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**THE PERSUASIVENESS OF JAILHOUSE INFORMANTS:
THE ROLE OF ULTERIOR MOTIVES, INCONSISTENCIES, AND SPECIFIC
DETAILS IN UNRELIABLE TESTIMONY**

by

DANIELLE DELOACH

A THESIS

**Submitted in partial fulfillment of the requirements
for the degree of Master in Arts
in
The Department of Psychology
to
The School of Graduate Studies
of
The University of Alabama in Huntsville**

HUNTSVILLE, ALABAMA

2019

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2/14/19
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THESIS APPROVAL FORM

Submitted by Danielle DeLoach in partial fulfillment of the requirements for the degree of Master of Arts in Psychology and accepted on behalf of the Faculty of the School of Graduate Studies by the thesis committee.

We, the undersigned members of the Graduate Faculty of The University of Alabama in Huntsville, certify that we have advised and/or supervised the candidate on the work described in this thesis. We further certify that we have reviewed the thesis manuscript and approve it in partial fulfillment of the requirements for the degree of Master of Arts in Psychology.

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ABSTRACT

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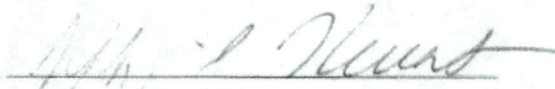
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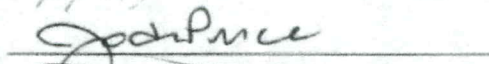
Title: The Persuasiveness of Jailhouse Informants: The Role of Ulterior Motives, Inconsistencies, and Specific Details in Unreliable Testimony

The present study tested whether jurors are able to successfully detect ulterior motives in jailhouse informant testimony, as well as whether successful detection impacts verdict decisions when the testimony contains inconsistencies and privileged crime details. The study also examined the impact of pro-prosecution biases relating to prosecutorial vouching. Participants listened to a trial where a jailhouse informant's testimony was manipulated such that (1) the ulterior motive to provide false testimony was made salient, (2) an inconsistency was pointed out between the informant's testimony and a prior statement, and (3) an alternative explanation for how the informant learned the privileged crime details was suggested. Results showed both inconsistency and alternative explanation reduced conviction rates, though this was mediated by motive attributions. Participants appeared to interpret evidence differently depending on their attribution. Finally, jurors who held stronger beliefs regarding prosecutorial vouching were more likely to vote guilty than those who did not.


Abstract Approval: Committee Chair



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LIST OF ABBREVIATIONS

<u>Abbreviation</u>	<u>Definition</u>
FAE	Fundamental Attribution Error
TDT	Truth-Default Theory
PJAQ	Pretrial Juror Attitude Questionnaire
HILOG	Hierarchical Log-Linear Analysis

LIST OF SYMBOLS

<u>Symbol</u>	<u>Definition</u>
t	t-test statistic
p	Probability statistic
X^2	Chi Square statistic
N	Sample size
v	Cramer's V
M	Mean (Arithmetic average)
SD	Standard Deviation
B	Regression Coefficients
CI	Confidence Interval
$LLCI$	Lower-level Confidence Interval
$ULCI$	Upper-level Confidence Interval
r	Correlation Statistic
F	MANOVA Statistic
SE	Standard Error

CHAPTER 1

INTRODUCTION

1.1 The Use of Jailhouse Informants

In the Nassau County Courthouse on November 6, 1986, Stephen Dorfman took the witness stand, promising to tell the truth, the whole truth, and nothing but the truth. He testified that he had heard the defendant, John Restivo, confess to the murder and rape of a young girl while the two were playing chess in jail together. Considered the prosecution's star witness, Dorfman had a long criminal history and had been offered to have his 7- to 14-year sentence reduced to 4 to 8 years for testifying. As the prosecution had only been able to present circumstantial evidence, they were hoping this testimony would be enough to sway the jury toward a guilty conviction. Their gamble paid off, and despite his adamant claims of innocence, Restivo was convicted of rape and murder and sentenced to 33.5 years to life. Yet, the jurors had convicted the wrong man. This egregious lapse in justice was discovered only after new DNA evidence conclusively proved John Restivo could not have been the perpetrator. On December 29, 2005, Restivo was exonerated, having served 18 years in jail for a murder he never committed. Dorfman had perjured himself on the stand, knowingly costing an innocent man nearly two decades of his life, in order to procure a better outcome for himself.

While wrongful conviction stories such as this are shocking, they are becoming more and more common (Innocence Project, 2016). This is largely due to witnesses like Stephen Dorfman who act as jailhouse informants. Jailhouse informants are cooperating witnesses who testify on behalf of the prosecution about statements the defendant made

while the two were incarcerated together (Neuschatz, Lawson, Swanner, Meissner, & Neuschatz, 2008). Prosecutors have long utilized jailhouse informants as witnesses, largely because they are highly persuasive to jurors. Numerous convictions have resulted based off of jailhouse informant testimony, even when the only other evidence is circumstantial in nature (Cassidy, 2004; Elliott, 2003). Empirical research and anecdotal evidence suggest this is due to a combination of the inculpatory content and privileged crime details inherent in jailhouse informant testimony, as well as inaccurate juror evaluations of the jailhouse informant's motivations for testifying (Appleby, Hasel, & Kassin, 2011; Cassidy, 2004; Covey, 2014; Neuschatz et al., 2008).

The courts have realized that jailhouse informant testimony constitutes some of the most unreliable and dangerous forms of witness testimony (Covey, 2014; Trott, 1996). In exchange for testifying, jailhouse informants can get charges dropped, receive sentence reductions for previous or future convictions (as with Stephen Dorfman), gain leniency for friends and family, or even be financially compensated. At the prospect of these incentives, inmates fabricate inculpatory evidence for the explicit purpose of receiving a deal from the prosecutor (Covey, 2014; Elliott, 2003; Harris, 2000; Natapoff, 2009).

Proponents for the continued use of jailhouse informants argue that informants are a crucial part of the investigation process, and without them many cases would remain unsolved, leaving dangerous people in society (Cassidy, 2004; Roth, 2016). While this may sometimes be true, the repercussions of using jailhouse informant testimony can be detrimental. According to a 2004 study by the Center for Wrongful Convictions, jailhouse informant testimony contributed to 45.9% of wrongful convictions in capital

cases since 1973 (Warden, 2004). Other experts suggest that jailhouse informants have contributed to over 50% of all murder convictions (Gross, Jacoby, Matheson, & Montgomery, 2005). Despite these statistics, the use of jailhouse informant witnesses in jury trials has remained steady (Innocence Project, 2016).

Jailhouse informants are popular prosecution witnesses because they are incredibly persuasive to jurors. To understand why this is, it is first necessary to consider the content of their testimony. First, most jailhouse informant witness testimonies consist of a secondary confession, meaning the jailhouse informant testifies that the defendant confessed their guilt to the informant. Often these secondary confessions contain highly detailed crime facts not known to the public (see Garrett, 2011). Prosecutors point this out to jurors as indisputable evidence the secondary confession is true, arguing the only way the jailhouse informant could have learned this confidential information is from the defendant himself (*State of Florida v. Chad Richard Heins, 1996*; Garrett, 2011). As previously stated, a jailhouse informant is highly motivated to deliver a convincing testimony, not necessarily a truthful one. And creating one is relatively simple—jailhouse informants obtain details about cases through friends, family, the TV or Internet, corrupt police officers or prison guards, or informant networks where inmates buy and sell documents which they then use to fabricate a detailed and factually accurate testimony (Covey, 2014; Natapoff, 2009). Police or prosecutors may even leak confidential information to the jailhouse informants, whether intentionally or unintentionally (Garrett, 2010; Roberts, 2005; Roth, 2016). This so called contamination is so pervasive that many experts argue for laws requiring all interviews of the jailhouse

informant to be recorded and provided to the defense as part of discovery (Covey, 2014; Harris, 2000; Roberts, 2005; Roth, 2016).

1.2 Previous Research

Research in legal-psychology suggests that these details significantly contribute to the perceived credibility of the jailhouse informant's testimony. Garret (2010) analyzed the content of 28 false secondary confessions given by jailhouse informants in wrongful conviction cases. All contained multiple detailed and accurate crime facts, many of which were purportedly never released to the general public in police statements or media reports. Thus, it is highly likely that the crime facts included in jailhouse informants' secondary confessions are a large contributing factor to the persuasiveness of their testimony. In fact, Vrij, Granhag, and Porter (2010) indicate that detecting lies is much more difficult when the lie is embedded in an otherwise truthful account. The multitude of accurate crime facts may serve to inflate the credibility of the jailhouse informant's testimony, thereby impairing detection of unreliable testimony by jurors.

The limited amount of research on jailhouse informant testimony suggests that not only will juries give the secondary confession evidence undue weight, they will not appropriately discount its credibility even if they are told the jailhouse informant is receiving an incentive (Neuschatz et al., 2008). Neuschatz et al. examined the impact of presenting impeachment information during cross-examination of a jailhouse informant. Participants read a criminal trial transcript that included a secondary confession given by a jailhouse informant. The researchers manipulated whether or not it was explicitly stated the informant was receiving five years off his prison sentence. After reading the trial, participants rendered a verdict and rated the informant on trustworthiness,

truthfulness, interest in serving his own needs, and interest in serving justice. Mock jurors in the jailhouse informant groups voted guilty significantly more often than those in the no-incentive, no-secondary confession control group. The incentive had no effect on participant ratings of the jailhouse informant's truthfulness and trustworthiness, despite the fact that participants believed the informant was more interested in serving his own needs and less interested in serving justice. Thus, the study suggested that impeaching jailhouse informants by exposing promised incentives in return for their testimony does not cause jurors to doubt the informant's credibility, and therefore the veracity of his statement, enough to impact verdicts.

In a follow up study, Neuschatz et al. (2008) asked participants why they believed the jailhouse informant chose to testify. Nearly 84% of mock jurors stated it was due to dispositional factors (e.g., feeling bad for the family) instead of situational factors (e.g., reduced sentence). The researchers explained these results through the Fundamental Attribution Error (FAE; Ross, 1977). According to FAE, people overestimate the influence of dispositional, internal factors and underestimate the influence of situational, external factors when explaining a behavior. In the Neuschatz et al. study, participants were ignoring how influential the promise of a sentence reduction is to an inmate, believing instead his decision to testify was motivated by an intrinsic desire to help the victim's family. This in turn may have influenced their evaluation that the testimony was true, as people tend to maintain consistency in their evaluations of someone's motives, traits, and behaviors (Reeder, Vonk, Ronk, Ham, & Lawrence, 2004). While it may be argued that ratings of truthfulness may have been impacted by motive attributions, research shows that situational factors and motive attributions together determine trait

attributions, but trait attributions do not influence motive attributions (An, 2013). Even though mock jurors were aware, to some extent, that the jailhouse informant was motivated by selfish reasons, perceptions of the jailhouse informant's truthfulness or trustworthiness did not change as a result of the incentive. Thus, it appears that the highly persuasive nature of jailhouse informant testimony may be bolstered not only by the secondary confession evidence, but also by jurors' tendency to commit the FAE and thereby discount the jailhouse informant's situationally-driven ulterior motives.

Other studies on jailhouse informants have found similar results regarding the effect of impeachment on verdicts. Neuschatz et al. (2012) tested the impact disclosing jailhouse informant testimony history and providing an expert witness had on verdicts. In the first experiment, the jailhouse informant stated he had previously testified for the prosecution zero, five, or twenty times before. In the second experiment, the transcript included the testimony of a former jailhouse informant acting as an expert witness. The former informant turned defense expert explained the unreliability of jailhouse informants, stating how they are able to easily fabricate a convincing and accurate testimony. Neither disclosing testimony history nor providing an expert witness impacted verdict decisions. Once again, ratings of truthfulness and trustworthiness were not affected by the manipulations, even though ratings on the informant's interest in serving his own needs and serving justice increased. Additionally, 63% of mock jurors attributed the jailhouse informant's testimony solely to dispositional factors, with an additional 14% attributing it to both situational and dispositional factors, providing further support that participants were committing the FAE.

Maeder and Pica (2014) attempted to further identify the role the FAE played in jurors' evaluation of jailhouse informant testimony. Their study modified the transcripts used in Neuschatz et al. (2008), with each condition varying in informant incentive size (the informant received either no sentence reduction or a six-month, one year, or two-year sentence reduction). The researchers also took measures of the FAE, asking participants to indicate why they believed the jailhouse informant chose to testify. Contrary to the previous studies (Neuschatz et al., 2008; Neuschatz et al., 2012), the presence of an incentive, though not the size, did have an effect on verdicts and attribution, with the majority of participants in the incentive conditions voting guilty and making a situational attribution (78%), compared to only 30% in the no-incentive condition. There was a clear effect of attributions on verdicts—90% of participants who made only dispositional attributions voted guilty compared to 18% who made only situational attributions. Maeder and Pica attributed these conflicting results with the Neuschatz et al. (2008) and Neuschatz et al. (2012) studies to increased public knowledge about the unreliable nature of jailhouse informant witnesses. If their explanation is correct, mock jurors may have been aware of the unreliable nature of jailhouse informants and therefore were suspicious of the veracity of their testimony from the start.

While the recent study by Maeder and Pica (2014) suggests that jurors may be becoming more sensitive to the situational motivations of jailhouse informants, it is important to note that a large percentage of participants who read the informant was receiving an incentive still voted guilty. In light of the contrasting results between the extant research on jailhouse informants discussed above, it is clear that the effectiveness of impeachment to protect against false jailhouse informant testimony is not yet fully

understood. The different findings suggest the existence of boundaries that dictate the circumstances under which impeachment will be an effective defense against unreliable witnesses. The goal of the present study is to explain why, and when, jailhouse informant testimony is persuasive to jurors.

1.3 Truth-Default Theory

Such an explanation may be found in a theory of deception detection known as the Truth-Default Theory (TDT; Levine, 2014). TDT is a deception detection theory that consists of fourteen propositions, which together explain when individuals will successfully detect lies. The following paragraph provides a brief overview of deception detection according to TDT.

