PERSON- OR SITUATION-BASED EXPERT WITNESS TESTIMONY:
DO JURORS HAVE A PREFERENCE?

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A Thesis

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By

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ABSTRACT

Research has shown that expert witness testimony is effective at informing jurors on the link between situational and dispositional risk factors and false confessions. It is suggested by some researchers that jurors better respond to expert testimony containing dispositional risk factors (person-based expert testimony) over testimony containing situational risk factors (situation-based expert testimony). This is suggested among researchers, yet there is no empirical research to support this view. The present study examined mock-jurors' verdict decisions based on the type of expert testimony they received. After reading a disputed confession case, participants saw one of the following types of expert testimony: situation-based, person-based, or a combination of the two. Participants provided verdict decisions and their perceptions of various aspects of confession evidence and the expert testimony. Expert witness testimony was effective at reducing the amount of guilty verdicts when compared to the control group. However, there were no significant differences between the types of testimony received. These findings suggest that having an expert witness testify (regardless of type) is effective at informing jurors about the reasons as to why someone might falsely confess.

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CHAPTER 1

INTRODUCTION

A small, yet significant number of innocent people confess while under interrogation, sometimes resulting in erroneous convictions ("Innocence Project," n.d.). Thus, the veracity of confessions has become a great concern in the legal system, consequently sparking copious amounts of research examining false confessions. A false confession is "any detailed admission to a criminal act the confessor did not commit" (Kassin & Gudjonsson, 2004, p. 48). Although the exact number of false confessions is difficult to obtain, it is estimated that between 19% and 24% of confessions are false (Costanzo, Shaked-Schroer, & Vinson, 2010).

The reasons for false confessions vary, and even within a single case, a false confession typically arises from a combination of factors. Researchers state there are two general types of factors that might increase an innocent person's likelihood of falsely confessing: situational and dispositional risk factors (Gudjonsson, 1991, 1992; Gudjonsson, Sigurdsson, Asgeirsdottir, & Sigfusdottir, 2006; Kassin & Gudjonsson, 2004; Kassin & Kiechel, 1996; Kassin et al., 2010; Sigurdsson & Gudjonsson, 1996). Situational risk factors are the external factors related to the interrogation process, such as the tactics and techniques used during an interrogation, while dispositional risk factors are the internal factors that are inherent to the suspect, such as, age, cognitive

impairment, personality characteristics and psychopathology (Kassin & Gudjonsson;
Kassin et al.).

While situational and dispositional risk factors may independently explain why an
innocent person might falsely confess to a crime, it is often the case that they operate in
conjunction with one another to influence behavior. However, most people believe
heavily in the role that dispositional risk factors play in eliciting false confessions, while
they tend to down play the role of situational risk factors. This phenomenon is known as
the *fundamental attribution error*. The model of the fundamental attribution error states
that people are likely to place undue emphasis on internal rather than situational
characteristics when explaining other people's behaviors, whether good or bad (Ross,
1977). For instance, one might believe that despite coercive interrogations, a person
would not falsely confess unless he or she had some sort of mental defect or abnormal
level of vulnerability (Davis & Leo, 2010). This belief is in contrast to the mounting
evidence from research and real world cases, revealing that situational factors work to
influence otherwise psychologically healthy (and innocent) individuals to falsely confess.
How can the fundamental attribution error be reduced? At trial expert witness testimony
is sometimes permitted in court to inform jurors about the psychology of interrogations
and possible risk factors that may have led the defendant to make a false confession. This
may reduce the fundamental attribution error and help jurors make more effective and
informed decisions when coming to a verdict.

One type of expert testimony offered is person-based expert witness testimony,
also referred to as clinical expert witness testimony, which contains information based on
an in-person clinical assessment of the suspect. The purpose of this assessment is to find

possible psychological or psychiatric reasons that may call into question the validity of the defendant's confession to a crime he or she did not commit. Another type of expert testimony is situation-based expert witness testimony. This type does not involve an evaluation of the defendant per se, but rather it is based on the evaluation of the context in which the interrogation took place, focusing on the tactics that have been linked to invalid or false confessions. Of these two possible types of expert testimony, courts seem to prefer, and mostly allow, person-based expert witness testimony to be heard in court more often than situation-based expert witness testimony (Davis & Leo, 2010). It appears that even judges, who are the experienced gatekeepers of the evidence, also reveal the fundamental attribution error through their preference for person-based expert testimony.

Expert witness testimony is beneficial to jurors in that it presents them with information regarding the truthfulness and voluntariness of the confession. Although jurors tend to report being cognizant of the detrimental influences situational and dispositional risk factors have on confessions, they still believe only guilty suspects confess, suggesting they may not make informed decisions (Henkel et al., 2008; Leo & Liu, 2009). For instance, in their research, Leo and Liu (2009) revealed that although laypersons understand some interrogation tactics are coercive (e.g., false evidence ploys and promises of leniency), they do not believe them to elicit false confessions. Henkel et al. (2008) had similar findings in that participants rated physical torture as most likely to lead to a false confession, and that confessions induced through threats were most likely to be disregarded by jurors. In other words, jurors are not recognizing that certain interrogation tactics and personal dispositions can directly lead to a false confession,

which helps to explain why expert witness testimony is an important safeguard that may help to prevent these miscarriages of justice.

Just like the court's preference for person-based testimony (Davis & Leo, 2010; Watson et al., 2010), it is possible that the jurors respond more positively to person-based expert witness testimony than situation-based testimony. Currently, there is no published research that addresses this question. Based on the fundamental attribution error, it is possible that, due to the reliance on information about the characteristics of a defendant, person-based testimony from an expert witness would be more influential in jurors' decisions than the situation-based testimony. The purpose of the present study was to examine the degree to which jurors prefer person-based expert witness testimony over situation-based expert witness testimony.

**The Basis for Situation-Based Expert Testimony: Situational Risk Factors**

Situational risk factors are associated with the conditions of custody and interrogation. Many police investigators are trained to use the Reid technique, a multifaceted approach incorporating steps that are meant to move the suspect from denial of a crime to admission of guilt. This is done by the investigator fostering an anxiety-ridden environment by secluding the suspect from outside stimuli, while inundating the suspect with accusatory and psychologically manipulative interrogation tactics (Kassin et al., 2010). Davis and Leo (2010) state that the situational factors involved in an interrogation exert powerful effects on one's behavior. The three most prominent situational risk factors, as presented in Kassin et al.'s white paper on police-induced false confessions, are interrogation length, the presentation of false evidence, and minimization.

**Interrogation Length**

Observational studies have shown that the vast majority of interrogations last anywhere from 30 minutes up to two hours (Kassin et al., 2010; Leo, 1996). However, in Drizin and Leo's (2004) study examining 125 cases of proven false confessions, they found that in cases where interrogation time was recorded, 34% lasted 6-12 hours and 39% lasted 12-24 hours. Furthermore, Redlich, Kulish, and Steadman (2011) examined true and false confessions and found the mean length of interrogation time for a true confession was 1.94 hours, whereas the mean length for a false confession was 3.07 hours. That is, true confessions were given, on average, much sooner into the interrogation process than were false confessions. These and previous findings (Kassin & Gudjonsson, 2004; Kassin et al.) appear to indicate that lengthier interrogation times are more likely to be associated with false confessions.

