possible that jurors, on their own, are capable of effectively evaluating interrogation quality (see Woestehoff & Meissner, 2016), rendering a safeguard unwarranted.

Any sensitivity to a low-quality interrogation may result in participants altering guilty verdicts and related perceptions to levels observed without a confession. In line with Hypothesis 1, it was expected that for guilty verdicts, guilt ratings, and evidence strength there would be no differences between the no-confession control group and the low-quality interrogation when participants received instructions. However, it was hypothesized that guilty verdicts, guilt ratings, and evidence strength would be higher for a low-quality interrogation *without* instructions compared to the control condition (Hypothesis 2). Finally, because the detective in the mock trial uses coercive techniques in the low-quality interrogation but not in the control condition, it was hypothesized that voluntariness and detective credibility ratings would be lower with the control

condition relative to the low-quality interrogation, with – but not without – instructions (Hypothesis 3).

Methods

Participants

A total of 158 community members were recruited from the Amazon Mechanical Turk (mTurk) website along with 82 undergraduate students (58% Caucasian, 13% African American, 19% Hispanic, 9% other, 2% unspecified). All participants were screened for jury eligibility (i.e., over 18 years of age, United States citizen, and state identification or voter registration). Students ranged in age from 18 to 35 years ($M = 20.43$, $SD = 2.77$) and are 68% female (48% Hispanic, 18% Caucasian, 16% other, 13% African American, 5% unspecified). Community members ranged in age from 18 to 75 years ($M = 39.81$, $SD = 13.03$) and are 54% female (78% Caucasian, 12% African American, 6% other, 4% Hispanic, <1% unspecified). To ensure high-quality data, only mTurk participants with 95% approval ratings and a minimum of 500 approved human intelligence tasks (HITs) were allowed to complete the study. All participants were given one hour to complete the study. The results do not differ as a function of participant type and are thus collapsed across participants.²

Design and Materials

The current study employed a 2 (Interrogation quality: high vs. low) $\times$ 2 (Instructions: present vs. absent) between-subjects factorial design plus a control condition that did not contain a confession. In all experimental conditions, the defendant confessed to the crime, but subsequently recanted.

Trial Stimulus

The prosecution accused the defendant of killing a rival gang member at a party. All

participants read opening and closing statements from both attorneys, and direct and cross examinations of the detective and the defendant's alibi. Within the written trial transcript, the detective described the evidence against the defendant, as well as the interrogation and subsequent confession, including the techniques used to secure the confession. The low-quality interrogation resulted from the detective using a false evidence ploy, minimization, maximization, and bluff during a ten-hour interrogation, which were absent in the high-quality interrogation (see below for a description of the techniques).

In all experimental conditions, the defendant confessed to shooting at the victim three times to scare the victim away, but not with the intent to kill. The defendant confessed to throwing the gun used to kill the victim in a nearby dumpster. Police subsequently recovered the gun, which was reported as stolen, but were unable to recover any forensic evidence that definitively tied the gun to the defendant. After confessing, the defendant immediately recanted to his mother. The prosecution argued that the defendant provided details about the crime (i.e., the location of the gun and the number of bullets fired) that only the perpetrator could know. However, the defense claimed the defendant simply repeated details offered by the detective that align with the detective's explanation of the crime (attempting to scare the victim).

Aside from the confession, the prosecution presented photographs taken of the defendant at the party where the crime occurred, as well as evidence of the defendant's gang affiliation (and established rivalry with the victim). The participants were informed that this police department did not have an interrogation videotaping policy in place. At the end of the trial, all participants received standard instructions on burden of proof and reasonable doubt. In addition, half of the sample received instructions on coercive interrogation techniques. The instructions were the same regardless of the interrogation techniques used by the detective.

Independent Variables

Interrogation Quality

The low-quality interrogation that resulted in a confession lasted ten hours, during which the detective used four interrogation tactics. The detective told the defendant that a lie-detector test indicated that he was lying (false evidence ploy). The detective suggested alternative explanations for the crime, such as the defendant just trying to scare the victim (minimization). The detective also implied that the defendant would be viewed as a cold-blooded killer unless he confessed (maximization) and suggested there was surveillance video that would place him at the scene of the crime (bluff). On cross-examination, the detective admitted that the lie-detector machine had not actually been turned on and that there was no surveillance video. When the interrogation quality was high, the detective did not use these techniques and the interrogation had only lasted two hours.

