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Arresting Development: Convictions of Innocent Youth

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ARRESTING DEVELOPMENT: CONVICTIONS OF INNOCENT YOUTH

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Any errors in this study are the faults of the authors alone.

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At 6:30 p.m. on February 3, 1993, on the wintry streets of northwest Chicago, eighteen-year-old Eric Morro and his fourteen-year-old friend Larry Tueffel are approached by twelve-year-old Victor Romo and his young friend.[1] An argument between the two pairs of boys ensues, and Victor's friend shoots and kills Eric at point-blank range.[2] Police canvass the scene and bring both Larry and an adult named Phil Torres, who claims to have seen the shooting out of his third-story window, to the police station for questioning.[3] Larry immediately identifies Victor as the boy with the gunman, but he says that while he recognized the shooter, he is unsure of his name.[4] Phil Torres is also unable to identify the shooter.[5]

After questioning, Phil and Larry both return home.[6] Later that night, Phil hears rumors that a thirteen-year-old boy he knows from

1. Verified Petition for Post-Conviction Relief at 6, People v. Jimenez, No. 93 CR 14710 (Ill. Cir. Ct. Apr. 3, 2008), *available at* http://www.kattenlaw.com/files/upload/Petition_for_Post-Conviction_Relief.pdf [hereinafter Petition].

2. *Id.*

3. *Id.* at 7-8.

4. *See id.* at 8 ("Larry told Detective Bogucki that the shooter was a boy he believed to be named 'Frankie' . . . . Larry identified the boy with the shooter as 'Victor.'").

5. *See id.*

6. *Id.* at 10.

the neighborhood, Thaddeus "T.J." Jimenez, had threatened Eric Morro earlier that day.[7] At 1:00 a.m., Phil calls the police and tells them that T.J. is the shooter.[8] At 3:30 a.m., the police arrive at Larry's family home, wake him up, and order him back to the station for a second interview.[9] Once there, two officers begin to question Larry more aggressively, accusing him of covering up for the shooter.[10] Larry is in the interrogation room alone, without his parents, an attorney, or any friendly adult.[11] Eventually, hours into the late-night interrogation, Larry changes his story and names T.J. as the shooter.[12]

Based on Larry's statement, T.J. is charged with first-degree murder, and Victor is charged as his accomplice.[13] Even though T.J. is only thirteen years old, he is transferred to criminal court to stand trial as an adult, while twelve-year-old Victor's case remains in juvenile court.[14] Only after the police arrest him to compel his presence in court does Larry agree to serve as the State's star witness; on the stand, he testifies that T.J. was the shooter.[15] T.J. is subsequently convicted of first-degree murder, despite Victor's testimony that the two boys did not even know each other at the time of the shooting.[16] Eventually, T.J. is sentenced to spend forty-five years in the state penitentiary.[17]

On July 31, 2006, attorneys from Northwestern University School of Law and Katten Muchin Rosenman LLP locate Larry Tueffel, now twenty-seven years old.[18] During a videotaped interview, he recants his identification of T.J., explaining that he only implicated him at the urging of police during that hours-long

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7. *Id.* at 6, 10.

8. *Id.* at 10.

9. *Id.* at 10-11.

10. Supplement to Thaddeus Jimenez's Verified Petition for Post-Conviction Relief at Ex. 1, Transcript of Videotaped Statement of Lawrence Tueffel at 13, People v. Jimenez, No. 93 CR 14710 (July 31, 2006), People v. Jimenez, No. 93 CR 14710 (Ill. Cir. Ct. May 1, 2008) [hereinafter Transcript].

11. *Chronology of Thaddeus Jimenez's Exoneration*, KATTEN MUCHIN ROSENMAN LLP, http://www.kattenlaw.com/files/upload/Chronology.pdf [hereinafter *Chronology*] (last visited Sept. 20, 2010).

12. Petition, *supra* note 1, at 10-11.

13. *Id.* at 4, 12.

14. *Chronology*, *supra* note 11, at 1, 3.

15. Petition, *supra* note 1, at 16.

16. *Id.* at 2, 4.

17. People v. Jimenez, No. 93 CR 14710, slip op. at 6 (Ill. App. Ct. Jan. 18, 2000), *available at* http://www.kattenlaw.com/files/upload/Appellate%20Court%20Order%20 98-0247.pdf; *Chronology*, *supra* note 11, at 4.

18. Transcript, *supra* note 10, at 1-2.

interrogation.[19] Larry states that he "just wants to fix this thing" and for the first time names Juan Carlos Torres as the real shooter.[20] Juan Carlos was the same boy whom Victor, the real shooter's companion, had repeatedly identified during the initial police investigation.[21] What's more, before T.J.'s trial, Victor's father had even given the police a surreptitiously recorded audiotape in which Juan Carlos could be heard confessing to the murder and expressing relief that the police had "pinned the blame" on another boy.[22] The police and the courts had repeatedly dismissed this taped confession as untrustworthy.[23]

After hearing Larry's recantation, prosecutors from the Cook County State's Attorney's Office agree to reinvestigate the case.[24] They, too, become convinced that T.J.—now a man of thirty—is serving a prison sentence for a crime committed by Juan Carlos Torres.[25] Finally, on May 1, 2009, the police arrest Juan Carlos and charge him with Eric's death.[26] That same day, on an emergency motion filed jointly by the State and T.J.'s attorneys, the court vacates T.J.'s conviction.[27] By nightfall, T.J. walks out of prison a free man after spending more than half of his life incarcerated for a crime he did not commit.[28] Arrested at thirteen years old, T.J. is believed to be the youngest person ever exonerated of an "adult" conviction.[29]

T.J.'s story, unfortunately, is not unique. Based in part on his work representing T.J., Steven A. Drizin of Northwestern University School of Law co-founded the Center on Wrongful Convictions of Youth ("CWCY") in 2008—the first organization in the world dedicated to addressing and rectifying the specific problems that contribute to wrongful convictions of youth.[30] Attorneys from the CWCY, including two of this study's authors, are currently litigating and consulting on dozens of cases involving individuals who were

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19. Petition, *supra* note 1, at 15-17.

20. Transcript, *supra* note 10, at 3, 5-6. It should be noted that Juan Carlos Torres is not known to be related to Phil Torres.

21. Consistent with his testimony at T.J.'s trial, Victor also repeatedly told the police that he had never met T.J. *See* Petition, *supra* note 1, at 2.

22. *Id.* at 13.

23. *Id.* at 14-15 (describing law enforcement's receipt and treatment of the tape).

24. *Chronology*, *supra* note 11, at 5.

25. *Id.*

26. *Id.* at 5.

27. *Id.* at 5-6.

28. *Id.* at 6.

29. Maurice Possley, *Arrested at 13, Inmate Freed*, CHI. SUN-TIMES, May 4, 2009, at 5.

30. *See About*, NORTHWESTERN UNIVERSITY SCHOOL OF LAW, BLUHM LEGAL CLINIC, CENTER ON WRONGFUL CONVICTIONS OF YOUTH, http://www.cwcy.org/AboutUs.aspx (last visited Aug. 27, 2010).

accused, arrested, and convicted of crimes while they were children or teenagers—yet who also have credible claims of innocence.

This study quantifies what we know about proven cases of wrongfully convicted youth and suggests reforms that might be capable of preventing future cases like T.J.'s from occurring. We have identified 103 wrongfully convicted individuals who were first accused when they were teenagers or even younger. The first of its kind, this study examines the demographics of this population of youth and analyzes the factors that contributed to their wrongful convictions.

This Article is divided into four parts. Part I explains the problem of wrongful convictions generally and theorizes that youth may be particularly vulnerable to the systemic problems that can cause the innocent to be convicted. Part II describes the methodology that we used to compile a dataset of known youth exonerees. In Part III, we present and analyze our findings, juxtaposing them against information about DNA exonerees who were first accused as adults. Part IV concludes by offering policy recommendations that, we believe, will reduce the likelihood that innocent children will continue to be wrongfully convicted.

PART I: WHY MIGHT YOUTH BE PARTICULARLY SUSCEPTIBLE TO WRONGFUL CONVICTIONS?

The development of post-conviction DNA testing in the late 1980s heralded a new effort to test the judgments of our criminal justice system against scientifically provable reality. The results of this effort opened the public's eyes for the first time to the deeply troubling fact of wrongful convictions. To date, 259 persons have been exonerated by DNA evidence,[31] and the ranks of exonerees continue to swell at an ever-increasing rate. Although sparked by the development of DNA technology, the exoneration movement has also come to extend beyond those relatively rare cases in which there happens to be biological evidence to test.[32] In non-DNA cases,

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31. *See Facts on Post-Conviction DNA Exonerations*, INNOCENCE PROJECT, http://www.innocenceproject.org/Content/Facts_on_PostConviction_DNA_Exonerations.php (last visited Oct. 4, 2010).

32. *See* Keith A. Findley, *Learning from our Mistakes: A Criminal Justice Commission to Study Wrongful Convictions*, 38 CAL. W. L. REV. 333, 337 (2002) ("DNA is no panacea. While DNA can and will prevent the mistaken conviction of some wrongly identified suspects, it will not prevent the errors that infect the system in the vast majority of cases where there is no biological evidence left behind by the perpetrator. Such biological evidence rarely exists in the ordinary robbery, shooting, drug transaction, or forgery. Moreover, biological evidence is useless where issues of consent or intent, rather than identity, are in dispute. Only in those relatively few cases with dispositive biological evidence will DNA prevent miscarriages of justice. DNA, therefore, presents not a solution, but an opportunity and a challenge.").

defendants like T.J. have proven their innocence using gumshoe investigation techniques, often by locating and proving the identity of the real perpetrator or finding new evidence that undermines the conviction.

Whether DNA-based or not, cases of wrongful conviction often share certain characteristics, although as other scholars have rightly observed, it would be a mistake to infer a direct causal relationship between any one of those factors and the ultimate conviction itself.[33] Commonly observed characteristics include the use of improperly leading or otherwise unreliable eyewitness identification procedures; the overaggressive deployment of psychologically coercive police interrogation tactics; reliance by the State on the untrustworthy testimony of jailhouse informants seeking to curry favor with prosecutors; the use of faulty forensic science; police perjury; defense attorneys' lack of resources or, sometimes, incompetence; and prosecutors' failure to observe their obligations to deal fairly with the defense.[34] As numerous wrongful conviction studies have shown, these factors are damaging enough in the cases of adults; but when they wreak their influence on vulnerable youths, the arc of justice may be contorted even further toward error.[35]

Our decision to catalogue and analyze wrongful convictions of youth was borne of our growing belief, developed through our own legal practice, case observation, and study of scholarly literature, that children and adolescents are particularly susceptible to wrongful convictions. This susceptibility can be traced to the fact that far from being "little adults," children's brains are wired such that they think and make decisions about the world differently than older persons.[36]

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33. *See* Richard A. Leo & Jon B. Gould, *Studying Wrongful Convictions: Learning From Social Science*, 7 OHIO ST. J. CRIM. L. 7, 16-17 (2009).

34. *See* Brandon Garrett, *Judging Innocence*, 108 COLUM. L. REV. 55, 122 (2008) ("At the trial court level, four types of evidence often supported these 200 erroneous convictions: eyewitness identification evidence, forensic evidence, informant testimony, and confessions."); *see also* Darryl K. Brown, *The Decline of Defense Counsel and the Rise of Accuracy in Criminal Adjudication*, 93 CAL. L. REV. 1585, 1602-03 (2005) (detailing poor defense practices in jurisdictions across the country).

35. *See generally* Steven A. Drizin & Greg Luloff, *Are Juvenile Courts a Breeding Ground for Wrongful Convictions?*, 34 N. KY. L. REV. 257 (2007) (arguing for changes to the juvenile court system and for better methods to prevent wrongful convictions).

36. A body of rigorous, peer-reviewed scientific study has confirmed what we all intuitively know: children think and view the world differently than adults. Neuroscientific studies have found, for instance, that adolescence is marked by an uneven competition between two of the brain's core networks of nerves: the socio-emotional network that regulates the perception of rewards and the cognitive-control network responsible for weighing risks. Whereas the socio-emotional network "abruptly becomes more assertive" at puberty, the cognitive-control network matures more gradually over a longer period of time. Accordingly, the introduction of unusual stressors like external pressure and emotional arousal can cause the socio-emotional

This reality has been recognized by no less an authority than the United States Supreme Court, which abolished the execution of persons under the age of eighteen in the 2005 decision *Roper v. Simmons*.[37] In so doing, the Court acknowledged that juveniles are categorically less mature, less able to weigh risks and long-term consequences, more vulnerable to external pressures, and more compliant with authority figures than are adults.[38] Using this same rationale, the Court also concluded last term in *Graham v. Florida* that it is unconstitutional to sentence a juvenile who commits a non-homicide offense to a term of life imprisonment without also providing him with a meaningful opportunity for parole.[39]

The cognitive, social, and emotional traits that make youth so different from adults may, in turn, make them especially vulnerable to the systemic factors already known to contribute to wrongful convictions. One fairly well-documented example occurs in the context of police interrogations, where the notion that youth are particularly likely to react to pressure-filled interrogation by falsely confessing is fast gaining traction, even among law enforcement.[40] Just as children and teens are more likely than adults to falsely implicate themselves during police interrogation, there is also reason

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network to overwhelm the underdeveloped cognitive-control network and distort an adolescent's ability to weigh risks against rewards, which results in impulsive risk-taking. This is as true for an honor roll student as it is for a lower-functioning youth. *See* Laurence Steinberg, *Risk Taking in Adolescence: New Perspectives From Brain and Behavioral Science*, 16 CURRENT DIRECTIONS IN PSYCHOL. SCI. 55 (2007).

Children and adolescents also commonly display a second, easily recognizable trait: susceptibility to external influence and pressure. An individual's vulnerability to external pressure increases from childhood until age fourteen, at which point it peaks and begins a slow decline during the later adolescent years. As a result, children and adolescents are far more likely than adults to make decisions as a result of outside influence and, indeed, can be strikingly compliant with pressure exerted by authority figures. Moreover, some studies suggest that teens are more likely to act together in groups rather than alone, as their need for external approval is more easily satisfied when they act in concert with others. *See* Elizabeth S. Scott & Laurence Steinberg, *Adolescent Development and the Regulation of Youth Crime*, 18 THE FUTURE OF CHILD. 15 (2008).

37. 543 U.S. 551, 578 (2005).

38. *Id.* at 569.

39. 130 S. Ct. 2011, 2030 (2010).