**Evidence Ploys**

Evidence ploys are an interrogation tactic used to make the suspect believe that strong evidence supporting their guilt exists. These evidence ploys may contain true (the investigator has actual evidence and shares it with the suspect) or fabricated (no actual evidence exists, but the investigator presents it to the suspect) information. Almost all the proven false confession cases reveal that false evidence ploys were used during the interrogation (Drizin & Leo, 2004; Gudjonsson & Sigurdsson, 1999). In the laboratory (Kassin & Kiechel, 1996) false evidence ploys are linked to high rates of false confessions to transgressions that did not occur. In self-report studies, suspects state they falsely confessed because they perceived themselves to be trapped by the evidence (Gudjonsson & Sigurdsson).

Kassin and Kiechel (1996) were the first to examine the use of false evidence ploys on confessions in the laboratory using their "ALT" key paradigm. In this study, participants typed letters on a keyboard in what they were led to believe was a reaction time experiment. They were told to avoid hitting the "ALT" key because doing so would cause the computer system to crash. Although all participants were innocent (meaning they did not actually hit the key), they were falsely accused of hitting the key. Despite their innocence and initial denials, 69% of the participants falsely confessed to hitting the "ALT" key. However, when participants were presented with false evidence (a confederate serving as an eyewitness), the number of people who signed a confession admitting to hitting the forbidden key jumped to 94%, consequently highlighting the powerful psychological influence false evidence ploys have on confessions.

**Minimization Tactics**

Similar to false evidence ploys, the use of minimization is among the arsenal of interrogation tactics that psychologically manipulate the suspect. Minimization tactics are a way for the interrogator to offer moral justifications or excuses to the suspect. Some tactics may include suggesting to the suspect that their actions were accidental or provoked (e.g., "You did not mean to murder the victim"). In other words, it is a way to shift the blame from the suspect to lessen the severity of the crime in hopes they will not personally feel responsible, and then subsequently confess (Kassin & McNall, 1991).

In a laboratory study, Klaver, Lee, and Rose (2008) used the same experimental paradigm as Kassin and Kiechel (1996), except they manipulated the plausibility (high and low) of the event, while also utilizing minimization techniques. High plausibility included pressing the "ALT" key, while low plausibility included pressing the "ESC"

key. They found that when accused of the less plausible transgression, participants were 16 times more likely to falsely confess and sign the confession form. In addition, when minimization tactics were used participants were more likely to falsely confess to the highly plausible transgression.

## The Basis for Person-Based Expert Testimony: Dispositional Risk Factors

In addition to external factors that may increase an individual's likelihood of confessing to a crime they did not commit, there are internal characteristics of a person that may also increase the likelihood of a false confession. A myriad of internal factors have been found (e.g., age, cognitive impairment, and personality characteristics and psychopathology; Gudjonsson, 1984a, 1984b, 1992; Gudjonsson, Young, & Bramham, 2007; Kassin & Gudjonsson, 2004; Sigurdsson & Gudjonsson, 1996) that may explain why one might falsely confess to a crime. Although these characteristics touch upon different aspects of an individual, according to Gudjonsson, they all share two attributes: interrogative suggestibility and compliance.

### Interrogative Suggestibility and Compliance

Interrogative suggestibility, as defined by Gudjonsson (2003), is "the extent to which people come to accept messages communicated during formal questioning, affecting their subsequent behavioural responses" (p. 325). In other words, during the interrogative process the suspect may eventually succumb to the tactics and eventually believe that he or she is responsible for the crime and confess.

The Gudjonsson Suggestibility Scale (GSS; Gudjonsson, 1984a) is a way to assess for interrogative suggestibility. The scale consists of an individual being read a story about a mugging and then given an immediate or delayed recall test. The paradigm

is designed to measure the extent to which an individual "yields" (succumbs) or "shifts" (changes responses) to various types of suggestive, leading, and affirmative questions (Gudjonsson). That is, an individual is said to yield when he or she succumbs to the suggestive and leading questions, while one is said to shift when he or she changes their answers based on feedback from the examiner. Gudjonsson (1991a) administered the GSS to crime suspects and found that the alleged false confessors obtained higher suggestibility scores, while resistors (those who maintained their innocence during the interrogation) obtained lower suggestibility scores. This suggests that suspects who give in to the interrogative pressures and confess appear to be more suggestible than those who are able to resist the investigator's tactics.

In addition, Gudjonsson (1983) investigated suggestibility while looking at intelligence, memory recall, and personality. People who were most suggestible tended to be of lower intelligence, and performed poorly on a memory recall task. In fact, suggestibility correlated negatively with intelligence and memory recall, and positively with neuroticism and social desirability (Gudjonsson). However, it is important to note that having lower intelligence is not a prerequisite to falsely confessing under interrogative pressures and interrogative suggestibility.

Not only has suggestibility been found as a common trait among those who falsely confess, so has compliance (Gudjonsson, 2003; Gudjonsson & Sigurdsson, 2004). Compliance is different from interrogative suggestibility in that compliance involves the individual making a conscious decision to carry out the behavior requested (e.g., confessing to a crime one did not commit; Gudjonsson, 1989). Kassin (2015) states that confession as an act of compliance is a way to escape the harsh interrogation, or because

the suspect is lead to perceive the confession serves his or her own self-interest.

Compliance comprises two main components: eagerness to please and protect one's self-esteem when with others, and the avoidance of conflict and fear of people in positions of authority (Gudjonsson; Kassin & Gudjonsson, 2004). These two components may seem like natural characteristics for some individuals, but they may be exacerbated among the vulnerable populations that seem to be overrepresented in cases of proven false confessions. In particular, juveniles (Grisso et al., 2003; Gudjonsson et al., 2006), individuals with an intellectual disability (Everington & Fulero, 1999; Kassin & Gudjonsson), and individuals with a mental disorder or personality disorder (Gudjonsson, 1999a, 1999b, 2003; Gudjonsson, Sigurdsson, Einarsson, Bragason, & Newton, 2010) tend to be overly represented in the false confession literature.

**The Intellectually Disabled**

In Drizin and Leo's (2004) sample of 125 proven false confession cases, at least 28 cases involved intellectually disabled defendants. An intellectual disability is characterized by a myriad of symptoms and functioning deficits that may explain why they are among the overly represented populations in the false confession literature. Most persons with an intellectual disability exhibit a heightened suggestibility to influence, experience memory gaps, lack impulse control, and rely on figures of authority for everyday needs, as well as a strong desire to please them (Everington & Fulero, 1999; Kassin et al., 2010). Individuals who have an intellectual disability tend to be highly suggestible, compliant, and lack a full understanding of their *Miranda* rights. To illustrate, Everington and Fulero (1999) tested participants who were on probation—some with an intellectual disability and some without—on their comprehension of

Miranda rights and their interrogative suggestibility using the GSS. It was concluded that persons with an intellectual disability yielded more to leading questions and shifted their responses when they received negative feedback from the experimenter, meaning they scored significantly higher on interrogative suggestibility than the participants without an intellectual disability.

