analysis should be limited to the "what" of a case and not include the "why" or the "who" (Kari, 2005). These issues, the court said, were beyond the scope of properly admissible evidence. The court also expressed concern that this testimony would be perceived by the jury as having more weight than it deserved because of the detective's status as an expert witness. Recall that standards for admissibility of expert testimony include a weighing of the probative versus prejudicial value. In this case, the appeals court believed her testimony had undue influence over the jury.

In the United States, however, expert testimony on the psychological characteristics of criminal defendants has been admitted with less difficulty, depending on how it is cloaked. Individuals with impressive credentials, particularly those trained in FBI-sponsored programs, get considerable leeway, and particularly at the trial stage, though there are exceptions. In one notable case (*State v. Haynes*, 1988), a profiler testified at length about the traits and characteristics of "anger-retaliatory" murderers, leading the jury to conclude that the defendant matched those characteristics. The Court of Appeals ruled that this offender-profiling testimony was not scientific, could not be considered reliable, and should not have been admitted. It also indicated that the expert testimony was more prejudicial than probative, and that it amounted to inadmissible character evidence as well.

In summary, trial courts after *Daubert* have been more aware of their gatekeeping role and have made efforts to scrutinize more carefully the scientific status of the profiler's testimony. They have been more likely to reject evidence that is not scientifically based. However, there is little consistency across jurisdictions, and the decisions of appellate courts are unpredictable as well.

INVESTIGATIVE INTERVIEWING AND INTERROGATION

> Police had Van Chester Thompkins in custody and were questioning him about a murder. They had advised him of his *Miranda* rights, but he refused to sign a waiver of those rights when they passed one to him. However, he did not specifically say he did not want to talk to police, and he did not ask for a lawyer.
>
> Thompkins was questioned for about three hours, during which time he remained silent, looked down at the floor, and responded only occasionally to a non-crime-related question.
>
> Finally, police asked, "Do you pray to God to forgive you for shooting that boy?" and he answered "yes."
>
> (*Berghuis v. Thompkins*, 2010)

> It's not my job to protect a suspect's rights. It's my job to get a confession.
>
> (Anonymous detective)

These illustrations set the stage for our discussion of topics that have captured the research attention of many contemporary psychologists who are interested in the relationship between psychology and law. They revolve around police interviewing and interrogation while investigating crime. The difference between an interview and an interrogation is a critical one. The interviewing of witnesses to crime, accidents, and other incidents is a fundamental task of law enforcement. Most generally, police *interview* witnesses, victims, or anyone who may have knowledge of a crime. They also interview people who could eventually become criminal suspects. As pointed out by Kassin, Perillo, Appelby, and Kukucka (2015), "as commonly practiced, police often conduct a preinterrogation interview to determine whether a suspect is telling the truth or lying" (p. 245). However, police often have a strong bias toward deception in many of their preinterrogation interviews. When suspicion is cast on an individual, he or she becomes a suspect and is then subject to *interrogation*, or more intensive questioning. When questioning a person who is suspected of a crime and who is in custody, the process is an accusatory one and is properly called an interrogation. However, individuals who eventually become suspects may first be interviewed, but later the process may quickly turn into the beginnings of an interrogation. When that point is reached, the person must be advised of his or her rights. In reality, this warning sometimes occurs even before a person is in custody.

Miranda Warnings

Central to the topics in the next sections are the *Miranda* warnings that are intended to protect suspects from using their own words to incriminate themselves. The warnings also tell suspects they have a right to a lawyer, and that if they cannot afford one, a lawyer will be appointed. Any waiver of those rights must be made knowingly, intelligently, and willingly. If suspects speak to police after receiving their warnings, anything they say—including confessing to the crime—can be used against them. There are limits on the tactics police may use in obtaining confessions. For example, confessions cannot be coerced, either physically or psychologically. As we indicate in this chapter, however, coercion—especially psychological coercion—is not always easy to establish, and there is no universally required terminology for delivering *Miranda* warnings. In essence, police are allowed considerable latitude in their interrogative approaches.

