An Examination of Layperson Perceptions of the Use of Explicit and Implicit Social Influence Strategies in Witness Interviews

By

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Abstract

The use of social influence in witness interviews, particularly implicit influence strategies, is an emerging practical and scholarly concern. In particular, how laypeople perceive such strategies is critically important, as they may one day serve as jury members tasked with evaluating witness evidence. Across four experiments, layperson perceptions of the use of explicit and implicit influence strategies in witness interviews were examined. In Experiment 1, participants (N = 293) read a witness interview transcript in which the interviewer employed an explicit influence strategy (i.e., threat), implicit strategy (i.e., minimization), or no strategy, and answered questions about the exchange between interviewer and interviewee. In Experiment 2, participants (N = 293) viewed an excerpt from a witness interview in which the interviewer used one of six influence strategies (i.e., threat, explicit leniency, four types of minimization) or no strategy, and rated the consequences the witness would face if they complied with the interviewer or failed to do so, and various aspects of the interviewer's behaviour. In Experiment 3 and 4 (N's = 286), participants read a transcript of a simulated murder trial where an explicit or implicit social influence tactic was used to convince an alibi witness to change his story (threat, explicit leniency, high-level minimization, low-level minimization, unprompted change, no-change). Participants were asked to render a verdict and answer questions about the alibi witness interview described in the transcript. The results from the first two experiments, in line with previous research, indicated that while laypeople can detect the message conveyed by implicit influence strategies, they do not fully recognize the potential risk of using such strategies. While Experiment 3 and 4

indicated that the use of explicit or implicit influence strategies did not impact verdicts – which is in line with findings in the suspect literature – there was also no impact of the alibi witness' testimony on verdicts at all, suggesting that there are fundamental differences between witness admissions and confessions from suspects when it comes to their impact on courtroom decisions. Implications of these findings for the evaluation of witness statements in the courtroom are discussed.

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Dissemination

The following is a list of publications and conference presentations that have come from my doctoral program of research.

Peer-Reviewed Publications

Fallon, L., & Snook, B. (2019). Beyond common sense and human experience: Lay perceptions of the use of coercion by police interviewers on witnesses. *Criminal Justice and Behavior*, *47*(2), 208-221. https://doi.org/10.1177/0093854819892654 (Experiment 1)

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Conference Presentations

Fallon L., & Snook, B. (2020, September). *Minimization, the Trojan Horse of Interviewing? Measuring Perceptions of Witness Interviewing Strategies.* Presented at the Canadian Forensic Psychology Conference, Halifax, Nova Scotia, Canada. (Experiment 2)

Table of Contents

List of Tables

List of Figures

List of Appendices

Chapter 1: Introduction

Social influence – a concept at the heart of social psychology – plays a role in nearly every aspect of human life. It is part of the foundation of modern advertising, sales, and marketing, explains why we obey leaders and authority figures, and pervades nearly all of our interactions with others. One context in which it is nearly impossible to deny the presence of social influence is police interviewing. Interviewing victims, witnesses, and suspects is a critical component of any criminal investigation, because conducting a successful interview can provide valuable information pertaining to the location of evidence, the identity of persons of interest, or new leads for the investigation. At trial, the evidence gained through police interviews is highly influential to triers of fact who decide the fate of an accused person. However, the value of this evidence hinges on the assumption that the information obtained by the police interviewer was accurate and complete. In fact, information from interviews that were conducted improperly can impede the administration of justice (Brooks, 2000). Much research has been devoted to the presence of social influence in police interviews, specifically focusing on the negative impact of social influence and compliance seeking on suspect admissions. In short, this research has shown that pressuring an individual to admit to committing a crime using compliance tools can cause a multitude of unwanted investigative outcomes, including false confession, wrongful conviction, acquittal of suspects who are factually guilty, and claims of police malpractice (see Kassin et al., 2010 for a review). Moreover, these issues are compounded even further by research suggesting that triers of fact – who are often jury members selected from the public – are not fully aware of the capacity for these

strategies to induce compliance in suspects (e.g., Hall et al., 2020; Jones & Penrod, 2016, 2018; Kaplan et al., 2020). This means that interrogation tactics that have been empirically shown to lead to negative outcomes may slip through the cracks of the judicial system and go unnoticed for months, years, or indefinitely.

Of particular concern with regards to lay perceptions of implicit compliance strategies used in suspect interviews is an apparent discrepancy that exists between the message communicated by these strategies and perceptions of their associated consequences. While research has shown that the general public can identify the messages conveyed by popular influence strategies such as implicit inducements (i.e., that they imply legal leniency and threats of punishment, which are prohibited in police interviews; Kassin & McNall, 1991), the public does not comprehend the capacity of these strategies to induce compliance from individuals who would not have otherwise made the decision to do so (i.e., their free will was overborne). It is unclear why this discordance exists, but there is general scientific consensus that it is concerning (Kassin et al., 2018).

Anecdotal evidence from actual investigations suggests that not only suspects, but also witnesses, are subjected to social influence and coercion by the police while being interviewed. Compared to the use of such strategies against suspects, there is minimal research examining the use of social influence in the witness interview context. Given the similarities between suspects and witnesses when it comes to the psychological forces that drive the effects of coercive police strategies (e.g., compliance) it could be posited that using these strategies with witnesses could have similar effects as they do with suspects. If this is the case, similar issues relating to triers of fact and their understanding

of implicit influence strategies arise. In particular, research is needed to determine whether the same disconnect exists when it comes to layperson perceptions of implicit inducements used with witnesses; that is, it is important to examine whether there is a discrepancy between the message conveyed by these tactics and perceptions of their capacity to induce compliance (i.e., public agreement with a request). To address this gap in the literature, my program of research examines layperson perceptions of police officers' use of implicit compliance tools in witness interviews and the impact that such influence has on important judicial decisions. In particular, my research will focus on the *perceived message* conveyed by these strategies, the public's *perceptions* of the strategies, and their *impact on judicial decisions* such as verdicts.

In Theory: How Are People Influenced to Comply with Requests?

Decades of social psychology literature shed light on how individuals are influenced by their social environment. According to Latane (1981), social impact can be defined as the changes in physiological states, feelings, motives, emotions, cognitions, beliefs, values, and behaviours that occur for someone because of the presence or actions of others. The main tenant of social impact theory is that the impact of social forces is a function of (1) strength of the source (e.g., status, age), (2) immediacy of the source (e.g., closeness, lack of barriers), and (3) number of sources (Latane, 1981). Thus, social forces can vary in the extent to which they can exert influence on a target. Moreover, with this knowledge in mind, social forces can also be manipulated to have maximum impact on a target with regards to eliciting a desired behaviour.

Compliance

One of the most widely apparent social forces is compliance, which refers to the tendency to publicly yield to a request despite potential awareness that such behavior is being encouraged by someone else and regardless of private feelings of disapproval (Cialdini & Goldstein, 2004; Myers & Spencer, 2003). Compliance can be gained through explicit requests, like campaigning for votes during an election, or implicit requests, such as influencing an individual to buy a particular product through an advertising campaign. The causes of compliance can be organized into those that help us achieve our goals of accuracy, affiliation, and maintaining a positive self-concept (Cialdini & Goldstein, 2004).

Goal of Accuracy. The *goal of accuracy* in compliance relates to being able to correctly react to and interpret information (Cialdini & Goldstein, 2004). It is thought that affect and arousal play a role in compliance, in that people try to reduce shame and fear through public compliance and guilt through private compliance (Whatley et al., 1999). Even simple arousal, such as that elicited through performing an interesting task, increases the likelihood of compliance (Rind, 1997). To help further explain the relationship between affect and compliance, Forgas (1995) proposed the affect infusion model (AIM). The AIM suggests that a person's mood is more likely to be integrated into processing a request when a situation requires elaboration of both available stimulus information and previous knowledge structures to create new knowledge through the combination of both; in other words, when processing a request is effortful and exhaustive, an individual's mood will likely play a role. In addition, processing an unconventional request is more likely to take account of one's mood (Forgas, 1998). It

has also been proposed that individuals who experience a period of anxiety, followed by relief (e.g., thinking there is a parking ticket on your windshield but then realizing it is an advertisement), are more likely to comply with a subsequent request because of having their processing resources tied up in dealing with the anxiety-provoking event (Dolinski & Nawrat, 1998). Overall, these findings indicate that affect and emotion play an important role when it comes to eliciting compliance from a target.

Another common compliance strategy involves suppressing resistance to the request as opposed to increasing its desirability. Often referred to as disrupt-then-reframe techniques, this class of strategies work to disrupt understanding of an influence request and then reframe the message to increase vulnerability (Cialdini & Goldstein, 2004). To illustrate this concept, Davis and Knowles (1999) sold cards door-to-door using a control (i.e., "they are three dollars"), disruptive (i.e., "they are 300 pennies), or reframing (i.e., "it's a bargain") strategy, as well as various combinations of the three elements, and found that the highest compliance rate was found when they used the disruptive strategy, followed by the reframing strategy. This line of work suggests that compliance can be gained not only by enhancing the desirability of a request, but also by successfully decreasing a target's resistance to compliance.

Individuals are often influenced by those deemed as authority figures. There are two main ways in which individuals can obtain authority status: from one's expertise (called expert power) and from one's position in a hierarchy (called legitimate power). Expert power is thought to correspond with "soft tactics", while legitimate power is associated with "harsh tactics"; soft influence comes from within the influence agent

while harsh influence comes from external sources like social structure (Koslowsky & Scharzwald, 2001). These differences in authority delineate the difference between compliance and obedience, in that complying with someone who is considered to have legitimate authority is considered obedience (Cialdini & Goldstein, 2004). A convergence of evidence indicates that, when faced with pressure from an authority figure, individuals can be induced to comply with requests and perform behaviours they would never normally consider. In the most notable of these studies, ordinary citizens complied with orders to administer shocks to another person to the point where they became unresponsive – simply because a scientist in a lab coat told them to do so (Milgram, 1974). A more recent replication of the Milgram study demonstrated that the effect of authority pressure still holds (e.g., Burger, 2009). These findings reveal the power of authority in eliciting compliance.

Goal of Affiliation. Related to the *goal of affiliation*, humans are motivated to make and maintain social relationships, which makes people more likely to comply when these goals can be achieved. One factor that can contribute to the effectiveness of a request for compliance is liking of the individual making the request. Engaging someone with dialogue, pointing out similarities, and even simply remembering someone's name can increase the likelihood of compliance (Burger et al., 2001; Dolinski et al., 2001; Howard et al., 1995). As well, the norm of reciprocation can influence compliance; if we feel obligated to repay someone for something they did for us, we are more likely to comply with their requests (Gouldner, 1960). The concept of reciprocity has been used to explain the effectiveness of the door-in-the-face technique, which involves framing one's

actual request by first making a more extreme request that can be expected to be rejected. It is posited that the supposed concession made by the requester engages a feeling of obligation in the target to reciprocate through compliance with their seemingly minimized request (Cialdini & Goldstein, 2004).

Goal of Maintaining a Positive Self-Concept. Finally, *maintaining a positive self-concept* relates to behaving consistently when it comes to one's beliefs, statements, actions, and behaviours (Cialdini & Trost, 1998). A well-known compliance tool in the social psychology literature is the foot-in-the-door phenomenon, whereby people who first comply with a small request tend to comply with subsequent larger requests (Cialdini & Goldstein, 2004). In a study that asked participants to agree to a household inspection, those participants who were first asked to respond to a survey about household product usage were much more likely to agree to the second, larger task than those who were only approached once (57.8% vs. 22.2%, respectively; Freedman & Fraser, 1966). It is argued that this strategy works through the need to maintain a consistent self-perception, which can be achieved by making decisions in line with previous behavior (Burger, 1999; Cialdini et al., 1995). In addition, it has been demonstrated that those who have made a prior commitment are more likely to comply to a request related to that commitment, especially if the decision to commit was made actively and publicly (Cialdini & Trost, 1998). Overall, the desire to remain consistent with one's previous behaviours and actions can influence the likelihood of compliance.

Pragmatic Implication: A Psycholinguistic Explanation for the Interpretation of Subtle Influence Messages

As mentioned above, compliance can be elicited through both explicit and implicit requests. When requests are explicit, it is seemingly clear how the message is received by a target, as they are clearly asked to do whatever it is the influence agent desires of them. But when requests are implicit, it is more difficult to understand how the target can understand what is being asked of them. Moreover, it is unclear whether the target is consciously aware of the nature of this influence attempt, or if the request is processed somewhat unconsciously. The answer to these queries may be found in the psycholinguistic literature; namely, with the concept of pragmatic implication.

When trying to understand a message, individuals will consider its literal meaning, cues from the situation, and their prior knowledge (Fredericksen, 1975). This means that messages will not always be interpreted by the listener in the way they were intended. In fact, it is quite common for messages to be misinterpreted, whether the misinterpretation is very subtle or a major miscommunication, and it is especially common for people to understand or remember something differently from exactly what the speaker intended to say (Harris & Monaco, 1978). One of the primary mechanisms through which this misinterpretation occurs is called pragmatic implication. Pragmatic implication, broadly, occurs when a statement or message causes an individual to infer something that is not explicitly stated. This occurs when the speaker's message strongly suggests a piece of information that was not directly asserted, causing the listener to make a *pragmatic inference*. This is different from the *asserted meaning* of a message,

which is exactly what the message says, and the *logically implied meaning*, which is not directly asserted but can be inferred using logic. A pragmatic implication, in contrast, is one that was neither directly asserted nor implied through logic (Harris & Monaco, 1978). For example, the phrase "I ran up to the doorbell" *logically* implies that the speaker was near the doorbell, but an individual hearing it may *pragmatically* imply that the speaker rang the doorbell.

According to Harris and Monaco (1978), pragmatic implication can occur in a variety of linguistic scenarios, including events in a temporal sequence (e.g., inferring 'the cat ate the mouse' from 'the cat caught the mouse'), an implied cause (e.g., implying 'the clumsy chemist spilled acid on his coat' from 'the clumsy chemist has acid on his coat'), the implied instrument of a stated action (e.g., implying 'I stirred my coffee with a spoon' from 'I stirred my coffee'), an implied location (e.g., implying 'the barnacles clung to the ship' from 'the barnacles clung to the side'), implying the opposite of continuous antonyms (e.g., 'John was not tall' implies that John was short), illocutionary acts (i.e., when an utterance itself is the act it describes; e.g., 'the dock workers talked about high taxes' implies that the dock workers complained about high taxes), perlocutionary acts (i.e., performance of an act that produces certain consequences on feelings, thoughts or actions; e.g., 'the TA announced the exam was cancelled' implies that the TA's announcement delighted the students), neutral responses to certain questions in certain contexts (e.g., a politician answering 'no comment' to a controversial question can imply a 'yes' answer), the addition of a negation in a yes/no question (e.g., asking 'didn't you come into class late?' implies the speaker believes the person did), and

condition statements (e.g., ‘if you mow the lawn, I’ll give you five dollars’ implies that if you do not mow the lawn, you will not get five dollars).

Laboratory research on the topic of pragmatic implication has revealed that pragmatically implied messages not only cause individuals to infer information that was not directly asserted, but also cause them to recall and recognize said information as if it was directly asserted by the speaker (Harris & Monaco, 1978). A famous example of pragmatic implication in research is Loftus’ collection of studies on the misinformation effect (Loftus & Palmer, 1974; Loftus & Zanni, 1975; Loftus, 1975, 1977, 1979). In the original study by Loftus and Palmer (1974), participants viewed a video of a car accident and were asked questions about what they saw. Results indicated that participant responses were influenced by the wording used in the questions – for example, those asked how fast the cars were going when they *smashed* each other reported higher speeds than those asked how fast they were going when they *hit* each other. The authors purported that this finding was because of post-event misinformation on memory. That effect, in part, was likely due to pragmatic implication, in that the participants may have pragmatically implied that a word such as ‘smashed’ meant the car must have been going fast. Though it is clear that pragmatic implication has an impact on memory, there is a lack of clarity with regards to where it actually happens in the memory process. Some researchers believe it occurs at the retrieval process (e.g., Bartlett, 1932), while others think it happens during storage (e.g., Monaco, 1976)

The phenomenon of pragmatic implication can help to explain the effectiveness of implicit compliance strategies. Unlike the literal meaning of a statement, pragmatic

implications relate to the reason that a particular message was generated in the first place (Gruenfeld & Wyer Jr., 1992). Thus, it could be said that the whole purpose of implicit requests for compliance is to subtly imply, through the pragmatic meaning of the request, the message that the influence agent wants to convey, while not having that message be explicitly obvious through the literal meaning of the request. In doing this, the influence agent decreases the likelihood that the target will exhibit reactance or resistance to complying with their request, as the influence attempt is not immediately obvious to them. In other words, it is as if the influence agent is taking advantage of pragmatic implication by using it to subtly influence a target.

Compliance Strategies in the Real World

Compliance and other influence strategies are wound tightly into our daily lives. Not only do these strategies shape our interactions with others, but they also play a major role in influencing what we eat, where we shop, and generally how we choose to live our lives. In nearly every situation we encounter and decision we make, social influence likely plays at least somewhat of a role. With that in mind, it is not surprising that many professionals utilize the principles of social influence to help them succeed in their respective careers. Some obvious examples of those who use social influence strategies to achieve their career goals include car salesmen, advertising executives, marketing specialists, and politicians. Even the public sector makes use of these strategies to encourage support for new policies and programs, most notably through the use of nudging (i.e., behavioural interventions that influence decisions without coercion; Thaler & Sunstein, 2009). However, there are other scenarios in which social influence is

employed that may not be as obvious. Still, upon closer inspection, the presence and strength of these strategies is undeniable in many of these contexts. One such context, which particularly makes use of compliance, is police interviewing.

Social Influence Applied: The Use of Compliance Tools in Police Interviews

Police interviews are critical to the investigative process because they provide much of the evidence and information required to solve a case. In the absence of physical evidence – which, unlike what is seen on television, is not always readily available – information elicited from victims of crime, eyewitnesses, and suspected perpetrators may be the only evidence the police have to help move their investigation forward. Even when other evidence exists, police officers must still conduct interviews to document what happened (i.e., *actus reus*), determine the intent behind the crime (i.e., *mens rea*), and fill in details that have not yet been confirmed.

To preserve the integrity of evidence from interviews, best-practice guidelines have been proffered by interviewing experts. These recommendations have changed drastically over the years and differ based on the type of interview being conducted and the practices of each individual police agency. But, in general, it is recommended that interviewers (1) build rapport with the interviewee, (2) use open-ended questions to facilitate the provision of as much information as possible, (3) avoid contaminating an interviewee's account with misinformation or leading questions, (4) let the interviewee do most of the talking, and (5) record all interviews (Bull & Baker, 2019; Fisher & Schreiber, 2017; Kassin et al., 2010; Lassiter, 2010; Loftus, 2005; Shepherd, 2007; Snook et al., 2012; Wells et al., 2020). These recommendations are broadly relevant to all types of interviews

conducted by the police, but their implementation will often differ depending on the type of interviewee being questioned.

Interviewing Suspects

Interviews with suspects – referred to as interrogations by many – are crucial to the investigative process because they can provide the police with valuable information about criminal acts. Arguably the most important outcome of a suspect interview is a confession from the alleged perpetrator, or in other words, an admission from the individual that they are responsible for committing the crime under investigation, and the associated details of what transpired. Confession evidence is highly sought after by the police, primarily because confessions are seen as one of the most potent and powerful forms of evidence in the courtroom (Kassin & Neumann, 1997). In fact, confession evidence is so powerful that it often renders other evidence redundant, and in some cases even influences the collection and interpretation of evidence found later (see *Colorado v. Connelly*, 1986; Dror & Charlton, 2006; Hasel & Kassin, 2009; Marion et al., 2016). Given the demonstrated influence of confessions in the administration of justice, it is not surprising that police interviewers will often go to great lengths to get suspects to confess.

When interviewing suspects, police officers will sometimes resort to using social influence strategies and compliance tools to elicit admissions of guilt (Davis & O'Donohue, 2004; Leo, 2008). This sort of strategy is often seen by the police as a "necessary evil", as many police interviewers believe that suspects will not confess in the absence of such pressure. Moreover, police officers in North America are routinely

trained to conduct interviews in this manner. When following the Reid Model of Interrogation, a popular interview training manual in North America that is designed to overcome a suspect's resistance, police officers are encouraged to use social influence to obtain information from suspects (e.g., Inbau et al., 2013). One of the original authors of this manual even went as far as comparing the training framework to training received by a door-to-door salesman, wherein the product being sold in this case is "the truth" (Davis & O'Donohue, 2004). Provided these psychological strategies used by police interviewers do not violate relevant laws or standards (e.g., *Arizona v. Fulminante, 1*991; *Frazier v. Cupp*, 1969; *R. v. Oickle*, 2000), they are generally accepted by the courts in Canada and the US.

A set of compliance tools used in accusatorial interrogations are known as minimization and maximization tactics, which are both considered types of implicit influence strategies, in that the request for compliance and associated inducement are not immediately obvious (Leo & Ofshe, 2001). Minimization tactics (also known as "soft sell" tactics) refer to those subtle tactics that are designed to comfort a suspect, make them feel at ease, and lead them to believe that everything will work in their favour (Kassin, 1997). Overall, these tactics serve to downplay the seriousness of the crime and minimize the perceived consequences associated with confessing (Ofshe & Leo, 1997). According to Leo (2008), minimization is a type of positive incentive, because it subtly offers a suspect a reward (i.e., more lenient treatment) in exchange for compliance. Maximization tactics (also known as "scare tactics"), on the other hand, exaggerate the seriousness of an offence. Unlike minimization tactics, they serve to *maximize* the

perceived consequences associated with *not* confessing, and are considered to be negative incentives since they subtly threaten punishment in the absence of compliance (Kassin, 1997; Leo, 2008). Some evidence suggests that both types of influence strategies are common in real-life interrogations (Kassin et al., 2007; Kassin et al., 2017). Although these tactics are thought to be effective in eliciting *true* confessions from *guilty* suspects, there is also evidence indicating that they increase the risk of eliciting *false or involuntary* confessions from *innocent* suspects – an outcome that is not desirable for anyone involved (e.g., Russano et al., 2005).

A false confession occurs when someone admits to a crime that they did not commit, or exaggerates their involvement in a crime, and generally includes a detailed statement of how and why the crime was committed (Kassin et al., 2010). In social psychological terms, a false confession occurs when an interrogator elicits compliance to their request for a confession from an individual who has nothing to confess (i.e., who is innocent). Confessions can be identified as false when it is discovered that there was no crime committed, when the real perpetrator comes forward, when evidence makes it clear that the suspect could not have committed the crime, or through exculpatory scientific evidence (e.g., DNA; Drizin & Leo, 2004). Statistics from the Innocence Project indicate that 28% of DNA exonerees in the US made a false statement of guilt (Innocence Project, 2021), while Innocence Canada reports that false confessions were involved in 15% of their wrongful conviction cases (Innocence Canada, 2021). Self-report surveys of police officers, prison inmates, and university students provide estimates of false confession rates between 4% and 12% (Gudjonsson, Sigurdsson, Asgeirsdottir, & Sigfusdottir, 2006;

Kassin et al., 2007; Sigurdsson & Gudjonsson, 2001; Steingrimsdottir, Hreinsdottir, Gudjonsson, Sigurdsson, & Nielsen, 2007). However, it is impossible to know the true prevalence or incidence rates because cases involving false confessions have not always been recorded, and even today there is no single organization that keeps track of these miscarriages of justice. As well, in the absence of concrete exculpatory evidence (e.g., DNA), it is often difficult to establish ground truth and thus know with certainty that a confession is false. Therefore, many false confessions are never detected, including in cases where the defendant enters a guilty plea, when charges are dropped or the confession is disproven before trial, when crimes are minor in nature, or in cases with confidentiality issues (Kassin, 2008; Kassin, 2017). There are also likely a large number of incarcerated innocent individuals whose false confessions have not yet been identified and may never be. As can be seen, the problem of false confessions may be much larger and more widespread than what is now known.

In addition to the known dispositional factors that put individuals at risk (e.g., age, mental illness, intellectual disability, sleep deprivation; Blagrove, 1996; Drizin & Leo, 2004; Frenda et al., 2016; Gudjonsson, 2003; Klaver et al., 2008; Owen-Kostelnik et al., 2006; Redlich & Goodman, 2003) the risk of false confessions is inextricably linked to the police's use of influence strategies in the interview room. Much research has implicated minimization and maximization – the commonly used psychological compliance tools mentioned above – in increasing the likelihood of obtaining false confessions. Several experimental studies have shown that these influence strategies increase the rate of compliance with requests to confess among innocent people (e.g.,

Horgan et al., 2012; Klaver et al., 2008; Russano et al., 2005). For instance, in a now classic study by Russano and colleagues (2005), the use of minimization increased confession rates for innocent individuals at an equal rate to an explicit promise of leniency (3.00 and 2.33 times more likely to confess, respectively). Moreover, research has found that minimization and maximization are nearly always present in interviews with proven false confessors (Leo & Ofshe, 1998, 2001; Drizin & Leo, 2004). This research suggests that minimization and maximization tactics serve as a loophole for the police that allows them to avoid the use of explicit compliance tools like threats and promises of leniency (which are not permitted to be used in police interviews in Canada), but still obtain a similar outcome – a confession. As a result of the demonstrated problems with these implicit compliance tools, leading researchers in the field recommended – in a published white paper on police interrogations – that police officers refrain from using them in suspect interviews due to their potential to put innocent individuals at risk (Kassin et al., 2010; but see Kelly et al., 2019 for a more a nuanced view of this issue). Despite these recommendations from experts, however, minimization and maximization are still used regularly in interviews by many police organizations to elicit compliance from suspects.

A Social Psychological Explanation for the Impact of Implicit Influence Strategies in Police Interviews. Researchers have argued that the influence strategies used in police interviews are much the same as those used by other influence professionals such as advertisers and salespeople, but that they differ with regards to contextual factors. Specifically, in a police interview, there is a large power imbalance

between the influence agent and target, and the target is essentially trapped with no hope of escape. This results in an enhanced emotional response from the target, and also increases the potential for influence (Davis & O'Donohue, 2004). It should be noted, of course, that social influence used solely to motivate an interviewee is not necessarily problematic and can indeed be extremely useful. However, there is a vast amount of social psychology literature that, when applied to police interrogations, can serve as evidence cautioning against the use of implicit influence strategies that aim to induce compliance, such as minimization and maximization. As mentioned previously, social impact theory suggests that the impact of a given social force depends on the strength and immediacy of the source as well as the number of sources (Latane, 1981). In a police interrogation, at least two of these factors are present at a high level: strength and immediacy. Police officers are clear authority figures and are afforded certain legal powers. Additionally, the interrogation environment is one of custody and isolation; to a suspect, it may feel as if they are trapped with no way of escape, suggesting a lack of barriers between them and the interrogator. Thus, it is immediately clear that the potential for compliance in an interrogation is high.

The likelihood of compliance is said to be impacted by affect and arousal, which are both heightened during a police interview (Davis & O'Donohue, 2004). According to Whatley et al. (1999), individuals will attempt to reduce feelings of fear through public compliance. In addition, the AIM suggests that, when faced with complex or unconventional situations, individuals are more likely to incorporate their mood into their processing of requests, which then leads to an increased likelihood of compliance

(Forgas, 1995). In a police interview setting, fear and anxiety run high, and the situation a suspect is faced with is certainly complicated and unorthodox, which could help to explain why individuals will comply with an interviewer's request for them to confess. It has also been shown that individuals who experience a period of anxiety, followed by a reduction in that anxiety (i.e., anxiety-then-relief), are more likely to comply with requests (Dolinski & Nawrat, 1998). The use of minimization tactics may take advantage of this phenomenon, in that the initial anxiety felt because of being accused of a crime and brought in for questioning is assuaged by the interrogator minimizing the seriousness of the crime, downplaying consequences, and assuring the suspect that everything will work out in their favour.

Using a slightly different approach, compliance can also be increased by reducing an individual's resistance to a request. One strategy used to do this involves disrupting an individuals' understanding of what is being asked of them and then reframing their thinking about the request (Davis & Knowles, 1999). This concept certainly applies to the police interrogation setting – at the start of an accusatorial interview, the interviewer will first try to disrupt the suspect's beliefs by convincing them that their focus should not be placed on trying to maintain their innocence, but instead should be on trying to explain why they committed the crime in a way that will minimize the consequences of doing so. Then, using minimization and maximization strategies, the interviewer will re-frame the suspect's thinking to get them to believe that confessing (usually to a minimized version of the crime) is in their best interest (Davis & O'Donohue, 2004).

One of the most well-studied areas with regards to social influence is that of obedience to authority. Milgram's (1974) obedience study, followed by many replications and extensions in the decades following, have demonstrated that pressure from someone in authority can influence individuals to comply with a wide variety of requests, some involving behaviours in which they would normally never engage. Given these findings, combined with the knowledge that police officers are clear authority figures, it follows that in a stressful interrogation setting, the pressure to comply would be great. Kassin (2017) even suggested that the contexts of the Milgram experiment and coercive police interviews are quite comparable. In both cases, an individual is alone in an unfamiliar place. They are confronted by an authority figure and agree to proceed via a contract (i.e., informed consent, rights waiver). Additionally, in both cases the individual is deceived about their actions; in Milgram's study, participants were led to believe they were harming someone, while in an interrogation, suspects are tricked through the use of implicit inducements into believing that confessing (or providing incriminating information against another individual) is more beneficial than denial. The participants in both scenarios are subjected to constant, relentless, and escalating demands until eventually, they demonstrate full obedience to the authority figure and comply with their most substantial request: administering the final shock, or producing a full admission (Kassin, 2017).

It is thought that part of the reason why people comply with authority figures is because doing so comes with practical advantages (Cialdini & Trost, 1998). In the Milgram experiment, it may have been the case that by complying with the

experimenter's orders, the participants felt they were pleasing him – a sort of internal reward. This theory can help to explain the effects of minimization and maximization in police interviews. Minimization and maximization tactics are used by interrogators to imply certain benefits of providing information (and consequences of failing to do so) that increase the value of complying with their requests. Part of the power of these tactics, then, is their ability to elicit compliance to an authority figure (i.e., the interrogator) by implicitly relaying the potential benefits of doing so.

Two other common compliance strategies are liking and reciprocity. In short, inducing compliance is easier when the target likes the influence agent (Burger et al., 2001) and when the influence agent has already done something for the target (Cialdini & Goldstein, 2004). With regards to liking, police interviewers often try to build rapport with suspects, in the hopes that it will lead to increased trust and consequently, more positive interview outcomes. On its own, rapport is not a bad thing in police interviews; rather, it is associated with increased information provision from interviewees (Bull & Baker, 2019). When combined with the other, more coercive compliance tools used by police interviewers, however, it may increase the likelihood that an innocent suspect will comply with the interviewer's request to confess. The door-in-the-face technique, which relies on the power of reciprocity, involves asking a target to comply with an extreme request, expecting refusal, and then seemingly conceding with a much smaller request, which was the desired request all along (Cialdini & Goldstein, 2004). This may be one way to explain how minimization and maximization function in a suspect interview. Interviewers will often give suspects a choice, first asking them if they will confess to an

extreme, worst-case-scenario version of the crime; expecting a refusal, they will then offer the opportunity to confess to a minimized version of the crime, which, in comparison to the original request, seems quite reasonable. Unfortunately for the suspect, however, it is still an admission of guilt.

It is also known that individuals like to behave consistently, and that this desire can lead to increased compliance with requests that relate to past behaviour (Cialdini & Goldstein, 2004). A compliance tool that takes advantage of this desire for consistency is the foot-in-the-door phenomenon, whereby people who first comply with a small request tend to comply with subsequent larger requests (Cialdini & Goldstein, 2004). Like the door-in-the-face technique mentioned above, the foot-in-the-door technique can also help explain the effect of minimization and maximization on eliciting admissions from suspects. Suspects – whether innocent or guilty – often want to minimize their involvement in a crime. Even when they confess, suspects will generally try to downplay certain details of what happened to reduce the associated consequences. When police interviewers use minimization, they are essentially offering suspects the opportunity to admit to a lesser act than the one they were originally accused of committing, an opportunity which is presented as the only way to escape their current circumstances with minimal consequences (Drizin & Leo, 2004). Suspects will often take this opportunity, confessing only when it has been suggested that the crime was an accident, that it was provoked by the victim, and so on (Swanner, Beike, & Cole, 2010). What suspects do not realize in doing this, however, is that the minimized request for a confession represents the beginning of a sequential request strategy (i.e., foot-in-the-door), and that their initial

admission opens the door for a subsequent non-minimized confession to the crime. According to research on such strategies, if a suspect already admitted partial involvement, then the chances of then complying with a larger request would increase (e.g., Freedman & Frasier, 1966). When a suspect is guilty, this strategy would likely be extremely effective in producing a truthful admission. When the suspect is innocent, on the other hand, the foot-in-the-door phenomenon could contribute to the risk of false confessions.

The Role of Pragmatic Implication in Interpreting Implicit Influence Strategies. As mentioned above, the concept of pragmatic implication can help to explain how implicit influence requests can be effective at promoting compliance. Consequently, one theoretical explanation offered for the effectiveness of implicit inducements in police interviews is that minimization and maximization *pragmatically imply* promises and threats, respectively (Kassin & McNall, 1991). In other words, although minimization and maximization tactics do not explicitly offer lenient treatment or threaten punishment, people tend to read between the lines and assume that leniency is being offered or that punishment is being threatened, respectively. Across two studies, participants who read a transcript of a suspect interview containing minimization tactics rated sentencing expectations for the suspect if he confessed as being just as low as those who read a transcript containing explicit leniency; for both the maximization and explicit threat transcripts, sentencing expectations were comparably high if the suspect continued to deny involvement (Kassin & McNall, 1991). These findings have been replicated with both child and adult samples (Redlich et al., 2019) and when using moral minimization

(i.e., downplaying the moral seriousness of a crime; Luke & Alceste, 2020). The results of these studies provide support for the notion that subtle inducements like minimization and maximization serve to pragmatically imply leniency and threats, which communicate to an interviewee that their circumstances will improve if they comply with police. This, in turn, allows police officers to obtain their desired interview outcomes – compliance from the suspect in the form of a confession – without having to resort to legally impermissible or questionable strategies.

Interviewing Witnesses

Like suspect interviews, interviews with witnesses are also critical to police investigations. While they do not provide direct inculpatory evidence in the form of a confession, they can help the police to fill in details of what happened during a crime, locate important evidence, and identify the perpetrator. In the published literature, a main concern with witness interviews has long been the problems with post-event misinformation and inadvertently influencing a witness account (Loftus, 2005). Countless studies have revealed that something as simple as altering one word of a question can result in memory distortions for speed, colour, the existence of objects, and more, a phenomenon widely known as the misinformation effect (Loftus & Palmer, 1974; Loftus, 1975, 1977; Payne et al., 1994; Zaragoza et al., 2006; for a review, see Loftus, 2005). In witness interviews, misinformation often comes from leading questions, which are those that suggest or imply a specific answer to a witness (Loftus, 1979; Smith & Ellsworth, 1987). In a survey of experts in eyewitness research, 100% of respondents agreed that the

research on the misinformation effect is sufficiently robust and reliable to be presented as expert testimony in the courtroom (Kassin et al., 2018).

As a result of the importance of information provided by witnesses and the potential impact of misinformation on witness accounts, much of the research relating to witness interviewing has focused on developing strategies that allow witnesses to provide as much complete and accurate information as possible (e.g., Fisher & Geiselman, 1992; Fisher & Schreiber, 2017; George & Clifford, 1992; Milne & Bull, 2003; Wells et al., 2006) and avoiding strategies that could contaminate the information provided (e.g., Davis & Loftus, 2017; Memon et al., 1996; Milne et al., 1995). It has largely been assumed throughout this line of research that police officers treat witnesses fairly, because they tend to be cooperative and are extremely useful in helping with investigations, which explains why so much research attention has been put toward ways to maximize the information provided by witnesses. Minimal research, however, has focused on how to proceed when – at least in the eyes of the interviewing officers – a witness is uncooperative.

It is beginning to come to light that a pressing issue surrounding witness interviews mirrors concerns about suspect interviews – that is, it seems that the premeditated use of compliance tools and coercive influence strategies is occurring in interviews with witnesses who are presumed to be withholding information. In Canada, known examples of influencing witnesses to provide statements that line up with police theories about a crime date as far back as three decades ago and continue to emerge today (e.g., Hickman, Poitras, & Evans, 1989; Lamer, 2006; *R. v. Morgan*, 2013). Moreover, the most recent

edition of the Reid manual suggests that, when dealing with reluctant or uncooperative witnesses, the interviewer should employ similar compliance tools as those used in suspect interview. Further, it is suggested that the interview proceed in much the same way as a suspect interrogation and that the witness be treated as if they are suspected to be somehow involved in the crime (Inbau et al., 2013). As mentioned, however, the use of influence strategies on witnesses is a significantly understudied area compared to the use of such strategies with suspects.

In Canada, the Eric Morgan case exemplifies the use of coercive influence strategies in witness interviews (*R. v. Morgan*, 2013). This case was highly publicized and sparked outrage among the legal community and the general public alike – it was featured in an episode of the Fifth Estate, an investigative documentary series on the Canadian Broadcasting Corporation network. The case involved a fatal shooting outside a nightclub in Brampton, Ontario where Morgan was hosting his birthday party. When questioned about the crime, many witnesses vouched for Morgan, stating he was inside the club at the time of the shooting, which cleared him of any wrongdoing. Three years later, however, one witness voluntarily changed her story. Specifically, after watching footage from inside the club that night, she identified Morgan as the shooter; notably, this identification came when she heard someone on the video wish Morgan a happy birthday, resulting from a rumor she heard that the shooter was celebrating his birthday on the night of the crime. The police re-interviewed some of the eyewitnesses and, through the use of social influence, systematically coerced them to change, in varying degrees, their original accounts that Morgan was inside the nightclub. Compliance tools were rampant

in these interviews, but the two most common forms were the use of overt threats and minimization. The officers pressured the witnesses to change their stories to match their new investigative theory by threatening them with arrest, loss of access to their children, and destruction of their reputations. They also employed flattery and praise to gain the witnesses' trust, minimized the seriousness of withholding information, and downplayed the consequences of cooperating with police (i.e., minimization tactics). Two key witnesses eventually recanted their claims that Morgan was inside at the time of the shooting, and Morgan was subsequently arrested and charged with murder. After two trials and three years in prison, Justice Dawson instructed the jury to acquit Morgan because he believed that the police had used "abusive" and "threatening" tactics against key witnesses and "manufactured" evidence incriminating Morgan. In response to this ruling, the police argued that they acted in the interest of public safety and an independent police review board ruled that the tactics used to pressure the witnesses were consistent with their training (Gillis, 2015).

Only one empirical study has examined the impact of compliance tools on witness statements (Loney & Cutler, 2016). In this study, participants were interviewed about witnessing a theft in a laboratory that had allegedly been committed by another participant (who was a confederate of the researchers). No theft had occurred, meaning that any accusations against the confederate were false. Participants were interviewed using either an accusatorial or non-accusatorial interview procedure – the accusatorial interview followed the steps of a traditional Reid interview and involved minimization and maximization techniques. The accusatorial interview increased the likelihood of a

false accusation (φ = .29); nearly 17% of the participants exposed to the accusatorial interview falsely implicated the confederate in the theft, whereas none of the participants exposed to the non-accusatorial interview implicated the confederate (Loney & Cutler, 2016). This study provides preliminary evidence of the detrimental effects of using coercive influence strategies with witnesses. However, more research is required to determine the specific strategies that contribute most to these effects.

Minimization and maximization are discussed typically in the context of suspect interviews. When a suspect is taken in for questioning, the *allegation* against them is that they committed a crime, and it is assumed that they are guilty. In some cases, the suspect will *deny* this allegation, whether or not they are guilty. If the suspect denies involvement, but the investigators still believe they are guilty – a belief that may stem from legitimate evidence, tunnel vision, intuition, or a combination of those – they sometimes resort to using *influence tactics* that are designed to get the suspect to change their claim of innocence to a confession. The pressure applied by the police may include the use of compliance tools such as minimization and maximization. If those influence tactics work, the suspect will *capitulate* to the investigator's requests and confess – an admission that may sometimes be false (Innocence Project, 2021). But what if the police decide, in a situation where a suspect is maintaining his innocence, that instead of continuing to interview the suspect to try to get an admission of guilt, they will interview an alibi witness to see if they will recant or change their account to match their investigative theory? In this situation, the witness originally provided an account to investigators that exonerates the suspect, but due to the investigative theory that the

suspect is guilty, the police accuse the witness of lying, hiding information, or misremembering (which would be the *allegation*). In many cases, the witness will *deny* that allegation and maintain that they are telling the truth. Just like in the suspect interview, the investigators may then employ *influence tactics* (e.g., minimization or maximization) to get the witness to *comply* and recant or change the alibi they originally provided for the suspect so that it fits with the investigative theory. For example, minimization could be used to emphasize how good the witness would feel if they told the truth, while maximization could be used to suggest that if the witness does not come clean to the investigators, they could be prosecuted for accessory to the suspect's crime. If the influence tactics work, the witness will *capitulate* to the investigator's requests and recant; if the recant is false (i.e., a coerced false statement), it could have a negative impact on the suspect (e.g., wrongful arrest and/or conviction based on the false statement). As can be seen, the process and purpose of influence strategies in suspect and witness interviews is not actually much different.

On the Potential Dangers of Implicit Inducements in Witness Interviews. There are no guidelines in Canada about what is impermissible when extracting information from witnesses, aside from suggestions from academics not to ask questions that risk contaminating eyewitness evidence. As witnesses are not in police custody, they are not entitled to be read their rights or to have an attorney present during questioning (Trainum, 2016). Moreover, beyond having the ability to end an interview at any time (but see research on the effect of authority on obedience, e.g., Milgram, 1974), there are no legal safeguards in place to protect witnesses against being influenced to comply with requests

to provide information that may later be used as evidence in court. As a result, police officers who feel constrained by the guidelines for suspect questioning may circumvent those rules by engaging in coercive questioning of witnesses to obtain inculpatory information that aligns with their investigative theories. Furthermore, since witnesses typically provide information about a crime that they saw happen, as opposed to a crime they are suspected of committing, there are fewer consequences associated with complying with police requests to change their stories or provide desired information.

Importantly, since the foundations of accusatorial interviewing are largely rooted in social influence, the same theoretical explanations for why they affect suspects in the way they do could be used for witnesses too. Like suspects, witnesses undoubtedly view police officers as authority figures, and thus are more likely to comply with their requests. As well, even though anxiety and arousal may not be quite as high for a witness as they would be for a suspect, there would still certainly be some uncertainty and heightened emotions just simply because of being in a police station and having to recount the details of a witnessed event, which could lead to an enhanced likelihood of falling victim to compliance requests (Whatley et al., 1999). If a witness feels any resistance toward providing requested information to a police interviewer (e.g., if they are implicating someone they know or if they are unsure that the information requested is true), the disrupt-then-reframe technique could also be effective in enhancing the likelihood of compliance (Davis & Knowles, 1999). Just like suspects, witnesses also likely feel the need to maintain a positive self-concept and remain consistent in their actions, and thus may fall victim to the foot-in-the-door strategy (Freedman & Frasier,

1966). Moreover, if the interviewer builds rapport and offers them concessions, a witness may also be influenced by liking and reciprocity (Burger et al., 2001; Cialdini & Goldstein, 2004). This – combined with the lack of legal protections, minimal consequences of compliance, and decades of forensic research on minimization and maximization tactics (see Kassin et al., 2010 for a review) – suggests that the use of compliance tools in witness interviews is a serious problem that requires research and practitioner attention.