40. John E. Reid & Associates, the leading interrogation training firm in the United States, has acknowledged that youth are more susceptible to making false confessions. *See False Confession Cases - The Issues*, JOHN E. REID & ASSOCIATES, http://www.reid.com/educational_info/pdfs/Falseconfessioncases.pdf (last visited Aug. 27, 2010). This view is shared by many legal scholars. *See, e.g.*, Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891, 945 (2004) (studying 125 proven false confessions in the United States and concluding both that 63% of false confessors were under the age of twenty-five and that 32% were under the age of eighteen).

to believe that children and teens are more likely than adults to falsely implicate other innocent youth too.[41] Scholars have further suggested that children may be more willing to plead guilty to crimes that they did not commit in order to hasten the ordeal of the legal process, regardless of whether punishment is deserved.[42] In the context of eyewitness identifications, a child or teen may be less able to accurately identify a perpetrator—or, at the least, more vulnerable to inherently suggestive identification procedures and less likely to speak up when none of the people in a lineup match the child's memory of the perpetrator.[43] Scholars have also suggested that compared to their adult counterparts, youth are disproportionately burdened by ineffective representation, particularly when tried in juvenile court.[44]

In light of these theories, we have collected cases of known wrongfully convicted youth and tracked some of the common factors that contributed to their convictions. By so doing, this study provides a way for the legal community to begin to evaluate the problem of wrongfully convicted youth and to compare their experiences against those of wrongfully convicted adults.

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41. *See* S.J. Ceci & M. Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis*, 113 PSYCHOL. BULL. 403, 418 (1993) ("From an early age, children perceive their adult conversational partners as being cooperative, truthful, and not deceptive. Children are also cooperative partners; they supply their adult questioner with the type of information they think is being requested. This pattern reflects children's desire to comply with a respected authority figure. As a result, when questioned by adults, children sometimes attempt to make their answers consistent with what they see as the intent of the questioner rather than consistent with their knowledge of the event.").

42. *See* Drizin & Leo, *supra* note 40, at 966 ("One of the most common reasons cited by teenage false confessors is the belief that by confessing, they would be able to go home . . . ."). *See generally* Barbara Kaban & Judith C. Quinlan, *Rethinking a "Knowing, Intelligent, and Voluntary Waiver" in Massachusetts' Juvenile Courts*, J. OF THE CENTER FOR FAMILIES, CHILD., & THE COURTS 35 (2004), *available at* http://www.cwcy.org/resources/48_attach_Kaban-Quinlan%20--%20Rethinking%20 Knowing,%20Intelligent%20and%20Voluntary%20Waiver.pdf.

43. *See* Joanna D. Pozzulo & R. C. L. Lindsay, *Identification Accuracy of Children Versus Adults: A Meta-Analysis*, 22 LAW AND HUM. BEHAV. 549, 563 (1998) (finding that adolescents and children who were shown a suspect-absent lineup had a significantly lower correct rejection rate than adults); *see also* Drizin & Luloff, *supra* note 35, at 276 ("The problem with children is not that they are worse at making an actual identification, but rather children and adolescents may be more vulnerable to the kinds of suggestive eyewitness interviews that have led to wrongful convictions. In fact, child witnesses have been the centerpiece of some of the most notorious wrongful conviction cases. The problems caused by suggestive child interviewing techniques of children have surfaced again and again in sexual abuse cases, where children are interviewed and then asked to testify against their adult attackers.").

44. *See* Barbara Fedders, *Losing Hold of the Guiding Hand: Ineffective Assistance of Counsel in Juvenile Delinquency Representation*, 14 LEWIS & CLARK L. REV. 771, 772-75 (2010).

PART II: METHODOLOGY

Before compiling a dataset of wrongfully convicted youth, it became necessary first to define several key terms, including, of course, "wrongful conviction" and "youth." We define "wrongful conviction" to include any case in which there has been:

1) an official act, such as a gubernatorial pardon, declaring a convicted individual to be innocent, or

2) a post-conviction reversal followed by a prosecutorial decision not to re-try, or by an acquittal on re-trial, when either the reversal or the acquittal was based on

(a) new evidence of innocence, or

(b) a judicial finding tending to undermine the reliability of the evidence used to convict *plus* a plausible factual theory of innocence.[45]

We acknowledge the subjectivity inherent in some parts of this definition, especially in the concept of a "plausible factual theory of innocence." Any non-DNA exoneration, however, must by definition rest on an unavoidably subjective determination of innocence, just as any non-DNA conviction rests on a subjective determination of

45. As our definition implies, we also excluded certain cases from our dataset: (1) cases of individuals who were wrongfully accused but rightfully acquitted, or against whom charges were dropped before trial; and (2) cases of individuals whose convictions were overturned without new evidence of innocence or a known plausible factual theory of innocence. There are many examples from the first category, including the infamous case of fourteen-year-old Michael Crowe, who falsely confessed to the murder of his sister Stephanie in 1998 after an incredibly intense interrogation that expert Dr. Richard Leo later described as "psychological torture." Mark Sauer & John Wilkins, *Michael Crowe*, *in* TRUE STORIES OF FALSE CONFESSIONS 5, 10-18 (Rob Warden & Steven A. Drizin eds., 2009). During that interrogation, Michael was falsely told that he failed a voice stress analysis test; because of this and other forms of police pressure, he came to believe that he had developed a split personality and that "bad Michael" must have committed the murder. In a letter that his interrogators told him to write to his dead sister, he explained, "I never ment [sic] to hurt you and the only way I know I did is because they told me I did." *See id.* at 13-14. Michael was arrested, but the charges against him were dropped before trial when Stephanie's blood was found on the clothes of a local homeless man. *See id.* at 17-18.

An example from the second category is the case of seventeen-year-old David Bates, who was physically tortured into confessing to murder by police officers under the command of now-disgraced Chicago detective Jon Burge. *See* Rummana Hussain, Kara Spak & Frank Main, *Jurors Convict Burge of Perjury, Obstruction*, CHI. SUN-TIMES, June 29, 2010, at 14. David was convicted and spent eleven years in prison before an appellate court ruled that his confession had been coerced and overturned his conviction. *See Meet the Death Row Ten, A Burge Victim Speaks Out: "It Took So Much From Me"*, NEW ABOLITIONIST (July 2001), http://www.nodeathpenalty.org/newab020/dr10Bates.html. Although David may very well be innocent, we were unable to discover enough information about his case to allow us to determine whether he has a plausible theory of innocence. *See id.*

guilt.[46] There is no purpose in ignoring this fact. We did seek to mitigate this subjectivity by applying the definition conservatively, choosing to exclude cases from the dataset when it was unclear whether they satisfied our criteria.

Second, we define "youth" to include only those individuals who were implicated in crimes before their twentieth birthdays. There is, of course, much debate about the age at which a person crosses the cognitive and psychosocial thresholds into adulthood. In reality, the answer is probably different for each of us. In light of this fact, we chose to identify twenty years of age as our outer limit, not only because there is psychological and neuroscientific support for doing so, but also because there is an intuitive resonance to the notion of studying those in their teens and younger.[47] It is important to note, accordingly, that when we use the term "youth exonerees," we are referring to individuals who were wrongfully accused—but not necessarily exonerated—when they were under the age of twenty years old.[48]

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46. Sometimes not even a definitive DNA exclusion is enough to convince prosecutors of a defendant's innocence. Some prosecutors still try—and convince a jury to convict—defendants who have been positively excluded by DNA evidence; *see, e.g.*, *Other Convictions in the Face of Exculpatory DNA,* JUSTICE FOR JUAN, http://www.justiceforjuan.com/despitedna (last visited Aug. 27, 2010) (highlighting nineteen cases in which the defendants were excluded by DNA evidence at trial but nonetheless convicted); *Dateline: The Mystery at Rock Creek* (NBC television broadcast July 9, 2010) (profiling the case of Billy Wayne Cope, who was convicted of raping and murdering his daughter even though DNA found on her body belonged to a serial rapist, James Sanders, who admits he has never met Cope).

47. *See, e.g.*, Steinberg, *supra* note 36, at 56-57; Brief of the American Medical Ass'n et al. as Amici Curiae Supporting Respondent at 7, 15, Roper v. Simmons, 543 U.S. 551 (2005) (noting that "psychological maturity is incomplete until the age of 19" and that the gray matter that prevents brains from reasoning increases from age 4-20, when it then plateaus).

48. In fact, several individuals in our study were ultimately convicted when they were over the age of twenty. It is a reality of the judicial system that some cases do not reach trial until years after the original charges are filed. We have ensured, however, that each individual in our study was first accused when he or she was under the age of twenty—that is, the events leading to each wrongful conviction were set in motion while the defendant was still a youth. Usually, of course, the date of accusation coincides closely with both the date of the crime and the date of arrest. There are two notable exceptions to this rule, however, that are worth mentioning.

Timothy Masters was fifteen when he discovered the body of Peggy Lee Hettrick in an open field in Fort Collins, Colorado. *See Raw Video: Cop Grills 15-Year-Old Tim Masters*, YOUTUBE (May 19, 2010), http://www.youtube.com/watch?v=76S1UB3pwws. He immediately became the prime suspect and was subjected to an intense interrogation during which the police claimed that they "knew" he did it. *Id.* Timothy was able to withstand this pressure and never confessed, but he remained the focal point of the investigation for many years. Finally, a full ten years later, Timothy—then twenty-six years old—was tried and convicted based on bits and pieces of circumstantial evidence. *See* Kirk Johnson, *Man Imprisoned for 9 Years for Murder Is*

The scope of the dataset underlying this study is also limited in several other ways. Because we sought to examine modern-day issues related to the wrongful conviction of youth, the dataset includes only cases that have occurred during the past fifty years. Naturally, it is heavily biased towards more recent cases, which are far better publicized. Like other wrongful conviction studies, furthermore, murder and sexual assault cases are almost surely overrepresented.[49] The availability of testable DNA and other forensic evidence in these most serious cases makes exonerations more likely, as does the fact that these cases are more likely to be reinvestigated post-conviction.[50] However, there is excellent reason to believe that there are many wrongful convictions yet to be uncovered and rectified in cases

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Released in Wake of DNA Evidence, N.Y. TIMES, Jan. 23, 2008, at 14. He was exonerated by DNA evidence after spending more than nine years in prison. *See id.*

Robert Craig Cox's story is somewhat similar. Eighteen-year-old Robert was vacationing in Florida when a nineteen-year-old woman was found dead. *See* Cox v. State, 555 So. 2d 352, 352 (Fla. 1989). Robert was suspected immediately, but he was not arrested until seven years had passed. *Id.* Even though he was able to produce an alibi, Robert was nonetheless convicted and sentenced to death based on blood evidence and footprint evidence that neither excluded nor implicated him. *Id.* at 353. His conviction was eventually overturned by the Florida Supreme Court based on insufficient evidence, and he was released three years after his arrest. *Id.* We have included Timothy and Robert in this study because they were accused, if not arrested, when they were still youth.

49. In his study of exonerations that took place between 1989 and 2003, Professor Samuel R. Gross reports that 85% of the non-DNA exonerees studied were serving sentences for murder or non-negligent manslaughter. *See* Samuel R. Gross et al., *Exonerations in the United States 1989 Through 2003*, 95 J. CRIM. L. & CRIMINOLOGY 523, 531 (2005). Professor Gross explains the discrepancy between the exoneration rate for capital convictions and other murder convictions and the exoneration rate for criminal convictions generally as a combination of "two appalling possibilities." *Id.* First, he posits that innocent defendants charged with murder are more likely to be convicted due to the extraordinary pressure to secure convictions in cases involving heinous crimes; second, he suggests that a large number of false convictions in non-capital cases are not discovered because they are not scrutinized as closely upon subsequent review, whereas capital and other murder convictions are more likely to be seriously investigated for error. *Id.* at 531-33.

50. *See* Allison D. Redlich et al., *Self-Reported False Confessions and False Guilty Pleas Among Offenders with Mental Illness*, 34 LAW & HUM. BEHAV. 79, 80 (2010) ("The overwhelming majority of identified false admissions (and wrongful convictions as a whole) have been for the serious crimes of rape and murder, which are both low base-rate crimes. Property crimes, for example, occur almost 600 times more frequently than murder and about 100 times more frequently than rape. Thus, the opportunity to falsely confess or falsely plead guilty to these less severe crimes is much higher. In addition, there is reduced motivation to uncover miscarriages of justice when the crime is less serious, especially if the person received probation or a short period of incarceration. And finally, the presence of DNA, a major factor in the identification and verification of false admissions, is not commonly available and confounded with crime severity, particularly rape.") (citations omitted).

involving less serious offenses.[51]

In addition to murder and sexual assault cases, the cases of youth who were transferred to adult criminal court are also heavily overrepresented in this dataset. This is not to suggest that wrongful convictions do not occur in juvenile court; indeed, as other scholars have pointed out, juvenile courts are in all probability breeding grounds for wrongful convictions.[52] This study includes few juvenile court cases simply because those cases are confidential and rarely publicized, often making it impossible to obtain information about them. Even if those cases were not confidential, moreover, juvenile court defendants typically do not make use of appeals and often have limited access to post-disposition procedures that enable the innocent to clear their names.[53]

Perhaps most importantly, this study surely overlooks an

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51. The case of fifteen-year-old Dominique Brim illustrates how wrongful convictions can occur even in the most routine of cases. In 2002, a teenage girl was arrested in a Detroit suburb for retail theft and felony assault after leaving a Sears store with more than $1300 in unpaid merchandise and biting a security guard when he attempted to stop her. After being taken to the police station, the suspect identified herself as Dominique Brim and was released. Two months later, the State charged Dominique, although she claimed that she had neither been to Sears nor been arrested that day. Nevertheless, when multiple Sears employees identified her as the culprit, she was tried and convicted. Prior to sentencing, however, Sears officials reviewed their in-store security videotape and realized that the employees had identified the wrong person. The real shoplifter had been twenty-five-year-old Chalaunda Latham, a friend of Dominique's sister, who had given Dominique's name to the police. Troublingly, neither the police nor the prosecutors—nor, evidently, Dominique's defense attorney—had bothered to check the store's security videotape to confirm her guilt. Instead, justice was achieved only through the intervention of a Sears employee impressed by Dominique's protestations of innocence. *See Woman Wrongly Convicted By Mistaken Identity Sues Police*, JUSTICE DENIED: THE MAGAZINE FOR THE WRONGLY CONVICTED 4 (Summer 2005). In many other seemingly routine cases, the defendants may not be as lucky.