In sum, these situational and dispositional risk factors can, and do, influence an individual's decision to falsely confess. For the most part, expert testimony on confessions may include information about one or the other category of risk factors. Indeed, the literature generally suggests that expert testimony tends to be either person-based or situation-based (Davis & Leo, 2010; Watson, Weiss, & Pouncy, 2010). In the cases of clinical experts, it is possible that (if appropriate) they can provide a more complete picture of the factors and how they link to the confessions. In their unique position, they may provide a clinical assessment at the individual level, as well as testimony regarding the relevant situational risk factors. How this type of dual testimony may be influential to jurors will also be assessed in the present study, as prior research has focused primarily on the influence of situation-based expert testimony on jury decision making.

### Confessions as an Indicator of Guilt

A confession carries a great deal of weight in decisions about guilt (Kassin & Gudjonsson, 2004; Kassin et al., 2010). For instance, Henkel, Coffman, and Dailey (2008) conducted a survey of jury eligible community members regarding false confessions and factors that may contribute to them (e.g., situational and dispositional risk factors). While there was an overall acknowledgment that false confessions can, and

do occur (48.7%), there was a moderately strong belief that if someone confesses they are probably guilty (51%). Sixty-four percent of participants strongly agreed that a confession was a good indicator of guilt (Henkel et al.). It also appears that jurors are aware of the influence a confession has on their verdict decisions. One study found that when presented with a recanted confession case, in which the defendant falsely confessed due to a medical disorder, a mental disorder, or the stress of the interrogation, 71-75% of participants stated their verdict decisions were influenced by the confession, regardless of the dispositions surrounding the recanted confession (Henkel, 2008).

As these and other studies suggest, jurors are more likely to convict a defendant if a confession is presented, even if they are cognizant of the fact that confessions may be false and involuntary. However, it is also apparent that jurors seem to be lacking the ability to form, and see, the direct links between the situational and dispositional risk factors and the possibility of a confession by the suspect. Therefore, it is important to investigate the effectiveness of certain avenues available that aim to help jurors find this missing link.

**Expert Testimony**

In cases where the defendant confesses and then later recants the confession, the defense attorney might have an expert witness testify to inform the jury about interrogations and confessions. An expert's primary goal is to provide the jury with information regarding the process of interrogations and factors that may lead an innocent person to falsely confess (Costanzo & Leo; Watson, Weiss, & Pouncy, 2010). The testimony is presented to the jury in two broad areas: macro-level research on the subject and situational and dispositional risk factors leading to false confessions. When an expert

testifies on the macro-level, he or she discusses instances of false confessions leading to convictions. This information is presented to the jurors in hopes of educating and providing a framework when evaluating the interrogation and confession evidence. In addition, testimony can contain specifics of the interrogation under review, which may provide a more direct model to evaluate the confession evidence in the particular case (e.g., investigative tactics; Chojnacki, Cicchini, & White, 2008; Watson et al.).

As noted before, most empirical research on the influence of expert testimony primarily involves situational risk factors, and when relevant, dispositional risk factors are evaluated. Specifically, the situation-based expert testimony involves the explanation of how interrogations are conducted. This information includes the manipulation of the setting, the isolation of suspects, the tactics used to influence the suspects' perception of the evidence—ultimately to induce a confession. Given that most people obtain their knowledge regarding interrogations from the media or television shows, this form of testimony outlining the real-world situation can be very revealing.

Blandón-Gitlin, Sperry, and Leo (2011) investigated the effectiveness of situational expert witness testimony using a real disputed confession case where they compared participants' verdicts and perceptions of evidence before and after hearing an expert witness testify. That is, participants were first presented with a condensed trial transcript of an actual case and responded to a pre-expert testimony questionnaire; next, they read the expert testimony, and then responded to a post-expert testimony questionnaire. Results showed that expert testimony did have a significant, but modest, influence on participants (Blandón-Gitlin et al.); the number of guilty verdicts dropped significantly after the expert testimony. Furthermore, the participants who changed their

verdicts from guilty to not guilty reported higher influence of the expert on their decisions, and believed that without the expert they would have been less likely to reach the informed verdict on their own.

Testimony about dispositional risk factors is typically based on a clinical assessment of the suspect and is done to determine the presence of any psychological or psychiatric vulnerabilities that may bring jurors to question the validity of the defendant's confession. Some possible explanations may be that the defendant exhibits personality traits that cause him or her to be highly compliant or suggestible. In providing such testimony, the expert is able to assist the jury in deciding whether or not the disputed confession can be attributed to his or her psychological or emotional characteristics.

**Jurors' Perceptions**

Jurors appear to be aware of how beneficial expert witness testimony is in false confession cases. Costanzo et al. (2010) found that jury eligible participants rated expert testimony as very helpful and influential to their deliberations. In fact, jurors were strongly receptive to expert testimony, with 74.3% indicating it would be helpful to hear about police interrogation tactics. In addition, 71.2% of jurors reported it would be helpful to hear expert testimony regarding reasons as to why a defendant might falsely confess to a crime he or she did not commit (Costanzo et al.).

**Judges' Perceptions**

Judges function as the supreme gatekeepers by ascertaining whether expert testimony would assist the trier of fact (Costanzo et al., 2010; Kassin, Tubb, Hosch, & Memon, 2001). Some judges do have concerns that expert testimony might be too influential on jurors and could potentially "usurp the role of the jury" or would not

provide new knowledge to the average juror. However, when judges do permit expert testimony, they appear to have a preference for person-based expert testimony over situation-based expert testimony (Davis & Leo, 2010; Redding, Floyd, & Hawk, 2001; Watson et al., 2010).

The decision to allow or exclude expert testimony appears to be based on judges' assumptions about what jurors believe and how they might be influenced by expert testimony (Costanzo et al., 2010). However, as stated before, judges may also be influenced by their own fundamental attribution bias when making decisions about allowing expert testimony. To date, there is no published research indicating that jurors have a preference for person-based expert testimony or situation-based expert witness testimony. Thus, it is important to empirically test whether jurors actually have a preference for a particular type of expert witness testimony.

**The Present Study**

The goal of the present study is to determine whether jurors respond differently to these two types of expert witness testimony. In order to examine this issue, participants will be provided with a disputed confession case. They will then read expert testimony that is either person-based (i.e., dispositional risk factors), situation-based (i.e., interrogation tactics), or a combination of person- and situation-based. A control group will read the case, but will not read any type of expert testimony.

It is hypothesized that participants who do not receive the expert witness testimony will provide the highest number of guilty verdicts, and will rate the confession as having a larger influence on their verdict decisions. In addition, it is expected they will view situational and dispositional risk factors as not contributing to the defendant's

confession. Second, it is expected that participants who receive the situation-based expert witness testimony will provide fewer guilty verdicts compared to the control group, and that they will view situational risk factors as coercive and influential to the defendant's confession. These predictions are based on previous research showing that when a confession is presented as evidence, and no expert testimony is provided, jurors will render guilty verdicts in high proportions. However, when expert testimony is presented, guilty verdicts are significantly reduced (e.g., Blandón-Gitlin et al., 2011).

Third, it is predicted that participants who receive the person-based expert witness testimony will provide even fewer guilty verdicts compared to both the control participants and those who receive the situation-based expert witness testimony. It is hypothesized that this person-based group will view dispositional risk factors as influential to the defendant's confession. Lastly, it is predicted that the expert witness testimony that combines both person- and situation-based testimony will result in the lowest number of guilty verdicts among participants, and that participants receiving this type of testimony will view situational and dispositional risk factors as both influential to the defendant's confession. These predictions are based on the notion that highlighting dispositional factors as important in the confession evidence might be more in line with participants' fundamental attribution tendencies. This may result in a more convincing expert testimony that reduces guilty verdicts.