Detecting Social Influence and Associated Consequences

It is clear based on decades of research that individuals are heavily influenced by their social environments. As well, it is evident that there are specific tools and strategies that can be used to enhance one's ability to convince others to comply with requests. But, granted this solid evidence, do people actually believe that they, as well as others, can be influenced to comply? There is currently no existing research that specifically examines people's perceptions of compliance and social influence, however, other concepts from social psychology can help to predict how these phenomena are likely viewed. The fundamental attribution error occurs when people overestimate dispositional causes for behavior while underestimating situational causes (Ross, 1977). In other words, individuals take the behaviours of others at face value rather than looking deeper into the context of the particular situation, and tend to attribute insufficient weight to situational determinants of behaviour (Jones & Nisbett, 1972). Similarly, the tendency to make assertions about an individual's stable personality traits based on their behavior, even though the behavior could have been induced by a particular situation, is known as

correspondence bias (Gilbert & Malone, 1995). These two concepts are often discussed separately in the literature, but the labels are also used interchangeably. For the purposes of this research, the two concepts will be discussed together under the label of "attributional bias".

In a classic study demonstrating the potential for attributional bias, participants who read essays arguing either for or against a particular issue tended to perceive the attitudes of the writer as relating to the angle they took in their essay – even when told that the writers had no choice in which side of the argument they wrote about (Jones & Harris, 1967). This type of bias can occur in a wide variety of situations, but tends to intensify when judging an individual who performed a questionable or negative behavior with important consequences (Bierbrauer, 1979; Jones & Nisbett, 1972). This tendency for overestimating dispositional causes for behavior goes directly against decades of research supporting the power of the situation in influencing behavior (e.g., Haney, Banks, & Zimbardo, 1973).

Judging the cause of the behavior of others is difficult, since it is impossible to experience and understand a situation exactly as someone else does (Jones & Nisbett, 1972; Pronin et al., 2004). Thus, people look for alternate ways to determine why a behavior occurred, which is when attributional biases tend to emerge. Some of the reasons why this bias occurs include (1) the fact that an actor tends to be the focal point of a given situation, meaning that less attention is paid to situational causes for behavior while extra attention is paid to the actor, (2) a tendency to rely on heuristics that help us to pinpoint common motivations for performing a behavior, (3) inappropriate or

subjective expectations regarding how one should behave in a given situation, and (4) a lack of understanding of the situational pressure in a particular context (Gilbert & Malone, 1995; Jones & Nisbett, 1972; Pronin et al., 2004). In addition, laypeople tend to lack awareness of the fact that human information processing, memory, and decision-making processes are fallible, which could lead to a lack of understanding of the power of social influence, particularly in situations where compliance with a request goes against self-interest (Davis & O'Donohue, 2004).

Detecting Influence Strategies in Police Interviews

An emerging line of research in the police interviewing literature focuses on investigating community attitudes toward contentious police tactics. This research is extremely important because juries are comprised of members of the general public and are tasked with making critical decisions in the justice system. To date, most research in this area has focused on compliance tools used in suspect interviews. In Canada, decisions regarding the admissibility of statements from suspects are governed by the Confessions Rule, outlined in *R. v. Oickle* (2000). While this rule prohibits certain police tactics such as blatant threats, promises of leniency, and overt oppression (e.g., physical violence, deprivation of basic needs), there is a lot of room for interpretation and not a lot of guidance when it comes to the use of more subtle psychological strategies. Thus, it is imperative that triers of fact are equipped with the tools and knowledge required to make an educated decision regarding the admissibility of suspect admissions.

Unfortunately, research has shown that the general public are unaware of, or at least somewhat blind to, the risks associated with the use of psychologically coercive

influence strategies in police interviews. In particular, a preponderance of evidence indicates that laypeople are generally accepting of the use of minimization in police interviews with suspects. In one survey of the American public, nearly half of participants (48.2%) said they would approve of the use of minimization and maximization in a typical interrogation setting (Homant & Witkowski, 2011). Conversely, most participants in an Australian survey (61.0%) reported that they disapproved of minimization (defined in this study as "downplaying the seriousness of the crime"); however, the majority of participants (53.5%) also approved of using tactics such as sympathy and pointing out the advantages of confessing, indicating that they did approve of some forms of minimization (Moston & Fisher, 2007). A survey conducted by Kaplan et al. (2020) with jury-eligible citizens in Canada and social scientists on their attitudes toward various police interrogation tactics revealed that laypeople rated both minimization and maximization more positively than did the social scientists (d_s = 0.62, 0.77, respectively), but also that they saw minimization as being much less coercive than maximization (d = 0.99). This tendency to approve of minimization is supported by the concept of positive coercion bias first discovered by Kassin and Wrightsman (1981), which suggests that laypeople feel more favourably toward reward-related influence strategies (e.g., promises of leniency, minimization) than punishment-related strategies (e.g., threats, maximization). The researchers posited that this is due to perceptions that positive inducements are weaker than negative inducements and are thus less likely to lead to involuntary compliance (Wells, 1980).

Along with this positive coercion bias, there also seems to be a tendency for laypeople to be more accepting of implicit influence strategies compared to their explicit counterparts. In the study mentioned above by Kaplan and colleagues (2020), minimization was rated much more positively than prohibited tactics such as explicit leniency (d = 1.09). Several other surveys have found that participants are able to recognize the coercive nature of the most extreme types of influence strategies (e.g., legal leniency, threats of harm; Blandon-Gitlin et al., 2011; Costanzo et al., 2010; Leo & Liu, 2009). Across three experiments, Hall et al. (2020) demonstrated that laypeople in Canada view overt compliance tools (e.g., using excessive force, verbal abuse) as being much less appropriate than psychological strategies (e.g., minimization and maximization; d_{range} = 0.95-1.20). Moreover, views of these tactics were influenced by case-related variables – overt strategies were seen as more appropriate when the severity of the crime was high or when evidence was strong, while psychological strategies were seen as less appropriate when used in the context of a severe crime. Securing a confession from a suspect also increased appropriateness ratings for both types of strategies. Overall, these findings on perceptions of influence strategies in police interviews suggest that laypeople (1) are more likely to approve of positively framed influence strategies than those that are negatively framed, and (2) are more likely to approve of implicit influence strategies than explicit, or overt, strategies. Broadly, it appears that minimization – a positively-framed implicit influence strategy – is accepted by the general public, despite the fact that laypeople have been empirically shown to understand the message of leniency conveyed by minimization tactics (e.g., Kassin & McNall, 1991).

The Role of Attributional Biases in Perceptions of Compliance Tools in Police Interviews

Social psychological research on attributional biases can help to explain why laypeople's perceptions of police interview tactics are not in line with the convergence of evidence from the literature and expert opinions. Having presumably never been in a situation in which they were questioned by police about their involvement in a crime, it may be difficult for lay individuals to understand such a situation in the same way that the suspect would. Thus, the individual will likely look for alternative ways to understand the situation, which can lead to bias. By focusing on a suspect and their dispositional motivations for behaving in a certain manner, an individual may lose focus on the equally important situation, clouding their judgement regarding the detrimental effects of the influence strategies employed by interviewers. As well, heuristics used to evaluate the cause of another person's behavior may lead to the belief that, since an obvious motivator for confessing is guilt, it is likely that someone who confesses is guilty. Individuals may also not fully understand the situational factors inherent in police interrogations, making them even more likely to believe that a confession stemmed from a dispositional force (i.e., guilt). If the effects of compliance tools used in police interrogations are not well-understood, and dispositional reasons for confessing are more prominent in the minds of community members, it is likely that the standard for acceptance of police strategies would be relatively low (i.e., most would be allowed; Kassin, 2017). This may help to explain why community attitudes toward compliance tools used in interviews are not in line with evidence that warns of their associated risks.

Implications

A lack of public understanding of the potential consequences of compliance tools used in police interviews is concerning when one considers that any Canadian citizen may one day serve as a juror in a criminal trial and may have to evaluate the conduct of police interviewers during an interrogation. Even more disconcerting is the fact that confession evidence holds an immense weight in the justice system (e.g., Kassin & Neumann, 1997). Studies have shown that confession evidence can taint the interpretation of forensic evidence (Dror & Charlton, 2006), cause eyewitnesses to change their identification decisions (Hasel & Kassin, 2009), and increase the likelihood of recanting by alibi witnesses (Marion et al., 2016). Furthermore, research also shows that laypeople are unable to distinguish false confessions from true confessions (Kassin et al., 2005). This research indicates that failure to understand the risks of using influence strategies in police interviews may be problematic for jurors who must evaluate confession evidence when rendering their verdict.

Concerningly, research shows that when a suspect confesses, conviction rates increase, even when the confession was elicited using coercive influence strategies, including minimization. In a study by Kassin and Sukel (1997), participants read a trial transcript for a murder case containing either no confession from the suspect, or one of four confession conditions in which the researchers varied the level of pressure (high vs. low) and the admissibility of the confession (admissible vs. inadmissible). Results showed that conviction rates increased in all confession conditions, regardless of the level of pressure exerted on the suspect and whether or not the confession was deemed

admissible. This finding has been replicated (e.g., Jones & Penrod, 2016, 2018) and has been extended to demonstrate that judges exhibit the same confession bias when rendering verdicts (Wallace & Kassin, 2012). In addition, research shows that even though laypeople are aware that overt influence tactics (e.g., threats, promises of legal leniency) are coercive, they still do not comprehend their capacity to induce suspects to falsely confess (Blandon-Gitlin et al., 2011; Costanzo et al., 2010; Leo & Liu, 2009). Together, these studies indicate that the mere presence of a confession influences verdicts irrespective of the circumstances of the statement.

No research has yet been conducted on public perceptions of the use of influence strategies in witness interviews. However, issues similar to those noted above about the coercion of suspects arise when it comes to perceptions of witness coercion. Based on what we know about layperson perceptions of compliance tools used against suspects (e.g., Leo & Liu, 2009; Kaplan et al., 2020), as well as biases in perceptions of the impact of social influence strategies (i.e., attributional biases; Gilbert & Malone, 1995; Ross, 1977), it is possible that laypeople may also fail to fully understand the problems inherent in the use of coercion in witness interviews. In addition, it is likely that similar biases toward approving of positive and implicit influence strategies would exist when it comes to their use on witnesses as well. Moreover, compared to the rules governing the admissibility of confession evidence, there are even fewer guidelines available to assist jurors with evaluating statements from witnesses. Although confessions are known to be the most potent form of evidence in the courtroom, eyewitness evidence is also influential (Kassin & Neumann, 1997; Peter-Hagene et al., 2019). In fact, eyewitness identification

has been cited as the number one cause of wrongful conviction in the US ("DNA Exonerations in the United States", 2019; Wells, 2018). It is therefore important to understand how witness coercion is perceived so the appropriate steps can be taken to mitigate any influence it may have on triers of fact and determine the extent to which jury education is needed in this area.

The Current Research

The goal of the current research is to examine layperson perceptions of the use of explicit and implicit influence strategies, that are either positively or negatively framed, on witnesses. Specifically, this issue will be studied from several perspectives to determine (1) to what extent they are aware of the *consequences or risks* of using these strategies in witness interviews, (2) how they perceive the *message* of these strategies in witness interviews, and (3) how the use of these strategies in witness interviews *impacts juror decision making*. In the following four experiments, Canadian citizens were asked about their perceptions of the message conveyed by, and the risks associated with, explicit and implicit inducements in a witness context, and were asked to play the role of a juror in a mock case in which a witness was induced to comply with police pressure. For one of the four experiments, an original methodology was developed; for the other three experiments, the methodology was adapted from Kassin and McNall (1991) and was adapted for relevance to witness interviews.

Broadly, based on previous research in the suspect context and empirical and theoretical evidence outlining the similarities between suspect and witness interviews, it is predicted that a paradox will emerge with regards to laypeople's perceptions of implicit

inducements in witness interviews. Given the findings from Kassin and McNall (1991) and subsequent replications, as well as the extant literature on pragmatic implication, it is predicted that *participants will successfully identify the message of leniency conveyed by implicit influence strategies (e.g., minimization)* and will thus perceive the consequences as being lower for a witness exposed to these tactics if they comply with the police's demands (vs. if they refuse to comply). However, based on research on perceptions of implicit influence strategies used against suspects, it is predicted that *participants will not perceive the risks associated with using implicit strategies in a witness interview* and will view them somewhat positively. Based on research on the impact of coercive compliance tools on verdicts (e.g., Kassin & Sukel, 1997), it is also predicted that the *presence of explicit or implicit influence strategies in a witness interview will not impact conviction rates*, so long as the witness made an incriminating statement against the suspect.

Chapter 2: An Examination of Lay Perceptions of Witness Coercion

As mentioned in Chapter 1, research on perceptions of the use of compliance tools by police officers to elicit information from suspects has demonstrated that the public is not aware of the associated risks. This raises concerns about the ability of triers of fact to make educated and accurate decisions when evaluating confession evidence. It seems that laypeople are especially unaware of the problems associated with implicit, or covert, forms of social influence (e.g., Hall et al., 2020) and tend to view positive forms of social influence favourably (e.g., promises of leniency; Kassin & Wrightsman, 1980). A convergence of evidence suggests that the compliance tools that are problematic when used against suspects are also concerning when used with witnesses; however, no research currently exists directly examining the views of the public regarding the use of social influence on witnesses. Given the influential nature of eyewitness evidence and the consequences that may arise with the admission of involuntary witness statements, it is imperative to study how the use of social influence on witnesses is perceived by those who may one day serve as jurors.

The purpose of Experiment 1 was to examine how the use of both overt and covert (as well as positive and negative) social influence strategies on witnesses is perceived by the Canadian public. Based on the aforementioned literature, it was expected that participants would rate an interview containing an overt negative influence strategy (i.e., threat) more negatively from their own perspective (e.g., more coercive, exerting more pressure) and from the witness perspective (i.e., eliciting more negative emotions) than an interview containing a covert positive influence strategy (i.e.,

minimization) or no strategies. It was also expected that participants would rate an interview transcript containing covert positive influence strategies (i.e., minimization) similarly to one without social influence strategies.

Method

Participants

Respondents for this survey were Canadian residents (N = 305) accessed through Prolific, an online recruitment platform. Prolific was created specifically for the scientific community (unlike other crowdsourcing platforms), provides similarly high-quality data to MTurk with even more naïve and diverse participants (Peer et al., 2017), allows for pre-screening of participants, and provides strict guidelines to both participants and researchers regarding compensation, rights, and obligations (for more information, see Palan & Schitter, 2018). The only inclusion criterion used was that participants had to be currently residing in Canada. There was no age restriction, however Prolific requires its members to be over 18 years of age. Respondents were remunerated £1.70 ($2.89 CAD) for their time. Twelve responses were removed prior to analysis because the respondents did not reach the minimum required time to complete the survey, which was chosen to be four minutes based on the time required to read the transcript and respond to questions. A total of 293 participants met the minimum duration requirement. For a one-way ANOVA, for a medium effect size (f = 0.25) and alpha = .05 with our sample size, the power was .98 (Cohen, 1992; calculated using GPower). The breakdown per condition was as follows: 103 (35.2%) responses in the Neutral transcript condition, 99 (33.8%) responses in the Threat transcript condition, and 91 (31.1%) responses in the Minimization

transcript condition. See Table 1 for a breakdown of participants by demographic variables. Chi-square tests were conducted for each of the demographic categories to determine whether they differed by transcript type; the tests revealed that there were no statistically significant differences between conditions on any of the demographic variables (all *p*'s > .314). In terms of time taken to complete the questionnaire, respondents took, on average, about 11 minutes (668.0 seconds). A one-way ANOVA indicated that there were no differences in time taken to complete the survey by transcript type, $F(2,290) = 1.38$, $p = .253$.

Design and Materials

This study employed a single factor between-participants design (Transcript Type: Threat, Minimization, Neutral). Participants were assigned randomly to read one of three witness interview transcripts. Transcripts were taken from a high-profile Canadian case involving witness coercion (see *R. v. Morgan*, 2013). Given that this was a real case, the transcripts were anonymized for confidentiality reasons and to prevent participants from recognizing details of the case that they may have heard from the media. Each transcript was roughly 1500 words. All three transcripts contained the same introductory text, involving a pleasant and non-crime related exchange between the interviewer and witness. After the introduction, each transcript was manipulated to contain an exchange relevant to the condition. The Threat condition included statements by the interviewer that involved the consequences of withholding information (e.g., arrest for accessory after the fact or obstruction of justice). The Minimization condition included statements that appealed to the witness' conscience, downplayed the seriousness of providing

information, and contained praise and flattery. The Neutral condition included questions and statements from the same witness interview that did not involve any sort of influence on the part of the police. The transcripts used in this study can be found in Appendix A.

Measures and Procedure

Participants completed the survey online via Qualtrics. After reading an informed consent form and agreeing to participate, participants were assigned randomly to view one of the three transcripts described above. After reading the transcript, participants were asked to respond to questions about what they read. The questions were presented in two sections. Section one contained questions about participants' perceptions of the exchange between the interviewer and witness. Using various 5-point scales, participants were asked to rate the interview on its level of coercion (1 = *extremely non-coercive*, 5 = *extremely coercive*), level of pressure exerted on the witness (1 = *very low*, 5 = *very high*), effectiveness of the interviewer's methods at eliciting information (1 = *extremely ineffective*, 5 = *extremely effective*), and consequences of withholding information (1 = *not severe at all*, 5 = *extremely severe*).

Section two contained questions that required participants to respond as if they were the witness. Participants rated their agreement with the following statements on a 5-point scale (1 = *strongly disagree*, 5 = *strongly agree*): (1) I would feel scared, (2) I would feel respected, (3) I would feel in control, (4) I would feel pressured to provide information, (5) I would feel like cooperating with police would make things better for me, and (6) I would have positive feelings about the police officer who interviewed me.

Participants were also asked to provide demographic information including gender, age, ethnicity, and level of education.

Results

All interpretations of effect sizes were guided by Cohen (1988; i.e., > 0.2 = small, > 0.5 = medium, > 0.8 = large). *Tukey HSD* tests were conducted in all cases where *post-hoc* tests were applied.

Perceptions of the Interview

The mean scores for each question by condition are contained in Table 2. A one-way ANOVA revealed that there was a significant effect of transcript type on level of coercion, $F(2,290) = 47.86$, $MSE = 1.08$, $p < .001$, $\eta^2 = .248$. *Post-hoc* tests indicated that participants in the Threat condition rated the interview as more coercive than those in the Neutral ($d = 1.49$) and Minimization ($d = 0.67$) conditions. Participants in the Minimization condition rated the interview as more coercive than those in the Neutral condition ($d = 0.64$; all p's > .001).

There was a significant effect of transcript type on the perceived level of pressure exerted on the witness, $F(2,290) = 74.95$, MSE = 0.89, $p < .001$, $\eta^2 = .341$. *Post-hoc* tests revealed that respondents in the Threat condition perceived a higher level of pressure on the witness than participants in both the Neutral condition ($d = 1.90$) and the Minimization condition ($d = 0.77$). Participants in the Minimization condition perceived there to be more pressure exerted on the witness than those in the Neutral condition ($d = 0.86$; all p's > .001).

There was a significant effect of transcript type on the perceived effectiveness of the interviewer's tactics for gathering information, $F(2,290) = 4.30$, $MSE = 1.19$, $p = .014$, $\eta^2 = .029$. *Post-hoc* tests indicated that participants in the Minimization condition perceived the interviewer's tactics as significantly more effective than those in the Neutral condition ($p = .011$; $d = 0.46$). There was a small, but not significant, difference in ratings between the Threat and Minimization conditions ($p = .174$; $d = 0.27$), and little difference between the Threat and Neutral conditions ($p = .495$; $d = 0.15$).

There was a significant effect of transcript type on the perceived level of consequences for the witness if they did not provide information to the interviewer, $F(2,290) = 50.228$, $MSE = 1.21$, $p < .001$, $\eta^2 = .257$. Post hoc tests revealed that participants in the Threat condition expected more severe consequences for the witness than those in both the Minimization ($d = 1.35$) and Neutral conditions ($d = 1.11$; all p's < .001). There was little difference in ratings of consequences between the Minimization and Neutral conditions ($p = .380$; $d = 0.19$).

Perspectives of the Witness

A Cronbach's alpha was conducted on the six items in the second section and revealed a questionable level of reliability ($\alpha = .69$). When question five was removed (i.e., "I would feel like cooperating with police would make things better for me"), internal consistency increased to $\alpha = .80$. The inconsistency of this item was likely because it was not as clearly positive or negative as the other items (i.e., cooperating is good if you are willingly telling the truth, but if you are being coerced then cooperating is not ideal). A composite measure of discord was created by averaging the scores across

each question (Q1-4, and 6) for each participant. Several questions were reverse coded so that a higher composite score would indicate more negative feelings about the interview. A statistically significant effect of transcript type was revealed, $F(2,285) = 50.67$, $MSE = 0.43$, $p < .001$, $\eta^2 = .262$. Post hoc tests demonstrated that participants in the Threat condition felt more negatively about the interview than those in both the Minimization ($d = 1.09$) and Neutral ($d = 1.35$) conditions (all p's $> .001$). There was a small difference in ratings between the Minimization and Neutral conditions ($p = .125$; $d = 0.28$) that was not significant.

There was an effect of transcript type on the belief that cooperating with police would make things better for the witness, $F(2,289) = 8.149$, $MSE = 1.11$, $p < .001$, $\eta^2 = .053$. Post-hoc tests revealed that those in the Neutral condition more strongly agreed that cooperating with police would make things better than those in the Minimization condition ($p > .001$; $d = 0.64$). There was a small, but not significant, difference in the belief about cooperating between participants in the Threat and Neutral conditions ($p = .067$; $d = 0.47$), and a negligible difference between participants in the Threat condition and those in the Minimization condition ($p = .154$; $d = 0.07$).

Discussion

Experiment 1 examined the perceptions of the Canadian public regarding the use of social influence strategies during witness interviews. The results demonstrated that the risk of overtly influencing witnesses is relatively clear to laypeople: the Threat transcript was rated as the most coercive, containing the highest level of pressure, and involving the highest consequences for withholding information, along with eliciting the most negative

feelings from participants when asked to respond from the perspective of the witness. However, it does not appear that the negative effects of covert influence strategies (i.e., minimization) are as easily noticed. While the Minimization transcript was rated as being more coercive and containing more pressure than the Neutral transcript, it was rated as being less coercive than the Threat transcript and average ratings were barely above the neutral midpoint of the scales. As well, the Minimization transcript was rated as containing the most effective tactics for eliciting information. These results suggest that explicit influence strategies are easily seen as being problematic by laypeople, but more implicit and subtle forms of coercion are relatively less detectable.

The Threat transcript was perceived as highly coercive and containing a high level of pressure. Similarly, respondents expected that witnesses would experience highly negative feelings when exposed to threats. Ratings of the effectiveness of using threats for gathering information were like the neutral transcript, suggesting that participants did not see an added benefit of increased information provision associated with threatening a witness. Taken together, these results indicate that participants felt negatively toward the use of threats against witnesses. Participants seemed to recognize the problematic attributes of such tactics (e.g., coercion, pressure), and did not perceive there to be any positive elements associated with those tactics. This finding mirrors research demonstrating that individuals tend to view negative coercion less favourably than positive coercion (Kassin & Wrightsman, 1980) and that they view overt strategies less favourably than covert strategies (e.g., Hall et al., 2020). These results suggest that laypeople are indeed capable of identifying problematic interview practices, particularly

when they are framed negatively and presented in a highly visible form such as an overt threat.

Participant views of minimization were mixed. On the one hand, the minimization transcript was perceived as the most effective for gathering information and having the lowest consequences for withholding information. It also did not elicit much more negative feelings than the neutral transcript when it came to perceptions from the witness' perspective. On the other hand, the transcript containing minimization was rated as being more coercive and containing more pressure than the neutral transcript (but less coercive and containing less pressure than the threat transcript). Moreover, participant ratings were not particularly strong when it came to the coercive nature of minimization (i.e., just above the scale midpoint). It is much less clear whether or not participants recognized the issues associated with using minimization tactics, but it is evident that they were not seen as being as problematic as threats and were thought to be at least somewhat effective in helping the police achieve investigative goals. This finding echoes existing research on layperson perceptions of suspect coercion, which has found that laypeople do not fully recognize the coercive nature of minimization or its potential to lead to negative outcomes (e.g., Blandon-Gitlin et al., 2011; Kaplan et al., 2018), as well as research on the positive coercion bias (Kassin & Wrightsman, 1980). This finding is concerning when one considers the plethora of research indicating that at least some forms of minimization function in much the same way as more overt coercive tactics (Kassin et al., 2010), and therefore should be viewed similarly.

Based on the finding that participants noticed the problematic nature of threats, and perceived them negatively, it is unlikely that this lack of recognition of minimization is due to apathy or indifference. Rather, it could be hypothesized that it is the subtlety of minimization that precludes the public from noticing its coercive nature. This may relate to the notion that minimization functions by pragmatically implying leniency without offering it outright (e.g., Kassin & McNall, 1991). If this is the case, it may explain why this form of coercion is difficult to detect at surface level. A lack of understanding of the effects of subtle influence strategies and acceptance of their use in witness interviews could have negative consequences in the hands of jurors (or unknowledgeable judges) who are tasked with evaluating witness testimony. Considering the weight of witness evidence in the courtroom (i.e., number one cause of wrongful convictions; "DNA Exonerations in the United States", 2019), a coerced witness statement being allowed as evidence could very likely lead to a miscarriage of justice.

This experiment was not without its limitations. First, the average composite scores on perceptions of the interview from the witness perspective were all above the midpoint of the scale, even for the neutral transcript. Put differently, participants reported that even a straightforward interview without any influence strategies elicited somewhat negative feelings. This may be indicative of an underlying distrust or fear of the police that was not considered within this study. In the next three experiments, a question eliciting participants' attitudes toward the police was included to allow further exploration into this issue. As well, some countries have adopted ethical-based interviewing methods (e.g., the PEACE model in the UK, Norway, and New Zealand;

Milne & Bull, 2003), which may limit the applicability of the results to these regions. Nevertheless, it is possible that a coercive interview could still happen occasionally in these regions, so these results may still prove useful. Finally, there were no manipulation check questions asked to participants – although the large effect sizes obtained suggest that the conditions were quite salient to participants, the next three experiments will include manipulation check questions to ensure that each condition is conveying the intended message.

This experiment demonstrated that laypeople are not fully able to recognize the dangers of minimization, a commonly used subtle influence strategy. A body of research relating to suspects, and emerging research on witnesses, supports the negative impact that minimization can have on the voluntariness of information provided in police interviews (e.g., Loney & Cutler, 2015; Russano et al., 2005). As mentioned above and in Chapter 1, this effect of minimization may be related to pragmatic implication, in that minimization tactics lead individuals to 'read between the lines' to infer leniency even when it is not mentioned outright. However, the results of this study suggest that the subtle influence of minimization is not clearly noticeable to an independent individual tasked with evaluating an interview. This could be due to the fact that participants in this study were not asked to directly evaluate the *meaning* of the tactics used in the transcript, but simply to evaluate it in a more general sense. It is also possible that the social influence communicated by minimization through pragmatic implication may be implicit in nature, such that those impacted by it may not be consciously aware of what has

happened. More research is needed to further test the ability of individuals to recognize the subtle leniency inherent in minimization strategies.

In this study, perceptions of the general concept of 'minimization' were tested. However, the term 'minimization' refers to any strategy that implies to an interviewee that providing information is the most beneficial option for them. To truly comprehend the limits of understanding and acceptance of subtle coercion among laypeople, it is important to determine how different forms of minimization are viewed. It is also important, as mentioned above, to direct participants to evaluate the tactics more specifically in relation to their impact on consequences, to see whether any underlying message of these tactics can be identified. Thus, Experiment 2 will test the effect of four different forms of minimization, along with explicit leniency, on the expectation of consequences for a witness who does or does not agree to change their story in the face of pressure. In line with previous literature and the findings from Experiment 1, it was predicted that explicit leniency and all four types of minimization would result in the perception of lighter consequences for the witness if they decide to change their story when compared to the control.

Chapter 3: Measuring Perceptions of the Message Conveyed by Witness Interviewing Strategies

Experiment 1 demonstrated that laypeople do not fully comprehend the risks associated with using minimization tactics on witnesses, mirroring findings from the suspect literature (e.g., Blandon-Gitlin et al., 2011; Costanzo et al., 2010; Hall et al., 2020; Leo & Liu, 2009). Despite the lack of understanding with regards to the risk of using minimization in suspect interviews, research has shown that laypeople do understand the message being conveyed by these implicit influence strategies (i.e., leniency in sentencing; e.g., Kassin & McNall, 1991; Luke & Alceste, 2020; Redlich et al., 2019). This suggests that while laypeople can discern that minimization tactics serve to imply leniency to a suspect, they do not seem to recognize the potential negative consequences of this implication. As of yet, there has been no research conducted on perceptions of the message communicated by minimization in *witness* interviews, but given the aforementioned similarities between suspect and witness contexts with regards to perceptions of risk, investigation into this topic is warranted. Thus, in the current experiment, perceptions of the message that minimization conveys in witness interviews will be examined.

Moreover, minimization is a broad concept, so to fully appreciate its impact and consequences, it is important to know whether there are differing opinions on different types of minimization. Horgan et al. (2012) defined several types of minimization, categorizing them by whether or not they manipulated the perceived consequences of confession. Across two experiments, they found that only minimization tactics that

manipulate the perceived consequences of confessing increased false confession rates. Thus, we chose to operationalize the four types of minimization in this category (i.e., downplaying consequences, face-saving excuses, minimizing seriousness, emphasizing benefits) and adapt them to a witness context using known examples of the use of minimization with witnesses (*R. v. Morgan*, 2013).

The specific goal of Experiment 2 is to measure perceptions of the message conveyed by implicit and explicit influence strategies used in witness interviews. The methodology was adapted from previous studies examining sentencing expectations for suspects (Kassin & McNall, 1991; Luke & Alceste, 2020; Redlich et al., 2019). To make the measures relevant to witnesses, participants' perceptions of the amount of trouble a witness will be in with police (i.e., legal consequences for the witness) if he (a) retains his original account, and (b) changes his account in compliance with police were measured. Participants were asked to read an excerpt from a witness interview that was assigned randomly to contain one of seven tactics (no tactic, explicit leniency, explicit threat, or one of four minimization tactics as outlined by Horgan et al., 2012 [minimizing seriousness, face-saving excuses, downplaying consequences, emphasizing benefits of cooperation]) and respond to a series of questions about the witness, interviewer, and strategies used, including those eliciting their ratings of consequences for the witness.

In line with findings on suspect sentencing expectations and in following with the notion of pragmatic implication (e.g., Kassin & McNall, 1991), it was predicted that ratings of consequences for the witness would be comparably low in the explicit leniency condition and all the minimization conditions, and that ratings in all these conditions

would be significantly lower than those in the control condition. According to accusatorial interview training manuals (e.g., Inbau et al., 2013), the intended purpose of minimization tactics is to make the consequences of complying with police pressure appear less than the consequences of continuing to resist police pressure. Moreover, the use of explicit threats and leniency blatantly expresses the expectation that compliance will result in a reward (or an absence of punishment). Thus, it was also predicted that for all conditions containing an interview tactic, consequence ratings would be lower when the witness decided to change his account compared to when he retained his original account. Since it appears that laypeople understand the message implied by subtle influence strategies (Kassin & McNall, 1991), it was predicted that an offer of leniency would be detected in the leniency and minimization conditions. Considering that minimization is an implicit influence strategy, while leniency and threats are explicit, it was also predicted that ratings of appropriateness and respect would be higher in the minimization and control conditions than in the leniency and threat conditions.

Method

Participants

Participants were Canadian citizens (N = 300) who were recruited through Prolific, an online survey platform. Inclusion criteria were that participants had to be currently residing in Canada and had to be over 18 (but those under 18 were already excluded from being Prolific members). In addition, participants who completed Experiment 1 were not eligible to complete the current study. Participants were remunerated £1.41 ($2.44 CAD) for their time. Seven participants completed the

questionnaire but indicated that they did not consent to the use of their data, thus were removed from the sample, resulting in a final sample size of 293. For the one-way ANOVA, for a medium effect size (f = 0.25) and α = .05, with our sample size, the power was 0.91. For the mixed ANOVA, for a medium effect size (f = 0.25) and α = .05, with our sample size, the power was 0.97 for the between factor (i.e., 7 tactic types) and 1.0 for the interaction (i.e., 2 account conditions x 7 tactic types). For the Chi-square tests, with a medium effect size (w = 0.3), α = .05, and our sample size, the power was 0.98 (Cohen, 1992; calculated using GPower).

The breakdown per condition was as follows: 39 (13.3%) responses in the Control condition, 41 (14.0%) in the Explicit Leniency condition, 42 (14.3%) in the Minimizing Seriousness condition, 43 (14.7%) in the Face-Saving Excuses condition, 43 (14.7%) in the Downplaying Consequences condition, 43 (14.7%) in the Emphasizing Benefits of Cooperation condition, and 42 (14.3%) in the Threat condition. See Table 1 for a breakdown of participants by demographic variables. Chi-square tests were conducted for each of the demographic categories to determine whether they differed by police strategy type; the tests revealed that there were no statistically significant differences between conditions on any of the demographic variables (all p's > .23). In terms of time taken to complete the questionnaire, respondents took, on average, about 9 minutes (559.8 seconds). A one-way ANOVA indicated that there were no differences in time taken to complete the survey by transcript type, $F(6,286) = 0.37$, p = .898.

Design and Materials

This experiment employed a single factor between-participants design with seven conditions (Influence Strategy Type: Control, Explicit Leniency, Minimizing Seriousness, Face-Saving Excuses, Downplaying Consequences, Emphasizing Benefits of Cooperation, Explicit Threat). Participants were assigned randomly to read one of seven excerpts from a police interview with a witness. The excerpts were adapted from a high-profile Canadian case involving the use of compliance tools on witnesses (see *R. v. Morgan*, 2013) and were anonymized for confidentiality reasons and to prevent participants from recognizing details of the case that may have been released in media reports. Each excerpt contained approximately 130 words. All participants were presented with the same introductory information that the police were investigating a murder that happened at a club, and that a witness named Jeff Foley (pseudonym) was questioned because he was at the club to celebrate the birthday of his friend who was a suspect in the case (see Appendix B). Participants were also informed that the witness had corroborated his friend's alibi and was extremely confident in his recollection of that night, but that the police were skeptical that he was telling the truth.

After the introduction, participants were shown one of the seven excerpts, which were each adapted to reflect one of seven influence strategies used by the police to elicit information (see Appendix C). The excerpt shown in the *Control* condition demonstrated an information gathering strategy, where the police officer simply emphasizes the importance of collecting as much complete and accurate information as possible. In the *Explicit Leniency* excerpt, the police officer states that he can protect the witness from prosecution for accessory to murder, but only if he changes his account. In the

Minimizing Seriousness excerpt, the police officer suggests to the witness that lying about what he saw is not that big of a deal and can be forgiven if he tells the truth. In the *Face-Saving Excuses* excerpt, the police officer suggests to the witness that withholding information to protect his friend is understandable, and encourages him to come clean. In the *Downplaying Consequences* excerpt, the police officer suggests that the witness does not need to worry about the consequences of providing incriminating information, such as being seen as an informer. In the *Emphasizing Benefits of Cooperation* excerpt, the police officer suggests to the witness that it is in his best interest to change his account because he will be seen as the bigger person and will feel much better after coming clean. In the *Explicit Threat* excerpt, the police officer tells the witness that he will be arrested for accessory after the fact to murder if he continues to provide an alibi for his friend.

Measures and Procedure

Participants completed the experiment online via Qualtrics. After participants read an informed consent form and agreed to participate, they were presented with the introductory information. In Part 1 of the experiment, participants were each presented randomly with one of the seven excerpts described above. After reading the excerpt, participants were asked to respond to questions about what they read. They were asked to rate the level of trouble they believed the witness would be in if he (a) retained his original account, and (b) changed his account (1 = *minimum trouble*, 10 = *maximum trouble*). They were also asked whether or not the police officer threatened or offered leniency to the witness (*yes/no/I don't know*), how respectful he was to the witness (7-

point scale; 1 = *very disrespectful*, 7 = *very respectful*), and whether they believed the witness was telling the truth in his original account (*yes/no/not sure*).

In Part 2 of the experiment, participants were once again presented with the excerpt they saw in Part 1, but this time the excerpt was accompanied by a description of the influence strategy used by the police officer, which was adapted from the operational definitions of each strategy. They were then asked if they had ever seen or heard about a situation in which this strategy was used (*yes/no/not sure*), and if so, where; whether they believe that the police currently use this strategy (*yes/no/not sure*), and if so, how often (5-pt scale; 1 = *very infrequently*, 5 = *very frequently*); whether they believe the police are allowed to use this strategy (*yes/no/not sure*); how harmful (5-pt scale; 1 = *completely harmful*, 5 = *completely harmless*), ethical (5-pt scale; 1 = *completely unethical*, 5 = *completely ethical*), and acceptable (5-pt scale; 1 = *completely unacceptable*, 5 = *completely acceptable*) they believe the strategy is; and the level of comfort they would feel if the strategy was used on them by the police (5-pt scale; *1 = very uncomfortable, 5 = very comfortable*). Lastly, participants were asked to provide demographic information including gender, age, education, province of residence, and attitude toward the police.

Results

All interpretations of effect sizes were guided by Cohen (1988; i.e., 0.2 = small, > 0.5 = medium, > 0.8 = large). *Tukey HSD* tests were conducted in all cases where *post-hoc* tests were applied.

Perceptions of Consequences for the Witness

Mean ratings of the amount of trouble the witness would be in with the police if he (a) retained his original account or (b) changed his account can be found in Figure 1. As can be seen, the highest ratings of trouble for the witness if he retained his original account was found in the Threat condition (M = 7.45, SD = 1.98), the lowest was for the Control condition (M = 4.22, SD = 2.32), and Downplaying Consequences had the lowest rating of all the minimization tactics (M = 4.86, SD = 2.02). The highest ratings of trouble for the witness if he changed his original account was found in the Threat condition (M = 5.12 SD = 2.72), and the lowest was for the Downplaying Consequences condition (M = 3.40 SD = 2.00). Since one goal of the present experiment was to test the effect of strategy type both when the witness changed his account and retained his account, as well as determine the relationship between these two measures, a mixed ANOVA was conducted. The test revealed a significant effect of account condition, $F(6,279) = 85.81$, $MSE = 4.80$, $p < .001$, $\eta^2_p = .235$; participants indicated that the witness would be in more trouble if he retained his original account (M = 5.94, SD = 2.35) than if he changed his account (M = 4.20, SD = 2.48, d = 0.55). There was also a significant effect of strategy type, $F(6,279) = 6.98$, $MSE = 5.89$, $p < .001$, $\eta^2_p = .131$. *Post hoc* tests revealed that participants in the Threat condition thought the witness would be in more trouble than those in the Downplaying Consequences ($p > .001$; d = 1.28), Control ($p < .001$; d = 1.10), Face-Saving Excuses ($p = .006$; d = 0.80), and Explicit Leniency ($p = .038$; d = 0.68) conditions. As well, those in the Downplaying Consequences condition thought the witness would be in less trouble than those in the Minimizing Seriousness ($p = .022$; d = 0.71) and Emphasizing Benefits of Cooperation ($p = .030$; d = 0.68) conditions.

Additionally, a significant interaction emerged between strategy type and account, $F(6,279) = 3.46$, $MSE = 4.80$, $p < .003$, $\eta^2_p = 0.07$. Participants thought the witness would be in more trouble if he stuck with his original account than if he changed his account in the Explicit Leniency ($d = 0.73$), Face-Saving Excuses ($d = 0.69$), Threat ($d = 0.64$), Minimizing Seriousness ($d = 0.62$), Emphasizing Benefits of Cooperation ($d = 0.60$), and Downplaying Consequences ($d = 0.55$) conditions, while there was little difference between account conditions for the Control condition ($d = 0.11$). In addition, an independent samples *t*-test revealed a small effect of gender on participant ratings, $t(295) = 3.09$, $p = .002$, $d = 0.36$, in that females thought the witness would be in more trouble if he retained his original story than males.

Detection of an Explicit Inducement

The proportion of participants who responded 'yes' to questions about whether the police officer (a) offered the witness leniency, and (b) threatened the witness is shown in Figure 2. Participants who responded "I don't know" to these questions ($N = 18$, $N = 12$, respectively) were excluded from the percentage calculation. A total of 90.2% of participants in the Explicit Leniency condition and 75.6% of participants in the Minimizing Seriousness conditions indicated that the police were offering leniency to the witness. Nearly half of participants agreed that leniency was present in the Emphasizing Benefits of Cooperation condition, and a small percentage of participants equated Face-Saving Excuses, Downplaying Consequences, and Threat to offers of leniency. A Chi-square analysis revealed an effect of condition on perceptions of whether or not the police officer offered the witness leniency, $\chi^2 (6, N = 277) = 108.58$, $p < .001$. Compared to the

expected result, Emphasizing Benefits of Cooperation was almost equal, while Explicit Leniency and Minimizing Seriousness had much higher proportions of respondents who agreed that the interviewer offered leniency, and all other conditions had much lower proportions of respondents who detected leniency. Approximately 72.5% of participants in the Threat conditions associated the police strategy with a threat to the witness. Less than 30% of participants in all other conditions indicated that the police strategy was threatening. The Chi-square analysis revealed an effect of condition on perceptions of whether or not the police officer threatened the witness, χ^2 (6, N = 283) = 94.89, $p < .001$. Compared to the expected result, the Threat condition had a much higher proportion of respondents that agreed there was a threat present, while the Explicit Leniency condition had a slightly higher proportion of respondents who detected a threat. All other conditions had lower than expected proportions of respondents who agreed that a threat was present.

Perceptions of Respect

Mean ratings of how respectful the police officer was toward the witness are shown in Table 3. All police strategies, with the exception of threat, were rated above 4.0 (out of 7), indicating that they were viewed as being at least somewhat respectful. A one-way ANOVA revealed a significant effect of police strategy type on perceptions of respectfulness (see Table 3). *Post hoc* tests revealed that the police officer was seen as being less respectful in the Threat condition compared to the Control, Explicit Leniency, Minimizing Seriousness, Face-Saving Excuses, and Downplaying Consequences conditions (all p's < .001). As well, participants in the Emphasizing Benefits of

Cooperation condition thought the police officer was less respectful than those in the Downplaying Consequences (p = .001), Control (p = .003), and Face-Saving Excuses (p = .020) conditions (see Table 3 for measures of effect size).