In both conditions, the defendant was of sound mind and 24 years of age. The detective testified that the defendant, after waiving his Miranda rights, acknowledged being in a gang and being present at the party when the murder took place. The detective urged the defendant to be forthcoming and help the police solve the crime, but the detective indicated that the defendant had not been very cooperative.

Instructions

The instructions were comprehensive and encouraged participants to assess whether the defendant's statements were voluntary and reliable. The instructions outlined research on internal and external risk factors for false confessions, including the length of the interrogation and the false evidence ploy, minimization, maximization, and bluff interrogation tactics that were manipulated to create low- and high-quality interrogations (see [Appendix 1](#)).

Manipulation Checks

The participants answered a series of eight manipulation and attention checks. They were asked if the defendant was underage or mentally disabled, and whether or not he confessed. They were also asked about the length of the interrogation, and whether or not the detective used the false evidence ploy, maximization, and bluff interrogation tactics. Finally, they were asked whether or not the judge gave instructions on the reliability of confessions.³

Dependent Variables

The participants provided dichotomous and continuous verdicts. Specifically, participants indicated whether they believed the defendant was guilty or not guilty of murder, as well as the likelihood that the defendant had committed the crime (0–100%). Additionally, the participants completed a total of five items measuring strength of evidence using seven-point Likert scales (where 1 = *strong evidence for innocence* and 7 = *strong evidence for guilt*). Items were averaged to create a single scale of evidence strength (e.g., 'To what extent did the defendant's gang membership point to the defendant's innocence or guilt?'; $\alpha = .77$). Next, the participants completed six items measuring voluntariness using seven-point Likert scales (where 1 = *strongly disagree* and 7 = *strongly agree*; e.g., 'The interrogation was coercive'). Items were recoded as necessary and averaged to create a single scale, with higher values representing higher ratings of voluntariness ($\alpha = .89$). Finally, the participants rated their impressions of the detective on a series of seven-point bipolar adjective pairs: trustworthy–untrustworthy, honest–dishonest, not believable–believable, convincing–unconvincing, and certain–uncertain. The items were recoded as necessary so that higher values represent higher credibility and then averaged to create a single scale ($\alpha = .91$).

Procedure

All participants gave informed consent prior to completing the demographic information and were then randomly assigned to one of five conditions, subsequently reading the trial transcript relevant to their condition. Afterwards, participants completed a questionnaire where they first rendered a verdict and then completed all remaining dependent measures (i.e., evidence strength, voluntariness, and detective ratings) and manipulation checks. Students were compensated with course credit while those recruited via mTurk were paid US\$0.75 for their time.

Results

Manipulation Checks

The participants, on average, correctly answered most of the manipulation and attention checks ($M = 6.70$, $SD = 1.27$). The results of the full sample were compared with those of the subsample who answered all eight manipulation checks correctly. Because the results did not differ, the full sample was retained for the analyses.⁴

Skepticism Effects

An examination was conducted to determine whether or not the instructions made the

participants skeptical of the prosecution's case, regardless of interrogation quality. Across all five dependent measures, no main effect of instructions emerged: dichotomous verdict decisions, Wald $\chi^2(1, n = 191) = 0.02, p = .90$, $\text{Exp}(B) = 1.04$, 95% CI [0.57, 1.89]; continuous guilt ratings, $F(1, 186) = 0.03, p = .86, \eta_p^2 = .00$; perceptions of evidence strength, $F(1, 186) = 0.41, p = .52, \eta_p^2 = .00$; perceptions of voluntariness, $F(1, 186) = 0.75, p = .39, \eta_p^2 = .00$; detective credibility ratings, $F(1, 186) = 0.59, p = .45, \eta_p^2 = .00$. None of the five measures differed with or without instructions, indicating that the instructions did not induce skepticism among this sample of participants (see Table 1 for overall means).

Sensitivity Effects

An examination was conducted to determine whether or not the participants were independently sensitive to the quality of the interrogations or if the presence of instructions induced sensitivity. For the logistic regression on verdict there is a non-significant main effect of interrogation quality, Wald $\chi^2(1, n = 191) = 0.91, p = .34$, $\text{Exp}(B) = 1.49$, 95% CI [0.65, 3.41], and a marginally significant interaction between interrogation quality and the presence of instructions, Wald $\chi^2(1, n = 191) = 2.82$,

Table 1. Descriptors.