The theory is centered on the concept that people start in a truth-default state, meaning they initially evaluate all incoming messages as truthful. Individuals must abandon this truth-default state, which only occurs following a trigger that suggests there is a high likelihood that deception will take place. The trigger must be a strong enough indication of possible deception to cross over a threshold and enter into suspicion, defined as a state in which the person actively believes deception might be occurring. If the trigger is not potent enough to cross the threshold, the individual will fall back into the truth-default state. During suspicion, individuals will actively search for evidence of truth or deception. Enough evidence of deceit has to be gathered to cross an evidentiary threshold. If there is enough evidence, the person will then actively judge the message as deceptive. If there is not enough evidence of deception, the individual will either remain in a state of suspicion or fall back into the truth-default state and judge the message as non-deceptive. However, if, during the course of their search, they come across evidence

that the message *must* be honest (termed exculpatory evidence in TDT), they will make a non-deceptive judgment. The various components of TDT and how they relate to juror-decision making are discussed in depth in the following sections.

1.3.1 The Truth-Default State TDT holds that people have a truth-default state, meaning unless something causes an individual to suspect a message is deceptive, he or she will assume the message is honest by default (Levine, 2014). This, in turn, is related to another important proposition of TDT; that people exhibit a truth-bias, evaluating more messages as true than false (Bond & DePaulo, 2006; Levine, Park, & McCornack, 1999). The issue arises when an individual who is truth-biased encounters a deceptive message and no triggers are activated, which Levine states is a contributing factor to failures of deception detection. The prevalence of wrongful convictions due to jailhouse informant testimony are evidence of this circumstance.

Bond, Malloy, Arias, Nunn, and Thompson (2005) found that prisoners who exhibited a lie-bias were better able to identify deceptive messages than inmates who were regularly allowed to leave the prison or non-inmates. These prisoners approached all communication in a state of suspicion, and developed a lie-bias born out of the expectations of deception for that particular environment. The prison environment itself seemed to act as somewhat of a continual trigger for suspicion. People who do not expect to encounter deception in a certain context, such as a prison, will be particularly at risk for believing lies. For instance, jurors who believe prosecutors vet the veracity of a witness's statement before allowing them to take the stand would not expect a jailhouse informant

prosecution witness to lie. These beliefs, as well as pro-prosecution biases, likely increase the perceived credibility of prosecution witnesses. Jailhouse informants may benefit from increased credibility due to what some legal experts term implicit prosecutorial vouching (Covey, 2014; Roth, 2016). Jurors may assume that the mere fact that the prosecution has allowed the jailhouse informant to take the stand is evidence of an honest testimony. This idea is supported by studies suggesting jurors attribute inflated credibility to expert witnesses testifying on behalf of the prosecution because jurors consider them to have passed the judge's standards of proof (Cutler, Dexter, & Penrod, 1990; Schweitzer & Saks, 2009). Because of this, jurors may remain in the truth-default state and not recognize, or may simply dismiss, evidence of deception within the jailhouse informant's testimony, believing instead the jailhouse informant's statements are, as they often claim, the honest truth.

1.3.2 Abandonment of the Truth-Default State To abandon this truth-default state, something has to occur that indicates there is a higher than normal likelihood that deception will follow. In TDT, this warning sign is referred to as a trigger. Beliefs about ulterior motives can act as a trigger to deception. More specifically, people become suspicious when they detect someone has ulterior motives (Levine, 2014; Levine, Kim, & Blair, 2010). This occurs when the person believes that telling the truth is inconsistent with the speaker's desired goals.

Incentives should act as a trigger because it implies the speaker has an ulterior motive. Bond, Howard, Hutchison, and Masip (2013) tested the

effectiveness of incentives as a motivational cue to deception. In their study, participants watched recordings of 16 different speakers and evaluated each one as a “truth” or “lie.” Participants were explicitly informed that half of the speakers were given an incentive to lie and half an incentive to tell the truth. Results showed that accuracy in deception detection was almost perfect, suggesting the participants successfully used the incentive and the corresponding motivation as contextual information when assessing speaker veracity. Participants adjusted their expectations for deception because they were aware that in half the cases, telling the truth would not allow the speaker to attain his goal of receiving the incentive.

This is not what occurred in the Neuschatz et al. studies (2008; 2012). To detect ulterior motives, people must first be aware of the requirements for attaining the desired goal in order to judge whether deception will better allow for goal attainment. In criminal trials, jurors may not be aware that becoming a jailhouse informant is not always a passive process; inmates are aware of the possibility of making a deal with the prosecution and actively gather information needed to fabricate a convincing secondary confession. In other words, jurors may not consider that inmates are much more likely to reach their desired goal (of earning an incentive) if they fabricate evidence than if they wait around for another inmate to truly confess to them. Such jurors will believe telling the truth is still consistent with achieving the desired goal and therefore not become suspicious. Jurors may believe the incentive motivated the jailhouse informant to testify, but not deceive. Because of this, they discount the importance of the

incentive when explaining the behavior. This would explain why incentives did not affect verdicts, and why ratings of the informant's truthfulness or trustworthiness did not change despite mock jurors believing that he was more motivated to testify to serve his own interests when he was receiving an incentive (Neuschatz et al., 2012, 2008).

1.3.3 Evidence Search During Suspicion In TDT, suspicion plays a key role in deception detection because it is through suspicion that perceivers actively search for evidence of deception (Levine, 2014). Defense attorneys often rely on inconsistencies to provide jurors with evidence of a false testimony.

Theoretically, inconsistencies in witness statements should serve as evidence of an unreliable testimony to jurors who should, depending on the inconsistency, then discount the importance of that testimony when deciding upon a verdict.

Considering people believe inconsistencies are one of the strongest indications of deception (Granhag, Strömwall, & Strömwal, 2000), and deception detection is essentially what jurors engage in when evaluating testimony, this is not an outlandish assumption. However, to say that jurors will consider all inconsistencies to be indicative of deception is inaccurate. As evident in the varied and conflicting results from research on inconsistencies, several factors may mediate the effect of inconsistencies on verdicts.

Lindsay, Lim, Marando, and Cully (1986) were among the first to study the impact of inconsistent testimony in juror decision-making. In their study, mock jurors listened to an audiotaped testimony of an eyewitness to a theft. In the inconsistent conditions, it was brought up that the eyewitness originally stated the

defendant was blond, when he was actually brunette. Despite the fact that this inconsistency seemed directly relevant to the question at hand (i.e., whether the eyewitness identified the correct suspect), results showed that the inconsistency did not affect verdicts.

Berman, Narby, and Cutler (1995) examined the impact inconsistencies between an eyewitness' in-court testimony and prior out-of-court statement had on mock juror verdicts. Participants viewed a videotaped testimony of an eyewitness who robbed a bank. The experimenters manipulated the presence and type of inconsistency (central or peripheral). Central details were those that were central to the case (e.g., details about the perpetrator's appearance, since this was the primary issue to the trial). Peripheral details were details in the environment not directly relevant to the eyewitness' memory of the perpetrator's appearance, such as what kind of car the perpetrator was driving. In the control condition, there were no inconsistency statements. Berman et al., found a significant effect on verdict for central, but not peripheral, inconsistencies. These results suggest that jurors give inconsistencies different weight depending on how relevant they believe the inconsistent content is to the case. Jurors may be able to discount the importance of inconsistent peripheral details because it is easy to generate explanations for the presence of the inconsistency that are still compatible with an honest testimony. Thus, central details that are consistent with the case facts will trump inconsistencies about less important details when jurors decide on a verdict, even when jurors do not believe the witness is credible.

Berman et al.'s (1995) results are in contrast to those of Lindsay et al. (1986), who failed to find an effect of a central inconsistency on verdicts. Berman and colleagues hypothesized that this is due to the fact that their witness had low credibility ratings across all conditions, and suggested that inconsistencies may only impact juror verdicts when the witness has low credibility. Indeed, in Lindsay et al.'s study, the eyewitness maintained a high level of confidence that she accurately identified the defendant as the perpetrator and it was pointed out that the eyewitness correctly stated the suspect's hair was brown shortly after her initial statement at the time of the lineup.

Berman et al. (1995) draw support for the role of perceived credibility from Leippe and Romanczyk (1989), in which inconsistencies affected verdict decisions and credibility ratings of a child, but not an adult, eyewitness, among those who endorsed the belief that children have unreliable memories and recall. Pretrial beliefs about a witness' credibility appear to influence the way in which inconsistencies are perceived, such that if a juror believes the witness is unreliable from the start, they will be more likely to consider the inconsistency to be evidence of fabricated testimony. In general jurors are more likely to pay attention to and remember evidence that is consistent with their pretrial beliefs or preferences (Carlson & Russo, 2001). Jurors who do not hold these negative preconceptions, or who hold positive ones, may not be impacted by inconsistencies or be resistant to considering them indicative of false testimony. Pretrial biases, including beliefs relating to the concept of implicit prosecutorial

vouching, will likely be important factors to consider when understanding how inconsistent jailhouse informant testimony will impact perceptions of guilt.

Not only does the centrality of the inconsistent detail matter, but the type of inconsistency matters as well. Berman and Cutler (1996) examined the impact of three different types of inconsistent statements given by an eyewitness: information given in court but not during the pretrial investigation, contradictions between in-court and pretrial statements, and contradictions made on the stand. Inconsistencies consisting of contradictions had the largest impact on verdicts and eyewitness credibility ratings. The researchers hypothesized this may be due to how mock jurors explained away the different inconsistencies. As with inconsistent peripheral details (Berman et al., 1995), it may be easier to generate a reason why novel information given at trial was not in the pretrial statement (e.g., the interviewer did not ask the right questions, the eyewitness may not have reported it initially because they did not believe it was important) than why the witness gave two contradictory accounts. This is further supported by a possible explanation for the results of the Lindsay et al. (1986) study. The central inconsistency might not have impacted verdicts because in the trial, the eyewitness provided a possible explanation for the inconsistency (that the defendant dyed her hair between the crime and the lineup). It is highly likely that this explanation allowed mock jurors to easily explain the central inconsistency and dismiss its importance when deciding on their verdict. Once again, it appears that it is not merely the presence of an inconsistency that impacts juror decision-making, but whether or not jurors perceive it as indicative of false testimony.

This possibility was examined in a recent experiment by Lavis and Brewer (2016). In their study, mock jurors were explicitly told the witness had a history of being deceptive, which primed them to consider deception as a possible explanation for a case-fact testimonial inconsistency. The results confirmed the importance of juror perceptions of deception, with perceptions of dishonesty mediating the impact of a testimonial inconsistency on witness credibility ratings. Additionally, Lavis and Brewer found that a single inconsistency was enough to cause mock jurors to perceive the witness was being dishonest. Most of the studies discussed above examined the impact of multiple inconsistencies on juror perceptions. This study provides evidence that even a single inconsistency may be enough to impact juror decision making, so long as jurors give the inconsistency appropriate weight when evaluating jailhouse informant veracity.

In the context of TDT (Levine, 2014), inconsistencies are less likely to be critically evaluated as possible evidence of deception when the listener is not in a state of suspicion. If triggers, such as the ulterior motives, do not induce suspicion, cues of deception may be dismissed or inaccurately evaluated. If jurors commit the FAE and fail to consider the incentive as an inducement to fabricated testimony, suspicion should not be triggered. A lack of suspicion means that jurors will not evaluate, or not accurately evaluate, the content of the jailhouse informant's testimony for clues to deception. This is because suspicion causes people to cognitively process information differently. Suspicion motivates jurors to process information more deeply (Fein, 1996; Fein, Hilton, & Miller, 1990) and consider the evidence from multiple viewpoints instead of passively assuming the

message is true (Schul, Burnstein, & Bardi, 1996), which ultimately lowers the truth-bias (Kim & Levine, 2011).

If suspicion is triggered, jurors will explore alternative explanations for the inconsistency (such as purposeful deception) instead of falling back on the honest witness schema implicit in the truth-default state. In a recent study by Palmer, Button, Barnett, and Brewer (2016), mock jurors read a primary confession statement that did or did not contain three crime fact inconsistencies. Results showed that the impact of the inconsistencies on verdict was mediated by the perceived presence of an ulterior motive for falsely confessing (a desire to turn suspicion away from a loved one). The effect was seen even in conditions where the ulterior motive was not explicitly provided. Participants who were able to generate an ulterior motive on their own as to why an innocent person would confess were less likely to vote guilty when inconsistencies were present. The ulterior motive acted as a trigger for suspicion, during which the mock jurors attempted to generate several different explanations for the presence of the inconsistencies. The jurors were able to avoid committing the FAE because suspicion caused them to evaluate the meaning of the inconsistencies differently than if they used a single schema (that the suspect had to be guilty since he confessed).

1.3.4 Deceit Judgments According to TDT (Levine, 2014), during suspicion, evidence such as inconsistencies is gathered in support of a deceptive account, after which an evidentiary threshold can be crossed. Depending on how much

evidence is gathered (and how compelling it is), there are three possible outcomes.

First, an individual can make a purposeful judgment of deceit (which entails gathering enough deceptive evidence to cross the evidentiary threshold). If the individual does not detect enough deception evidence to cross the second threshold and make a definitive lie judgment, then they may make a passive judgment of truth by falling back into the truth default state or continue to be suspicious. It is important to note that the amount of evidence needed to cross the evidentiary threshold can differ from person to person. Thus, it is also possible that factors that might affect this evidentiary threshold, such as pretrial biases, will mediate the impact of inconsistencies on verdicts. Juror's interpretation of evidence is often filtered through the lens of their pretrial biases (Carlson & Russo, 2001). More weight is given with evidence that is consistent with their beliefs and biases, while contradictory evidence can be discounted or dismissed (Carlson & Russo, 2001; Lewandowsky, Ecker, Seifert, Schwarz, & Cook, 2012). People require more evidence in support of a conclusion that goes against their beliefs or biases and less evidence when the conclusion does not (Burke, 2006; Lewandowsky et al., 2012). This suggests that jurors who are pro-prosecution will require more evidence of deception for a prosecution witness to cross the evidentiary threshold and make a deceptive judgment than jurors who are pro-defense.

