



**Rebecca Brown, Innocence Project  
Co-Submitted with Zach Winston, Oregon Innocence Project  
Testimony on Senate Bill 418  
Senate Committee On Judiciary and Ballot Measure 110 Implementation  
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My name is Rebecca Brown and I am the policy director at the Innocence Project, a national organization that works to prevent and address wrongful convictions with our local partners, including the Oregon Innocence Project.

The Innocence Project and the Oregon Innocence Project together support Senate Bill 418, which would safeguard against wrongful convictions of juveniles stemming from false confessions by prohibiting police officers from using deceit or trickery during an interrogation.

One of the most counterintuitive aspects of human behavior is the decision to self-incriminate, and in particular, to do so falsely. While the general public and lawmakers understandably believe a false confession is anomalous, we have discovered through DNA-based exonerations that it is a frequent contributing factor to wrongful convictions. In fact, it is the most common contributing factor among homicide exonerations--and present in 30% of all exonerations--proven through DNA.

Often, the decision to falsely confess to a crime is perfectly rational given certain circumstances of the interrogation. Real or perceived intimidation by law enforcement; use of force or perceived use of force by law enforcement during the interrogation; compromised reasoning ability of the suspect due to exhaustion, stress, hunger, substance abuse, mental limitations, or lack of education; fear that failing to confess will yield a harsher punishment; and deceptive interrogation technique, such as untrue statements about the presence of incriminating evidence, are all reasons why someone may falsely confess. These factors are even more intense when the person being interrogated is underage.

Law enforcement is permitted by the Supreme Court's interpretation of the Constitution to employ what is described as the "false evidence ploy," whereby it may tell suspects, for instance, that forensic evidence—that has never been tested or may not exist—links the suspect to evidence collected at the crime scene. Suspects may be told that a bloody fingerprint located at the crime scene "matches" the suspect's fingerprint, or that the suspect has failed a polygraph test. The suspect may also legally be lied to and falsely told that his co-defendant or the victim of the crime has implicated him. In the case of the Exonerated 5 in New York City, factually innocent children broke down and confessed after the police misrepresented that their friends and associates not only confessed but also implicated them in the crime. Troublingly, judges and juries uncritically believe confessions since, historically, it was nearly impossible to discern a true confession from a false one.

One leading study of 125 proven false confession cases found that 63% of false confessors were under the age of twenty-five and 32% were under eighteen.<sup>1</sup> Another respected study of 340 exonerations found that juveniles under the age of eighteen were three times as likely to falsely confess as adults.<sup>2</sup> Leading law enforcement organizations, such as the International Association of Chiefs of Police, also agree that children are particularly likely to give false confessions during the pressure-cooker of police interrogation.<sup>3</sup>

At a time where police-community relations are suffering tremendously, changing how young people are interrogated would go a long way towards helping to repair public trust in the criminal legal system.

The Innocence Project and the Oregon Innocence Project want to thank Senator Gorsek for his leadership on this critical issue, and we strongly urge this committee to pass this legislation.

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<sup>1</sup> Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. Rev. 891, 907–08 (2004).

<sup>2</sup> SAMUEL R. GROSS & MICHAEL SHAFFER, *THE NAT'L REGISTRY OF EXONERATIONS, EXONERATIONS IN THE UNITED STATES, 1989–2012*, at 58, 60 (2012).

<sup>3</sup> <https://www.theiacp.org/resources/document/reducing-risks>