Variables	Guilty verdict	Guilt rating, $M (SD)$	Evidence strength, $M (SD)$	Detective credibility, $M (SD)$	Voluntariness, $M (SD)$
Interrogation quality					
Low ($n = 97$)	29%	50.97 (20.03)	4.40 (1.05)	3.65 (1.55)	2.26 (1.14)
High ($n = 93$ – 94)	50%	64.13 (28.58)*	4.75 (0.99)*	4.73 (1.29)**	3.61 (1.26)**
Instructions					
Absent ($n = 95$ – 96)	39%	57.01 (29.17)	4.61 (0.97)	4.08 (1.55)	2.83 (1.31)
Present ($n = 95$)	40%	57.95 (29.93)	4.53 (1.09)	4.27 (1.50)	3.01 (1.44)
Control ($n = 49$)	14%	51.10 (28.76)	4.13 (0.89)	4.84 (1.37)	3.37 (1.34)
Overall ($n = 239$ – 240)	34%	56.19 (29.39)	4.48 (1.02)	4.31 (1.52)	2.92 (1.38)

Note: * $p < .05$; ** $p < .001$. Guilt rating was measured as a 0–100% likelihood of guilt. Evidence strength was measured on a seven-point scale where higher values indicate stronger evidence of guilt. Detective credibility was measured on a seven-point scale where higher values indicate increased credibility. Voluntariness was measured on a seven-point scale where higher values indicate a more voluntary interrogation.

$p = .09$, $\text{Exp}(B) = 2.82$, 95% CI [0.84, 9.45]. The guilty verdicts do not differ between high- and low-quality interrogations when instructions were absent (44% vs. 34%), $\chi^2(1, n = 96) = 0.91$, $p = .34$, $\phi = -.10$. However, in support of Hypothesis 1, the presence of instructions sensitized participants to interrogation quality such that there were more guilty verdicts for high- versus low-quality interrogations (56% vs. 23%), $\chi^2(1, n = 95) = 10.68$, $p = .001$, $\phi = .34$ (see Table 2 for conditional percentages).

A multivariate analysis of variance (MANOVA) was next conducted because the remaining outcomes of interest (i.e., guilt ratings, evidence strength, voluntariness, and detective credibility ratings) were correlated (see Table 3 for correlations). There is a significant multivariate main effect of interrogation quality, $F(4, 182) = 15.69$ $p < .001$, Wilk's $\lambda = .74$, $\eta_p^2 = .26$, and a significant multivariate interaction between interrogation quality and the presence of instructions, $F(4, 182) = 2.91$, $p = .02$, Wilk's $\lambda = .94$, $\eta_p^2 = .06$. Compared to those who read about a low-quality interrogation, participants who read about a high-quality interrogation rendered higher guilt ratings, $F(1, 185) = 9.48$, $p = .002$, $\eta_p^2 = .05$, $d = 0.46$, 95% CI [0.17, 0.74], evidence strength, $F(1, 185) = 5.19$, $p = .02$, $\eta_p^2 = .03$, $d = 0.34$, 95% CI [0.05, 0.62], voluntariness, $F(1, 185) = 58.99$, $p < .001$, $\eta_p^2 = .24$, $d = 1.12$, 95% CI [0.82, 1.43], and detective credibility ratings, $F(1, 185) = 25.40$, $p < .001$, $\eta_p^2 = .12$, $d = 0.75$, 95% CI [0.46, 1.05] (see Table 1 for overall means).

At the univariate level, the interaction between interrogation quality and instructions is only significant for voluntariness, $F(1, 185) = 5.29$, $p = .023$, $\eta_p^2 = .03$, but not for guilt ratings, $F(1, 185) = 2.19$, $p = .14$, $\eta_p^2 = .01$, evidence strength, $F(1, 185) = 1.60$, $p = .21$, $\eta_p^2 = .05$, and detective credibility ratings, $F(1, 185) = 0.001$, $p = .98$, $\eta_p^2 = .00$. However, given the hypothesis that the presence of instructions would create a sensitivity effect,

Table 2. Tests of a sensitivity effect with the dependent variables as a function of interrogation quality and instructions ($n = 190-191$).

