

PANEL 3

JUVENILES IN THE INNOCENCE PROJECT: CURRENT CASES IN PRACTICE

PROFESSOR RICHARD BIRSCHBACH: Today's panel is going to continue to develop those themes, but in the context of experiences with a couple of particular cases. Both of them came out of Cook County, both of them involved juveniles who were convicted of rape and murder, and then later on exonerated. One of them is called the Englewood Four, and one of them is called the Dixmoor Five.

The Dixmoor Five juveniles, three of them were fourteen at the time, two of them were sixteen, who were convicted of a 1991 rape and murder of a fourteen-year-old girl, and the Englewood Four involved four juveniles convicted of a 1994 rape and murder of a thirty-year-old woman. Both of those exonerations involved DNA testing and also involved false confessions.

MR. CRAIG COOLEY: The first case we're going to talk about is the Dixmoor Five Case, which happened first in sequence. I am going to have my wonderful colleague Laura Nirider discuss the Dixmoor case, and I will discuss the Englewood Four Case. Josh will discuss yet another Cook County false confession case, and then Karen will talk about social work issues in these cases, and my wonderful law student Jennifer MacLean will talk about her experience, her nine or eight days in Chicago helping us find housing and everything for the exonerees.

So I'll let Laura go.

MS. LAURA NIRIDER: These cases that we are going to talk about today really tee up the issue of juveniles and wrongful convictions, and in particular, juvenile false confessions. What makes someone confess to a crime they didn't commit? In particular, what makes a child, a teenager, confess to sometimes brutal crimes that they didn't commit? And what happens after they do?

The Dixmoor Five is a case that took place in the town of Dixmoor, Illinois. It's a south suburb of Chicago that is mostly comprised of African-Americans. The year was 1991. There was a young teenage girl named Cateresa Matthews. She was walking home from school one day in November. Like she did every day, she went through her great-grandmother's house, stopped and had some food, called her mom to say she was on her way home. She was just about to get on the bus to come home, and that's the last anyone heard of her. She disappeared. It was November 19th, 1991.

The police are called, they ask around at the school, they interview some of her friends. Is she the kind of girl who has run away? No, she had a wonderful, stable home family life. They do some investigation but nobody knows what happened to Cateresa, until three weeks later when her body was found lying next to Interstate 57, which runs through Dixmoor.

Cateresa was wearing the same clothes that she was wearing the day she disappeared. She was lying on her back, naked from the waist down, and she had been shot in the mouth. And there's a spent casing on her chest.

As you can imagine, the small community was horrified by this crime. There were rumors going around town that it was an ex-boyfriend of hers. But there was no substantive evidence. Nobody knew what happened to this girl. And the police investigation goes cold very quickly.

In fact after investigating for a couple of weeks, maybe a month, the police reports that we received showed that there was no police activity on this case for eight months. These eight months passed, nobody knew what happened to Cateresa, and then, and we're not sure why this happened, this fifteen-year-old guy from high school came forward and started speaking to the police. He said he heard that Cateresa got into a car with a guy named Jonathan Barr, and a guy named Robert Taylor on the day she disappeared. He also mentioned a third young man named Robert Veal, who was fifteen years old and mentally limited.

The police picked up Robert Veal, fifteen years old, with no parent or adult with him, no attorney certainly, and they brought him into the police station, and they questioned him about Cateresa Matthews.

After several hours of questioning, Robert Veal signed a statement saying that he, Jonathan Barr, Robert Taylor, and two other guys—James Harden and Shainne Sharp—all of them teenagers between fourteen and sixteen at the time of the crime—abducted and gang-raped Cateresa next to the Interstate. He said one of the boys shot her in the head and in the mouth.

They got the statement from Veal, and then they picked up Robert Taylor. Taylor was fifteen years old, just like Veal. Same story, hours of interrogation, no parent by his side, none of these interrogations were recorded. Same thing, signed a confession written out by the police, that actually had some serious inconsistencies with Veal's, but the criminal acts were basically the same.

Then the same story with Shainne Sharp. One of the five. Same story. He was picked up, though it took him longer to break. He was questioned for many hours. But he eventually signed the statement as well.