52. *See* Drizin & Luloff, *supra* note 35, at 294-99; *see also* Welch v. United States, 604 F.3d 408, 432 (7th Cir. 2010) (Posner, J., dissenting) (internal citations omitted) ("The Supreme Court's opinion in *McKeiver* had acknowledged that the juvenile courts are a mess, and subsequent research confirms that their noncriminal 'convictions' may well lack the reliability of real convictions in criminal courts. We learn from this literature that lawyers in juvenile courts are overloaded with cases, that they often fail to meet with their clients before entering a guilty plea and often rely on parents and on the child defendant himself to contact witnesses, and that they rarely file pretrial motions. And because the philosophy on which the juvenile court system was founded emphasizes protecting the 'best interests of the child' and rehabilitating rather than punishing the child, the culture of the juvenile courts discourages zealous adversarial advocacy even though in its current form the juvenile justice system is much more punitive than its founders envisaged. Lawyers also appear to be reluctant to appeal juvenile cases and to seek postconviction relief; heavy caseloads, a prevalent view that appeals undermine the rehabilitation process, and an absence of awareness among juveniles of their appeal rights are the likely reasons for this reluctance.").

53. Drizin & Luloff, *supra* note 35, at 294-99.

unknowable number of wrongful conviction cases that have never been publicized or rectified. It is our hope that this study will help to prevent such nameless tragedies from recurring.

PART III: FINDINGS AND ANALYSIS

This Part analyzes the 103 youth exonerees' demographic makeup, as well as information relating to their convictions and exonerations. Although we present this information in statistical form, we urge readers to remember that each wrongfully convicted child or adolescent has a story to tell of a life that was unjustly interrupted and forever altered. One such story is that of Isaac Knapper, who at sixteen years old was a promising athlete who dreamed of qualifying for the United States' Olympic boxing team.[54] Isaac's opportunities for stardom evaporated, however, when he was accused and wrongly convicted of murdering a tourist in a New Orleans hotel. Isaac spent the next twelve years in prison before his name was cleared.[55] After his release, he made a belated comeback attempt, but after missing out on years of professional training, he fell just short of his goal of representing the United States in the 1992 Barcelona Summer Olympics.[56] His once promising future derailed, Isaac later fell into the drug trade and eventually returned to prison.[57]

There are, however, more encouraging stories, such as that of Anthony Harris.[58] After his white neighbor's five-year-old daughter was found dead, twelve-year-old Anthony, one of the only African-American children in his Ohio neighborhood, rapidly became the focus of the police investigation—even though he had never been in trouble with the law.[59] Shortly after the body was discovered, Anthony was taken to the police station, where he underwent an intense, pressure-filled interrogation by an experienced detective.[60] Alone and frightened, Anthony gave his interrogator just what he seemed to want: a series of false statements implicating himself in the child's death.[61] Even though no other evidence pointed to him,

54. *See* Michael Perlstein, *Down for the Count: Angola Boxer Beat Murder Rap and Nearly Made the Olympics Before Falling Into Crime*, TIMES PICAYUNE (New Orleans), Apr. 14, 2001, at N1.

55. *Id.*

56. *Id.*

57. *Id.*

58. *See* Susan Beck, *Saving Anthony Harris*, AMERICAN LAWYER, Mar. 1, 2009, at 74.

59. *Id.*

60. *Id*; *see also In re Anthony R. Harris*, 2000 WL 748087 (Ohio App. 5th Dist., June 7, 2000).

61. *See* Beck, *supra* note 58, at 74.

Anthony was convicted on the basis of his confession and spent two years in juvenile prison before being exonerated on appeal.[62] Now twenty-three years old, Anthony is a true American hero: a United States Marine who has served tours of duty in both Iraq and Afghanistan.[63]

There is not enough space here to do justice to each exoneree's story, though each is worth examining. Although the details of each case are diverse, troubling patterns are detectable. Many youth exonerees were convicted of some of the most heinous crimes imaginable. Seventeen-year-old Long Island schoolboy Marty Tankleff, for instance, was wrongfully convicted of the premeditated stabbing death of his own parents. He spent more than twenty-four years in prison before he was exonerated.[64] Many youth exonerees endured unimaginable prison sentences; Barney Brown, who was accused at thirteen and convicted at fourteen of sexual assault, was sent immediately into an adult prison in Florida and spent more than thirty-eight years in that "living hell" until his conviction was finally overturned.[65] And yet many exonerees, astonishingly, still found ways to make the best of their situations. Nineteen-year-old Hayes Williams, for instance, was an innocent bystander during the shooting of a Louisiana gas station attendant.[66] Even though the sole eyewitness stated that Hayes was not involved in the crime, the State charged him and sought the death penalty.[67] Hayes pled guilty in exchange for a life sentence under the belief that he would become eligible for parole after ten and a half years, but the parole laws later changed to deny him any eligibility for parole at all.[68] During his ensuing thirty years' imprisonment, Hayes spearheaded substantial Louisiana state prison reforms that, among other things, improved inmate safety and access to medical care, instituted new sanitary standards for the state prisons, and addressed rampant racial discrimination and segregation in the correctional system at large.[69]

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62. *Id.*

63. *Id.* at 90.

64. *See generally* RICHARD FIRSTMAN & JAY SALPETER, A CRIMINAL INJUSTICE: A TRUE CRIME, A FALSE CONFESSION, AND THE FIGHT TO FREE MARTY TANKLEFF (2008) (documenting Marty Tankleff's story of wrongful imprisonment).

65. *See* John Maki, *Barney Brown: His First Year of Freedom*, HUFFINGTON POST (Sept. 24, 2009, 9:43AM), http://www.huffingtonpost.com/john-maki/barney-brown-his-first-ye_b_297837.html.

66. Williams v. City of New Orleans, No. Civ.A. 98-1721, 1999 WL 820553, 1 (E.D. La. Oct. 13, 1999).

67. *Id.*

68. *Id.*

69. *See* Williams v. Edwards, 547 F.2d 1206, 1219 (5th Cir. 1977); *Hayes Williams*, INNOCENCE PROJECT NEW ORLEANS, http://www.ip-no.org/exoneree-profiles/non-ipno-exonerees/hayes-williams (last visited Aug. 27, 2010).

Each of the 103 children and adolescents profiled in this study has given us—at dear cost—an opportunity to learn about the systemic factors that contribute to the convictions of innocent youth. Below we present some of our initial observations and conclusions. Where applicable, we also juxtapose our findings against a dataset compiled of 214 adult exonerees, meaning individuals who were wrongfully accused after their twentieth birthdays. This adult dataset was created from information maintained by the Innocence Project, which tracks DNA exonerations.[70] For ease of reference, we will henceforth refer to the individuals included in this comparison database as the "adult DNA exonerees."[71]

Age

On average, the 103 known wrongfully convicted youth included in this study were 16.6 years old when the underlying crimes occurred, 16.8 years old when they were accused of involvement, 18.0 years old when they were convicted, and 31.7 years old when they were exonerated.[72] By way of comparison, the adult DNA exonerees

70. *See* INNOCENCE PROJECT, http://www.innocenceproject.org/index.php (last visited Oct. 4, 2010). Forty-two wrongfully convicted youth in our study were exonerated by post-conviction DNA testing (40.8%), and sixty-one (59.2%) were exonerated by other means. It should be noted that the Innocence Project's database does not include Joe Sidney Williams and Herman May as DNA exonerees. We have included them in this study, however, because we have confirmed through other sources that Joe and Herman were, in fact, accused before they turned twenty and later exonerated by DNA evidence. *See* Karen Amos, *Prosecutor Opposes Death Penalty Provisions in the Patriot Reauthorization Act: Letter to Senate and House Conferees,* HUMAN RIGHTS WATCH (Nov. 8, 2005), http://www.hrw.org/en/news/2005/11/08/prosecutor-opposes-death-penalty-provisions-patriot-reauthorization-act (noting that the attorney who prosecuted Joe Sidney Williams considers him to have been exonerated by DNA evidence); *Success Stories,* KENTUCKY INNOCENCE PROJECT, http://www.kyinnocenceproject.org/cases.html (last visited Aug. 27, 2010) (recounting the DNA exoneration of Herman May). Moreover, while Alejandro Hernandez is included in the Innocence Project's general database of DNA exonerees, the Project does not identify him as a youth because he was not indicted until after his twentieth birthday. *See Alejandro Hernandez,* INNOCENCE PROJECT, http://www.innocenceproject.org/Content/Alejandro_Hernandez.php (last visited Aug. 27, 2010) (stating that Alejandro was convicted in 1985, two years after the crime). We classified Alejandro as a youth, on the other hand, because he was accused and questioned when he was nineteen years old. *See* People v. Hernandez, 521 N.E.2d 25, 26 (Ill. 1988) (indicating that Alejandro became a suspect and falsely confessed about a year before he was indicted in March 1984).

71. It bears repeating that we are deeply indebted to Dr. Emily West of the Innocence Project for creating this special comparison database. She assembled the adult database by removing the thirty-nine youth DNA exonerees that we included in our study from the Innocence Project's general database, which at that time included 253 DNA exonerees.

72. We were unable to discover the age of one youth exoneree, Curtis S., although he must have been under twenty at the time that he was accused because his case was

averaged 26.6 years old at the time of arrest, 28.3 years old at the time of conviction, and 43.3 years old at the time of exoneration. Seventy of the 103 youth exonerees, or 68.0%, were seventeen or younger at the time of the crimes in question; sixty-five, or 63.1%, were seventeen or younger when they were accused of involvement.

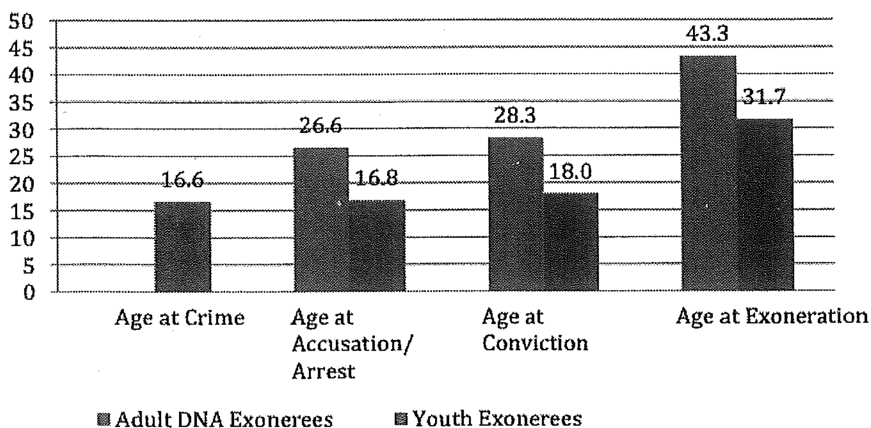

Figure 1: Average Ages

Race and Ethnicity

Fifty-nine of the 103 youth exonerees (57.3%) are African-American, twenty-five (24.3%) are white, and fifteen (14.6%) are Latino. The race and ethnicity of the remaining four individuals (3.9%) is unknown. Three of those four individuals were adjudicated delinquent in juvenile court, which makes it difficult to obtain even basic demographic information about them. As for the adult DNA exonerees, 122 (57.0%) are African-American, seventy-one (33.2%) are white, fifteen (7.0%) are Latino, and two (1.0%) are of Asian descent. Racial and ethnic information is unavailable for four of the adult DNA exonerees.

adjudicated in juvenile court. We also were unable to confirm the ages at the time of accusation, conviction and exoneration for D. S. C. and Albert Luster, as well as John Jeffers' age at exoneration.

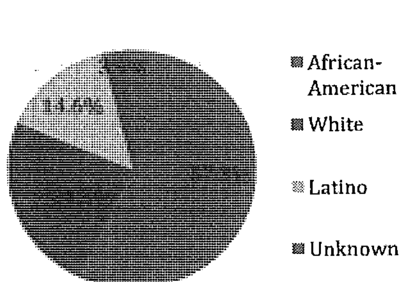

Figure 2: Racial Makeup of Youth Exonerees

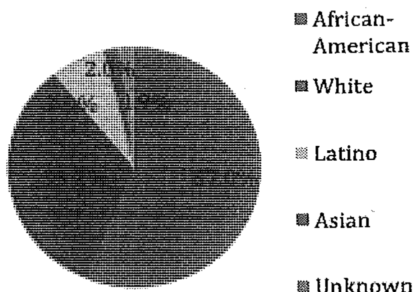

Figure 3: Racial Makeup of Adult DNA Exonerees

Gender

Both the adult and youth exoneree pools are predominantly male. Ninety-nine of the 103 youth in this study (96.1%) are male. Similarly, 211 of the 214 adult DNA exonerees (98.6%) are male. The three female adult DNA exonerees, notably, were all convicted in connection with Nebraska's notorious Beatrice Six case.[73]

Geographic Origin

Twenty-seven states and the District of Columbia are represented in this study. With fifteen known youth exonerees, Illinois has the dubious distinction of having wrongfully convicted the most youth of any state, followed by New York (thirteen), Louisiana (ten), California (nine), and Florida (eight).[74] A state-by-state breakdown is included in Appendix A.

Type of Crime

Ninety-nine of the 103 youth exoneree cases (96.1%) involve murders, sex offenses, or both. Three of the other four cases involve robberies, and the remaining case involves only the relatively minor offenses of retail theft and assault.[75] Similarly, a full 211 of the 214 adult DNA exoneree cases (98.6%) involve murders, sexual assaults,

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73. For a description of the Beatrice Six case, see *Know the Cases,* INNOCENCE PROJECT, http://www.innocenceproject.org/Content/Ada_JoAnn_Taylor.php (last visited Aug. 27, 2010).

74. As we live and practice in Illinois, cases in our home jurisdiction may have been more easily discoverable to us. Moreover, states that lack a major newspaper could be underrepresented in our study, because cases from those states may not be as well publicized.

75. *See supra* note 51 (recounting the story of Dominique Brim, the only youth in this study convicted of relatively minor offenses).

or both.

Evidence Used to Convict: False Confessions

Beyond demographic data, this study also tracks the type of evidence that was used to wrongfully convict each youth. One of the most significant findings in this regard is that of the 103 youth exonerees, thirty-two of them—a full 31.1%—falsely confessed. Thirty of those thirty-two youth gave what we term *police-induced false confessions*, or self-incriminatory false statements made during police questioning. The remaining two cases involve defendants who volunteered self-incriminatory false statements to police without first undergoing questioning, or what we call *volunteered false confessions*.[76] In eleven of the thirty-two youth false confession cases, the defendants' false confessions constituted the only evidence against them.

While 31.1% of the youth exonerees falsely confessed, only thirty-eight of the 214 adult DNA exonerees (17.8%) falsely confessed. This is a truly striking differential. A similar disparity can be observed when this study's results are compared against a second dataset: Professor Samuel L. Gross's study of 340 exonerations between 1989 and 2003, most—but not all—of which involved adult defendants.[77] Professor Gross concluded that only 15% of the defendants he studied had falsely confessed.[78] These numbers strongly suggest that youth are far more likely to falsely confess than adults.[79]

The data further suggest that younger children are more likely to falsely confess than older children. As an initial matter, those youth exonerees who falsely confessed averaged 15.6 years old at the time of the crime, 15.8 years old at the time they were accused of involvement, 16.7 years old at the time of conviction, and 29.1 years old at the time of exoneration. Compared to the dataset as a whole, in fact, the false confessors averaged at least one year younger at the

76. John Mark Karr, who falsely confessed to the murder of JonBenet Ramsey in 2006, is one well-known adult who gave a volunteered false confession. *See No DNA Match, JonBenet Charges*, CNN (Oct. 23, 2006), http://www.cnn.com/2006/LAW/08/28/ramsey.arrest/index.html.