Truthfulness of Witness

When asked whether or not they believed the witness was being truthful about his alibi, the majority of participants (N = 206, 70.5%) were unsure. A total of 27 participants (9.2%) believed he was not being truthful, while 59 participants (20.2%) believed he was being truthful. A Chi-square analysis revealed that there was no effect of condition on participant perceptions of the truthfulness of the witness, χ^2 (12, N = 292) = 11.10, p = .52. There was a trend toward an effect of gender on truthfulness ratings, whereby females were more likely to be unsure than males, but the effect was not significant after correcting for multiple comparisons, χ^2 (2, N = 299) = 9.351, p = .009.

Experience with Police Strategies

When asked whether they had seen or heard of a situation where a police strategy like the one in the statement they read was used, most participants (N = 191; 65.2%) said they had, 65 (22.2%) said they had not, and remaining 37 (12.6%) said they were not sure. A Chi-square analysis revealed there was no effect of condition, χ^2 (12, N = 293) = 13.20, p = .36. Those who responded ‘Yes’ to the previous question were also asked where they had seen or heard about the strategy. The frequencies of responses for this question by condition is shown in Table 2. As can be seen, across all conditions, the most common place that participants heard about police strategies was on television or in movies, followed by true crime documentaries or podcasts.

When asked whether they believed police currently use police strategies like the one used in the statement they read, nearly all participants said yes (N = 267), while only one participant said no and 24 said they were not sure. Those who responded 'Yes' to the previous question were then asked how often they thought police used the strategy (M_{Range} = 3.71-4.11); a one-way ANOVA revealed there was no statistically significant effect of police strategy type on perceptions of how often strategies are used, $F(6,260)$ = 0.814, MSE = 1.14, p = .56, η^2 = .018. When asked if they believed police officers are allowed to use strategies such as the one used in the statement they read, the majority of participants said yes (N = 212, 72.6%), while 16 (5.5%) said no and 64 (21.9%) said they were not sure (see Figure 3 for proportions of responses by condition). A Chi-square analysis revealed a significant effect of condition, χ^2 (12, N = 292) = 29.55, p = .003. Compared to the expected result, a lower proportion of respondents in the Explicit Leniency and Threat conditions agreed that those tactics were allowed, while a higher proportion of participants in all other conditions agreed.

Appropriateness and Level of Comfort

A Cronbach's alpha was conducted on the three items asking about the level of harm, ethicality, and acceptability of the police strategy. The test revealed an acceptable level of reliability (α = .75), so a composite measure of 'appropriateness' was created by averaging the scores across each question for each participant. Mean appropriateness ratings by condition can be seen in Table 3. As can be seen, the strategy used in the Control condition was viewed as being the most appropriate, while the strategy used in the Threat condition was seen as being the least appropriate. A one-way ANOVA

revealed an effect of police strategy type on participant ratings of the appropriateness of the strategy (see Table 3). *Tukey HSD post-hoc* tests revealed that participants in the Control condition perceived the strategy they were presented with as being more appropriate than did participants in the Explicit Leniency, Minimizing Seriousness, Downplaying Consequences, Emphasizing Benefits of Cooperation, and Threat conditions (all *p*'s < .001). Those in the Threat condition saw the tactic they were presented with as being less appropriate than those in the Face-Saving Excuses ($p < .001$) and Minimizing Seriousness ($p = .021$) conditions (see Table 3 for measures of effect size).

Mean responses by condition for how comfortable participants would feel if the strategy they were presented with was used on them in a police interview is shown in Table 3. As can be seen, with the exception of those in the Control condition, most participants indicated they would be uncomfortable having any of the police strategies used on them (average ratings were < 3 out of 5). A one-way ANOVA revealed a significant effect of police strategy (see Table 3). *Post hoc* tests showed that participants in the Control condition felt that they would be more comfortable if the strategy was used on them by the police than did those in the Explicit Leniency ($p > .001$), Emphasizing Benefits of Cooperation ($p > .001$), Threat ($p > .001$), Minimizing Seriousness ($p = .005$), and Downplaying Consequences ($p = .020$), conditions. Participants in the Threat condition felt they would be less comfortable if the strategy they saw was used on them by police than did those in the Face-Saving Excuses (p > .001), Downplaying

Consequences (p = .002), and Minimizing Seriousness (p = .009) conditions (see Table 3 for measures of effect size).

Discussion

In the current experiment, perceptions of the Canadian public regarding the message conveyed by various influence strategies used in witness interviews were measured. Primarily, the goal of the experiment was to measure the impact of explicit threats, explicit leniency, and four types of minimization on perceptions of the legal consequences the witness would face. The results showed that all leniency-related (i.e., positive) influence strategies communicated to participants that the witness would be in less trouble with the police if he changed his account. In other words, participants believed that resisting police pressure would result in harsher consequences, while capitulating would result in more lenient treatment. It was also shown that while some types of minimization were equated with a promise of leniency (e.g., minimizing seriousness), others were not (e.g., downplaying consequences), suggesting that different forms of minimization differ in terms of their saliency, their message, and possibly their potential to result in negative consequences. Finally, most types of minimization were still rated as being relatively respectful, ethical, acceptable, and harmless. Taken together, these findings suggest that while laypeople detect what is being implied to a witness through minimization strategies, they still see these tactics as being appropriate for use with witnesses.

Participants were asked to rate the amount of trouble the witness would be in if he (a) retained his original account or (b) changed his account. Participants inferred from all

six influence strategies that the witness would be in more trouble if he retained his original account than if he changed his account. In other words, these strategies succeeded in making the respondents believe that the witness would be better off if he changed his account. Conversely, these findings also suggest that these strategies communicate the message that failing to comply with police will get a witness in trouble – a message that, in many circumstances, is false, given that there are normally no real consequences for witnesses who choose to be honest and tell the truth as they know it. This is in line with the intended purpose of minimization strategies, which is to make it appear that providing desired information to the police is the most beneficial option for the individual being interviewed. It is also worth noting that participants did not see much difference between explicit leniency and all four minimization conditions for this question. These findings suggest that both types of influence strategies imply that complying with police – whether or not doing so will be truthful – will result in some form of leniency. This result is in line with findings about suspect sentencing expectations, which suggest that leniency and minimization are viewed similarly in relation to the message they convey to suspects about the consequences they face (Kassin & McNall, 1991; Luke & Alceste, 2020`; Redlich et al., 2019). In North America, minimization tactics are permitted in suspect interviews, but explicit leniency is not, so it is concerning that laypeople view the tactics as essentially conveying the same message. Although no research has specifically examined the impact of minimization tactics on witness compliance, and there are no guidelines with regards to the use of these tactics in witness interviews, the extant literature from the suspect context (e.g., Russano et al.,

2005) gives cause for concern. However, more research is needed before conclusions can be made about the acceptability of using minimization in witness interviews.

Participants were asked whether they believed the excerpt they viewed contained an offer of leniency. Nearly all participants in the explicit leniency condition agreed that the interviewer offered leniency, which is unsurprising but suggests that the manipulation was strong. Interestingly, three-quarters of participants in the minimizing seriousness condition also agreed that leniency was present. This suggests that participants equate minimizing the seriousness of the crime to an explicit promise of leniency. As was first documented in the police interview context by Kassin and McNall (1991), this appears to be an example of pragmatic implication, whereby participants read between the lines when the officer minimized the seriousness of lying to infer that he was offering leniency to the witness if he changed his account. The impact of this finding is difficult to interpret. On one hand, these results suggest that minimizing seriousness has the potential to be detrimental to interviewees who may interpret it as a promise of leniency and go along with the interviewer publicly to receive the implied benefit. On the other hand, the fact that the leniency inherent in minimizing seriousness is clear to laypeople could also be somewhat of a positive revelation. Even if witnesses fall victim to the tactic during their interview, judges and jurors will presumably be able to identify the offer of leniency inherent in the technique and would hopefully raise concerns about the credibility of the statement. However, research on the weight of confessions in the courtroom (e.g., Kassin & Sukel, 1997; Wallace & Kassin, 2012) and the believability of confident witnesses (e.g., Brewer & Burke, 2002; Cutler et al., 1988) suggest that when the statement

provided is highly inculpatory and when the witness providing it does so assuredly, the use of minimization strategies to elicit the statement may not impact a juror's subsequent decisions.

The other three minimization strategies differed in the proportion of respondents who identified leniency – nearly half in the emphasizing benefits of cooperation condition, one-fifth in the face-saving excuses condition, and one-tenth in the downplaying consequences condition. This may have to do with the subtlety of each of these tactics, or could suggest that some minimization tactics are more effective than others in their capacity to pragmatically imply leniency. It also may be due to weak manipulations – future research is warranted to ensure this is not the case. Nonetheless, it is interesting that participants exposed to these strategies thought that the witness would be in significantly less trouble if he complied with police, yet did not consider this to be a form of leniency, suggesting that the message was understood implicitly yet could not be consciously explained. This may point to a problem inherent in using very subtle minimization tactics; while laypeople seem to be able to clearly recognize leniency in stronger minimization tactics such as minimizing seriousness, other minimization strategies may bear similarity to the Trojan horse of Greek mythology – they are benign at first glance, yet hidden beneath the harmless exterior is a veritable army of influence, manipulation, and persuasion that could have devastating effects on an unsuspecting witness, and subsequently, an innocent suspect.

Participants were also asked whether they believed the strategy they viewed constituted a threat. Three quarters of participants believed that a threat was present in the

explicit threat condition. While it was expected that a high proportion of participants would agree that the threat condition contained a threat, it is interesting that a quarter of participants did not agree. It is unlikely that this reflects a weak manipulation, as our threat was quite blatant (i.e., the police officer stated plainly that if the witness did not change his account, he would be arrested for accessory after the fact to murder). It is unclear why this occurred, but it is possible that some participants may have believed that the police had grounds to arrest the witness and thus did not see it as a threat, but instead as an inevitability. Another interesting finding is that one third of participants thought that the leniency condition contained a threat. This may be due to the fact that threats and promises are inherently connected – when a police officer promises an interviewee leniency, they are essentially implying that if the interviewee does not take them up on that promise then things will be worse for them, while a threat suggests that if they do comply, they will not have to face the undesirable consequences associated with resisting.

Nearly all strategies, except for explicit threat, were viewed by participants as being at least somewhat respectful (i.e., mean ratings above the midpoint). As well, all minimization strategies, apart from emphasizing benefits of cooperation, were comparable to the control condition with regards to respect ratings (d_{range} = 0.06 – 0.27). Importantly, these findings raise questions about the effectiveness of respectful strategies versus disrespectful ones. As mentioned in previous chapters, laypeople tend to display a positive coercion bias, in that they see influence strategies promising rewards (i.e., leniency) as less problematic than their negative counterparts (e.g., threats; Kassin & Wrightsman, 1980). Moreover, research suggests that forceful interviewing practices are

often met with resistance (Holmberg & Christianson, 2002; Kebbell et al., 2006; Snook et al., 2015), so it is advisable for police interviewers to instead use strategies that serve to promote open communication, build rapport, and contribute to a relaxed and non-stressful interview environment (Bull & Baker, 2019; de Quervain et al., 2000; Walsh & Bull, 2010, 2012). Although it is preferable to use interpersonal strategies that convey respect, it is interesting that many of the strategies presented in this experiment were seen as both respectful and coercive at the same time. While respect and coerciveness are not mutually exclusive categories, this suggests that so-called 'respectful' strategies may even be more lethal than their disrespectful counterparts in that they may lull interviewees into a false sense of security, which could lead to increased trust in the interviewing officer and compliance with their requests.

In terms of participants' knowledge of and experiences with the strategies used, just over two thirds of participants had heard of each of the strategies, having mostly heard about them through popular media. Nearly all participants across all conditions believed that police use these strategies fairly frequently. Fewer participants believed that explicit threats and explicit leniency are allowed to be used in police interviews than was expected, and more participants than expected believed that all other strategies are allowed. This suggests that the general public is at least somewhat knowledgeable about the limits of police behaviour in interviews, since it is true in Canada that – at least in suspect interviews – threats and leniency are prohibited while minimization strategies are not. Interestingly, although three quarters of participants detected leniency in the minimizing seriousness condition, three quarters also thought the strategy was allowed to

be used (vs. half in the leniency condition). Thus, even though a promise of leniency was detected by many participants in the minimizing seriousness condition, it was not viewed as being as problematic as an actual promise of leniency. Overall, more than 70% of participants believed that each of the minimization strategies are allowed to be used in witness interviews, suggesting that these tactics are widely accepted as being acceptable for police officers to use.

The information gathering strategy (i.e., control) was seen as being more appropriate than all other strategies – meaning participants thought it was less harmful, more ethical, and more acceptable. This suggests that participants do recognize that using minimization strategies is more coercive and manipulative than simply asking a witness to tell their story, but given that ratings were still above the midpoint of the scale and significantly less than ratings for the explicit threat condition (d_{range} = 0.70 – 1.10), the potential problems with these police strategies (known from the suspect literature, e.g., Kassin et al., 2010) do not seem to be entirely understood. Participants also reported they would not be that comfortable with any of the strategies being used on them, but were more comfortable with the information gathering strategy than most others. It is interesting that participants would see many of these tactics as being appropriate when used on a witness, but would not be comfortable if the tactics were used on them. It is possible that it is due to participants being unsure of the witnesses' credibility – as evidenced by the majority of participants selecting 'I don't know' when asked if the witness was telling the truth – and thus being more comfortable with police exerting some pressure on him than they would be if they were in the same position. This explanation is in line with research on the

fundamental attribution error, mentioned in Chapter 1 (Ross, 1977), and naïve realism, which refers to the idea that individuals assume that doing things that threaten one's well-being must relate to the actor's disposition (Ross & Ward, 1996). Participants may have assumed that the witness deserved to be questioned with coercive methods by police based on the simple facts that he was associated with someone who was suspected of committing murder, that the police were skeptical of his account, and that he was not willing to capitulate to the interviewer's demands.

Like the findings from Experiment 1, it is clear from this research that community members can identify the problematic nature of explicit threats. However, again mirroring Experiment 1, as well as other research on layperson perceptions of interrogation strategies (e.g., Kaplan et al., 2018; Leo & Liu, 2009), the perception of minimization remains less clear. While participants seemed to understand the message associated with minimization strategies, indicating that witnesses exposed to these strategies would be in less trouble if they complied with the police, they also fail to fully comprehend why this is a problem, still reporting that these tactics were respectful and somewhat appropriate, at least compared to more explicit tactics. These findings provide evidence to suggest that the power of minimization lies in its ability to masquerade as an innocuous tactic. Research from a variety of areas of psychology suggests that interviewees respond well to strategies that are non-confrontational and make them feel respected (Evans et al., 2013; Giebels & Taylor, 2009; Goodman-Delahunty & Martschuk, 2018; Meissner et al., 2014; Miller & Rolnick, 2012) – thus, even though minimization strategies successfully imply that doing what the police tell you to do is the

best option, the potential negative consequences associated with that are less detectable because on the surface, these tactics do not appear to be coercive.

These findings reiterate the need to understand more about how judges and jurors will treat witness statements elicited with subtle influence strategies, as well as how such police behavior will impact their decision-making. If the deleterious effects of minimization are not fully grasped by laypeople, then that means jurors might not be able to identify problems with a statement elicited using these strategies. The results of this experiment, collectively with findings from similar published studies, indicate that we need to know more about how coerced statements would be viewed by jurors in the courtroom.

Importantly, the findings of this experiment must be viewed with caution in light of the fact that the interview excerpts that participants read were quite short. Of course, in an actual court case, these statements would be embedded within much longer interview transcripts, and jurors would have access to other evidence, arguments from counsel on both sides, statements from the judge, and more to help them come to a decision. However, since this was the first study of its kind to (1) examine the message perceived by laypeople from different types of minimization and (2) do so in a witness context, focus was placed on ensuring that the respondents were answering questions based on the strategies only and were not getting lost in other information about the case. Nevertheless, it is imperative that this research be replicated and extended with external validity in mind in order to have confidence that the results can be generalized to the real world.

To extend the findings of the current experiment using a more ecologically valid design, Experiment 3 will use trial transcripts to simulate the role of a juror more closely. Specifically, participants will be shown an entire mock court transcript in which the circumstances of an alibi witness statement – specifically, the use of threats, leniency, or minimization to encourage the witness to recant a previously provided alibi corroboration – are manipulated, and asked to render a verdict. In doing this, the impact of the use of minimization in a witness interview on actual courtroom outcomes can be investigated. In line with findings from the previous two studies, as well as research from the suspect literature, it was predicted that verdict decisions would not be impacted by the use of explicit (i.e., leniency and threats) or implicit (i.e., minimization) influence strategies and that a witness interview containing threats would be seen as being more inappropriate than an interview containing leniency-related tactics or no tactics.

Chapter 4: The Impact of Witness Coercion on Verdicts in a Simulated Trial

The results from Experiment 2 showed that laypeople perceive what is being implied to a witness through minimization tactics, yet think these strategies are acceptable for the police to use. Specifically, all strategies that implied leniency (explicit or implicit) conveyed to participants that the witness would be in less trouble with the police if he changed his eyewitness account and they were all rated as respectful and at least somewhat appropriate. Moreover, participants saw one form of minimization, minimizing seriousness, as being very similar to a direct promise of leniency, yet they did not feel the same about the other minimization types. These findings have implications for the ability of triers of fact to make decisions about the probative value of witness statements and the extent to which it might be worthwhile to educate triers of fact on this topic.

Although Experiment 2 provided knowledge about how minimization is viewed by laypeople and the message conveyed by those tactics, more needs to be learned about the role minimization plays in witness interviewing. As this was the first study to examine the message conveyed by various types of minimization, and was the first study of its kind focusing on influence strategies used on witnesses, emphasis was placed on ensuring that the manipulations were salient so that any effects could be linked to differences in strategies. To this point, the focus was on the influence strategies as opposed to the deluge of information that is normally available when making decisions about the probative value of a statement. Thus, the materials shown to participants were relatively short, and as a result, did not reflect the reality of being a juror.

The next step (Experiment 3) was to conduct an ecologically valid study that tested the impact of implicit and explicit police influence strategies on verdicts in a mock trial scenario. Participants were asked to assume the role of a juror in a criminal trial and read a court transcript. The transcript was based on *R v. Morgan* (2013) and detailed a trial in which the defendant was charged with murder. Throughout the transcript, testimony was presented from a variety of witnesses, including a witness who had provided an alibi for the accused. The transcripts were identical across conditions, except for a manipulation of what happened in the alibi witness' interview with police. In the first condition, the alibi witness *maintained* his original account in which he accounted for the whereabouts of the defendant at the time the crime was committed. In the second, he *changed* his story without prompting from the police to retract the alibi corroboration he provided for the defendant. In the four other conditions, the interviewing officer employed various influence strategies to encourage the witness to retract the alibi. In the third condition, the witness was *threatened*, and in the fourth, the witness was offered *explicit leniency*.

Since it was discovered in Experiment 2 that minimizing seriousness was the minimization type most like explicit leniency, and downplaying consequences was seen as the type of minimization that was least similar to explicit leniency, these two tactics were chosen, respectively, to represent the two final conditions of *high-level minimization* and *low-level minimization*. After reading the court transcript, participants were asked to render a verdict based on everything they learned, and rate the likelihood

that the suspect committed the crime, the importance of each piece of evidence when rendering their verdict, and the alibi witness interview discussed in the transcript.

In the literature on interviewing suspects, research has shown that as long as there is a confession, the use of influence strategies by police has minimal impact on verdicts (e.g., Kassin & McNall, 1991; Kassin & Sukel, 1997; O'Donnell & Safer, 2017). Currently, there are no studies examining how inducing *witnesses* to provide information can impact verdicts. Witnesses, rather than providing a direct confession to a crime, instead can potentially provide inculpatory evidence against a suspect. However, since both confessions from suspects and statements from eyewitnesses hold considerable weight in the courtroom (e.g., Kassin et al., 2010; Peter-Hagene et al., 2019), similar consequences may arise if either of such statements were involuntarily elicited using influence strategies – that is, when a witness provides an inculpatory statement against a suspect (or retracts a previously made exculpatory statement), conviction rates will increase, even when there is evidence that the statement was coerced.

Additionally, Experiments 1 and 2 demonstrated that laypeople's perceptions of the use of influence strategies on witnesses are similar to their thoughts about the use of such influence tactics on suspects. Based on the findings from the previous experiments, as well as the previously mentioned evidence from the suspect literature, it is predicted that the conviction rate will not differ across all five conditions in which the alibi witness changed his account (i.e., retracted potentially exculpatory evidence for the suspect), but that the conviction rate will be lower in the condition in which the alibi witness does not change his account compared to all other conditions. It is also hypothesized, again based

on findings from the two previous experiments, that participants will view the alibi witness interview as being less fair, and involving higher pressure and lack of free will in the threat condition than all other conditions.

Method

Participants

Canadian residents (N = 332) were recruited through Prolific and compensated £2.70 per hour ($4.67 CAD) for their participation. Inclusion criteria were that participants had to be currently residing in Canada, had to be over 18, and could not have previously completed Experiment 1 or 2. Data from the nine participants who indicated that they did not wish to submit their data were removed prior to analysis. Data was also removed for participants who took less than the specified minimum time required to complete the study (i.e., 15 minutes; N = 22), those who failed more than one attention check question (N = 2), and those who indicated that they were not Canadian citizens (to ensure that all participants were jury-eligible; N = 13). Thus, data from 286 participants were included in the analyses. For the one-way ANOVAs, for a medium effect size (f = 0.25) and α = .05, with this sample size, the power was .92. For the MANOVAs, with a medium effect size (f^2 = .0625), α = .05, and this sample size, power was 1.0. For the Chi-square test, with a medium effect size (w = 0.3), α = .05, and this sample size, the power was 0.98 (Cohen, 1992; calculated using GPower).

The breakdown per condition was as follows: 40 (14.2%) responses in the No Change condition, 51 (17.8%) in the Unprompted Change condition, 46 (16.1%) in the Explicit Leniency condition, 53 (18.5%) in the High-Level Minimization condition, 48

(16.8%) in the Low-Level Minimization condition, and 48 (17.0%) in the Threat condition. See Table 3 for a breakdown of participants by demographic variables. Chi-square tests were conducted for each of the demographic categories to determine whether they differed by condition; the tests revealed that there were no statistically significant differences between conditions in terms of gender, level of education, province of residence, or perception of the police (all p's > .198). There were differences between conditions with regards to the age of participants, χ^2 (30, N = 286) = 46.64, p = .027, however, this was likely due to the small number of participants in some of the age ranges provided. When the age ranges were expanded (i.e., < 30, 30-49, 50+), the differences were no longer significant, χ^2 (10, N = 286) = 10.276, p = .417. Respondents took, on average, about 36 minutes (2154.5 seconds) to complete the survey; a one-way ANOVA indicated that there were no differences in time taken to complete the survey by transcript type, F(5, 280) = 0.84, p = .524.

Design

This experiment employed a single factor, between-participants design with six conditions (Alibi Witness' Account: No Change, Unprompted Change, Coerced Change – Explicit Leniency, Coerced Change – High-Level Minimization, Coerced Change – Low-Level Minimization, Coerced Change – Threat). The primary dependent variable was conviction rate, as measured by asking participants to render a guilty or not guilty verdict for the suspect in the case. Participants' beliefs about the suspect's likelihood of guilt were also measured, along with their perceptions of the treatment of the alibi

witness in the case and the importance of each witness' testimony and lawyers' argument to their verdicts.

Materials

The primary experimental material in this experiment was a trial transcript. The transcript was loosely based on a real murder trial (see *R. v. Morgan*, 2013), but the actual content was fictional and created by the author.

Six versions of the trial transcript were created, which were identical except for several key changes relating to the manipulation of the independent variable. All transcripts began with opening remarks from the judge and opening statements from the Crown and Defense. After this, four Crown witnesses took the stand: Constable Joseph Collins, a police officer who discussed his interview with the alibi witness; Dr. Janice Stevens, a medical examiner who summarized her autopsy findings; Carl Walsh, a police officer who specialized in analyzing cell phone records; and Sonya Green, an eyewitness who claims to have seen the suspect commit the crime in question. Next, the defense called alibi witness Sam Davis to the stand, who talked about the circumstances surrounding his police interview and alibi. Lastly, each lawyer made a closing statement and the judge provided general instructions to the jury.

In each experimental condition, the transcripts were manipulated in four key areas: (1) the opening statement from the defense, (2) the testimony of Constable Joseph Collins (interviewer), (3) the testimony of Sam Davis (alibi witness), and (4) the defense's closing statement. Each of the areas that was manipulated across conditions related to the treatment of Sam Davis, who originally corroborated the suspect's alibi but

then (in all but one condition) retracted his original statement that exonerated the suspect. In the defense's opening statement, the lawyer describes in a few sentences the specific circumstances that preceded the alibi retraction, which were manipulated based on the condition. In the testimony of Constable Joseph Collins (the interviewer), his response to a question from the defense lawyer asking him whether he pressured the witness to change his alibi was manipulated by condition. In Sam Davis's (alibi witness) testimony, his description of his treatment during the police interview was manipulated. In the defense's closing statement, the argument as to why the retraction of Mr. Davis's alibi cannot be trusted was manipulated based on condition. A sample transcript can be found in Appendix D.

Measures and Procedure

Participants completed the experiment online via Qualtrics. After participants read an informed consent form and agreed to participate, they were presented with the introductory information explaining the tasks required of them and instructing them to read the transcript fully and carefully. Participants were then assigned randomly to read one of six versions of the trial transcript. After reading the transcript in its entirety, participants were asked (1) how likely they thought it was that the suspect was guilty (on a scale from 0 – 100), (2) to render a verdict (i.e., guilty or not guilty), and (3) to explain why they chose to render that verdict. Next, participants were asked to rate the importance of each witness's testimony, as well as the lawyers' opening and closing statements, on their verdict (5-point scale: 1 = *extremely unimportant*, 5 = *extremely important*). They were then asked to respond to a series of questions asking about the

treatment of Sam Davis (alibi witness) in his interview with police. Specifically, they were asked to rate the fairness of the interview (5-point scale: 1 = *extremely unfair*, 5 = *extremely fair*) and the pressure put on the witness (5-point scale: 1 = *no pressure at all*, 5 = *an extreme amount of pressure*), their level of agreement with statements regarding whether or not the witness changed his story willingly, and whether or not the police officer threatened or offered leniency to the witness (5-point scale: 1 = *strongly disagree*, 5 = *strongly agree*). Participants were also asked three questions about the interview as an attention check (e.g., how was the victim killed?), and were asked to provide demographic information (i.e., gender, age, province of residence, education, ethnicity, feelings about the police). To ensure that the sample reflected jury eligible individuals in Canada, participants were also asked whether or not they were Canadian citizens (data from those who indicated that they were not was excluded prior to analysis).

Results

All interpretations of effect sizes were guided by Cohen (1988; i.e., 0.2 = small, > 0.5 = medium, > 0.8 = large). *Tukey HSD* tests were conducted in all cases where *post-hoc* tests were applied.

Perceptions from a Juror's Perspective

Mean estimates of the likelihood of guilt by condition is shown in in Figure 1. On average, participants believed that there was a 48.43% chance that the defendant was guilty. Participants in the Threat condition provided the lowest estimate of the likelihood of guilt (M = 42.46, SD = 21.66), while those in the Unprompted condition provided the highest estimate (M = 52.41, SD = 27.02), d = 0.41. A one-way ANOVA revealed that

there were no significant differences in estimates of the likelihood of guilt across conditions, $F(5,280) = 1.261$, $MSE = 600.1$, $p = .281$, $\eta^2 = .022$.

Proportions of participant responses by condition when asked to render a verdict for the defendant are shown in Figure 2. Overall, 18.88% of participants rendered a guilty verdict, while 81.11% rendered a not guilty verdict. The Unprompted condition had the highest proportion of participants who rendered a guilty verdict (27.5%), while the Threat condition had the lowest (12.5%). A Chi square analysis revealed no significant effect of condition on verdict, $\chi^2 (5, N = 286) = 6.34$, $p = .275$.

Table 2 contains the mean ratings of the importance of each witness's testimony and lawyers' arguments to verdict by condition and verdict. Overall, participants rated Sam Davis's (alibi witness) testimony as being the most important and the Crown's opening statement as the least important. To explore how each piece of evidence may have influenced participants who rendered each verdict, a MANOVA was conducted with verdict as the independent variable. There was a significant effect of verdict on the level of importance of testimony from Constable Joe Collins, $F = 3.95$, $MSE = 0.87$, $p = .048$, $\eta^2_p = .015$, Dr. Janice Stevens, $F = 8.79$, $MSE = 1.47$, $p = .003$, $\eta^2_p = .032$, Constable Carl Walsh (technical expert), $F = 30.39$, $MSE = 0.81$, $p < .001$, $\eta^2_p = .102$, as well as the Crown's opening, $F = 5.98$, $MSE = 1.21$, $p = .015$, $\eta^2_p = .022$, and closing, $F = 11.67$, $MSE = 1.09$, $p = .001$, $\eta^2_p = .042$, statements. In all these cases, participants who rendered a guilty verdict rated the aforementioned pieces of evidence as more important than those who rendered a not guilty verdict (see Table 6). There was also a significant interaction for the importance of Sonya Green's testimony, $F(5,268) = 2.48$, MSE = 1.14, $p = .032$,

η^2_p = .044; participants in the Threat and No Change conditions who rendered not guilty verdicts thought Sonya Green's testimony was more important than those who rendered guilty verdicts, but those in the other four conditions thought Ms. Green's testimony was more important if they rendered a guilty verdict than if they rendered a not guilty verdict. The effect of tactic type was not significant for any of the witness testimony or lawyer statement variables, $F_{range}(5,268) = 0.56 – 2.22$, p_{range} =.052 - .733.

Perceptions of the Sam Davis (Alibi Witness) Interview

Mean responses to questions asking about the alibi witness interview is shown in Figure 3. A MANOVA revealed a significant effect of condition on level of agreement with the statement that Sam Davis acted of his own free will in his police interview, $F(5,280) = 4.12$, $MSE = 1.03$, $p = .002$, $\eta^2_p = .067$. *Post-hoc* tests revealed that participants were significantly more likely to agree that the witness acted of his own free will in the No Change condition than the Threat ($p = .001$; $d = 0.91$), Low-Level Minimization (i.e., downplaying consequences; ($p = .007$; $d = 0.79$), and High-Level Minimization ($p = .044$; $d = 0.65$) conditions. Free will ratings were also higher in the No Change condition compared to the Explicit Leniency condition ($p = .053$; $d = 0.64$), and higher in the Unprompted condition compared to the Threat condition ($p = .268$; $d = 0.41$), however these differences were not significant. No other comparisons were significant and effect sizes were relatively small or negligible (all d's < 0.29). No significant effect of condition was found for perceptions of the fairness of the interview, $F(5,280) = 0.47$, $MSE = 1.19$, $p = .797$, $\eta^2_p = .008$, or the amount of pressure put on the witness, $F(5,280) = 0.59$, $MSE = 0.74$, p = .708, $\eta^2_p = .010$. These findings suggest that all

four types of inducements led participants to question the free will of the suspect, but it did not impact their beliefs about the pressure exerted on the witness or beliefs about fairness of his interview.

Mean responses to the questions asking participants to rate their level of agreement that the witness was offered leniency or threatened by condition is shown in Figure 4. Responses to these two questions were also converted to a binary scale to conduct a manipulation check (i.e., *agree/strongly agree = yes*, *disagree/strongly disagree = no*). When individuals who selected the midpoint of the scale (i.e., neither agree nor disagree) were removed, 93% of participants agreed that leniency was offered in the Explicit Leniency condition and 75% agreed that the witness was threatened in the Threat condition. Interestingly, 76% of participants in the High-Level Minimization condition also agreed that the witness was being offered leniency.

A MANOVA revealed that there was a significant effect of condition on participants' level of agreement with the statements that Sam Davis was offered leniency, $F(5,280) = 13.619$, $MSE = 0.97$, $p < .001$, $\eta^2_p = .196$ and that he was threatened, $F(5,280) = 4.985$, $MSE = 1.06$, $p < .001$, $\eta^2_p = .082$. As expected, *post-hoc* tests indicated that participants were more likely to agree that the witness was offered leniency in the Explicit Leniency condition than in all other conditions ($p_{range} = .000$ - $.013$; $d_{range} = 0.77 – 1.75$). Participants were also more likely to agree that the witness was offered leniency in the High-Level Minimization condition than the No Change condition ($p < .001$; $d = 0.96$) and Unprompted ($p = .008$; $d = 0.66$) conditions. As well, participants in the No Change condition were less likely to agree that leniency was offered than those in the

Threat (p = .013; d = 0.65), and also those in the Low-Level Minimization (d = 0.64) condition, but this difference was not significant (p = .058). No other comparisons were significant and effect sizes were small or negligible. Unsurprisingly, participants in the Threat condition were more likely to agree that the witness was threatened than those in all other conditions (p_{range} = .000 - .045; d_{range} = 0.57 – 0.82). All other comparisons were not significant and had negligible effects. In general, these findings suggest that the explicit inducement conditions were clearly detected by participants, but also that High-Level Minimization was viewed quite similarly to Explicit Leniency with regards to its message.

Discussion

The goal of Experiment 3 was to determine the effect of various types of implicit and explicit influence strategies on potential jurors' courtroom decisions and perceptions of a criminal case. Specifically, the extent to which an alibi corroboration was retracted due to social influence, either explicitly through threats or promises or more subtly using minimization, would affect jurors' decision-making processes was examined. After presenting participants with a court transcript in which the details of an alibi witness interview were varied based on the circumstances of the witness's statement, participants were asked to render a verdict, estimate the likelihood of the suspect's guilt, rate the importance of each key witness's testimony, and provide their thoughts about the treatment of the alibi witness. The results showed that, despite the fact that the alibi corroboration was a key piece of evidence in the case, the circumstances under which it was retracted (or not retracted) did not impact verdicts or beliefs in the likelihood of guilt.

However, the presence of an inducement, either explicit or implicit, did influence laypeople's beliefs about whether the witness acted of his own free will when retracting his statement. Overall, the findings demonstrated that, while the circumstances of an alibi witness interview impacted perceptions of the interview itself, they did not impact jurors' higher level courtroom decisions.

Across all conditions, the mean conviction rate was just under 20%, indicating that fewer than one-fifth of participants believed beyond a reasonable doubt that the defendant committed the crime. Similarly, the overall mean estimate for likelihood of guilt was approximately 50%; this suggests that on average, participants were equally unsure of whether the suspect was innocent or guilty and were not heavily leaning towards one choice or the other. A scan of the reasons why participants rendered a not guilty verdict showed that many indicated that there was a general lack of evidence to support a guilty verdict, and that there was reasonable doubt. Many of the participants who rendered a not guilty verdict specifically noted that the eyewitness testimony from Sonya Green was either too weak or problematic, some cited issues with the technological evidence from Carl Walsh, and a few noted that the police pressure put on Sam Davis was a deciding factor in their verdict. Taken together, this suggests that the transcript may have lacked concrete evidence against the suspect, making verdicts relatively easy for most participants and allowing them to overlook the circumstances of the alibi witness statement.

For both previously mentioned outcomes, there was no impact of the use of implicit or explicit inducements. At face value, these findings suggest that the use of inducements

on witnesses does not impact verdicts, which is in line with research from the suspect literature indicating that conviction rates increase when a suspect confesses, even if the confession was elicited during a pressurized interview (e.g., Kassin & McNall, 1991). However, it also did not seem to matter whether or not the witness retracted the alibi corroboration he provided for the suspect, which is unexpected given that an alibi serves as a solid piece of evidence supporting the suspect's innocence. Nevertheless, the conviction rate did not change significantly from the No Change condition to any of the conditions in which the witness retracted his alibi. Considering the low overall conviction rate and indecisiveness with regards to the suspect's guilt, it is possible that this null finding may have more to do with the state of the evidence in the case overall rather than the manipulations specifically. In other words, regardless of what happened with the alibi witness, there simply was not enough evidence to support the rendering of a guilty verdict.

Participant ratings of the importance of each witness's testimony and lawyer's statement were not impacted by the circumstances of the alibi witness statement, but did vary based on the verdict they rendered. Specifically, those who rendered guilty verdicts thought that testimony from three of the Crown witnesses, as well as both statements from the Crown, were more influential to their verdict than did those who rendered not guilty verdicts. This makes sense, given that each of these individuals provided inculpatory evidence against the suspect, which would have certainly been important to consider in making a guilty verdict. It is important to note here that neither condition nor verdict impacted the perceived importance of the alibi witness's testimony, which

provides further evidence to suggest that participants were not swayed by the manipulation of the alibi witness. As well, these findings should be interpreted with caution, since the proportion of participants who rendered not guilty verdicts is over four times higher than the proportion of those who rendered guilty verdicts.

Participants recognized that all influence strategies impacted the free will of the witness compared to the condition in which he did not change his story. In other words, it appears that participants recognized the coercive nature of both explicit and implicit influence strategies and were aware that they may have influenced the witness's actions. Thus, when all other aspects of the trial were stripped away and participants were asked to focus on the treatment of the alibi witness, the use of inducements did affect their perceptions of the case. However, although there were differences between the inducement conditions and the No Change condition, ratings in all the inducement conditions did not significantly differ from those in the Unprompted condition, where the witness changed his account in the absence of any influence or coercion from the interviewer. This raises the question of whether it was merely the retraction of the alibi, rather than the inducements themselves, that led the participants to believe that the witness did not change his account willingly. The use of influence strategies did not influence perceptions of the amount of pressure exerted in the interview or how fair the interview was. Additionally, as was previously found in Experiment 2, both explicit leniency and high-level minimization conveyed an offer of leniency to most participants, which again suggests that certain forms of minimization are more similar to explicit leniency than others.

Overall, the current study provided some interesting findings with regards to potential jurors' perceptions of a trial involving a potentially coerced alibi retraction, but it seems that other aspects of the trial may have overshadowed the intended purpose. As previously mentioned, participants overwhelmingly believed there was not enough evidence to convict the suspect irrespective of what happened with the alibi witness's statement. However, the circumstances of the alibi did impact participants' thoughts about the police interview with the alibi witness. Thus, it appears that by taking away the other aspects of trial, people saw the impact of influence strategies on the alibi witness, but when put together with the lack of other conclusive evidence against the suspect, the changes in the alibi were simply not enough to push participants one way or another. This leads into the biggest limitation of this study – that the manipulations were not sufficiently strong in the presence of the rest of the experimental material. So, even if the treatment of an alibi witness does actually influence verdicts, it was not detectable using the current experimental design. Nevertheless, with some key changes, it is possible that this paradigm could produce more meaningful and relevant results that will be able to reveal more about the impact of influencing witnesses on verdict. Thus, Experiment 4 will build upon what was done in Experiment 3 to determine if the impact of coercing alibi witnesses on verdict can be detected using an even more realistic simulated trial transcript.

Chapter 5: The Impact of Witness Coercion on Verdicts in a *Revised* Simulated Trial

Experiment 3 revealed that neither the type of tactic used during an alibi witness interview, nor whether the witness retracted his original statement, impacted mock jurors' perceptions of suspect guilt or verdicts. These variables did, however, have a significant impact on participants' beliefs about the alibi witness interview. That is, those who read a transcript where the alibi witness refused to change his original account were more likely to believe he was acting of his own free will than those who viewed a transcript where the witness changed his account following the use of an implicit or explicit inducement. Overall, these results partially support the hypotheses. Although the conviction rate did not differ across the five conditions where the witness changed his account (as predicted), there was also no meaningful difference in conviction rate when the witness did not change his account.

Results from Experiment 3 also showed that the conviction rate was extremely low: over four-fifths of participants rendered a not guilty verdict. This finding sheds light on the failure to find the expected effects. It is possible that there simply was not enough evidence to justify a guilty verdict, regardless of what happened with the alibi witness's testimony. This potential explanation is further supported by the fact that the average rating of the likelihood that the defendant committed the crime was just under 50%, suggesting that most participants were completely unsure whether or not the defendant was guilty. Research shows that confessions are the most influential form of evidence in the courtroom (e.g., Kassin et al., 2010), which is likely why this is generally not an issue

faced in mock trial studies examining the impact of retracted confessions on verdicts. Since Experiment 3 focused on retracted *witness statements* instead, and since it was the first study to do so, the potential weight of the manipulated evidence was unknown. Given what is known about confession evidence, combined with the fact that eyewitness testimony is also highly influential in the courtroom (e.g., Peter-Hagene et al., 2019; Wells, 2018), it was thought that a retracted witness statement would hold similar weight as a retracted confession. The results show, however, that this was not the case.

As an attempt to improve upon the experimental design from Experiment 3, the courtroom transcript for the current experiment was altered to contain more circumstantial evidence against the accused to bolster the prosecution's case and make it more likely that participants would be willing to render a guilty verdict. By adding more evidence against the suspect, it was hoped that the alibi witness's testimony would now hold more weight as a deciding factor as to whether or not the accused was guilty. Depending on the circumstances of the alibi witness interview (e.g., whether or not he changed his account, whether or not the interviewer used coercive tactics), it was thought that this piece of evidence would sway participants one way or the other with regards to their verdicts. Like before, it was predicted that the conviction rate would be lower in the condition in which the alibi witness did not change his account than in all other conditions. It was also hypothesized again that the conviction rate would not differ across conditions in which the witness changed his account, whether or not an influence strategy was employed by the interviewer. As was found in Experiment 3, it was predicted that participants would be more likely to agree that the alibi witness acted of his own free will

in the condition where he did not change his account than in all of the conditions where he did change his account and the interviewer used an influence strategy.

Method

Participants

Participants were Canadian residents (N = 345) who were recruited through Prolific, an online platform. Participants were compensated £5.32 per hour ($9.25 CAD) of their time. Individuals who had already participated in Experiment 1, 2, or 3 were excluded from participating in the current experiment. Inclusion criteria were that participants had to be Canadian residents who were over 18 years of age. Data from seven participants who indicated that they did not wish to submit their data were removed prior to analysis. Data was also removed for participants who took less than the specified minimum time required to complete the study (i.e., 15 minutes; N = 29), those who failed more than one attention check question (N = 1), and those who indicated that they were not Canadian citizens (N = 22). Thus, data from 286 participants were included in the analyses. For the one-way ANOVAs, for a medium effect size (d = 0.50) and α = .05, with this sample size, the power was 1.00 (Cohen, 1992). For the MANOVAs, with a medium effect size (f^2 = .0625), α = .05, and this sample size, power was 1.0. For the Chi-square test, with a medium effect size (w = 0.3), α = .05, and this sample size, the power was 0.98 (Cohen, 1992; calculated using GPower).