We have three confessions, the other two boys were arrested, but they don't confess. And I should mention that the two who do not confess are brothers. So we have the Dixmoor Five, two brothers and then three other guys, and they're all charged with this crime.

Now you say, okay, look, but these guys are fourteen and sixteen years old, right, at the time of the crime supposedly. So aren't they charged as juveniles?

Well, two of them are. The two youngest. Robert Taylor and Jonathan Barr. They're initially charged in juvenile court.

Well the State says this crime is so horrific, that they should be tried as adults. The juvenile court judge looks at the evidence, looks at these confessions, looks at the facts of how we know the crime happened, because we know how the body was found. He says there is not sufficient evidence here to indict these kids as adults, which was a life-saving moment for Robert Taylor and for Jonathan Barr.

The State appeals the ruling, gets it reversed, and all five cases go into adult court. They're facing life in prison. The State, after getting these confessions, has these confessions in hand, so they want some corroborating evidence. They take the DNA that was recovered from the victim. We're talking about semen that was recovered on the rape victim.

They test it in the lab, it does not match any of the Dixmoor five. Not one of these boys, who supposedly gang-raped her. This is before trial. The State goes forward with the charges anyway, based on the confessions alone, even though the DNA does not match. And everybody knows it.

At that point, these guys are looking at life in prison, two of them decide to plead guilty to the functional equivalent of about eight more years in prison. And they testify against the other three. The three who actually went to trial received eighty-plus years in prison each, and the two who entered pleas of guilty and testified against the other two were out within about eight years.

For the three who were sentenced to life in prison, they spent the nineties and a lot of the 2000s writing letters to anybody who would listen to them, trying to get some movement on this case. Finally we were pleased to be part of a team with the Innocence Project and with the Exoneration Project at the University of Chicago as well as some private law firms. We came together and decided, someone needs to retest the DNA in this case.

With the consent of the Cook County State's Attorney's Office, the DNA in this case was located and was retested in about March of last year, and we got a hit. The DNA was run through the CODIS database, which is the National DNA Database. Hence we know whose DNA it was. Not any of the Dixmoor Five, but a man named Willie Randolph.

Now, Willie is an interesting guy. He lived a couple of blocks away from CATERESA, he was in his thirties, she was fourteen. He was much older than any of the defendants, and he has a really interesting criminal past. He's a convicted rapist. He had an ex-girlfriend whom we found, who he dated when she was fourteen and he was much older, and she told us he would take her to the same wooded location on the side of Interstate 57 and assault her in that exact spot where CATERESA's body was found. This guy had been in and out of prison his whole life on various charges.

We bring this information to the Cook County State's Attorney's Office in spring of last year, and they said they will investigate Mr. Randolph, but they do

not know if this means that the Dixmoor Five are innocent. They said there is a possibility that he was having a consensual relationship with Cateresa, and that is why his DNA was left on her and somehow none from the Dixmoor Five was left on her.

It was also suggested that at one point, Willie Randolph maybe came across her body after she had been killed by the Dixmoor Five. Hence he had his way with the body, which is called the Wandering Necrophiliac theory.

The State continued to investigate, they interviewed Willie Randolph who was in jail at the time for a drug charge, and he said he never had sex with a corpse. He also said he never knew Cateresa Matthews. Obviously not true. He made a lot of denials that further inculpated him.

We obtained recantations from the two Dixmoor Five defendants who testified against the three who went to trial. In fact, as soon as we found them, they were more than happy. They said, thank goodness. We want to tell our stories. We want someone to know the truth of this matter. With all of this evidence finally with the DNA, with the recantations, and with all this new information about who Willie Randolph was, after sitting on this from about March until November of last year, the Cook County State's Attorney's Office finally, unannounced to anyone, went into court and agreed to release the three Dixmoor Five individuals who were still incarcerated. They walked out of prison on November 3, 2011 after living under this veil of accusation and supposed guilt in prison since the early 1990s.

This case raises a couple of really interesting things. The idea that three of these five kids could be made to confess to a crime that they did not commit. Don't you wonder what happened inside that interrogation room that can make these kids do something like that? Especially when the crime is this brutal. It suggests we need these kinds of reforms that I know folks here at the Innocence Project have been advocating for, and that we advocate as well. Recording in the interrogation room. We have to get cameras in the interrogation room. It is as simple as pulling out your cell phone and pressing record. We have to find a way to document what happens in those rooms.