77. Gross et al., *supra* note 49, at 523-24. In thirty-three of Professor Gross's cases, the defendants were under the age of eighteen when the crime occurred. Fourteen of those thirty-three defendants falsely confessed. *Id.* at 545.

78. *Id.* at 544.

79. This result matches what previous studies have already indicated. A 2004 study of 125 proven false confessions in the United States, for example, found that 63% of false confessors were under the age of twenty-five and 32% were under the age of eighteen. *See* Drizin & Leo, *supra* note 40, at 944-45. By way of comparison, juveniles make up only 8% of individuals arrested for murder and 16% of individuals arrested for rape in the United States. *See* Howard N. Snyder, *Juvenile Arrests 2004*, JUV. JUST. BULL. (U.S. Dep't of Justice, Washington, D.C.), Dec. 2006, at 2.

time of accusation and conviction. Those youth exonerees who did *not* falsely confess, moreover, were older even than the average wrongfully convicted youth; those individuals averaged 17.0 years old at the time of the crime, 17.2 years old at the time they were accused of involvement, 18.6 years old at the time of conviction, and 32.9 years old at the time of exoneration. Figure 4 illustrates these age comparisons.

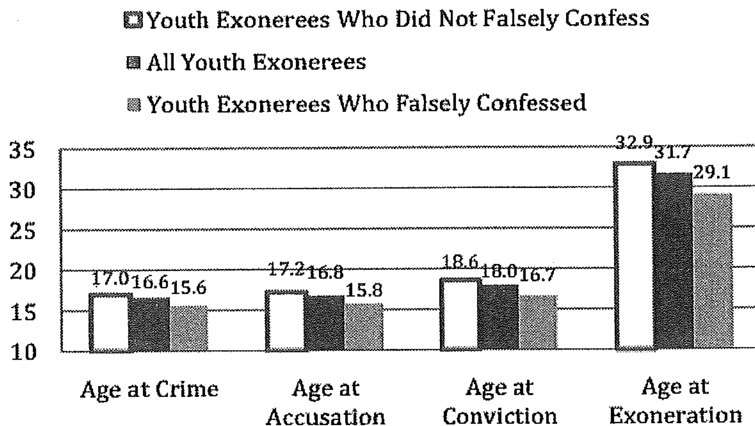

Figure 4: Average Age of Confessors Versus Non-Confessors

Even further, over half of the eleven- to fourteen-year-olds studied falsely confessed, whereas 37.5% of the fifteen-year-olds falsely confessed, 18.8% of the sixteen-year-olds falsely confessed, 42.9% of the seventeen-year-olds falsely confessed, 16.7% of the eighteen-year-olds falsely confessed, and only 9.5% of the nineteen-year-olds falsely confessed.[80] With the exception of the seventeen-year-olds studied, who appear to have falsely confessed at an unexpectedly high rate, these results suggest that the incidence of false confession generally decreases with age (although it is still elevated for all youth as a general matter).

80. We chose to classify individuals according to their ages at the time of accusation for the purposes of calculating these statistics, since those ages are the best available proxies for their ages when they falsely confessed. Our results comport with Professor Samuel Gross's study, in which 69% of juveniles between the ages of twelve and fifteen falsely confessed, compared to 25% of juveniles between the ages of sixteen and seventeen. *See* Gross et al., *supra* note 49, at 545.

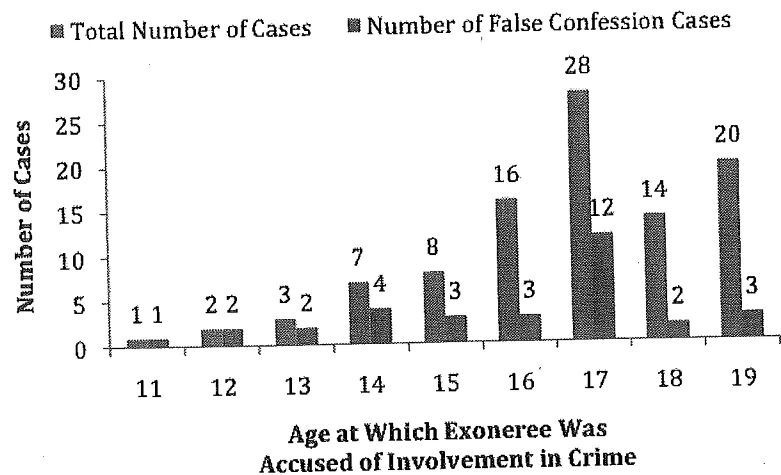

Figure 5: Incidence of False Confession by Age

These results dovetail with what is already known about the ways in which youth respond to police interrogation. Under the commonly used Reid interrogation technique, police are trained to manipulate how a suspect perceives the risks and benefits of confessing. They do this by first accusing the suspect of lying, refusing to listen to his claims of innocence, and producing evidence—whether real or manufactured—of his guilt.[81] After the suspect is reduced to hopelessness, police interrogators then offer him a way out of his predicament: confession. To communicate this message, they indicate that the benefits of confessing outweigh the costs of continued resistance and denial.[82] Interrogators frequently minimize or rationalize the suspect's purported involvement in the crime, for instance, by telling the suspect that he must have been merely a witness or that the criminal act must have been unintentional, a mere accident, or "an act of justifiable self-defense," all in an effort to make confessing seem less damaging.[83] They also assure the suspect that confessing is in his best interest and imply that he will receive leniency if he confesses.[84] These psychologically manipulative tactics eventually overwhelm many suspects and cause

81. *See* Richard J. Ofshe & Richard A. Leo, *The Decision to Confess Falsely: Rational Choice and Irrational Action*, 74 DENV. U. L. REV. 979, 989-90 (1997).

82. *See id.* at 990.

83. *See* Drizin & Leo, *supra* note 40, at 916-17.

84. *See id.* at 918.

them to confess, whether guilty or not.[85]

In light of the neurological differences between children and adults, it is not difficult to recognize how such interrogation tactics might pose particular risk to youthful suspects.[86] As documented by the Supreme Court in *Roper* and *Graham*, juveniles are burdened by a natural risk-weighing handicap and a predisposition to comply with external pressure.[87] These characteristics make them particularly apt to be led into falsely confessing in the naïve belief that the risks associated with confessing simply do not outweigh the benefits.[88] Indeed, the Supreme Court recognized even long before *Roper* and *Graham* that children accused of wrongdoing need special protections in the interrogation room.[89] In 1967, for example, the Court announced in *In re Gault* that "authoritative opinion has cast formidable doubt upon the reliability and trustworthiness of 'confessions' by children"[90] and, accordingly, that "the greatest care must be taken to assure that [a minor's] admission was voluntary, in the sense not only that it was not coerced or suggested, but also that it was not the product of . . . adolescent fantasy, fright or despair."[91] Similarly, in the 1962 case *Gallegos v. Colorado*, the Court noted that interrogation techniques that "would leave a man cold and unimpressed can overawe and overwhelm" children and teens.[92] This reality is clearly recognizable in the results of this study.

Finally, it should be noted that those youth who falsely confessed were convicted, on average, several months more quickly than their peers who did not falsely confess. This is surely attributable to the fact that confessions are widely regarded as "the most compelling possible evidence of guilt."[93] Once a suspect confesses, the State frequently considers the case solved, forgoes further investigation, and proceeds directly to trial—even if the confession does not match the physical evidence or otherwise appears untrustworthy.[94] The

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85. *See id.*

86. *See In re* Gault, 387 U.S. 1, 51-52 (1967).

87. Roper v. Simmons, 543 U.S. 551, 569 (2005); Graham v. Florida, 130 S. Ct. 2011, 2026 (2010).

88. Tamar Birckhead, *The Age of the Child: Interrogating Juveniles After* Roper v. Simmons, 65 WASH. & LEE L. REV. 385, 413-20 (2008).

89. *Gault*, 387 U.S. at 52.

90. *Id.*

91. *Id.* at 55.

92. 370 U.S. 49, 53 (1962) (quoting Haley v. Ohio, 332 U.S. 596, 599-600 (1948)).

93. Miranda v. Arizona, 384 U.S. 436, 466 (1966) (quoting Mapp v. Ohio, 367 U.S. 643, 685 (1961) (Harlan, J., dissenting)); see also Hopt v. Utah, 110 U.S. 574, 584-85 (1884) (recognizing that a "voluntary confession of guilt is among the most effectual proofs in the law").

94. See Saul M. Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 L. & HUM. BEHAV. 3, 23 (2010) ("Numerous false confession

trial, in turn, is shorter and less complicated than it otherwise might have been; in confession cases, after all, the State usually needs only to introduce evidence of the confession in order to feel quite secure that the defendant will be convicted.[95] Indeed, as the Supreme Court has noted, confessions are so persuasive that "the real trial, for all practical purposes, occurs when the confession is obtained."[96]

Evidence Used to Convict: Unreliable Witness Statements

Defendants often are convicted on the basis of statements made by other people, and in the context of this study, such statements are plainly unreliable evidence of guilt. In analyzing the use of such unreliable witness statements to convict innocent youth, we have drawn several distinctions. First and most simply, we refer to a victim's unreliable statements prior to or at trial as *victim statements*.[97] Such statements usually do not appear to be extracted through the process of police questioning; instead, they are typically volunteered by victims who are simply mistaken about the identities of their attackers. Second, we refer to third-party witnesses' unreliable statements prior to or at trial as *witness statements*. This category includes the statements of otherwise disinterested, person-on-the-street eyewitnesses who frequently identify suspects through police-arranged lineups and photograph arrays or during suggestive police questioning. Larry Tueffel, the recanting witness in T.J.'s case, falls into this category.[98] As a general matter, witness statements are considerably more likely to result from police questioning than are victim statements. Third, we have created a category for those unreliable statements made by co-defendants, alternative suspects, or other individuals outside of the defendant whose testimony is tied to their own penal interests. We call these statements, which are almost always induced by police questioning, *incentivized*

cases reveal that once a suspect confesses, police often close their investigation, deem the case solved, and overlook exculpatory evidence or other possible leads—even if the confession is internally inconsistent, contradicted by external evidence, or the product of coercive interrogation.").

95. See Colorado v. Connelly, 479 U.S. 157, 182 (1986) (Brennan, J., dissenting) (observing that "[t]riers of fact accord confessions such heavy weight in their determinations 'that the introduction of a confession makes the other aspects of a trial in court superfluous'") (quoting E. CLEARY, MCCORMICK ON EVIDENCE 316 (2d ed. 1972)).

96. *Id.*

97. Obviously, victim statements are unavailable in murder cases.

98. Larry Tueffel does not fall into our third category (incentivized witnesses) because, while the police accused him of covering up for the shooter before he falsely identified T.J., they did not threaten charges or adverse legal action outright. He is better categorized as a person-on-the-street eyewitness.

statements.[99] Of the 103 convictions in this study, twenty-seven were due in part to false victim statements (26.2%), thirty were due in part to false witness statements (29.1%), and thirty-five were due in part to false incentivized statements (33.0%).

Moreover, the total number of cases in which unreliable statements—regardless of category—were made by youth is undeniably significant. At least eight of the twenty-seven false victim statements were made by youth; at least eight of the thirty false witness statements were made by youth; and at least twenty of the thirty-four false incentivized statements were made by youth.[100] Taken in the aggregate, a young witness's unreliable statement contributed to another youth's wrongful conviction in a full thirty-six of the 103 cases (34.9%).[101] After cases in which youthful defendants themselves falsely confessed are added into the calculus, it becomes clear that a factually incorrect statement made by a youth—whether that statement implicated himself or another person—contributed to the conviction of fifty-seven of the 103 exonerees studied, or an overwhelming 55.3% of the cases.[102]

This figure strongly indicates that children and teens—whether

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99. One example of a false incentivized statement can be seen in the wrongful convictions of eighteen-year-old Omar Saunders, seventeen-year-old Marcellius Bradford, sixteen-year-old Larry Ollins, and fourteen-year-old Calvin Ollins for the murder of Lori Roscetti, a Chicago medical student. During police interrogation, Calvin was told that "there was a possibility he could be tried as an adult" if he did not confess; after hearing this threat, he made statements that falsely implicated the other three boys (as well as himself) in the murder. *See* People v. Ollins, 606 N.E.2d 192, 196 (Ill. App. Ct. 1992). Thus, we categorize the wrongful convictions of Omar, Marcellius, and Larry as being due in part to the incentivized statement of Calvin. Other examples could include the statement of a witness who is told that the State will quash an outstanding arrest warrant in exchange for his cooperation, or the statement of an individual who is told during interrogation that the police suspect that the perpetrator is either him or another person. This category does not, however, include statements made by so-called "jailhouse snitches"—in other words, by incarcerated informants who claim to have inside information about another person's case.

100. We say "at least" because in many cases, we were unable to learn the witnesses' ages.

101. There is no overlap among these cases; that is, there is not a single case in our database in which two different types of youth witnesses made statements that contributed to the conviction.

102. We reached this conclusion by first noting that thirty-two of the 103 cases in this study involved false confessions. In twenty-one of those thirty-two cases, the false confession itself was the only false statement made by any youth. (Said another way, eleven of the thirty-two false confession cases also involved some type of false statement made by a youth witness.) Adding these twenty-one false confession cases to the thirty-six cases in which a youth's unreliable statement contributed to another youth's wrongful conviction, we conclude that in fifty-seven of the 103 cases studied, a factually incorrect statement made by a youth contributed to the wrongful conviction of either himself or another youth.

victim, witness, or suspect—are uniquely susceptible to making factually incorrect statements, especially when the statements are extracted by police.[103] Every child, after all, shares the same psychological vulnerabilities that make them, as a class, more likely to respond to intense police questioning by offering up false information. Too often, however, police use the same overbearing and manipulative interrogation tactics described above not only while questioning youthful suspects, but also while questioning youthful witnesses. The result is plain: unreliable statements given by children who feel that they must say what the police want to hear in order to escape the pressures of the interrogation or interview room.

Finally, it is instructive to consider false incentivized statements and police-induced false confessions together, since both types of statements are typically made when the speaker believes that he or she will receive lenient treatment in exchange for the statement. This study includes thirty police-induced false confession cases and nine cases in which the evidence used to convict included a youth's incentivized statement but not a false confession. Accordingly, a false statement made by a youth out of concern for his own penal interest contributed to at least thirty-nine of the 103 wrongful convictions studied (37.9%). This result vividly illustrates the risks that emerge when a youth is made to believe that he will get in trouble if he fails to "cooperate" with authorities—in other words, if he fails to tell his questioners what they want to hear. Figure 6 depicts this data.