The third outcome is an individual can make active honest judgments. This occurs if, while searching the message for cues of deception or honesty,

“exculpatory evidence” is found (Levine, 2014, p. 9). Exculpatory evidence refers to information that provides irrefutable proof of the message’s veracity. On the basis of this evidence, the perceiver definitively concludes the message must be honest. Jurors who hear such evidence from a witness may feel that they have no choice but to believe the testimony. Thus, even if jurors are suspicious and there are clear indications of deception, they may believe a jailhouse informant’s testimony on the basis of these non-public facts. This is supported by the Berman et al. (1995) study which found jurors discount the importance of inconsistencies when the central facts remain consistent. Suspicion causes people to generate multiple interpretations or explanations of information. However, the ease of generating arguments or evidence in support of a particular position impacts which position is ultimately accepted (Ask, Greifeneder, & Reinhard, 2012). This cognitive phenomenon appears to be reflected in jurors’ tendency to rely less on evidence that can easily be explained when deciding on a verdict (Berman & Cutler, 1996; Berman et al., 1995; Lindsay et al., 1986). Jurors who are not able to easily generate a plausible alternative explanation as to how the jailhouse informant learned the non-public information (other than from the defendant) will be more likely to believe the prosecution’s argument. The current study explored whether or not these confidential case facts act as exculpatory evidence by manipulating whether or not an alternative explanation as to how the jailhouse informant got this information is explicitly provided.

1.3.5 TDT Summary In sum, TDT (Levine, 2014) is a theory of deception detection that offers a potential explanation for the varied results in previous

research on jailhouse informant witnesses. Exposing the informant's bias by disclosing promised incentives will only induce suspicion when jurors recognize the jailhouse informant has ulterior motives for testifying. In this instance they will give adequate weight to the situational factors and avoid committing the FAE. Impeaching a jailhouse informant by confronting him with inconsistent statements will be most damaging to the informant's testimony amongst jurors who are in a state of suspicion and are actively seeking out evidence of deception. Finally, jurors who are unable to generate a plausible alternative explanation for the non-public details will consider them irrefutable proof the secondary confession actually occurred, and will believe the jailhouse informant's testimony even if they believe he has ulterior motives or his testimony is inconsistent. In light of previous research, the current study aimed to apply TDT to juror decision making in order to predict when exposing ulterior motives or inconsistent statements will be effective at uncovering false testimony given by jailhouse informants.

To test the predictions of TDT participants were assigned to read a trial transcript in which the jailhouse informant is or is not confronted with (1) an inconsistency between his current testimony and a prior statement given to police, (2) evidence implying he has an ulterior motive for testifying, and (3) evidence that he may have learned about the crime details from an outside source.

1.4 Hypotheses

Based on the propositions of TDT, several predictions regarding jury decision making and jailhouse informants are apparent. First, it was hypothesized that suspicion

of ulterior motives would mitigate the fundamental attribution error, meaning that participants in the *Ulterior Motives-Present* conditions would be more likely to believe the jailhouse informant was situationally motivated than those in the *Ulterior Motives-Absent* conditions. Based off of the work of Neuschatz et al. (2008), Neuschatz et al. (2012), and Maeder and Pica (2014), it was expected that situational motive attributions would be significantly related to not-guilty verdicts and lower guilt ratings.

Second, it was hypothesized that there would be an effect of inconsistencies on verdicts and guilt ratings, with participants being less likely to vote guilty when an inconsistency is present than it is not. In the context of TDT, inconsistencies act as evidence of a deceptive account. Research in legal psychology suggests inconsistencies are a viable method of impeachment when jurors are in a state of suspicion (Berman & Cutler, 1996; Berman et al., 1995; Palmer et al., 2016). It follows that participants who are suspicious of the jailhouse informant's motives (and make a situational motive attribution) will evaluate inconsistencies as evidence of deception. Jurors who are not aware of an ulterior motive will evaluate the inconsistency through the lens of the truth-default state (making a dispositional attribution) and will dismiss the importance of the inconsistency as evidence of a fabricated testimony. It was therefore hypothesized that the proportion of guilty verdicts in the *Inconsistency-Present* conditions would be higher among those who made situational attributions than those who made dispositional attributions, and that motive attributions would mediate the relationship between inconsistencies and perceptions of guilt.

Third, it was hypothesized that the accurate crime details within the jailhouse informant's testimony would act as exculpatory evidence within the framework of TDT.

Unless jurors are made aware of a plausible alternative explanation as to how the jailhouse informant learned non-public crime details, they would be more likely to evaluate his testimony as the truth even when they are aware of an ulterior motive and his testimony contains an inconsistency. In the present study, when asked where they believe the details were acquired, participants in the *Alternative Explanation-Present* conditions should be more likely to state a source other than the defendant. It was expected that the frequency of guilty verdicts would be lower among participants who were able to come up with a source other than the defendant than those who believe the informant could have only heard about the case from the defendant. As jurors who are in a state of suspicion should critically evaluate all aspects of the jailhouse informant's statement, it was also hypothesized there would be a relationship between motive attribution and beliefs about the source of details. Jurors who are suspicious would be more likely to generate a source other than the defendant even when one is not explicitly suggested to them (i.e., those in the *Alternative Explanation-Absent* condition). Finally, given the literature on the relationship between pretrial biases and juror decision-making, the current study also included a measure of pretrial bias (Pretrial Juror Attitude Questionnaire; Lecci & Meyers, 2008). Higher pro-prosecution biases, indicated by higher scores on the Pretrial Juror Attitude Questionnaire and the individual subscales, should be related to higher guilt ratings. It was also predicted that pretrial biases, such as pro-prosecution biases, would mediate the effect of inconsistencies on verdicts and guilt ratings, as TDT suggests that jurors who hold pro-prosecution biases will not consider the inconsistency to be strong evidence of deception. Other ad-hoc measures of beliefs and expectations not gathered by the PJAQ regarding inconsistencies, prosecutors, and

incentivized witnesses, were also included. These measures were also expected to mediate the impact of the inconsistency on perceptions of guilt.

CHAPTER 2

METHOD AND PROCEDURE

2.1 Participants

A total of 421 undergraduates from The University of Alabama in Huntsville (UAH) who were enrolled in introductory-level psychology courses participated in the study. Of these, 37 participants indicated they would not like their data included in the analyses; these data were excluded per the university's IRB guidelines. The final sample consisted of 384 participants (166 males). The average age was 20.24 ($SD = 33.87$) and ranged from 18 to 53. The majority of participants self-identified as Caucasian (72.9%), though participants also identified as African American (10.9%), Hispanic/Latino (4.4%), Asian or Pacific Islander (3.6%), Native American (.3%), "other" (1.8%), or selected multiple (6.0%). The current study received IRB approval (see Appendix A).

2.2 Design

The current study was a 2 (Inconsistency: *Present, Absent*) X 2 (Ulterior Motives: *Present, Absent*) X 2 (Alternative Explanation: *Present, Absent*) between-subjects factorial design. For the purpose of this study, inconsistencies were operationally defined as discrepancies between a jailhouse informant witness' in-court testimony and a prior out-of-court statement. Ulterior motives were operationally defined as the jailhouse informant's true motives for testifying, namely that the informant only decided to testify after learning he could receive an incentive, and not because of pro-social, positive

dispositional reasons. The study also examined the impact of providing participants with alternative explanations, which was operationally defined as plausible alternative ways the jailhouse informant could have learned the specific, non-public crime details other than from the defendant. The main dependent variables were verdict, type of motive attribution, and beliefs about the jailhouse informant's source of knowledge regarding the crime details. More specifically, participants rendered either a guilty or not guilty verdict decision, provided a culpability rating and confidence in their verdict decision, and answered why they believed the informant decided to testify. Responses were coded as either situational (e.g., the informant testified to receive the incentive) or dispositional (e.g., the informant testified to help the victim's family) by independent raters who were blind to the experimental hypotheses. Participants also stated where they believed the informant learned the details of the crime. These responses were coded as either from the defendant's confession or from another source. Participants also completed a series of true-false questions intended to assess if they paid attention to the trial.

2.3 Materials

All study materials were administered through the online survey platform Qualtrics. Participants completed the study on individual computers in a laboratory or library computer room. Participants were run in groups of two to four, though two experimental sessions took place in a 25-person library computer lab room. The library computer lab allowed for students who were participating for extra credit in a particular class to complete the study at a single time.

2.3.1 Pretrial Juror Attitude Questionnaire The Pretrial Juror Attitudes Questionnaire (PJAQ; Lecci & Myers, 2008) is a self-report questionnaire which assesses “legally-relevant attitudes” that have been shown to impact juror-decision making, including pro-prosecution and pro-defense biases. The questionnaire consists of 29 items, which are all on a likert scale ranging from 1 (*strongly disagree*) to 5 (*strongly agree*). The PJAQ was developed out of the concern that previous measures of juror bias did not include all of the relevant constructs that predict verdicts. The questionnaire consists of six subscales: conviction proneness, system confidence, cynicism toward the defense, racial bias, social justice, and innate criminality. The latter three were absent from previous juror attitude scales. The PJAQ has demonstrated better predictive validity of juror verdict decisions than alternative juror bias scales (Lundrigan, Dhimi, & Muller-Johnson, 2016), including the Legal Attitudes Questionnaire (originally by Boehm, 1968), and the Juror Bias Scale (Kassin & Wrightsman, 1983). Additionally, Morris and Lecci (2005) found no priming effects when the PJAQ was administered prior to the presentation of trial stimuli in a mock-jury study. Therefore, we do not expect the administration of the PJAQ to affect verdict decisions in the current study (see Appendix B for a copy of the PJAQ).

2.3.2 Trial Transcript Participants listened to an audio recording of the trial transcript for a fictional murder case titled Chase v. State of Illinois, which was adapted from the transcript used in the Neuschatz et al. (2008) study (see Appendix C for written versions of the trial). In the trial, the defendant, Brandon Chase, was accused of murdering three young boys. There are eight versions of

the trial transcript to which participants were randomly assigned. The trial begins with opening statements by both the prosecutor and the defense attorney, which provide a brief overview of the crime. Each transcript also includes circumstantial evidence presented by three prosecution witnesses. The first witness was a police officer who testifies about a possible murder weapon; the second is an expert who testifies about clothing fiber analysis. These testimonies are included to increase both the face and ecological validity of the study, as similar evidence is often presented in the trials in which jailhouse informants testify. The circumstantial nature of these testimonies mean that the subsequent jailhouse informant testimony was the main determinate of participants' verdicts (see Neuschatz et al., 2008). The last witness was the jailhouse informant (Seth Rogers), whose testimony consists of a secondary confession made by the defendant when the two were incarcerated together. His testimony included several facts detailing how the crime occurred, which were included to mirror the testimony of real life informants. Due to the testimony of the police officer, it was clear that these details were factually accurate. During direct examination, the prosecutor states that one of the details (how the victims were tied up) was never released to the general public. Seth Rogers also admitted that he is getting out of prison 5 years early in exchange for testifying, though he states he ultimately decided to come forward and testify because he felt bad for the victims' families. Following this, there was a general cross-examination of Seth Rogers, which was present in both the control (Inconsistency-absent, Ulterior Motive-absent, and Alternative Explanation-absent) and experimental conditions

in order to increase ecological and face validity. Up to this point, all transcript versions were identical. In each of the seven experimental conditions, the cross-examination of the jailhouse informant was extended to include the different manipulations. The manipulations are fully crossed, such that each manipulation was present or absent in every transcript version. All transcripts end with identical closing statements.

The inconsistency manipulation consisted of a portion of cross-examination in which the defense attorney points out two inconsistencies about the type of weapon used between the jailhouse informant's current at-trial testimony and a statement he previously gave to a detective.

In the ulterior motivation manipulation, the defense attorney presents circumstantial evidence that suggests the jailhouse informant was motivated to fabricate confession evidence in order to get an incentive (sentence reduction) deal from the prosecution in exchange for testifying. Namely, that the jailhouse informant only came forward after learning about a possible sentence reduction by another prison inmate. This was meant to reduce dispositional attributions by making the ulterior selfish motivation salient.

The alternative explanation manipulation consisted of the defense attorney presenting circumstantial evidence that the jailhouse informant was told about the non-public crime fact (i.e., how the victims were restrained) from a friend who visited him in jail. The friend states he learned about the non-public crime fact from his girlfriend, who works in the police department. This provided an explanation as to how the jailhouse informant learned about the non-public facts

other than from the defendant himself, and should prevent the non-public facts from being considered irrefutable evidence of a truthful testimony.

2.3.2 Post-Trial Questionnaire The post-trial questionnaire began by asking jurors to select their verdict decision (guilty, not guilty), as well as provide ratings on their verdict confidence (1 = not at all confident to 10 = very confident), defendant culpability (0% to 100%) and likelihood of guilt necessary to vote guilty in criminal trials (0% to 100%). Participants then provided ratings on the usefulness (1 = not useful at all to 10 = very useful), and strength (1 = completely disagree to 10 = completely agree) of each witness's testimony. Participants also rated the informant's testimony, character, and motivations on various factors (see Appendix B for a list of all dependent measures) on a 10-point likert scale. All participants were also asked to answer separate open-ended questions. The first asked why they believed the jailhouse informant decided to testify. Responses constituted participant's motive attributions and were coded as either Situational-Only motive attribution, Dispositional-Only motive attribution, or Both Situational and Dispositional motive attributions. For the current study dispositional attributions constituted positive, pro-social motivations such as a desire to do the right thing. The second open ended question asked participants where they believe the jailhouse informant learned the non-public details. These responses were coded as either Defendant confession-only (i.e., they believe the jailhouse informant could have only learned the non-public details from the defendant's secondary confession), Other-only (i.e., they believe the jailhouse informant could have only learned the non-public details from a source other than

the defendant's confession, such as from the prison guards), or Both Defendant and Other (i.e., they believe the jailhouse informant could have only learned the non-public details from the defendant's confession and/or from another source). It is worth noting that 4 participants indicated they believed the jailhouse informant learned the details from talking to the defendant, but only from the defendant discussing what he was being accused of. These responses were classified as "other-only" because they still reflect the belief that the non-public details were learned in a way other than the defendant confessing his guilt as the jailhouse informant testifies. Five independent raters coded the open-ended responses. Due to the number of raters, inter-rater reliability was assessed by first calculating Kappa for every possible pair of raters, then taking the average. The resulting Kappa was .877 for the first question and .892 for the second question, indicating high inter-rater reliability. Discrepancies were discussed amongst the raters and a final coding was agreed upon. It should be noted that 19 participant responses either did not answer the question or did not fit any of the coding categories, and so were excluded from future analysis. Participants also answered various questions regarding their beliefs or expectations regarding inconsistent statements, the prosecution, and incentivized witnesses on a 10-point likert scale. Finally, participants were asked to provide demographic information such as their age, race, level of education, political affiliation, and past experiences with the judicial system.

