

This written testimony in support of Oregon SB 418 is submitted on behalf of Steven Drizin and Laura Nirider, co-directors of the Center on Wrongful Convictions at Northwestern University Pritzker School of Law. For a combined total of nearly forty years, we have practiced law nationally in the field of wrongful convictions; together, we have contributed to dozens of exonerations around the country. Our shared areas of expertise include wrongful convictions, juvenile interrogations, and confessions.

To date, according to the National Registry of Exonerations, researchers have uncovered more than 2700 wrongful convictions nationwide. At least 335 of those cases involved false confessions. In those cases, innocent individuals underwent police interrogation and came to believe they had no choice but to say they committed serious crimes – when in fact they had not.

When it comes to children under age 18, the risk of false confession becomes – in the words of a recent United States Supreme Court ruling – “all the more troubling, and all the more acute.”¹ As a category, youth under 18 are between two and three times more likely than adults to falsely confess when pressured by police – and this reality holds true around the country. This statistic includes youth like our 16-year-old Wisconsin client, Brendan Dassey, whose story was told in the Netflix series *Making a Murderer*. It includes youth like New York’s Central Park Five, now called the Exonerated Five – Raymond Santana, Yusef Salaam, Kevin Richardson, Antron McCray, and Korey Wise – whose stories were told in the Netflix series *When They See Us*. And it includes Oregon children like Creswell resident Levi Dunn. Levi was twelve years old when police interrogated him at school until he falsely confessed to shooting his neighbor’s dog. Levi was later proven innocent through ballistics testing, and his father filed a successful federal

¹ J.D.B. v. North Carolina, 564 U.S. 261 (2011).
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lawsuit against Oregon authorities. Too often, many false confession cases go unremedied for years – even decades – while innocent people sit behind bars and the real perpetrator walks free.

Legal and psychological experts around the country have studied many hundreds of cases like these. These experts have concluded that deception is a pronounced risk factor for false confessions, especially when used against kids. Under an outdated U.S. Supreme Court ruling from the 1960s, police are allowed to deceive children about the evidence against them. It is still legal for police to tell children things like “We found your fingerprints on the gun,” when that’s not true. In one of the most egregious teenage false confession cases we’ve seen, a police officer falsely told a Virginia high school student named Robert Davis that his skin cells were found at a murder scene. To make matters worse, this officer followed that lie by assuring Robert, “I can’t lie about the evidence.” Robert felt trapped by this double falsehood and concluded he had no choice but to confess. Because the officer’s lies were and still are legal, a court admitted Robert’s confession as evidence against him; and Robert spent 13 years in prison before being exonerated.

Lies about the evidence, however, aren’t the only deceptive interrogation tactic that poses a problem. Under a different line of outdated U.S. Supreme Court decisions, police officers are also allowed to lie to youth about the *consequences* of confessing – even though such lies are also known risk factors for false confessions. In our experience, we have reviewed dozens of homicide cases in which innocent kids were falsely told that if they confessed, they’d get to go home; they’d only get a slap on the wrist; they’d go to family or juvenile court instead of criminal court; or they’d only face a few months behind bars. These were all lies. In each one of those cases, the child defendant agreed to confess; a judge admitted his or her confession into evidence; and the child received decades behind bars – for a crime that, it was later discovered, he or she did not commit.

Importantly, members of national law enforcement training organizations like Wicklander Zulauski – a representative of whom testified in support of SB 418 – and the International Association of Chiefs of Police agree that law enforcement efforts will actually *benefit* from the disuse of deceptive interrogation techniques. The use of these techniques increases the risk of false confessions from the innocent and, in turn, hinders police from the important work of accurately identifying perpetrators. The use of such tactics also erodes trust between police and community members – the very community members whose help police so often need to solve crimes – by premising many police-citizen interactions on lies and mistrust. And importantly, as this Committee has heard from our law enforcement colleagues, we know from experience that lying is not needed to solve crimes or get confessions from guilty people.

These forms of deception – lies about the evidence against a suspect, and lies about the consequences of confessing – should be abolished by the Legislature. Outdated though they are, these methods are still commonly taught to and used by police officers around the country, including officers in Oregon. And the sheer number of known wrongful convictions in false confession cases around the country shows that the legal system, as it currently stands, is not effectively preventing these injustices from happening. Change for the better is urgently needed. We applaud the Oregon Senate Judiciary Committee for considering SB 418, which will move the people of Oregon forward into a future that will be less marked by wrongful convictions. On behalf of ourselves and the wrongful conviction community nationwide, we urge its passage.