103. Even if the eight youthful victim statements, which perhaps are less likely to be the products of police questioning, are removed from this calculus, a full 47.8% of the convictions studied still involve unreliable statements by youth that were likely produced at the behest of police. This is not to imply, however, that the statements of youthful victims made independent of police interrogation should be automatically accepted without question; their statements, like those of any other youth, should be corroborated before they can be considered reliable evidence.

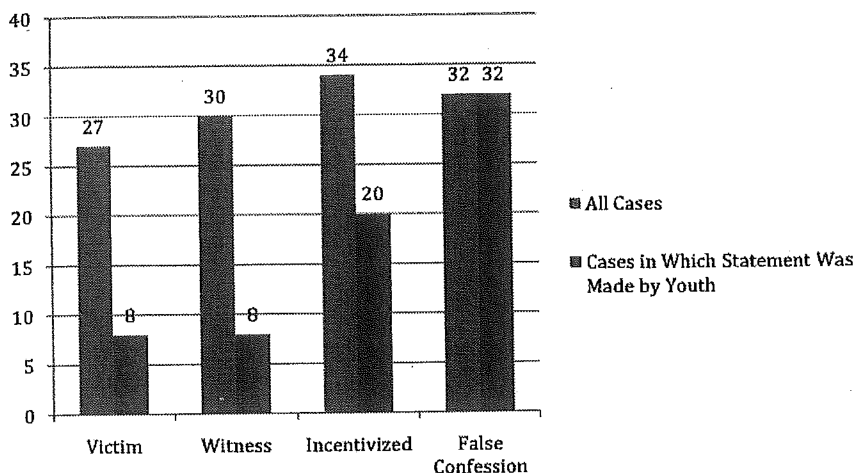

Figure 6: Type of False Statements Contributing to Conviction

Ineffective Assistance of Counsel

In thirteen of the 103 youth exoneration cases (13.6%), a court ruled that a defense attorney had provided ineffective assistance of counsel that prejudiced the defendant.[104] A court made a similar finding in just seven of the 214 adult DNA exoneree cases (3.3%).

One reason for this pronounced discrepancy may be that exculpatory DNA test results alone frequently provide sufficient legal basis for reversal under state law. Once DNA testing excludes a defendant, accordingly, a court does not need to find ineffective assistance of counsel (or some other constitutional violation) in order to overturn an unjust conviction. This does much to explain the relatively low incidence of ineffective assistance of counsel findings in the Innocence Project's database, which is composed exclusively of DNA exonerees. In contrast, a court that is convinced of the need to overturn a conviction may be more likely to use ineffective assistance of counsel as a legal vehicle for reversing those cases in which DNA testing is simply not possible or available. To this point, only two of the fourteen cases in this study that involved findings of ineffective assistance of counsel also involved defendants who were exonerated by DNA testing.

104. A judicial finding of ineffective assistance of counsel requires a demonstration that counsel's performance fell below an objective standard of reasonableness, and that, but for the inadequate representation, the outcome of the trial would have been different. Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984).

Nonetheless, it is hard to deny that inadequate legal representation is a systemic problem that may affect youth even more than adults.[105] As an initial matter, many have recognized that juvenile court is characterized by a culture that seeks to unite both sides in an effort to "help" youthful defendants while discouraging zealous, adversarial advocacy.[106] Indeed, some scholars have argued that the proper role of a juvenile defender is still uncertain, even forty-three years after the Supreme Court's landmark decision, *In re Gault*, guaranteed juveniles due process rights and the effective assistance of counsel.[107]

The challenges inherent in the task of representing a child or teenager are not limited to the juvenile court context, as many children's cases, including most in this study, are transferred to adult criminal court.[108] Regardless of context, representing a child or a teenager can in many ways be far more difficult than representing an adult. As just one example, many young defendants are not accustomed to opening up to unknown adults and are accordingly unlikely to immediately confide in their attorneys.[109] Developing necessary rapport and meaningful communication with such clients requires lawyers to devote time, diligence, and creativity; but many simply do not have these resources or skills.[110] Without meaningful attorney-client communication, in turn, an attorney's ability to aid his or her young client is radically limited.

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105. *See* Wallace J. Mlyniec, In re Gault *at 40: The Right to Counsel in Juvenile Court—A Promise Unfulfilled*, 44 CRIM. L. BULL. 371, 381-82 (2008) (discussing sixteen state-wide assessments of juvenile courts conducted by the National Juvenile Defender Center and noting that "competent lawyering was the exception rather than the norm"). In making this argument, we do not, of course, intend to minimize the problems concerning access to competent representation that burden adult defendants across the country.

106. *See, e.g.*, Drizin & Luloff, *supra* note 35, at 289.

107. Fedders, *supra* note 44, at 785-87.

108. The problem of ineffective assistance of counsel for youth has caused Professor Barbara Fedders to advocate for a higher standard of effectiveness to be applied to the representation received by juvenile defendants. Professor Fedders convincingly argues for the modification or elimination of *Strickland v. Washington*'s prejudice requirement in cases involving youthful defendants, as well as a competency standard on par with the American Bar Association's [hereinafter ABA] heightened professional standards. *See* Fedders, *supra* note 44, at 815 (citing a trio of cases which appear to raise the standard for youth representation and apply American Bar Association standards). Given our findings that inadequate assistance of counsel contributed to more than a dozen known cases of wrongful conviction, we agree with Professor Fedders that courts and legislatures should consider alternative standards for juvenile defendants.

109. *Id.* at 793. This may be particularly true for those cases in which a youth's misplaced trust in his interrogators brought about his current legal predicament.

110. *See id.*

Prosecutorial Misconduct

In fifteen of the 103 youth exoneree cases (14.6%), a court found that prosecutors had engaged in misconduct in a way that prejudiced the defendant. Most commonly, this misconduct took the form of violations of the rule set out in *Brady v. Maryland* requiring the State to turn over exculpatory evidence to the defense[111]—although prosecutorial overreaching during the argument stage of trial is also represented in this study. In rather sharp contrast, only twelve of the 214 cases (5.6%) in the adult DNA exoneree database involved court findings of prosecutorial misconduct.

Once again, this discrepancy may be explained by the nature of the datasets at issue. A court that is convinced of a defendant's innocence—but that does not have a DNA finding to serve as a legal basis for reversal—may turn to other legal vehicles, including a finding of prosecutorial misconduct, to substantiate a ruling in favor of the defendant. While the Innocence Project's adult database is composed entirely of DNA exonerees, only one of the fifteen youth exonerees whose cases involved prosecutorial misconduct was exonerated by DNA testing.[112] That said, the mere fact that misconduct has contributed to the wrongful conviction of fifteen teenagers and children is reason enough for judges to apply heightened scrutiny to prosecutorial behavior in cases involving youth.

False Guilty Pleas

When we embarked on this study, we theorized not only that youth might be more likely than adults to falsely confess, but also that they might be more likely to plead guilty to crimes that they did not commit.[113] The similarities between the two are unmistakable, as a false guilty plea can be thought of as nothing more than a specific type of false confession. We also believed, moreover, that juveniles' difficulties weighing long-term consequences against short-term gains could cause them to plead guilty simply to end their legal ordeal sooner.[114] The haste and lack of comprehension with which

111. 373 U.S. 83, 87-8 (1963).

112. *See* INNOCENCE PROJECT, *supra* note 70.

113. *See* Drizin & Luloff, *supra* note 35, at 292-93.

114. One example of such reasoning can be found in the case of Anthony Caravella, a sixteen-year-old Florida boy who in 1984 came within inches of accepting his attorney's advice to plead guilty to murder, despite his own innocence. Anthony initially told the trial judge that he wanted to plead guilty, but the judge refused to accept the plea after Anthony also told him that he was innocent. Instead, the judge asked Anthony, "[i]f you're innocent, why are you taking the plea?" Anthony's disturbingly frank answer: "Because I don't want to go to trial . . . so I don't face two charges . . . or the chair." *See* Diane M. Goldie, *Judge Rejects Boy's Guilty Plea*, FLA.

many children enter into plea deals, after all, is well documented.[115] We were frankly surprised, thus, by the results of this study, which showed that youth exonerees pled guilty at a slightly lower rate than adult DNA exonerees: seven of the 103 youth exonerees entered guilty pleas (6.8%), compared to seventeen of their 214 adult counterparts (7.9%).

Dr. Allison Redlich, however, has offered an explanation rooted in youth psychology.[116] In an Article published in this journal, Dr. Redlich explains that while certain aspects of youth psychology may well predispose juveniles to enter false guilty pleas, those particular aspects are countered by other juvenile-specific psychological traits.[117] Any decision to reject a reasonable plea deal in favor of standing trial is undeniably a gamble, even for the innocent; and juveniles, who are inherent risk-takers, may be more willing than adults to tolerate the risks of trial.[118] Further, juveniles are more likely than adults to use simple moral reasoning—"only the guilty should plead guilty"—as opposed to practical reasoning; therefore, innocent youth may quickly dismiss the idea of pleading guilty, even if they have already confessed.[119]

Multi-Defendant Exonerations

Because juveniles are particularly likely to respond to police interrogation tactics by making both false confessions and false accusations against other youth, the threat of wrongful conviction can spread like a virus from one child to his friends and acquaintances. Thirty-three of the 103 individuals in our study (32.0%) were exonerated alongside at least one of their co-defendants, as part of what we term a *multi-defendant exoneration*. The same is true of only twenty-one of the 214 adult DNA exonerees (9.8%).

The Central Park Jogger case is perhaps the most infamous example of a multi-defendant wrongful conviction. By 9:00 p.m. on April 19, 1989, the New York Police Department had received multiple reports describing a "marauding gang of youths" that had been harassing joggers and bicyclists in Manhattan's Central Park.[120]

SUN SENTINEL, July 25, 1984.

115. *See* Kaban & Quinlan, *supra* note 42, at 35 (pointing out, for example, that many youth do not understand the complex and often hastily delivered colloquies on which courts rely to ensure the voluntariness of guilty pleas).

116. Allison D. Redlich, *The Susceptibility of Juveniles to False Confessions and False Guilty Pleas*, 62 RUTGERS L. REV. 943, 943-45 (2010).

117. *Id.* at 953-54.

118. *Id.* at 954.

119. *Id.* at 955.

120. Chris Smith, *Central Park Revisited*, N.Y. MAG., http://nymag.com/nymetro/news/crimelaw/features/n_7836/ (last visited Oct. 14, 2010).

Two fourteen-year-old boys, Raymond Santana and Kevin Richardson, were soon arrested, and under questioning they named three other boys who had been with them in the park earlier that night.[121] It wasn't until several hours had passed that a young woman's nearly lifeless body was discovered in the park.[122] She had been severely bludgeoned and sexually assaulted.[123] Over the next two days, Raymond, Kevin, and their three friends—fifteen-year-old Antron McCray, sixteen-year-old Kharey Wise, and fifteen-year-old Yousef Salaam—each confessed under interrogation to viciously attacking this woman.[124] All five confessions contained the same details of the crime, and each boy implicated the other four in addition to himself.[125] Although DNA taken from the victim did not match any of the boys, their confessions were enough to convict them.[126] It is now well-known, however, that those five confessions—despite every appearance of accuracy—were untrue.[127] Thirteen years later, the DNA was finally matched to a serial violent rapist named Matias Reyes, who admitted that he attacked the jogger alone.[128] All five boys' convictions were vacated.[129]

The Central Park Jogger case is just one of twelve known cases in which one youth was wrongfully convicted along with other innocent defendants, usually other youth.[130] These multiple wrongful convictions, however, occur far less frequently in the adult context: the adult DNA exoneree dataset only includes eight cases of multiple wrongful convictions, even though that dataset includes far more cases overall.[131] This apparent systemic tendency to wrongfully convict not just one child but also groups of youth makes it even more imperative to prevent these sorts of errors from occurring.

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121. *Id.*
122. *Id.*
123. *Id.*
124. *Id.*
125. *Id.*
126. *Id.*
127. *Id.*
128. *Id.*
129. *Id.*
130. The twelve cases encompass the thirty-three youth referenced in the first paragraph of this discussion.
131. Two multi-defendant cases involve both youth and adult DNA exonerees. Richard Danzinger was only eighteen years old when he was accused of sexual assault and murder, whereas his co-exoneree, Christopher Ochoa, was an adult. Similarly, in the so-called "Ford Heights Four" case, nineteen-year-old Kenneth Adams and seventeen-year-old Paula Gray were eventually exonerated alongside their adult co-defendants Verneal Jimerson, Willie Rainge, and Dennis Williams. Each of these cases was included in the sum tabulation of multi-defendant exonerations for both our youth and adult datasets.

PART IV: RECOMMENDATIONS FOR REFORM

Electronic Recording of Police Interactions with Youth

Over the past several years, a growing chorus of voices has called for police interrogations of suspects to be electronically recorded. These calls have been heeded, to date, in numerous states and the District of Columbia, all of which now electronically record at least some police interrogations.[132] Although some members of the law enforcement community had initial reservations about such a requirement, those who hail from jurisdictions in which electronic recording practices have been adopted now consistently provide remarkably positive feedback.[133] While electronic recording does entail some relatively low implementation costs, the practice quickly pays for itself by reducing the frequency and duration of costly suppression litigation. Once there is an electronic record of an entire interrogation, any claims of coercion can be objectively considered and, where merited, disposed of more easily. Similarly, electronic recordings also permit prosecutors, defense lawyers, and fact-finders alike to objectively assess a confession's reliability by examining whether the defendant volunteered information that only the true perpetrator would know, instead of merely repeating back facts that were suggested by the questioner during the interrogation.[134] The

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132. *See* Thomas P. Sullivan, *Recording Federal Custodial Interviews*, 45 AM. CRIM. L. REV. 1297, 1311-12 (Fall 2008).

133. *See id.* at 1299-1300. Neil Nelson, a police commander in St. Paul, Minnesota, describes electronic recording of interrogations as "the best tool ever forced down our throats." Dennis Wagner, *FBI's Policy Drawing File*, ARIZ. REPUBLIC, Dec. 6, 2005 at A1.