The interesting thing to me, and one of the interesting things about this case is that when the two young ones were charged in juvenile court, the juvenile court judge refused to charge them as adults because the evidence against them was so untrustworthy and so weak. That is a real interesting opportunity for all of us to think about. Does the stage of transfer, when a case is transferred from juvenile court to adult court, present an opportunity to have a discussion about possible innocence? Or about the reliability of the evidence that we're talking about here. Talking about using [evidence] against these kids. I think this case sort of presents that opportunity in a way that we haven't seen before.

MR. COOLEY: Well, the Englewood Four case is nearly identical. You have a murder that happened in November 1994. Garbage men were emptying a dumpster in the Englewood part of Chicago, which was, during the mid nineties,

not the safest place in the world. They came across this body, and it was a woman by the name of Nina Glover.

Nina Glover was presumably a prostitute. And like the Dixmoor Case, they had law enforcement, in this case it was Chicago P.D., but the case went cold quickly. They had no suspects. One of the first people at the scene they interviewed was a guy by the name of Johnny Douglas who had no clue who this woman was. He never knew her, but his name is in the police report and he was there at the scene as they were recovering the body. Keep that name in mind. It's a little foreshadowing.

Fast-forward to March 1995. Again, you have an odd circumstance where somebody goes to police. Like in Dixmoor, you had Keno Barnes make a statement that got the ball rolling and implicated the five boys in Dixmoor.

Here you had an individual—an 18-year-old named Jerry Fincher who was being interviewed by law enforcement on another unrelated offense—to carry some sort of favor from law enforcement, he said he had information on this rape murder that occurred in Englewood in November of last year.

He proceeds to implicate himself, my client, Michael Saunders, the Center's client, Terrill Swift, a guy by the name of Harold Richardson, and another juvenile by the name of Vincent Thames. They were all between the ages of fifteen and seventeen at the time. My client, Michael Saunders, was fourteen at the time of the murder.

Again, you see the parade of interrogations take place. Now you have these names provided by Jerry Fincher, and each individual is brought in, and they provided a confession. Terrill Swift was questioned and he provided a confession. They brought in Michael Saunders and somebody wrote out a statement that Michael Saunders signed. Same thing with Harold Richardson.

Long story short, you now have a case with five confessions about this individual who was murdered. And the confessions are incredible if you read them. They claim that my client, Michael Saunders, took a shovel of some sort and beat the woman outside the head ten times. You look at the autopsy report, and there is an abrasion above her eyebrow.

The confessions are incredible, but if you had taken Criminal Procedure, you know reliability is not the standard. It is voluntariness. Who cares how incredible it is? They could be lying. But that is what happened.

So you had five juveniles confess. Michael Saunders claimed that he wasn't physically beat down, but they roughed him up, they pulled out his earring, and they slapped him. And just like in Dixmoor, they tested the rape kit, to see if they could get some DNA.

They identify a single source of male DNA profile. She's a prostitute now, keep in mind, but that DNA excluded all five of these boys. So there is the question: who donated that DNA?

Unfortunately that didn't stop the State from prosecuting the boys. Each individual confession corroborated each other, and they were admissible.

Terrill Swift took a bench trial, Michael Saunders and Harold Richardson were tried together before a jury, and they were convicted. Jerry Fincher, the individual who got the ball rolling, actually was never prosecuted because somehow, somehow, he got his confession suppressed. Once the confession was suppressed, the State never went after him. We still call it the Englewood Five because you have five false confessions. After Terrill, Harold, and Michael were convicted, Vincent Thames plead guilty.

The Englewood Five produced five false confessions or five confessions at this point, and now we have four convictions. And again, just like in Dixmoor, all of them claimed their innocence.

The Innocence Project got involved in April 2010 when Steve [Drizin] and Josh [Tepfer] and Laura [Nirider] called us and said they had these two cases. I talked to our Intake Coordinator at the Project, and lo and behold, Michael Saunders had written to us, and I believe Harold Richardson and Terrill Swift. Three of the five Englewood boys had written to us. We agreed to represent Michael Saunders. Our focus was on finding the DNA evidence.