Legal psychologists and other legal scholars worry that many suspects do not comprehend their constitutional rights and are often subjected to **psychological coercion** in order for police to obtain a confession (N. E. S. Goldstein, Goldstein, Zelle, & Condie, 2013). Furthermore, psychologists, along with many others, are concerned about the growing evidence of false confessions (N. E. S. Goldstein et al., 2013; Kassin et al., 2010; Leo, 2008; Redlich, Kulish, & Steadman, 2011). False confessions were detected in 28% of cases in the United States in which individuals were exonerated on the basis of DNA evidence; in addition, the National Registry of Exonerations notes that 13% of those wrongfully convicted had falsely confessed (Kassin, Redlich, Alceste, & Luke, 2018).

The primary purpose of criminal interrogation is to obtain a confession from a suspect or to gain information that will lead to a conviction. Once a confession is obtained, the individual may recant it, arguing that it was obtained illegally or, less often, that it was a false confession. If the case goes to trial and the confession evidence is admitted, this confession is damaging evidence that clearly has a profound impact on jurors. Nevertheless, most convictions are obtained not from an individual's confession but from the weight of other evidence gathered by police (see **Case Study 3.1** for an exception). Furthermore, recall that the great majority of cases do not go to trial. It is estimated that only 4% of felony cases do (T. H. Cohen & Reaves, 2006). Therefore, a confession obtained by police, including a false confession, is more likely to result in a guilty plea.

Prior to the 1950s, courts accepted arguments that some methods employing physical restraints, prolonged physical discomfort, beatings, and a wide variety of physical abuses were, not surprisingly, coercive and not to be tolerated. Gradually, courts also began to acknowledge the existence of more subtle forms of psychological coercion. A confession is considered psychologically coerced if it "was elicited by brute force; prolonged isolation; deprivation of food or sleep; threats of harm of punishment; promises of immunity or leniency; or, barring exceptional circumstances, without notifying the suspect of his or her constitutional rights" (Kassin, 1997, p. 221).

CASE STUDY 3.1

THE DASSEY CONFESSION: VALID OR INVOLUNTARY?

Brendan Dassey was 16 years old in 2005 when his uncle, Steven Avery, was charged with rape, murder, and mutilation of Teresa Halbach, a photographer, on October 31. Her remains were found in a burning pit on Avery's property, an auto salvage yard. Halbach had gone to the yard to take a picture of a van that was to be put up for sale. Was Avery's nephew, who lived on adjacent property, involved?

Both men were tried and convicted of the crimes, and both were sentenced to life in prison in 2007. A multipart documentary about the case, *Making a Murderer*, streamed on Netflix in 2015. People watching the documentary debated whether Dassey was truly guilty—and some wondered whether Avery was as well. Meanwhile, in real time, Dassey's lawyers had been appealing his conviction for nearly a decade. There was no physical evidence linking Dassey to the crimes, though witnesses testified to his agitated state of mind following the murder. However, he was convicted largely on the basis of his videotaped confession to police.

Suspicion had centered on Dassey as an accomplice, but 2 months went by before he was interviewed at the police station, first in January 2006 and again in February. He was questioned in a "soft" interview room, while sitting on a couch, and he was not restricted from leaving. He answered police questions, took bathroom breaks, and was given food and sodas. His mother, who was not present in the room, had consented to the interviews, and Dassey seemed willing to speak to police. They did not raise their voices, did not physically coerce him or intimidate him, and did not directly promise leniency. They read him *Miranda* rights, though he was not technically in custody, and he waived his right to a lawyer.

However, police did use the maximization and minimization tactics discussed later in the text. To obtain information, they told Dassey they had listened to tapes obtained as evidence and knew everything that had happened, so it would be in his best interest to come clean with them. They also took a fatherly approach, telling him they would help him get a better deal than his uncle, and that he would feel better if he told what he knew. At least at one point they gave him false information, asking him about the tattoo on the victim's stomach (she had no tattoo). Dassey did not rise to the bait, but rather said he did not recall a tattoo.