134. A confession becomes "contaminated" when important facts about a crime are disclosed to a suspect before or during an interrogation. *See* Brandon L. Garrett, *The Substance of False Confessions*, 62 STAN. L. REV. 1051, 1066 (2010). This information can come from any number of sources. Police interrogators, for example, may inadvertently disclose information to suspects during questioning. *See* Jim Trainum, *I Took a False Confession – So Don't Tell Me It Doesn't Happen!*, CAL. MAJORITY REP. (Sept. 20, 2007), http://www.camajorityreport.com/index.php?module=articles&func=display&ptid=9&aid=2306 (explaining that he and his fellow police detectives unintentionally elicited a false confession that contained realistic-sounding details when, "[t]o demonstrate the strength of our case, we showed the suspect our evidence, and unintentionally fed her details that she was able to parrot back to us at a later time"). Other sources of contaminating information can include the media and community gossip.

The existence of contamination can make a confession highly unreliable evidence of guilt. The primary way to test a confession's reliability, after all, involves determining whether the suspect was able to demonstrate firsthand knowledge of non-public crime scene facts that only the perpetrator would know. *See* Drizin & Leo, *supra* note 40, at 1003. A suspect's ability to recite information that was previously disclosed to him, however, can be mistaken for proof that the suspect has this type of "inside" knowledge. Such mistakes happen far too frequently. In Professor Brandon Garrett's

existence of such a record, quite simply, benefits everyone involved in a criminal case.

The findings in this study suggest that the justice system could further benefit by expanding the practice of electronic recording. Where feasible, police should record interviews, interrogations, and eyewitness identification procedures in their entireties whenever a youth is involved. It bears repeating that a false statement made by a youth—whether suspect, eyewitness, or victim—contributed to 55.3% of the wrongful convictions studied. It is nearly impossible to objectively assess the reliability of a child's statement without a clear record of both the statement itself and the conditions under which it was made. The benefits of expanding electronic recording practices—which, again, accrue both to the State and to the defense—are well worth the minimal costs of doing so, especially since such costs will be nearly nonexistent in jurisdictions that already electronically record interrogations.

Developmentally Appropriate Interrogation and Interview Practices

The law enforcement community generally agrees that children are developmentally different from adults in terms of their comprehension abilities, willingness to yield to authority, and psychosocial immaturity.[135] Indeed, it is considered essential to accommodate these traits when police question youthful victims. The National Children's Advocacy Center, for instance, recommends that forensic questioning of child victims should not include leading or manipulative questions that might induce children to answer with something other than the truth.[136] When the youth in question is a suspect or witness rather than a victim, however, law enforcement authorities frequently disregard this advice. Police interrogators often question such children using the same leading and manipulative tactics that would be used on any adult suspect.[137] The result is that statements taken from children and adolescents under aggressive police interrogation are systematically unreliable.

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study of false confession cases in which DNA evidence exonerated the defendant, contamination was involved in virtually every case. *See* Garrett, *supra*. It is to be expected that youth, who are particularly vulnerable to suggestion and eager to please authority figures, may be even more likely than adults to regurgitate back facts that have been fed to them by their interrogators in an effort to create a plausible—albeit false—confession.

135. *See, e.g.*, Jessica R. Meyer & N. Dickon Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility*, 25 BEHAV. SC. & L. 1, 1-24 (2007).

136. *See* NAT'L CHILDREN'S ADVOCACY CENT., FORENSIC INTERVIEW STRUCTURE § 5.6 (2006) (on file with authors).

137. Meyer & Reppucci, *supra* note 135, at 1-24.

All parties to the criminal justice system must recognize, instead, that psychologically manipulative interrogation tactics can seriously taint any information gleaned from a child suspect or witness. In particular, several specific steps should be taken to reduce the degree of manipulation present in youth interrogations. First, law enforcement must cease using leading or suggestive questions—in other words, questions that suggest the answer that the police are seeking—when interrogating children. Too often, young defendants who are already predisposed to yield to their interrogators' suggestions are able to construct realistic-sounding false statements based on the information included in the very questions posed to them by the police.[138]

Additionally, we recommend that police interrogators refrain from making any promises of leniency—even indirect, vague, or implicit promises of the type that many courts currently consider legal—in exchange for a statement from a child, without the presence of a defense attorney able to advise the child about the actual benefits and risks of making a statement. Young witnesses, after all, appear more likely to make false or unreliable statements under police interrogation when the witness is made to believe that he will suffer adverse penal consequences if he does not talk. In other words, a child who is made to believe that he will avoid legal trouble so long as he tells his interrogators what they want to hear is likely to do just that: tell the police what they want to hear, regardless of its truth.[139] It is of utmost importance, thus, that interrogators refrain from signaling in any way to a child that he will receive beneficial

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138. *See* Garrett, *supra* note 134, at 1051.

139. The interrogation and false confession of Anthony Harris is a case in point. Without any evidence beyond a hunch that twelve-year-old Anthony killed his five-year-old neighbor, his police interrogator refused to accept Anthony's denials and told him instead that "I think that both of us know that something happened out there and see, that's the thing that you got to tell me. You got to tell me what she did to make you so mad." *See In re* Harris, No. 1999AP030013, 2000 WL 748087, at *7 (Ohio Ct. App. Jun. 7, 2000). Anthony continued to deny involvement, but his interrogator refused to listen to him. Instead, he gave Anthony two options, neither of which acknowledged Anthony's innocence: "There's the dishonest people that that [sic] meant to do it and did it out of spite, did it out of meanness or there's people that it just happened. And if there is anything in the world that they could take back, it's doing that crime and hurting her." *Id.* at *11. Anthony's interrogator then explained that he could only help him if he was the second type of person, telling him that:

> I'd like to help you out of this, Anthony . . . this is that person that I think you are, and that's the person I want to present to Court, okay. That's the person that I'll help. This person, you know, I can't help that person, bottom line. If you're not honest with me, if you don't care about me, then you don't want my help and I can't help you.

Id. In overturning Anthony's conviction, the appellate court held that these promises of leniency—both implicit and explicit—coerced him into confessing. *Id.* at *13.

treatment so long as he says the "right" thing.[140]

We also urge states to consider mandating the presence of an attorney at the side of any child being interrogated by police. In most states, police are permitted to interrogate a child of any age outside the presence of the child's parents or an attorney, so long as the child waives his or her *Miranda* rights.[141] Many youth, however, do not understand the full range of consequences that flow from a decision to waive those rights and speak with police officers. Further, many youth are incapable of asserting those rights in the often intimidating presence of their interrogators.[142] Parental presence, moreover, is no panacea; while requiring parents to be present during interrogations of children may be advisable, it does not guarantee children access to the protections they need. Too often, parents tend to believe that they should instruct their children to cooperate with the police in order to show that their children have nothing to hide.[143] Parents, just like

140. The phrase "in any way" bears particular emphasis. Although nearly a century ago, the law seemed to establish clearly that a confession must "not be extracted by any sort of threat or violence, nor obtained by any direct or implied promises, however slight," Bram v. United States, 168 U.S. 532, 543 (1897), this prohibition has been eroded in modern times. Today, many judges routinely admit confessions that are obtained through the use of "implied" or veiled promises of leniency, under the rationale that no direct promise was ever explicitly made. *See* Saul M. Kassin & Karlyn McNall, *Police Interrogations and Confessions: Communicating Promises and Threats by Pragmatic Implication*, 15 LAW & HUM. BEHAV. 233, 248 (1991). However, so-called indirect promises are frequently understood by listeners to be no different than direct promises; in other words, the "pragmatic implication" of an indirect promise of leniency is precisely the same as that of a more explicit promise. *See* Ofshe & Leo, *supra* note 81, at 987. The growing distinction in the law between indirect promises and direct promises, thus, is nonsensical, so long as normal modes of practical human communication are the standards by which such promises are judged. *See* United States v. Lall, 607 F.3d 1277, 1287 (11th Cir. 2010) (judging it "utterly unreasonable" to parse the meaning of a promise of leniency using "semantic technicalities," particularly in the case of a young person).

141. Illinois and West Virginia are the only states that have adopted a statute requiring attorney presence during custodial interrogations of juveniles. *See* 705 ILL. COMP. STAT. 405/5-170 (2010); W. VA. Code § 49-5-2(I) (2010). Illinois adopted this statute, which requires an attorney to be present during the custodial interrogation of juveniles under the age of thirteen, in 2000 after a number of high-profile juvenile false confessions and wrongful arrests. *See* Linda Paul, *Should Lawyers Be There When Cops Question Juveniles?* (Chicago Public Radio broadcast August 13, 2009), http://www.wbez.org/Content.aspx?audioID=36098.

142. *See* Thomas Grisso et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, 27 LAW & HUM. BEHAV. 15 (2003).

143. One study examined nearly 400 juvenile interrogations and concluded that when police interrogators asked children to waive their *Miranda* rights in the presence of their parents, between 70% and 80% of parents offered their children no advice. When parental advice was given, parents were far more likely to urge their children to waive their rights than to assert them. Barbara Kaban & Ann E. Tobey, *When Police Question Children: Are Protections Adequate?*, J. CTR. FOR CHILD. & COURTS 151, 154

children, may also be poorly informed about the consequences of speaking to police.[144]

The best way to ensure the voluntariness and reliability of juvenile interrogations is to require counsel to be present during all custodial interrogations of juveniles. An attorney will be able to advise the child regarding whether to speak to police, intervene if the questioning becomes overbearing or too intense, and advise him or her accurately about whether confessing or implicating someone else will, in fact, result in leniency. Without the benefit of loyal and knowledgeable legal advice, however, any child faced with police interrogators is at a crippling disadvantage.

We also recommend that police departments consider adopting a wholly different approach to interrogating youth. The Reid technique of interrogation, as described above, is a confrontational, guilt-presumptive, psychologically manipulative process that can cause susceptible individuals—especially children and adolescents—to falsely confess.[145] We urge the law enforcement community to exorcise the Reid technique from the juvenile context and instead adopt a more investigative approach to interrogating children, one that embraces open-ended questioning and eschews psychologically manipulative tactics like indirect and direct promises of leniency. There is no valid reason to use an investigative questioning style when interviewing a child victim but to dispose of it when the child in question is a suspect. In both cases, the child is equally susceptible to making an unreliable statement.

Finally, we urge law enforcement officials, prosecutors, and judges alike to demand that youth statements be fully corroborated before they can be used against a defendant.[146] If the details in a youth's statement do not match the objectively knowable facts of a crime, then there is good reason to disbelieve its truth.[147] Too often, however, obviously unreliable statements are used against defendants not only when those statements are uncorroborated, but also, at times, when they are flatly contradicted by the physical

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(1999).

144. *See* Thomas Grisso, *Juveniles' Capacities to Waive Miranda Rights: An Empirical Analysis*, 68 CAL. L. REV. 1134, 1163 (1980) (finding that nearly a quarter of adults do not understand at least one of the *Miranda* rights).

145. Even proponents of the Reid Technique have conceded that it puts minors at special risk for false confession. *See* JOHN E. REID & ASSOCIATES, *supra* note 40, at 3.

146. *See generally* Richard Leo et al., *Bringing Reliability Back In: False Confessions and Legal Safeguards in the Twenty-First Century*, 2006 WIS. L. REV. 479.

147. *See* Robert J. Milan, *Preventing and Addressing Wrongful Convictions*, PRAC. PROSECUTOR, 2005, at 35, 36 (advising his fellow prosecutors to "require that confession be fully corroborated prior to charging," and stating that "[i]f the confession does not make sense in light of the physical evidence and other evidence that you have, you may have a problem").

evidence.

Eyewitness Identification Reforms

As a general matter, eyewitness identification error is the leading factor that contributes to wrongful convictions.[148] It significantly contributed to the wrongful convictions of youth profiled in this study, too. Thirty of the 103 cases studied involved false witness statements, and twenty-seven cases involved false victim statements. Many of these witness and victim statements were the products of eyewitness identifications now known to be inaccurate.[149]

For these reasons, we join the Innocence Project and other organizations calling for the reform of identification procedures, including the adoption of sequential identifications.[150] When sequential identification procedures are used, the eyewitness views each suspect one at a time, rather than viewing all of the suspects at once. Many scholars agree that using such a procedure greatly reduces the incidence of inaccurate identifications.[151]

When the eyewitness in question is a youth, additional reforms may be particularly warranted. Indeed, not only do youth have the same fallibilities as all eyewitnesses, but they may also be especially likely to yield even to subtle suggestions during identification procedures due to their inherent desire to please authority figures.[152] For this reason, it is imperative to use a double-blind identification process in which the police officer administering the lineup does not know which person is the suspect and thus cannot influence the eyewitness. Similarly, all eyewitness identification procedures should

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148. *See* Gross et al., *supra* note 49, at 542 (reporting that 64% of those exonerations studied involved a mistaken eyewitness identification); BARRY SCHECK ET AL., ACTUAL INNOCENCE 246 (2001) (reporting that 84% of those exonerations studied involved a mistaken eyewitness identification); *Eyewitness Misidentification*, INNOCENCE PROJECT, http://www.innocenceproject.org/understand/Eyewitness-Misidentification.php (last visited Aug. 27, 2010) (stating that eyewitness identification played a part in over "75% of convictions overturned through DNA testing").

149. For example, sixteen-year-old Donnell Johnson was accused and convicted of murder on the basis of three eyewitness identifications. The eyewitnesses gave general descriptions of a "light-skinned male with freckles" and later picked out Donnell first from a photograph array and then from a live line-up. Donnell was exonerated six years after he was accused. *See Johnson v. Mahoney*, 424 F.3d 83, 86 (1st Cir. 2005).

150. *See Eyewitness Identification*, INNOCENCE PROJECT, http://www.innocenceproject.org/fix/Eyewitness-Identification.php (last visited Aug. 27, 2010).

151. *See, e.g.*, Nancy Steblay, Jennifer Dysart, Solomon Fulero & R. C. L. Lindsay, *Eyewitness Accuracy Rates in Sequential and Simultaneous Lineup Presentations: A Meta-Analytic Comparison*, 25 L. & HUM. BEHAV. 459, 471 (2001) (concluding that while correct identification rates are similar for simultaneous and sequential target-present lineups, sequential lineups produce a much higher correct rejection rate when the lineup does not include the target).

152. Drizin & Luloff, *supra* note 35, at 282.

be electronically recorded when the eyewitness is a youth. Only with an objective record of the entire identification process can attorneys and fact-finders evaluate the validity of the identification and the presence or absence of suggestion or influence.