Initially, the State Cook County prosecutors refused to consent, even though they consented in Dixmoor. I think a big reason was that she was a prostitute, and the DNA could have been from anybody. We filed our motion last December, the State objected, and last January 2011, the prosecutor called up Josh and me and said they withdrew their objections. They were going to consent.

We sent the DNA to the same lab that did the testing in Dixmoor, and we received a beautiful single source male DNA profile, and this time we uploaded it into the CODIS database. It hits to an individual who is now linked to three rape murders of prostitutes. The guy's name is Johnny Douglas. Yes, the Johnny Douglas who law enforcement had that day at the crime scene.

Johnny plead guilty in 2001 to a 1997 rape murder. Shortly thereafter, a database hit linked him to a 1995 rape murder of a prostitute, and in all three of these murders, it's the same M.O. It's a prostitute who was sexually assaulted and strangled.

The State prosecuted him in 2002 for a 1995 murder, and there was the State's beautiful motion saying Johnny is a serial killer. Not only has he committed these two murders, he has committed these other assaults and adjudicated offenses. They introduced that at trial, so we have the State's own word saying this individual is a serial killer.

What do you think the State said when we went and showed them that Johnny Douglas's DNA is here? Like, he didn't kill this woman. It was consensual. Well, no. It took a lot of wrangling; it took about eight months. We got the hit in May of last year, and we did not have an official exoneration until last Tuesday.

Dixmoor took eight months to resolve, and the Englewood Case took eight months to resolve.

Johnny Douglas was murdered in 2008. The individual who murdered him was acquitted because that individual claimed that Johnny Douglas had such a bad personality, a violent tendency in the community, that he claimed self defense. He was acquitted, so it just comes full circle.

MR. JOSHUA TEPFER: These two cases have basically taken over my life for the last two years, and another which I will talk about briefly. But they are finally over after last Tuesday. So these last two weeks have given me a lot of time to reflect, so I just kind of want to think about what these cases all mean.

My home town of Chicago is known as the false confession capital of the world. No question, especially for juvenile false confessions. They've happened with frequency. These are psychological coercion cases. We've had two young kids in a really high profile case who falsely confessed, a seven and eight-year-old to a twelve-year-old girl right in Englewood, the same place where the Englewood Four Case was.

If there is anywhere in the world where we should be recognizing that false confessions happen, it should be in Cook County, Chicago. With that backdrop I find it troubling and problematic the responses that we have in these two cases, and I think we really need to look at it. It shows the powers of confession evidence. Someone has to explain to me how five teenage boys in each case abducts, violently assaults and rapes a woman but they do not leave a trace of evidence that they ever committed that crime? It doesn't make any sense.

Those confessions were so powerful, they convinced judges, they convinced the prosecutors, they convinced the general public for everyone to ignore this DNA evidence, powerful evidence, and trust the confessions over it.

In Dixmoor, we did get consent and a lot of cooperation from the State's Attorney to test the evidence. In Englewood case, not so much. We wrote a detailed letter to get the State's support just to test the evidence.

But what happened when we got the DNA matches? In the Englewood case, as Craig alluded to it, the M.O. was identical. Not only do we have the two other charged murders and the one conviction of rapes of prostitutes and murders of prostitutes via strangulation, but we have five other violent sexual assaults, all prostitutes, several involving strangulation. I mean this is a man whose M.O., is unique. He engages the services of prostitutes, has sex with them and then gets really angry and violently assaults them. It's not something you hear about every day.

Well what was the response? Well in Englewood the response was never to agree that these guys even deserve a new trial, let alone that they are innocent. They have fought us every step of the way. We had lengthy arguments before we ever finally won this case. We got no support.

The State's brief called Johnny Douglas a convenient scapegoat for the five defendants. He's just a convenient scapegoat. This serial killer.

In Dixmoor, the State did agree, it took eight months, but even said in public statements that the State doubted their innocence. Let's just take a step back from that for a second. Still, all Cook County knows about confessions, and they are still blinded by the fact from a convicted rapist, thirty two-year-old man leaves his semen on a fourteen-year-old girl. A man who has an M.O. A history of preying on young teenage girls. Taking them to the same spot. They had all this evidence, and they're still not sure.