	Guilty verdict		Guilt rating, $M(SD)$		Evidence strength, $M(SD)$		Detective credibility, $M(SD)$		Voluntariness, $M(SD)$	
	Low Q	High Q	Low Q	High Q	Low Q	High Q	Low Q	High Q	Low Q	High Q
Interrogation										
Instructions										
Absent	34%	44%	53.55 (28.62)	60.70 (29.62)	4.54 (0.96)	4.70 (1.00)	3.56 (1.59)	4.65 (1.29)	2.37 (1.24) ^c	3.33 (1.22) ^c
Present	23% ^a	56% ^a	48.28 (67.42) ^b	67.42 (27.45) ^b	4.26 (1.14) ^c	4.79 (0.99) ^c	3.74 (1.51)	4.79 (1.31)	2.14 (1.02) ^d	3.87 (1.26) ^d

Note: Low Q/High Q = low-quality/high-quality interrogation condition. Within dependent measures, means sharing subscripts differ at $p < .05$.

Table 3. Correlation matrix ($n = 237\text{--}240$).

Variables	Guilt rating	Evidence strength	Detective credibility
Evidence strength	.67**		
Detective credibility	.61**	.50**	
Voluntariness	.55**	.38**	.70**

Note: ** $p < .001$.

planned comparisons were conducted to test for the effect of interrogation quality with and without instructions across dependent measures (see Table 2 for conditional means).

Using a Bonferroni correction, a simple main effect of interrogation quality on guilt ratings was found when instructions were present, $F(1, 185) = 10.46$, $p = .001$, $\eta_p^2 = .05$, $d = 0.67$, 95% CI [0.26, 1.09], but not when instructions were absent, $F(1, 185) = 1.27$, $p = .26$, $\eta_p^2 = .01$, $d = 0.25$, 95% CI [-0.16, 0.65], supporting Hypothesis 1. Similarly, there is a simple main effect of interrogation quality on evidence strength when instructions were present, $F(1, 185) = 6.31$, $p = .01$, $\eta_p^2 = .03$, $d = 0.50$, 95% CI [0.09, 0.90], but not when instructions were absent, $F(1, 185) = 0.51$, $p = .48$, $\eta_p^2 = .00$, $d = 0.17$, 95% CI [-0.23, 0.57], also supporting Hypothesis 1.

Regarding voluntariness, there is a simple main effect of interrogation quality when instructions were absent, $F(1, 185) = 14.39$, $p < .001$, $\eta_p^2 = .07$, $d = 0.78$, 95% CI [0.36, 1.20], and an even larger simple effect when instructions were present, $F(1, 185) = 50.11$, $p < .001$, $\eta_p^2 = .21$, $d = 1.50$, 95% CI [1.05, 1.96], partially supporting Hypothesis 1. Finally, in contrast to Hypothesis 1, planned comparisons confirmed a consistent pattern for detective credibility ratings both when instructions were present, $F(1, 185) = 12.91$, $p < .001$, $\eta_p^2 = .07$, $d = 0.74$, 95% CI [0.33, 1.16], and absent, $F(1, 185) = 12.50$, $p = .001$, $\eta_p^2 = .06$, $d = 0.75$, 95% CI [0.33, 1.17].

Are Psychologically Coerced Confessions Discounted?

To evaluate participants' level of discounting, a comparison was made between the no-

confession control condition and the low-quality interrogation *without* instructions. In contrast to Hypothesis 2, no differences are observed between the low-quality interrogation without instructions and the control condition for guilt ratings, $F(1, 91) = 2.28$, $p = .14$, $\eta_p^2 = .02$, $d = 0.31$, 95% CI [-0.10, 0.72], suggesting some discounting for problematic confessions. Yet, this finding does not extend to the remaining measures. In support of Hypothesis 2, guilty verdicts, (44% vs. 14%), $\chi^2(1, n = 95) = 9.94$, $p = .002$, $\phi = .32$, and evidence strength, $F(1, 91) = 8.76$, $p = .004$, $\eta_p^2 = .09$, $d = 0.61$, 95% CI [0.20, 1.03], are higher for the low-quality interrogation without instructions relative to the control condition. In addition, no differences in voluntariness, $F(1, 91) = 0.03$, $p = .88$, $\eta_p^2 = .00$, $d = -0.03$, 95% CI [-0.44, 0.37], or detective credibility, $F(1, 91) = 0.55$, $p = .46$, $\eta_p^2 = .01$, $d = -0.15$, 95% CI [-0.56, 0.25], are present between the low-quality interrogation without instructions and the control condition.