CHAPTER 2

METHOD

**Participants**

Participants were recruited via the Department of Psychology Research

Participation System at California State University, Fullerton. In addition, participants

were also recruited from psychology classes in which the professor offered extra credit

for participation. The sample consisted of 278 participants. Twenty-eight were excluded

for several reasons: 10 participants for reporting they were not United States citizens,

eight because they had heard of the case before, nine for not completing the Juror Bias

Scale, and one participant did not complete the questionnaire. All participants in the final

sample ($N = 249$) met jury eligibility requirements, meaning they were English speaking

citizens of the United States and at least 18-years-old. The sample included 176 females,

70 males, one participant responded fluid, and two participants did not indicate gender.

The average age of participants was 21.35, ($SD = 3.08$) and ages ranged from 18 to 39

years. The ethnic breakdown of the participants was as follows: 47.6% Hispanic; 20.0%

Asian; 16.4% Caucasian; 2.4% African American; 2.4% identified as Other; and 2.0%

did not indicate their ethnicity.

**Materials**

**The Case**

Participants were presented with a condensed trial transcript of the Los Angeles County Superior Court case of *The People v Catarino Gonzalez, Jr.* Gonzalez was a 20-year-old, alleged gang member, who was questioned regarding the fatal shooting of police officer Fil Cuesta. The defendant was interrogated three separate times. During one interrogation, Gonzalez was persuaded to take a polygraph exam. The examiner told Gonzalez that the machine would give reliable results. At this point, Gonzalez told the polygraph examiner he had only had an hour and a half of sleep, and that he was suffering from a toothache. Although the results of the polygraph exam were never revealed, Gonzalez was ultimately told he had failed the exam. He repeatedly denied shooting at the officers; however, in the end, he admitted to shooting at the officers in order to scare them. This reason, downplaying the seriousness of the crime, was actually suggested to him during one of the interrogations.

**Trial Transcript**

This same trial transcript was used in a previous study (i.e., Blandón-Gitlin et al., 2011) where it was condensed from 16 to 13 pages. The beginning of the transcript contains both the prosecution and defense attorney's opening statements. However, dispositional risk factors regarding interrogative suggestibility and compliance were added to the defense attorney's opening statements for the purpose of the present experiment. Following the opening statements, the three interrogations of the defendant were summarized, as well as the dialogue between the defendant and the detectives, as well as the dialogue between the defendant and the polygraph examiner.

**Expert Witness Testimony**

We developed three different types of expert witness testimony (person-based, situation-based, and one that combines both types), all of which start by stating the expert's credentials and research focus. The situation-based expert witness testimony is a 674-word summary of Dr. Richard Leo's testimony (from *The People v Catarino Gonzalez, Jr.*) used in Blandón-Gitlin et al.'s (2011) study. In the testimony, the expert discusses certain interrogation tactics that were used in the case: The use of minimization and maximization techniques, themes used in the Reid technique, use of the polygraph exam, and the use of false evidence ploys.

The person-based expert witness testimony is 690 words and pertains to the dispositional risk factors of the defendant. The testimony was created for this experiment and has been reviewed and approved by a clinical psychologist. The testimony involves the defendant being evaluated in person by a clinical psychologist for intellectual disability, interrogative suggestibility, and compliance. The clinician's findings, as well as their implications, are then discussed.

Lastly, the 1,274-word combined expert witness testimony discusses both the situation- and person-based testimonies. That is, the interrogation tactics and the defendant's interrogative suggestibility, compliance, and IQ are mentioned.

**Juror Bias Scale**

The Juror Bias Scale (JBS; Kassin & Wrightsman, 1983) is a 22-item scale used to measure pretrial bias in jurors. The scale has been shown to be generally reliable and valid in determining whether an individual is prosecution-prone or defense-prone (before the case is presented to them), with a split-half reliability and test-retest reliability of .81

and .67, respectively. Participants were presented with 11 items regarding a prosecution bias, six regarding defense bias, and five filler items. Possible scores range between 17 and 85, with higher numbers indicating a prosecution bias, whereas lower numbers are indicative of a defense bias. Individuals who score as more prosecution-prone have a tendency to vote guilty significantly more than individuals who classify as defense-prone (Kassin & Wrightsman). Utilizing this self-report measure is not only a way to determine the effectiveness of the expert witness testimony above and beyond juror biases, but it will also determine whether participants' verdict decisions are a function of the expert witness testimony.

**Questionnaires**

Four different versions of the questionnaire, one for each condition, were presented to the participants. In all four versions, participants provided guilty/not guilty verdict decisions and rated the level of the defendant's guilt. They then rated their perceptions of the confession evidence. In addition, for the participants who were presented with the expert witness testimony, they reported how influential the expert testimony was on their verdict decisions.

**Dependent Measures**

Four dependent variables were measured. First, participants made a dichotomous verdict decision (*guilty or not guilty*), they then rated the degree to which they believed the defendant was guilty on a Likert-type scale (1 = *not guilty* to 10 = *guilty*). The second set of measurements was participants' perceptions of the confession through its: (a) degree of influence on their verdicts (1 = *not influential* to 5 = *very influential*); (b) the truthfulness of the confession (1 = *not at all truthful* to 5 = *definitely truthful*); and (c) the

voluntariness of the confession (1 = *involuntary* to 5 = *extremely coercive*). Third, with the exception of those in the person-based expert witness testimony, participants provided perceptions of the level of coerciveness for the 10 different tactics used in the interrogation (1 = *not at all coercive* to 5 = *extremely coercive*). For the participants in the person-based expert witness testimony condition, they provided perceptions of the three dispositional risk factors (1 = *not at all influential* to 5 = *extremely influential*). Lastly, with the exception of the control group, participants rated the influence the expert witness testimony had on their verdict decisions (1 = *no influence on my decision* to 5 = *very influential on my decision*).

## Procedure

Once participants arrived in the lab, they were given the informed consent form. After they agreed to participate, participants were randomly assigned (using a sequence generator; random.org) to one of the four conditions: control, situation-based expert witness testimony, person-based expert witness testimony, or combined expert witness testimony. For all the conditions, participants were presented with a packet containing the instructions (in written format and orally), the JBS, and a written format of the condensed trial transcript, in that order. The participants in the control condition completed the questionnaire immediately after reading the trial transcript. In the experimental conditions, participants read the expert witness testimony pertaining to their condition once they were done reading the trial transcript. They then completed the questionnaire. Finally, participants were debriefed. They were given a written statement explaining the purpose of the experiment, the different types of expert witness testimony used, who

stands to benefit from the results of this study, and contact information for the

researchers, Institutional Review Board, and Counseling and Psychological Services.

CHAPTER 3

RESULTS

All assumptions of hypotheses were tested and checked before the final analyses

were carried out (each will be discussed in their respective sections). Analysis of the data

was conducted in both IBM SPSS (Version 21) and in R (R Core Team, 2013). The

Amelia package in R was used to assess missingness (Honaker, King, & Blackwell,

2011), and Little's Missing Completely at Random (MCAR; Little, 1988) was used. The

results showed that the pattern of missing data was MCAR, $\chi^2$ (631, $N = 250$) = 639.097,

$p > .05$. Since the amount of missing data was less than 5% (.8), listwise deletion was

used to delete individuals with missing values. This study had a between-subjects design,

and the participant breakdown was as follows: Control ($n = 64$), Situation-based ($n = 62$),

Person-based ($n = 63$), and Combination ($n = 60$).