2.3.3 Attention-Check Test The attention check test consisted of 12 true-false questions to make sure that participants were paying attention to the material.2.4

2.4 Procedure

Participants completed the experimental session on individual computers wearing headphones. Headphones were worn to ensure each participant could proceed through the study at their own pace. After signing the consent form, participants logged on to Qualtrics to begin the experiment. Participants first read instructions on how to proceed through the study. The instructions told them that after answering some questions regarding their opinions about the legal and judicial system in the United States, they would listen to an audio recording of a criminal trial and make judgments about the case as though they were a real juror. They then completed the PJAQ. Following this, they again read another set of instructions pertaining to the trial transcript recordings. They then played the audio recording of one of the eight transcript versions. Depending on the condition, the audio lasted between 30 and 40 minutes. Due to the time differences between the conditions, participants in each session were assigned the same transcript condition. Conditions were randomly assigned to each session. After the transcript ended, participants completed the post-test questionnaire, the manipulation check, and the demographic questions. The study ended with debriefing and releasing of participants.

CHAPTER 3

RESULTS

3.1 Attention Checks

A series of 12 questions were asked to make sure participants were paying attention to the full trial transcript. These included questions such as if the jailhouse informant was receiving an incentive for testifying, which crime fact details were identified as nonpublic, and when the jailhouse informant decided to testify and contacted the prosecutor. The average number of questions answered correctly for each condition was above 10, with the lowest condition average equal to 10.96. Across all conditions, the mean number of questions answered correctly was 11.15. This was significantly greater than chance, or 6 out of 12 correct, $t(383) = 88.27, p < .001$. However, there were three participants who performed at chance level. These participants were excluded from further analyses.

3.2 Experimental Manipulation Checks

3.2.1 Ulterior-Motive Manipulation Participants' motive attributions were assessed to examine if the Ulterior-Motive manipulation had the intended effect of mitigating the FAE. To avoid any attenuating effects of the Inconsistency or Alternative Explanation manipulations, attributions were only assessed between the control condition and the Ulterior Motive-only condition (both the Inconsistency and Alternative Explanation manipulations were absent). A 3 (Motive attribution: Situational only, Dispositional only, Both) X 2 (Condition: Control, Ulterior-Motive only) chi-square test of independence indicated a significant relationship, $\chi^2(1, N = 92) = 6.97, p < .05, v = .28$. In the control condition, 45.8% of participants made situational-only attributions, 37.5%

made dispositional only, and 16.7% made both; in the Ulterior Motive condition, 59.1% of participants made situational-only attributions, 13.6% made dispositional only, and 27.3% made both.

3.2.2 Alternative Explanation Manipulation Participants' beliefs regarding where the jailhouse informant learned the non-public detail were assessed to examine if the Alternative Explanation manipulation successfully prevented the non-public details from acting as exculpatory evidence. The non-public details should not act as exculpatory evidence when jurors are able to generate an alternative source of information for the nonpublic details other than the defendant's secondary confession. Again, to avoid any attenuating effects of the Inconsistency or Ulterior Motive manipulations, Source of Details were only assessed between the control condition and the Alternative Explanation-only condition (both the Inconsistency and Ulterior Motive manipulations were absent). A 3 (Source of Details: Defendant only, Other only, Both) X 2 (Condition: control, Alternative Explanation only) chi-square test of independence indicated a significant relationship, $X^2(1, N = 93) = 6.27, p < .05, \nu = .26$. The defendant's confession was named as the only possible source by 52.1% of participants in the control group and 26.7% in the Alternative Explanation group; a source other than the defendant was named by 41.7% in the control group and 64.4% in the Alternative Explanation group; and both the defendant and another source were named by 6.3% in the control group and 8.9% in the Alternative Explanation group.

3.2.3 Inconsistency Manipulation To determine if the inconsistency manipulation had the intended effect on perceptions of the jailhouse informant's testimonial consistency, an independent t-test was conducted to compare participant ratings of the jailhouse

informant's consistency in the control condition and in the Inconsistency-only condition (both the Ulterior Motive and Alternative Explanation manipulations were absent).

Results showed that perceptions of the jailhouse informant's consistency were significantly lower in the inconsistency condition ($M = 3.02$, $SD = 2.55$) than in the control condition ($M = 7.81$, $SD = 2.28$), $t(91) = 9.58$, $p < .01$.

3.3 Verdicts

Conviction rates were lower when either the Inconsistency or Alternative Explanation manipulation was present. To confirm these conclusions a 2 (Ulterior Motive: present, absent) X 2 (Inconsistency: present, absent) X 2 (Alternative Explanation: present, absent) X 2 Verdict: (guilty, not guilty) Hierarchical Log-linear Analysis (HILOG) was conducted. As stated, the Inconsistency ($X^2(1, N = 362) = 9.19$, $p < .01$) and Alternative Explanation ($X^2(1, N = 362) = 4.22$, $p < .05$) manipulations were significantly related to Verdicts. Participants were more likely to convict the defendant when the inconsistency was absent (39.2%) than when it was present (24.3%). Conviction rates were also lower in the Alternative Explanation-present conditions (26.7%) than in the Alternative Explanation-absent conditions (36.8%). Surprisingly there was no main effect of Ulterior Motive ($X^2(1, N = 362) = 1.75$, $p > .05$) and none of the interactions reached significance.

To further explore the effects of the Inconsistency, Alternative Explanation, and Ulterior Motive, the effect of participants' motive attributions on their verdict decisions was examined. Both previous research on jailhouse informants (Maeder & Pica, 2014; Neuschatz et al., 2008; Neuschatz et al., 2012) and Truth-Default Theory suggest that the motive attributions jurors make significantly impact perceptions of the jailhouse informant's testimony. Participants' motive attributions were assessed from the open-ended response asking why they believed the

jailhouse informant decided to testify. Responses were coded as either Situational-only, Dispositional-only, or both situational and dispositional (see Method section for a more detailed description). To prevent loss of power due to low expected cell frequencies, the Dispositional-only and Both Situational and Dispositional Motive Attribution categories were combined. The new variable will hereafter be referred to as *Dispositional Motive*. Conceptually this makes sense, considering the informant in the transcript was receiving 5 years off his sentence in exchange for testifying, so participants who believe he is even partially motivated out of pro-social, dispositional reasons, are committing the FAE.

To assess the effect of participants' motive attributions and the experimental manipulations on verdict decisions, a 2 (Dispositional Motive: present, absent) X 2 (Inconsistency: present, absent) X 2 (Alternative Explanation: present, absent) X 2 Verdict: (guilty, not guilty) HILOG was conducted. While including the Ulterior Motive (present, absent) variable in this HILOG would have been preferred, greater than 20% of the expected cell frequencies were below 5 and chi-square analyses are not recommended with cell sizes less than five (Tabachnick & Fidell, 2012). As such, only the manipulations which had been significantly related to verdicts in the initial analysis (Inconsistency and Alternative Explanation) were included. The resulting HILOG indicated that the only significant effect on verdicts was Dispositional Motive [$\chi^2(1, N = 362) = 121.53, p < .01$], with 85.1% of participants who made a situational attribution voting not guilty and 80.6% of those who made a dispositional attribution voting guilty.

It appears that when participant motive attributions were entered into the model, the effect of the Inconsistency and Alternative Explanation disappeared; this suggests that the impact of Inconsistency and Alternative Explanation on verdicts was due to the significant changes in

participants' motive attributions caused by these manipulations. This is supported by the significant Dispositional Motive X Inconsistency X Alternative Explanation interaction. In the conditions without the alternative Explanation, the presence of an Inconsistency caused the frequency of situational attributions to increase from 52.2% to 82.2%, $X^2(1, N = 362) = 18.59, p < .01$. Likewise, in the conditions without the Inconsistency, the presence of the Alternative Explanation caused the frequency of situational attributions to increase from 52.2% to 76.4%, $X^2(1, N = 362) = 11.54, p < .01$. When the Inconsistency was absent, 43.1% of participants did not make a dispositional attribution compared to 84.5% when the inconsistency was present, $X^2(1, N = 362) = 121.53, p < .01$.

3.3.1 How Inconsistencies Impact Verdicts It was hypothesized that the effect of the inconsistencies on verdict is mediated by motive attributions. The above results appear to support this, suggesting that the inconsistency primarily affected verdicts because it mitigated the FAE, causing more jurors to believe the jailhouse informant was situationally motivated and become suspicious of ulterior motives. It was also hypothesized that this relationship existed because of how jurors evaluate the inconsistency when in states of suspicion. This was further tested by first using three separate logistic regression in a variation of the steps suggested by Baron and Kenny (1986). In the first logistic regression, Verdict (guilty, not guilty) was regressed onto Inconsistency (present, absent). The analysis indicated Inconsistency was a significant predictor of verdicts, $B = -.70, SE = .23, \text{Wald } X^2(1) = 9.16, p < .01, \text{odds ratio} = .498, 95\% \text{ CI } (.32, .78)$. A second logistic regression showed Inconsistency was also a significant predictor of Dispositional Motive (present, absent), $B = -1.11, SE = .26, \text{Wald } X^2(1) = 18.90, p < .01, \text{odds ratio} = .32, 95\% \text{ CI } (1.025, 1.185)$. In the final logistic

regression, both Inconsistency and Dispositional Motive were entered as predictors of Verdict. Dispositional Motive was a significant predictor of verdicts, $B = 3.14$, $SE = .32$, $Wald X^2(1) = 95.92$, $p < .01$, odds ratio = 23.17, 95% CI (12.354, 43.464), though now Inconsistency was no longer significant, $B = -0.12$, $SE = .29$, $Wald X^2(1) = .16$, $p > .05$. This provides support for the hypothesis and indicates that the relationship between Inconsistency and Verdicts is fully mediated by Dispositional Attributions.

It was further hypothesized that this mediation effect is itself due to the fact that inconsistencies are explained differently when in a state of suspicion than when not. More specifically, jurors who are in a state of suspicion (do not make dispositional attribution) consider the inconsistency evidence the jailhouse informant is not telling the truth, which causes them to be more likely to convict. Jurors who are not in a state of suspicion (do make a dispositional attribution) will be more likely to believe the inconsistencies are due to a non-deceptive reason (forgetfulness, nervousness) and will therefore be more likely to convict. To test these related hypotheses, a mediation analysis was conducted on the Inconsistency-present data using the SPSS PROCESS Macro. The two items relating to explanations for inconsistencies (Deceptive Explanation and Not-Deceptive Explanation) were entered as mediators in Model 4, with Dispositional Motive as the predictor and Verdict as the outcome variable. Results showed that when the inconsistency is present, Dispositional Motive significantly predicted Deceptive Explanation, $B = -2.02$, $SE = .35$, $t = -5.74$, $p < .01$, 95% CI (-2.71, -1.32), Non-Deceptive Explanation $B = 1.71$, $SE = .36$, $t = 4.77$, $p < .01$, 95% CI (1.00, 2.42), and Verdict, $B = 2.60$, $SE = .47$, $Wald X^2(1) = 30.08$, $p < .01$, odds ratio = 13.44, 95% CI (5.310, 34.006). However, when the two explanation variables were entered into the equation, the effect

of the Dispositional Motive was weaker, $B = 1.86$, $SE = .53$, $Z = 3.55$, $p < .01$, odds ratio = 13.44, 95% CI (.83, 2.89). The indirect effect of the Non-Deceptive Explanation was significant, $B = .58$, $SE = .33$, $LLCI = .833$, $ULCI = 2.001$, but the indirect effect of the Deceptive Explanation was not. This means that a significant amount of the effect of motive attributions on verdicts is because the Dispositional Motive causes jurors to believe the inconsistency is due to a non-deceptive reason. The results support the hypothesis.

3.3.2 How Non-public Details Impact Verdicts It was also hypothesized that participants who were unable to generate a possible source for the nonpublic details other than the defendant's confession would vote guilty regardless of the presence of an inconsistency. However, it is notable that 75.7% of all participants were able to generate a possible source other than the defendant's confession, as measured by their open-ended responses to the question of where they believed the jailhouse informant learned the details in his testimony, with 64.8% mentioning another source even when the Alternative Explanation manipulation was absent. This may be due to increased public knowledge regarding informants. To account for the potential influence, and to examine whether alternative explanations for the source of nonpublic details act as exculpatory evidence in TDT, participant beliefs about the possible source of these details were examined independent of the Alternative Explanation manipulation.

To this end, a 2 (Source of Details) x 2 (Inconsistency: present, absent) x 2 (Verdict: guilty, not guilty) HILOG was conducted. While the three-way interaction was not significant, the analysis indicated a significant effect of Source of Details on verdict, $\chi^2(1, N = 362) = 164.04$, $p < .01$. A follow up 2 (Source of Details: defendant's

confession, other source) X 2 (Verdict: guilty, not guilty) chi square confirmed this significant relationship, $X^2(1, N = 362) = 173.46, p < .01, \nu = .69$, with 88.6% of those who were not able to name a source other than the defendant's confession voting guilty, compared to 13.5% of those who were able to name alternative source for the nonpublic details. There was no effect of Inconsistency on verdicts, nor a significant Inconsistency X Source of Details interaction on verdict. Interestingly, there was a significant interaction between Inconsistency and Source of Details, $X^2(1, N = 362) = 12.95, p < .01$. A follow up 2 (Source of Details) X 2 (Inconsistency: present, absent) chi square confirmed this significant relationship, $X^2(1, N = 362) = 21.68, p < .01, \nu = .25$, and confirmed that the presence of the inconsistency itself made participants more likely to generate a source other than the defendant for the nonpublic details, with 86.2% naming another possible source when an inconsistency was present and 65.2% when no inconsistency was present. Consistent with the hypothesis, it appears that what affects verdicts is whether jurors believe the only way the jailhouse informant could have learned about the nonpublic details is from the defendant's confession, not just if an inconsistency is pointed out.