Dassey changed his story about the crimes several times during the interviews. In one version, he went to his uncle's house and saw a bonfire; in another, he helped his uncle lift the victim into the burn pit; in another version, he went to get mail and heard screams coming from his uncle's trailer, at which point he knocked on the door and saw a naked woman tied to a bed. In his final version, he told police he raped and stabbed the victim. Dassey's lawyers tried unsuccessfully to get that confession suppressed. At trial, they argued that Dassey's confession was involuntary and that none of what was included in it had occurred.

In childhood and adolescence, Dassey apparently was not formally diagnosed as having intellectual disabilities, but he had obtained IQ scores between 70 and 80, far below the average 100. He had received special education services in school. During his second interview, he asked police how much longer this would take and whether he would be allowed to return to school that afternoon because he had a project due. When the interview was over, he told his mother that what he told the police had really not happened. Was his confession valid, or was it involuntary, given his age, his intelligence, and his vulnerability? Was it a false confession?

After Dassey's conviction, Wisconsin state courts denied his claims, and lawyers filed *habeas corpus* petitions with the federal courts. A district court sided with Dassey, but a split panel of the 7th Circuit Court of Appeals did not settle the issue, so the 7th Circuit heard the case *en banc*. In 2017, the 7th Circuit (*Dassey v. Dittman*, 2017), looking at the totality of the circumstances, ruled that Dassey's confession was voluntary. (The facts outlined here were taken from that court opinion.) The court acknowledged that some facts of the case weighed against the confession being voluntary (e.g., Dassey's age and intellectual limitations), but other facts weighed in the opposite direction (e.g., the fact that police had not raised their voices or made promises of leniency).

Dassey, who has been in prison for a decade, petitioned the U.S. Supreme Court for a writ of *certiorari*. The American Psychological Association (APA), the American Psychiatric Association, the National Association of Social Workers, and the American Academy of Psychiatry and Law jointly filed an *amicus* brief on Dassey's behalf in 2018, urging the Court to hear the case. The brief cited research that juveniles and persons who have intellectual limitations are vulnerable to pressure, lack mature judgment, and are prone to making false confessions. In June 2018, the Court denied *certiorari* without comment.

Questions for Discussion

1. Recalling what you learned in Chapter 2 about the filing of *amicus* briefs, why do you think the APA filed a brief in this case? Speculate as to why the brief was filed so early, even before the Court announced whether it would hear the case.
2. A coerced confession is invalid, but it may or may not be a false confession. Discuss this distinction.
3. Should law enforcement officers be allowed to give false information to a suspect during interrogation? Should they be able to imply leniency without promising it?

Legal Background

Most adults—as well as most adolescents—are familiar with the *Miranda* warnings. Familiarity does not equal understanding of the rights associated with the warnings, however. Despite frequent references in the media, research indicates that even college students have false beliefs about their *Miranda* rights (Rogers, Rogstad, et al., 2010). For example, many people think police are not allowed to deceive them or that they can speak "off the record" under certain circumstances without police being able to use that information against them. We will discuss more of these false beliefs shortly.

The Fifth Amendment of the U.S. Constitution gives those accused of crime the right not to incriminate themselves, and courts have repeatedly reminded us that individuals may not be forced to confess or otherwise to provide evidence that may be damaging to their cases. Earlier decisions by the U.S. Supreme Court focused on police brutality. In *Brown v. Mississippi* (1936), for example, the suspect had been beaten by police until he confessed to a crime. In later cases, the Court addressed the psychological coercion that was implicit in the interrogation process (e.g., *Ashcraft v. Tennessee*, 1944; *Spano v. New York*, 1959). In the landmark case *Escobedo v. Illinois* (1964), the Court ruled that a suspect's confession should not have been admitted into court because it was made only after he had repeatedly asked for and been denied counsel. The Court also found that the interrogation methods used by the police had so emotionally upset Escobedo that his capacity for rational judgment was impaired. As a result, his confession did not follow a valid waiver of his constitutional rights. The best way to prevent potential injustice of this sort, the Justices said, was to allow subjects to be interrogated in the presence of their attorneys. Therefore, the Court held that once the police interviewing process shifts from an investigatory to an accusatory focus, the individual must be permitted (but not required) to have counsel present.