First considered was pretrial bias to determine whether it correlated with

perceptions of guilt. Since there were no missing values, the 17 items on the JBS (11

prosecution bias and six defense bias) were used to create a sum score, with the

prosecution bias items being reverse coded in accordance with the Kassin and

Wrightsman (1983) scoring criteria. Higher scores indicated a prosecution-bias, whereas

lower scores indicated a defense-bias. A bivariate Pearson correlation between the JBS

composite score and the scores of perception of guilt was then conducted. There was no

significant correlation between JBS scores and perception of guilt, $r(250) = -.041$,

$p = .521$. Therefore, pretrial biases were not considered in subsequent analyses.

**Verdict and Guilt Perceptions**

To assess the hypothesis that guilty verdicts will vary across the different

conditions, a Pearson chi-square ($\chi^2$) analysis was used. Assumptions for $\chi^2$ were

evaluated and met. That is, categories were mutually exclusive, the groups were

independent, and there were an adequate number of cases per cell. Thus, the $\chi^2$ was

conducted to examine whether there were differences in the proportion of participants

who voted guilty or not guilty across the four different conditions. Participants in the

control condition were more likely to vote guilty (75.4%) compared to the expert witness

testimonies. Fifty-four percent of participants in the situation-based testimony condition

provided a guilty verdict, whereas 52.4% of participants in the person-based testimony

condition provided a guilty verdict. Furthermore, 53.3% of participants in the

combination testimony condition provided a guilty verdict. Overall, 58.8% of participants

voted that the defendant was guilty. In addition, there was a significant difference in

percentage of guilty verdicts across the four conditions, $\chi^2$ (3, $N = 245$) = 9.13, $p = .025$,

Cramer's V = .195 (see Figure 1).

Two 2 (guilty vs. not guilty) x 2 (expert testimony type vs. control) post-hoc $\chi^2$

were conducted to examine which conditions were different. First, verdict decisions were

compared for the situation-based and person-based expert witness testimony to assess

whether there was a statistically significant difference in the percentage of guilty verdicts

rendered. Guilty verdicts were found to not differ between the two types of expert

testimony, $\chi^2$ (1, $N = 124$) = .037, $p = .848$; thus, the frequencies were combined into one
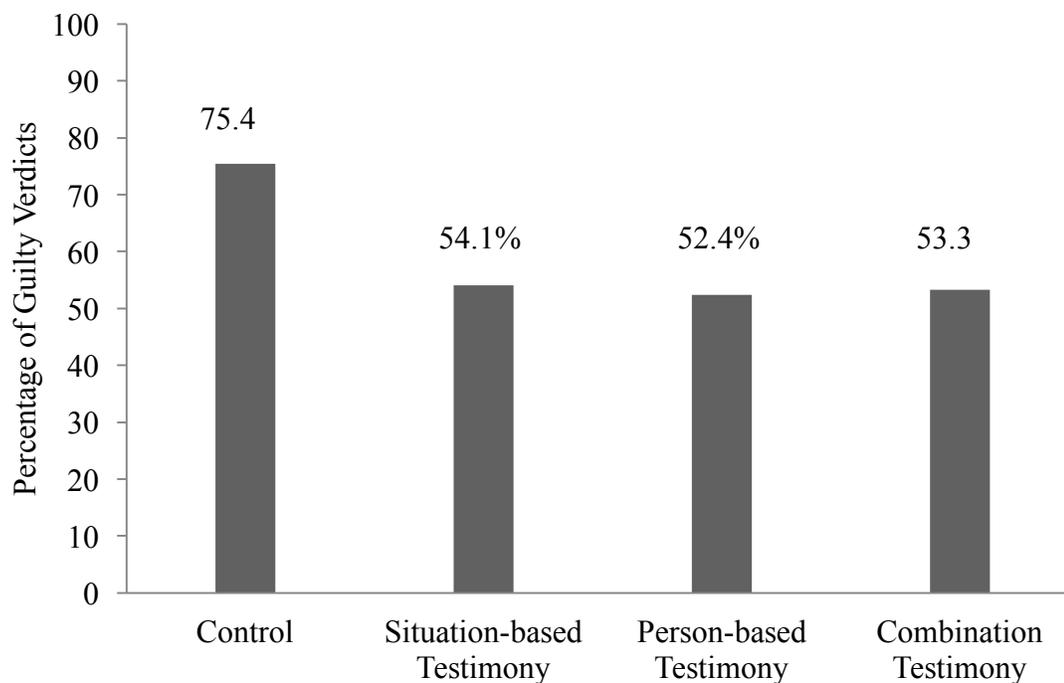
*Figure 1*. Percentage of guilty verdicts by condition. A significant difference in proportion of guilty verdicts was found, $\chi^2$ (3, $N = 245$) = 9.13, $p = .025$, Cramer's V = .195.

score and then compared to the combination condition. To account for inflated type I

error, a Bonferroni adjustment was made, giving a new critical value (6.63). Using one

degree of freedom compared to the new critical value, with $p = .01$, revealed a non-

significant chi-square, $\chi^2$ (1, $N = 184$) = .016. The combination testimony was then

collapsed with the situation- and person-based expert testimonies (creating one value),

and then verdict decision was compared in the control condition against this new value.

This revealed a significant chi-square, $\chi^2$ (1, $N = 245$) = 9.28, when compared to the 6.63

critical value at $p = .01$. This suggests that having an expert witness testify (regardless of

type) is more effective at reducing guilty verdicts compared to no testimony at all.

Furthermore, an odds ratio was calculated to determine whether participants in the expert

testimony conditions had higher odds of rendering a not guilty verdict compared to the

control condition. Results indicated that participants who received the expert witness

testimony are approximately three times more likely to render a not guilty verdict

compared to individuals in the control group.

In addition to examining verdict decisions, participants' ratings of the extent to

which they found the defendant guilty (1 = *not guilty* or 10 = *guilty*) were also

considered. In order to assess whether the perceived level of guilt ratings differed across

the testimony conditions, a four-level one-way analysis of variance (ANOVA) was

conducted. First, assumptions for ANOVA were checked. A Levine's test revealed that

the assumption for homogeneity of variance was met ($p > .05$). Normality was assessed

for level of guilt within each expert testimony condition through visual inspection of

histograms and q-q plots; the data appeared to be normally distributed (Control: skewness

= -.329, $SE_{skew}$ = .306; Situation-based testimony: skewness = -.115, $SE_{skew}$ = .306;

Person-based testimony: skewness = .223, $SE_{skew}$ = .302; and Combination testimony:

skewness = .123, $SE_{skew}$ = .309); therefore, the ANOVA was conducted.