A case like this has happened that we know about in one other place besides Cook County, and that is here in New York City. It's the Central Park Jogger Case, which I'm sure a lot of you know about. That is five teenagers who confessed and were convicted, DNA excluded them at trial and then in 2003, they came back and they tested the evidence and it hit to a serial rapist named Matias Reyes.

What was the response when prosecuting that case? It was pretty quick acceptance. This was about seven to eight years ago. And it was an investigation. A relook at all the evidence and what happened. And we've been calling for that reinvestigation in the State's Attorney's Office in light of these cases. These two extraordinary cases that happened within months apart. They were going on at the same time.

And the other thing to reflect on is that the Dixmoor Five and the Englewood Four spent a combined 140 years in prison for crimes they did not commit. They are absolutely the lucky ones. There is no question about it. They had DNA. This never would have happened in confession cases without DNA, and I have a story to prove it.

As I am litigating these two cases with all these colleagues that are dominating my life, my colleague Steve [Drizin] and I found time to litigate yet another juvenile confession case. We represent someone named Charles Johnson of what we call the Used Car Lot Double Murder.

Right in Chicago, four confessions and not a trace of physical evidence or anything else. We spent ten times the amount of money on that case than we have on any of these other cases to reinvestigate because there is no DNA. It's a shooting. What we do have in that case is fingerprint evidence. Extraordinarily powerful fingerprint evidence, and I'll tell you why.

The crime scene in that case happened at a used car lot where the perpetrators perused the car on the lot and then stole a different car off the lot. They took fingerprints from the cars on the lot, and they did not match them to any of the defendants. They didn't know who the fingerprints belonged to at the time of trial. Then they took fingerprints off the stolen car, which was found five miles away.

We also have a marketing sticker, like a used car lot marketing sticker that they put on, and on the adhesive side of the sticker ripped off that car, there is a

fingerprint. Now, who can put their fingerprint on that sticker? Well, it's either the person who put it on, or the person who ripped it off.

Four of the fingerprints on that car belonged to one of the workers at the car lot who put the sticker on. But there's one that they didn't know who it belonged to. At trial, they never figured it out.

All these four who confessed were convicted, even though none of the fingerprints matched any of them. You can explain that it's a public car lot. The sticker? Who knows? We don't know who it is.

Well, we retested those fingerprints. And now we know that there is an individual, unassociated with any of the four who were convicted, any of the four who confessed, nothing to do with him, not mentioned in the confessions, nothing to do with the crime, whose fingerprints is on one of the cars perused at the crime scene at the lot.

Guess what? His fingerprint is also on the car of the marketing sticker from the car that's stolen five miles from the scene. So he's at two different crime scenes. One more little bit of information. The car that's stolen, they never realized why the car was five miles from the crime scene when all the defendants lived nowhere near there. Oh, it was parked half a block from this guy's house where he lived. You'd think that's pretty powerful evidence. We would argue it's powerful as DNA.

As these cases are going on, as they're recognizing ten convictions were wrong in these other two Cook County cases, as eight confessions are put into doubt, that case has gotten nowhere. It was never reinvestigated by the State. They spent about five minutes reinvestigating it without anything. It was dismissed out of court by a circuit court judge, the same judge who heard the trial in the first place without conducting even an evidentiary hearing. No one wants to hear from this witness to explain why he was there. No one wants to hear any evidence in this case. It is stuck in an appellate process that is going to take years, and these people are very likely going to die in prison. Just because they don't have DNA. Their confessions are as false as the Englewood Four and the Dixmoor Five.

MS. KAREN WOLFF: I am not going to talk about the legal aspects of the case. I'm a Social Worker at the Innocence Project, and I have worked with both Jonathan Barr of the Dixmoor Five Case and Michael Saunders of the Englewood Four case. I'm still working with them, they just got out recently, so my work is kind of just beginning as the lawyers' work is pretty much ending with those clients.

I just want to give you a few statistics that show sort of who our clients are in general. Of the 289 DNA clients, they've served an average of 13.5 years in prison even though they were innocent. Sixty-two percent of those are African-American. The average age upon incarceration of those DNA exonerees is twenty six and a half, but ten percent of them were under the age of eighteen. Eighty-two percent of

these youth cases involve confessions versus twenty-eight percent amongst all the DNA exonerees. A huge percentage of the youth cases are confession cases.