The breakdown per condition was as follows: 52 (18.2%) responses in the No Change condition, 43 (15%) in the Unprompted Change condition, 50 (17.5%) in the Explicit Leniency condition, 46 (16.1%) in the High-Level Minimization condition, 45

(15.7%) in the Low-Level Minimization condition, and 50 (17.5%) in the Threat condition. See Table 1 for a breakdown of participants by demographic variables. Chi-square tests were conducted for each of the demographic categories to determine whether they differed by condition; the tests revealed that there were no statistically significant differences between conditions in terms of gender, age, level of education, or province of residence (all p's > .124). Participants took about 44.7 minutes (2679.8 seconds) on average to complete the experiment. A one-way ANOVA indicated that there were no differences in the time taken to complete the study by condition, $F(5,280) = 1.73$, $p = .127$.

Materials

Except for three changes, the experimental materials used in the current experiment were identical to those used in Experiment 3, including the base content as well as the manipulations. The first change was made to the testimony of Janice Stevens. In the transcripts from the previous experiment, this witness was a forensic pathologist who communicates the results of her autopsy. In the current experiment, Ms. Stevens was presented as a police officer who specializes in forensic identification; in the transcript, she summarizes the findings from her investigation, which focuses mostly on DNA matching the suspect found on a cigarette butt left at the crime scene. The second change was made to the testimony of Carl Walsh. In the original transcript, Mr. Walsh, who is described as a technological expert with the investigating police force, describes data he obtained through cell phone triangulation that placed the suspect in the suspected getaway car. For the current transcript, an additional piece of evidence was presented by

Mr. Walsh: namely, cell phone records detailing a heated and threatening text message exchange between the suspect and victim. The third change was made to the testimony of Sam Davis, the alibi witness. Sam Davis' testimony was altered to make him appear a little less hostile and accusatory with regards to his treatment by police. These three changes were made in an effort to create the appearance of more evidence against the suspect; however, all of the added evidence was still circumstantial in nature to avoid a ceiling effect for guilty verdicts. A sample transcript can be found in Appendix D.

Design, Measures, and Procedure

The experimental design, questions asked to participants, and procedure followed to complete the experiment were identical to those of Experiment 3.

Results

Perceptions from a Juror's Perspective

Mean estimates of the likelihood of guilt by condition are shown in Figure 1. On average, participants believed that there was a 56.8% chance that the defendant was guilty. Participants in the Threat condition provided the lowest estimate of the likelihood of guilt (M = 52.24, SD = 26.20), while those in the No Change condition provided the highest estimate (M = 64.06, SD = 23.18). A one-way ANOVA revealed that there were no significant differences in estimates of the likelihood of guilt across conditions, $F(5,280) = 1.289$, $MSE = 650.0$, $p = .269$, $\eta^2 = .022$.

Conviction rate by condition is shown in Figure 2. Overall, 31.11% of participants rendered a guilty verdict, while 68.88% rendered a not guilty verdict. The No Change condition had the highest proportion of participants who rendered a guilty verdict

(42.3%), while the Threat and Leniency conditions had the lowest (26.0%). A Chi square analysis revealed no significant effect of condition on verdicts, χ^2 (5, N = 286) = 4.285, p = .509.

Mean ratings of the importance of each witness's testimony and lawyers' arguments to verdicts by condition and verdict can be found in Table 7. Participants rated the testimony from Carl Walsh (technological expert) to be the most important (M = 4.03, SD = 0.97), followed closely behind by Sam Davis's (alibi witness) testimony (M = 4.01, SD = 1.06), and rated the Crown's opening statement as the least important piece of testimony (M = 3.50, SD = 1.19). To examine how each piece of evidence differentially impacted each type of verdict, a MANOVA was conducted with verdict as the independent variable. A significant effect of verdict on participants' perceptions of the importance of testimony emerged for Janice Stevens, F = 10.09, MSE = 1.22, p = .002, η^2_p = .036, Carl Walsh, F = 10.14, MSE = 0.87, p = .002, η^2_p = .036, and Sam Davis, F = 14.55, MSE = 1.03, p = <.001, η^2_p = .051, as well as the Crown's opening statement, F = 8.15, MSE = 1.40, p = .005, η^2_p = .029, and closing statement, F = 13.37, MSE = 1.23, p = <.001, η^2_p = .047. With regards to Sam Davis, participants who rendered not guilty verdicts saw his testimony as more important than those who rendered guilty verdicts. For the other four pieces of evidence, those who rendered guilty verdicts saw them as more influential than those who rendered not guilty verdicts. There was also a significant interaction between condition and verdict for the testimony of Carl Walsh, F = 3.76, p = .003, η^2_p = 0.07. Those who were in the Low-Level Minimization condition who rendered a not guilty verdict thought that Mr. Walsh's testimony was more important than those

who rendered a guilty verdict, but in all other conditions, those who rendered a guilty verdict thought his testimony was more important. The effect of condition was not significant for any of the witness testimony or lawyer statement variables, F_{range} = 0.11-2.20, p_{range} = .055-.991.

Perceptions of the Alibi Witness Interview

Mean responses to questions asking about the alibi witness interview are shown in Figure 3. A MANOVA revealed a significant effect of condition on participants' thoughts about the fairness of the interview, $F(5,279) = 3.951$, $MSE = 1.16$, $p = .002$, $\eta^2_p = .066$. Post-hoc tests revealed that participants in the No Change condition believed the interview was fairer than those in the Threat ($p = .009$; $d = 0.69$) and Unprompted ($p = .001$; $d = 0.85$) conditions. There was also a significant effect of condition on level of agreement with the statement that Sam Davis acted of his own free will in his police interview, $F(5,279) = 8.617$, $MSE = 0.94$, $p < .001$, $\eta^2_p = .134$. Participants were more likely to agree that the witness acted of his own free will in the No Change condition than the Threat ($d = 1.19$), Low-Level Minimization ($d = 0.90$), High-Level Minimization ($d = 1.04$), Unprompted ($d = 0.99$), and Leniency ($d = 1.12$) conditions (all p's $\leq .001$). No significant effect of condition was found for the amount of pressure put on the witness, $F(5,279) = 1.283$, $MSE = 0.73$, $p = 271$, $\eta^2_p = .022$.

Mean responses to the questions asking participants to rate their level of agreement that the witness was offered leniency or threatened by condition are shown in Figure 4. As a manipulation check, responses to these two questions were converted to a binary scale (i.e., *agree/strongly agree* = yes, *disagree/strongly disagree* = no). When

individuals who selected the midpoint of the scale (i.e., neither agree nor disagree) were removed, 87.0% of participants agreed that leniency was offered in the Leniency condition and 68.3% agreed that the witness was threatened in the Threat condition. Interestingly, 80.6% of participants in the High-Level Minimization condition also agreed that the witness was being offered leniency.

A MANOVA revealed that there was a significant effect of condition on participants' level of agreement with the statements that Sam Davis was offered leniency, $F(5,279) = 11.58$, $MSE = 1.11$, $p < .001$, $\eta^2_p = .172$, and that he was threatened, $F(5,279) = 6.576$, $MSE = 1.09$, $p < .001$, $\eta^2_p = .105$. As expected, participants were more likely to agree that the witness was offered leniency in the Leniency condition than in the Threat ($p = .033$; $d = 0.61$), Unprompted ($p < .001$; $d = 1.02$), No Change ($p = .002$; $d = 1.40$), and Low-Level Minimization ($p = .002$; $d = 0.81$) conditions. Participants were also more likely to agree that the witness was offered leniency in the High-Level Minimization condition than the No Change ($p < .001$; $d = 1.063$) and Unprompted ($p = .002$; $d = 0.83$) conditions. As well, participants in the Threat condition were less likely to agree that leniency was offered than those in the No Change condition ($p = .008$; $d = 0.66$). No other comparisons were significant and effect sizes were small or negligible. Unsurprisingly, participants in the Threat condition were more likely to agree that the witness was threatened than those in the Unprompted ($d = 0.81$), No Change ($d = 0.97$), Low-Level Minimization ($d = 0.86$), and High-Level Minimization ($d = 0.85$) conditions (all p's $\leq .001$). All other comparisons were not significant and effect sizes were negligible.

Discussion

Like Experiment 3, the goal of this experiment was to examine the impact of implicit and explicit influence strategies used in a witness interview on courtroom decision making and perceptions of a criminal case. Based on the findings from Experiment 3, key problems were identified and addressed. Broadly, the strength of the Crown's case was increased to make verdicts a little more challenging for participants; it was reasoned that a more evenly balanced case would encourage participants to weigh each piece of evidence more carefully when making their verdicts, particularly the manipulated alibi witness evidence. These changes, however, did not have the anticipated impact on participants' responses. Notably, the conviction rate and beliefs about the suspect's guilt did not depend on whether or not an explicit, implicit, or no influence strategy was used on the witness, or whether or not the witness retracted his alibi corroboration. Compared to Experiment 3, however, the condition to which participants were assigned had an added effect on perceptions of the witness interview: along with impacting ratings of the witness's free will, perceptions of fairness were also affected this time. Overall, these findings suggest one of two things: either that verdicts are not impacted by the circumstances of a witness statement, or that this experimental paradigm, which was originally used to test the impact of confession evidence, is not appropriate for examining the impact of witness evidence on outcomes in the courtroom.

Compared to Experiment 3, the mean likelihood of guilt estimate was higher in this experiment at nearly 60%; however, this estimate was still not far enough away from the midpoint of the scale to signify a significant lean toward certain guilt or innocence.

Similarly, nearly a third of participants rendered a guilty verdict in this experiment – a marked increase from Experiment 3, but still, twice as many participants rendered a not guilty verdict. As well, there was, yet again, no effect of strategy type on verdicts or likelihood of guilt and it also did not matter whether or not the witness retracted his alibi. Even with the addition of stronger inculpatory evidence against the suspect, over half of participants who rendered a not guilty verdict still stated that they did so because of a lack of evidence, and over a third stated that they felt there was reasonable doubt.

The No Change condition had the most participants who rendered a guilty verdict and also the highest mean estimate of likelihood of guilt. Though ratings in this group did not significantly differ from the other conditions, it is still surprising that participants were even marginally more likely to believe a friend who provided an alibi and then retracted it than they were an individual who confidently provided and stuck to an alibi for his friend. The literature on alibi believability may help to shed some light on this finding. Research has shown that people are less likely to believe alibis when they come from a familiar other who might be motivated to lie (e.g., Culhane & Hosch, 2004; Olson & Wells, 2004). Since the witness in the transcripts was said to be the suspect's best friend, it is reasonable to assume that participants would think he was motivated to lie to keep his friend out of prison. Though the alibi witness was also framed as the suspect's best friend in the other five conditions, it is possible that the alleged police pressure leading to the retraction caused participants to discount the retracted alibi, feel somewhat sympathetic towards the witness, and thus not consider the believability of the original alibi statement when rendering their verdict. Nonetheless, the fact that a coerced alibi

retraction was considered to be stronger evidence of the suspect's innocence than was an actual alibi corroboration is an interesting and unexpected finding, and suggests that more research must be conducted on the impact of alibi evidence from witnesses on courtroom decision making.

Overall, participants rated the testimony from Carl Walsh and Sam Davis as the most influential to their verdicts. Those in the Unprompted condition were more influenced by Sam Davis's testimony than those in the No Change condition. This means that when Sam Davis retracted his alibi without influence from the police, it was more influential than when he maintained the alibi. However, when broken down by verdict choice, the data tells a different story. In both conditions, participants who chose to render a not guilty verdict were similarly (and heavily) influenced by Sam Davis's testimony. Those who rendered guilty verdicts, on the other hand, rated the importance of Mr. Davis's testimony nearly a full point lower on average in the No Change condition than in the Unprompted condition. In other words, participants were more heavily influenced to convict the suspect when Sam Davis retracted his alibi statement without being pressured to do so than when he maintained his original alibi statement. This makes sense because a retracted alibi in the absence of police pressure would serve as a mark against the accused while a maintained alibi would, in theory, serve as a solid piece of exculpatory evidence. However, as mentioned above, conviction rates were the highest in the No Change condition, suggesting that an alibi from a friend does not actually have as much evidentiary value in support of the suspect's innocence as expected. More research

should be conducted on the weight and value of alibis to making verdicts to further investigate this discrepancy.

Like in Experiment 3, the circumstances of the alibi witness interview impacted participants perceptions of free will. This time, however, the fairness ratings were also impacted. When the alibi witness did not retract his statement (i.e., No Change condition), participants thought that the interview was the fairest and were more likely to agree that the witness acted of his own free will. With regards to fairness, participants did not see much difference between an interview in which the witness maintained his original statement or interviews where he changed his statement in response to leniency or minimization. This could be due to the fact that minimization and leniency tactics are meant to make the interviewer seem like a good person who is trying to help the interviewee, which may have contributed to perceptions of fairness. On the other hand, participants were less likely to agree that the witness acted of his own free will in the Leniency and Minimization conditions than in the No Change condition, suggesting that although they saw the strategies as being fair, they at least implicitly understood their capacity to influence the witness. With regards to the detection of leniency and threats, findings for the current experiment were nearly identical to those of Experiment 3, in that most participants detected a threat in the Threat condition and leniency in the Explicit Leniency condition, but also detected leniency in the High-Level Minimization condition. This is a trend that has emerged throughout the experiments in this program of research, and points to a similarity between certain types of minimization and leniency that does not exist for other forms of minimization.

Experiment 4 was an attempt to improve upon the methodology of Experiment 3 to determine whether the circumstances of an alibi witness statement would impact verdicts and perceptions of the police's treatment of said witness. While it appears that the intended improvements were made, and some new findings emerged, there was no real meaningful difference in the results overall between the two experiments. The current experiment suggests that even when the case against the suspect is stronger, a potentially coerced retraction of an alibi corroboration still does not impact verdicts or beliefs about guilt. The fact that the manipulations did impact perceptions of the alibi witness interview itself, however, suggests that the lack of a significant result did not stem from insufficiently strong or salient manipulations. It is important that additional research be conducted in this area to determine why these null results emerged and to develop more effective ways of testing the impact of coercing witnesses on courtroom decision making.

Chapter 6: General Discussion

Much research has been devoted to determining best (and worst) practices for suspect interviewing. Moreover, layperson perceptions of problematic social influence strategies in suspect interviews have also been empirically examined. Though anecdotal evidence has demonstrated that police use similar influence strategies in witness interviews, and some recent research suggests these practices lead to similar outcomes with witnesses as they do with suspects. No research on the perceptions of the public with regards to the use of social influence strategies in witness interviews exists, however. Thus, the goal of the current research was to examine layperson (i.e., potential jurors') perceptions of social influence strategies on witnesses.

Across four experiments, laypeople were asked to provide their thoughts about the risks or problems associated with using explicit and implicit influence strategies in witness interviews, report the message that these strategies convey to them, and, in two experiments, assume the role of a juror and render verdicts in a case where an alibi witness was induced to change his story and comply with the investigative theory developed by the police. Specifically, in Experiment 1, participants read a transcript of an alibi witness interview in which the interviewer used either threats, minimization, or no influence strategies to encourage the witness to comply with his requests. Experiment 2 had participants read an excerpt from an alibi witness interview in which the interviewer was trying to convince the witness to comply with his request to change his statement using threats, leniency, one of four types of minimization, or no influence strategy. In Experiment 3, participants read a simulated trial transcript of a murder trial that was

manipulated based on the circumstances of an alibi witness interview (i.e., retained original statement, changed his statement without prompting, or changed his statement in response to threats, explicit leniency, high-level minimization, or low-level minimization). Experiment 4 was nearly identical to Experiment 3, with some slight changes made to the transcript to eliminate the floor effect for conviction rate that was seen in the previous experiment. Collectively, the findings from these studies indicate that (1) minimization conveys to laypeople that a witness will receive lenient treatment if they comply with police, (2) minimization is seen as being relatively acceptable, effective, and respectful when used on witnesses, (3) all forms of minimization are not equal when it comes to the extent to which they convey this message of leniency, and (4) in a mock trial scenario, the presence of influence strategies for a single alibi witness (a friend of the suspect), whether explicit or implicit, does not appear to impact verdicts.

Minimization Strategies Convey a Message of Leniency in Witness Interviews

The findings of this program of research were comparable to findings in the suspect literature in some ways, yet different in others. Generally, research has shown that when used in a suspect interview, minimization tactics imply leniency in sentencing if the suspect confesses (e.g., Kassin & McNall, 1991; Luke & Alceste, 2020; Redlich et al., 2019). Similar findings emerged in Experiment 2, in that minimization used in a witness interview conveyed a message that the consequences for the witness would be lower if he complied with police. This demonstration of individuals inferring a message of leniency from implicit influence strategies can likely be explained by the concept of pragmatic implication (Harris & Monaco, 1978). In other words, when exposed to a minimization

tactic, individuals seem to read between the lines of what is being said to infer an implied message that things will somehow be better for the witness if he complies with police. Like the accompanying suspect literature, this finding should serve as a note of caution against the use of minimization in witness interviews, as it really does not differ much from an explicit promise of leniency. If third party laypeople can detect this message, then presumably a witness exposed to this type of tactic would be capable of doing so as well, whether they are consciously aware of it or not.

Minimization Strategies Are Perceived as Acceptable

Research from the suspect literature has also indicated that, despite their ability to recognize the message conveyed by leniency and minimization, the public is not acutely aware of the risks inherent in using these influence strategies in suspect interviews. Most studies suggest that laypeople believe that threats are very coercive, while most research indicates that implicit and explicit leniency are seen as being only slightly coercive, if at all (Blandon-Gitlin et al., 2011; Kaplan et al., 2020; Leo & Liu, 2009). Moreover, research also suggests that layperson ratings of coerciveness for all the above-mentioned strategies are considerably lower than those of experts (i.e., social scientists, legal practitioners), suggesting that the nature and potential impact of these tactics are not fully grasped by the general public (Kaplan et al., 2020). What is more, most of the available research indicates that laypeople do not comprehend the link between most influence strategies and false confessions (Blandon-Gitlin et al., 2011; Leo & Liu, 2009). There is a clear discrepancy between layperson perceptions of the *message* presented by minimization tactics and their perceptions of the *risk* associated with them; while people

can discern that minimization serves to imply leniency to a suspect, they do not seem to recognize the potential negative consequences of these strategies (e.g., false statements leading to wrongful conviction, true statements being deemed inadmissible at trial). The findings from Experiment 1 and 2 suggest that this disconnect may extend to witnesses as well. In Experiment 1, participants rated minimization as being more coercive than no inducements, but less coercive than threats, with the average rating falling only slightly above the midpoint of the scale. In addition, minimization was rated as being the most effective strategy for gathering information and was not thought to be capable of inducing negative feelings in a witness. In Experiment 2, all leniency-related strategies were seen as being at least somewhat acceptable and respectful, especially when compared to threats. Collectively, these results indicate that the use of minimization in witness interviews is not viewed particularly negatively. Given that participants are capable of detecting the message of leniency conveyed by these tactics, these findings demonstrate that, as expected, the same disparity that exists in the suspect context is also present in the witness domain.

One potential explanation for the failure of laypeople to recognize the power of minimization is the concept of the positive coercion bias. As mentioned previously, it has been posited that people tend to see leniency-related strategies (i.e., positive coercion) as being less coercive than those relating to threats or punishment (i.e., negative coercion), even when the two strategies are functionally equivalent with regards to the amount of compliance they induce (Kassin & Wrightsman, 1981). Previous studies have demonstrated that this bias exists when it comes to the evaluation of influence strategies

used on suspects (e.g., Kassin & Wrightsman, 1980); the findings from the current program of research indicate that the bias may extend to perceptions of witness coercion as well. Across all four experiments, participants rated all leniency-related tactics (i.e., leniency and all forms of minimization) more favourably than they did threats. While it may seem that this finding could have been predicted by simply using common sense, the data is valuable in that it renders support for the presence of the positive coercion bias when it comes to judging the treatment of witnesses as well as suspects.

It should be noted that a recent study on juror perceptions of police tactics has demonstrated a slightly different pattern of results. The results of a study by Mindhoff et al., (2018) revealed that participants saw both threats and leniency as being very coercive and likely to cause a false confession. These findings differ from those described above, in which participants fully detected the coercive nature of threats, but only detected a low level of coercion in leniency-related influence strategies. As well, this is the first study to demonstrate that laypeople do comprehend the link between influence strategies and false confessions. As hypothesized by Mindhoff and colleagues (2018), and supported by the findings from Experiment 2 that most participants had heard of popular influence strategies used by police from television shows, documentaries, movies, and podcasts, this may be a result of the recent popular media attention on cases of false confession and police misconduct and the subsequent increase in education on these issues for laypeople. Although this is the first study to report such findings, it may be an indication of a change in the general public's perception of social influence strategies used by police.

Minimization Strategies Are Not Perceived Equally

This research is the first to demonstrate that different types of minimization strategies are perceived differently when used in witness interviews with regards to the strength of their message of leniency and their acceptability. There is no published research in this area in the suspect domain either. However, one unpublished manuscript – that operationalized the same four subtypes of minimization as the present program of research – reported similar findings with regards to perceptions of various types of minimization tactics used in a suspect interview (Han et al., 2021). However, this study's findings differed from the present study with regards to the types of minimization that were viewed as being more similar (and less similar) to an explicit promise of leniency. For example, when asked whether the strategy contained a promise of leniency, most respondents agreed in the emphasizing benefits of cooperation condition compared to the other minimization conditions, while the minimizing seriousness condition had the lowest level of agreement. Conversely, in the current research, minimizing seriousness was the type of minimization rated as being the most like explicit leniency. This may indicate that the use of minimization is perceived differently depending on the role and circumstances of the individual being interviewed. Overall, these findings indicate that minimization is a complex strategy, which suggests that perhaps researchers should be moving away from studying it as a general concept and toward studying the presence, perceptions, and impact of all its various forms.

Influence Strategies Used on Witnesses Do Not Impact Verdicts (But More Research is Needed)

Surprisingly, the findings of Experiment 3 and 4 diverged from what was expected based on data from the suspect literature. Generally, research using simulated trial transcripts has shown that when a suspect confesses, conviction rates will increase, regardless of how the confession was obtained (Jones & Penrod, 2016, 2018; Kassin & Sukel, 1997). This suggests that the use of influence strategies to elicit a confession does not impact verdicts, even though it has been demonstrated that the message of these tactics is being understood loud and clear. Put differently, even though laypeople are aware that minimization implies to a suspect that they will get a lighter sentence if they confess (which is a clear form of coercion that is not explicitly permitted in suspect interviews), the use of minimization prior to a confession still does not impact their choice to convict. A confession, even if coerced with subtle manipulation tactics, is the death knell; that is, people find it difficult to believe that someone would ever confess to a crime that they never committed. Given the similarities between witness and suspect statements (e.g., Moore et al., 2014), we expected that the mere fact that a witness changed his story to implicate the suspect would increase conviction rates, regardless of whether or not he was subjected to social influence strategies. While coercion had no impact on verdict decisions, as expected, there was also no effect of changing his story to retract corroboration of the suspect's alibi (i.e., conviction rates in the no-change control were equivalent to all other conditions). This suggests that unlike confessions, the mere presence of an incriminating statement from a single alibi witness was not enough to influence verdicts.

Recent work by Bernhard and Miller (2018) may help to shed light on this unexpected finding. In this study, participants read a vignette describing a murder case in which either a suspect confessed and then retracted the confession, or an eyewitness provided a statement implicating the suspect and then revoked it. As well, the level of coercion used to obtain the suspect confession/witness statement was manipulated (i.e., high vs. low). As has been previously found, results showed that the level of coercion did not have an impact on verdicts. However, the retracted confession was viewed more harshly than the revoked witness statement. Specifically, in the retracted confession condition, conviction rates, confidence in verdicts, and guilt ratings were higher than in the revoked witness statement condition. These findings suggest that although retracted confessions and witness statements are conceptually similar (i.e., someone provides evidence implicating a suspect and then claims they were pressured to do so), all retracted statements are not viewed equally and the role of the individual revoking the statement is important. In other words, there is something fundamentally different about retracted confessions compared to other types of retracted statements. Thus, it makes sense that an experimental design originally constructed to test the effect of coerced confessions on verdict decisions would not be ideal for use with coerced witness statements. Given the fact that there were no differences in verdicts across any of the conditions in Experiment 3 or 4, along with the fact that the conviction rate was universally low, it is likely that, in line with Bernhard and Miller (2018), a false statement from a witness is simply not viewed the same way as a false confession. Moreover, there was an impact of the presence of influence strategies on participant perceptions of the

police interview with the alibi witness, suggesting that laypeople may view a witness who claims they were pressured into providing a false statement differently than a suspect who claims they were coerced into falsely confessing. It is likely that this has to do with self-interest – that is, it is easier to understand why a witness would implicate another person with a false statement than why a suspect would implicate themselves. However, more research is needed to further investigate this difference.

Another potential explanation for the findings from the two trial simulation studies relates to the type of witness that was targeted. In response to the emergence of anecdotal examples of witnesses being pressured to retract previous alibi corroborations so that their stories align with investigative theories (e.g., *R. v. Morgan*, 2013), it was decided that the witness in this program of research would be presented as an alibi witness. Upon interpretation of the findings from the four studies, however, it has come to light that perhaps alibi witnesses are unique in both their role in a criminal case and the way in which they are viewed. With regards to the former, alibi witnesses provide a unique form of evidence, in that rather than offering direct exculpatory evidence, they instead provide '*secondary proof*' of a suspect's claim about where they were when the crime was committed. Thus, evidence provided by an alibi witness may be considered less influential than direct evidence from a suspect, or even a central eyewitness, which would help to explain the null verdict results found in the final two experiments. The latter assumption, that alibi witnesses may be viewed differently than other witnesses, is dependent on the characteristics of the witness. For example, research has shown that alibi corroborations from individuals with ties to the suspect are less believable than

corroborations from strangers (Olson & Wells, 2004). In court, an alibi corroboration from a non-motivated other has been shown to lead to fewer convictions than does a corroboration from a familiar other (Culhane & Hosch, 2004). In other words, jurors tend to believe alibi witnesses who appear to have no reason to lie about their corroboration and are skeptical about those who may have a vested interest in protecting the suspect (e.g., a friend). Taken together, this suggests that the future study of alibi witnesses must take these considerations into account to ensure that the most appropriate research questions are formulated, and effective research designs are used.

Practical Implications

One key finding from this program of research is that laypeople fail to fully comprehend the coercive potential of implicit positive influence strategies like minimization. Though more research is needed before it can be concluded that minimization can lead to negative outcomes in the courtroom, this preliminary research still suggests that laypeople's knowledge about the risks associated with using minimization is less than ideal. Considering that laypeople may at any time be selected to serve on a jury, this creates cause for concern. To ensure that problematic evidence is being appropriately discounted and proper decisions are being made in the courtroom, it is imperative that triers of fact are properly educated. One way to educate the jury about how to evaluate evidence is through judicial instructions. In general, the impact of instructions given to jurors by a judge on jury decision-making is only modest (Devine et al., 2001), and jurors often have difficulty understanding these instructions (Borstein & Green, 2011), especially when they are not written in plain language (Devine et al., 2001;

Marder, 2006). Even if understanding can be enhanced, that does not always come with an increase in sensitivity when it comes to evaluating evidence (Bornstein & Hamm, 2012). However, one study has found that providing jurors with enhanced instructions that educate them on empirical findings related to false confession sensitizes them to the strength of confession evidence, compared to standard instructions or none at all (O'Donnell & Safer, 2017). More research is warranted in this area, specifically with regards to the impact of jury instructions on evaluating evidence elicited through the use of minimization, as well as disputed evidence provided by witnesses.

Another potential implication of these findings relates to the admissibility of expert testimony, which is one of the most effective ways to educate jurors on a variety of scientific principles (Cutler & Bull Kovera, 2011). For expert testimony to be admissible as evidence, the information provided must be deemed to be necessary to educate the court (*R. v. Mohan*, 1994). Trial simulation studies have shown that educating people about the risks of minimization can result in more appropriate evaluations of interviews involving these strategies (Blandon-Gitlin et al., 2011; Moffa & Platania, 2009; Woestehoff & Meissner, 2016; Woody & Forrest, 2009) and a decrease in guilty verdicts in cases involving coerced statements (Blandon-Gitlin et al., 2011; Gomes et al., 2016; Woody & Forrest, 2009). Experimental research and studies of real-world cases have demonstrated that minimization strategies (1) imply leniency without explicitly offering it, providing a loophole for police (Kassin & McNall, 1991; Luke & Alceste, 2020), (2) increase the rate of false admissions from witnesses (e.g., Loney & Cutler, 2016), and (3) have been used in cases where witnesses provided false information (e.g., *R. v. Morgan*,

2013). Yet, the results of this program of research suggest that the general public do not fully recognize the potential effect of these tactics, despite the fact that they do understand the message conveyed by them. While results from the final two experiments suggested that courtroom decisions such as verdicts do not tend to be impacted by the use of implicit influence strategies to elicit witness statements, which could possibly negate the need for expert testimony on minimization, findings from these studies are tentative and more specialized research is needed before conclusions can be drawn. Thus, until more research is conducted in this area, it can be assumed that expert testimony on the use of implicit influence strategies in witness interviews would be useful.

Granted the above findings revealing the potential for minimization to lead to false or involuntary statements, as well as the body of research supporting the educational benefit of testimony from experts on proper evaluation of evidence, courts in Canada often do not allow expert testimony on minimization because they do not believe that this information constitutes specialized knowledge (e.g., *R. v Leslie*, 2008; also see *R. v. Bonisteel*, 2008; *R. v. Garnier*, 2017; *R v. Ledesma*, 2014; *R. v. Omar*, 2016; *R v. Swampy*, 2015). This goes directly against the advice of experts in the area: when surveyed, only 16% of experts on the psychology of confessions believed that knowledge about minimization strategies is common sense, while over 90% agreed that minimization can lead to involuntary statements and nearly 80% believed there is sufficient reliable empirical evidence on minimization to present in court (Kassin et al., 2018). Without the advice of an expert who is acutely aware of the dangers inherent in using subtle influence strategies such as minimization, triers of fact will be left to their own devices to

determine the probative value of witness statements made following the use of implicit social influence strategies by a police officer; the outcome of this situation would not be ideal. Taken together, these findings indicate that an important next step for researchers in this area is to study the impact of education about minimization strategies on decisions made by triers of fact.

Limitations and Future Directions

Limitations specific to each experiment individually were already discussed in the previous chapters. However, there were several limitations that pertain to this program of research overall. First, though a representative sample of Canadian citizens was obtained for each study, the participant samples differed slightly from the national distribution, particularly in terms of age and education (see Tables 1 & 3). Given the nature of the differences between this sample and the overall population (i.e., this sample was younger and more educated), it is likely this is due to the choice to recruit participants through an online survey platform. Relatedly, as participants were members of the Canadian public who were motivated to take an online survey, the results may not be generalizable to all Canadians. The decision to collect data online was made in part due to the ease of data collection, accessibility of community samples, and ability to obtain a large sample, but was mostly a result of the COVID-19 pandemic and the accompanying restrictions to conducting in-person research. Nevertheless, future studies may benefit from an alternate method of participant recruitment, or at least selective recruitment to ensure a more representative sample.

The results of the final two experiments point to a potential problem with this line of research as a whole: that confession evidence from suspects and evidence provided by witnesses – especially alibi corroborators – are fundamentally different when it comes to their role in a criminal case. Since the only research published to date on the perceptions of the message conveyed by inducements in police interviews was from the suspect domain, the designs of most of the studies in this program of research were based on the suspect literature and adapted to be relevant to witnesses. This was effective when directly studying perceptions of the tactics in isolation (i.e., Experiment 2), but unfortunately, it did not seem to be an effective way to study the actual effect of using influence strategies on witnesses on juror decision-making (i.e., Experiment 3 & 4). However, this is not necessarily a negative finding. Rather, it indicates that a context-specific approach may be necessary to effectively study the issue of social influence in witness interviews, and will hopefully encourage researchers interested in this area to start thinking about creative ways to do so. One potential way to refine this line of research is to focus on the type of witness statement that most closely resembles a confession: an eyewitness account of the suspect committing the crime. A conceptual replication of Experiment 3/4 with manipulations focused on the treatment of an eyewitness who retracted their original statement (instead of an alibi witness) could shed light on the differences between different types of witnesses and the similarities between eyewitness statements and confessions. With regards to statements from alibi witnesses, it may be worthwhile to pivot to a focus on alibi believability; in other words, a study could be designed that would test the effect of the use of influence strategies in an

interview with an alibi witness on both the believability of the suspect's alibi and of the witness. In doing so, the role of influence strategies in impacting layperson perceptions of alibi corroborations can be truly ascertained.

Once an effective research design is established, and the findings from this program of research are replicated and extended, future studies in this area should test different types of witness influence strategies (e.g., maximization, evidence bluffs) to examine the limits of understanding and acceptance among laypeople. As well, although laboratory studies have shown that minimization can increase the false confession rate among *suspects*, there is no empirical research specifically linking minimization with negative outcomes in *witnesses*. Thus, it is important for future studies to be conducted that experimentally test the effect of various forms of minimization, alone or in combination, on witness admissions, to shed light on the potential dangers of implicit influence strategies in this context. As has been seen with the current program of research, it may also be the case that existing research paradigms used to examine the effect of various influence strategies on confession rates (e.g., Russano et al., 2005) may not be effective when it comes to testing the effect of such strategies on witness statements. One study testing the impact of an accusatorial interview on witness admissions has been conducted (Loney & Cutler, 2016), but findings are tentative and replications are needed to confirm the effectiveness of the paradigm used. Thus, the development of a novel paradigm – or alternatively, the refinement of an existing paradigm – that can be used to test the impact of influence strategies on the elicitation of true and false witness statements is another worthwhile research endeavor.

Concluding Thoughts

Social influence is an extremely powerful, yet often underappreciated, phenomenon. Sometimes, the power of social influence is used for good, like when government agencies use the concept of nudging to encourage citizens to opt-in to organ donation or celebrities use their platforms to encourage their fans to donate to important causes. However, like any powerful force, social influence can be used for nefarious purposes as well; the Milgram obedience experiments and the event that inspired the study, the Holocaust, come to mind as extreme examples (Milgram, 1974). Generally, though, most uses of social influence fall somewhere in between. In many cases, the use of social influence has the power to be good or bad, depending on the specific context and circumstances in which it is used.

As described throughout this research, a setting that fits the latter description is that of police interviewing. While making use of certain influence strategies in police interviews may help to develop rapport and foster a relationship between interviewer and interviewee, other strategies aimed at eliciting desired information may, in certain circumstances, lead to involuntary compliance and false statements. What is more, while these strategies are proven to be capable of resulting in these negative outcomes, social psychological research on attribution biases suggest that laypeople do not fully recognize their potential. As found in previous research, the findings from the current experiments indicate that laypeople are particularly unaware of the risks associated with using implicit positive interview strategies like minimization in witness interviews, even though they are aware of the fact that these strategies convey a message of leniency.

Although it remains to be seen whether the use of implicit influence strategies on witnesses impacts verdicts or other courtroom outcomes, the other findings from this program of research serve as a starting point to indicate that the issue of influencing witnesses to comply is a worthwhile area of study and that research on the value of educating jurors on this issue is warranted. Importantly, the knowledge that using implicit influence strategies in witness interviews is not viewed negatively by the general public, despite the fact that emerging evidence suggests that they increase false witness admission rates, suggests that caution must be taken when using such strategies in witness interviews. Failure to understand the risks associated with social influence strategies in the interview room could cause a witness to fall victim to a coercive investigator and provide false information, or could cause a jury member to convict a defendant based on false witness testimony. Thankfully for Eric Morgan, the defendant in the case that inspired this program of research, a judge eventually recognized the problems inherent in the overt tactics used against the witnesses in his case and instructed the jury to acquit him (Moore et al., 2014). However, defendants in other cases that are either currently being adjudicated or have slipped through the cracks of the criminal justice system may not be so lucky. Reform in the administration of justice begins with a clearer understanding of the social science underlying the dynamics of police interviews and using this knowledge to inform critical decisions made by all involved parties at all levels of the justice system. More broadly, as social psychology researchers, it is our duty to identify situations in which psychological forces such as social influence are functioning in a problematic manner. Once these situations are identified, the next step is

to advocate for change. In doing so, we can ensure fairness, equality, and justice in the legal system and beyond.

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Table 1

Breakdown of Participants by Demographic Variables (Experiment 1; N = 293)

Demographic Variable	Percentage
Gender [a]	
Male	52.2%
Female	46.8%
Non-binary	0.7%
Age [b]	
18-24	24.2%
25-34	45.1%
35-44	20.5%
45-54	4.4%
55-64	4.8%
65-74	0.7%
Race [c]	
Native	0.3%
Asian	21.8%
Black/African American	2.0%
Hispanic/Latino	1.7%
White	69.3%
Other	6.5%
Level of Education [d]	

Some high school	1.0%
High school	10.9%
Some post-secondary	13.3%
Diploma/certificate	14.0%
Bachelor's degree	47.1%
Graduate degree	12.3%
Professional degree	1.4%

[a] Canadian census data from 2016 (*N* = 35,151,730) reported that 50.9% of respondents were female and 49.1% were male. This nearly-even split was also seen in our sample (Statistics Canada, 2017).

[b] Canadian census data from 2016 (*N* = 35,151,730) reported the following breakdown of respondents by age: 15-24 (12.1%), 25-34 (13.1%), 35-44 (13.0%). 45-54 (14.3%), 55-64 (14.0%), 65-74 (9.65%). Compared to the general population, which is relatively evenly distributed by age, our sample was heavily overrepresented by younger adults (18-44). This is likely due to the fact that the survey was online and that participants had to be a part of an online survey platform to take part (Statistics Canada, 2017).

[c] Data on race was not included in the Canadian census. However, it was reported that 22.2% of respondents (*N* = 34,460,065) identified as visible minorities (i.e., individuals who are not white or Aboriginal). In our sample, 30.0% of participants chose a race that was not white or Aboriginal, which is relatively similar to the wider Canadian sample (Statistics Canada, 2017).

[d] Canadian census data from 2016 (*N* = 28,643,015) reported the following about educational attainment: 55.3% of respondents reported completing some sort of post-secondary (vs. 74.8% in our sample), 26.5% completed high school (vs. 24.2%), and 18.3% completed no formal

education (vs. 1.0%). Our sample was slightly more educated than the general population in Canada, with the main difference being that more participants in our study completed some form of post-secondary education than those in the general population, while fewer participants in our study completed no education compared to the Canadian population (Statistics Canada, 2017).

Table 2

Mean Question Responses as a Function of Transcript Type (Experiment 1)

Question	Transcript Type		
	Neutral (n = 103)	Minimization (n = 91)	Threat (n = 99)
Section 1: Answer the following questions about the exchange between the interviewer and witness.			
1. Level of coercion	2.73 (1.03)	3.45 (1.20)	4.16 (0.89)
2. Level of pressure exerted on witness	2.67 (1.03)	3.59 (1.12)	4.29 (0.63)
3. Effectiveness for information gathering	3.06 (1.09)	3.52 (0.92)	3.23 (1.23)
4. Consequences of not providing information	2.41 (1.13)	2.20 (1.04)	3.66 (1.12)
Section 2: Responding as though you were the witness, rate the extent of agreement with the following statements.			
1. Feel scared	3.39 (1.11)	3.42 (1.09)	4.31 (0.84)
2. Feel respected (RC)	3.02 (0.87)	3.08 (0.96)	4.05 (0.99)
3. Feel in control (RC)	3.54 (0.93)	3.37 (0.98)	4.32 (0.88)
4. Feel pressured	3.77 (0.84)	4.10 (0.90)	4.67 (0.80)
5. Feel like I should cooperate	3.87 (0.99)	3.26 (0.92)	3.34 (1.23)
6. Feel positive toward interviewer (RC)	3.13 (0.88)	3.33 (1.04)	4.18 (0.96)

Section 2 composite (Q 1, 2, 3, 4, 6)	3.37 (0.69)	3.56 (0.65)	4.26 (0.63)

Table 3

Breakdown of Participants by Demographic Variables (Experiment 2, 3, & 4)

Demographic Variable	Percentage		
	Experiment 2 (*N* = 293)	Experiment 3 (*N* = 286)	Experiment 4 (*N* = 286)
Gender [a]			
Male	49.5%	52.4%	47.2%
Female	50.5%	46.5%	51.4%
Non-binary	--	1.0%	1.1%
Agender	--	--	0.4%
Age [b]			
Below 20	6.1%	4.5%	7.3%
20-29	45.7%	40.6%	38.1%
30-39	30.4%	33.9%	33.6%
40-49	11.6%	11.9%	11.9%
50-59	4.1%	5.2%	4.9%
60-69	2.0%	3.1%	3.8%
70+	--	0.7%	0.3%
Race [c]			
Indigenous/Aboriginal	--	1.4%	3.5%
Asian	--	28.7%	28.0%
Black/African	--	5.6%	3.8%
Hispanic/Latino	--	1.0%	2.4%
Middle Eastern	--	1.7%	1.7%

White	--	63.6%	61.2%
South/Southeast Asian	--	1.0%	2.8%
Caribbean	--	--	0.3%
Mixed/Biracial	--	0.7%	1.4%
Level of Education [d]			
Some high school	1.4%	1.4%	1.7%
High school	6.1%	7.7%	8.0%
Some post-secondary	16.7%	18.6%	17.8%
Diploma/certificate	11.6%	12.3%	13.6%
Bachelor's degree	43.7%	44.2%	42.7%
Graduate degree	16.4%	11.6%	13.3%
Professional degree	4.1%	4.2%	2.8%
Province of Residence [e]			
Alberta	10.9%	13.4%	12.6%
British Columbia	15.0%	15.5%	18.5%
Manitoba	4.1%	4.6%	6.3%
New Brunswick	1.7%	1.8%	2.1%
Newfoundland and Labrador	1.0%	2.1%	1.7%
Nova Scotia	3.1%	2.5%	3.1%
Ontario	54.6%	53.9%	49.0%
Prince Edward Island	0.3%	0.4%	--
Quebec	8.5%	5.6%	2.8%
Saskatchewan	0.7%	0.4%	3.5%

[a] Canadian census data from 2016 (*N* = 35,151,730) reported that 50.9% of respondents were female and 49.1% were male. This nearly-even split was also seen in the samples across all three experiments (Statistics Canada, 2017).

[b] Canadian census data from 2016 (*N* = 35,151,730) reported the following breakdown of respondents by age: 15-24 (12.1%), 25-34 (13.1%), 35-44 (13.0%). 45-54 (14.3%), 55-64 (14.0%), 65-74 (9.65%). Compared to the general population, which is relatively evenly distributed by age, the samples for all three experiments were heavily overrepresented by younger adults (<39). This is likely due to the fact that the survey was online and that participants had to be a part of an online survey platform to take part (Statistics Canada, 2017).

[c] Data on race was not included in the Canadian census. However, it was reported that 22.2% of respondents (*N* = 34,460,065) identified as visible minorities (i.e., individuals who are not white or Aboriginal). In Experiment 3 and 4, an average of 40% of participants chose a race that was not white or Aboriginal, which means that the current participant samples are slightly over-representative of minorities compared to the wider Canadian sample (Statistics Canada, 2017).