The ANOVA revealed that there was a significant difference in perceived level of

guilt across the four different conditions, $F(3, 241) = 13.514$, $p = .032$, $\eta^2 = .036$ (see

Figure 2). A Post-hoc Tukey HSD (at a .05 alpha level) was conducted to determine what

was driving the significant findings of the original ANOVA. As predicted, the mean

levels of guilt for the control condition ($M = 6.77$, $SD = 2.00$) were significantly higher

than the combined expert witness testimony condition ($M = 5.72$, $SD = 2.23$). However,

when the control group was compared to the situation-based expert testimony, there were

no statistically significant differences found ($M = 5.90$, $SD = 2.20$; $p = .111$);

additionally, the analysis between the control group and the person-based expert

testimony failed to find statistically significant differences ($M = 5.92$, $SD = 2.07$;
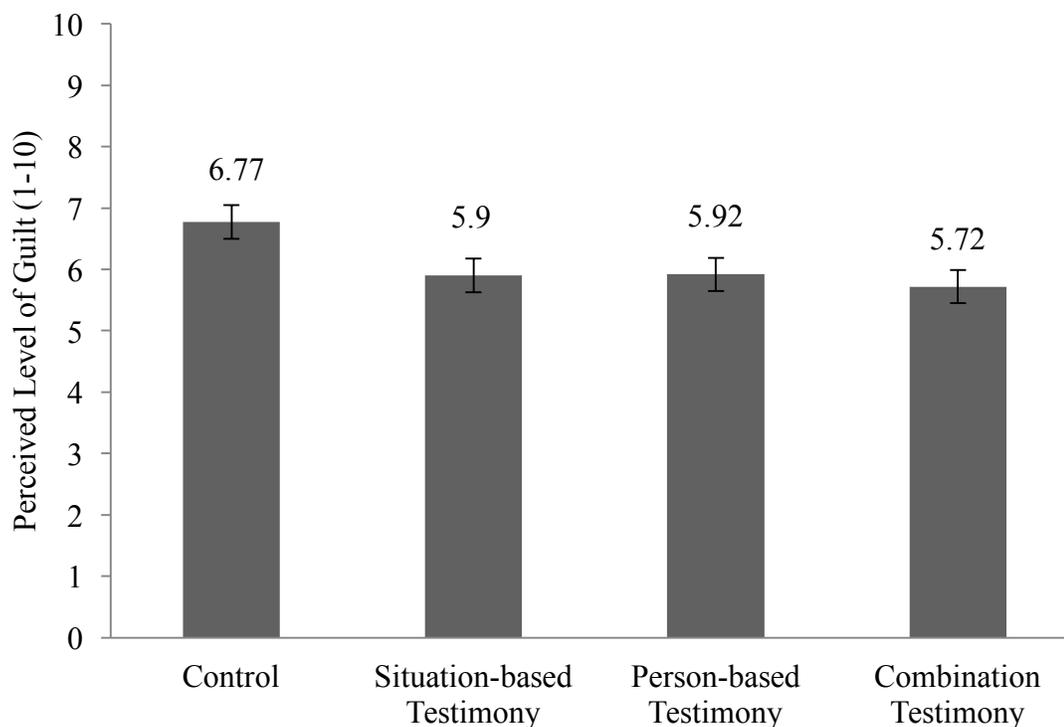
$p = .119$).



*Figure 2.* Mean ratings, by condition, of perceived level of guilt. There was a significant difference across the four conditions, $F(3, 241) = 13.514$, $p = .032$, $\eta^2 = .036$, with the Control condition reporting higher levels of guilt in comparison to the expert witness testimony conditions. Error bars on each column represent standard error of the mean.

## Perceptions of Interrogation Tactics and Dispositional Factors

All participants were asked to rate the extent to which they found 10 different interrogation tactics coercive. A reliability test was conducted across the 10 interrogation tactics. High internal consistency was found among the interrogation items (Cronbach's $\alpha = .856$). Therefore, a mean composite score for perception of interrogation tactics' coerciveness was created, which served as the dependent variable in a four-level one-way ANOVA. However, assumptions were first checked. A Levine's test revealed that the

assumption of homogeneity of variance was met ($p > .05$). Visual inspection of

histograms and q-q plots showed all three expert testimony conditions to be slightly

negatively skewed (Control: skewness = -.576; $SE_{skew}$ = .309; Situation-based testimony:

skewness = -.686, $SE_{skew}$ = .306; Person-based testimony: skewness = -.890, $SE_{skew}$ =

.302; and Combination testimony: skewness = -.324, $SE_{skew}$ = .309). After using Box-cox

transformation on the composite score, the amount of skewness was reduced (skewness =

-.69, $SE_{skew}$ = .15). No significant differences in the perception of interrogation tactics'

coerciveness was found across the conditions, $F(3, 240) = 2.49$, $p = .061$ (see Figure 3).

This is consistent with previous findings and supports the notion that mock jurors

recognize that interrogation tactics are coercive, even in the absence of expert testimony
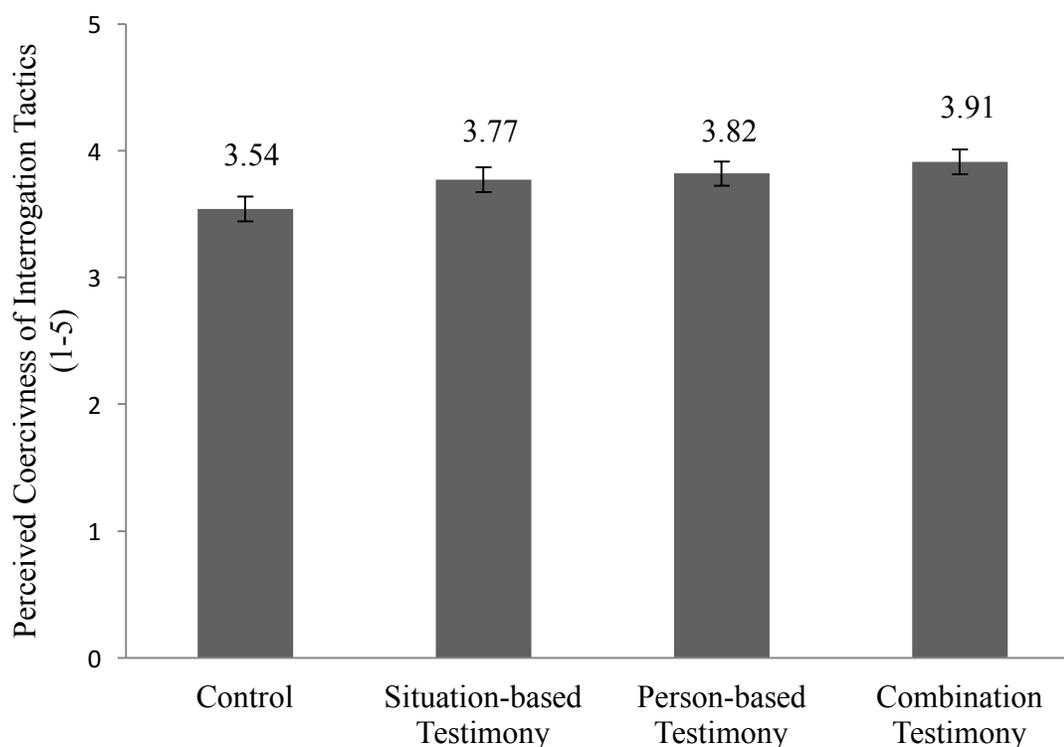
(e.g., Blandón-Gitlin et al., 2011).