In *Miranda v. Arizona* (1966), the U.S. Supreme Court determined that the Fifth Amendment rights against self-incrimination and to have a lawyer present during custodial interrogation were so crucial that law enforcement officers must inform suspects of those rights prior to interrogating them. Ernesto Miranda was questioned by police after being arrested for kidnapping and rape. The victim provided a description of her assailant but did not positively identify Miranda in a subsequent lineup. However, during the interrogation, which occurred without a lawyer present, Miranda was told that the victim had identified him, and then he confessed to the crime. Miranda's case was one of four that came before the Supreme Court raising similar issues from different states, but because his was the lead case, his name has been attached to the decision—and to the warnings—ever since (N. E. S. Goldstein et al., 2013). In 2000, following a number of decisions that had seemed to diminish the *Miranda* ruling, the U.S. Supreme Court reaffirmed the central importance of *Miranda* warnings as a well-established procedural requirement in the law (*Dickerson v. United States*, 2000).

In the *Miranda* case, the Supreme Court commented extensively on the pressure tactics of interrogation and made several references to the powerful effects of psychological coercion associated with that process. Commenting that beating suspects in order to obtain a confession was a thing of the past, the Justices wrote,

> We stress that the modern practice of in-custody interrogation is psychologically rather than physically oriented. As we have stated before . . . this Court has recognized that coercion can be mental as well as physical, and that the blood of the accused is not the only hallmark of an unconstitutional inquisition. (*Miranda v. Arizona*, 1966, p. 448)

The Court in *Miranda* felt it was paramount that the accused be notified of (1) the right to remain silent, and (2) the fact that what the accused says can be used against the individual if he or she chooses not to remain silent. Furthermore, suspects must be told (3) of their right to an attorney and (4) that if they cannot afford an attorney, one will be appointed for them. In addition to these four elements, most jurisdictions also tell the suspect that he or she can stop answering questions at any time and request a lawyer (N. E. S. Goldstein et al., 2013). In addition, many jurisdictions ask suspects if they understand these rights or ask them to sign waivers, such as what occurred in the case cited at the beginning of this section (*Berghuis v. Thompkins*, 2010).

Phrasing the *Miranda* Warnings

The Supreme Court in the *Miranda* case did not require a specific wording, but anyone exposed to the entertainment media is probably aware of a typical recitation. The TV drama version may not be so typical, however. Rogers (2008b) reports that surveys across American jurisdictions yielded a surprising 945 *Miranda* warnings with different words, phrases, or sentences. In addition, 122 juvenile warnings were found, along with 121 written in Spanish. Furthermore, written *Miranda* versions vary widely in reading levels, from mid–grade school to college level (Greenfield, Dougherty, Jackson, Podboy, & Zimmerman, 2001). It is unwarranted, therefore, to assume that there is a universal *Miranda* warning or one easily understood by most people. In fact, the Supreme Court has itself ruled that the exact words from the *Miranda* case are not needed (*California v. Prysock*, 1981) and that even ambiguous warnings satisfy the *Miranda* requirement (*Duckworth v. Eagan*, 1989).

The anonymous detective quoted at the beginning of this section—the one who indicated it was his job to get a confession—might not do any of the following, unless required to by departmental policy or law. He might not (1) ask if suspects understand their rights; (2) tell suspects that he will stop questioning if the suspects assert the right to remain silent; (3) tell suspects that a lawyer can be consulted both before and during the interrogation; (4) obtain written waivers; (5) speak slowly and articulate his words; (6) provide warnings in any language other than English; or (7) take particular care in warning juveniles, people with intellectual disabilities, or individuals with mental disorders. The officer also is likely to try to deceive suspects into thinking there is more evidence against them than actually exists. As will be seen, this type of deception is perfectly legal in the United States, but police say that they do not use this tactic extensively (Kassin et al., 2007).