[d] Canadian census data from 2016 (*N* = 28,643,015) reported the following about educational attainment: 55.3% of respondents reported completing some sort of post, 26.5% completed high school, and 18.3% completed no formal education. Respondent samples across all three experiments were more educated than the general population in Canada, with the main difference being that more participants in these experiments completed some form of post-secondary education than those in the general population, while fewer participants completed no education compared to the Canadian population (Statistics Canada, 2017).

[e] Canadian census data from 2016 (*N* = 28,344,905) reported the following about current province/territory of residence: Alberta: 11.2%, British Columbia: 13.5%, Manitoba: 3.5%, New

Brunswick: 2.2%, Newfoundland and Labrador: 1.5%, Northwest Territories: 0.1%, Nova Scotia: 2.7%, Nunavut: 0.1%, Ontario: 38.5%, Prince Edward Island: 0.4%, Quebec: 23.2%, Saskatchewan: 3.0%, Yukon: 0.1%. The proportion of participants living in each province across all experiments was similar to the actual population proportions, with the exception of more participants living in Ontario and fewer in Quebec than would be expected.

Table 4

Frequencies of Responses to Where Participants Heard About Strategy as a Function of Police Strategy Type (N = 191; Experiment 2)

	Control	Explicit Leniency	Minimizing Seriousness	Face Saving Excuses	Downplaying Consequences	Emphasizing Benefits of Cooperation	Threat	TOTAL
News source	0	3 (9.7%)	1 (3.7%)	1 (4.5%)	1 (3.3%)	0	1 (3.2%)	7
True crime documentary/ podcast	9 (42.9%)	8 (25.8%)	10 (37.0%)	8 (36.4%)	12 (40.0%)	18 (62.1%)	13 (41.9%)	78
Fictional TV/movie	12 (57.1%)	17 (54.8%)	16 (59.3%)	11 (50.0%)	14 (46.7%)	9 (31.0%)	14 (45.2%)	93
Friend/ family	0	1 (3.2%)	0	0	2 (6.7%)	1 (3.4%)	2 (6.5%)	6
Personal experience	0	0	0	0	1 (3.3%)	1 (3.4%)	1 (3.2%)	3
Online videos	0	0	0	2 (9.1%)	0	0	0	2
Multiple responses	0	2 (6.5%)	0	0	0	0	0	2
TOTAL	21	31	27	22	30	29	31	

Table 5

Mean Participant Ratings of Respect, Appropriateness, and Comfort by Police Tactic Type (Experiment 2)

	Respect		Appropriateness		Comfort	
	M	**SD**	**M**	**SD**	**M**	**SD**
Threat (T; *n* = 42)	3.55	1.47	2.61	0.83	1.64	0.93
Leniency (L; *n* = 41)	5.32	1.90	3.01	1.02	2.20	1.12
Minimizing Seriousness (MS; *n* = 42)	5.43	1.91	3.28	0.96	2.52	1.27
Face-Saving Excuses (FS; *n* = 43)	5.63	1.70	3.60	1.03	2.72	1.28
Downplaying Consequences (DC; *n* = 43)	5.95	1.25	3.19	0.78	2.63	1.13
Emphasizing Benefits (EB; *n* = 43)	4.47	1.83	3.27	1.05	2.37	1.13
Control (C; *n* = 39)	5.87	1.23	4.20	0.84	3.46	1.12
F	11.72		11.27		9.39	
MSE	2.70		0.88		1.32	
p	<.001		<.001		<.001	
η^2	.198		.192		.165	
d (T & L)	1.05		0.43		0.55	
d (T & MS)	1.10		0.75		0.79	
d (T & FS)	1.31		1.06		0.96	
d (T & DC)	1.76		0.71		0.96	
d (T & EB)	0.55		0.70		0.70	
d (T & C)	1.70		1.91		1.77	
d (L & MS)	0.06		0.27		0.27	

d (L & FS)	0.17	0.58	0.43
d (L & DC)	0.40	0.20	0.38
d (L & EB)	0.46	0.25	0.15
d (L & C)	0.34	1.27	1.13
d (MS & FS)	0.11	0.32	0.16
d (MS & DC)	0.32	0.10	0.09
d (MS & EB)	0.51	0.01	0.13
d (MS & C)	0.27	1.02	0.78
d (FS & DC)	0.21	0.45	0.08
d (FS & EB)	0.66	0.32	0.29
d (FS & C)	0.16	0.64	0.61
d (DC & EB)	0.94	0.09	0.23
d (DC & C)	0.06	1.25	0.74
d (EB & C)	0.89	0.97	0.97

Table 6

Importance of witness testimony and lawyer statements as a function of condition and verdict (Experiment 3)

		Cst. Joseph Collins (Interviewer)		Dr. Janice Stevens		Cst. Carl Walsh (Technical Expert)		Sonya Green (eyewitness)		Sam Davis (alibi witness)		Crown Opening		Defense Opening		Crown Closing		Defense Closing	
Condition	***Verdict***	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**
Threat	**Guilty**	4.17	0.75	4.17	1.17	4.67	0.52	3.67	1.37	3.67	0.42	4.00	0.63	3.50	0.84	3.83	1.17	3.50	1.05
	Not Guilty	3.81	0.86	2.93	1.18	3.60	1.06	3.95	1.10	4.19	1.09	3.24	1.08	3.67	1.10	3.31	1.12	3.86	1.12
	Overall	3.85	0.85	3.08	1.24	3.73	1.07	3.92	1.13	4.13	1.12	3.33	1.06	3.65	1.06	3.38	1.12	3.81	1.10
Explicit Leniency	**Guilty**	4.33	0.52	3.17	0.75	4.50	0.55	4.50	0.84	4.17	1.33	4.50	0.55	4.33	0.82	4.67	0.52	4.67	0.52
	Not Guilty	3.60	0.98	2.70	1.22	3.58	1.04	3.65	1.37	4.10	1.19	3.47	0.91	3.62	1.04	3.30	0.97	3.67	1.00
	Overall	3.70	0.96	2.76	1.18	3.70	1.03	3.76	1.34	4.11	1.20	3.61	0.93	3.72	0.98	3.48	1.03	3.80	1.00
Unprompted	**Guilty**	3.90	0.57	3.90	1.29	4.70	0.48	4.70	0.68	4.30	1.06	3.90	1.10	3.60	1.08	4.00	1.16	3.70	1.06

	Not Guilty	3.76	1.09	3.05	1.35	3.86	0.95	4.03	1.12	4.38	0.89	3.03	1.24	3.62	1.04	3.22	1.03	3.68	1.08
	Overall	3.79	1.00	3.23	1.37	4.04	0.93	4.17	1.07	4.36	0.92	3.21	1.25	3.62	1.03	3.38	1.10	3.68	1.07
No Change	**Guilty**	3.33	1.50	3.11	1.17	4.11	1.27	3.44	1.42	3.11	1.17	3.67	1.41	3.33	1.41	3.89	1.17	3.67	1.12
	Not Guilty	3.59	1.09	2.86	1.16	3.72	1.00	4.41	0.73	4.14	0.83	3.24	1.22	3.52	1.18	3.55	1.21	3.90	1.18
	Overall	3.53	1.18	2.92	1.15	3.82	1.06	4.18	1.01	3.89	1.01	3.34	1.26	3.47	1.22	3.63	1.20	3.84	1.15
Low-Level Minimization	**Guilty**	4.30	0.68	2.90	0.88	4.60	0.52	4.20	0.79	4.30	0.82	3.10	0.99	2.90	0.99	3.50	0.85	3.50	0.85
	Not Guilty	3.74	0.92	2.87	1.23	4.03	0.82	4.13	0.99	4.29	0.96	3.29	1.14	3.63	1.13	3.58	1.06	4.00	1.16
	Overall	3.85	0.90	2.88	1.16	4.15	0.80	4.15	0.95	4.29	0.92	3.25	1.10	3.48	1.13	3.56	1.01	3.90	1.12
High-Level Minimization	**Guilty**	4.13	0.64	3.50	1.41	5.00	0.00	4.25	0.71	4.38	0.52	2.88	0.99	2.88	0.99	3.88	1.25	3.50	1.41
	Not Guilty	3.89	0.75	2.87	1.20	4.02	0.72	4.16	1.00	4.20	1.01	3.18	1.11	3.38	0.98	3.38	0.89	3.80	0.79

	Overall	3.92	0.73	2.96	1.24	4.17	0.75	4.17	0.96	4.23	0.95	3.13	1.09	3.30	0.99	3.45	0.95	3.75	0.90
Total	**Guilty**	4.00	0.89	3.43	1.17	4.59	0.71	4.14	1.04	4.00	1.20	3.61	1.12	3.37	1.11	3.92	1.06	3.71	1.06
	Not Guilty	3.74	0.94	2.88	1.22	3.81	0.94	4.04	1.09	4.22	1.01	3.24	1.11	3.57	1.06	3.38	1.04	3.81	1.05
	Overall	3.79	0.93	2.98	1.23	3.94	0.95	4.06	1.08	4.18	1.03	3.31	1.12	3.54	1.07	3.48	1.06	3.80	1.05

Table 7

Importance of witness testimony and lawyer statements as a function of condition and verdict (Experiment 4)

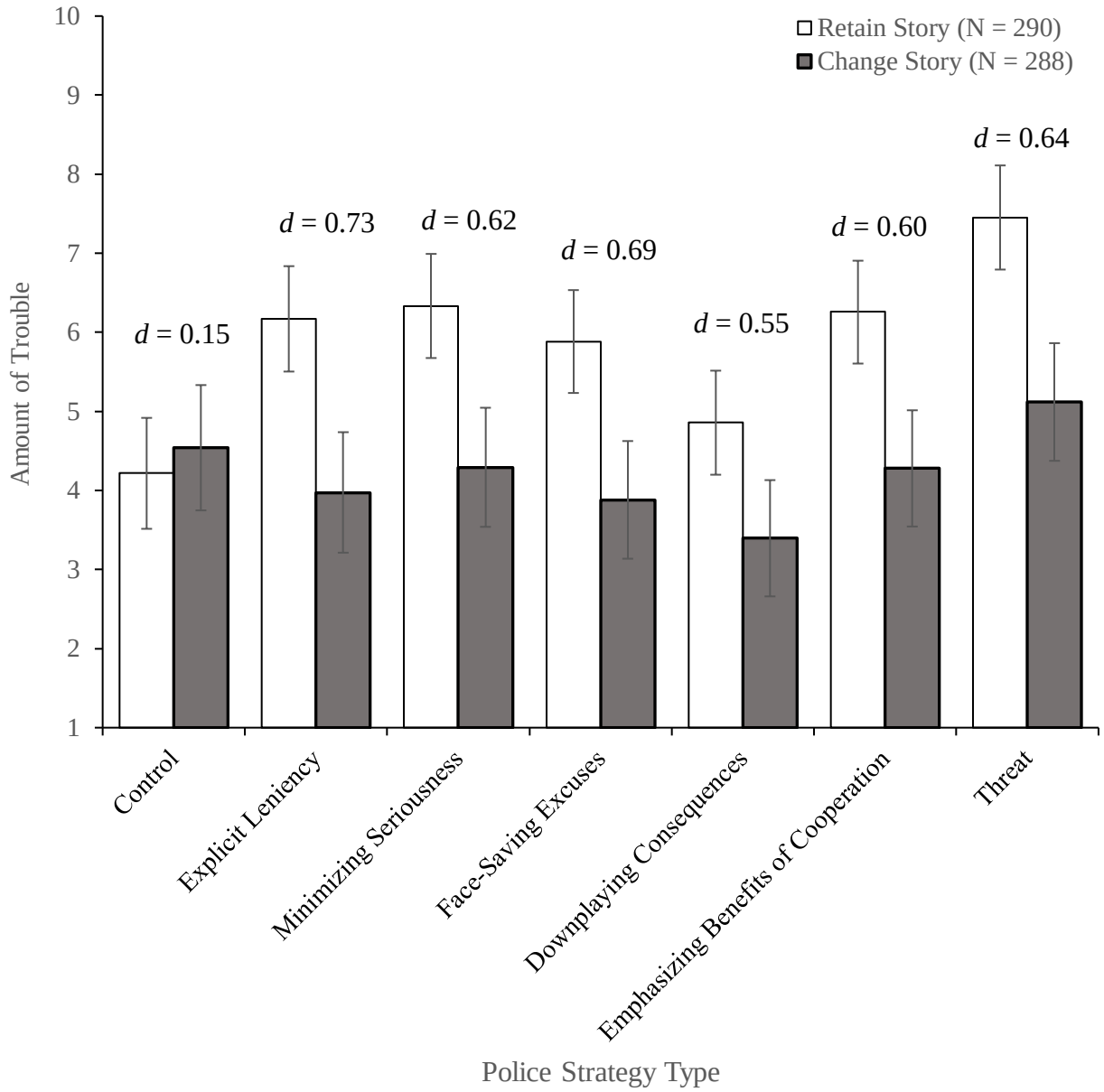
		Cst. Joseph Collins (Interviewer)		Dr. Janice Stevens (Forensic Identification Expert)		Cst. Carl Walsh (Technical Expert)		Sonya Green (Eyewitness)		Sam Davis (Alibi witness)		Crown Opening		Defense Opening		Crown Closing		Defense Closing	
Condition	***Verdict***	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**	**M**	**SD**
Threat	**Guilty**	4.00	1.07	1.07	3.75	4.75	0.46	3.88	1.25	3.88	1.25	3.75	0.89	3.38	0.92	3.63	1.19	3.38	1.06
	Not Guilty	3.81	0.86	0.86	2.93	3.60	1.06	3.95	1.10	4.19	1.09	3.24	1.08	3.67	1.10	3.31	1.12	3.86	1.12
	Overall	3.90	0.96	3.98	0.99	4.06	0.99	3.71	1.29	4.08	0.98	3.47	1.16	3.59	1.10	3.80	1.17	3.98	1.13
Explicit Leniency	**Guilty**	4.29	0.49	0.49	3.14	4.57	0.54	4.29	0.95	4.29	1.25	4.43	0.54	4.14	0.90	4.57	0.54	4.43	0.79
	Not Guilty	3.61	0.97	0.97	2.73	3.59	1.02	3.63	1.36	4.10	1.18	3.51	0.93	3.66	0.99	3.34	0.99	3.71	1.01

	Overall	4.08	0.78	3.78	1.28	3.90	0.97	3.78	1.02	4.06	0.94	3.40	1.23	3.48	1.17	3.60	1.05	3.90	1.11
Unprompted	**Guilty**	3.90	0.57	0.57	3.90	4.70	0.48	4.70	0.68	4.30	1.06	3.90	1.10	3.60	1.08	4.00	1.16	3.70	1.06
	Not Guilty	3.69	1.15	1.15	3.03	3.85	0.93	3.95	1.19	4.31	1.03	3.03	1.29	3.56	1.10	3.21	1.11	3.64	1.16
	Overall	4.00	0.90	3.91	1.13	4.16	0.84	3.86	1.27	4.33	0.97	3.60	1.28	3.74	1.14	3.72	1.12	3.86	1.13
No Change	**Guilty**	3.42	1.31	1.31	3.17	4.33	1.16	3.58	1.31	3.17	1.03	3.75	1.29	3.33	1.23	4.00	1.13	3.58	1.00
	Not Guilty	3.58	1.06	1.06	2.94	3.74	0.70	4.35	0.76	4.10	0.83	3.26	1.18	3.52	1.15	3.58	1.21	3.90	1.17
	Overall	3.76	0.86	3.92	1.15	4.10	0.99	3.69	1.24	3.53	1.21	3.33	1.18	3.41	1.04	3.65	1.11	3.71	1.12
Low-Level Minimization	**Guilty**	4.27	0.65	0.65	3.00	4.55	0.52	4.27	0.79	4.27	0.79	3.27	1.1	3.00	1.00	3.55	0.82	3.64	0.92
	Not Guilty	3.74	0.92	0.92	2.87	4.03	0.82	4.13	0.99	4.29	0.96	3.29	1.14	3.63	1.13	3.58	1.06	4.00	1.16

	Overall	3.86	1.10	4.05	1.13	3.95	1.11	3.74	1.20	4.05	1.11	3.53	1.16	3.56	1.18	3.81	1.08	3.81	1.12
High-Level Minimization	**Guilty**	4.13	0.64	0.64	3.50	5.00	0	4.25	0.71	4.38	0.52	2.88	0.99	2.88	0.99	3.88	1.25	3.50	1.41
	Not Guilty	3.89	0.74	0.74	2.83	4.02	0.72	4.15	0.99	4.22	1.01	3.17	1.10	3.39	0.98	3.37	0.88	3.83	0.80
	Overall	3.98	0.97	4.02	1.06	4.00	0.93	3.80	1.12	4.11	0.98	3.71	1.18	3.71	1.14	3.87	1.25	4.00	1.02
Total	**Guilty**	3.96	0.89	0.89	3.39	4.63	0.68	4.14	1.02	4.00	1.06	3.64	1.10	3.36	1.07	3.91	1.05	3.68	1.05
	Not Guilty	3.73	0.95	0.95	2.88	3.81	0.93	4.02	1.10	4.20	1.02	3.25	1.12	3.57	1.06	3.39	1.05	3.82	1.06
	Overall	3.93	0.93	3.94	1.12	4.03	0.97	3.76	1.18	4.01	1.06	3.50	1.19	3.58	1.12	3.74	1.13	3.88	1.10

Figure 1

Mean ratings of amount of trouble for the witness if he retained or changed his story as a function of police strategy type (Experiment 2)



Note. Measures of effect size (i.e., Cohen's *d*) presented represent the size of effect between retaining or changing story for each strategy condition.

Figure 2

Proportion of respondents who agreed that the police interviewer offered leniency and threatened the witness as a function of police strategy type (Experiment 2)

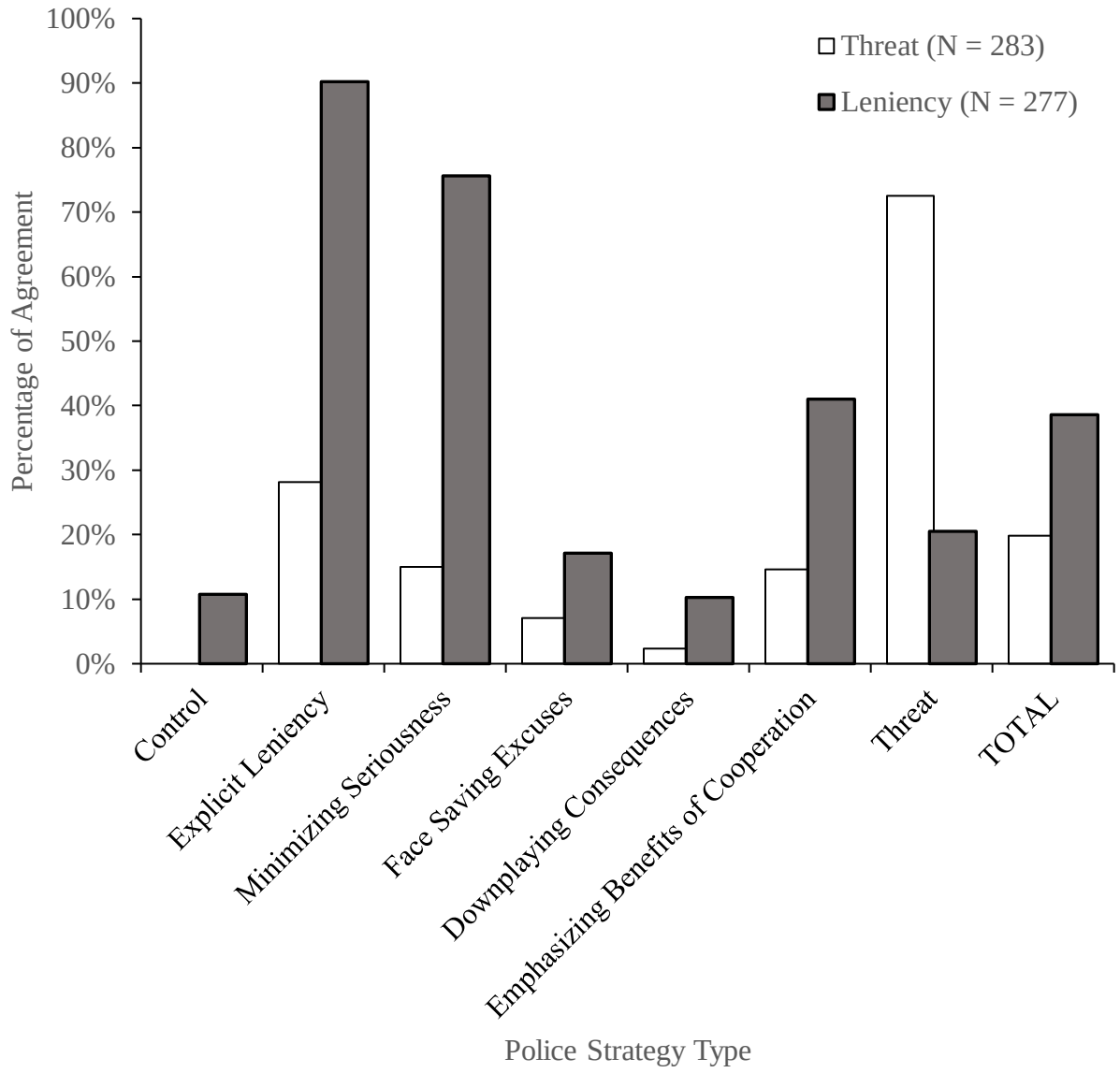


Figure 3

Proportions of responses to whether police are allowed to use the strategy as a function of police strategy type (N = 292; Experiment 2)

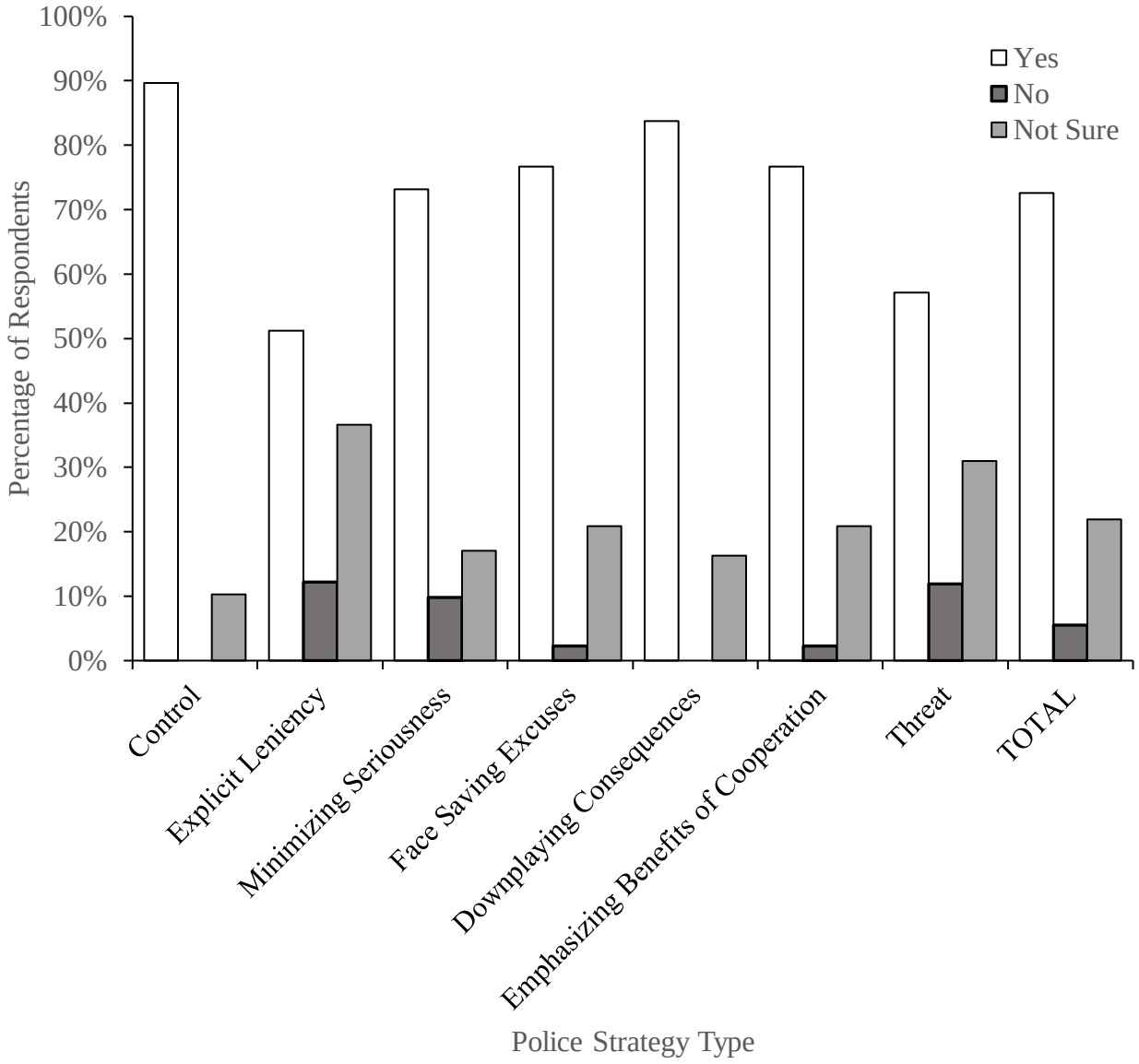


Figure 4

Ratings of the likelihood of suspect's guilt as a function of condition (Experiment 3)

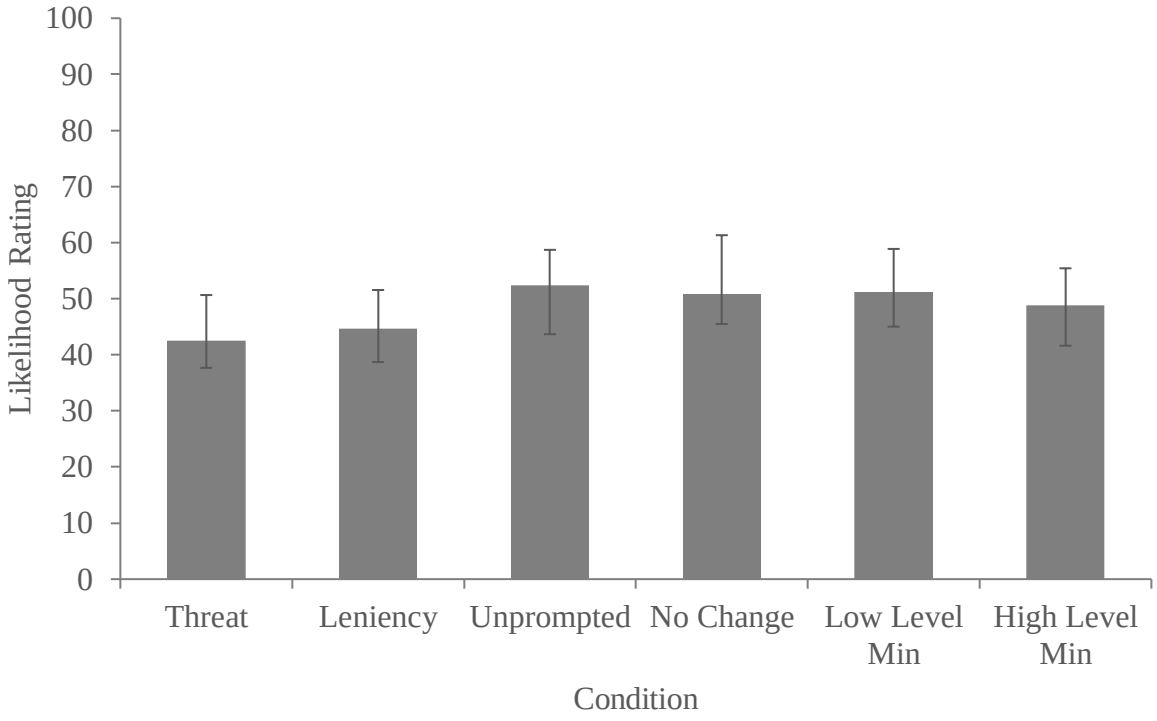


Figure 5

Conviction rate as a function of condition (Experiment 3)

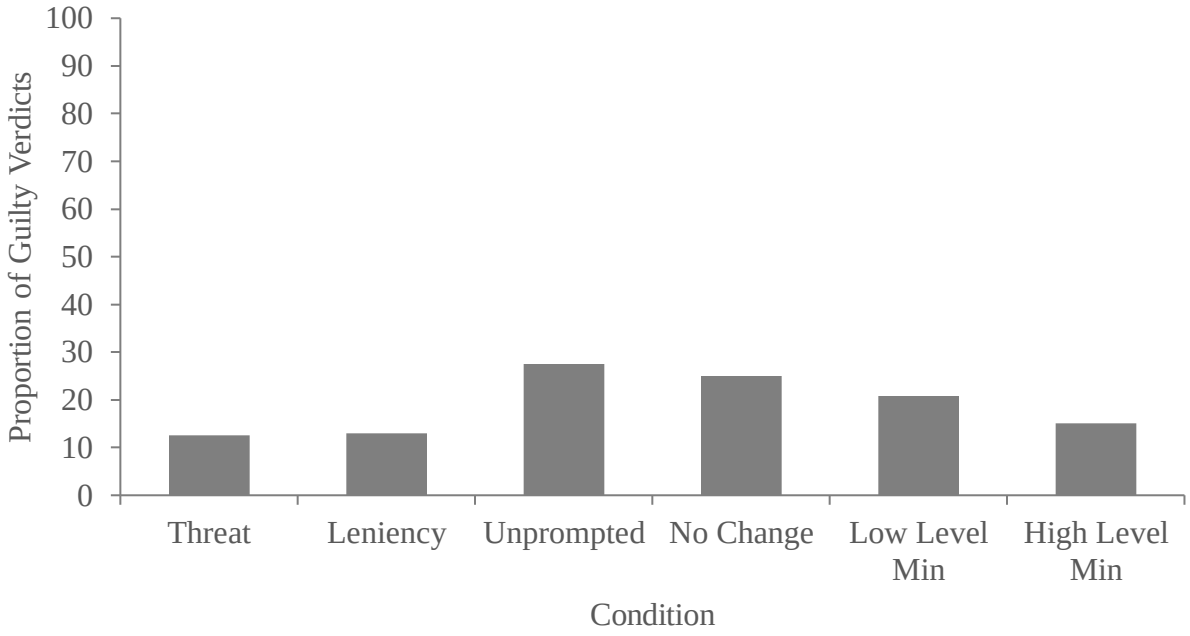
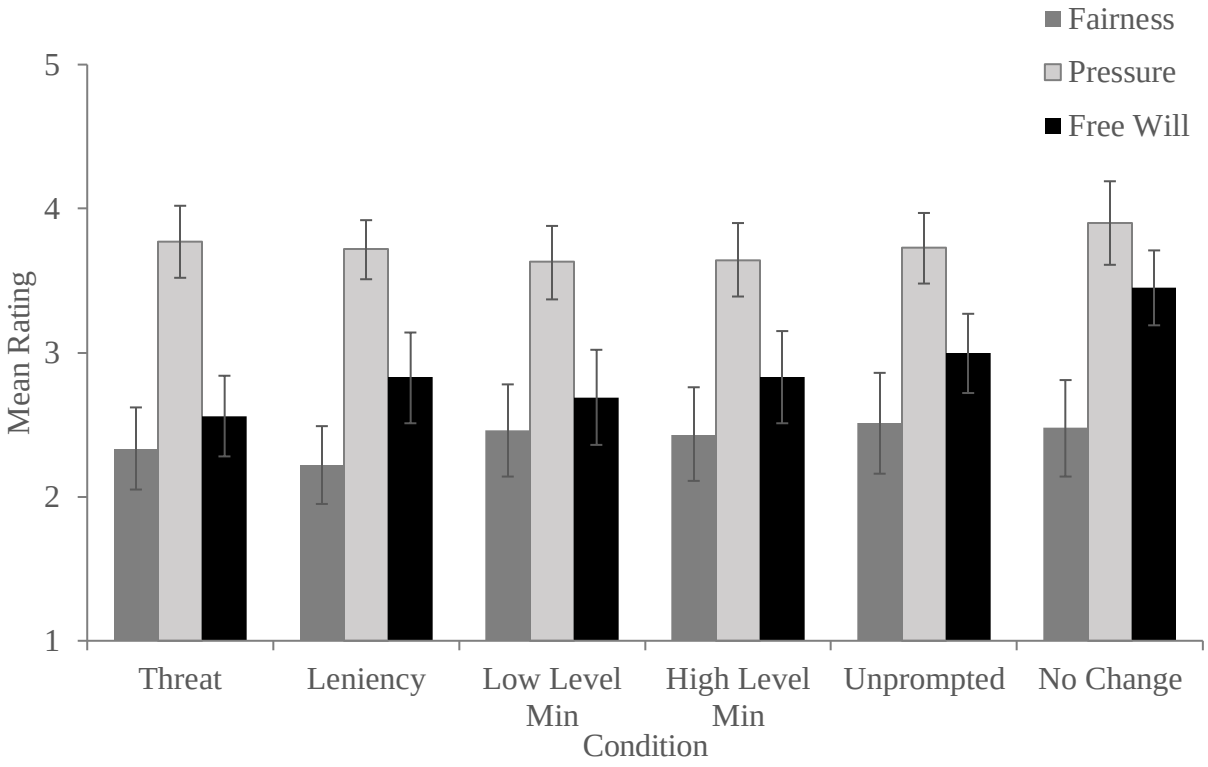


Figure 6

Mean perceptions of the fairness, pressure, and witness' free will as a function of condition (Experiment 3)



NOTE: Each variable was rated using a slightly different 5-point scale. Fairness: *1 = extremely unfair, 5 = extremely fair*. Pressure: *1 = no pressure at all, 5 = an extreme amount of pressure*. Free will: *1 = strongly disagree, 5 = strongly agree.*

Figure 7

Mean level of agreement with the presence of leniency and threats as a function of condition (Experiment 3)

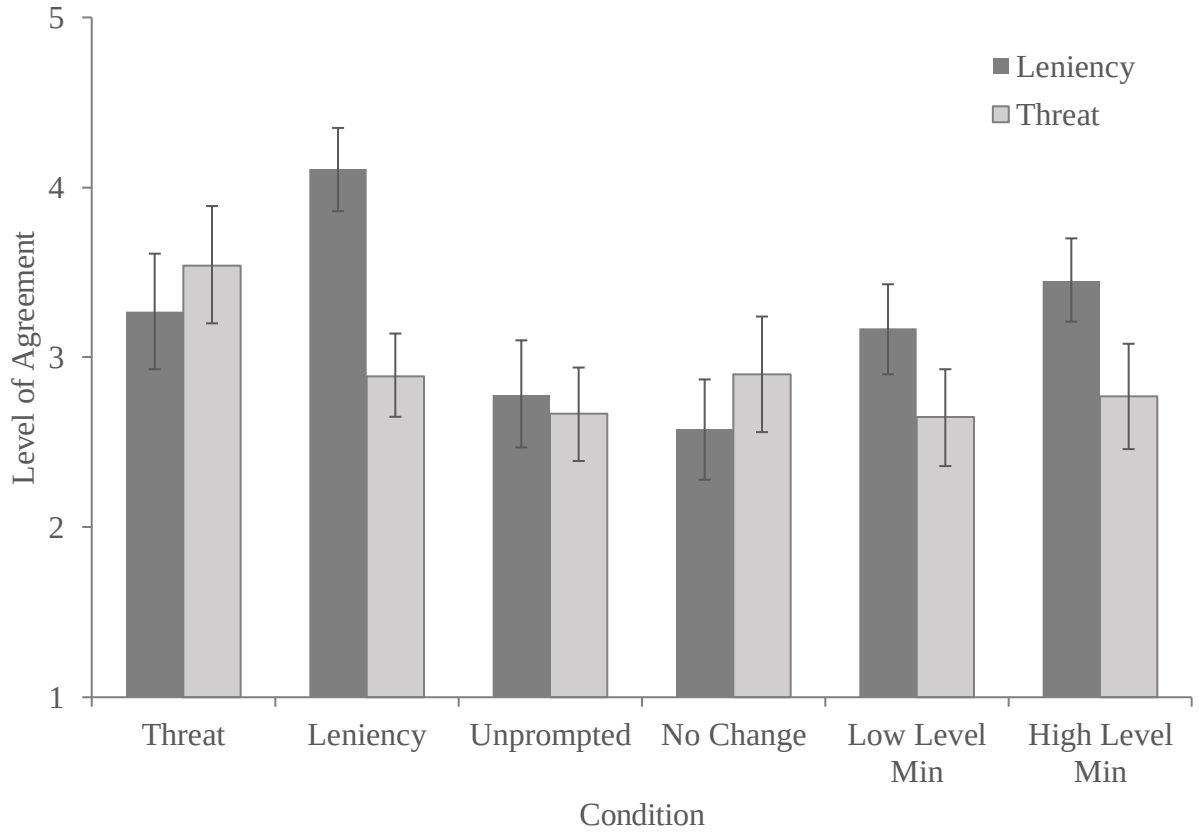


Figure 8

Ratings of the likelihood of suspect's guilt as a function of condition (Experiment 4)

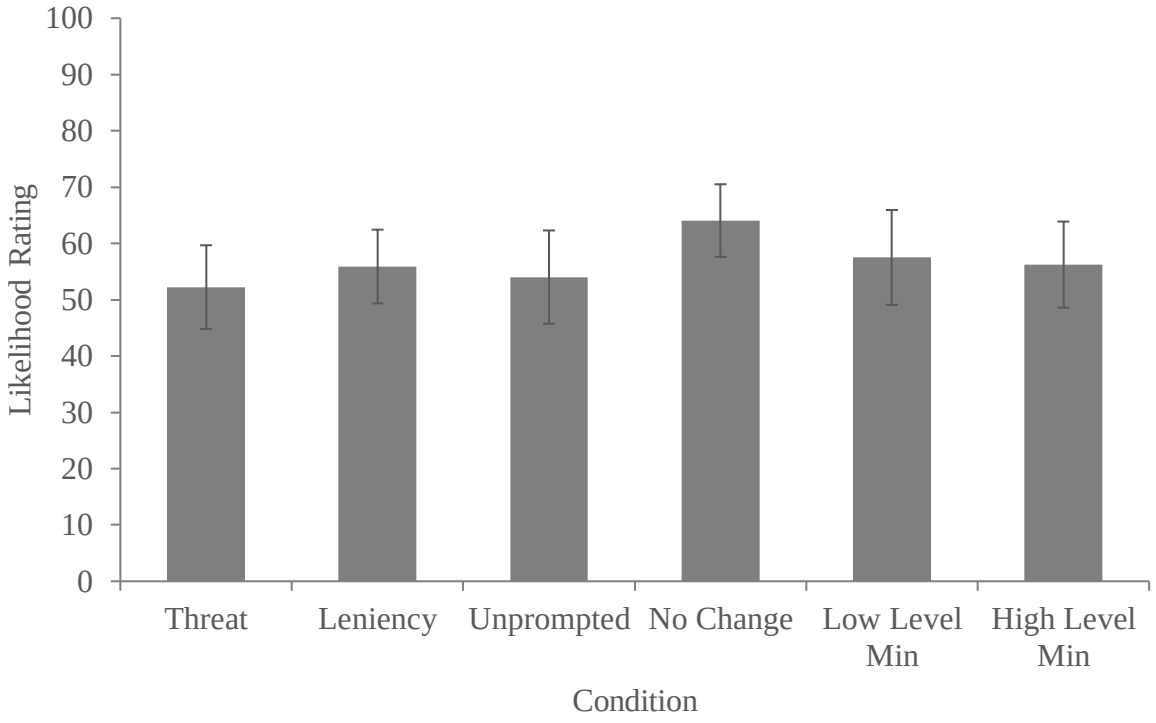


Figure 9

Conviction rate as a function of condition (Experiment 4)

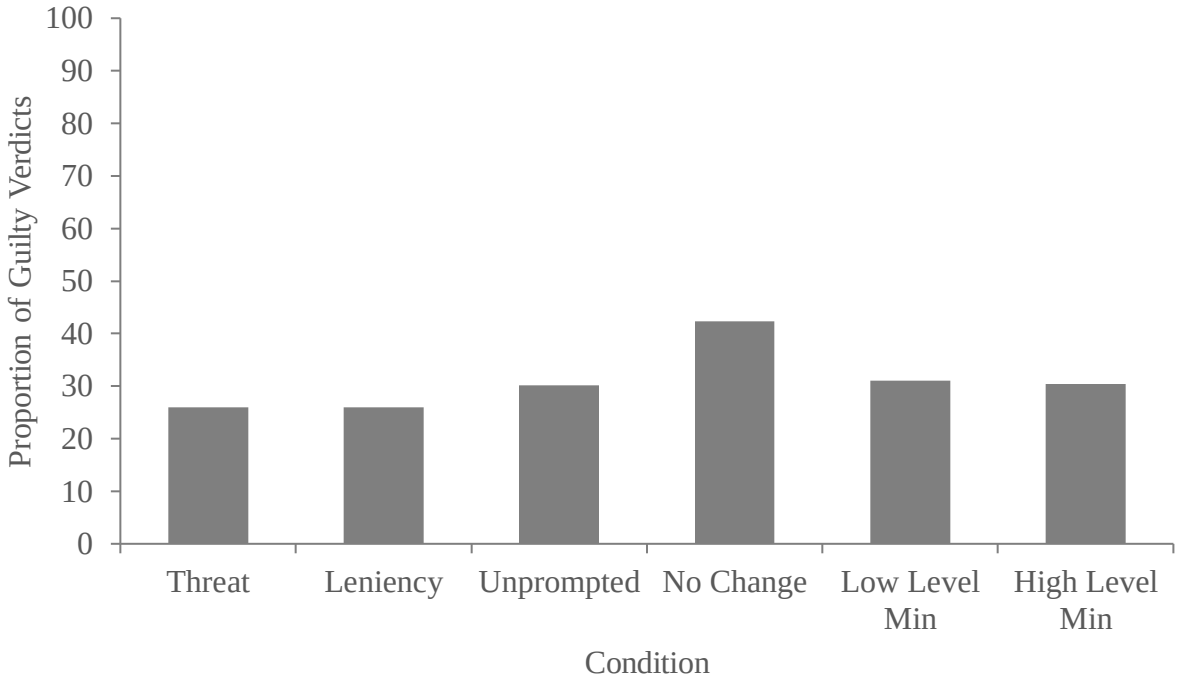
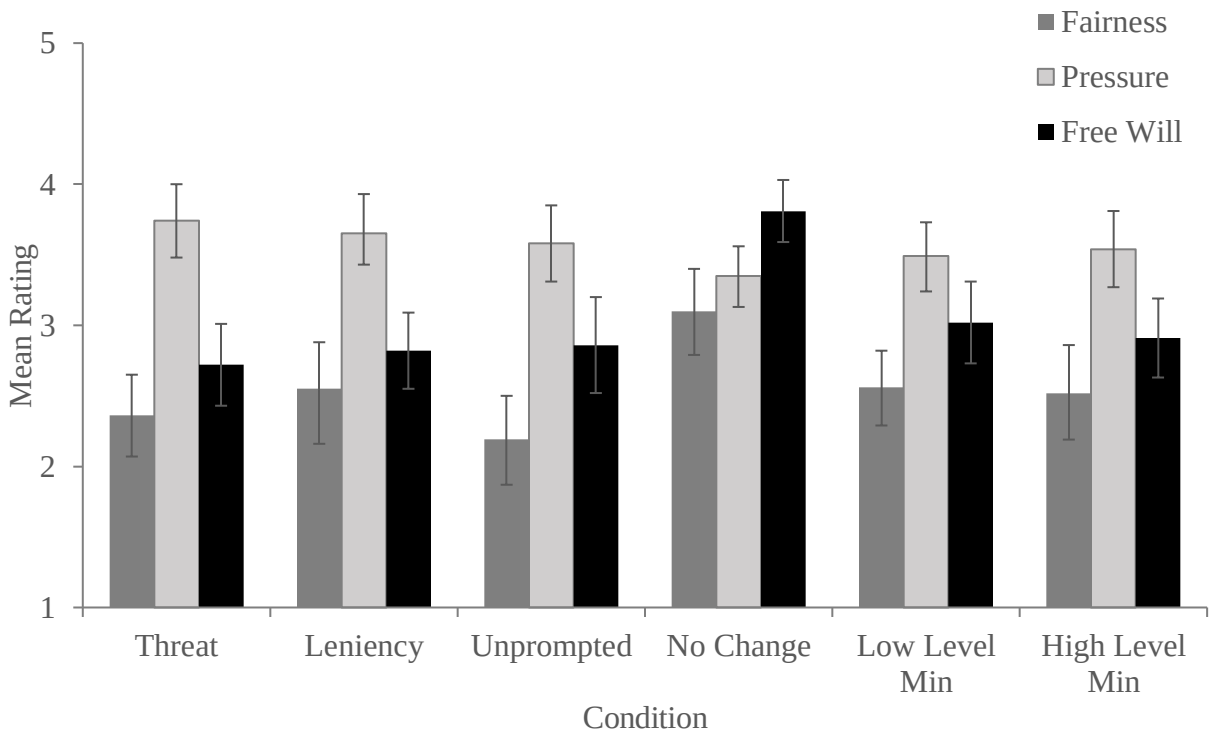


Figure 10

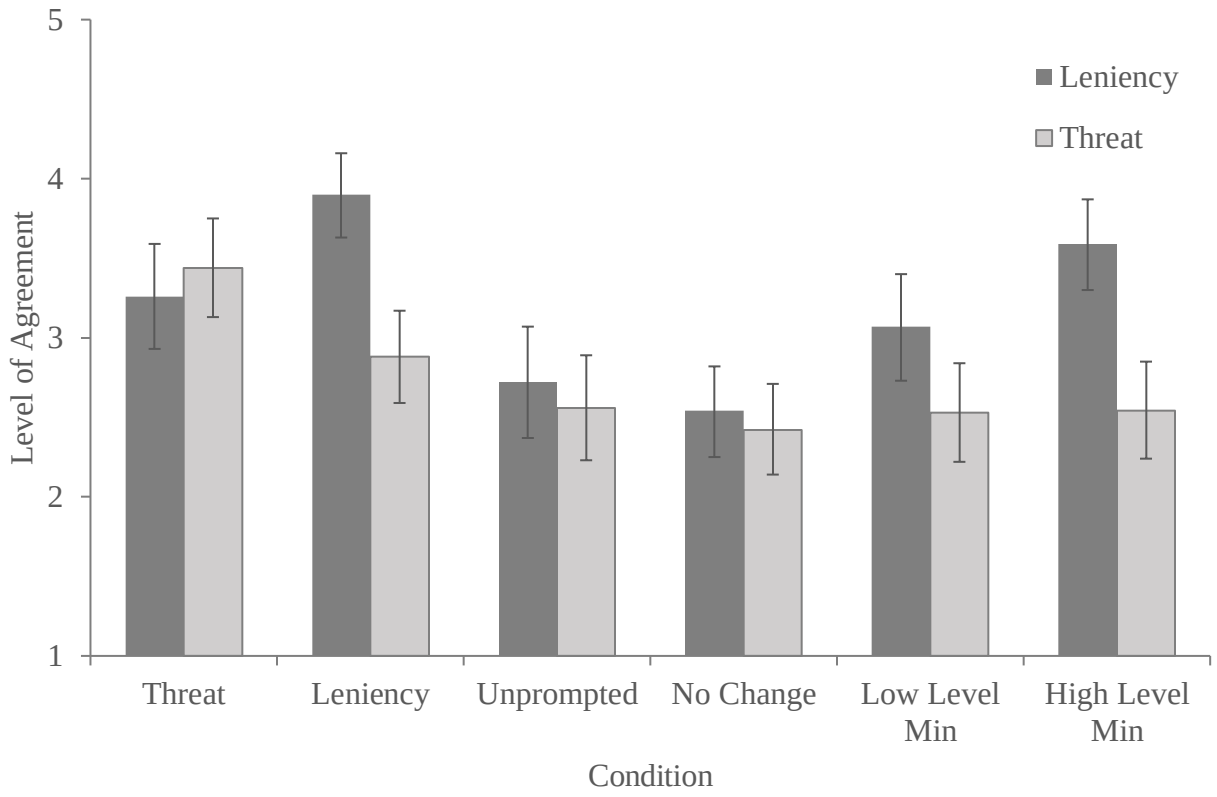
Participant perceptions of the fairness, pressure, and witness' free will as a function of condition *(Experiment 4)*



NOTE: Each variable was rated using a slightly different 5-point scale. Fairness: *1 = extremely unfair, 5 = extremely fair*. Pressure: *1 = no pressure at all, 5 = an extreme amount of pressure*. Free will: *1 = strongly disagree, 5 = strongly agree.*

Figure 11

Level of agreement with the presence of leniency and threats as a function of condition (Experiment 4)



APPENDIX A – TRANSCRIPTS (EXPERIMENT 1)

CONDITION 1 – THREAT

The exchange below came from a murder investigation conducted by a municipal police force in Canada. For confidentiality purposes, the identities of the interviewing officers, witnesses, the accused, and other parties involved have been concealed. Minor changes were made to the statements to enhance clarity.