Sixty-five percent of the youth cases are group exonerations compared to twenty percent of all the DNA exonerations. That is also a common factor. All of these statistics are collected by the Innocence Project and anybody can have access to them by calling the Innocence Project.

It is very hard when I talk about our clients and what I do because I don't like to generalize about our clients, because each one of them is different, and when I work with them in a social work capacity, people kind of always want to know how are they, and how do they react, and how do they cope, and how do they transition, and it's really hard to say, they. Because they all have different personalities, coping skills, family, support systems, and all of that factors into how they do when they get out.

When I'm talking about them, I don't mean to generalize, and when you learn about exonerees, just be careful not to do that either, because their lives are so different that you can't really lump them all into one group.

I just want to talk about the clients that I've worked with who fall into the youth category, and how they are different from the clients in sort of a general yet individual way.

Jonathan was fourteen when he was arrested and thirty-four when he was exonerated. So twenty years in prison, fourteen when he goes in, thirty-four when he comes out. Michael Saunders was fifteen when he was arrested, thirty-two when he got out. Michael Williams, who was exonerated in Louisiana back in 2005, was sixteen when he went in and forty when he got out. Jeff Deskovic, who is an exoneree from New York, was sixteen when he went in and thirty-three after exoneration.

Vanessa [Potkin] in the prior panel alluded to this a little bit, about these guys. When you're that young when you go in and that age when you come out, and maybe Marvin [Anderson] wants to say something about this too, because he was eighteen when he went in, there is sort of a development stunting which happens. When a person who goes in as a teenager and has to deal with the horrors and the trauma of incarceration and then comes out to the world in 2003 or 2004, he isn't relating to the world as a thirty-two-year-old. He's relating to the world as pretty much a sixteen-year-old who's been missing for twenty years.

It is really hard for them to transition when they have not only all of the regular things to deal with, but they have the emotional adjustment issues to deal with. They may never have dated. They're not just reintroducing themselves to women, but they may never have dated. They're not just reintroducing themselves to driving a car, but they may never have had a driver's license. I have many clients who never drove before, and that's the first thing they want to do when they get out. They want to have a car, have independence, and be what they think a man is with their own car.

Many of these clients have never had a bank account, they've never had a job, they've never had to balance a check book. Marvin [Anderson] said in his presentation that he had to ask how to write a check when he got out.

The issues are so vast with any kind of life after transition that it's hard to imagine being compounded by all of this stuff. It's like you're dropped out of the sky into the world in 2003 with the computers and the technology and the ATM machines, and everything that you can think of that wasn't there twenty years ago, and they have to cope with that.

My job is to help them as much as I can, and if they have a good support system, it makes things a lot easier. The clients that we have who have been in prison and have lost most of their family members, and come out twenty years later as a forty-year-old man alone in the world, have a much harder time adjusting, finding jobs, learning how to manage a household, learning how to open a bank account, all that stuff, than people who have a mother and a father or a sister or brother, to help when they get out.

MS. JEN MACLEAN: I am here to speak about the student experience in the Innocence Project. I was in the Project from the summer after my first year of law school all through my second year, and a little after that because I wasn't finished. I had quite a few cases, but obviously the one you know most was Jonathan Barr of the Dixmoor Five.

I still remember when Craig [Cooley] gave me the file and he said, "We're fast-tracking this. These guys are innocent." I remember thinking, does he know that I'm just a 1L and I have no idea of what I'm doing? I was absolutely terrified I was going to mess something up. It worked out okay, though.

I remember when we had received a CODIS hit and the Innocence Project was crazy. I thought Craig was going to do cart wheels. It was so exciting. We had exoneration meetings, because a CODIS hit to a convicted offender is the gold standard. You're like, they're out. Because we found the guy who did it. This is wonderful.

Then as you've heard, it took months. Then, completely out of the blue, I was home studying and Craig [Cooley] calls me to tell me we needed to be on a plane in the morning because the exonerees were freed. Walking Jonathan out was just amazing, but there are really no words for that. I got to visit him with Karen while he was in prison. Jonathan kept saying it was surreal, and I don't know a better word for it. It was just so amazing to know that I played a part in this.