3.4 Pretrial Attitudes and Prosecutorial Biases

It was also hypothesized that both participant pretrial biases (as measured by the PJAQ) and attitudes regarding prosecutorial vouching would predict verdicts. Beliefs regarding prosecutorial vouching/bolstering were measured with two items. Participants rated how much they agreed with the statements "prosecutors would not allow a witness to testify unless they were certain they were telling the truth" and "prosecutors verify all parts of a witness's story before they are allowed to testify". To simplify interpretation, the first statement will be referred

to as “Prosecutorial Ethics” and the second as “Prosecutorial Verification”. To test this hypothesis, bivariate correlations were calculated between verdict and PJAQ scores (both overall and individual subscales), and beliefs about prosecutorial vouching/bolstering. First, the internal reliability of the PJAQ was examined. Results showed a cronbach’s alpha of .688. The overall PJAQ score was significantly correlated with verdict ($r = .129, p = .014$), as well as the subscales of System Confidence ($r = .126, p = .016$), Conviction Proneness ($r = .137, p = .009$), and Innate Criminality ($r = .112, p = .033$). Verdicts also had significant relationships with both items of prosecutorial vouching, though the relationship was stronger for the Prosecutorial Ethics item ($r = .370, p = .000$) than the Prosecutorial Verification item ($r = .301, p = .000$). This suggests that participants’ verdicts may have been influenced by their legally relevant beliefs, particularly those assessed by the PJAQ as the PJAQ was administered before participants delivered their verdicts.

Following this, a hierarchical logistic regression was conducted to assess if participants’ overall PJAQ score and beliefs relating to prosecutorial vouching can predict jurors’ verdicts. In the first step, the main effects of the Inconsistency and Alternative Explanation manipulations were entered into the regression, as these were the only two manipulations that were significantly related to verdicts. The model was significant, $X^2(1) = 13.64, p < .01$, Nagelkerke $R^2 = .05$. In the second step, the PJAQ total score was added to the model; the reduction in model deviance was also significant, $X^2(1) = 6.24, p < .01$, Nagelkerke $R^2 = .108$, and PJAQ was a significant predictor of verdicts, with participants who had lower pro-prosecution biases less likely to vote guilty, $B = .03, SE = .01, Wald X^2(1) = 6.11, p = .013$, odds ratio = 1.03, 95%CI (1.006, 1.054). In the third step, the two items measuring prosecutorial vouching were added to the model. Once again, there was a significant reduction of model deviance, $X^2(2) = 54.03, p < .01$, Nagelkerke

$R^2 = .26$. Both the Prosecutorial Ethics [$B = .31, SE = .06, \text{Wald } X^2(1) = 25.11, p < .01$, odds ratio = 1.361, 95%CI (1.206, 1.535)] and the Prosecutorial verification [$B = .14, SE = .07, \text{Wald } X^2(1) = 4.48, p < .05$, odds ratio = 1.15, 95%CI (1.011, 1.314)] items were significant predictors of verdict, with participants who believed that prosecutors would not allow witnesses to testify unless they were telling the truth and that prosecutors verify all parts of a witness' story before allowing them to testify being more likely to vote guilty. However, contrary to expectation, when the prosecutorial vouching items were entered, the PJAQ score was no longer a predictor of verdict. These results suggest that while the pretrial biases measured by the PJAQ influence jurors' verdicts, attitudes specific to prosecutorial vouching may be important to consider when understanding juror impressions of jailhouse informant testimony.

3. 5 Perceptions of Jailhouse Informant Testimony

To assess the effect of the independent variables on perceptions of the jailhouse informant, an overall credibility scale was created by averaging participant ratings of how truthful, confident, credible, believable, convincing, consistent, sincere and certain they found the informant's testimony, ranging from 0 (*not at all*) to 10 (*extremely*). Cronbach's alpha was .93, indicating high internal reliability. A three-way ANOVA was then conducted with this new scale entered as the dependent variable and Inconsistency (Present, Absent), Ulterior Motive (Present, Absent), and Alternative Explanation (Present, Absent) entered as independent variables. The results showed a significant main effect of Inconsistency, $F(1, 354) = 70.94, p > .05$, partial eta squared = .17, Power = 1.0, with participants rating the informant's testimony lower when the inconsistency was present ($M = 4.04, SD = 1.87$) than absent ($M = 5.77, SD = 2.16$). Additionally, there were main effects of Ulterior Motive, $F(1, 354) = 5.73, p > .05$, partial eta squared = .02, Power = .67, and Alternative Explanation, $F(1, 354) = 18.70, p > .05$,

partial eta squared = .05, Power = .99. Participants viewed the informant's testimony as less credible when the Ulterior Motive manipulation was present ($M = 4.64$, $SD = 2.07$) than absent ($M = 5.19$, $SD = 2.29$), and when the Alternative Explanation was present ($M = 4.46$, $SD = 2.00$) than absent

CHAPTER 4

DISCUSSION

4.1 Overall Findings

There were several important and novel findings in the current study, the first of which is that participants were less likely to vote guilty when the jailhouse informant was confronted with a prior inconsistent statement at trial. This finding supports the notion that confronting or impeaching the jailhouse informant with inconsistencies might be an effective safeguard against false testimony. In addition to inconsistent statements, providing jurors with a plausible alternative explanation as to how the jailhouse informant could have learned privileged nonpublic case details also lowered conviction rates. This highlights the importance of the content of the jailhouse informant's testimony, and points to a possible reason why jailhouse informants have historically been such persuasive and influential witnesses for the prosecution despite the mercenary nature of their testimony. However, contrary to the hypotheses, highlighting the ulterior motives of the jailhouse informant did not affect mock juror verdicts. This appears to be because participants were already aware the jailhouse informant had an ulterior motive, as shown in the high rate of situational attributions even when the ulterior motive was not a central argument during cross examination. It is notable that while the experimentally manipulated ulterior motive was not related to verdicts, the attribution participants made was strongly related; when these attributions were statistically accounted for, neither pointing out an inconsistency nor offering a plausible explanation for the nonpublic details significantly affected conviction rates. This may be because of the relationship between participant attribution and the

Alternative Explanation/Inconsistency manipulations—situational attributions were greater in both the Inconsistency and Alternative Explanation conditions, suggesting that the significant effects on verdicts were mediated by participants' attributions.

One explanation for this might be found in the Truth-Default Theory. In terms of TDT, the effect of attribution may be because confronting the jailhouse informant with the inconsistency or the plausible explanation for the nonpublic details strengthened the ability of the jailhouse informant's selfish/situational motive to act as a trigger for deception (or is it suspicion). Truth default would suggest that the information in the inconsistency and alternative explanation manipulations were enough to cause jurors to reevaluate how likely the jailhouse informant was to fabricate testimony in order to attain the incentive.

The results of this study also provide an explanation how inconsistency may affect jurors. Namely, the results indicate that it depends on how inconsistencies are perceived—whether the jurors consider inconsistencies to be evidence of deception or the result of a more non-deceptive explanation, such as forgetfulness or nervousness. The data suggests that the relationship between Inconsistency and verdict was explained by participant attributions, with jurors who believed the jailhouse informant was motivated to testify because of pro-social, dispositional reasons more likely to believe inconsistencies were caused by non-deceptive factors, which in turn impacted their verdicts. Once again, this is consistent with TDT—when jurors are in a state of suspicion, they will evaluate evidence differently, actively considering deception as a possible explanation. In this study, it is likely that jurors who are in a state of suspicion are those who successfully detected the jailhouse informant has ulterior motives (i.e., they were aware that the primary motive for testifying was to get the sentence reduction), and therefore made a situational attribution, that is, they believed the jailhouse informant's inconsistent testimony was due to him

fabricating evidence in an attempt to earn the sentence reduction. This notion was further supported by the second mediation analysis which indicated that juror beliefs regarding inconsistencies (that inconsistencies are a strong indicator someone is not telling the truth and that inconsistencies are due to non-deceptive reasons like forgetfulness/nervousness) mediated the relationship between motive attribution and verdict among participants in the inconsistency-present groups.

The current study also examined the potential role that non-public, or privileged details, given by the jailhouse informant might have on juror beliefs. More specifically, it was hypothesized that if jurors are not able to find a plausible alternative explanation for how the jailhouse informant knew these details (other than from the defendant's confession), they would believe the jailhouse informant even if the credibility of his testimony was challenged with a prior inconsistent statement. The analysis supported this hypothesis, finding that the majority of participants who were not able to generate an explanation for the non-public details (those who only believed the only way the jailhouse informant could have learned these details was from the defendant's confession) were much more likely to vote guilty regardless of whether the inconsistency was present or not. According to TDT, these non-public details could have served as exculpatory evidence, that is indisputable evidence that the statement is true. However, one interesting finding was that the presence of an inconsistency caused mock jurors to be more likely to generate an alternative explanation. Once again, it may be that the presence of the inconsistency caused jurors to enter into a state of suspicion, which then caused them to actively consider deceptive explanations instead of passively assuming the jailhouse informant's claims were the truth.

Another interesting finding of the current study is that jurors' beliefs relating to prosecutorial vouching or prosecutorial ethics were not only a significant predictor of verdict decisions and motive attributions, but predicted these above and beyond the PJAQ. Jurors who had more confidence in the criminal justice system and who believe prosecutors verify all parts of a witness's story before they are allowed to testify were more likely to make a dispositional attribution and vote guilty. This might help explain why jurors are so persuaded by witnesses like jailhouse informants who are inherently lacking in credibility. Based off of TDT, it is likely that these beliefs make jurors more susceptible to believing false testimony given by prosecution witnesses. They feel that since the prosecution has already vetted the witness's story, any discrepancies during their on the stand testimony are due to reasons other than deception. In other words, pro-prosecution beliefs relating to faith in prosecutorial vouching or prosecutorial ethics cause jurors to have lower expectations for deceit in the courtroom, and may make them less likely to notice cues that deception is occurring. However, it is important to note that due to limitations in sample size, the current study only asked participants about these beliefs after they delivered their verdict. Thus, these results may be due in part to cognitive consistency, with participants responding in a way in line with their verdict decisions. Future research should address this possibility.

4.2 Limitations and Future Research

There are several limitations of the current study. First, the external validity of the study was limited by the type of stimuli used. Unlike in a real court case, the mock jurors in this study were all college students between the ages of 18 and 53. Though past research suggests college and community samples respond similarly (Finkel & Duff, 1991; Fulero & Finkel, 1991; Neuschatz et al., 2008), future research should test whether the concepts examined in the current

study can be replicated among community members. Additionally, it is possible that different types of inconsistencies may have varying effects on juror perceptions of jailhouse informants, as was seen in eyewitness research done by Berman et al. (1995) and Berman and Cutler (1996). Follow up studies should be conducted to explore this possibility. As discussed previously, future studies should also counterbalance when participants answer the items relating to prosecutorial vouching.

4.3 Implications for the Legal System

Despite the significant contribution of false jailhouse informant testimony on wrongful convictions (Warden, 2004; Gross et al., 2005), courts have upheld the use of jailhouse informant witnesses in criminal trials. The rulings have rested on a firm belief in the adequacy of legal safeguards, such as confronting the witness with inconsistent statements, to aid jurors in their evaluations of witness testimony. The current study suggests that this may be a plausible safeguard which causes jurors to doubt the veracity of jailhouse informant's testimony, however the role of the motive attributions cannot be discounted. Defense attorneys should not only highlight inconsistent statements in the jailhouse informant's testimony, but relate how this is further evidence the informant is fabricating his or her testimony in an effort to attain an incentive. This may help strengthen the inconsistent evidence by preventing jurors from dismissing the inconsistencies as a result of non-deceptive reasons such as forgetfulness or nervousness.

APPENDICES

APPENDIX A

IRB Approval Letter



August 30th 2017

Danielle DeLoach
University of Alabama in Huntsville

Dear Ms. DeLoach,

<input checked="" type="checkbox"/> Expedited (see pg 2)
<input type="checkbox"/> Exempted (see pg 3)
<input type="checkbox"/> Full Review
<input type="checkbox"/> Extension of Approval

The UAH Institutional Review Board of Human Subjects Committee has reviewed your proposal, *Impact of Inconsistencies, Motives, and Crime Details on Juror Decision-Making*, and found it meets the necessary criteria for approval. Your proposal seems to be in compliance with this institutions Federal Wide Assurance (FWA) 00019998 and the DHHS Regulations for the Protection of Human Subjects (45 CFR 46).

Please note that this approval is good for one year from the date on this letter. If data collection continues past this period, you are responsible for processing a renewal application a minimum of 60 days prior to the expiration date.

No changes are to be made to the approved protocol without prior review and approval from the UAH IRB. All changes (e.g. a change in procedure, number of subjects, personnel, study locations, new recruitment materials, study instruments, etc) must be prospectively reviewed and approved by the IRB before they are implemented. You should report any unanticipated problems involving risks to the participants or others to the IRB Chair.

If you have any questions regarding the IRB's decision, please contact me.

Sincerely,

A handwritten signature in black ink that reads 'Bruce Stallsmith'.