The Custody Aspect

A suspect does not *have* to be informed of his or her rights *at the moment of arrest*. The operative point in time is *before* **custodial interrogation**. A line of U.S. Supreme Court and lower court decisions after *Miranda* have interpreted and applied this phrase, specifying more clearly the situations under which the warnings are and are not required. The Court has accepted law enforcement's distinction between an interview and an interrogation, reiterating that the point at which the questioning shifts from an investigatory to an accusatory function is the point at which interrogation begins. Many cases have revolved around the issue of whether a reasonable person would believe that he or she was free to leave; if one is free to leave, one is not in custody. In 2011, the U.S. Supreme Court ruled that a juvenile's age must be taken into consideration in deciding whether he perceived himself as free to leave. In that case, a 13-year-old boy was taken out of his classroom by a uniformed school resource officer and led to a conference room for questioning about the theft of a digital camera (*J. D. B. v. North Carolina*, 2011). The case will be discussed again in Chapter 8.

Since *Miranda v. Arizona*, numerous appellate courts have issued rulings based on that case, including the U.S. Supreme Court itself (see **Table 3.4** for a representative but not

Table 3.4 Representative Supreme Court Cases Relating to Self-Incrimination Following *Miranda v. Arizona*

Case Name	Year	Holding
Brewer v. Williams	1977	Warnings are required for the equivalent of a custodial interrogation—the suspect was in a police car; officers addressed him but did not question him.
Fare v. Michael C.	1979	A juvenile's request to see his probation officer is not the equivalent of a request to see a lawyer.
Rhode Island v. Innis	1980	Conversations between officers do not require *Miranda* warnings to the suspect being transported.
California v. Prysock	1981	The exact wording used in the *Miranda* decision is not required.
Berkemer v. McCarty	1984	A person is not in custody during a routine traffic stop, so *Miranda* warnings are not required.
New York v. Quarles	1984	Warnings are not required if public safety is at risk.
Duckworth v. Eagan	1989	Ambiguous warnings still satisfy the *Miranda* requirement.
Davis v. United States	1994	After a waiver of rights, the suspect must make an unambiguously clear statement of his or her wish for a lawyer.
Dickerson v. United States	2000	The *Miranda* warning is established law; it is required before custodial interrogation by both federal and state law enforcement.
Yarborough v. Alvarado	2004	A 17-year-old interviewed without a *Miranda* warning was free to leave, and therefore not in custody.
Berghuis v. Thompkins	2010	Suspects must explicitly assert their right to silence; waiver can be implicit.
Florida v. Powell	2010	Warnings are sufficient as long as they reasonably convey the right to an attorney during interrogation. In this case, the police told the suspect he had a right before answering questions but did not say he had a right during interrogation. The Court said this was sufficient.
J. D. B. v. North Carolina	2011	Courts must take age into consideration in deciding whether a suspect perceives himself as free to leave.
Salinas v. Texas	2013	A person's silence in response to a police question prior to arrest and without a *Miranda* warning can be used against him at trial.

inclusive list of Supreme Court cases and holdings relating to *Miranda* rules). Some courts, like the courts in the *J. D. B.* case, have focused on the custody aspect; others have focused on the wording of the warnings or when warnings may not be necessary. In *Berghuis v. Thompkins* (2010), the case referred to at the beginning of this section, the Court, in a divided 5–4 decision, ruled that suspects must *actively assert* their right to remain silent; refusing to answer relevant questions over a 3-hour period and refusing to sign a waiver of his rights did not qualify as an active assertion on Thompkins's part. He did not specifically state his wish to remain silent. Therefore, responding "yes" to the police officer's question was a valid confession.

In another *Miranda*-related case decided by the U.S. Supreme Court, *Salinas v. Texas* (2013), the person had willingly accompanied police to the police station and was not under arrest. He was "interviewed" for an hour, at which point he remained silent when asked an incriminating question. At the trial stage, the prosecutor commented on that silence, implying that it pointed to the defendant's guilt. A five-Justice majority ruled that the prosecutor's comment did not violate the defendant's constitutional rights, while the four-Justice minority indicated that Salinas's silence was in effect his indication that he did not wish to incriminate himself, and it should not have been commented upon.