We took Jonathan and James to Wal-Mart in this small town. I remember one lady coming up to Jonathan. She recognized his picture from the paper, and I think she got two words out before she just started crying. It's just such an amazing thing.

PROF. BIRSCHBACH: Thanks a lot. I have a huge list of my own questions but it's your turn to ask questions. There's so many interesting and troubling issues that are raised by what we've just heard from these five panelists.

I want to give people here the opportunity to ask questions and I'll just try to keep track of who's got their hands up.

FEMALE VOICE: What is the process like for the exonerees to get compensated from the state after being wrongfully convicted?

MR. COOLEY: There is a compensation statute, and we're in the process. The file is called a Tenured Certificate of Innocence, which that means your convictions and indictments were dismissed based on innocence. We are anxiously waiting to see how Cook County will answer that. I think at this point they would all be entitled to almost \$200,000.

Jonathan Barr didn't confess in Dixmoor, but Michael Saunders did. And I know both of the Center's clients, Robert Taylor and Terrill, confessed. Those are big concerns, but again, we think the DNA, the evidence we have, just speaks for itself.

MR. TEPFER: When they each left prison, they got \$13 when they walked out. Yes. It is an unresolved issue of whether a confession can contribute to conviction. I think the three who plead guilty have an extremely uphill battle, and I think they're very unlikely to get a penny, unless they have a really good civil suit. I don't think they are going to get anything under the Certificate of Innocence statute. It's a new statute from 2009 in Illinois. It's an unresolved question of whether or not the confessions are going to bar it.

I know the individual who sponsored the legislation put in the part about not contributing to your conviction with the idea of confessions in mind. We are going to rely on a case from New York to argue that the fact that there are all these details in the confession can be explained by one thing and one thing only, and that's the police providing that information to them to show that they did not contribute to their conviction.

PROF. BIRSCHBACH: What is it about juveniles who falsely confess that is different from adults who confess, and what can we do to prevent this?

MS. NIRIDER: Kids falsely confessing versus adults falsely confessing is something that we have studied a lot. There has been a lot of research done by some of the panelists who are here this morning on the way that kids think, and the way kids view the world. This includes adolescents and teenagers, so we're not just talking about little kids.

It turns out that these brain scientists have figured out that kids, when they're in a situation, tend to look at short-term gain, not long-term risk. They tend to trust authority figures. And also, kids don't understand how the world works. If you have a cop who says to a kid, "Look, you know, man, I know how it is, I know you're sixteen years old, okay, you're a kid. You've got your whole life in front of you. I'm not here to get you. I'm here to figure out what happened. Just tell me the truth. I'm going to do my best to work for you and work this all out." This is exactly what happens on some of these tape recordings.

Kids don't know necessarily the jeopardy that they are in when they are inside the interrogation room. Granted, many adults don't either. But when you combine that sort of youthful naïveté with the facts of adolescent brain development, the fact that kids just don't think about the world in the same way that adults do in terms of consequences and risks and benefits is one reason why you see more false confessions from kids, and why they're at higher risk for it.

In terms of the second part of your question, which is, what can we do to prevent this, you're absolutely right. There are seventeen states right now plus the District of Columbia that require in some fashion that the interrogation be recorded. That is a huge first step because then we can actually see what the conditions were under which the statement was made. Was this kid told, "Hey man, you're going to go home? Just tell me the truth." This is what the clients so often tell us. "That's why I confessed, because they said I could go home." So the recording is a huge first step but that simply shines the light on the problem. It doesn't solve the problem.

There are other things that I think absolutely have to be done. You have to reform the way that kids are questioned. This is very important. In fact, this is already happening in some areas of criminal justice. If you have a child victim who is suspected to be a victim of sex abuse, there are already protocols in place for questioning that child, to make sure that the information you get from them is accurate. You never use leading questions. You always tape record. You never tell them that something bad will happen if they don't say what you want them to say. These types of very basic things are already in place with child victims. This does not exist with child suspects even though the same exact vulnerabilities exist.

Another thing is Miranda Rights, which are very important. But when you're a kid and you're in the interrogation room, they're just words. A lot of the studies out there show that kids don't understand Miranda Rights. They don't understand the words that are being used, and they certainly don't know how to apply them to the situation that they are in. And so the one reform that we strongly push is, make it a non-waivable right to have an attorney in the interrogation room with the kid. Don't let the kid sit there and sign away their rights without knowing what they're doing. Without any parent or attorney there to advise them. Give them that counsel, give them an opportunity to consult before they decide to make the statement.