Bruce Stallsmith
IRB Chair
Professor, Biological Sciences

APPENDIX B

Study Measures

Manipulation Checks

- | | | |
|--|------|-------|
| 1. The defendant was Austin Vinson | TRUE | FALSE |
| 2. The witness who gave the confession evidence (the first witness) was Brandon Chase. | TRUE | FALSE |
| 3. The witness who gave the confession evidence was a prison inmate. | TRUE | FALSE |
| 4. The witness who gave the confession evidence was not receiving anything in exchange for testifying. | TRUE | FALSE |
| 5. Seth Rogers had known Brandon Chase since childhood. | TRUE | FALSE |
| 6. The witness who gave the confession evidence contact the prosecution immediately after the defendant allegedly confessed. | TRUE | FALSE |
| 7. The fact that a knife was found in the lake was never released to the press or public. | TRUE | FALSE |
| 8. There were 4 witnesses total. | TRUE | FALSE |
| 9. The crime took place in Illinois. | TRUE | FALSE |
| 10. The fact that the victims' hands and feet were tied together was never released to the press or public. | TRUE | FALSE |
| 11. No other items were found in the lake besides the knife. | TRUE | FALSE |

12. The chief inspector stated the knife found in the lake was definitely the murder weapon. TRUE FALSE

Post-Trial Questionnaire

1. As a member of the jury, please provide your verdict decision below:
(Please circle your selection)

GUILTY NOT GUILTY

2. How confident are you in your verdict decision? (Please circle your selection)

1 2 3 4 5 6 7 8 9 10

Not at all confident

Very confident

3. How likely do you think it is that the defendant actually committed the crime?
(Please write a percent from 0-100 in the line provided)

Percent _____%

4. What percent likelihood of guilt is necessary to vote guilty in a criminal trial?
(Please write a percent from 0-100 in the line provided)

Percent _____%

5. How useful was Austin Vinson's testimony to you while making your verdict decision?

1 2 3 4 5 6 7 8 9 10
Not at all Very
useful useful

6. How useful was Sheila Larson's testimony to you while making your verdict decision?

1 2 3 4 5 6 7 8 9 10
Not at all Very
useful useful

7. How useful was Seth Roger's testimony to you while making your verdict decision?

1 2 3 4 5 6 7 8 9 10
Not at all Very

useful

useful

8. Please rate how much you agree or disagree with the following statements:
 The prosecution's case was strong.

Completely	1	2	3	4	5	6	7	8	9	10	Completely
Disagree											Agree

The defense's case was strong.

Completely	1	2	3	4	5	6	7	8	9	10	Completely
Disagree											Agree

The evidence against the defendant in this case was weak.

Completely	1	2	3	4	5	6	7	8	9	10	Completely
Disagree											Agree

The confession evidence (given by the witness Seth Rogers) against the defendant was strong.

Completely	1	2	3	4	5	6	7	8	9	10	Completely
Disagree											Agree

The physical evidence (the knife and the fibers) against the defendant was strong.

Completely	1	2	3	4	5	6	7	8	9	10	Completely
Disagree											Agree

9. Please rate the testimony Seth Rogers gave (the confession evidence) on the following scales:

Not Truthful At All	1	2	3	4	5	6	7	8	9	10	Extremely Truthful
Not Credible At All	1	2	3	4	5	6	7	8	9	10	Extremely Credible
Not Convincing At All	1	2	3	4	5	6	7	8	9	10	Extremely Convincing
Not Believable At All	1	2	3	4	5	6	7	8	9	10	Extremely Believable
Not Consistent At All	1	2	3	4	5	6	7	8	9	10	Extremely Consistent
Not Sincere At All	1	2	3	4	5	6	7	8	9	10	Extremely Sincere

10. Please rate the character, or personality, of Seth Rogers on the following scales:

Not Trustworthy At All	1	2	3	4	5	6	7	8	9	10	Extremely Trustworthy
Not Deceitful At All	1	2	3	4	5	6	7	8	9	10	Extremely Deceitful
Not Selfish At All	1	2	3	4	5	6	7	8	9	10	Extremely Selfish
Not Empathetic At All	1	2	3	4	5	6	7	8	9	10	Extremely Empathetic

Not Moral At All 1 2 3 4 5 6 7 8 9 10 Extremely Moral

11. Why do you believe Seth Rogers decided to testify? (please write your answer below)

12. Where do you believe Seth Rogers learned the details of the crime from? (please write your answer below)

13.1. How much was Seth Rogers motivated to testify because it was the right thing to do?

Not at all 1 2 3 4 5 6 7 8 9 10 Completely

13.2 How much was Seth Rogers motivated to testify because he wanted to serve his own interests?

Not at all 1 2 3 4 5 6 7 8 9 10 Completely

14. Please rate how much you agree or disagree with the following statements:

14.1 Seth Rogers wouldn't have testified if the defendant hadn't truly confessed to him.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

14.2 Seth Rogers wouldn't have testified if the he wasn't getting 5 years off his prison sentence.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

15. Do you believe Seth Rogers gave a true testimony or a false testimony?
____ True testimony ____ False testimony

**if participant selects "true testimony" they will be asked question 16(a); if participant selects "false testimony" they will be asked 16(b)*

16(a). Why do you believe Seth Rogers' testimony was true? (please write you answer below)

16(b). Why do you believe Seth Rogers' testimony was false? (please write you answer below)

17. Please rate how much you agree with the following statements:

17.1. Inconsistencies in a witness's testimony are a strong indicator that a witness is not telling the truth.

Completely												Completely
	1	2	3	4	5	6	7	8	9	10		Agree
Disagree												

17.2. Inconsistencies in a witness's testimony are usually because of an innocent reason, such as forgetfulness or nervousness.

Completely												Completely
	1	2	3	4	5	6	7	8	9	10		Agree
Disagree												

17.3. Prosecutors would not allow a witness to testify unless they were certain they were telling the truth.

Completely												Completely
	1	2	3	4	5	6	7	8	9	10		Agree
Disagree												

17.4. Prosecutors verify all parts of a witness's story before they are allowed to testify

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

17.5. Offering a sentence reduction to informants, or “snitches”, does not influence the truthfulness of their testimony.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

17.6. Inmates are able to learn details about a case without ever talking to the defendant.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

17.7. Any testimony given by an inmate is inherently unreliable.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

17.8. The only way the jailhouse informant could have learned about the non-public facts was through the defendant.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

17.9. Witnesses usually tell the truth.

Completely Disagree 1 2 3 4 5 6 7 8 9 10 Completely Agree

Disagree

Agree

17.10. In criminal cases, witnesses usually testify because it is the right thing to do

Completely

1 2 3 4 5 6 7 8 9 10

Disagree

Completely

Agree

18. Before today, have you heard of the term "jailhouse informant" (sometimes called a "snitch")?

Y N

19. Before today, how knowledgeable were you about jailhouse informants (or snitches)?

1 = Not at All—I have never heard about jailhouse informants before today

10 = Very knowledgeable—I am very familiar with jailhouse informants and their use in criminal proceedings

Not at All

1 2 3 4 5 6 7 8 9 10

Very

Knowledgeable

Demographics

Sex : M F

Age: _____

Race:

Race (check all that apply)

_____ Caucasian/White

_____ African-American

- Hispanic/Latin
- Native American
- Asian
- Other

What is your highest degree earned?

- High School Diploma/GED
- Some College
- Bachelor's Degree
- Master's Degree
- Doctoral/Professional Degree
- Other

If currently in college, what year are you in?

- Freshman
- Sophomore
- Junior
- Senior
- Other
- I am not currently in college

What is your political orientation?

- Very Conservative
- Conservative
- Moderate
- Liberal
- Very Liberal
- Other
- Do not know

Have you ever been arrested?

Y N

Have you ever served on a jury?

Y N

Do you know anyone who had been or is currently in jail?

If yes, how do you know him/her? -----

Pretrial Juror Attitude Questionnaire

	Strongly Disagree				Strongly Agree
1. If a suspect runs from the police, then he probably committed the crime. (CON)	1	2	3	4	5
2. A defendant should be found guilty if 11 out of 12 jurors vote guilty. (CP)	1	2	3	4	5
3. Too often jurors hesitate to convict someone who is guilty out of pure sympathy. (CP)	1	2	3	4	5
4. In most cases where the accused presents a strong defense, it is only because of good lawyer. (CYN)	1	2	3	4	5
5. Out of every 100 people brought to trial, at least 75 are guilty of the crime with which they are charged. (CON)	1	2	3	4	5
6. For serious crimes, like murder, a defendant should be found guilty as long as there is a 90% chance that he committed the crime. (CP)	1	2	3	4	5
7. Defense lawyers don't really care about guilt or innocence; they are just in the business to make money. (CYN)	1	2	3	4	5
8. Generally, the police make an arrest only when they are sure about who committed the crime. (CON)	1	2	3	4	5
9. Many accident claims filed against insurance companies are phony. (CYN)	1	2	3	4	5
10. The defendant is often a victim of his own bad reputation. (RB)*	1	2	3	4	5
11. Extenuating circumstances should not be considered; if a person commits a crime, then that person should be punished. (CP)	1	2	3	4	5

12. If the defendant committed a victimless crime, like gambling or possession of marijuana, he should never be convicted. (SJ)*

1 2 3 4 5

13. Defense lawyers are too willing to defend individuals they know are guilty. (CYN)

1 2 3 4 5

14. Police routinely lie to protect other police officers. (CYN)

1 2 3 4 5

Strongly
Disagree

Strongly
Agree

15. Once a criminal, always a criminal. (INNCR)

1 2 3 4 5

16. Lawyers will do whatever it takes, even lie, to win a case. (CYN)

1 2 3 4 5

17. Criminals should be caught and convicted by “any means necessary.” (CP)

1 2 3 4 5

18. A prior record of conviction is the best indicator of a person’s guilty in the present case. (CON; INNCR)

1 2 3 4 5

19. Rich individuals are almost never convicted of their crimes. (SJ)

1 2 3 4 5

20. If a defendant is a member of a gang, s/he is definitely guilty of the crime. (INNCR)

1 2 3 4 5

21. Minorities use the “race issue” only when they are guilty. (RB)

1 2 3 4 5

22. When it is the suspect’s word against the police officer’s, I believe the police. (CON)

1 2 3 4 5

23. Men are more likely to be guilty of crimes than women. (INNCR)	1	2	3	4	5
24. The large number of African Americans currently in prison is an example of the innate criminality of that subgroup. (RB)	1	2	3	4	5
25. A Black man on trial with a predominantly White jury will always be found guilty. (SJ)	1	2	3	4	5
26. Minority suspects are likely to be found guilty, more often than not. (RB)	1	2	3	4	5
27. If a witness refuses to take a lie detector test, it is because s/he is hiding something. (CON)	1	2	3	4	5
28. Defendants who change their story are almost always guilty. (CYN)	1	2	3	4	5
29. Famous people are often considered to be “above the law.” (SJ)	1	2	3	4	5

Note. CON = system confidence; CP = conviction proneness; CYN = cynicism toward the defense; RB = racial bias; SJ = social justice; INNCR = innate criminality. Items 1–12 were derived from the Juror Bias Scale (Kassin&Wrightsmann, 1983). *Reverse-scored item. Item 18 is used on two scales.

APPENDIX C

Trial Transcript

Opening Statements (all conditions)

VERBATIM REPORT OF PROCEEDINGS: Chase v. State of Illinois

The Court: Does the state wish to make an opening statement?

Prosecution: Good Morning Ladies and Gentleman of the jury, my name is Chris Phillips and I am the prosecuting attorney. I will show that Brandon Chase either alone, or with an accomplice, caused the death on one count of Doug Raplee, on another count of Shane Gavin, and on the last count of James Debolt. That's the first element, that this defendant by himself or with an accomplice caused the death of these kids. The second element is when this defendant did this, that he did so with the premeditated and deliberated purpose of doing so. Now what's the proof expected to show? The proof is expected to show, ladies and gentlemen, that on April 2nd, 2016, Doug Raplee, Shane Gavin, James Debolt were 8 years old, they were students at Manning Elementary School in Manning, Illinois, a school right here in the neighborhood where they lived. The boys were last seen in the area known as Crestwood Hills. This was about 6 o'clock. When the boys didn't come home when they were supposed to, the parents, of course, began a frantic night of searching. And in case you didn't know Crestwood Hills is set in the woods and has a creek that runs through it. Well, Officer Mike Allen, goes to Crestwood Hills and sees a shoe. He tries to get into a position to get to the shoe and he falls into the water. He feels something against his foot. He lifts up his foot and the body of Doug Raplee floats up. He's bound, hand to foot, he's naked. They go up, they find some clothing, they find tennis shoes, Doug's Cub Scout cap, they go further to the south in the ditch, and find Shane Gavin, he's naked, bound hand to foot, and under the water. They remove him, go a little bit further to the south, and they find James Debolt, bound in the same manner. All three boys had lacerations on their bodies. The proof is going to show, ladies and gentlemen, through the evidence, that the defendant caused the deaths of Doug Raplee, Shane Gavin, and James Debolt.

The Court: Does the Defense wish to make its opening statement now?

Defense: Yes, your honor. Ladies and gentlemen of the jury, good morning again, my name is Keith Ayers and I am here today representing Brandon Chase. I'd like to spend a

few minutes with you and describe to you what I believe the truth will show in this case. You're here to determine justice. First, let's start with an understanding of the person, Brandon Chase. And the evidence will be that Brandon Chase is a 24-year old young man who was arrested. The evidence will show that Brandon is just an average guy. So, why are we here today? We're here today, because on April 2nd in 2016, a tragedy occurred in Manning, Illinois and that tragedy was the brutal killing of three 8-year old boys. No one is going to argue that that is a tragedy. That's not the question though. We're not here to determine if a tragedy occurred, and we're not here to determine whether these boys suffered a horrible death. What we're here today for and the purpose of this trial is to determine if Brandon did it. There was no solid evidence pointing to anyone. And the pressure began to build. An arrest needed to be made. Chief inspector Austin Vinson, of the Manning Police Department, was conducting daily press conferences. The public wanted someone. But the evidence will show that as late as the 28th day of May, they admitted they were blindfolded. They had no answers. Suddenly, an arrest is made. Brandon Chase is arrested. No substantiating evidence links him to the crime.

Direct and Cross Examination of Police Officer (all conditions)

The Court: The prosecution may now call its' first witness

Prosecution: Your Honor, the State would like to call, Austin Vinson, to the stand.