Although we do not dwell on legal issues in these and other *Miranda*-related cases, we will focus on the two psychological issues that are most relevant to police questioning: suspects' understanding or comprehension of *Miranda* warnings and the intractable problem of false confessions. Related to these issues, we will also discuss the ability of law enforcement officers—or anyone else—to detect deception in other people.

Comprehending *Miranda* Warnings

The *Miranda* warnings have remained an essential component of police procedure—some version of the *Miranda* warnings is routinely administered, sometimes more than once, but as noted previously, there is no universal language. In some jurisdictions, warnings and confessions are audiotaped or videotaped. At this writing, 24 states in the U.S. require police officers to audiotape or videotape custodial interrogations under certain conditions, such as cases involving murder or serious felonies (Bang, Stanton, Hemmens, & Stohr, 2018). Beginning in 2014, the U.S. Department of Justice required the recording of custodial interrogations for several of its law enforcement agencies. Bang et al. also point out that law enforcement agencies in the United Kingdom, Canada, New Zealand, and Australia are mandated to audio- or videotape interrogations in all cases involving serious felonies.

Miranda warnings also may be delivered orally or in writing. In the case of juveniles, many jurisdictions today require that a parent or guardian be notified before custodial interrogation, and most of these jurisdictions also require parents' or guardians' presence. Legal psychologists have noted, however, that parents are not necessarily the best protectors of their children's rights (Grisso, 1981). For example, parents and guardians may urge children to confess without appreciating the implications of a confession, or they may feel it important to teach the child or teen a lesson. Therefore, some jurisdictions require by statute that a lawyer or a non-lawyer law guardian be present when a juvenile is interrogated. A law guardian is a person appointed by courts to protect the legal interests of persons who are deemed unable to protect their own interests. The interrogation of juveniles and their comprehension of *Miranda* rights will be covered more fully in Chapter 8.

Despite public familiarity with *Miranda* warnings as a general concept, the public is remarkably uninformed about the significance of these warnings, even though most people believe they understand them (Rogers, 2011). Other research on comprehension of *Miranda* has focused on persons with intellectual disabilities or a mental disorder. Even individuals with a mild rather than severe intellectual disability have been found to lack

comprehension of a simple version of the *Miranda* warning (O'Connell, Garmoe, & Goldstein, 2005).

Rogers, Rogstad, et al. (2010) compared the beliefs of pretrial defendants to those of college undergraduates with respect to *Miranda* rights and found "surprisingly similar" results (Rogers, 2011, p. 729). Significant portions of both groups believed that they could give "off-the-record" statements that would not incriminate them and thought police had to "play fair." For example, they thought police could not falsely tell them that an eyewitness had identified them (when they in fact can). In addition, even individuals who have considerable experience with the criminal justice system, measured by frequent arrests, have no better understanding than those less experienced (Rogers, Rogstad, Steadman, & Drogin, 2011).

The Supreme Court has repeatedly stated that waivers of one's constitutional rights—in this case, the right against self-incrimination and the right to a lawyer—must be intelligent, knowing, and voluntary. If a suspect confesses to a crime after providing an invalid waiver, his confession is subject to being suppressed—or not used against him. A confession made after physical beatings is obviously invalid; however, a confession that is psychologically coerced is more difficult to identify. To evaluate the validity of confessions, courts—including the Supreme Court—have used a **totality of circumstances approach** to decide whether an individual knowingly, willingly, and voluntarily waived her constitutional rights. Thus, courts have looked at such factors as the length of the interrogation; how the warnings were delivered; the questioner's approach to the suspect; the age, education, and intellectual ability of the suspect; and the suspect's past experience with the criminal justice system (see again **Case Study 3.1**).

Assessing *Miranda* Comprehension

The issue of the validity of a specific waiver usually does not arise unless an officer of the court—typically the defense attorney—argues that the waiver was not a valid one. This can occur at the pretrial stage, such as when a defendant is asked to enter a plea; during the trial itself; or, more commonly, after a person has been convicted and seeks to have his conviction overturned. As Rogers (2008b) states, defense attorneys "operate from their own limited knowledge base in deciding when, if ever, to raise issues regarding the invalidity of *Miranda* waivers" (p. 777). He does not spare psychologists and psychiatrists, either, who he says "rely on methods yielding limited relevant knowledge in evaluating *Miranda* waivers" (p. 777).