MALE VOICE: What is the Innocent Project's connection to law enforcement and government officials?

MR. COOLEY: I mean we're part of the law enforcement level. Our biggest target right now is working with law enforcement, and explaining to them that things need to change, and we want to change them. And to do that, you have to work with the officials actually bringing people into the criminal process. And that's law enforcement a lot of times.

In the Innocence Project, and Barry Scheck and Peter Neufeld have met with a number of high-ranking officials in different cities like Chicago and Philadelphia. We're trying to build connections with law enforcement on eyewitness identification and on false confessions. Those are the trenches where we have to be at and to develop rapport with the officials and say, "Look, we're not trying to change things in a negative way. We want to improve." No one wants a Johnny Douglas situation. If you look at Johnny Douglas, had they picked up Johnny Douglas that day, they would have prevented two murders: the 1995 murder and the 1997 murder. And who knows how many other crimes he committed that we don't even know? So it's in law enforcement's interest to at least sit down with us and hear us out.

MR. TEPFER: The one other reform that I would add is training law enforcement and training defense attorneys. These false confessions convince not only judges and juries, but they convince prosecutors and convince defense attorneys too.

I think training stakeholders in the system to identify between true and false confessions is absolutely essential. The way to do that is something we haven't even alluded to, which is how these confessions become so detailed. When you have a confession, it's at the start of the investigation. Then police corroborate the confession. Are there details in this confession that only the true perpetrator would know? Were those details give police new information that they didn't already know? Did the police accidentally leak the information through leading questions that provided the narrative for how these confessions happen? That is the kind of training that everyone needs to do in order to analyze the true and the false confession.

MR. COOLEY: In the Englewood case, Michael Saunders gave a confession, and it was witnessed by a prosecutor named Fabio Valentini. And at the time, he was a young line prosecutor who had been called in to take this confession. Fast forward to now, Fabio Valentini is the third highest ranking official in the Cook County Prosecutor's Office. So now you're going to Fabio Valentini and say, you took a false confession. I'm not a prosecutor, I've never been a prosecutor, but that would be hard for me to swallow.

MS. JEN MACLEAN: These cases show the incredible power which Josh already spoke of, of confession evidence. Especially when you add guilty pleas on top of that. It is really difficult for a lot of people to understand or even begin to wrap your mind around it. Why would somebody confess to something they didn't do? And I think that question, even though we know through the fabulous work of the Innocence Project and all these organizations, that in fact this happens all the time. I think that's still a real mental hurdle for folks.

MR. DRIZIN: Can I just set aside false confessions per se? We've talked a ton about false confessions. I'm curious, if we set those aside, I just want to hear your views on what the other major breakdowns in the process are that lead to

wrongful convictions of juveniles. False confessions are obviously overwhelming, but if you had to pinpoint one or two other big ones. And if we're having a hard time with juveniles, maybe you can talk about adults, because it sounds like false confessions, although they are important there, are less overwhelming.

MR. COOLEY: I think what Laura said was the role of counsel and ensuring that juveniles have counsel, and that they understand their rights, that there's someone there to walk them through the process. Ninety-nine to ninety percent of the ten boys all made statements that they either requested an attorney or a family member be present. And obviously those were all denied, so they did not have any representation.

MR. TEPFER: Brandon Garrett's book is the best resource on this. You all should read it. It's called *Convicting the Innocent*, and they analyze the first 250 DNA exonerations, and eyewitness misidentification is clearly the leading cause of wrongful convictions. The least is pretty known at this point: forensic fraud and forensic mistake, lab mistakes, prosecutorial misconduct, ineffective assistance to counsel, snitch testimony, false confessions. There's a lot of it.

I don't think there is that much research for juveniles beyond in the confession or statement context, but what I would say in the commonsensical context is that, in the identification procedure process, when a juvenile is tasked with identifying a culprit, they may be more suggestible during an interrogation to some of these non-verbal queues and trying to pick up on what the officers want, and what they want them to do to make the process over with