OFFICER: Hey, [*name redacted*], how ya doing?

WITNESS: Yeah, good.

OFFICER: Okay, [*name redacted],* uh, just so you know the room is audio taped and videotaped. Okay?

WITNESS: Yeah, sure.

OFFICER: You know, you know the reason we do that is to make sure that, uh, what I say I accurate and what…

WITNESS: Yeah.

OFFICER: …what you say is accurate and, you know, I don't wanna have to come back a second time then I'll ask you, hey, do you remember what we talked about?

WITNESS: Right, right.

OFFICER: Yeah. No, that's fine. Um, we, uh, just, uh, I wanna back up a little bit first. I, uh, went to your house this morning to, to speak to you and, uh, you weren't there.

WITNESS: Yeah.

OFFICER: And, uh, I called you on your cell…

WITNESS: Right.

OFFICER: …and, uh, we had a brief conversation and, uh, I asked you to, to come in and speak to us..

WITNESS: Yeah.

OFFICER: Is that right?

WITNESS: Yes.

OFFICER: And I met you at the Tim Hortons at…

WITNESS: Exactly.

OFFICER: …Sandlewood and, uh, Kennedy there.

WITNESS: Yeah.

OFFICER: And then I asked you come back for this interview.

WITNESS: Right.

OFFICER: So you're here on your own free will. Is that…

WITNESS: Yeah.

OFFICER: Is that correct?

WITNESS: Yeah, exactly, yeah.

OFFICER: All right. Uh, [*name redacted*], um, you obviously know why I wanna talk to you. It's about the incident from, uh, 2006…

WITNESS: Yeah.

OFFICER: uh, at the Malibu Marie.

WITNESS: Yes.

OFFICER: Um, it's been quite a while since…

WITNESS: Yeah.

OFFICER: since that happened, okay, it's like four years now.

WITNESS: Wow, yeah.

OFFICER: Long haul.

WITNESS: Yeah.

OFFICER: And, uh, you know, traditionally, uh, we'll go back and, uh, and, you know, look at cases as they're going along and sometimes, um, we'll, we'll get more information or new information…

WITNESS: Yeah.

OFFICER: then we'll obviously, 'cause, um, you know, we have to do that and, uh…

WITNESS: Yes.

OFFICER: make sure that we cross all the T's, dot all the I's. Uh, if there's information that we need to, uh, you know, determine if it's true or false…

WITNESS: Yeah.

OFFICER: then, you know, that's all part of the process and, and I'm sure you're aware of that.

WITNESS: Yeah, I understand, yeah.

OFFICER: That being said, um, I recall that you provided a statement, uh, back four years ago in relation to…

WITNESS: Yes, I do.

OFFICER: …your movements at this, uh, particular, uh, event.

WITNESS: Yeah.

OFFICER: And, um, what your involvement was.

WITNESS: Yeah.

OFFICER: So what I'd like to do is for you just to, to start and, uh, and from the best of your recollection, tell me, you know, basically go over everything that, that, uh that happened. How you became to, how you came to go there and, and what happened afterwards. So…

WITNESS: Okay.

OFFICER: Okay.

WITNESS: You want me to start?

OFFICER: Yeah, go ahead.

WITNESS: Yeah, okay.

…

OFFICER: Okay. I, I think I've made it extremely clear to you that, and I don't know if anybody's ever explained this to you before.

WITNESS: Mm-hmm.

OFFICER: But I'm gonna do it anyway.

WITNESS: Mm-hmm.

OFFICER: Has anyone ever explained to you what accessory after the fact to murder is?

WITNESS: Acce-, nope.

OFFICER: Okay. Accessory after the fact…basically, I'll give you a scenario outside of this incident.

WITNESS: Mm-hmm.

OFFICER: Perpetrator goes in. And in the process of holding up a bank, shoots an employee.

WITNESS: Mm-hmm.

OFFICER: Kills him.

WITNESS: Mm-hmm.

OFFICER: Goes out, gets in the getaway car, gone. Takes the car to a scrap yard. And says, look, man, a buddy of his that he knows. And he says, can you do me a favour, you know, I got myself in a bit of trouble. Can you scrap this car for me?

WITNESS: Mm-hmm.

OFFICER: He does it.

WITNESS: Mm-hmm.

OFFICER: That guy there gets charged with accessory after the fact to murder.

WITNESS: Mm-hmm.

OFFICER: Okay?

WITNESS: Mm-hmm.

OFFICER: And carries an equivalent sentence.

WITNESS: Mm-hmm.

OFFICER: So, now…

WITNESS: I got nothing to worry about.

OFFICER: And here's, here's the other thing I, I do wanna add.

WITNESS: Right.

OFFICER: 'Cause I think that everybody should be well informed.

WITNESS: Right.

OFFICER: Okay? To get a conviction on accessory after the fact to murder I don't need to get a conviction on the person that's charged with the murder.

WITNESS: Mm-hmm.

OFFICER: So an example of the same incident. The guy who robbed the bank, for whatever reason doesn't get convicted.

WITNESS: Mm-hmm.

OFFICER: And he walks.

WITNESS: Mm-hmm.

OFFICER: The guy who scrapped the car…

WITNESS: Mm-hmm.

OFFICER: That has no impact on the guy who scrapped the car, he can still be convicted and sent to jail for…

WITNESS: That's the letter of the law.

OFFICER: Okay, so, I just want you to (inaudible.)

WITNESS: And, you know what, I have nothing to worry about.

OFFICER: Knowledge is power, right?

WITNESS: I have nothing to worry about because I'm not accessory to anything.

OFFICER: Okay.

WITNESS: I'm a promoter.

OFFICER: I just wanna make sure that you understand it.

WITNESS: I'm a working guy.

…

OFFICER: We're far, we're far from finished with this. Okay?

WITNESS: Right. You're doing, you're doing your…

OFFICER: This, this is not going away.

WITNESS: Right.

OFFICER: Here's the thing, I am confident that there's gonna be a development very shortly.

WITNESS: Mm-hmm.

OFFICER: …that may put you in a very bad spot.

WITNESS: Mm-hmm.

OFFICER: And if that happens it's too late to go back.

WITNESS: Mm-hmm.

OFFICER: And I can't help you.

WITNESS: I don't need help.

OFFICER: Okay.

WITNESS: What do I need help for? I didn't do anything and I'm not hiding anything.

OFFICER: Fine.

WITNESS: I don't know why people put me in the middle of this.

OFFICER: I think, I strongly believe that you are trying to protect [*the accused*].

WITNESS: Protect [*the accused*] from what?

OFFICER: From being char-…

WITNESS: From what?

OFFICER: From being convicted.

WITNESS: What are you talking about?

OFFICER: He's charged…

WITNESS: This is a shock to everybody. Everybody that knows [*the accused*] in this community is shocked, they're flabbergasted. This is a shock to everybody.

…

OFFICER: Okay. I'm just telling you this straight up.

WITNESS: Yeah.

OFFICER: If we uncover evidence very shortly that you are covering up for [the accused].

WITNESS: Yeah.

OFFICER: You will be arrested, you will be charged and you will be prosecuted.

WITNESS: Absolutely.

OFFICER: Okay. I'm just telling you (inaudible.)

WITNESS: Absolutely.

OFFICER: Okay?

WITNESS: Absolutely.

OFFICER: And everything that comes along with that.

WITNESS: Absolutely.

…

WITNESS: Like I mean, what, what do you want me to say?

OFFICER: The truth.

WITNESS: I am telling you the truth. Like am I that stupid now that an officer is gonna tell me that I can be charged for accessory to murder and I'm gonna stand here…

OFFICER: [*name redacted*], if you don't tell me the truth, you are gonna be arrested and charged with accessory after the fact to murder and you're gonna go to jail today. Do you understand that? Do you understand that? Do you understand that, [*name redacted*]? I'm not playing games here.

WITNESS: How did I get into this?

OFFICER: You got into it by providing a false alibi…

WITNESS: No, I didn't.

OFFICER: …for [*the accused*].

WITNESS: I'm thinking that's, that's-, I'm remembering.

OFFICER: Let me ask you this. Do you wanna be charged, arrested, charged…

WITNESS: No.

OFFICER: …put in jail and take your chances and go to court and-, like everyone else or what do you wanna do? 'Cause I'm tired of, of going through this.

…

OFFICER: Okay, well what do you know-, what, what are you gonna tell me now?

WITNESS: I'm, I'm telling you that if [*the accused*] killed somebody, he didn't not tell me.

OFFICER: You said earlier, 120 per cent, I'll take it to my grave, for the rest of my days he was standing at the table when the lady came in and said they shot someone, 120 per cent.

WITNESS: I'm not making up an alibi for [*the accused*]. Let me think this thing through. Okay. I'm not making-, I don't-, I'm not going to jail. I'm not going to jail because I didn't know anybody that killed anybody.

OFFICER: Let's face it, I can already arrest you and put you in jail for what you've told me because it was an outright lie.

WITNESS: It wasn't an outright lie.

OFFICER: Yes, it was.

WITNESS: You're asking me to remember something four years ago.

OFFICER: Stop telling, stop telling yourself anything different. Everything you remembered was vague except the fact that [*the accused*] was standing right next to you. You know what…

WITNESS: You asked me if I saw [*name redacted*], I said yes. You asked me who, who came into the club, I told you who was there.

OFFICER: [*name redacted*], I'm not rehashing this. Either you tell me the truth now or you face the consequences. I've got nothing more. And if you wanna call my bluff, feel free. That's all we got.

…

WITNESS: So what, what am I supposed to say now to get myself out of this mess that I'm in?

OFFICER: You're supposed to tell me…

WITNESS: [*the accused*] called me and said he killed somebody?

OFFICER: No, that's not what I said. You need to tell me the truth, first of all, about [*the accused*] not being anywhere remotely near you when [*name redacted*] came in and told everyone that someone's been shot.

WITNESS: Right.

OFFICER: Number two.

WITNESS: Mm-hmm.

OFFICER: You need to tell me everything he told you on these five to six telephone calls.

WITNESS: Mm-hmm.

OFFICER: And you need to tell me the truth about when he arrived home and you guy's talked about what happened. Do it not, the evidence exists to charge you and prosecute you and convict you for accessory after the fact for murder.

WITNESS: H-…

OFFICER: And you and your friend, best friend I might add, can share the same range and carry on with your lives.

WITNESS: How did I get into this? How…

OFFICER: But, but here's the thing, [*name redacted*].

WITNESS: How did I get into this?

OFFICER: Here's the thing, [*name redacted*], you're not into this yet because the nice guy is still sitting here. If you were into this you'd be in the, you'd be in the, in the cell downstairs. You're not into it yet. You have been given the tools to extricate yourself from this situation. Do you know what that means? You know what extricate means?

WITNESS: Sure.

OFFICER: What does it mean?

WITNESS: Take myself away.

OFFICER: Yes. Well, I'll call it rescue. Rescue yourself.

…

OFFICER: First degree murder, that's as high as you can go. Right?

WITNESS: Right.

OFFICER: You're life, life period.

WITNESS: Mm-hmm.

OFFICER: Right? Average is 29.4 years for life in this country.

WITNESS: Mm-hmm.

OFFICER: Okay? Second degree.

WITNESS: Mm-hmm.

OFFICER: Uh, life parole after a certain amount of time.

WITNESS: Mm-hmm.

OFFICER: Right? Being a police officer, I'm a little bias. If I think someone's killed someone with intent, they should spend the rest of their lives in jail.

WITNESS: Mm-hmm.

OFFICER: Period. That's just my opinion. As this investigation progresses, right.

WITNESS: Mm-hmm.

OFFICER: There is a possibility that some of these charges could be upgraded from second degree to first degree.

WITNESS: Mm-hmm.

OFFICER: And if you're an accessory aft-, to first degree murder, buddy boy, let me tell ya, people hear that and you get kind of queasy and the room starts to go a little dark. So it's, you know what, it's your call.

[interview continues]

CONDITION 2 – MINIMIZATION

The exchange below came from a murder investigation conducted by a municipal police force in Canada. For confidentiality purposes, the identities of the interviewing officers, witnesses, the accused, and other parties involved have been concealed. Minor changes were made to the statements to enhance clarity.

OFFICER: Hey, [*name redacted*], how ya doing?

WITNESS: Yeah, good.

OFFICER: Okay, [*name redacted],* uh, just so you know the room is audio taped and videotaped. Okay?

WITNESS: Yeah, sure.

OFFICER: You know, you know the reason we do that is to make sure that, uh, what I say I accurate and what…

WITNESS: Yeah.

OFFICER: …what you say is accurate and, you know, I don't wanna have to come back a second time then I'll ask you, hey, do you remember what we talked about?

WITNESS: Right, right.

OFFICER: Yeah. No, that's fine. Um, we, uh, just, uh, I wanna back up a little bit first. I, uh, went to your house this morning to, to speak to you and, uh, you weren't there.

WITNESS: Yeah.

OFFICER: And, uh, I called you on your cell…

WITNESS: Right.

OFFICER: …and, uh, we had a brief conversation and, uh, I asked you to, to come in and speak to us..

WITNESS: Yeah.

OFFICER: Is that right?

WITNESS: Yes.

OFFICER: And I met you at the Tim Hortons at…

WITNESS: Exactly.

OFFICER: …Sandlewood and, uh, Kennedy there.

WITNESS: Yeah.

OFFICER: And then I asked you come back for this interview.

WITNESS: Right.

OFFICER: So you're here on your own free will. Is that…

WITNESS: Yeah.

OFFICER: Is that correct?

WITNESS: Yeah, exactly, yeah.

OFFICER: All right. Uh, [*name redacted*], um, you obviously know why I wanna talk to you. It's about the incident from, uh, 2006…

WITNESS: Yeah.

OFFICER: uh, at the Malibu Marie.

WITNESS: Yes.

OFFICER: Um, it's been quite a while since…

WITNESS: Yeah.

OFFICER: since that happened, okay, it's like four years now.

WITNESS: Wow, yeah.

OFFICER: Long haul.

WITNESS: Yeah.

OFFICER: And, uh, you know, traditionally, uh, we'll go back and, uh, and, you know, look at cases as they're going along and sometimes, um, we'll, we'll get more information or new information…

WITNESS: Yeah.

OFFICER: then we'll obviously, 'cause, um, you know, we have to do that and, uh…

WITNESS: Yes.

OFFICER: make sure that we cross all the T's, dot all the I's. Uh, if there's information that we need to, uh, you know, determine if it's true or false…

WITNESS: Yeah.

OFFICER: then, you know, that's all part of the process and, and I'm sure you're aware of that.

WITNESS: Yeah, I understand, yeah.

OFFICER: That being said, um, I recall that you provided a statement, uh, back four years ago in relation to…

WITNESS: Yes, I do.

OFFICER: …your movements at this, uh, particular, uh, event.

WITNESS: Yeah.

OFFICER: And, um, what your involvement was.

WITNESS: Yeah.

OFFICER: So what I'd like to do is for you just to, to start and, uh, and from the best of your recollection, tell me, you know, basically go over everything that, that, uh that happened. How you became to, how you came to go there and, and what happened afterwards. So…

WITNESS: Okay.

OFFICER: Okay.

WITNESS: You want me to start?

OFFICER: Yeah, go ahead.

WITNESS: Yeah, okay.

…

OFFICER: Well you understand, you know, part of my job is uh, to find out who's involved and to apprehend those people and bring them before the courts and let the courts do their job about whether, you know the person is found innocent or guilty.

WITNESS: Right, right.

OFFICER: But what's important is that the people that are involved are taken off the streets so that people have peace of mind.

WITNESS: Right. That's what I was thinking.

OFFICER: That people can feel safe. So you can feel safe. And the only way that you can feel safe is knowing that everyone who's involved has been caught and is before the courts. And the courts do their thing, right.

WITNESS: Right.

OFFICER: Right. And when people see something like this it's very important that they tell the 100% truth.

WITNESS: Mm-hmm.

OFFICER: About everything they saw.

WITNESS: That's what I think.

OFFICER: We do have people who come to us and they tell us little bits and pieces. And then we come back and talk to them and a little bit more comes out. And again, and sometimes this goes on and on.

WITNESS: Right.

OFFICER: Until we get the full story.

WITNESS: Full story, right.

OFFICER: But it's painful.

WITNESS: Mm-hmm.

OFFICER: It's really painful. And uh, during that delay, you know, the bad guy, or bad guys could be still out on the street. Causing other harm to other people, which is very dangerous for the public, right, so ... It's important that we get everything at the outset so we can do our job the best of our ability.

WITNESS: Okay.

OFFICER: So you came in last year and you talked to us, and you provided a pretty good statement a pretty detailed statement. What I was surprised is that your memory of that event was very, very clear even after some time had passed. Because during the initial investigation we weren't able to speak to you.

WITNESS: Mm-hmm.

OFFICER: And it wasn't until some time later when things started up again that we had that opportunity and you came in. And uh, you know, you provided a very detailed account of what you had saw.

WITNESS: Mm-hmm.

OFFICER: Right. From your prospective that night outside ...

WITNESS: …the club.

OFFICER: Mm-hmm.

WITNESS: Mm-hmm.

OFFICER: Now is there anything else about what you saw out there that night that you can tell me about?

WITNESS: Mm.

OFFICER: In particular, did you know anybody that was involved?

WITNESS: Did I know anybody? No I didn't know anybody, no not personally.

…

OFFICER: As I told you there's reasons why people don't tell us certain things.

WITNESS: Mm-hmm.

OFFICER: And don't want to become too involved and I understand that. There's all sorts of reasons why people don't want to involve themselves in this. Because they know it's gonna come out. They know it's gonna come out in court. And they don't want to be that person who's pointing someone out, calling someone out. Right.

WITNESS: Right.

OFFICER: You used the word, uh, informer.

WITNESS: Right.

OFFICER: Which is not what this is, but that's what people think. That's the stigma associated with people who co-operate with the police in an investigation. They perceive, they think, you think that by saying the truth and telling exactly what happened, I'm gonna be looked at by my peers, or other people in my community as an informer. Right. Which you're not. But that's the perception. That's the stigma associated with people who do the right thing and co-operate with the police.

WITNESS: Oh, ...

OFFICER: But this information comes out, it can only be hidden for so long.

WITNESS: Right.

OFFICER: And the truth is out there now. So another witness has come forward, and that person held back themselves.

WITNESS: Right.

OFFICER: But they knew they had to do the right thing and then with court coming up they told us exactly what it was that they knew.

…

OFFICER: And I want you to tell me the truth. That's all this is about [*name redacted*].

WITNESS: Mm-hmm.

OFFICER: Okay, is the truth. The truth has to come out today.

WITNESS: Right.

OFFICER: Okay, we need to get this sorted out today.

WITNESS: Okay.

OFFICER: For your benefit and everyone. You're gonna feel so much more relieved when this is all over and done with. Because withholding information like that is a tough thing for someone to do.

WITNESS: Mm-hmm.

OFFICER: It builds up and builds up and it's always the, when's this gonna come out, because it does.

WITNESS: Mm-hmm.

OFFICER: No matter how much we hope and pray to God that certain things aren't gonna come out, they come out.

WITNESS: Mm-hmm.

OFFICER: And it's better to come out from you than to come out through other people and find yourself in trouble.

…

OFFICER: You know how we get a conclusion? Everything comes out. We deal with the facts as they are. And then things will work themselves through. So long as people keep holding back and not telling the whole story, this thing drags on and on and on. Okay. And it's always on your mind. And it weighs heavily on you. It's like a big weight on your, on your shoulders.

WITNESS: Mm-hmm

OFFICER: An oppressive weight that's just always there. When will this thing go away?

WITNESS: Right

OFFICER: And it does go away. You know how it goes away? When people talk and tell the truth.

WITNESS: Right

OFFICER: Because you're a person with conscience.

WITNESS: Right

OFFICER: I can see that in you

WITNESS: Yeah

OFFICER: You're about doing the right thing. You're about being a good person. Being a good Mom to your girls.

WITNESS: Mm-hmm

OFFICER: Setting a good example

WITNESS: Yeah

OFFICER: Raising them to be fine young women

WITNESS: Right

OFFICER: Respectful, honest

WITNESS: yep

OFFICER: Doing the right thing. And I appreciate that because not every parent out there has those same kind of values.

WITNESS It’s true, true

OFFICER: Right. Society's changing quite a bit.

WITNESS: Mm-hmm

OFFICER: And people aren't as concerned about those things as uh, as they were in the past right?

WITNESS: Right

OFFICER: But you are. You're a woman who values those things, and wants to instill those things in her daughters, right?

WITNESS: Right

OFFICER: And so in by doing that you, you know, you set the example.

WITNESS: Mm-hmm

OFFICER: For them. You set the standard for them.

WITNESS: Yeah

OFFICER: They don't know any different, you know, other than what they see out on the street. At home they get that from you.

WITNESS: Right

OFFICER: The family unit

WITNESS: Right

OFFICER: So they become the women they're going to be because of your influence.

WITNESS: True

OFFICER: Right. And you've got a very positive influence on them.

WITNESS: I try

OFFICER: And you care very much about your girls.

WITNESS: Yes

OFFICER: And I know you're very worried about your one daughter.

WITNESS: Mm-hmm

OFFICER: Right. I can see that

WITNESS: Yeah I'm very worried for my children. And I love them.

OFFICER: That shows your love for them.

WITNESS: Mm-hmm

OFFICER: And I'm sure they have equal love back to you.

WITNESS: Mm-hmm

OFFICER: Because of the good Mom that you are. And, being tied up in something like this, and being a witness to a homicide, to a murder that happened, when you were supposed to be going out and just enjoying yourself.

…

OFFICER: If we live in fear and allow that to take over. It's like a bad weed growing throughout the community. It eventually chokes everything off. Right? You know those vines that crawl up and they get into everything?

WITNESS: Yep, I know.

OFFICER: And if you don't keep it pruned back...

WITNESS: Yeah, they keep growing

OFFICER: It goes everywhere, it's in your neighbour's yard, it's everywhere.

WITNESS: Mm-hmm.

OFFICER: It's that kind of idea. But the difference is made by people like yourself.

WITNESS: Yeah.

OFFICER: People like me. And other people who are about the right thing.

WITNESS: Yeah.

OFFICER: Doing the right thing. Because we see a greater and bigger picture and we're not quitters. We don't give up on the good that's out there. The good that's in many people. Right?

WITNESS: Mm-hmm.

OFFICER: We need to do the right thing for [*the victim*], for his memory.

…

OFFICER: Now, I ask you to think hard and think about what you remember from that night and tell me who was it you knew and you saw outside when this went down. Who was that person?

WITNESS: [No response.]

OFFICER: It's time to come clean [*name redacted*]. We got to get this done. I know it's hard. You know who it is and you want to say it, but there's a lot of other things on your mind. We'll talk about those things today, okay.

WITNESS: Mm-hmm.

OFFICER: Okay, we're gonna talk about those things. Believe me, I'm going to ensure that we explore everything that's going on in your mind and what you're concerned about. I want you to feel comfortable leaving here today.

WITNESS: Alright.

OFFICER: I want you to have peace of mind when you leave here today. You're going to have peace of mind when you say who it was. That you know that's involved. And once we get that and we talk about these other things. The real concerns. Know this: that the person involved is gonna be taken off the street.

WITNESS: Mm.

OFFICER: That in itself is gonna bring some peace.

WITNESS: Mm-hmm

OFFICER: And if it’s for murder that person’s staying inside

WITNESS: I hope so

OFFICER: But we need to do the right thing and the only way we can do the right thing is by you saying and telling us who it was. You know who it was. So let's deal with that first and let's deal with everything else the other important things that are concerning you afterwards, okay.

WITNESS: Yeah

OFFICER: So let's be the good person that you are. Take a deep breath.

[interview continues]

CONDITION 3 – NEUTRAL

The exchange below came from a murder investigation conducted by a municipal police force in Canada. For confidentiality purposes, the identities of the interviewing officers, witnesses, the accused, and other parties involved have been concealed. Minor changes were made to the statements to enhance clarity.

OFFICER: Hey, [*name redacted*], how ya doing?

WITNESS: Yeah, good.

OFFICER: Okay, [*name redacted]*, uh, just so you know the room is audio taped and videotaped. Okay?

WITNESS: Yeah, sure.

OFFICER: You know, you know the reason we do that is to make sure that, uh, what I say I accurate and what…

WITNESS: Yeah.

OFFICER: …what you say is accurate and, you know, I don't wanna have to come back a second time then I'll ask you, hey, do you remember what we talked about?

WITNESS: Right, right.

OFFICER: Yeah. No, that's fine. Um, we, uh, just, uh, I wanna back up a little bit first. I, uh, went to your house this morning to, to speak to you and, uh, you weren't there.

WITNESS: Yeah.

OFFICER: And, uh, I called you on your cell…

WITNESS: Right.

OFFICER: …and, uh, we had a brief conversation and, uh, I asked you to, to come in and speak to us..

WITNESS: Yeah.

OFFICER: Is that right?

WITNESS: Yes.

OFFICER: And I met you at the Tim Hortons at…

WITNESS: Exactly.

OFFICER: …Sandlewood and, uh, Kennedy there.

WITNESS: Yeah.

OFFICER: And then I asked you come back for this interview.

WITNESS: Right.

OFFICER: So you're here on your own free will. Is that…

WITNESS: Yeah.

OFFICER: Is that correct?

WITNESS: Yeah, exactly, yeah.

OFFICER: All right. Uh, [*name redacted*], um, you obviously know why I wanna talk to you. It's about the incident from, uh, 2006…

WITNESS: Yeah.

OFFICER: uh, at the Malibu Marie.

WITNESS: Yes.

OFFICER: Um, it's been quite a while since…

WITNESS: Yeah.

OFFICER: since that happened, okay, it's like four years now.

WITNESS: Wow, yeah.

OFFICER: Long haul.

WITNESS: Yeah.

OFFICER: And, uh, you know, traditionally, uh, we'll go back and, uh, and, you know, look at cases as they're going along and sometimes, um, we'll, we'll get more information or new information…

WITNESS: Yeah.

OFFICER: then we'll obviously, 'cause, um, you know, we have to do that and, uh…

WITNESS: Yes.

OFFICER: make sure that we cross all the T's, dot all the I's. Uh, if there's information that we need to, uh, you know, determine if it's true or false…

WITNESS: Yeah.

OFFICER: then, you know, that's all part of the process and, and I'm sure you're aware of that.

WITNESS: Yeah, I understand, yeah.

OFFICER: That being said, um, I recall that you provided a statement, uh, back four years ago in relation to…

WITNESS: Yes, I do.

OFFICER: …your movements at this, uh, particular, uh, event.

WITNESS: Yeah.

OFFICER: And, um, what your involvement was.

WITNESS: Yeah.

OFFICER: So what I'd like to do is for you just to, to start and, uh, and from the best of your recollection, tell me, you know, basically go over everything that, that, uh that happened. How you became to, how you came to go there and, and what happened afterwards. So…

WITNESS: Okay.

OFFICER: Okay.

WITNESS: You want me to start?

OFFICER: Yeah, go ahead.

WITNESS: Yeah, okay.

…

OFFICER: Do you recall what you told us in your last statement?

WITNESS: Um, you may have to question me because, to be honest with you, just word for word, verbatim, I just I really can't remember.

OFFICER: Okay.

WITNESS: You may have to question me.

OFFICER: Mm-hmm.

WITNESS: And if I did tell you that at that time then that's what I said.

OFFICER: Okay. Um, I mean I'm just gonna back up a little bit. At the time, who were you living with at the time?

WITNESS: I was living at [*address redacted*].

OFFICER: With who?

WITNESS: With [*name redacted*].

OFFICER: Okay.

WITNESS: Yeah.

OFFICER: Anyone else?

WITNESS: [*the accused*], I think. No, he was living at-, I had bailed him out of some trouble at one point. I don't remember if he was living at my-, I think he was living with me at that-, yeah, yeah.

OFFICER: Okay.

WITNESS: Yeah, he was living with me at that time.

…

OFFICER: Okay. Um, so let's get back to the, at the time of the incident.

WITNESS: Yeah.

OFFICER: Okay. Now where were you again?

WITNESS: I was in the club.

OFFICER: Mm-hmm.

WITNESS: At the birthday table.

OFFICER: Yeah.

WITNESS: Where, where there was cake, there was food. We were, we were sharing out the cake. I believe I was eating cake, um, the host, the owner of the club was running back and forth with Tupperware, you know, wrapping up stuff for people and people were taking home and that kind of stuff. The DJ I remember was probably pulling down the equipment, um, getting his, uh, music together.

OFFICER: Mm-hmm.

WITNESS: Um, and then a lady run back in the club, said they just shot somebody outside and, um, we-, like I mean I stood back for a bit and then, um, just cleaned up, did what I had to do, then I left and that was it.

OFFICER: Who did you leave with?

WITNESS: I can't remember. I believe I might have left with [*the accused*]. I think I did leave with [*the accused*], I'm not sure, I can't remember, I can't remember a hundred per cent. He was living with me at that time.

OFFICER: Mm-hmm.

WITNESS He was my surety. Um…

OFFICER: Well, you're his surety.

WITNESS: I was his surety, yeah.

OFFICER: Mm-hmm.

WITNESS: Um, after, after this shooting the lady run back in.

OFFICER: Mm-hmm.

WITNESS: There was a bit of a panic.

OFFICER: Mm-hmm.

WITNESS: Um, you know, people were running in all directions. Um, but I stayed back for a bit inside because, you know, if there's a shooting outside, the last thing you wanna do is run outside.

OFFICER: Mm-hmm.

WITNESS: Right? You stay where it's safe.

OFFICER: Mm-hmm.

WITNESS: So I stayed in there and as things quieted down then I gathered my stuff up and I left. I can't remember if I left with [*the accused*] or not. I'm almost a hundred per cent sure that I did.

OFFICER: Mm-hmm.

WITNESS: Because he, he was living with me at the time when I was his surety.

OFFICER: Mm-hmm.

WITNESS: And, um, the only, the only way he could go anywhere was with me. That's the best of my recollection from four years ago.

…

OFFICER: Let me ask you this.

WITNESS: Yeah.

OFFICER: Are you one hundred per cent sure that [*the accused*] was sitting with you?

WITNESS: I am absolutely…

OFFICER: That's a direct, direct question.

WITNESS: …a hundred per cent positive.

OFFICER: That he was sitting with you when?

WITNESS: We weren't sitting.

OFFICER: Okay. Well…

WITNESS: We were standing at the table.

OFFICER: With you.

WITNESS: Because it's his, it was his birthday party.

OFFICER: Yeah, I understand that.

WITNESS: So we were cleaning up.

OFFICER: Mm-hmm.

WITNESS: It's our responsibility if you were hav-, if you were the host of a party…

OFFICER: You, [*name redacted*], [*the accused*]…

WITNESS: Right.

OFFICER: …are all around this table?

WITNESS: No, me and [*the accused*] we're at the table packing up the cake.

OFFICER: Yes.

WITNESS: And sharing out the cake.

OFFICER: Yes.

WITNESS: Because as a host of your party, you're the-, like people just can't come in and start dipping into your cake.

OFFICER: Okay.

WITNESS: You, because it's your birthday cake.

OFFICER: Mm-hmm. Mm-hmm.

WITNESS: So the remnants of the cake you pack it up and take it home.

OFFICER: Sure.

WITNESS: So if people want cake, they come to the table and you share out the cake and you give it to them.

OFFICER: Mm-hmm. Mm-hmm.

WITNESS: So we were packing up the remnants of the cake. I was eating cake, I remember specifically, because how I remember this is the first time I heard about the shooting.

OFFICER: Mm-hmm.

WITNESS: It's like a JFK moment, it's like a 911 moment, where were you when you first heard about that.

OFFICER: Mm-hmm.

WITNESS: Anything that happened after that is, is open to, you know, chaos. But everybody remembers that JKF moment, that 911 moment.

OFFICER: Mm-hmm.

WITNESS: That Paul Henderson moment. You know? Where were you when Paul Henderson scored that goal for Canada?

OFFICER: Mm-hmm.

WITNESS: Where were you at-, when, when you heard about 911.

OFFICER: I get the point, [*name redacted*].

WITNESS: Right? Okay. So at that moment I remember specifically where I was. I was at…

OFFICER: And who was there.

WITNESS: [*the accused*] was at the table with me.

OFFICER: Mm-hmm.

WITNESS: I swear to God, he was at the table with me.

…

OFFICER: Did, uh, [*name redacted*]-, or sorry, did [*the accused*]…

WITNESS: Mm-hmm.

OFFICER: …[*the accused*]…

WITNESS: Mm-hmm.

OFFICER: …as you know him, your best friend, discuss with you in recent days or over the last short term, discuss with you about being interviewed by the police in general terms?

WITNESS: No.

OFFICER: Okay. Um, did you ever discuss that the police were gonna come and speak to you about his or about an alibi?

WITNESS: An alibi?

OFFICER: Yeah.

WITNESS: No.

OFFICER: Okay.

WITNESS: To be honest with you, these developments with [*the accused*] was just way out of left field. Like I just…

OFFICER: Mm-hmm. All right.

WITNESS: Like [*the accused*] wouldn't hurt a fly.

…

OFFICER: Okay. Okay, now, I just wanna go back to where you say you and [*the accused*] are at the table and this [*name redacted*] comes in and says they shot someone.

WITNESS: Right.

OFFICER: What do you do from that point exactly?

WITNESS: I stay in because I, I, I stay in, I finish my cake. I'm mingling around. People are, people are talking amongst themselves.

OFFICER: Okay. And what are you doing?

WITNESS: Going around talking to people.

OFFICER: About what?

WITNESS: About the shooting, who could've shot? Like who is it, does anybody know?

OFFICER: Can you name some of the people you spoke to?

WITNESS: Man, that's four years ago, man.

OFFICER: I know. I'm asking, that's why I'm asking. Um, I didn't say…

WITNESS: Like…

OFFICER: …I didn't say name them. I said can you name them.

WITNESS: …you know, I've, I've been as helpful as I can. Now you're trying to pull, you know, you're trying to pull teeth here, man. I spoke to-, there was about 15 or 20 people in there. Like the security guard. I don't wanna speculate. There, there was people milling about.

OFFICER: Okay. What do you do after this milling about?

WITNESS: Things quiet down.

OFFICER: Yes.

WITNESS: And I leave.

GILES: Okay. Where do you go? Step-by-step, how do you leave?

BRIAN: I go to my car. I drive…

GILES: Okay. So walk me…

BRIAN: …north.

GILES: I don't know the building. I've never been there.

BRIAN: Right.

GILES: And, and just so you know, I've never worked on this case.

BRIAN: Right.

GILES: So…

BRIAN: I go to my car. I, I go to my car, I turn right.

GILES: Hold on, hold on, hold on, hold on. Where are you in the building?

BRIAN: Okay. I come out the building.

GILES: Yes.

BRIAN: Right. The building is facing a Tim Hortons.

GILES: Okay.

BRIAN: Right. I come out the building.

GILES: Mm-hmm.

BRIAN: I go to my car.

GILES: Mm-hmm. How far is your car parked from the entrance?

BRIAN: Uh, not very far because I was one of the first people at the party.

GILES: Okay. Gotcha.

BRIAN: Right?

GILES: Yeah.

BRIAN: I go into my car.

GILES: Right.

BRIAN: I come out. I go left.

GILES: Let's stop there.

[interview continues]

APPENDIX B – STUDY INTRODUCTION (EXPERIMENT 2)

NOTE: Please read the following in its entirety before proceeding to the next page.

When interviewing witnesses about crimes that have occurred, police officers use a variety of strategies to obtain information. It is important to know how these strategies are interpreted by the individuals being interviewed. This study will examine how the general public views various tactics used by the police during witness interviews to obtain information.

The statements that you will read in this study were adapted from a real police interview with a witness. The witness, Jeff Foley*, was interviewed about a murder that occurred at a nightclub. Jeff was at the club on the night of the murder to celebrate his friend Stephen's* birthday. Stephen was a person of interest in the investigation, which is a major reason why Jeff was asked to speak with police.

In his interview, Jeff described what happened that night, stating that he was **100% sure** Stephen was with him when the crime occurred, suggesting that **Stephen could not have been responsible for the death of the victim**. Jeff described his confidence in his story as a "JFK, 9/11 moment", meaning that his memory of the shooting was so vivid, he could never forget where he was or who he was with when it happened.

Although Jeff provided Stephen with an alibi, the police were skeptical of his story and suspected that he was not telling them the truth. The interviewing officer told Jeff that **he did not believe his story and felt he was withholding information.**

The following statements are examples of the interviewing officer's responses to Jeff's story. Please read each statement carefully. After you read the statement, you will be presented with a series of questions about your interpretation of the strategy that the police officer was using.