Ideally, mental health practitioners should be asked to assess the competence of a suspect to waive *Miranda* rights at the police station before interrogation begins. However, this is extremely unlikely to happen in the case of the average suspect. (Exceptions may and can be made in the case of juveniles or persons who are so obviously intellectually or emotionally impaired that interrogators know that a confession would likely be invalidated.) For the most part, though, psychologists or other mental health practitioners are called in to assess *Miranda* comprehension after a suspect has confessed to a crime and the defense attorney tries to invalidate the confession. Psychologists may evaluate a suspect's intelligence, reasoning ability, and reading levels to do this, and they increasingly take into consideration psychological impairments.

Instruments specifically designed to measure *Miranda* comprehension are also available. Most of these were developed by Grisso and his colleagues after extensive study of juvenile comprehension (Grisso, 1998a). They include the Comprehension of Miranda Rights (CMR), the Comprehension of Miranda Rights–Recognition (CMR-R), the Comprehension of Miranda–Vocabulary (CMV), and the Function of Rights in Interrogation (FRI)—all recently revised (N. E. S. Goldstein, Zelle, & Grisso, 2012). Rogers and his colleagues have also developed an as-yet unpublished Miranda Statements Scale (MSS; Rogers, 2005) and a Miranda Vocabulary Scale (MVS; Rogers, 2006b).

Despite concerns about comprehension of *Miranda* rights and the false beliefs people hold about these constitutional protections, neither psychologists nor other mental health practitioners seem to be performing many evaluations in this area. Ryba, Brodsky, and Shlosberg (2007) found that only about one-fourth of forensic practitioners in their sample reported that they performed *Miranda* evaluations, and those who did had performed an average of 6.9 such evaluations over the past year. Commenting on this finding, Rogers (2011) speculated that "roughly 1 in 199 cases with probably impaired *Miranda* abilities is referred" for evaluation (p. 731).

Research on *Miranda* comprehension, waivers, and confessions is often raised in appellate courts, however. For example, defense lawyers may have tried to introduce expert testimony on involuntary confessions, but the testimony was not allowed. In that case, the appellate court may be asked to review that denial. In other cases, individuals or organizations such as the APA submit *amicus curiae* briefs in support of petitioners who claim that the waivers of their rights were invalid or their confessions were involuntary.

DETECTION OF DECEPTION

Deception is behavior that is intended to conceal, misrepresent, or distort truth or information for the purpose of misleading others. It is obvious that the ability to detect it is a valuable tool in the investigator's armory. As noted by Aldert Vrij (2015), "in virtually all interviews that the police and intelligence services conduct, investigators need to determine whether a suspect is lying" (p. 226). At the police academy, in training manuals, and in on-the-job training, police are taught methods of interviewing and interrogation that are said to be tried and true for successfully dealing with witnesses and victims of crime, persons of interest, and—of course—suspects. The predominant method used for interrogating suspects in the United States is the **Reid method**, first published by Inbau and Reid in 1967. The two latest editions of *Criminal Interrogation and Confessions* were authored by Inbau, Reid, Buckley, and Jayne (2004, 2013). As Redlich and Meissner (2009) assert, "it is important to note, however, that these techniques have never been subject to any scientific evaluation by the authors/users" (p. 131). Although the Reid method is recognized as effective in many respects, it has also been widely criticized for its lack of scientific validity (L. King & Snook, 2009). Most recently, there has been concern that while it can produce true confessions, it is vulnerable to producing false confessions, a topic we will cover later in the chapter. Suspects who are actually innocent are at a disadvantage when confronted with this method of interrogation.

Research on Deception

Over the past three decades, research has identified three basic psychological processes that are involved in deception: (1) emotion, (2) attempted behavioral control, and (3) cognitive load (Vrij, 2008; Zhang, Frumkin, Stedman, & Lawson, 2013). These processes are assumed to be revealed through nonverbal and verbal cues provided by the person who is trying to deceive.