The Court: Mr. Vinson, if you would come up to the witness stand. If you'll remain standing and raise your right hand

AUSTIN VINSON,

called as a witness herein, having been first duly sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

Prosecution: Would you state your name and occupation for the jury?

Austin Vinson: Austin Vinson, I'm a Corporal with the Illinois State Police that was assigned to assist the Manning Police Department in their investigation of the murders of the three young boys—Doug Raplee, Shane Gavin, and James Debolt.

Prosecution: You were the chief inspector in this case?

Austin Vinson: Yes, I was.

Prosecution: Corporal Vinson, did you participate in a lake dive in Crestwood County?

Austin Vinson: Yes sir, I'm a member of the state police dive team.

Prosecution: And what was the name of the lake that you searched?

Austin Vinson: We searched in Lake Manning, which is located behind the Lakeshore Community.

Prosecution: Are you aware that the defendant, Brandon Chase, resides in this community?

Austin Vinson: Yes, for that specific reason it was suggested that we search the lake due to its location behind his trailer.

Prosecution: Alright, let me show you what I have marked for identification purposes as state's exhibit 4 and ask if you can identify that.

Austin Vinson: Yes, I found this serrated knife straight out from the pier where we were searching in front of.

Prosecution: Now, Corporal Vinson, where in relation to the pier did you locate that knife?

Austin Vinson: It, like the pier itself as I recall, runs pretty much at a 90 degree angle straight away from the shoreline out toward the water and then if you just extended that straight on out, another, I guess it'd be 30 or 35 feet out from the end of the pier, straight on out, that's where the knife was.

Prosecution: Was there anything distinct about this knife that would link it to Brandon Chase?

Austin Vinson: Yes sir, it had his name engraved on it.

Prosecution: I don't have any further questions at this time, your Honor.

CROSS-EXAMINATION

Defense: I just have a couple questions for you, is it Corporal Austin Vinson?

Austin Vinson: Yes sir.

Defense: Ok. Now, did I understand that you initially had a metal detector out there?

Austin Vinson: Yes.

Defense: And what was the reason you did not continue with the metal detector was that there were lots of metal items in the lake?

Austin Vinson: Well, there were lots of metal items in the lake and so using the metal detector was impossible.

Defense: Now, would you agree that the area of the lake that you searched was a small portion of that lake?

Austin Vinson: Very small.

Defense: Very small. After you found this particular item, did you search the rest of the lake?

Austin Vinson: No, I did not.

Defense: And so you obviously don't know what items may have been in the rest of the lake?

Austin Vinson: That's right.

Defense: Ok. Did you find items other than just this knife in there?

Austin Vinson: A bunch, yeah.

Defense: What other items did you pull out of there?

Austin Vinson: I don't recall exactly everything that we actually pulled out. There was rotted tennis shoes, beer cans, broken glass, old mattress, mattress springs that rotted out,

lawn chairs, it seemed like an old table, metal sheeting, a bowling ball -

Defense: And was all this just in that small portion of that lake?

Austin Vinson: All that I just named was like, within a ten-foot radius of that pier. And once I got out of that junkyard, that's where I came across--there was not a lot of garbage where I located the knife. It was farther out. It was in a position like someone would have thrown it, rather than drop it off the pier.

Defense: Ok. So all sorts of things have been thrown off that pier, would you agree with that?

Austin Vinson: Yes.

Defense: Did you read the coroner's report in the investigation?

Austin Vinson: Yes, I did.

Defense: And what Mr. Vinson, did the report have to say about the nature of the wounds and the type of weapon that could have been used?

Austin Vinson: Well, it said it could have been any serrated knife.

Defense: What was that Mr. Vinson?

Austin Vinson: It said it could have been any serrated knife.

Defense: And just to clarify, the wounds could not have come from a knife that has a smooth edge?

Austin Vinson: Not according to the coroner's report.

Defense: So what you are telling me, and this court, Mr. Vinson, is that in fact any type of serrated, not smooth, knife could have caused these wounds, and this knife does not necessarily have to be the one found in the lake?

Austin Vinson: Yes.

Defense: As chief inspector, your involvement in the investigation was not limited to searching the lake, correct?

Austin Vinson: Yes. I was involved all aspects of the investigation.

Defense: Did you watch the any of the interviews of Brandon Chase by detectives?

Austin Vinson: Yes, I did.

Defense: Can you tell the court what Brandon Chase said he was doing the day of the crime?

Austin Vinson: I believe he stated he was fishing on the lake.

Defense: And did he mention the knife?

Austin Vinson: Yes, he stated that he brought the knife out on the lake with him but accidentally dropped it in the lake when he was trying to cut the line after it snagged.

Defense: Is it possible that this is why Brandon Chase's knife was found in the lake?

Austin Vinson: It is possible, but according to Brandon Chase's statement he was alone on the lake, meaning there is no one to corroborate his account of how the knife got in the lake.

Defense: That's all. I don't have any further questions.

The Court: Thank you Mr. Vinson. You may step down.

Direct and Cross Examination of Hair Fiber Analysis Expert (all conditions)

Prosecution: The state would now like to call Shelia Larson.

The Court: Ms. Larson, if you would come up to the witness stand. If you'll remain standing and raise your right hand

SHEILA LARSON,

called as a witness herein, having been first duly sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

Prosecution: What experience, education, or training qualifies you for the position at the crime laboratory.

Shelia Larson: I'm a criminalist at the state crime lab. I do hair and fiber comparisons. I've had a degree in chemistry from the University of Central Illinois. I've had a fiber identification course from the Microne Institute. And I've had extensive in-laboratory training.

Prosecution: Now if you could, also explain to the jury what primary transfer and what secondary transfer is.

Shelia Larson: Ok. Primary transfer is if I touched one of you and then did tape lifts and I found fibers from my items on you. That would be considered a primary transfer. A secondary transfer would be if you touch someone else and then we find fiber from you on that person, which would be considered a secondary transfer.

Prosecution: And do you also get secondary transfers in situations where, for instance, you have clothes hanging together in the closet?

Shelia Larson: Yes.

Prosecution: Now in the course of your duties, did you also examine some items that were submitted by the Manning police department in this case?

Shelia Larson: Yes.

Prosecution: Alright. And I also want to show you what has been marked for identification purposes as state's exhibit 5. And where did you recover that item?

Shelia Larson: This was recovered from Brandon Chase's residence.

Prosecution: Now after those items were recovered, did you make some comparisons with items from the victims' clothing?

Shelia Larson: Yes, I did.

Prosecution: Alright. And what tests or comparisons did you do?

Shelia Larson: I considered these items as the standard and I compared them against the slides of the victims. When I found fibers that looked similar, I took them off and did the microscopic examination.

Prosecution: And I believe you previously testified that exhibit 5 was found at Brandon Chase's residence. And what is that item?

Shelia Larson: It's a woman's robe.

Prosecution: A bathrobe?

Shelia Larson: Yes.

Prosecution: Alright. Now, just so the jury understands, you're not suggesting that Brandon wore the bathrobe?

Shelia Larson: No, I'm not.

Prosecution: Ok. Is this where secondary transfer may come into play?

Shelia Larson: Yes, it's possible.

Prosecution: Alright, what fibers or items did you find for comparison?

Shelia Larson: I found a single red rayon microscopically similar to those used in the construction of the robe.

Prosecution: Where was the fiber similar to the fibers in state's exhibit 5 - the robe, where was it found?

Shelia Larson: Yes the fibers were found on exhibit 6, which was a black and white shirt

that was found at the crime scene.

Prosecution: Ok. Now, in making these comparisons, when you say they're similar what does that mean?

Shelia Larson: Ok. After I recover something on the tapes and I look under the stereoscopic examination - this magnifies the fibers approximately 20 times their normal size -um - if I feel they look similar to the standard, I recover them off of the slide and I do a microscopic examination. Here, my examinations will run from 100 times to even 400 times magnification of their normal size. I'll look at the diameters, the shape of the fiber, the color. If the polymers match, then I consider the fibers similar.

Prosecution: Alright. And in this case, did you do all of that?

Shelia Larson: Yes.

Prosecution: And what were the results?

Shelia Larson: They were the same - or similar.

Prosecution: I don't have any further questions at this time, your Honor.

CROSS-EXAMINATION

Defense: Shelia, in your report, there's a paragraph that states - and I think on - if you look on page 11, the top paragraph - I think it - it's a paragraph that I've seen in quite a number of fiber reports. Could you repeat that sentence to the ladies and gentlemen of the jury and then I'll ask you to explain that afterwards.

Shelia Larson: Ok. It is pointed out that fibers do not possess a sufficient number of unique, individual microscopic characteristics to be positively identified as having originated from a particular person, to the exclusion of all others. It should say 'item' instead of 'person'. This means that if you were to go to Wal-Mart, you'll see a rack of clothing and all of the clothing on it is the same. It could be that all the fibers were made at the same time and they'll have the same characteristics. And a number of people might have that garment in their household. So if I find a fiber similar to another item, it doesn't necessarily mean it came from that item. It could've come from one of these other items that was hanging on that same rack.

Defense: Alright now, is this something that you put in all your reports?

Shelia Larson: All fiber reports get this, yes.

Defense: Is it also true that the FBI recommends that this paragraph be included in any reports?

Shelia Larson: Yes, they do.

Defense: Ok. Now Shelia, are you telling this jury that the fiber that you found on this shirt, came from this robe?

Shelia Larson: I can't say what the source is, only that they're similar.

Defense: Ok. Shelia would you agree with me that this is a woman's robe?

Shelia Larson: Yes.

Defense: Ok. Now do you remember where you found that robe?

Shelia Larson: I think it was from a bedroom

Defense: One more question, in the secondary transfer of fibers what happens when clothes are washed together?

Shelia Larson: Fibers are redistributed around.

Defense: Ok, is that another way of getting secondary transfer of fiber? You wash your clothes together and then you get fibers from another - like if I had a fiber from some other my clothing that got on this shirt and I came into contact with you and it could transfer?

Shelia Larson: That's correct.

Defense: So, it's also possible - isn't it, Shelia, based on that question that the red fiber could have been on that little - that young man's shirt that morning when he got up and put it on and went to school? 'Cause it could have gotten in the dryer from some other source in his own household, couldn't it?

Shelia Larson: I can't say what the source is.

Defense: But that shirt being washed and dried with another shirt could be the very source of the red fiber transfer, could it not? That's possible, isn't it?

Shelia Larson: If that person was from one of those households.

Defense: Alright. That's all. Thank you.

The Court: Thank you Ms. Larson. You may step down.

Direct Examination of the Jailhouse Informant (all conditions)

Prosecution: Your Honor, the State has indicated its next witness is Seth Rogers.

The Court: Mr. Rogers, if you would come up to the witness stand. If you'll remain standing and raise your right hand

SETH ROGERS,

called as a witness herein, having been first duly sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

Prosecution: Will you please state your name?

Seth Rogers: Seth Rogers.

Prosecution: I want to draw your attention back to July of 2016. Were you in the Crestwood County Correctional Facility as an inmate?

Seth Rogers: Yes, sir

Prosecution: What were you in there for?

Seth Rogers: Robbery

Prosecution: And when you were in there, was there a Brandon Chase in the Correctional Facility at the same time?

Seth Rogers: Yes, sir.

Prosecution: Is this where you met Brandon Chase?

Seth Rogers: Yes. On my first day there I got assigned to work in the laundry, which was where Brandon worked also.

Prosecution: Ok. During this time, did you have occasion to associate with Brandon Chase?

Seth Rogers: Yes, I did. Brandon and I played cards on our break almost every day.

Prosecution: During the course of while you were playing cards or in contact with this Brandon Chase, was there anything mentioned about his involvement in the murders of the three eight-year-olds?

Seth Rogers: Yes. I had heard that he was being detained as a suspect in the case with the three boys so I asked him if he did it.

Prosecution: When was this?

Seth Rogers: I believe it was two or three days after we started working together.

Prosecution: What were the circumstances? Where were you, and what was going on, when you first asked him about it?

Seth Rogers: We were sitting there playing cards on our break before lunch. I just wanted to know; I did not think he would actually say he did it.

Prosecution: Can you tell me what was going on, what was happening at the time that occurred?

Seth Rogers: Me and Brandon were scraping up the cards to go into the cafeteria for lunch because they make us go into the cafeteria for lunch. We were scraping up the cards. I said, just between me and you, did you do it? I won't say a word. He said yes and he went into detail about it.

Prosecution: Were there other people at the table picking cards up at that point?

Seth Rogers: No, it was just me and Brandon.

Prosecution: You said he went into more detail. What did he tell you?

Seth Rogers: He told me how he cut the kids. He said he cut one of them with a serrated knife his dad gave him on his birthday. Then he told me how he got rid of the bodies. He talked about how he drove with the boys in the trunk down to the creek in Crestwood Hills. He said he dumped the bodies in the creek there. He told me he ditched the knife in a lake after it was done.

Prosecution: You said he used a knife with a serrated blade. Are you certain Brandon Chase said this to you?

Seth Rogers: Yes, sir.

Prosecution: You also said the boys were tied up. What do you mean?

Seth Rogers: He said that he tied all the boys hand to foot to keep them from running away.

Prosecution: Brandon Chase told this to you directly?

Seth Rogers: Yes, Sir.

Prosecution: Let the record show that this information about how victims were tied up was never released to the public.

Prosecution: What did you do?

Seth Rogers: I put my hands on the table and I just pushed back and I left him there with the cards and I went to the cafeteria.

Prosecution: You are testifying under oath that Brandon Chase told you this while you were at the correctional facility?

Seth Rogers: Yes.

Prosecution: And you are telling the court today that Brandon Chase told you this information and you did not read about it in the newspaper or watch it on the TV?

Seth Rogers: Yes, sir. He told it to me.

Prosecution: Why do you think that Brandon Chase confessed to you?

Seth Rogers: I guess he needed to tell somebody, it seemed like he was bragging about it. Or maybe he just needed to get it off his chest.

Prosecution: If he wanted to get it off his chest or brag about his crime, why did he not tell the police?

Seth Rogers: Just because he did the crime doesn't mean he wanted to go down for it.

Prosecution: When was it that you came forward with this information?