*pseudonym used for anonymity purposes

APPENDIX C – INTERVIEW EXCERPTS (EXPERIMENT 2)

CONTROL

CST. BROWN: We do have people who come to us and they tell us little bits and pieces. And then we come back and talk to them and a little bit more comes out. And again, and sometimes this goes on and on. And that's why you're here today – to give us important information that we need to continue with our investigation and to find out who was involved in all this. I've been doing this job for a long time and sometimes people talk to me, sometimes they don't. But it's important that we get as much information as possible so we can paint a more complete picture of what happened and make the best decision about what to do here.

Part II Definition: The strategy used in the statement above is an **information gathering approach.** Police officers using this strategy in a witness interview try to gather as much complete and accurate information as possible, without influencing the witnesses' story or pressuring them to talk.

LENIENCY

CST. BROWN: I'm here for you, but I need you to tell me the truth. If you just tell me what really happened, I can make sure that you don't get into any legal trouble for lying to us. Normally lying to a police officer can get you into a lot of trouble, but if you come clean now, you can forget about that. I know people don't like to get involved with stuff like this and I understand that. There's all sorts of reasons why you might not want to tell us the truth, and that's fine. But you don't need to worry about being arrested or anything like that, because if you tell me what really happened, I will see to it that you are protected and that no officers will come after you for anything you may have done that night, or anything that you have withheld up to this point.

Part II Definition: The strategy used in the statement above is called **explicit leniency.** Police officers using this strategy in a witness interview will tell the witness that if they provide information that the police want to hear, they will obtain some sort of promised benefit. For example, if the witness is suspected to have been lying about their story, the police may promise that they won't get in trouble for lying if they provide the desired information. This strategy serves to directly convey to the witness that providing the desired information is the most beneficial option for them.

MINIMIZING SERIOUSNESS

CST. BROWN: I can understand. You know, I feel for you. Because you are not the criminal here. You are a good guy. You are a good guy and you were just in the wrong place at the wrong time. Even though you haven't been completely honest with me, I can forget that as long as you tell the truth. It's not like I think you were the one who shot [victim], or even that you were involved in that stuff at all. Lying is one thing, but murder is a whole other thing. I just need you to tell me what really happened that night.

Part II Definition: The strategy used in the statement above is called **minimizing seriousness**. Police officers using this strategy try to make the witness feel as though any bad behaviours (like withholding information or lying to the police) were not as bad as they think, and all can be forgiven as long as the witness comes clean and provides the information the police want. This strategy belongs to a category of strategies known as **minimization,** which all serve to downplay the consequences associated with providing desired information to the police.

FACE-SAVING EXCUSES

CST. BROWN: I can understand why you haven't been completely honest with me. I know that Stephen is your friend, and I'm sure you just don't want to be the one to get him in trouble. You're probably one of the only ones who looks out for him, and that can be a big burden to hold on your shoulders. Listen, I get that – we all want to protect our friends. But it's even more important that we get a full picture of what happened so we can make sure that the right people are punished. So please, if you know anything else, you need to let it out.

Part II Definition: The strategy used in the statement above is called using **face-saving excuses.** Police officers using this strategy will offer reasons to the witness as to why they have been withholding information up until this point (e.g., to protect a friend). This strategy serves to explain away the witnesses' bad behaviour (e.g., withholding information) in a way that makes it seem less bad. This strategy belongs to a category of strategies known as **minimization,** which all serve to downplay the consequences associated with providing desired information to the police.

DOWNPLAYING CONSEQUENCES

CST. BROWN: I know you're worried about what might happen if you talk, and that's the stigma associated with people who co-operate with the police in an investigation. They perceive, they think, you think that by saying the truth and telling exactly what happened, I'm gonna be looked at by my peers, or other people in my community as an informer. Right. Which you're not. But that's the perception. That's the stigma associated with people who do the right thing and co-operate with the police. But that isn't going to happen in this situation, no one will think any differently of you.

Part II Definition: The strategy used in the statement above is called **downplaying consequences**. Police officers using this strategy will suggest to a witness that what will happen to them if they provide the police with desired information is not as bad as they think, which serves to decrease the negativity associated with providing information to the police. This strategy belongs to a category of strategies known as **minimization**, which all serve to downplay the consequences associated with providing desired information to the police.

EMPHASIZING BENEFITS OF COOPERATION

CST. BROWN: If you just tell me what really happened, this can all be over. You're going to be in a much better situation if you come clean than if you keep denying what happened that night. And hey, if you are honest with us and tell us what you know then people will know that you're

a good person. People don't like being liars, and I especially don't, but I don't see you as a liar, so just tell me the truth and you can prove it to me. If you tell me, you know what, here's what happened, then you're being the bigger person here. You're gonna feel so much more relieved when this is all over and done with. Because withholding information like that is a tough thing for someone to do. We also need to make sure that people who do bad things are taken off the streets so they can't do them again, and if you tell us what you know, you can help us do that.

Part II Definition: The strategy used in the statement above is called **emphasizing the benefits of cooperation**. Police officers using this strategy will imply to the witness that telling the interviewer what he/she wants to hear will result in unspecified benefits. This strategy serves to suggest to a witness that providing information is a desirable thing to do, without actually offering them any sort of specific reward. This strategy belongs to a category of strategies known as **minimization**, which all serve to downplay the consequences associated with providing desired information to the police.

EXPLICIT THREAT

CST. BROWN: Here's the thing, I am confident that there's gonna be a development very shortly that will put you in a very bad spot. And if that happens it's too late to go back, and I can't help you. I'm just telling you this straight up – if we uncover evidence that you are covering up for Stephen, you will be arrested, you will be charged, and you will be prosecuted for accessory after the fact to murder. Do you understand that? If you're an accessory to first degree murder, let me tell you, when people hear that, you get a bit queasy and the room starts to go a little dark. So it's your call, but I'm not playing games here. Do you want to take your chances in court, or do you want to just come clean that Stephen was nowhere near you when the murder happened? I'm tired of going through this with you. Either you tell me the truth now or you face the consequences, it's as simple as that.

Part II Definition: The strategy used in the statement above is called **explicit threat.** Police officers using this strategy will blatantly tell the witness that if they do not provide the information that the police want to hear, they will face a consequence. For example, if the witness is suspected to have been lying about their story to protect the witness, the police will threaten to arrest the witness for being an accessory to the crime. This strategy serves to directly convey to the witness that providing the desired information is the most beneficial option for them and that continuing to withhold information is not a good idea.

APPENDIX D – SAMPLE TRANSCRIPT (EXPERIMENT 3)

CONDITION 6 – HIGH-LEVEL MINIMIZATION

IN THE ONTARIO SUPERIOR COURT OF JUSTICE

Trial Transcript

REGINA

v.

TYLER JORDAN
(Accused)

August 19-23, 2016

LISTING OF NAMES AND POSITIONS

THE COURT: Presiding Judge, The Honorable Raymond George
MR. LEE WILLIS: Attorney for the Crown (prosecutor)
MR. MALCOLM ANDERSON: Attorney for the Defendant
MR. TYLER JORDAN: The Defendant
MR. JAMIE ADAMS: Victim (deceased)

MR. JOSEPH COLLINS: Witness for the Prosecution; law enforcement officer
DR. JANICE STEVENS: Witness for the Prosecution; forensic pathologist
MR. CARL WALSH: Witness for the Prosecution; law enforcement officer
MS. SONYA GREEN: Witness for the Prosecution
MR. SAM DAVIS: Witness for the Defense

NOTE: The following is an abbreviated transcript of the above-stated case. Personal identifying information – as per publication ban – has been removed. Non-verbal actions have also been removed (e.g., sitting and standing)

CLERK: Order in court, The Honourable Mister Justice George presiding.

JUDGE: You may be seated.

CLERK: The case of the Regina versus Tyler Jordan, my Lord.

JUDGE: Thank you. Are all parties present?

CROWN: Yes, my Lord. I am Lee Willis and I am acting on behalf the Crown in this matter.

DEFENCE: My Lord. I am Malcolm Anderson and I am acting on behalf of the accused, Tyler Jordan.

JUDGE: Thank you. Mr. Jordan, please rise to hear the charge.

CLERK: Tyler Jordan, you are charged that on the fourth day of November, in the year 2006, you did unlawfully commit murder in the second degree. How do you plead?

MR. JORDAN: Not guilty.

JUDGE: Thank you.

JUDGE: Thank you. Good day, ladies and gentlemen of the jury. I begin with some general comments on our roles in this trial. Throughout these proceedings, you will act as the judges of the facts and I will be the judge of the law. Although I may comment on the evidence, as judges of the facts you are the only judges of the evidence. However, when I tell you what the law is, my view of the law must be accepted.

There are two other basic principles that are fundamental to your role as jurors. They are the requirement for proof beyond a reasonable doubt and the presumption of innocence. The requirement for proof beyond a reasonable doubt means that no person accused of an offence can be found guilty unless the Crown proves each and every part or element of that offence beyond a reasonable doubt. Similarly, our system of law requires that an accused person be presumed innocent. Mr. Jordan has no obligation to prove that he is not guilty or to explain the evidence offered to you by the Crown. The law presumes he is innocent until you decide otherwise.

Before calling on Crown counsel to give their opening statement I will tell
you something about the offence with which Tyler Jordan has been charged. The
Crown has charged Mr. Jordan with one count of second-degree murder.
You must find Mr. Jordan not guilty of second-degree murder unless the Crown has proved beyond a reasonable doubt that Mr. Jordan is the person who committed the offence on the date and in the place described in the indictment. Specifically, the Crown must prove each of the following essential elements beyond a reasonable doubt:

1. that Tyler Jordan committed an unlawful act;

2. that Tyler Jordan's unlawful act caused Jamie Adams's death; and

3. that Tyler Jordan had the intent required for murder.

Unless you are satisfied beyond a reasonable doubt that the Crown has proved all these essential elements, you must find Mr. Jordan not guilty of second-degree murder.

If you are satisfied beyond a reasonable doubt of all these essential elements, you must find Mr. Jordan guilty of second-degree murder.

I now call upon the Crown to proceed with their case.

CROWN: Thank you, your Honor. Ladies and gentlemen of the jury, a man is dead, senselessly murdered in the middle of the night. This man, Jamie Adams, had a wonderful wife and son, and he was a family man. He was always involved in his son's life, never missing a soccer game. Now, his poor wife has to go on without her husband, and his son without his dad. And he was a devoted husband. You may hear information in this court that suggests otherwise. I can tell you that such information is incorrect, and has no bearing on the fact that father and husband is no longer with us. He was taken unnecessarily and in a violent fashion.

It is not easy to say with any degree of certainty what actually happened on the night that Jamie Adams was killed, because there was no physical evidence found and there are only a few witnesses to the crime. So, we must use the available evidence to piece together what actually happened. As I am confident you will see, here is the most plausible scenario.

Tyler Jordan was hosting his birthday party at a club the night that Mr. Adams was murdered. He invited many people to his party, including several associates who were known to have convictions, and currently engaged in criminal activities. Coincidentally, Mr. Adams arrived at this party as a guest of a guest. We discovered that Mr. Adams has previously had an altercation with some of those associates – they had it in for Mr. Adams ever since. We propose that Tyler

Jordan was embarrassed about having Mr. Adams appear at his party, and knew it would be an insult to his associates. To correct this wrong, Mr. Jordan would eventually play the big man, and take it upon himself and kill Mr. Adams.

The Crown will prove that Tyler Jordan had the motivation and the opportunity to commit this dreadful and violent crime. Indeed, we will present eyewitness evidence that proves he was at the scene of the crime holding a gun. We will also show you technological evidence that places Mr. Jordan in the getaway car that was seen leaving the scene of the crime immediately after the shooting. We will also present evidence from the investigating officer, who interviewed Jordan's best friend, a former alibi witness who admitted that, in fact, he actually didn't know where Mr. Jordan was when the crime was committed. We will challenge Mr. Jordan's story and provide overwhelming evidence to convince you that it was he who carried out this crime. After a fair consideration of the evidence, ladies and gentlemen, we ask that you convict Mr. Jordan of one count of murder in the second-degree. Thank you.

JUDGE: Thank you. Does the Defense wish to make its opening statement now?

DEFENSE: Yes, thank you, your Honor. I would like to begin by reminding the jury in light of opposing counsel's imaginative story that nothing presented in opening statements should be interpreted as fact in this case. This being true, I think that the prosecution is going to have a difficult time convincing anyone of Tyler Jordan's guilt.

Tyler Jordan has maintained his innocence since he was first charged with the murder of Jamie Adams. While it is true that the Crown does have some evidence that may suggest that Tyler Jordan committed this crime, the evidence is flawed. First of all, you will learn that the star eyewitness who identified Mr. Jordan only did so the second time she was interviewed by police, several months after witnessing the crime, and what is more, only did so as a result of a rumor she heard about the perpetrator. You will also learn today of the shady circumstances surrounding the retraction of an alibi that would have exonerated Mr. Jordan. Specifically, you will hear testimony describing how the interviewer tried to minimize the seriousness of lying to the police, saying that it would not be a big deal as long as the witness changed his story to say he was not with Mr. Jordan when the shooting happened.

You can only return a guilty verdict for Mr. Jordan if you believe that it has been proven beyond a reasonable doubt that he shot and killed Jamie Adams. You should not convict a man for being in the wrong place at the wrong time. You should not convict a man for associating with the wrong type of people. But most importantly, you cannot convict a man if there is reasonable doubt that he committed the crime. Once you have heard the facts of this case, you will undoubtedly doubt the Crown's story of what happened and it will be impossible for you to convict Mr. Jordan for the murder of Jamie Adams.

JUDGE: Thank you. The Crown may now call its first witness.

CROWN: Thank you, your Honour. The Crown would like to call Officer Joseph Collins.

JUDGE: Officer Collins, will you please step up. You may now proceed.

CROWN: Thank you. Please state your name and occupation to the court.

MR. COLLINS: My name is Joe Collins and I am a police officer with the Ontario Police Force.

CROWN: Officer Collins, would you please describe for the court what you encountered at about 4:00 am on November 4th, 2006?

MR. COLLINS: At 4:09 am, I received a call from the station informing me that a murder had taken place outside a local nightclub. I arrived on the scene at 4:21 am, where I met with some patrol officers who had arrived before me and had started to secure the crime scene. They informed me that they had checked the body of the victim to see if he was alive, and he was not. They also informed me that the victim's body had three gunshot wounds – one in his head and two in his back. I then conducted a thorough search of the scene with three of the other officers, looking for any potential evidence. We also spent some time looking for possible eyewitnesses, and made arrangements for them to come in for questioning the next morning.

CROWN: Tell me about what happened the next morning when you began questioning witnesses.

MR. COLLINS: Well, we didn't really get much useful information out of any of the witnesses. They all had seen bits and pieces of the incident, but none of them were able to give us concrete information about the shooter. It wasn't until several months later that we finally got a lead in the case.

CROWN: And what happened then?

MR. COLLINS: We were re-interviewing some of the witnesses to see if we could get any additional information. One of the witnesses, Sonya Green, had originally told us that she didn't know who the assailant was. However, the second time we interviewed her, she remembered hearing that the shooter was celebrating his birthday that night. When we showed her video footage from the club, she pointed out Tyler Jordan as the shooter. Since Mr. Jordan was hosting his birthday party at the club that night, this new evidence lined up.

CROWN: So, then what did you do?

MR. COLLINS: We continued to re-interview witnesses. One of the main people we wanted to speak to again was Sam Davis, who said in his original statement that Tyler Jordan was with him inside the club when the shooting happened. Since that contradicted our new evidence, we wanted to speak with Mr. Davis to see if we could clear up the discrepancy. So, I asked him to come by the station to make a new statement.

CROWN: And what happened next?

MR. COLLINS: I asked Mr. Davis to give his account of the events of that evening, everything that happened. Specifically, I asked him to tell me about Tyler Jordan's whereabouts throughout the night. At first, Mr. Davis maintained his alibi for Mr. Jordan and was adamant that Jordan was with him inside the club at the time of the shooting.

CROWN: So, Mr. Davis told you that Tyler Jordan was inside the club at the time of the shooting?

MR. COLLINS: At first, yes. But based on our new evidence, we believed that he was providing a false alibi. As the interview continued, Mr. Davis eventually admitted that he actually wasn't sure where Jordan was when the shooting happened.

CROWN: And did you record this statement?

MR. COLLINS: Yes, I used a video recorder to record the entire interview with Mr. Davis.

CROWN: Your Honor, the People wish to present Exhibit A. Officer Collins used a video recorder to tape Mr. Davis's interview. We wish to play a portion of that tape now.

[**The videotape plays in court**]

COLLINS*: Alright, let's go over this again. Do you have any recollection of Tyler Jordan in the club at the time of that lady running in saying that there had been a shooting?*

DAVIS *:No.*

COLLINS*: Okay. And if you had to say, if somebody said to you, well, you know, I'm gonna suggest to you that he could be in the club but you just didn't see him.*

DAVIS*: I can't answer that 'cause I don't know if he was there.*

COLLINS*: Okay. I think you could take it one step further.*

DAVIS*: Mm-hmm.*

***COLLINS**: And I think you can tell me whether or not he was standing beside you.*

***DAVIS**: He wasn't standing beside me.*

***COLLINS**: Ok. So what I'm gonna ask you now is, is and I think we're back to the stage of where I think we can just all go home. Do you know that Tyler Jordan was outside the club?*

***DAVIS**: No, I don't know.*

***COLLINS**: You don't know?*

***DAVIS**: I swear to God, I don't know.*

***COLLINS**: Okay. When is the last time you saw him in the club?*

***DAVIS**: I mean it, it was, it was his party, you know, let me tell you a little bit about how parties go, right. You, you got the host, you got guests that come in, you know, you thank them for coming out, you gotta make sure the champagne is chilling, you gotta make sure your cake is ready, okay, the photographer wants a picture with you with somebody and blah-blah-blah. So he was just jumping around. And I could honestly say to you I saw him throughout the night but I can't tell you if he was outside or inside.*

***COLLINS**: Okay. And that's for sure?*

***DAVIS**: That's for sure.*

***COLLINS**: Okay. So and this is gonna be a big, a big hurdle for you. Why did you, why did you say that he was inside beside you?*

***DAVIS**: Because I honestly thought he was beside me. Because we're c-, we're-, because normally when you're sharing out cake, you don't just take it upon yourself…*

***COLLINS**: But you never saw him.*

***DAVIS**: Right. And he didn't tell me to say that.*

***COLLINS**: But the fact is that you never saw him beside you.*

***DAVIS**:No. I assumed that he would be beside me because it's his birthday, it's his cake.*

***COLLINS**: But you never saw him.*

***DAVIS**: Right.*

***COLLINS**: And that's for sure?*

DAVIS*: Yeah.*

COLLINS *:Ok, thank you for being honest with me. How you feeling?*

DAVIS*: (Sighs.) I don't know what I'm feeling. If somebody kills somebody then they gotta go to jail. I'm not here to make an alibi for anybody. I'm not here to protect anybody. Maybe Tyler has a dark side that I don't know about.*

[**End video**]

CROWN: Thank you, Officer Collins. No further questions.

JUDGE: The Defense may begin cross examination.

DEFENSE: Officer Collins, how long was your interview with Mr. Davis?

MR. COLLINS: In total, it was about four hours.

DEFENSE: That seems like a long amount of time to be interviewing someone, don't you think?

MR. COLLINS: It was a bit long, but I was not interviewing Mr. Davis for the whole time. We took a break for lunch as well as a few other short breaks. Also, Mr. Davis was quite stubborn throughout the interview and was being argumentative, which is one of the reasons why the interview took so long. We thought that the more time we spent talking to Mr. Davis, the more likely it would be that he would warm up to us and feel comfortable telling the truth about where Tyler Jordan was that night.

DEFENSE: And would you say that four hours is an above average length for a witness interview?

MR. COLLINS: It might be a little above average, but like I said, there were reasons why we felt we needed to continue to question Davis.

DEFENSE: And would you say that you pressured Mr. Davis at all to change his original statement?

MR. COLLINS: Well, I may have put a little bit of pressure on him, but only as much as I felt was necessary to encourage him to tell the truth. It is in line with our training. Our investigative team believed that Mr. Davis was not being truthful with us, and so I just used the skills I have gained from years of interviewing to help him come clean. I explained to him that I could understand why he wasn't telling us the truth and that he was not the bad guy in this situation. I told him that it wasn't that big of a deal that he wasn't truthful with me, because after all, all he

did was lie, and it wasn't like he was the one who murdered someone. I told him that the important thing was to come clean so that we could have enough evidence to get the guy who was the real criminal in this situation.

DEFENSE: Is it possible that Mr. Davis's original story was true, and he only changed his mind because of the intense pressure he was under from you?

MR. COLLINS: I think that is very unlikely. People do not admit to things they did not do or see, especially if it means sending your best friend to prison. Like I said, I was only trying to encourage him to tell the truth. Mr. Davis was asked, at the end of the interview, if he only changed his story because he felt pressured to do so, and he said that no, that was not the case.

DEFENSE: But isn't it possible that he only said that because that's what you wanted to hear?

MR. COLLINS: It's very unlikely in my opinion. Why would someone retract the only real piece of evidence supporting their best friend's innocence if what they were saying wasn't true?

DEFENSE: No further questions.

JUDGE: The Crown may call its next witness.

CROWN: The Crown calls Dr. Janice Stevens

JUDGE: Dr. Stevens, will you please step up? You may proceed.

CROWN: Thank you. Would you please state your name and occupation to the court.

DR. STEVENS: My name is Janice Stevens. I am a physician, and am currently employed by the Ontario Forensic Pathology Service. As a forensic psychologist, I am responsible for performing autopsies in cases of sudden or suspicious death.

CROWN: And did you perform an autopsy on Mr. Adams, the victim in this case?

DR. STEVENS: Yes, I did.

CROWN: Could you please summarize the findings of your investigation.

DR. STEVENS: The examination of Mr. Adams revealed three gunshot wounds – two non-fatal wounds entering the mid back and exiting the left chest, and one fatal wound entering the anterior midline scalp.

CROWN: So, he was shot in the back and in the head. Which shot killed him?

DR. STEVENS: Yes. Mr. Adams was shot three times, but, in my opinion, he died from the shot to his head.

CROWN: Dr. Stevens, can you discern anything about the murder from the wounds on Mr. Adams's body?

DR. STEVENS: The pattern of the two wounds on the victim's back tell me that he was shot from behind, probably while trying to run away. The third gunshot wound that entered the front of his head indicates that he was facing the assailant at the time that it was inflicted.

CROWN: Thank you. No further questions.

JUDGE: Would the Defense like to cross-examine the witness?

DEFENSE: No, your Honour.

JUDGE: The Crown may call its next witness.

CROWN: The Crown calls Carl Walsh.

JUDGE: Please step up, Mr. Walsh.

CROWN: Thanks. Please state your name and occupation to the court.

MR. WALSH: My name is Carl Walsh, and I am an investigator with the Ontario Police Force. I specialize in the analysis of cell phone records to determine the approximate location of individuals during a particular time period.

CROWN: Mr. Walsh, can you tell us about your involvement with this case?

MR. WALSH: Yeah. So I was approached by the detectives working on this case and asked if I could help them figure out the location of a person of interest at the time immediately after the victim was shot. They told me that eyewitness accounts had confirmed that the shooter had gotten into a black SUV immediately after the shooting and sped away from the scene. Basically, they wanted me to determine whether a primary suspect could be traced to that SUV shortly after the shooting occurred.

CROWN: And were you able to do this?

MR. WALSH: Yes. According to the investigation, the shooting occurred around 4:09 AM. Around that time, the suspect in question made five phone calls, between 4:09 and 4:12 AM. Using the information from cell phone towers in the area, I was able to narrow down the location of those calls.

CROWN: And what did you conclude?

MR. WALSH: Based on the information I was able to get from those calls, as well as video footage of the route that the SUV took after it left the club, I concluded that the suspect in question was in the vicinity of the SUV at the time he made the calls.

CROWN: And who was this suspect?

MR. WALSH: It was Tyler Jordan.

CROWN: Mr. Walsh, how confident are you in your findings that place Mr. Jordan in the getaway car that took the suspect from the scene?

MR. WALSH: Oh, I'm quite confident. The data from the cell towers places Tyler Jordan's cell phone on the same route that we know the SUV took when it left the club. The timelines match up. What more would you want?

CROWN: Thank you, Mr. Walsh. No further questions

JUDGE: The Defense may begin cross examination.

DEFENSE: Thank you. Mr. Walsh, how long have you been doing this job, analyzing cell phone records?

MR. WALSH: About four years.

DEFENSE: And how accurate would you say that this process is?

MR. WALSH: Well, that's a hard question. The way it works is that we can narrow down an approximate location of a cell phone using triangulation, based on the towers that the phone pings off of, and that process is very accurate.

DEFENSE: So you're saying that it's not possible to determine exactly where someone is?

MR. WALSH: Well, yes, we can't pinpoint the exact location, but we can get pretty close.

DEFENSE: And is it always the case that a cell phone will always connect to the closest cell phone tower?

MR. WALSH: Usually that's how it works, but in rare situations it may not be the case.

DEFENSE: So not always then.

MR. WALSH:I guess not, no.

DEFENSE: Okay, so just to clarify, it is impossible to determine the exact location of a cell phone, and it's also possible that the cell tower that a cell phone connects to may not even be the closest one to it?

MR. WALSH: Yeah, I guess so.

DEFENSE: Okay. So would you say that it's possible that Mr. Jordan was in fact not in the black SUV when he made those calls?

MR. WALSH: Well, based on my analysis, it seems likely that the calls were made from the SUV considering the trajectory of the SUV lines up with that of the cell phone records.

DEFENSE: But it's possible that he wasn't in there?

MR. WALSH: Yes, it's possible.

DEFENSE: Thank you. No further questions.

JUDGE: The Crown may call its next witness.

CROWN: The Crown calls Sonya Green.

JUDGE: Ms. Green, please step up. You may proceed.

CROWN: Thank you. Please state your name and occupation to the court.

MS. GREEN: My name is Sonya Green and I am an administrative assistant.

CROWN: Thank you. Ms. Green, is it true that you were interviewed twice by the police in relation to this case?

MS. GREEN: Yes.

CROWN: Can you tell me about what you told police the first time you were interviewed?

MS. GREEN: It was the day after the shooting, and I was asked to come in and tell the police what I could remember about what happened. I was pretty shaken up, and my memory was a bit fuzzy, so I didn't have much to tell them. All I could really remember was that the shooter was wearing sunglasses.

CROWN: And did you tell the police that you saw this man inside the club before the shooting?

MS. GREEN: They asked me, but I wasn't sure at that time.

CROWN: Okay. So then, what happened when you were interviewed the second time?

MS. GREEN: At that point, it has been a few months since the shooting, and I wasn't as nervous as I was the first time. I guess my head was clearer, and I was able to remember that I did see the man with the sunglasses inside the club before the shooting. I also remembered that someone told me that it was the shooter's birthday that night.

CROWN: And then what happened?

MS. GREEN: When I told that to the officer, he decided to show me a video from the club on the night of the party, to see if I could point out the man with sunglasses. When they showed me the video, I saw the man and pointed him out a few different times.

CROWN: And who was that man?

MS. GREEN: Tyler Jordan.

CROWN: And how confident are you that Tyler Jordan was the man with sunglasses that you saw shoot Jamie Adams.

MS. GREEN: I would say very confident.

CROWN: Thank you, no further questions.

JUDGE: The Defense may begin cross examination.

DEFENSE:Ms. Green, you stated that in your first interview with police, you could not remember much about the night of the shooting. Is that true?

MS. GREEN: Yes, that's true.

DEFENSE: So why is it that you could suddenly remember key information the second time around?

MS. GREEN: Like I said, the first interview was so soon after the shooting happened, I think I was just really nervous and shook up.

DEFENSE: Okay, so tell me this: what were the conditions like when you saw the shooter?

MS. GREEN: Well it was dark, since it was the middle of the night, but there were some streetlights on though, and one of them was right above the place where the shooting happened, so I could see pretty well.

DEFENSE: And how long would you say that your observation of the shooter lasted?

MS. GREEN: I only saw him for a few seconds, but I did get a pretty good look at him.

DEFENSE: So you say you identified the assailant in the dark, at 4:00 in the morning, after only seeing him for a few seconds. Does that sound like ideal conditions to you?

MS. GREEN: I guess not.

DEFENSE: Okay, so when you told the police that you remembered something new, you said that you remembered someone told you it was the shooter's birthday, right?

MS. GREEN: Yes.

DEFENSE: And after you gave them this information, they showed you a videotape from the night of the shooting.

MS. GREEN: Yes.

DEFENSE: And is it true that the video tape you were shown also had sound?

MS. GREEN: Yes.

DEFENSE: And in this video, didn't you hear someone saying "Happy Birthday" to Tyler Jordan?

MS. GREEN: Yes, I did.

DEFENSE: So isn't it possible that you identified Jordan as the shooter simply as a result of hearing that it was his birthday, and not because you recognized him as the shooter?

MS. GREEN: Well, picked him because I remembered he was the man in sunglasses that I saw.

DEFENSE: Were you aware that Tyler Jordan was not the only man celebrating his birthday that night, and that in fact, there were at least two other men at the party with birthdays that same day?

MS. GREEN: No, I didn't know that.

DEFENSE: Is it possible that it was in fact one of those other men who shot Jamie Adams?

MS. GREEN: I don't think so, I'm sure about what I saw.

DEFENSE: No further questions.

CROWN: The Crown rests, your Honour.

JUDGE: Okay. I call upon the Defense to present their case.

JUDGE: Thank you. The defense may now call its first witness.

DEFENSE: Thank you, your Honour. The Defense calls Sam Davis.

JUDGE: Mr. Davis, step up please. You may proceed.

DEFENSE: Thank you. Please state your name and occupation to the court.

MR. DAVIS: My name is Sam Davis and I am a promoter.

DEFENSE: Mr. Davis, are you a friend of Mr. Jordan?

MR. DAVIS: Yes, I am. We have been best friends for a long time.

DEFENSE: And were you with him on the night of the shooting?

MR. DAVIS: Yes. He was celebrating his birthday at the club and I was there helping him get everything ready.

DEFENSE: And did you stay for the party?

MR. DAVIS: Yes, I did.

DEFENSE: Did you witness the shooting?

MR. DAVIS: No, I didn't. At that time, I was inside the club.

DEFENSE: Ok, and what did you tell police about Mr. Jordan's whereabouts at the time of the shooting when they first interviewed you, the day after the shooting?

MR. DAVIS: They asked me to tell them everything I could remember about that night. I told them that I wasn't with Tyler the whole night, but I remembered that we were together, passing out cake, when we heard that someone was shot.

DEFENSE: And what happened the second time that you were interviewed by the police?

MR. DAVIS: A few months after that night, I got a call asking if I was able to come back for more questioning. At first, when I got there, Officer Collins asked me to tell him everything I could remember. My memory was definitely a little bit fuzzier by that point, but I told him basically the same things I said the first time.

DEFENSE: And was that it?

MR. DAVIS: No. Once I told him my story, the officer said that based on new evidence they got, they thought that I must be lying, because the new evidence made it seem like Tyler was the shooter. They told me that someone identified him as the shooter and that they had incriminating cell phone records. I told them that would be impossible, since I know he was with me when the shooting happened, and we weren't even outside. But the officer wouldn't take no for an answer.

DEFENSE: And then what happened?

MR. DAVIS: Well, after a while, I started questioning my own memory and thought that maybe I was remembering wrong.

DEFENSE: You mean you started questioning your memory of being with Tyler during the shooting?

MR. DAVIS: Yeah.

DEFENSE: And did you tell the police that?

MR. DAVIS: Yeah. Eventually I told Officer Collins that I wasn't actually 100% sure if Tyler was with me.

DEFENSE: But at the beginning of the interview you were so sure that Tyler was with you – what made you change your mind?

MR. DAVIS: I really did think that I remembered being with Tyler when everything went down, but Officer Collins made me question my memory. If the police were so sure that I wasn't telling the truth, then I guess I thought I must've made a mistake.

DEFENSE: Ok. Let me ask you this – did Officer Collins put pressure on you to try to convince you to change your story?

MR. DAVIS: Well, yeah. He was pretty serious during the interview, and kept saying that he knew I wasn't telling him the truth.

DEFENSE: Ok. Is it true that Officer Collins repeatedly tried to minimize the seriousness of lying to him by telling you that you were not the bad guy?

MR. DAVIS: Yeah, he did.

DEFENSE: And didn't he tell you that lying that lying to the police isn't a big deal and that he could understand why you weren't being honest, as long as you came clean? That any mistakes you made could be forgotten if you helped to catch the guy who actually murdered someone?

MR. DAVIS: Yeah.

DEFENSE: And did that contribute to your change of story?

MR. DAVIS: Well, yeah, it definitely made me question whether I was remembering things right.

DEFENSE: I'll suggest to you that this behaviour had a major impact on your decision to change your story, and that Officer Collins made you feel like there was no way out but to say what he wanted to hear. Is that true?

MR. DAVIS: He definitely made me question my memory of that night. I really thought I remembered what happened so clearly, but I was pretty freaked out in the interview and Officer Collins was so persistent, so then I thought that maybe I wasn't remembering as clearly as I thought I was.

DEFENSE: And if I were to ask you now if you remember being with Tyler when the shooting happened, what would you say?

MR. DAVIS: Honestly, I still do remember him being with me, but I can't be 100% sure now.

DEFENSE: No further questions.

JUDGE: The Crown may begin cross examination.

CROWN: Mr. Davis, you would consider yourself a smart man, correct?

MR. DAVIS: Smart enough, yes.

CROWN: And would you say that you are a particularly weak, or vulnerable individual?

MR. DAVIS: No.

CROWN: Right. I would suggest that you are an intelligent, strong-willed, and independent man.

MR. DAVIS: I would say so, yeah.

CROWN: So can you explain to me how a conversation with a police officer led you to throw your friend under the bus? To completely change your story of what happened that night?

MR. DAVIS: Well, like I just said, Officer Collins kept telling me that he knew I was lying, and told me that he understood why I would lie and it wasn't a big deal, as long as I came clean. Even though I was so sure of my memory and didn't think I was lying, I started to doubt what I remembered about that night.

CROWN: Mr. Davis, do you really expect the jury to believe that a man like yourself was manipulated into retracting an alibi for your best friend? To take away the only piece of evidence that may have kept him out of jail? Why would you do that?

MR. DAVIS: It's hard to explain, but I felt like my own memory was playing tricks on me. I didn't know what was true and what was fake, and I just wanted to get out of there.

CROWN: But you know that you could have just left, right? You were being questioned as a witness and were not detained.

MR. DAVIS: I don't know. At the time, it didn't feel like I had the option to leave.

CROWN: I'll put it to you that perhaps the reason you felt compelled to retract your alibi for Mr. Jordan was because it was false in the first place. Is that true?

MR. DAVIS: The story I told at the beginning was what I thought to be true at the time. I still clearly remember being with Tyler during the shooting, but after talking to Officer Collins I questioned whether my memory was actually real.

CROWN: Well then why did you sell out your best friend, if you weren't even sure about what you were saying?

MR. DAVIS: I don't know. I really can't explain what happened, but all I know is that Officer Collins made me doubt my own memory.

CROWN: No further questions.

JUDGE: The Defense may call its next witness

DEFENSE: The Defense rests, your Honour.

JUDGE: Alright. Is the Crown prepared to argue their case at this time?

CROWN: Yes, your Honour.

JUDGE: Okay. I would like to admonish the jury that the arguments you are about to hear are not evidence, they are only interpretations of what the evidence may show and the theories that may be drawn. The evidence is received from the witness stand, and the instruction on the law will be given to you by the Court. We'll begin with the Defense.

DEFENSE: Thank you, your Honor. Ladies and gentlemen of the jury, Tyler Jordan is not a killer. He is simply a man who has a passion for party planning, and who wanted to celebrate his 39th birthday with his friends on November 3rd, 2006. Little did he know, the party would end in tragedy, and that the killing would be the first in a series of unfortunate events for Tyler. Not only did he have to come to terms with the fact that a man was murdered at his birthday party, but soon after that, he himself would be accused of committing the crime, and would wait in jail for months to stand trial for a crime he did not commit.

There is no concrete evidence linking Mr. Jordan to the shooting. No forensic evidence, no video footage. We have one eyewitness, Sonya Green, who claims that Tyler Jordan was the man she saw shoot Mr. Adams. However, the circumstances of this identification are far below ideal. For one, Ms. Green only witnessed the shooting for about two or three seconds, in the dark, in the wee hours of the morning. Second, she did not identify Mr. Jordan in her original interview with police. Third, she only identified Mr. Jordan based on a rumor that the shooter's birthday was that night. When she heard someone say happy birthday to Mr. Jordan on a video from inside the club, she assumed that he was the killer. Yet, what she did not know was that there were multiple men in attendance who were celebrating their birthday that night. Moreover, she does not know if that rumor she heard is even true.

There is also evidence from cell phone records that supposedly places Tyler Jordan in the getaway car. However, we heard from the police expert's own mouth that this type of technology is flawed and cannot determine with certainty exactly where an individual was at any given time.

We also have Sam Davis, a witness who provided an alibi for Mr. Jordan, then retracted it. But, it is clear that his change of story came as a direct result of the pressure put on him by police to do so. You heard testimony from Mr. Davis stating that Officer Collins minimized the seriousness of lying to the police, suggesting that it was not a big deal that he had originally lied as long as he agreed to say that he didn't know where Tyler Jordan was when the shooting occurred. So, ladies and gentlemen, I urge you to do the right thing and render a verdict of not guilty, because Mr. Jordan is not a killer, and there is no clear evidence to suggest otherwise. Thank you.

JUDGE: And now we will hear from the Crown.

CROWN: Ladies and gentlemen of the jury, the Defense is trying to convince you that Tyler Jordan is an innocent man. However, we have evidence indicating that this is not the case. A man was tragically gunned down on the night of Mr. Jordan's own birthday party. No one has been able to confirm Mr. Jordan's whereabouts at the time of the crime – even his own best friend, Sam Davis, admitted that he didn't know where Tyler was when Mr. Adams was shot. We also have an eyewitness who confidently identified Mr. Jordan the shooter, along with cell phone records that trace Mr. Jordan's location immediately after the shooting to the SUV in which the perpetrator is

known to have fled the scene. We believe that this evidence should convince you beyond a reasonable doubt that Tyler Jordan killed Jamie Adams.

With regards to motive, Mr. Jordan wanted to show his associates that he did not betray or insult them by inviting one of their sworn enemies to his birthday party. It was extreme but it was Mr. Jordan's way of righting a perceived wrong.

Ladies and gentlemen, after you have carefully weighed the evidence, a logical and commonsense evaluation of the opposing scenarios presented to you in this courtroom should convince you beyond a reasonable doubt that the defendant, Tyler Jordan is guilty of murder in the second degree. Thank you.

JUDGE: Ladies and gentlemen of the jury, that concludes the evidence to be heard in this matter. It is now time for your deliberations. You must determine whether Tyler Jordan is guilty or not guilty of second-degree murder. As you may recall from the beginning of these proceedings, I outlined each of the elements that the Crown must prove beyond a reasonable doubt in order to succeed in their case against Mr. Jordan. I now will take a few moments to discuss each of these elements and the evidence relating to the charge against Mr. Jordan.

To determine whether the Crown has proved these essential elements, consider the following questions:

First – Did Tyler Jordan commit an unlawful act?
It is not always a crime to cause another person's death. It is a crime, however, to cause the death of another person by an unlawful act.

The unlawful act alleged in this case is the second-degree murder of Jamie Adams.

In this case, the issue of identification of the assailant is of the utmost importance. We have one eyewitness who has confidently identified Tyler Jordan as the perpetrator. We do not have any witnesses who can account for Mr. Jordan's whereabouts at the time of the shooting. In fact, we have a former alibi witness who has admitted that he does not actually remember where Mr. Jordan was at the time of the shooting. However, Mr. Jordan has steadfastly maintained his innocence, and the alibi witness has since retracted his statement and blamed his change of heart on the pressure put on him by his police interviewer. Thus, you must determine whether or not it can be proven beyond a reasonable doubt that Tyler Jordan was the one who shot Jamie Adams.

Unless you are satisfied beyond a reasonable doubt that Tyler Jordan committed the unlawful act of second-degree murder, you must find Mr. Jordan not guilty. Your deliberations would be over.

If you are satisfied beyond a reasonable doubt that Tyler Jordan committed the unlawful act, you must go on to the next question.

Second – Did Tyler Jordan's unlawful act cause Jamie Adams's death?
To prove that Mr. Jordan caused Mr. Adams's death, the Crown must prove beyond a reasonable doubt that Mr. Jordan's conduct contributed significantly to Mr. Adams's death. A person's conduct may contribute significantly to another person's death even though that conduct is not the sole or main cause of death. You must consider all the evidence concerning the cause of Mr. Adams's death in determining whether the Crown has proved that Mr. Jordan's conduct contributed significantly. It is for you to decide.

We already know that a gunshot wound to the head killed Mr. Adams. Thus, if it is decided that the Crown has successfully proven beyond a reasonable doubt that Mr. Jordan was the shooter, then it is clear that you can also be satisfied that it was Mr. Jordan's unlawful act that killed Mr. Adams.

If you are satisfied beyond a reasonable doubt that Mr. Jordan caused Mr. Adams's death, you must go on to the next question.

Third – Did Tyler Jordan have the intent required for murder?
To prove that Tyler Jordan had the intent required for murder, the Crown must prove beyond a reasonable doubt one of two things, either:

1. that Mr. Jordan meant to cause Mr. Adams's death; or

2. that Mr. Jordan meant to cause Mr. Adams bodily harm that he knew was likely to cause his death and was reckless whether death ensued or not.

In other words, you must decide whether the Crown has proved beyond a reasonable doubt either that Tyler Jordan meant to kill Mr. Adams, or that Mr. Jordan meant to cause Mr. Adams bodily harm that he knew was so dangerous and serious that he knew it was likely to kill Mr. Adams and proceeded despite his knowledge of that risk.

The Crown does not have to prove both. Nor do you all have to agree on the same intent, so long as each of you is satisfied that one or the other has been proven beyond a reasonable doubt.

To determine whether the Crown has proved that Mr. Jordan had one of the intents required for murder, you must consider all the evidence, including the nature of the harm inflicted, and anything said or done in the circumstances. You may infer, as a matter of common sense, that a person

usually knows what the predictable consequences of his or her actions are, and means to bring them about. However, you are not required to draw that inference about Mr. Jordan. Indeed, you must not do so if, on the whole of the evidence, you have a reasonable doubt whether Mr. Jordan had one of the intents required for murder. It is for you to decide.

I remind you that the Crown must prove each of these elements beyond a reasonable doubt. You must return a verdict of not guilty of the offence if the Crown has not proven each of these elements beyond a reasonable doubt. You may retire to the Jury Room for deliberations. When you reach a unanimous verdict, just inform the sheriff. He will tell me that you are ready to return to the courtroom for the purpose of announcing your verdict.

APPENDIX E – SAMPLE TRANSCRIPT (EXPERIMENT 4 – CHANGES HIGHLIGHTED)

HIGH LEVEL MINIMIZATION CONDITION

IN THE ONTARIO SUPERIOR COURT OF JUSTICE

Trial Transcript

REGINA

v.