Next, the control condition was compared with the low-quality interrogation *with* instructions. No differences are observed in guilty verdicts (14% vs. 23%), $\chi^2(1, n = 95) = 1.43$, $p = .23$, $\phi = .12$, guilt ratings, $F(1, 92) = 0.23$, $p = .64$, $\eta_p^2 = .00$, $d = -0.10$, 95% CI [-0.50, 0.31], or evidence strength, $F(1, 92) = 0.46$, $p = .50$, $\eta_p^2 = .01$, $d = 0.14$, 95% CI [-0.26, 0.55], between the low-quality interrogation with instructions and the control condition, suggesting that the participants completely discounted the psychologically coerced confession. Furthermore, in support of Hypothesis 3, the participants rated the interrogation as less voluntary, $F(1, 92) = 26.29$, $p < .001$, $\eta_p^2 = .22$, $d = -1.06$, 95%

CI $[-1.49, -0.63]$, and the detective as less credible, $F(1, 92) = 14.59$, $p < .001$, $\eta_p^2 = .14$, $d = -0.79$, 95% CI $[-1.21, -0.37]$, for the low-quality interrogation with instructions compared to the control condition.

Discussion

The purpose of the current study is to test whether research-based instructions induce sensitivity to interrogation quality. The instructions utilized in past studies involving disputed confession evidence have had null effects (e.g., Gomes et al., 2016) or induced skepticism (Kassin & Wrightsman, 1981). These instructions have either focused on witness credibility (e.g., Gomes et al., 2016) or discussed general concepts of voluntariness, reliability, and/or fairness (Kassin & Wrightsman, 1981) without mention of specific factors that can increase the likelihood of a false confession being obtained. The current instructions address this shortcoming by adopting the research-based format of eyewitness instructions that have successfully sensitized jurors to problematic eyewitness identification evidence without inducing skepticism (see Jones et al., 2015; Pawlenko et al., 2013).

In support of Hypothesis 1, the addition of instructions on false confession risk factors assisted participants in evaluating the quality of the interrogation. This is the first study, to the authors' knowledge, which has found that instructions can induce sensitivity to confession evidence. While the instructions amplified the participants' ability to evaluate voluntariness, the participants were only able to adjust guilty verdicts, guilt ratings, and evidence strength (though not detective credibility) according to interrogation quality when the instructions were present.

In line with the heuristic-systematic model (Chen & Chaiken, 1999), the research-based instructions enabled the participants of this study to systematically process the evidence, including the broader context of the interrogation. Without the instructions, the participants were unable (or in the case of

voluntariness, less able) to adjust their perceptions of the evidence according to interrogation quality. Furthermore, the participants who did not have instructions to guide them appeared to rely on the simple presence of the confession, and thus may have fallen prey to the fundamental attribution error (Ross, 1977).

To Hypotheses 2 and 3, the results of the conditions with the low-quality interrogation were compared to the control condition, which did not contain a confession. The low-quality interrogation involved the detective using psychologically coercive techniques that eventually (after ten hours) resulted in a confession. As expected, without instructions, the participants convicted more often (cf., guilt ratings) and rated the evidence as stronger in the low-quality interrogation condition compared to the control condition (see also Kassin & Sukel, 1997). Furthermore, despite the detective's behavior, no differences in voluntariness or detective credibility emerged between these two conditions. However, when the participants received instructions, voluntariness and detective credibility were lower for the condition with the low-quality interrogation than the control condition, suggesting that the instructions enabled the participants to recognize the situational pressures created by the detective. Furthermore, the participants' convictions, guilt ratings, and evidence strength perceptions ratings do not differ between these conditions; thus, it can be seen that the addition of the instructions led the participants to completely discount the confession when it was obtained using psychologically coercive means.

The finding that the participants, on their own, were unable to effectively evaluate confession evidence aligns with much research in this area (Kassin & Sukel, 1997; Moffa & Platania, 2007, 2009), but contrasts with the more recent findings of Woestehoff and Meissner (2016), who contend that their findings conflict with older studies because media exposure may have increased the public's knowledge of false confession risk factors.