Emotion Cues

For a long time, it was believed that emotions were the best indicator of deception. Telling a lie has been most commonly associated with two different types of emotions: guilt and fear (Vrij, Granhag, & Mann, 2010). The core of this anxiety-based approach is based on the belief that liars will be more nervous than truth tellers and consequently will reveal more nervous behaviors (Vrij, 2015). Traditionally, it was accepted practice to associate nervousness, arousal, and anxiety with deception. For example, excessive leg movements, blinking, foot wiggling, hand wringing, finger tapping, picking fingernails, or fumbling with objects such as paper clips or a pencil were assumed to be manifestations of lying. In recent years, research has consistently demonstrated that these behavioral patterns are not reliable cues for deception (Vrij, 2015). It appears that very, very few people—whether they are professionals or laypersons—are able to detect deception (or honesty) with much accuracy or consistency based on emotion-based cues.

Nevertheless, people (especially professionals) firmly believe they can correctly identify liars on the basis of nonverbal indicators of emotion. For example, in a survey of police officers, social workers, teachers, and the general public conducted by Vrij, Akehurst, and Knight (2006), a large majority of the participants thought liars acted nervously, such as looking away and making grooming gestures. Overall, the four groups had little faith in other people's ability to deceive them.

In general, the research to date suggests that investigators who concentrate only on nonverbal cues are less accurate in identifying deception than those who take speech content and timing into account. Although most police investigators take some aspects of speech into consideration, the overall tendency is to rely on nonverbal behavior patterns. In most cases, investigators do not focus on the words of denial of suspects and prefer to monitor bodily signs to detect deceit. The police manuals—after all—have traditionally emphasized nonverbal cues as crucial in identifying deception.

Interestingly, there are signs of some change in this exclusive focus on emotion and nonverbal indicators. For example, Inbau et al. (2013) have incorporated a smattering of recent psychological research into the most recent edition of *Criminal Interrogation and Confessions*. They write, "The suspect's posture, eye contact, facial expressions, and word choice, as well as response delivery, may each reveal signs of truthfulness or deception" (p. 4). They also include a chapter on **behavior analysis investigation (BAI)**, which considers the three channels of communication (verbal behavior, paralinguistic behavior, and nonverbal behavior) in its analysis. As noted by Vrij (2008), the BAI system is taught to hundreds of thousands of law enforcement personnel in the United States. The verbal channel relates to word choice and arrangement of words to send a message. The paralinguistic channel refers to characteristics of speech falling outside the spoken word (e.g., silent pauses, pattern of stuttering). The nonverbal channel refers to such things as posture, arm and leg movements, eye contact, blinking, and facial expressions.

So far, though, the research has failed to support BAI's effectiveness in detecting liars (Kassin, 2012a; Vrij & Granhag, 2012; Vrij, Mann, & Fisher, 2006). While our society is replete with folklore concerning how to discern whether someone is lying, the empirical research cogently demonstrates that the human ability to identify liars from truth tellers is abysmally poor (Bond & DePaulo, 2006; Vrij et al., 2006). In their review of the research literature, Bond and DePaulo (2006) found that research participants average 54% in correctly classifying truth tellers and liars, which is low given that 50% could be expected by flipping a coin. Ironically, trained individuals are more confident in their ability to detect deception but are less accurate than naive participants (Bond & DePaulo, 2006; L. King & Snook, 2009).

Aldert Vrij and his colleagues (e.g., Vrij & Granhag, 2012; Vrij et al., 2009, 2010) have observed that empirical research finds virtually no support for the belief that nonverbal cues alone can indicate deception. Furthermore, trying to train people to detect deception by focusing on nonverbal cues has not been successful. Vrij and Granhag argue that a procedure that approaches deception detection from two different angles would be more fruitful. Although they fully understand that it is unlikely any single cue will reliably identify deception, they believe that (1) examining the verbal patterns of the suspect and (2) studying the way the interviewer or interrogator handles the question offer considerable promise in detecting deception.