TYLER JORDAN
(Accused)

August 19-23, 2016

LISTING OF NAMES AND POSITIONS

THE COURT: Presiding Judge, The Honorable Raymond George

MR. LEE WILLIS: Attorney for the Crown (prosecutor)

MR. MALCOLM ANDERSON: Attorney for the Defendant

MR. TYLER JORDAN: The Defendant

MR. JAMIE ADAMS: Victim (deceased)

MR. JOSEPH COLLINS: Witness for the Prosecution; law enforcement officer (major crimes unit)

MS. JANICE STEVENS: Witness for the Prosecution; law enforcement officer (forensic identification unit)

MR. CARL WALSH: Witness for the Prosecution; law enforcement officer (technical services unit)

MS. SONYA GREEN: Witness for the Prosecution

MR. SAM DAVIS: Witness for the Defense

NOTE: The following is an abbreviated transcript of the above-stated case. Personal identifying information – as per publication ban – has been removed. Non-verbal actions have also been removed (e.g., sitting and standing)

CLERK: Order in court, The Honourable Mister Justice George presiding.

JUDGE: You may be seated.

CLERK: The case of the Regina versus Tyler Jordan, my Lord.

JUDGE: Thank you. Are all parties present?

CROWN: Yes, my Lord. I am Lee Willis and I am acting on behalf the Crown in this matter.

DEFENCE: My Lord. I am Malcolm Anderson and I am acting on behalf of the accused, Tyler Jordan.

JUDGE: Thank you. Mr. Jordan, please rise to hear the charge.

CLERK: Tyler Jordan, you are charged that on the fourth day of November, in the year 2006, you did unlawfully commit murder in the second degree. How do you plead?

MR. JORDAN: Not guilty.

JUDGE: Thank you.

JUDGE: Thank you. Good day, ladies and gentlemen of the jury. I begin with some general comments on our roles in this trial. Throughout these proceedings, you will act as the judges of the facts and I will be the judge of the law. Although I may comment on the evidence, as judges of the facts you are the only judges of the evidence. However, when I tell you what the law is, my view of the law must be accepted.

There are two other basic principles that are fundamental to your role as jurors. They are the requirement for proof beyond a reasonable doubt and the presumption of innocence. The requirement for proof beyond a reasonable doubt means that no person accused of an offence can be found guilty unless the Crown proves each and every part or element of that offence beyond a reasonable doubt. Similarly, our system of law requires that an accused person be presumed innocent. Mr. Jordan has no obligation to prove that he is not guilty or to explain the evidence offered to you by the Crown. The law presumes he is innocent until you decide otherwise.

Before calling on Crown counsel to give their opening statement I will tell
you something about the offence with which Tyler Jordan has been charged. The
Crown has charged Mr. Jordan with one count of second-degree murder.
You must find Mr. Jordan not guilty of second-degree murder unless the Crown has proved beyond a reasonable doubt that Mr. Jordan is the person who committed the offence on the date and in the place described in the indictment. Specifically, the Crown must prove each of the following essential elements beyond a reasonable doubt:

1. that Tyler Jordan committed an unlawful act;

2. that Tyler Jordan's unlawful act caused Jamie Adams's death; and

3. that Tyler Jordan had the intent required for murder.

Unless you are satisfied beyond a reasonable doubt that the Crown has proved all these essential elements, you must find Mr. Jordan not guilty of second-degree murder.

If you are satisfied beyond a reasonable doubt of all these essential elements, you must find Mr. Jordan guilty of second-degree murder.

I now call upon the Crown to proceed with their case.

CROWN: Thank you, your Honor. Ladies and gentlemen of the jury, a man is dead, senselessly murdered in the middle of the night. This man, Jamie Adams, had a wonderful wife and son, and he was a family man. He was always involved in his son's life, never missing a soccer game. Now, his poor wife has to go on without her husband, and his son without his dad. And he was a devoted husband. You may hear information in this court that suggests otherwise. I can tell you that such information is incorrect, and has no bearing on the fact that father and husband is no longer with us. He was taken unnecessarily and in a violent fashion.

It is not easy to say with any degree of certainty what actually happened on the night that Jamie Adams was killed, because there was no physical evidence found and there are only a few witnesses to the crime. So, we must use the available evidence to piece together what actually happened. As I am confident you will see, here is the most plausible scenario.

Tyler Jordan was hosting his birthday party at a club the night that Mr. Adams was murdered. He invited many people to his party, including several associates who were known to have convictions, and currently engaged in criminal activities. Coincidentally, Mr. Adams arrived at this party as a guest of a guest. We discovered that Mr. Adams has previously had an altercation with some of those associates – they had it in for Mr. Adams ever since. We propose that Tyler

Jordan was embarrassed about having Mr. Adams appear at his party, and knew it would be an insult to his associates. To correct this wrong, Mr. Jordan would eventually play the big man, and take it upon himself and kill Mr. Adams.

The Crown will prove that Tyler Jordan had the motivation and the opportunity to commit this dreadful and violent crime. Indeed, we will present scientific evidence proving that Mr. Jordan's DNA was found at the crime scene. We will show you evidence of a text message sent to the victim by the defendant that demonstrates his intent to kill. We will also show you technological evidence that places Mr. Jordan in the getaway car that was seen leaving the scene of the crime immediately after the shooting. An eyewitness will provide testimony that proves the defendant was at the scene of the crime holding a gun. We will also present evidence from the investigating officer, who interviewed Jordan's best friend, a former alibi witness who admitted that, in fact, he actually didn't know where Mr. Jordan was when the crime was committed. We will challenge Mr. Jordan's story and provide overwhelming evidence to convince you that it was he who carried out this crime. After a fair consideration of the evidence, ladies and gentlemen, we ask that you convict Mr. Jordan of one count of murder in the second-degree. Thank you.

JUDGE: Thank you. Does the Defense wish to make its opening statement now?

DEFENSE: Yes, thank you, your Honor. I would like to begin by reminding the jury in light of opposing counsel's imaginative story that nothing presented in opening statements should be interpreted as fact in this case. This being true, I think that the prosecution is going to have a difficult time convincing anyone of Tyler Jordan's guilt.

Tyler Jordan has maintained his innocence since he was first charged with the murder of Jamie Adams. While it is true that the Crown does have some evidence that may suggest that Tyler Jordan committed this crime, the evidence is flawed. First of all, you will learn that the scientific and technological evidence offered by the Crown, although it may seem convincing, is not actually as damning as it appears to be at first glance. You will also learn that the star eyewitness who identified Mr. Jordan only did so the second time she was interviewed by police, several months after witnessing the crime, and what is more, only did so as a result of a rumor she heard about the perpetrator. We will also shed light on the shady circumstances surrounding the retraction of an alibi that would have exonerated Mr. Jordan. Specifically, you will hear testimony describing how the interviewer tried to minimize the seriousness of lying to the police, saying that it would not be a big deal as long as the witness changed his story to say he was not with Mr. Jordan when the shooting happened.

You can only return a guilty verdict for Mr. Jordan if you believe that it has been proven beyond a reasonable doubt that he shot and killed Jamie Adams. You should not convict a man for being in the wrong place at the wrong time. You should not convict a man for associating with the wrong

type of people. But most importantly, you cannot convict a man if there is reasonable doubt that he committed the crime. Once you have heard the facts of this case, you will undoubtedly doubt the Crown's story of what happened and it will be impossible for you to convict Mr. Jordan for the murder of Jamie Adams.

JUDGE: Thank you. The Crown may now call its first witness.

CROWN: Thank you, your Honour. The Crown would like to call Officer Joseph Collins.

JUDGE: Officer Collins, will you please step up. You may now proceed.

CROWN: Thank you. Please state your name and occupation to the court.

MR. COLLINS: My name is Joe Collins and I am a police officer with the Ontario Police Force.

CROWN: Officer Collins, would you please describe for the court what you encountered at about 4:00 am on November 4th, 2006?

MR. COLLINS: At 4:09 am, I received a call from the station informing me that a murder had taken place outside a local nightclub. I arrived on the scene at 4:21 am, where I met with some patrol officers who had arrived before me and had started to secure the crime scene. They informed me that they had checked the body of the victim to see if he was alive, and he was not. They also informed me that the victim's body had three gunshot wounds – one in his head and two in his back. I then conducted a thorough search of the scene with three of the other officers, looking for any potential evidence. We also spent some time looking for possible eyewitnesses, and made arrangements for them to come in for questioning the next morning.

CROWN: Tell me about what happened the next morning when you began questioning witnesses.

MR. COLLINS: Well, we didn't really get much useful information out of any of the witnesses. They all had seen bits and pieces of the incident, but none of them were able to give us concrete information about the shooter. It wasn't until several months later that we finally got a lead in the case.

CROWN: And what happened then?

MR. COLLINS: We were re-interviewing some of the witnesses to see if we could get any additional information. One of the witnesses, Sonya Green, had originally told us that she didn't know who the assailant was. However, the second time we interviewed her, she remembered hearing that the shooter was celebrating his birthday that night. When we showed her video footage

from the club, she pointed out Tyler Jordan as the shooter. Since Mr. Jordan was hosting his birthday party at the club that night, this new evidence lined up.

CROWN: So, then what did you do?

MR. COLLINS: We continued to re-interview witnesses. One of the main people we wanted to speak to again was Sam Davis, who said in his original statement that Tyler Jordan was with him inside the club when the shooting happened. Since that contradicted our new evidence, we wanted to speak with Mr. Davis to see if we could clear up the discrepancy. So, I asked him to come by the station to make a new statement.

CROWN: And what happened next?

MR. COLLINS: I asked Mr. Davis to give his account of the events of that evening, everything that happened. Specifically, I asked him to tell me about Tyler Jordan's whereabouts throughout the night. At first, Mr. Davis maintained his alibi for Mr. Jordan and was adamant that Jordan was with him inside the club at the time of the shooting.

CROWN: So, Mr. Davis told you that Tyler Jordan was inside the club at the time of the shooting?

MR. COLLINS: At first, yes. But based on our new evidence, we believed that he was providing a false alibi. As the interview continued, Mr. Davis eventually admitted that he actually wasn't sure where Jordan was when the shooting happened.

CROWN: And did you record this statement?

MR. COLLINS: Yes, I used a video recorder to record the entire interview with Mr. Davis.

CROWN: Your Honor, the People wish to present Exhibit A. Officer Collins used a video recorder to tape Mr. Davis's interview. We wish to play a portion of that tape now.

[**The videotape plays in court**]

COLLINS*: Alright, let's go over this again. Do you have any recollection of Tyler Jordan in the club at the time of that lady running in saying that there had been a shooting?*

DAVIS *:No.*

COLLINS*: Okay. And if you had to say, if somebody said to you, well, you know, I'm gonna suggest to you that he could be in the club but you just didn't see him.*

DAVIS*: I can't answer that 'cause I don't know if he was there.*

COLLINS*: Okay. I think you could take it one step further.*

DAVIS*: Mm-hmm.*

COLLINS*: And I think you can tell me whether or not he was standing beside you.*

DAVIS*: He wasn't standing beside me.*

COLLINS*: Ok. So what I'm gonna ask you now is, is and I think we're back to the stage of where I think we can just all go home. Do you know that Tyler Jordan was outside the club?*

DAVIS*: No, I don't know.*

COLLINS*: You don't know?*

DAVIS*: I swear to God, I don't know.*

COLLINS*: Okay. When is the last time you saw him in the club?*

DAVIS*: I mean it, it was, it was his party, you know, let me tell you a little bit about how parties go, right. You, you got the host, you got guests that come in, you know, you thank them for coming out, you gotta make sure the champagne is chilling, you gotta make sure your cake is ready, okay, the photographer wants a picture with you with somebody and blah-blah-blah. So he was just jumping around. And I could honestly say to you I saw him throughout the night but I can't tell you if he was outside or inside.*

COLLINS*: Okay. And that's for sure?*

DAVIS*: That's for sure.*

COLLINS*: Okay. So and this is gonna be a big, a big hurdle for you. Why did you, why did you say that he was inside beside you?*

DAVIS*: Because I honestly thought he was beside me. Because we're c-, we're-, because normally when you're sharing out cake, you don't just take it upon yourself…*

COLLINS*: But you never saw him.*

DAVIS*: Right. And he didn't tell me to say that.*

COLLINS*: But the fact is that you never saw him beside you.*

DAVIS*:No. I assumed that he would be beside me because it's his birthday, it's his cake.*

***COLLINS**: But you never saw him.*

***DAVIS**: Right.*

***COLLINS**: And that's for sure?*

***DAVIS**: Yeah.*

***COLLINS** :Ok, thank you for being honest with me. How you feeling?*

***DAVIS**: (Sighs.) I don't know what I'm feeling. If somebody kills somebody then they gotta go to jail. I'm not here to make an alibi for anybody. I'm not here to protect anybody. Maybe Tyler has a dark side that I don't know about.*

[**End video**]

CROWN: Thank you, Officer Collins. No further questions.

JUDGE: The Defense may begin cross examination.

DEFENSE: Officer Collins, how long was your interview with Mr. Davis?

MR. COLLINS: In total, it was about four hours.

DEFENSE: That seems like a long amount of time to be interviewing someone, don't you think?

MR. COLLINS: It was a bit long, but I was not interviewing Mr. Davis for the whole time. We took a break for lunch as well as a few other short breaks. Also, Mr. Davis was quite stubborn throughout the interview and was being argumentative, which is one of the reasons why the interview took so long. We thought that the more time we spent talking to Mr. Davis, the more likely it would be that he would warm up to us and feel comfortable telling the truth about where Tyler Jordan was that night.

DEFENSE: And would you say that four hours is an above average length for a witness interview?

MR. COLLINS: It might be a little above average, but like I said, there were reasons why we felt we needed to continue to question Davis.

DEFENSE: And would you say that you pressured Mr. Davis at all to change his original statement?

MR. COLLINS: Well, I may have put a little bit of pressure on him, but only as much as I felt was necessary to encourage him to tell the truth. It is in line with our training. Our investigative team believed that Mr. Davis was not being truthful with us, and so I just used the skills I have gained from years of interviewing to help him come clean. I explained to him that I could understand why he wasn't telling us the truth and that he was not the bad guy in this situation. I told him that it wasn't that big of a deal that he wasn't truthful with me, because after all, all he did was lie, and it wasn't like he was the one who murdered someone. I told him that the important thing was to come clean so that we could have enough evidence to get the guy who was the real criminal in this situation.

DEFENSE: Is it possible that Mr. Davis's original story was true, and he only changed his mind because of the intense pressure he was under from you?

MR. COLLINS: I think that is very unlikely. People do not admit to things they did not do or see, especially if it means sending your best friend to prison. Like I said, I was only trying to encourage him to tell the truth. Mr. Davis was asked, at the end of the interview, if he only changed his story because he felt pressured to do so, and he said that no, that was not the case.

DEFENSE: But isn't it possible that he only said that because that's what you wanted to hear?

MR. COLLINS: It's very unlikely in my opinion. Why would someone retract the only real piece of evidence supporting their best friend's innocence if what they were saying wasn't true?

DEFENSE: No further questions.

JUDGE: The Crown may call its next witness.

CROWN: The Crown calls Ms. Janice Stevens

JUDGE: Ms. Stevens, will you please step up? You may proceed.

CROWN: Thank you. Would you please state your name and occupation to the court.

MS. STEVENS: My name is Janice Stevens. I am a police officer and the head of the Ontario Police Force's Forensic Identification Unit.

CROWN: And what types of things does the Forensic Identification Unit usually do?

MS. STEVENS: Well, our main role is to collect evidence using our expertise in forensic sciences. We specialize in things like DNA, fingerprints, forensic anthropology, hair and fiber analysis, shoe and tire impressions, and so on.

CROWN: Wow, sounds like a very important job. So, what type of involvement did you have in this case?

MS. STEVENS: I was called to the scene of the crime to assess the deceased and to canvas the crime scene for possible forensics, I mean forensic evidence.

CROWN: Ok. So when you got to the scene, what was the first thing you did?

MS. STEVENS: When I got to the scene, my first order of business was to have a look at the victim's body.

CROWN: Could you please summarize the findings of your examination?

MS. STEVENS: The examination of Mr. Adams revealed three gunshot wounds – two wounds entering the mid back and exiting the left chest, and one wound entering the anterior midline scalp.

CROWN: So, he was shot in the back and in the head. Which shot killed him?

MS. STEVENS: Yes. Mr. Adams was shot three times, but, in my opinion, he died from the shot to his head. Further examination by a forensic pathologist confirmed that the shot to the head was fatal.

CROWN: Ms. Stevens, could you discern anything about the murder from the wounds on Mr. Adams's body?

MS. STEVENS: The pattern of the two wounds on the victim's back tell me that he was shot from behind, probably while trying to run away. The third gunshot wound that entered the front of his head indicates that he was facing the assailant at the time that it was inflicted.

CROWN: Ok. And aside from your examination of the body, what else did you find during your investigation of the crime scene?

MS. STEVENS: I did not find a lot of useful evidence, to be honest with you. There was no forensic evidence left on the victim's body, which was not surprising given that this

was a shooting, and since we did not recover a murder weapon, no evidence could be taken from that either. However, I did find a cigarette butt on the ground slightly in front of the victim, which I bagged up for further examination.

CROWN: And what did you do with the cigarette next?

MS. STEVENS: I brought it back to the lab and instructed my team to test it for possible DNA evidence. Luckily, they were able to extract DNA from the cigarette.

CROWN: And were they able to identify whose DNA it was?

MS. STEVENS: Not at that time. When we ran it through the system, there were no individuals on record that matched with our sample.

CROWN: Ok, so that means that this was yet another dead end?

MS. STEVENS: Actually, no. We weren't able to find a match at first, but a few months after our initial investigation began, the investigative team identified a new suspect. As part of the investigation into this individual, the officer in charge of the case asked me to see if the DNA sample we had matched with their new suspect. Sure enough, there was a match.

CROWN: And what was the name of this suspect?

MS. STEVENS: Tyler Jordan.

CROWN: Ok. So just to confirm, the DNA you extracted from the cigarette butt matched with a DNA sample from the defendant, Tyler Jordan?

MS. STEVENS: Yes, it was a perfect match.

CROWN: So, how likely is it then that the cigarette belonged to Mr. Jordan? Or, should I say, that the cigarette was at one point in Mr. Jordan's mouth?

MS. STEVENS: DNA analysis is extremely accurate, so I would say that it's 100% likely.

CROWN: And could you tell us again where you found the cigarette butt?

MS. STEVENS: It was right in front of the victim's body. I would estimate about two feet away from the victim.

CROWN: Thank you. No further questions.

JUDGE: Would the Defense like to cross-examine the witness?

DEFENSE: Thank you. I'll make this quick. You said that DNA analysis is extremely accurate, correct?

MS. STEVENS: Yes.

DEFENSE: Is it possible for mistakes to be made?

MS. STEVENS: Of course, but usually that comes from human error. We were able to extract multiple samples of DNA from the cigarette, so we were able to conduct multiple comparisons of the evidence with Mr. Jordan's DNA sample. The test that we used to match the samples, independent from human mistakes, is extremely accurate. So, it's extremely unlikely that any mistakes were made in this specific case.

DEFENSE: Ok. So we're pretty clear that the DNA samples matched, but can your analysis tell us anything about how Mr. Jordan's DNA got on the cigarette?

MS. STEVENS: We can't ever be sure of how DNA is transferred to any surface, but in this case, given the nature of the piece of evidence on which the DNA sample was found, I feel fairly confident to say that Mr. Jordan, at some point, smoked that cigarette. I cannot think of another reason why his DNA would have been found there.

DEFENSE: Yes, that makes sense. So, Tyler Jordan smoked the cigarette, we can agree on that. But can your analysis tell us exactly when the cigarette was thrown to the ground?

MS. STEVENS: No, we can't determine that.

DEFENSE: So it's possible that Mr. Jordan smoked the cigarette at some point before the shooting occurred and just happened to get rid of it in the same vicinity where the victim was murdered later in the night?

MS. STEVENS: Objectively, it's possible, however I think that would be a pretty big coincidence given how close the evidence was to the victim's body.

CROWN: Objection, your honour. That is speculation.

JUDGE: Noted.

DEFENSE: No further questions.

JUDGE: The Crown may call its next witness.

CROWN: The Crown calls Carl Walsh.

JUDGE: Please step up, Mr. Walsh.

CROWN: Thanks. Please state your name and occupation to the court.

MR. WALSH: My name is Carl Walsh, and I am an investigator with the Ontario Police Force Force in the Technical Services Unit. I specialize in the analysis of technological evidence, including information from computers, cell phones, and so on.

CROWN: Mr. Walsh, can you tell us about your involvement with this case?

MR. WALSH: Yeah. So I was approached by the detectives working on this case and asked if I could help them figure out the location of a person of interest at the time immediately after the victim was shot. They told me that eyewitness accounts had confirmed that the shooter had gotten into a black SUV immediately after the shooting and sped away from the scene. Basically, they wanted me to determine whether a primary suspect could be traced to that SUV shortly after the shooting occurred.

CROWN: And were you able to do this?

MR. WALSH: Yes. According to the investigation, the shooting occurred around 4:09 AM. Around that time, the suspect in question made five phone calls, between 4:09 and 4:12 AM. Using the information from cell phone towers in the area, I was able to narrow down the location of those calls.

CROWN: And what did you conclude?

MR. WALSH: Based on the information I was able to get from those calls, as well as video footage of the route that the SUV took after it left the club, I concluded that the suspect in question was in the vicinity of the SUV at the time he made the calls.

CROWN: And who was this suspect?

MR. WALSH: It was Tyler Jordan.

CROWN: Mr. Walsh, how confident are you in your findings that place Mr. Jordan in the getaway car that took the suspect from the scene?

MR. WALSH: Oh, I'm quite confident. The data from the cell towers places Tyler Jordan's cell phone on the same route that we know the SUV took when it left the club. The timelines match up. What more would you want?

CROWN: Thank you, Mr. Walsh. Other than your analysis of the location of the defendant's cell phone, were you involved in this investigation in any other way?

MR. WALSH: Yes. I was also asked, with the help of my team, to go through the defendant's text messages to look for any potential incriminating evidence.

CROWN: And did you find anything of note?

MR. WALSH: Most of the information we found was not helpful to the investigation, but we did come across one conversation that caught our attention.

CROWN: Who was involved in that conversation?

MR. WALSH: It was between the defendant, Mr. Jordan and Jamie Adams, the victim.

CROWN: Could you summarize the content of that conversation?

MR. WALSH: Sure. It was short, but from what we could gather, the two men were having an argument. It was hard to tell what the argument was about without much contextual information, but it appeared to have something to do with a disagreement between Adams and some friends of Mr. Jordan. The two went back and forth for a few messages, but it was the end of the conversation that really surprised me.

CROWN: What was said that shocked you?

MR. WALSH: In response to a message from Adams, Jordan replied with "don't come near us again, or I swear, I'll kill you".

CROWN: And was that the end of the conversation?

MR. WALSH: Yes. Mr. Adams never replied after that.

CROWN: No further questions.

JUDGE: The Defense may begin cross examination.

DEFENSE: Thank you. Mr. Walsh, how long have you been doing this job, analyzing cell phone records?

MR. WALSH: About four years.

DEFENSE: And how accurate would you say that this process is?

MR. WALSH: Well, that's a hard question. The way it works is that we can narrow down an approximate location of a cell phone using triangulation, based on the towers that the phone pings off of, and that process is very accurate.

DEFENSE: So you're saying that it's not possible to determine exactly where someone is?

MR. WALSH: Well, yes, we can't pinpoint the exact location, but we can get pretty close.

DEFENSE: And is it always the case that a cell phone will always connect to the closest cell phone tower?

MR. WALSH: Usually that's how it works, but in rare situations it may not be the case.

DEFENSE: So not always then.

MR. WALSH:I guess not, no.

DEFENSE: Okay, so just to clarify, it is impossible to determine the exact location of a cell phone, and it's also possible that the cell tower that a cell phone connects to may not even be the closest one to it?

MR. WALSH: Yeah, I guess so.

DEFENSE: Okay. So would you say that it's possible that Mr. Jordan was in fact not in the black SUV when he made those calls?

MR. WALSH: Well, based on my analysis, it seems likely that the calls were made from the SUV considering the trajectory of the SUV lines up with that of the cell phone records.

DEFENSE: But it's possible that he wasn't in there?

MR. WALSH: Yes, it's possible.

DEFENSE: Ok, thank you. I just have one more question. Do you believe that every time someone says they are going to do something, they will actually do it?

MR. WALSH: Um, no, I guess not.

DEFENSE: So with regards to your testimony about the text messages you found, it's possible that, even though Mr. Jordan sent Mr. Adams a message saying "I'm going to kill you", he didn't actually follow through on this empty threat?

MR. WALSH: Yeah, I guess it's possible.

DEFENSE: Thank you. No further questions.

JUDGE: The Crown may call its next witness.

CROWN: The Crown calls Sonya Green.

JUDGE: Ms. Green, please step up. You may proceed.

CROWN: Thank you. Please state your name and occupation to the court.

MS. GREEN: My name is Sonya Green and I am an administrative assistant.

CROWN: Thank you. Ms. Green, is it true that you were interviewed twice by the police in relation to this case?

MS. GREEN: Yes.

CROWN: Can you tell me about what you told police the first time you were interviewed?

MS. GREEN: It was the day after the shooting, and I was asked to come in and tell the police what I could remember about what happened. I was pretty shaken up, and my memory was a bit

fuzzy, so I didn't have much to tell them. All I could really remember was that the shooter was wearing sunglasses.

CROWN: And did you tell the police that you saw this man inside the club before the shooting?

MS. GREEN: They asked me, but I wasn't sure at that time.

CROWN: Okay. So then, what happened when you were interviewed the second time?

MS. GREEN: At that point, it has been a few months since the shooting, and I wasn't as nervous as I was the first time. I guess my head was clearer, and I was able to remember that I did see the man with the sunglasses inside the club before the shooting. I also remembered that someone told me that it was the shooter's birthday that night.

CROWN: And then what happened?

MS. GREEN: When I told that to the officer, he decided to show me a video from the club on the night of the party, to see if I could point out the man with sunglasses. When they showed me the video, I saw the man and pointed him out a few different times.

CROWN: And who was that man?

MS. GREEN: Tyler Jordan.

CROWN: And how confident are you that Tyler Jordan was the man with sunglasses that you saw shoot Jamie Adams.

MS. GREEN: I would say very confident.

CROWN: Thank you, no further questions.

JUDGE: The Defense may begin cross examination.

DEFENSE:Ms. Green, you stated that in your first interview with police, you could not remember much about the night of the shooting. Is that true?

MS. GREEN: Yes, that's true.

DEFENSE: So why is it that you could suddenly remember key information the second time around?

MS. GREEN: Like I said, the first interview was so soon after the shooting happened, I think I was just really nervous and shook up.

DEFENSE: Okay, so tell me this: what were the conditions like when you saw the shooter?

MS. GREEN: Well it was dark, since it was the middle of the night, but there were some streetlights on though, and one of them was right above the place where the shooting happened, so I could see pretty well.

DEFENSE: And how long would you say that your observation of the shooter lasted?

MS. GREEN: I only saw him for a few seconds, but I did get a pretty good look at him.

DEFENSE: So you say you identified the assailant in the dark, at 4:00 in the morning, after only seeing him for a few seconds. Does that sound like ideal conditions to you?

MS. GREEN: I guess not.

DEFENSE: Okay, so when you told the police that you remembered something new, you said that you remembered someone told you it was the shooter's birthday, right?

MS. GREEN: Yes.

DEFENSE: And after you gave them this information, they showed you a videotape from the night of the shooting.

MS. GREEN: Yes.

DEFENSE: And is it true that the video tape you were shown also had sound?

MS. GREEN: Yes.

DEFENSE: And in this video, didn't you hear someone saying "Happy Birthday" to Tyler Jordan?

MS. GREEN: Yes, I did.

DEFENSE: So isn't it possible that you identified Jordan as the shooter simply as a result of hearing that it was his birthday, and not because you recognized him as the shooter?

MS. GREEN: Well, picked him because I remembered he was the man in sunglasses that I saw.

DEFENSE: Were you aware that Tyler Jordan was not the only man celebrating his birthday that night, and that in fact, there were at least two other men at the party with birthdays that same day?

MS. GREEN: No, I didn't know that.

DEFENSE: Is it possible that it was in fact one of those other men who shot Jamie Adams?

MS. GREEN: I don't think so, I'm sure about what I saw.

DEFENSE: No further questions.

CROWN: The Crown rests, your Honour.

JUDGE: Okay. I call upon the Defense to present their case.

JUDGE: Thank you. The defense may now call its first witness.

DEFENSE: Thank you, your Honour. The Defense calls Sam Davis.

JUDGE: Mr. Davis, step up please. You may proceed.

DEFENSE: Thank you. Please state your name and occupation to the court.

MR. DAVIS: My name is Sam Davis and I am a promoter.

DEFENSE: Mr. Davis, are you a friend of Mr. Jordan?

MR. DAVIS: Yes, I am. We have been best friends for a long time.

DEFENSE: And were you with him on the night of the shooting?

MR. DAVIS: Yes. He was celebrating his birthday at the club and I was there helping him get everything ready.

DEFENSE: And did you stay for the party?

MR. DAVIS: Yes, I did.

DEFENSE: Did you witness the shooting?

MR. DAVIS: No, I didn't. At that time, I was inside the club.

DEFENSE: Ok, and what did you tell police about Mr. Jordan's whereabouts at the time of the shooting when they first interviewed you, the day after the shooting?

MR. DAVIS: They asked me to tell them everything I could remember about that night. I told them that I wasn't with Tyler the whole night, but I remembered that we were together, passing out cake, when we heard that someone was shot.

DEFENSE: And what happened the second time that you were interviewed by the police?

MR. DAVIS: A few months after that night, I got a call asking if I was able to come back for more questioning. At first, when I got there, Officer Collins asked me to tell him everything I could remember. My memory was definitely a little bit fuzzier by that point, but I told him basically the same things I said the first time.

DEFENSE: And was that it?

MR. DAVIS: No. Once I told him my story, the officer said that based on new evidence they got, they thought that I must be lying, because the new evidence made it seem like Tyler was the shooter. They told me that someone identified him as the shooter and that they had incriminating cell phone records. I told them that would be impossible, since I know he was with me when the shooting happened, and we weren't even outside. But the officer wouldn't take no for an answer.

DEFENSE: And then what happened?

MR. DAVIS: Well, after a while, I started questioning my own memory and thought that maybe I was remembering wrong.

DEFENSE: You mean you started questioning your memory of being with Tyler during the shooting?

MR. DAVIS: Yeah.

DEFENSE: And did you tell the police that?

MR. DAVIS: Yeah. Eventually I told Officer Collins that I wasn't actually 100% sure if Tyler was with me.

DEFENSE: But at the beginning of the interview you were so sure that Tyler was with you – what made you change your mind?

MR. DAVIS: I really did think that I remembered being with Tyler when everything went down, but Officer Collins made me question my memory. If the police were so sure that I wasn't telling the truth, then I guess I thought I must've made a mistake.

DEFENSE: Ok. Let me ask you this – did Officer Collins put pressure on you to try to convince you to change your story?

MR. DAVIS: Well, yeah. He was pretty serious during the interview, and kept saying that he knew I wasn't telling him the truth.

DEFENSE: Ok. Is it true that Officer Collins repeatedly tried to minimize the seriousness of lying to him by telling you that you were not the bad guy?

MR. DAVIS: Yeah, he did.

DEFENSE: And didn't he tell you that lying that lying to the police isn't a big deal and that he could understand why you weren't being honest, as long as you came clean? That any mistakes you made could be forgotten if you helped to catch the guy who actually murdered someone?

MR. DAVIS: Yeah.

DEFENSE: And did that contribute to your change of story?

MR. DAVIS: Well, yeah, it definitely made me question whether I was remembering things right.

DEFENSE: I'll suggest to you that this behaviour had a major impact on your decision to change your story, and that Officer Collins made you feel like there was no way out but to say what he wanted to hear. Is that true?

MR. DAVIS: He definitely made me question my memory of that night. I really thought I remembered what happened so clearly, but I was pretty freaked out in the interview and Officer Collins was so persistent, so then I thought that maybe I wasn't remembering as clearly as I thought I was.

DEFENSE: And if I were to ask you now if you remember being with Tyler when the shooting happened, what would you say?

MR. DAVIS: Honestly, I still do remember him being with me, but I can't be 100% sure now.

DEFENSE: No further questions.

JUDGE: The Crown may begin cross examination.

CROWN: Mr. Davis, you would consider yourself a smart man, correct?

MR. DAVIS: Smart enough, yes.

CROWN: And would you say that you are a particularly weak, or vulnerable individual?

MR. DAVIS: No.

CROWN: Right. I would suggest that you are an intelligent, strong-willed, and independent man.

MR. DAVIS: I would say so, yeah.

CROWN: So can you explain to me how a conversation with a police officer led you to throw your friend under the bus? To completely change your story of what happened that night?

MR. DAVIS: Well, like I just said, Officer Collins kept telling me that he knew I was lying, and told me that he understood why I would lie and it wasn't a big deal, as long as I came clean. Even though I was so sure of my memory and didn't think I was lying, I started to doubt what I remembered about that night.

CROWN: Mr. Davis, do you really expect the jury to believe that a man like yourself was manipulated into retracting an alibi for your best friend? To take away the only piece of evidence that may have kept him out of jail? Why would you do that?

MR. DAVIS: It's hard to explain, but I felt like my own memory was playing tricks on me. I didn't know what was true and what was fake, and I just wanted to get out of there.

CROWN: But you know that you could have just left, right? You were being questioned as a witness and were not detained.

MR. DAVIS: I don't know. At the time, it didn't feel like I had the option to leave.

CROWN: I'll put it to you that perhaps the reason you felt compelled to retract your alibi for Mr. Jordan was because it was false in the first place. Is that true?

MR. DAVIS: The story I told at the beginning was what I thought to be true at the time. I still clearly remember being with Tyler during the shooting, but after talking to Officer Collins I questioned whether my memory was actually real.

CROWN: Well then why did you sell out your best friend, if you weren't even sure about what you were saying?

MR. DAVIS: I don't know. I really can't explain what happened, but all I know is that Officer Collins made me doubt my own memory.

CROWN: No further questions.

JUDGE: The Defense may call its next witness

DEFENSE: The Defense rests, your Honour.

JUDGE: Alright. Is the Crown prepared to argue their case at this time?

CROWN: Yes, your Honour.

JUDGE: Okay. I would like to admonish the jury that the arguments you are about to hear are not evidence, they are only interpretations of what the evidence may show and the theories that may be drawn. The evidence is received from the witness stand, and the instruction on the law will be given to you by the Court. We'll begin with the Defense.

DEFENSE: Thank you, your Honor. Ladies and gentlemen of the jury, Tyler Jordan is not a killer. He is simply a man who has a passion for party planning, and who wanted to celebrate his 39th birthday with his friends on November 3rd, 2006. Little did he know, the party would end in tragedy, and that the killing would be the first in a series of unfortunate events for Tyler. Not only did he have to come to terms with the fact that a man was murdered at his birthday party, but soon after that, he himself would be accused of committing the crime, and would wait in jail for months to stand trial for a crime he did not commit.

There is no concrete evidence linking Mr. Jordan to the shooting. We have no video footage that proves he was at the crime scene. The only forensic evidence offered by the Crown is from a cigarette butt that could have been disposed of by the defendant at any point in the night before

the murder occurred. The crime scene was, after all, right outside the club where Mr. Jordan was hosting a party.

There is also evidence from cell phone records that supposedly places Tyler Jordan in the getaway car. However, we heard from the police expert's own mouth that this type of technology is flawed and cannot determine with certainty exactly where an individual was at any given time. The same is true for the text message evidence: just because someone says something unfortunate in the heat of the moment does not, in any way, prove that they actually did what they said they would do.

We have one eyewitness, Sonya Green, who claims that Tyler Jordan was the man she saw shoot Mr. Adams. However, the circumstances of this identification are far below ideal. For one, Ms. Green only witnessed the shooting for about two or three seconds, in the dark, in the wee hours of the morning. Second, she did not identify Mr. Jordan in her original interview with police. Third, she only identified Mr. Jordan based on a rumor that the shooter's birthday was that night. When she heard someone say happy birthday to Mr. Jordan on a video from inside the club, she assumed that he was the killer. Yet, what she did not know was that there were multiple men in attendance who were celebrating their birthday that night. Moreover, she does not know if that rumor she heard is even true.

We also have Sam Davis, a witness who provided an alibi for Mr. Jordan, then retracted it. But, it is clear that his change of story came as a direct result of the pressure put on him by police to do so. You heard testimony from Mr. Davis stating that Officer Collins minimized the seriousness of lying to the police, suggesting that it was not a big deal that he had originally lied as long as he agreed to say that he didn't know where Tyler Jordan was when the shooting occurred. So, ladies and gentlemen, I urge you to do the right thing and render a verdict of not guilty, because Mr. Jordan is not a killer, and there is no clear evidence to suggest otherwise. Thank you.

JUDGE: And now we will hear from the Crown.

CROWN: Ladies and gentlemen of the jury, the Defense is trying to convince you that Tyler Jordan is an innocent man. However, we have evidence indicating that this is not the case. A man was tragically gunned down on the night of Mr. Jordan's own birthday party. No one has been able to confirm Mr. Jordan's whereabouts at the time of the crime – even his own best friend, Sam Davis, admitted that he didn't know where Tyler was when Mr. Adams was shot. The defense has tried to convince you that Mr. Davis was pressured into admitting that he could not corroborate Mr. Jordan's alibi, but I assure you that the conduct of Officer Collins was nothing out of the ordinary, and that the strategies he used when interviewing Mr. Davis were strictly in line with the interview training that police officers receive.

We also have an eyewitness who confidently identified Mr. Jordan as the shooter, along with DNA evidence placing Mr. Jordan in the direct vicinity of the crime scene and cell phone records that trace Mr. Jordan's location immediately after the shooting to the SUV in which the perpetrator is known to have fled the scene. We believe that this evidence should convince you beyond a reasonable doubt that Tyler Jordan killed Jamie Adams.

With regards to motive, Mr. Jordan wanted to show his associates that he did not betray or insult them by inviting one of their sworn enemies to his birthday party. It was extreme but it was Mr. Jordan's way of righting a perceived wrong. As we saw from the text conversation between the defendant and the victim, Mr. Jordan was clearly angry with Mr. Adams, and explicitly demonstrated his willingness and intent to kill.

Ladies and gentlemen, after you have carefully weighed the evidence, a logical and commonsense evaluation of the opposing scenarios presented to you in this courtroom should convince you beyond a reasonable doubt that the defendant, Tyler Jordan is guilty of murder in the second degree. Thank you.

JUDGE: Ladies and gentlemen of the jury, that concludes the evidence to be heard in this matter. It is now time for your deliberations. You must determine whether Tyler Jordan is guilty or not guilty of second-degree murder. As you may recall from the beginning of these proceedings, I outlined each of the elements that the Crown must prove beyond a reasonable doubt in order to succeed in their case against Mr. Jordan. I now will take a few moments to discuss each of these elements and the evidence relating to the charge against Mr. Jordan.

To determine whether the Crown has proved these essential elements, consider the following questions:

First – Did Tyler Jordan commit an unlawful act?
It is not always a crime to cause another person's death. It is a crime, however, to cause the death of another person by an unlawful act.

The unlawful act alleged in this case is the second-degree murder of Jamie Adams.

In this case, the issue of identification of the assailant is of the utmost importance. We have one eyewitness who has confidently identified Tyler Jordan as the perpetrator. We do not have any witnesses who can account for Mr. Jordan's whereabouts at the time of the shooting. In fact, we have a former alibi witness who has admitted that he does not actually remember where Mr. Jordan was at the time of the shooting. However, Mr. Jordan has steadfastly maintained his innocence, and the alibi witness has since retracted his statement and blamed his change of heart on the pressure put on him by his police interviewer. Other evidence, such as the DNA found on the

cigarette and information from cell phone records, may also help you determine the identity of the perpetrator. Thus, you must determine whether or not it can be proven beyond a reasonable doubt that Tyler Jordan was the one who shot Jamie Adams.

Unless you are satisfied beyond a reasonable doubt that Tyler Jordan committed the unlawful act of second-degree murder, you must find Mr. Jordan not guilty. Your deliberations would be over.

If you are satisfied beyond a reasonable doubt that Tyler Jordan committed the unlawful act, you must go on to the next question.

Second – Did Tyler Jordan's unlawful act cause Jamie Adams's death? To prove that Mr. Jordan caused Mr. Adams's death, the Crown must prove beyond a reasonable doubt that Mr. Jordan's conduct contributed significantly to Mr. Adams's death. A person's conduct may contribute significantly to another person's death even though that conduct is not the sole or main cause of death. You must consider all the evidence concerning the cause of Mr. Adams's death in determining whether the Crown has proved that Mr. Jordan's conduct contributed significantly. It is for you to decide.

We already know that a gunshot wound to the head killed Mr. Adams. Thus, if it is decided that the Crown has successfully proven beyond a reasonable doubt that Mr. Jordan was the shooter, then it is clear that you can also be satisfied that it was Mr. Jordan's unlawful act that killed Mr. Adams.

If you are satisfied beyond a reasonable doubt that Mr. Jordan caused Mr. Adams's death, you must go on to the next question.

Third – Did Tyler Jordan have the intent required for murder?
To prove that Tyler Jordan had the intent required for murder, the Crown must prove beyond a reasonable doubt one of two things, either:

1. that Mr. Jordan meant to cause Mr. Adams's death; or

2. that Mr. Jordan meant to cause Mr. Adams bodily harm that he knew was likely to cause his death and was reckless whether death ensued or not.

In other words, you must decide whether the Crown has proved beyond a reasonable doubt either that Tyler Jordan meant to kill Mr. Adams, or that Mr. Jordan meant to cause Mr. Adams bodily harm that he knew was so dangerous and serious that he knew it was likely to kill Mr. Adams and proceeded despite his knowledge of that risk.

The Crown does not have to prove both. Nor do you all have to agree on the same intent, so long as each of you is satisfied that one or the other has been proven beyond a reasonable doubt.

To determine whether the Crown has proved that Mr. Jordan had one of the intents required for murder, you must consider all the evidence, including the nature of the harm inflicted, and anything said or done in the circumstances. You may infer, as a matter of common sense, that a person usually knows what the predictable consequences of his or her actions are, and means to bring them about. However, you are not required to draw that inference about Mr. Jordan. Indeed, you must not do so if, on the whole of the evidence, you have a reasonable doubt whether Mr. Jordan had one of the intents required for murder. It is for you to decide.

I remind you that the Crown must prove each of these elements beyond a reasonable doubt. You must return a verdict of not guilty of the offence if the Crown has not proven each of these elements beyond a reasonable doubt. You may retire to the Jury Room for deliberations. When you reach a unanimous verdict, just inform the sheriff. He will tell me that you are ready to return to the courtroom for the purpose of announcing your verdict.