However, the present results suggest that knowledge may not be universal and that additional safeguards, such as the instructions utilized in this study, are still needed.

Limitations and Future Directions

Some limitations of this study need highlighting, in particular those affecting ecological validity. First, written trial transcripts were used (see also Blandón-Gitlin et al., 2011; Henderson & Levett, 2016; Kassir & Sukel, 1997), although some studies have suggested little difference in outcomes based on the ecological validity of the stimulus materials (see Bornstein, 1999). Future researchers are encouraged to use more realistic presentations of evidence (e.g., Shaked-Schroer, Costanzo, & Berger, 2015). Second, a non-traditional approach to data collection was taken by using an mTurk sample. However, recent studies indicate similar work quality between participants whose data are collected in person versus those on mTurk (Buhrmester, Kwang, & Gosling, 2011; Casler, Bickel, & Hackett, 2013). Furthermore, the participants passed a number of manipulation and attention checks, ensuring high-quality data. A student sample was relied upon to further generalize the findings, but participant type was not found to moderate results, suggesting similar legal decision-making for both community members and students (see also Desmarais & Read, 2011; Woestehoff & Meissner, 2016).

Third, because data were only collected from individual participants it is unknown if deliberations would alter the findings. However, the best indicator of a *jury* verdict is typically the pre-deliberation verdict preferred by the majority of *individual* jurors (for a review of jury studies, see Devine, Clayton, Dunford, Seying, & Pryce, 2001). To increase ecological validity (see Diamond, 1997; Salerno & Diamond, 2010), future researchers are encouraged to examine whether or not this instruction sensitivity effect upholds when deliberations are utilized.

Finally, within the trial transcript, a number of interrogation techniques were manipulated simultaneously (see also Kassir & Sukel, 1997; Woestehoff & Meissner, 2016). Therefore, it is not possible to infer whether the instructions sensitized the participants to all, only some, or a combination of techniques. Future research should evaluate the impact of individual techniques on juror decision-making (e.g., Jones & Penrod, 2016).

Conclusions

A committee commissioned by the New Jersey Supreme Court created new instructions as a solution to combat wrongful convictions due to eyewitness misidentification (*New Jersey v. Henderson*, 2011). The psychological research on eyewitness identification shaped the decision of the court, and ultimately the content of the instructions. Established research was also consulted to create the informative instructions used in the present study regarding internal and situational risk factors for the obtaining of false confessions. The present results suggest that these instructions could provide an effective safeguard against wrongful convictions due to the use of false confessions at trial.

This study is one of the first to offer evidence that instructions can educate and improve jurors' legal decisions when confession evidence is in dispute. However, it is important to be cautious in the interpretation of these findings, as the use of psychologically coercive tactics – such as the ones manipulated in the current study – do not *always* result in the obtaining of a false confession. Their use, however, increases the likelihood of obtaining a false confession (Kassir, Drizin, et al., 2010). Thus, jurors should be more critical of a confession obtained under such means. The fact that the participants in the present study, with the help of the instructions, were less likely to convict when psychologically coercive interrogation techniques were used should reduce the incentive (i.e., higher likelihood of

conviction) that police may have for using such techniques in the first place. Indeed, researchers have suggested ethical alternatives to risky interrogation techniques, such as information gathering and information elicitation techniques, including the ‘strategic use of evidence’ technique (Hartwig, Granhag, Strömwall, & Kronkvist, 2006; Hartwig, Granhag, Strömwall, & Vrij, 2005), which are also generally preferred by the public (Jones & Brimbail, 2017). Recent evidence suggests that false confessions are less likely to be obtained with the use of information gathering compared to accusatorial techniques (Meissner et al., 2014).

A shift away from accusatorial interrogation methods, such as the ones tested in the current study, to information gathering has largely occurred outside of the United States. Thus, the current findings may only be applicable to countries such as the United States, where accusatorial interrogation methods are still common practice. Aside from using less psychologically coercive techniques, the mandatory video recording of all interrogations could also reduce police misconduct and allow jurors a firsthand view of situational pressures (see Kassir, 2008). Such methods may replace the need for courtroom safeguards – but until then, the instructions tested here provide a valuable protection against wrongful conviction based on the use of false confessions.