*Figure* 3. Means of perceived interrogation tactic coerciveness composite scores. There was no significant difference across the four conditions ($p > .05$).

Participants were then asked to rate the extent to which they found three dispositional characteristics influential to the confession. Low internal consistency was found among the dispositional characteristics (Cronbach's $\alpha$ = .591). Therefore, a multivariate analysis of variance (MANOVA) was conducted using suggestibility, compliance, and IQ as dependent variables. Univariate normality was assessed via visual inspection of boxplots. Suggestibility appeared to be slightly negatively skewed, whereas compliance and IQ were normally distributed. Homogeneity was assessed for each dependent variable using Levene's test, and no violations of univariate homogeneity were found ($p$s > .05). In order to check for multivariate outliers, comparison of Mahalanobis distance scores to a critical $\chi^2$ value with three degrees of freedom resulted in no outliers. Box's test of equality of variance was used to assess homogeneity of covariance. Box's M was not significant; thus, the assumption of homogeneity of covariance was met. Lastly, correlations among the three variables were assessed. The variables were not too highly correlated (as suggested by Cronbach's alpha): suggestibility and compliance, $r(250)$ = .37, $p$ < .001; suggestibility and IQ, $r(248)$ = .39, $p$ < .001; compliance and IQ, $r(248)$ = .26, $p$ < .001.

A MANOVA was used to examine the three dependent variables across the four conditions. The MANOVA indicated that suggestibility, compliance, and IQ were not related to the expert witness testimony received, Pillai's Trace = .059, $F(9, 732)$ = 1.64, $p$ = .099 (see Table 1).

Table 1. Means and Standard Deviations for Perceived Level of Influence of
Dispositional Characteristics by Condition

| Variable | Suggestibility | Compliance | IQ |
|---|---|---|---|
| Control | 3.58 (1.04) | 3.52 (1.05) | 3.37 (1.23) |
| Situation-based Testimony | 3.77 (1.09) | 3.21 (0.99) | 3.32 (1.24) |
| Person-based Testimony | 3.83 (1.19) | 3.81 (1.11) | 3.62 (1.01) |
| Combination Testimony | 3.74 (1.03) | 3.62 (1.02) | 3.61 (1.28) |
| Overall | 3.73 (1.09) | 3.54 (1.06) | 3.48 (1.25) |

*Note*. There were no significant differences across the different conditions for perceived
level of influence of dispositional characteristics, $p > .05$.

## Influence of Expert Witness Testimony

The influence of the expert witness testimony presented in the person- and
situational-based between-subjects conditions was examined using two simple linear
regressions, as each expert witness testimony constituted a separate independent variable
in this analysis (see Table 2). The influence of the expert presented in the combination
testimony was examined using a multiple regression. Reliability among the dispositional
characteristics the expert discussed was assessed separately for the situation-based expert
testimony, person-based expert testimony, and the combination expert testimony.
Cronbach's alpha scores were as follows: Situation-based (8 items; $\alpha = .886$), person-
based (3 items; $\alpha = .771$), and combination (11 items; $\alpha = .844$). Therefore, mean
composite scores for influence of the expert witness testimony on verdict decision-
making were created for each expert testimony condition.

Table 2. Regression Summary Table: R-Square ($R^2$), Unstandardized Coefficient (B), Standard Error (B SE), Beta (β), T-Test Statistic (t), and Significance Value (p) for Perceived Level of Guilt (Outcome Variable).

| Predictor Variable | $R^2$ | b (se) | β | t | p |
|---|---|---|---|---|---|
| Influence of Situation-based Testimony | .303 | -1.41 (.286) | -.551 | -4.94 | < .001 |
| Influence of Person-based Testimony | .325 | -1.26 (.231) | -.570 | -5.42 | < .001 |

*Note.* Influence of Situation-based Testimony $F(1, 56) = 24.377, p < .001$; Influence of Person-based Testimony $F(1, 56) = 24.377, p < .001$

Linear regression assumptions were then assessed. Linearity was examined using three separate scatterplots for the conditions and their association between perceived level of guilt. A linear relationship was found for each condition. Next, visual inspection of histograms revealed that each condition was normally distributed. Lastly, through visual inspection of scatterplots depicting standardized residuals and predicted value, homoscedasticity was assumed.

**Influence of Situation-based Expert Witness Testimony**

The first simple linear regression was conducted with the influence of the situation-based expert witness ($M = 3.76$, $SD = .857$) entered as the predictor variable, and the perceived level of guilt ($M = 5.86$, $SD = 2.20$) as the outcome variable. Situation-based expert witness testimony significantly correlated with perceived level of guilt, $r(58) = -.551, p < .001$. In addition, situation-based expert testimony significantly predicted perceived level of guilt, $F(1, 56) = 24.377, p < .001$, and accounted for 30.3% of the variance within level of guilt. Situation-based testimony influence significantly negatively predicted level of guilt, $β = -.551, t(56) = -4.937, p < .001$. That is, participants' ratings of perceived level of guilt decreased .551 for every one standard deviation increase in influence rating of situation-based expert witness testimony.

**Influence of Person-based Expert Witness Testimony**

A second simple linear regression was conducted with the influence of the person-based expert witness testimony ($M = 3.69$, $SD = .939$) as the predictor variable, and the perceived level of guilt ($M = 5.92$, $SD = 2.07$) as the outcome variable. Person-based expert witness testimony significantly correlated with the perceived level of guilt, $r(63) = -.570$, $p < .001$. Additionally, results indicate that the influence of the person-based expert testimony significantly predicted perceived level of guilt, $F(1, 61) = 29.03$, $p < .001$, and accounted for 32.5% of the variance in perceived level of guilt. Person-based expert testimony significantly negatively predicted perceived level of guilt, $\beta = -.570$, $t(61) = -5.42$, $p < .001$. Specifically, participants' ratings of perceived level of guilt decreased .570 for every one standard deviation increase in influence rating of person-based expert witness testimony.

**Influence of Combined Expert Witness Testimony**

A standard multiple regression was conducted with the influence of the situational- and person-based expert witness testimony entered as the predictor variables, and the perceived level of guilt as the outcome variable. Table 3 displays the correlations between the variables, the unstandardized regression coefficients (B) and the intercept, the unstandardized regression coefficients ($\beta$), $R^2$, and adjusted $R^2$. The combined expert witness testimony did not significantly predict perceived level of guilt, $F(1,51) = 2.03$, $p = .143$, and accounted for only 7.6% of the variance in perceived level of guilt.

Table 3. Standard Multiple Regression of Variables on Perceived Level of Guilt.

| Variables | Perceived Level of Guilt (DV) | Situational-based | Person-based | B | β |
|---|---|---|---|---|---|
| Situational-based | r = -.23 | | | -.54 | -.16 |
| Person-based | -.24 | .45*** | | -.43 | -.17 |
| Means | 5.77 | 3.83 | 3.81 | | $R^2$ = .076 |
| Std. Dev | 2.26 | .64 | .88 | | Adj. $R^2$ = .039 |

*** $p < .001$

**Further Analyses**

Given that the results of the present study suggest that regardless of expert witness testimony type, participants did not significantly differ in their influence ratings of the situational and dispositional characteristics on the confession, an exploratory paired-samples t-test was conducted to compare reported levels of influence of the interrogation tactics and dispositional risk factors within the combined expert testimony condition. In other words, are participants making the attribution error? This is to assess, within-subjects, whether there is a difference in reported influence on decision-making between interrogation tactics versus dispositional factors. Two separate composite scores were created for ratings of tactics ($\alpha$ = .832) and for dispositional factors ($\alpha$ = .819). However, IQ was removed from the dispositional composite score because it was not contributing to the scale and compromising Cronbach's alpha. The analysis revealed that the participants in the combined expert testimony condition did not significantly differ on their ratings of influence of interrogation tactics and dispositional risk factors, $t(53)$ = -

1.04, $p = .303$. This suggests that participants are not making the fundamental attribution

error.