Seth Rogers: I'm not really sure the day but it was sometime in November. The beginning of November I think.

Prosecution: Why did you wait until then to come forward?

Seth Rogers: Because we became friends. I know it's wrong to not come forward but I was just trying to be a good friend.

Prosecution: So the only reason you didn't come forward was because you were trying to be a good friend?

Seth Rogers: Well yeah, and I didn't want to get involved with it all. In prison you don't want to be known as a rat, you know? That'll cause you a lot of trouble. I had my own stuff to deal with and didn't need any extra problems.

Prosecution: What caused you to come forward at that point in time? Why did you no longer want to stay uninvolved? Why did you come forward and testify?

Seth Rogers: Because I saw the families on TV and saw how broken hearted they were

about their children being dead. It kind of hit home. I have a soft heart and I couldn't take it. I had to tell someone.

Prosecution: Isn't it the case that you will get out of prison 5 years early for this testimony?

Seth Rogers: Yes, sir.

Prosecution: But had already decided to testify before you were offered this prison sentence reduction?

Seth Rogers: Yes, sir, I had.

Prosecution: That's all I have.

General Cross Examination of the Jailhouse Informant (all conditions)

SETH ROGERS (continued)

CROSS-EXAMINATION

Defense: Now, this happened in July of 2016, is that what you're saying?

Seth Rogers: I believe so, yes, sir.

Defense: And you and Brandon had been playing cards when you asked him if he did it, is that correct?

Seth Rogers: Yeah, we were picking up the cards to go to lunch after our break when I asked him, "Did you do it?"

Defense: And you said before that you and Brandon played cards a lot during your breaks, right?

Seth Rogers: Yes, sir.

Defense: Does anyone else, any of the other inmates, join you and Brandon when you two play cards?

Seth Rogers: Sometimes, it just depends on the day.

Defense: Ok. You testified that Brandon Chase told you he did it one or two days after you started working in the Laundromat together, correct?

Seth Rogers: Yes, sir.

Defense: And the first time you met him was when you started at the Laundromat?

Seth Rogers: Yes, sir.

Defense: So when he confessed to you, he had only known you for 48 hours at the most?

Seth Rogers: Yes, sir.

Defense: Do you know if he ever confessed to any of his other fellow inmates?

Seth Rogers: Not that I know of.

Defense: Why do you think Brandon Chase chose to confess to you, and you alone, after only knowing you for 48 hours?

Seth Rogers: Well, we get several breaks a day so we had talked plenty by then. I guess he liked me. And like I said, it kind of seemed like he was bragging, like he wanted to tell someone what he did.

Defense: And I believe you testified that you are receiving an incentive in return for testifying on behalf of the prosecution?

Seth Rogers: Yes, sir. I am getting 5 years off my prison sentence.

Cross Examination of the Jailhouse Informant (inconsistency-present conditions only)

SETH ROGERS (continued)

CROSS-EXAMINATION (continued)

Defense: You met with the prosecutor and detectives several times since you came forward, and provided multiple statements of what happened, correct?

Seth Rogers: Yes, sir.

Defense: You previously testified that when Brandon confessed to you, he told you all of the gory details about the crime, correct?

Seth Rogers: Yes, sir.

Defense: Including how he cut the boys with a knife his father had given him for his birthday.

Seth Rogers: Yes, sir.

Defense: And the blade was serrated, not smooth, correct?

Seth Rogers: Yes, sir.

Defense: You are absolutely certain Brandon Chase said this to you? Your memory of this is very strong?

Seth Rogers: Yes, sir, I definitely remember Brandon telling me that.

Defense: Alright. I'm giving the witness exhibit 2, which is the transcript from a recorded interview between him and Detective Paul Bishop, who works for the Illinois State Police. Do you remember this interview? It happened the day after you first contacted the prosecutor claiming Brandon Chase confessed to you.

Seth Rogers: Yes, sir.

Defense: Ok. On page three, Detective Bishop asks you if Brandon Chase told you anything about a knife. Can you please read your response?

Seth Rogers: I said "Brandon told me he cut the kids with a knife he had bought at a gas station earlier that day."

Defense: Detective Bishop then asks you to go into detail about the type of knife. Can you read what you told him aloud for the court?

Seth Rogers: I said "Brandon said it was a pocket knife, one that had a really sharp and smooth blade."

Seth Rogers: Wait—no—this is wrong.

Defense: This is wrong? This is not what you said in the interview you had with Detective?

Seth Rogers: No, I mean, I must have said it wrong, I was really nervous.

Defense: You just testified that you had a very strong memory of Brandon Chase telling you the knife he used to cut the boys was given to him by his father and had a serrated blade, yet in the first statement you gave the detective you state that the knife Brandon used was actually a pocket knife he got from a gas station the day of the murders and had a smooth blade. So you have given two different accounts of what knife was used during the murders. Isn't it true this is because Brandon Chase never actually confessed anything to you, so you had to make up a story for the detective and prosecutor in order to get a deal for testifying?

Seth Rogers: No, sir, I didn't make anything up.

Cross Examination of the Jailhouse Informant (ulterior motive-present conditions only)

SETH ROGERS (continued)

CROSS-EXAMINATION (continued)

Defense: Do you remember when a man named Jacob Williams was moved into your cell?

Seth Rogers: Uh, no, not really.

Defense: It was October 10th, 2016. Did you talk to him a lot?

Seth Rogers: Well, yeah, we were locked in a cell together most of the time.

Defense: Ok. Did Jacob Williams tell you he had testified for the government in a trial last year? That he testified the defendant was guilty?

Seth Rogers: I don't remember. He might have mentioned it. We talked about a lot of stuff.

Defense: Did he also mention that he got 9 years off his prison sentence in exchange for testifying?

Seth Rogers: Like I said, I don't remember.

Defense: Did testifying for the prosecution in order to get a reduced sentence—something you may have learned about through Jacob Williams—motivate you to obtain information about the murder of the three boys and then contact the prosecution claiming Brandon Chase confessed to you?

Seth Rogers: No, sir.

Defense: So you are saying that in July, Brandon confessed to you. Then 4 months later your guilt overcame you and it was merely a coincidence that it was only a few of weeks after you got to know Jacob Williams?

Seth Rogers: Yes, that's what I'm saying. I waited because I was Brandon's friend and didn't want to be labeled a snitch.

Defense: And do you believe you would have been offered 5 years off if you hadn't agreed to testify that Brandon Chase confessed?

Seth Rogers: I don't know..

Defense: Ok. But the prosecution wouldn't have offered you a deal if you hadn't given them with something that would substantially help them convict Brandon Chase. That's true, correct?

Seth Rogers: I don't know..

Defense: So it seems like you were able to get time off your sentence just like your cellmate Jacob Williams, correct?

Seth Rogers: No, that was different—I don't know why Jacob testified, and it was for a completely different case.

Defense: Ok. But 5 years off your prison sentence is a long time, correct?

Seth Rogers: I guess so.

Cross Examination of the Jailhouse Informant (alternative explanation-present conditions only)

SETH ROGERS (continued)

CROSS-EXAMINATION (continued)

Defense: You previously testified that you did not have any knowledge of the crime before Brandon came to the prison, correct?

Seth Rogers: Yes. That's correct.

Defense: The prosecution claims the information you gave them contained details about the crime not released to the general public. So there's no way you could have gotten it from the TV or newspaper, right?

Seth Rogers: Right.

Defense: So everything you told the police and prosecutor that Brandon said came directly from Brandon?

Seth Rogers: Yes, sir.

Defense: Have you spoken to anyone else about the case?

Seth Rogers: Well, I mean, we all talk about what everyone is in jail for sometimes.

Defense: But the details about the crime, the facts that were not released to the public, you never heard that from anyone else?

Seth Rogers: No, just Brandon.

Defense: Alright. Do you know someone by the name of Darrel Evans?

Seth Rogers: Yes sir, I do. He's one my friends who come to visit me, he comes up every few weeks.

Defense: He visited you on October 23, 2016 correct?

Seth Rogers: Yes, sir. That sounds right.

Defense: Ok. Did you ever discuss this case with him when you two talked?

Seth Rogers: No, sir. We talked about a lot of things but I don't remember talking about that.

Defense: Are you sure?

Seth Rogers: Yes, sir. Absolutely.

Defense: What would you say if I told you that Darrell Evans gave a statement claiming you two discussed the murder of the 3 boys on October 23, including a crime detail that wasn't released to the general public—namely, how the boys had their hands and feet tied together?

Seth Rogers: I would say that's not right, that didn't happen.

Defense: Could you read the highlighted portion of this statement out loud, please? I am showing Mr. Rodgers Exhibit 3, the statement of Darrell Evans.

Seth Rogers: It says, "the last time I visited—it was at the end of November, I think—Seth said that Brandon Chase confessed to him and he was going to testify about at trial. Seth told me what he told the prosecutor, including about how the boys' hands and feet had been tied together. When he said that, I got really concerned."

Defense: The detective taking the statement then asked Mr. Evans, "why were you concerned?". Can you read Darrell Evans' answer on the next line out loud for the court again?

Seth Rogers: He says "because I remember telling him that exact same information when I visited him in October. My girlfriend is the receptionist in the police department,

you see, and she had told me about the case. I know I shouldn't have told Seth, since my girlfriend told me not to tell anyone, but I did anyway."

Defense: Is what Mr. Evans stated true? Did he tell you those things?

Seth Rogers: No, sir, that's not true. He must be remembering it wrong because we never talked about that.

Defense: Then why would Mr. Evans say that?

Seth Rogers: I don't know. We had gotten into an argument last time he visited, he's probably still mad and wants to get back at me.

Defense: But isn't it true that you learned that the victims were tied hand to foot by your friend Darrel Evans and not by Brandon Chase? And that you used this information to make up a testimony that Brandon Chase confessed to you in order to receive 5 years off your sentence?

Seth Rogers: No, sir. Brandon told me that right to my face.

Defense: So just to clarify things, you are testifying that it is merely a coincidence that your soft heart got the best of you and you decided to contact the prosecution only a few weeks after you visited with Darrel Evans? Even though you claim Brandon Chase allegedly confessed to you 4 months before?

Seth Rogers: Yes, sir.

Defense: I have no further questions, your honor.

The Court: Thank you, Mr. Rogers. You may step down.

Closing Statements (all conditions)

The Court: The prosecution may now make its closing statements.

Prosecution: Now what does the State have to prove? The State has to prove, that Brandon Chase either alone or with an accomplice, caused the death of Doug Raplee, Shane Gavin and James Debolt. Now, what I want to do now, is I want to go through the evidence and let's just see where we come out. First, Seth Rogers, a friend to the defendant came forward with information that he knew would incriminate his friend. We heard him tell us how nervous he was to do it. Think about it for a second, would you be able to come forward with this information about one of your friends? It would probably be hard, as I am sure it was hard for Seth. He gave specific details of the crime. These are details that only the killer would know. The information that the children were tied and how they were tied was never released to the public. Then you got the fiber. Rayon is not common. Shelia Larson said you don't get that very often in the lab. And you got this rayon fiber, this one tiny little fiber found on that black shirt of one of these little victims. And they take that tiny little fiber and they compare it microscopically, they look at its shape, it's color, and they tell you that it's consistent from having come from that robe in Brandon Chase's house. Now I want to take a few minutes and go through some of the stuff that the Defense has claimed in this case. They've tried to dump pieces from somebody else's puzzle all in this case. They tried to say that the knife could have been any knife with a serrated edge but the fact of the matter is that this knife was found behind the house of the defendant and it is likely the knife that was used in the case. However, we know that the knife that was found did indeed belong to the defendant. Add to that, the statement from the witness Seth Rogers in which he said Brandon told him he threw away the knife in a lake. They tried to argue the same thing with the fiber evidence. I don't know about you but the defense seems to be grasping at straws because they have no case. Ladies and gentlemen of the jury I ask that you consider all of this when you make your decision.

The Court: Now the Defense may present its closing statements

Defense: May it please The Court, madam court reporter, ladies and gentlemen of the jury. What we're here today to consider is a very serious consideration, the fate of a 24-year old young man, the fate of Brandon Chase. And that's why we're here. Let's start with an overview of the testimony of the parties who came in here and testified. What did Austin Vinson tell us? The knife used in the murder could have been any serrated knife. They are not sure it was Brandon Chase's knife. Then there is Seth Rogers. He's the guy that played cards with Brandon. The prosecution wants you to believe that Seth is telling the truth, but can you? There is no definitive proof that Seth Rogers, a man convicted of a crime himself, is telling the truth. You see, the prosecutors didn't meet their burden of proof. The only evidence this prosecution has presented is circumstantial. Where is their

evidence? Where is it? Where is anything that shows that he did any of these things? The only evidence they've got is Seth Rogers, a man receiving 5 years off his prison sentence in exchange for testifying. Boil it down, that's all they've got.

The Court: In deciding the issues you should consider the testimony of the witnesses and the exhibits received in evidence. The introduction of evidence in court is governed by law. You should accept without question my rulings as to the admissibility or rejection of evidence, drawing no inferences that by these rulings I have in any manner indicated my views on the merits of the case. Opening statements, remarks during the trial and closing arguments of the attorneys are not evidence, but are made only to help you in understanding the evidence and applicable law. Any argument, statements, or remarks of attorneys having no basis in the evidence should be disregarded by you. In considering the evidence in this case you are not required to set aside your common knowledge, but you have a right to consider all of the evidence in the light of your own observations and experiences in the affairs of life. You are the sole judges of the weight of the evidence and the credibility of the witnesses. In determining the credibility of any witness and the weight to be given his testimony, you may take into consideration his demeanor while on the witness stand, any prejudice for or against a party, his means of acquiring knowledge concerning any matter to which he testified, any interest he may have in the outcome of the case, the consistency or inconsistency of his testimony, its reasonableness or unreasonableness, and any other fact or circumstance tending to shed light upon the truth or falsity of the testimony. A defendant has an absolute constitutional right not to testify. The fact that Brandon Chase did not testify is not evidence of guilt or innocence and under no circumstances shall be considered by you in arriving at your verdict.

END OF TRANSCRIPT

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