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Notes

1. Note that neither Blandón-Gitlin et al. (2011) nor Gomes et al. (2016) manipulated the confession quality, rendering the possibility that the expert simply induced skepticism.

2. Full analyses are available from the first author.
3. Participants were also asked about the minimization technique but an error was made in the question, which asked whether the *defendant* – instead of the detective – minimized the seriousness of the crime during the interrogation. Therefore, this question had to be dropped from the analyses.
4. Full analyses are available from the first author.

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Appendix 1. Instructions

The Court instructs you as follows:

You have heard testimony from Detective Rodriguez that Mr. Parker made certain statements to him. In order for you to consider such evidence, the State must prove to you beyond a reasonable doubt: (1) that the statements were in fact made, (2) that they were voluntary, and (3) that they were reliable and true. Voluntary means the statements were made by the defendant's own free will and without coercion. Coercion is defined as intimidation to compel an individual to do some act against his or her will by the use of psychological pressure, physical force, or threats. All of these issues, which are solely for you to determine, must be proved by the State beyond a reasonable doubt.

A confession must be scrutinized carefully. Research has shown that there are two types of risk factors for false confessions: suspect vulnerabilities and the interrogation tactics used by police. To determine whether the defendant actually made the alleged statement and whether it was voluntary and reliable, you should consider the following factors:

1. You should consider whether the defendant is mentally disabled or underage. Adults with mental disabilities and juveniles under the age of 16 may have an impaired appreciation of Miranda warnings. For example, they may not understand that they do not have to talk to

police. These individuals are more susceptible to waiving their rights due to their compliance with authority and are also more susceptible to suggestion by police, and consequently to confessing to crimes they did not commit.

Ask yourself: Was the defendant mentally disabled? Was the defendant underage?

2. Over the years, the State's highest court has disapproved of certain interrogation tactics because use of such tactics casts doubt on whether the confessions they produce are voluntary or coerced, and whether they are true or false. In particular, you should consider the following interrogation tactics:

- a. **Length of Interrogation:** You should consider whether the defendant was interrogated for an excessive amount of time. Excessive interrogations can render a suspect vulnerable to falsely confessing. Various jurisdictions have reported that 70% of interrogations last less than 1 hour and only 8% last more than 2 hours. In contrast, studies of documented false confession cases indicate that 34% lasted 6–12 hours and 39% lasted 12–24 hours. Excessive time in isolation can increase stress and also one's desire to escape. Sleep deprivation significantly impairs human functioning, including a loss of attention and an inability to think clearly in making decisions. People in need of sleep and people who are fatigued may agree to things which are not true simply to escape their immediate distress.

Ask yourself: What was the length of the interrogation? Was this coercive?

- b. **Minimization and Maximization:** You should consider what police said and did during the interrogation. You should consider whether the police downplayed the seriousness of the crime, and whether they offered sympathy and/or understanding for why the crime may have occurred in order to make it appear that a confession will have no serious consequences. You should also consider whether police embellished the seriousness of the crime in an attempt to convince

the suspect it was in his best interest to confess. Police are specifically prohibited from making explicit offers of leniency or threats of harm to a suspect, however minimization and maximization techniques may be interpreted as such.

Ask yourself: Did the police minimize the seriousness of the crime? If so, was this coercive?

Did the police exaggerate the seriousness of the crime? If so, was this coercive?

In an effort to maximize the seriousness of the crime, police may also present false evidence or bluff about evidence they do not have. The presentation of false evidence, such as a failed lie detector test, has been documented in the majority of proven false confession cases. Furthermore, bluffing about evidence, such as the existence of

surveillance video, may induce suspects to confess to crimes they did not commit because they believe they will be exonerated by evidence that does not exist.

Ask yourself: Did the police present false evidence to the defendant? If so, was this coercive? Did the police bluff about evidence that did not exist? If so, was this coercive?

Keep in mind that the use of any single interrogation tactic or combination of tactics is not proof that the defendant falsely confessed nor is the presence of mental disability or youth. Instead, you should consider the factors that I have discussed as you assess all of the circumstances of the case, including all of the testimony and documentary evidence, in determining whether the defendant's confession was both voluntary and reliable as you decide whether the State has met its burden to prove guilt beyond a reasonable doubt.