CHAPTER 4

DISCUSSION

Although it is suggested in the literature that jurors better respond to person-based expert witness testimony over situation-based expert witness testimony (Davis & Leo, 2010; Watson et al., 2010), empirical research to support this claim is lacking. Expert witness testimony on confessions has been shown to influence jurors' decisions by reducing guilty verdicts, changing perception of interrogation tactics, and gaining information about the science of interrogations (Blandón-Gitlin et al., 2011; Leo & Liu, 2009). The present study aimed to replicate findings from past studies, as well as assessing whether jurors respond better to one type of testimony over the other.

**Verdict and Guilt Findings**

It was found that there was a difference in verdict decisions across the four different conditions. In support of the hypothesis, participants who received no expert witness testimony demonstrated the highest percentage of guilty verdicts compared to participants who received expert witness testimony; however, there was no significant difference in the percentage of verdicts among the three different expert witness testimony conditions. That is, guilty verdict percentages did not significantly differ among the situation-based, person-based, or the combination expert witness testimony— which is contrary to what was hypothesized. These findings indicate that having an expert witness testify, regardless of the nature of the testimony, can be beneficial and effective

at reducing guilty verdicts compared to not receiving expert testimony. In fact, participants who received the expert witness testimony were approximately three times more likely to render a not guilty verdict compared to individuals in the control group.

These findings were further supported by the participants' perception of how guilty they thought the defendant to be. There was a significant difference across the four conditions in perceived level of guilt. Specifically, it was found that participants in the control condition reported significantly higher levels of guilt than the participants in the combined expert witness testimony condition, which supports the hypothesis. However, the hypothesis regarding situation- and person-based expert witness testimony was not supported in that participants' perceived level of guilt in both expert testimonies did not significantly differ from each other. These findings corroborate the verdict decision results, in that receiving expert witness testimony in general appears to lower the guilt perceptions of a defendant in a disputed confession case.

**Perceptions of Interrogation Tactics and Dispositional Factors**

The hypotheses regarding the perception of interrogation tactics and dispositional risk factors were not supported. In other words, no differences across the four conditions were shown for perceived coerciveness of the interrogation tactics used, or for perceived level of influence of the dispositional characteristics on verdict decision-making.

**Interrogation Tactics**

There were no significant differences among the four different conditions in regards to participants' perceived coerciveness of the interrogation tactics. Interestingly, participants rated tactics as moderately coercive, regardless of their condition. These findings are consistent with previous studies that suggest jurors are capable of

recognizing the inherent coerciveness of an interrogation, even though they may not make the connection between coerciveness and a false confession (i.e., Leo & Liu, 2009). Like previous findings, our results support the notion that the reduction in guilty verdicts shown in the expert testimony conditions was likely due to an informational influence the expert had on the participants (i.e., Blandón-Gitlin et al., 2011). It is likely that while mock jurors perceived the interrogation tactics to be coercive, they needed the expert testimony to provide them with the information that allowed them to make the links between coercive interrogation tactics and the increased possibility of a false confession, moving them to render a not guilty verdict. These findings ultimately solidify the beneficial role an expert witness plays in disputed confession cases.

**Dispositional Characteristics**

There was also a non-significant difference among the four conditions in regards to participants' perceived influence of dispositional characteristics. Similar to their ratings of interrogation tactics, participants tended to rate dispositional characteristics as moderately influential to a false confession, regardless of their condition. These findings are not consistent with what is reported in the literature (i.e., Henkel, 2008; Ross, 1977). Henkel found that conviction rates were marginally higher when the false confession involved mental illness or stress induced by the interrogation, yet they did not differ when the defendant had a medical disorder. However, similar to findings mentioned above, participants who received expert witness testimony provided the fewest number of guilty verdicts, even though their perceived level of influence was comparable to participants in the control condition. This suggests that person-based expert witness

testimony is also effective at informing jurors of the link between dispositional risk factors and the increased possibility of a false confession.

### Influence of Expert Witness Testimony

In partial support of the hypotheses, the influence of the expert witness testimony significantly predicted participants' perception of guilt. That is, for the situation- and person-based expert testimony conditions, the more influential participants found the testimony to be, the less guilty they rated the defendant. However, this finding did not hold for the combination testimony condition, as the influence of the combined testimony did not significantly predict participants' perceptions of the defendant's guilt, which was contrary to predictions since it was expected that participants in the combination condition would rate the expert as more influential than the other conditions. It is likely that the amount of shared variance between the predictor variables is causing this cancelation process. These results appear to suggest that when both types of expert testimony are presented, they cancel each other out and neither become influential. Since the expert testimony in the combination condition was longer than the other two, perhaps the participants became overwhelmed by the plethora of information presented to them, and could no longer effectively process the information and make informed verdict decisions.

In conjunction with the other findings, expert witness testimony was likely effective in informing jurors about the connection between coercive interrogation tactics and dispositional risk factors to a possibility of a false confession. Since the person-based testimony can make direct links to the case, and the situation-based testimony cannot, it was hypothesized that participants in the person-based expert testimony condition would

rate the defendant as less guilty than participants in the situation-based expert witness testimony. Although analyses showed there were no significant differences between verdict decisions and type of testimony, person-based testimony explained slightly more variance than situation-based testimony, suggesting that person-based expert testimony may be slightly more effective at reducing perceived level of guilt, and may warrant further exploration.

## Limitations

Although the present study provided interesting results, it is not without limitations that should be considered when interpreting these findings. First, the participants in the study were not truly representative of the jury pool. That is, there was a restricted age range (18-39 years old), all participants were college students, and the ethnicity of the sample was not diverse, with the majority of participants identifying as Hispanic or Asian. Second, it is important to note that participants did not engage in jury deliberations, which could play a role in an individual's verdict decision-making. Perhaps jurors who better understand the coerciveness of interrogation tactics and the influence of dispositional risk factors can provide more information to other jurors who might not; consequently affecting verdict decisions.

## Conclusion

As far as we know, the present study is the first to investigate the hypothesis that jurors would respond differently to situation- and person-based expert testimony. It was found that expert testimony is influential in significantly reducing the percentage of guilty verdicts in a disputed confession case, regardless of type. Although more studies are needed to further investigate this preference, this study suggests that mock jurors do

not respond differently to a situation- or person-based expert witness testimony, or to a testimony that combined the two types, but that receiving any of the above types of expert testimonies was influential in reducing the number of guilty verdicts and the perceived level of guilt of the defendant.

## Future Directions

Not only do the findings from the present study answer some questions, but they also bring up more questions for future studies. For instance, why is an expert witness who testifies about both situational and dispositional risk factors less effective at reducing guilty verdicts compared to an expert witness who testifies about one or the other?

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