Access to Innocence-Based Post-Conviction Remedies

While most states now permit at least some adult criminal defendants to obtain post-conviction DNA testing, testable DNA evidence is only available in a small number of cases. Legal vehicles must be made available in every state so that wrongfully convicted individuals can raise collateral claims based not just on DNA evidence, but also on recanted testimony, newly discovered non-DNA evidence of innocence, and ineffective assistance of counsel. Since youth are so susceptible to wrongful conviction, all of these vehicles must be made available to those convicted in juvenile court as well—which is frequently not the case. Indeed, in many juvenile court systems, appeals are rarely taken and post-conviction collateral proceedings are largely unavailable.[153]

Just as importantly, courts must not review claims of innocence with closed minds.[154] In many jurisdictions, courts view recantations with cynicism, applying an often-unyielding presumption that any recanted statement is unreliable.[155] This long-standing skepticism

153. *See* N. Lee Cooper et al., *Fulfilling the Promise of* In re Gault*: Advancing the Role of Lawyers for Children*, 33 WAKE FOREST L. REV. 651, 674-75 (1998) (noting that juvenile appeal rates are low in most jurisdictions); Drizin & Luloff, *supra* note 35, at 295-99 (arguing that there is no "active and zealous" appellate or post-conviction practice in juvenile court). Indeed, it is an open question in many jurisdictions as to whether post-conviction forensic testing statutes even allow juveniles adjudicated delinquent to seek testing. *See, e.g.*, 725 ILL. COMP. STAT. ANN. 5/116-3 (2010) (noting that a defendant may make a motion to request forensic testing in the trial court that entered judgment on his "conviction"). Previous Illinois jurisprudence has drawn distinctions between juveniles "adjudicated delinquent" in juvenile court and adults "convicted" in criminal court. *See* People v. Taylor, 850 N.E.2d 134, 137 (Ill. 2006).

154. Not only should courts fairly review post-conviction claims of innocence, but courts and legislatures should also consider limiting the collateral consequences that automatically flow from juvenile adjudications, such as deportation and lifetime sex offender registration. The concerns raised in this Article and in others suggest that courts should be reluctant to treat juvenile adjudications as just as reliable as adult criminal convictions. *See* Welch v. United States, 604 F.3d 408, 432 (7th Cir. 2010) (Posner, J., dissenting) (arguing that the unreliability of juvenile court proceedings means that a "conviction" obtained in juvenile court should not be used to enhance a federal sentence beyond the statutory maximum).

155. *See, e.g.*, People v. Steidl, 685 N.E.2d 1335, 1345 (Ill. 1997) ("[T]he recantation of testimony is regarded as inherently unreliable, and a court will not grant a new trial on that basis except in extraordinary circumstances."). Interestingly, Gordon (Randy) Steidl, the defendant in the cited case, was later exonerated. *See Gordon (Randy) Steidl*, NORTHWESTERN LAW, BLUHM LEGAL CLINIC, CENTER ON WRONGFUL CONVICTIONS, http://www.law.northwestern.edu/wrongfulconvictions/exonerations/il

toward recantations deserves thorough reexamination, especially when a grown adult recants a statement that he made as a youth.[156] In such a situation, there may be reason to think that the recantation—made outside of the pressures, influences, and cognitive biases that render many juveniles' statements to police unreliable—is more trustworthy than the original statement. Larry Tueffel's recantation in T.J.'s case is but one example.

Improved Training of Police, Prosecutors, Defense Counsel, and Judges

All stakeholders involved in the criminal justice system—including police, prosecutors, defense attorneys, and judges—will benefit from increased awareness concerning the factors that can contribute to wrongful convictions. The mere fact that a court found ineffective assistance of counsel and prosecutorial misconduct in 13.6% and 14.6% of the cases in this study, respectively, suggests a particular need for education in this area.

In every case underlying this study, police and prosecutors plowed forward with charges—and judges upheld convictions—that were based upon objectively incorrect conclusions of fact. Justice system actors must be educated, accordingly, to critically examine and seek objective confirmation of the facts underlying criminal charges before those charges are actually brought. While some segments of the legal and law enforcement community have acknowledged that false confessions happen,[157] for example, many legal and law enforcement actors still persist in believing that nobody would admit to something he did not do. This study's results, along with a host of other studies, have now conclusively disproven that belief; it bears repeating that a full 31.1% of the youth exonerees in this study made untrue inculpatory admissions. This false belief is not held only by law enforcement officials, moreover; some defense attorneys who are untrained and unknowledgeable about adolescent development and interrogation tactics feel themselves unable to mount any meaningful defense when faced with a young client who has confessed.[158] Judges, likewise, are often ill equipped to identify

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SteidlSummary.html (last visited Aug. 27, 2010).

156. *See* Shawn Armbrust, *Reevaluating Recanting Witnesses: Why the Red-Headed Stepchild of New Evidence Deserves Another Look*, 28 B.C. THIRD WORLD L.J. 75 (2008).

157. *See* JOHN E. REID & ASSOCIATES, *supra* note 40.

158. *See* Eugene R. Milhizer, *Confessions After* Connelly*: An Evidentiary Solution for Excluding Unreliable Confessions*, 81 TEMP. L. REV. 1, 4 (2008). *See also* Drizin & Leo, *supra* note 40, at 922 ("Defense attorneys are more likely to pressure their clients who have confessed to waive their constitutional right to a trial and accept a guilty plea to a lesser charge.").

an unreliable juvenile confession.[159] Training about the existence, causes, and indicia of false confessions would do much to remedy these problems.

This problem is not limited to false self-inculpatory statements. Justice system actors must be trained to view any youth's police-induced statement—whether it inculpates himself or another person—with considerable skepticism, unless it is corroborated. That corroboration must come not in the form of another youth's statement, but in the form of physical evidence. Absent such training and education, however, wrongful convictions based on the unreliable statements of youth will persist unabated.

CONCLUSION

One of the most laudable and encouraging aspects of the exoneration of Thaddeus Jimenez, profiled in the introduction to this Article, is that it was a joint effort by the prosecution and the defense. The Cook County State's Attorney's Office willingly reinvestigated T.J.'s case after defense attorneys presented them with evidence indicating that fourteen-year-old Larry Tueffel's testimony against T.J. was false. Based on its reinvestigation, the State eventually came to conclude that its original prosecution had been an error and remedied it. We applaud the Office for its dedication to seeking out and accomplishing justice in T.J.'s case.

The ultimate goal of every participant in the justice system, of course, must be to continue working together to prevent such mistakes from happening in the first place. In this regard, each of the 103 cases of wrongfully convicted youth chronicled in this study provides an extraordinary learning opportunity.[160] Let us learn

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159. In ruling on the admissibility of the confession of Paula Gray, who was seventeen years old when she falsely confessed to murder, an Illinois court found that the confession was made free of coercion and went on to state: "[I]ncidentally, the defendant testified with skill, with knowledge, explicitly, extremely clear, made her points well and all it means to me is whether she's in twelfth grade or whatever her educational level is she's a very intelligent person. That's my judgment and those are my findings and my decision." *See* Garret, *supra* note 134, at 1100-01 (citing trial transcript at 2089, 2234-37, People v. Gray, No. 78 C4865 (Ill. Cir. Ct. Oct. 16, 1978)).

During the bench trial of Nathaniel Hatchett, who was also seventeen when he falsely confessed, the judge found that Nathaniel's statements were demonstratively reliable even though there was exculpatory DNA evidence, going so far as to call the entirety of the evidence against the innocent teenager overwhelming: "[I]n this case there is an abundance of corroboration for the statements made by Mr. Hatchett to the police after his arrest, about what happened during the assault on [the victim] as well as what happened afterwards with the property, the keys, his punching of the ignition and the Court finds the statements, therefore, to be of overwhelming importance in determining the outcome of the trial." *See* Garrett, *supra* note 134, at 1101 (citing Tr. at 280, *People v. Hatchett*, 97-1497-FC (Mich. Cir. Cit. Mar. 6, 1998)).

160. *See* Findley, *supra* note 32, at 337.

together to take those steps needed to prevent other innocent youth from suffering the same injustice.

APPENDIX A – STATE BREAKDOWN OF KNOWN WRONGFUL CONVICTIONS

STATE	NUMBER OF YOUTH EXONEREES	NUMBER OF ADULT DNA EXONEREES
Alabama	1	2
Alaska		
Arizona		2
Arkansas		
California	9	9
Colorado	1	
Connecticut	2	2
Delaware		
District of Columbia	1	2
Florida	8	8
Georgia	1	8
Hawaii		
Idaho		1
Illinois	15	18
Indiana	3	4
Iowa	1	
Kansas		2
Kentucky	1	1
Louisiana	10	6
Maine		
Maryland	2	2
Massachusetts	2	9
Michigan	2	2
Minnesota		1
Mississippi	2	2
Missouri	1	7
Montana	1	2
Nebraska		6
Nevada		
New Hampshire		
New Jersey		5
New Mexico		
New York	13	19
North Carolina	3	6
North Dakota		

Ohio	3	7
Oklahoma	1	10
Oregon	3	
Pennsylvania	4	10
Rhode Island		
South Carolina		1
South Dakota		
Tennessee		2
Texas	5	37
Utah		1
Vermont		
Virginia	2	9
Washington		1
West Virginia	1	5
Wisconsin	5	5
Wyoming		

APPENDIX B – SEX, RACE, STATE, CO-EXONEREE

LAST NAME	FIRST NAME	SEX	RACE	STATE	CO-EXONEREES
Adams	Jarrett	M	B	WI	-
Adams	Jonathan	M	W	GA	-
Adams	Kenneth	M	B	IL	Verneal Jimerson, Willie Rainge, Dennis Williams
Anderson	Marvin	M	B	VA	-
Atkins	Tim	M	B	CA	-
Ayers	Randall	M	W	OH	-
Bain	James	M	B	FL	-
Baker	Edward	M	B	PA	-
Baran	Bernard	M	W	MA	-
Baruxes	Kevin	M	W	CA	-
Booker	Donte	M	B	OH	-
Boots	Chris	M	W	OR	Eric Proctor
Bradford	Marcellius	M	B	IL	Larry Ollins, Calvin Ollins, Omar Saunders
Bragdon	Anthony	M	B	DC	-
Brim	Dominique	F	-	MI	-
Bromgard	Jimmy Ray	M	W	MT	-
Brown	Barney	M	B	FL	-
Brown	Dennis	M	B	LA	-
Brown	Tim	M	B	FL	Keith King
Buntin	Harold	M	B	IN	-
Butler	Sabrina	F	B	MS	-
Caravella	Anthony	M	W	FL	-
Carmona	Arthur	M	L	CA	-
Cole	Reggie	M	B	CA	-
Cousin	Shareef	M	B	LA	-
Cox	Robert	M	W	FL	-
Crawford	Steven	M	B	PA	-

Cruz	Rolando	M	L	IL	Alejandro Hernandez
Daniels	Erick	M	B	NC	-
Danziger	Richard	M	W	TX	Chris Ochoa
Dedge	Wilton	M	W	FL	-
Deskovic	Jeffrey	M	W	NY	-
Dominguez	Alejandro	M	L	IL	-
Douglas	Yancey	M	B	OK	Paris Powell
DSC	DSC	M	-	WI	-
Edmonds	Tyler	M	W	MS	-
Evans	Michael	M	B	IL	Paul Terry, James David
Frye	Ralph	M	W	IL	Joseph Burrows, Gayle Potter
Garner	Terence	M	B	NC	-
Gibson	Roland	M	B	LA	-
Goff	Antoine	M	B	CA	John Tennison
Gonzalez	Hector	M	L	NY	-
Gray	Paula	F	B	IL	Kenneth Adams, Verneal Jimerson, Willie Rainge, Dennis Williams
Harrington	Terry	M	B	IA	-
Harris	Anthony	M	B	OH	-
Harris	William O'Dell	M	B	WV	-
Hatchett	Nathaniel	M	B	MI	-
Hayes	Travis	M	B	LA	Ryan Matthews
Heins	Chad	M	W	FL	-
Henton	Eugene	M	B	TX	-
Hernandez	Alejandro	M	L	IL	Rolando Cruz
Hicks	Larry	M	B	IN	-
Hunt	Darryl	M	B	NC	-
Ireland	Kenneth	M	W	CT	-
Jeffers	John	M	W	IN	-

Jimenez	Thaddeus	M	L	IL	-
Johnson	Donnell	M	B	MA	-
Kezer	Joshua	M	W	MO	-
King	Keith	M	B	FL	Tim Brown
Knapper	Isaac	M	B	LA	-
Lisker	Bruce	M	W	CA	-
Luster	Albert	M	-	WI	-
Martinez	Angelo	M	L	NY	-
Masters	Tim	M	W	CO	-
Matthews	Ryan	M	B	LA	Travis Hayes
May	Herman	M	W	KY	-
McCray	Antron	M	B	NY	Kevin Richardson, Yusef Salaam, Raymond Santana, Kharey Wise
Montalvo	Ruben	M	L	NY	Jose Morales
Morales	Jose	M	L	NY	Ruben Montalvo
Morales	Santiago Ventura	M	L	OR	-
Murray	Lacresha	F	B	TX	-
Ollins	Calvin	M	B	IL	Larry Ollins, Marcellius Bradford, Omar Saunders
Ollins	Larry	M	B	IL	Calvin Ollins, Marcellius Bradford, Omar Saunders
Ortiz	Armando	M	L	CA	-
Ortiz	Luis	M	L	IL	Edar Duarte Santos, Omar Aguirre, Robert Gayol, Ronny Gamboa
Pacek	Jerry	M	W	PA	-
Pardue	Michael	M	W	AL	-
Proctor	Eric	M	W	OR	Christopher Boots
Reed	Cornelius	M	B	WI	-
Reilly	Peter	M	W	CT	-
Richardson	Kevin	M	B	NY	Antron McCray, Yusef Salaam, Raymond Santana, Kharey Wise
Rocha	Mario	M	L	CA	-
Rojas	Luis Kevin	M	L	NY	-

Rollins	Lafonso	M	B	IL	-
Ross	Johnny	M	B	LA	-
S	Curtis	M	-	WI	-
Salaam	Yusef	M	B	NY	Antron McCray, Kevin Richardson, Raymond Santana, Kharey Wise
Santana	Raymond	M	B	NY	Antron McCray, Kevin Richardson, Yusef Salaam, Kharey Wise
Saunders	Omar	M	B	IL	Larry Ollins, Calvin Ollins, Marcellius Bradford
Serrano	Ivan	M	L	PA	Alfredo Domenech
Snyder	Walter	M	B	VA	-
Sutton	Josiah	M	B	TX	-
Tankleff	Marty	M	W	NY	-
Tennison	John "JJ"	M	B	CA	Antoine Goff
Terry	Paul	M	B	IL	Michael Evans, James David
Truvia	Earl	M	B	LA	Gregory Bright
Vass	Leslie	M	B	MD	-
Warner	Colin	M	B	NY	-
Webster	Bernard	M	B	MD	-
Williams	Hayes	M	B	LA	Larry Hudson, John Duplessis
Williams	Joe Sidney	M	B	TX	Calvin Washington
Williams	Michael Anthony	M	B	LA	-
Wise	Kharey	M	B	NY	Antron McCray, Kevin Richardson, Yusef Salaam, Kharey Wise

APPENDIX C – AGE/YEAR AT CRIME, ACCUSATION, CONVICTION, EXONERATION

LAST NAME	FIRST NAME	AGE AT CRIME	AGE AT ACCUSATION	AGE AT CONVICTION	AGE AT EXONERATION	YEAR OF CRIME	YEAR OF CONVICTION	YEAR OF EXONERATION
Adams	Jarrett	17	17	19	25	1998	2000	2007
Adams	Jonathan	12	12	13	15	2004	-	2006
Adams	Kenneth	19	19	20	38	1978	1979	1996
Anderson	Marvin	18	18	18	37	1982	1982	2002
Atkins	Tim	17	17	19	39	1985	1987	2007
Ayers	Randall	16	16	17	27	1981	1982	1990
Bain	James	19	19	19	54	1974	1974	2009
Baker	Edward	17	17	18	45	1973	1974	2002
Baran	Bernard	19	19	19	35	1984	1985	2009
Baruxes	Kevin	18	18	18	24	1996	1996	2003
Booker	Donte	18	18	19	37	1986	1987	2005
Boots	Chris	19	19	22	31	1983	1986	1995
Bradford	Marcellius	16	17	18	30	1986	1988	2001
Bragdon	Anthony	19	19	20	31	1991	1992	2003
Brim	Dominique	15	15	15	15	2002	2002	2002
Bromgard	Jimmy Ray	17	17	18	32	1987	1987	2002
Brown	Barney	13	14	14	52	1970	1970	2008
Brown	Dennis	17	17	17	37	1984	1985	2005
Brown	Tim	14	14	17	29	1990	1993	2003
Buntin	Harold	15	15	17	36	1984	1986	2005
Butler	Sabrina	17	17	18	23	1989	1990	1995
Caravella	Anthony	14	15	15	41	1983	1984	2010
Carmona	Arthur	16	16	16	18	1998	1999	2000
Cole	Reggie	19	19	21	35	1994	1996	2010
Cousin	Shareef	16	16	17	20	1995	1996	1999
Cox	Robert	18	18	28	29	1978	1988	1989
Crawford	Steven	14	14	18	46	1970	1974	2002
Cruz	Rolando	17	17	19	29	1983	1985	1995
Daniels	Erick	14	14	15	22	2000	2001	2008
Danziger	Richard	18	18	20	32	1988	1990	2002
Dedge	Wilton	19	19	19	41	1981	1982	2004
Deskovic	Jeffrey	16	16	17	33	1989	1990	2006

Dominguez	Alejandro	15	16	16	32	1989	1990	2002
Douglas	Yancey	19	19	23	35	1993	1997	2009
DSC	DSC	12	-	-	-	1985	-	-
Edmonds	Tyler	13	13	17	20	2000	2004	2008
Evans	Michael	17	17	18	43	1976	1976	2003
Frye	Ralph	19	19	20	27	1988	1989	1996
Garner	Terence	16	16	17	21	1997	1998	2002
Gibson	Roland	19	19	20	45	1967	1968	1993
Goff	Antoine	19	19	20	33	1989	1990	2003
Gonzalez	Hector	18	18	18	25	1995	1995	2002
Gray	Paula	17	17	17	41	1978	1978	2002
Harrington	Terry	17	18	18	43	1977	1978	2003
Harris	Anthony	12	12	13	14	1998	1999	2000
Harris	William	17	17	20	26	1984	1987	1995
Hatchett	Nathaniel	17	17	19	29	1986	1988	2008
Hayes	Travis	17	17	18	26	1997	1998	2007
Heins	Chad	19	19	21	32	1994	1996	2007
Henton	Eugene	17	17	17	39	1984	1984	2006
Hernandez	Alejandro	19	19	21	31	1983	1985	1995
Hicks	Larry	15	16	16	18	1977	1978	1980
Hunt	Darryl	19	19	20	39	1984	1985	2005
Ireland	Kenneth	16	17	20	40	1986	1989	2009
Jeffers	John	15	17	17	-	1975	1977	2002
Jimenez	Thaddeus	13	13	14	30	1993	1994	2009
Johnson	Donnell	16	16	18	22	1994	1996	2000
Kezer	Joshua	17	18	19	34	1992	1994	2009
King	Keith	19	19	21	31	1990	1993	2003
Knapper	Isaac	16	16	17	29	1979	1979	1991
Lisker	Bruce	17	17	19	44	1983	1985	2009
Luster	Albert	19	-	-	-	1990	-	-
Martinez	Angelo	19	19	19	36	1985	1985	2002
Masters	Tim	15	15	26	36	1987	1998	2008
Matthews	Ryan	17	17	19	24	1997	1999	2004
May	Herman	17	17	18	31	1988	1989	2002
McCray	Antron	15	15	16	28	1989	1990	2002
Montalvo	Ruben	16	16	18	30	1987	1989	2001

Morales	Jose	15	15	17	31	1987	1989	2001
Morales	Santiago Ventura	19	19	19	24	1986	1991	1991
Murray	Lacresha	11	11	11	14	1996	1996	2001
Ollins	Calvin	14	14	16	27	1986	1988	2001
Ollins	Larry	16	16	18	29	1986	1988	2001
Ortiz	Armando	17	17	18	24	2002	2003	2009
Ortiz	Luis	19	19	19	24	1997	1997	2002
Pacek	Jerry	13	13	14	46	1958	1959	1991
Pardue	Michael	17	17	17	48	1973	1973	1997
Proctor	Eric	18	18	21	30	1983	1987	1994
Reed	Cornelius	15	15	16	20	1992	1993	1997
Reilly	Peter	18	18	18	21	1973	1973	1976
Richardso	Kevin	14	14	14	27	1989	1990	2002
Rocha	Mario	16	16	19	29	1993	1996	2006
Rojas	Luis Kevin	18	18	19	26	1990	1991	1998
Rollins	Lafonso	17	17	18	28	1993	1994	2004
Ross	Johnny	16	16	16	22	1974	1975	1981
S	Curtis	-	-	-	-	1995	1997	1998
Salaam	Yusef	15	15	16	28	1989	1990	2002
Santana	Raymond	14	14	14	27	1989	1990	2002
Saunders	Omar	17	18	19	32	1986	1988	2001
Serrano	Ivan	17	17	18	36	1987	1988	2005
Snyder	Walter	18	19	19	26	1985	1986	1993
Sutton	Josiah	16	16	17	22	1998	1999	2004
Tankleff	Marty	17	17	19	37	1988	1990	2008
Tennison	John "JJ"	17	17	18	31	1989	1990	2003
Terry	Paul	17	17	18	43	1976	1977	2003
Truvia	Earl	17	17	18	54	1975	1976	2003
Vass	Leslie	17	17	17	28	1975	1975	1986
Warner	Colin	18	18	21	40	1980	1982	2001
Webster	Bernard	18	18	19	40	1982	1983	2002
Williams	Hayes	19	19	19	48	1967	1967	1997
Williams	Joe Sidney	19	19	20	34	1986	1987	2001
Williams	Michael Anthony	16	16	16	40	1981	1981	2005
Wise	Kharey	16	16	16	29	1989	1990	2002

APPENDIX D – GUILTY PLEAS, EVIDENCE USED TO CONVICT, ATTORNEY CONDUCT

FC = false confession (V denotes volunteered)
GP = guilty plea
VS = victim statement
WS = witness statement
IS = incentivized statement
IAC = ineffective assistance of counsel
PM = prosecutorial misconduct
Y = youth statement

LAST NAME	FIRST	FC	GP	VS	WS	IS	IAC	PM
Adams	Jarrett			•			•	
Adams	Jonathan	•	•					
Adams	Kenneth				•	• (Y)		•
Anderson	Marvin			•				
Atkins	Tim			•		•		
Ayers	Randall			• (Y)				
Bain	James			• (Y)				
Baker	Edward					•		
Baran	Bernard			• (Y)			•	•
Baruxes	Kevin			•				
Booker	Donte			•				
Boots	Chris							
Bradford	Marcellius	•	•			• (Y)		
Bragdon	Anthony			•				
Brim	Dominique				•	•		
Bromgard	Jimmy Ray			• (Y)			•	
Brown	Barney			•				
Brown	Dennis	•		•				
Brown	Tim	•				• (Y)		
Buntin	Harold			•				
Butler	Sabrina	•						•
Caravella	Anthony	•						
Carmona	Arthur				•	•		
Cole	Reggie				•		•	

Cousin	Shareef				•			•
Cox	Robert							
Crawford	Steven							•
Cruz	Rolando					• (Y)		•
Daniels	Erick			•			•	•
Danziger	Richard					•		
Dedge	Wilton			• (Y)				
Deskovic	Jeffrey	•						
Dominguez	Alejandro			•				
Douglas	Yancey							•
DSC	DSC				• (Y)			
Edmonds	Tyler	•						
Evans	Michael	•			•			•
Frye	Ralph	•				•		
Garner	Terence			•		•		
Gibson	Roland							
Goff	Antoine				• (Y)			•
Gonzalez	Hector				•			
Gray	Paula	•	•					
Harrington	Terry					• (Y)		
Harris	Anthony	•						
Harris	William O'Dell			•				
Hatchett	Nathaniel	•		•				
Hayes	Travis	•						
Heins	Chad							
Henton	Eugene		•	•				
Hernandez	Alejandro					• (Y)		
Hicks	Larry				•		•	
Hunt	Darryl				• (Y)	•		•
Ireland	Kenneth					•		
Jeffers	John	• (V)	•					
Jimenez	Thaddeus				• (Y)	•		
Johnson	Donnell				• (Y)			
Kezer	Joshua					• (Y)		•
King	Keith	•	•			• (Y)		
Knapper	Isaac					• (Y)		•

Lisker	Bruce						•	
Luster	Albert			• (Y)	•		•	
Martinez	Angelo				•			
Masters	Tim				•			•
Matthews	Ryan				•	• (Y)		
May	Herman			• (Y)				
McCray	Antron	•				• (Y)		
Montalvo	Ruben				• (Y)	•		
Morales	Jose				•	•		
Morales	Santiago Ventura					•	•	
Murray	Lacresha	•						
Ollins	Calvin	•				• (Y)		
Ollins	Larry					• (Y)		
Ortiz	Armando	• (V)			•		•	
Ortiz	Luis					•		
Pacek	Jerry	•						
Pardue	Michael	•				• (Y)		
Proctor	Eric							•
Reed	Cornelius				•			
Reilly	Peter	•						
Richardso	Kevin	•				• (Y)		
Rocha	Mario				•		•	
Rojas	Luis Kevin				•		•	
Rollins	Lafonso	•			•			
Ross	Johnny	•						
S	Curtis			• (Y)			•	
Salaam	Yusef	•				• (Y)		
Santana	Raymond	•				• (Y)		
Saunders	Omar	•				• (Y)		
Serrano	Ivan				•			
Snyder	Walter	•		•				
Sutton	Josiah			•				
Tankleff	Marty	•						
Tennison	John "JJ"				• (Y)			•
Terry	Paul				•	• (Y)		•
Truvia	Earl					•		•

Vass	Leslie			•				
Warner	Colin				• (Y)			
Webster	Bernard				•			
Williams	Hayes		•					•
Williams	Joe Sidney				•			
Williams	Michael Anthony			•				
Wise	Kharey	•				• (Y)		

APPENDIX E – CRIME

LAST NAME	FIRST NAME	Homicide	Sex Offense	Robbery	Kidnapping	Other
Adams	Jarrett		•			
Adams	Jonathan	•				
Adams	Kenneth	•	•			
Anderson	Marvin		•	•	•	
Atkins	Tim	•		•		•
Ayers	Randall		•			
Bain	James		•			
Baker	Edward	•		•		
Baran	Bernard		•			
Baruxes	Kevin		•			
Booker	Donte		•	•	•	
Boots	Chris	•				
Bradford	Marcellius	•			•	
Bragdon	Anthony		•			
Brim	Dominique					•
Bromgard	Jimmy Ray		•			
Brown	Barney		•	•		
Brown	Dennis		•	•		•
Brown	Tim	•				
Buntin	Harold		•	•		
Butler	Sabrina	•				
Caravella	Anthony	•	•			
Carmona	Arthur			•		
Cole	Reggie	•				
Cousin	Shareef	•				
Cox	Robert	•				
Crawford	Steven	•				
Cruz	Rolando	•	•	•	•	
Daniels	Erick			•		
Danziger	Richard		•			
Dedge	Wilton		•	•		•
Deskovic	Jeffrey	•	•			•
Dominguez	Alejandro		•			•
Douglas	Yancey	•				

DSC	DSC	•				
Edmonds	Tyler	•				
Evans	Michael	•	•		•	
Frye	Ralph	•		•		
Garner	Terence	•		•	•	
Gibson	Roland	•				
Goff	Antoine	•				
Gonzalez	Hector	•				
Gray	Paula	•	•		•	•
Harrington	Terry	•				
Harris	Anthony	•				
Harris	William O'Dell		•			
Hatchett	Nathaniel		•	•	•	•
Hayes	Travis	•				
Heins	Chad	•	•			
Henton	Eugene		•			
Hernandez	Alejandro	•	•	•	•	
Hicks	Larry	•				
Hunt	Darryl	•	•			
Ireland	Kenneth	•	•	•		
Jeffers	John	•	•		•	
Jimenez	Thaddeus	•				
Johnson	Donnell	•				
Kezer	Joshua	•				
King	Keith	•				
Knapper	Isaac	•		•		
Lisker	Bruce	•		•		
Luster	Albert		•			
Martinez	Angelo	•				
Masters	Tim	•	•			
Matthews	Ryan	•				
May	Herman		•			
McCray	Antron		•	•		•
Montalvo	Ruben	•				
Morales	Jose	•				
Morales	Santiago Ventura	•				

Murray	Lacresha	•				
Ollins	Calvin	•	•			
Ollins	Larry	•	•			
Ortiz	Armando	•		•		
Ortiz	Luis	•				
Pacek	Jerry	•	•			
Pardue	Michael	•				
Proctor	Eric	•				
Reed	Cornelius	•				
Reilly	Peter	•				
Richardson	Kevin		•	•		•
Rocha	Mario	•				
Rojas	Luis Kevin	•				
Rollins	Lafonso		•	•		
Ross	Johnny		•			
S	Curtis		•			
Salaam	Yusef		•			•
Santana	Raymond		•			•
Saunders	Omar	•	•	•	•	
Serrano	Ivan	•				
Snyder	Walter	•	•	•		
Sutton	Josiah		•			
Tankleff	Marty	•				
Tennison	John "JJ"	•				
Terry	Paul	•	•		•	
Truvia	Earl	•				
Vass	Leslie			•		
Warner	Colin	•				
Webster	Bernard		•			
Williams	Hayes	•				
Williams	Joe Sidney	•	•			
Williams	Michael Anthony		•			
Wise	Kharey		•			•