



Northwestern
PRITZKER SCHOOL OF LAW
Bluhm Legal Clinic

BRENDAN DASSEY: A TRUE STORY
OF FALSE CONFESSION

“They Got to My Head”

All captions taken from Calumet County Police Department transcripts.



False Confessions: Realities & Myths

Realities:

- There are hundreds of proven false confessions.
- In murder cases, false confessions are the most common cause of wrongful convictions.
- Most false confessions are detailed and appear plausible.

Myths:

- It's obvious when a confession is false.
- I would only falsely confess if someone beat me.
- I would never confess to a crime I didn't commit.
- Only juveniles or mentally retarded persons falsely confess.

81% of false confessors whose cases went to trial were wrongfully convicted.



“It’s like having an 18-wheeler driving on your chest and you believe that the only way to get that weight off your chest is to tell the police whatever they want to hear...even admitting to a murder.”

Marty Tankleff, age 17
(Long Island, NY),
conviction reversed

The Three Pathways to a False Confession

The **misclassification** error

“Why did police suspect Defendant?”

The **coercion** error

“How was Defendant convinced to confess?”

The **contamination** error

“How did Defendant know what to say?”

Misclassification Error

Two stages of police questioning

- Interview (information-seeking, open-ended)
- Interrogation (accusatorial, police-dominated, guilt-presumptive)

During the interview: “Behavioral Analysis”

- Human lie detection
- Theory:
 - Deception manifests itself involuntarily through verbal and behavioral indicators
 - A properly trained detective can “read” signs of deception

Misclassification Error

DECEPTIVE DENIALS	TRUTHFUL DENIALS
<p>Avoid Descriptive Language</p> <p>"I didn't take that money"</p> <p>"I didn't do that to her"</p> <p>Qualifying Phrases</p> <p>"I honestly wouldn't do that."</p> <p>"I swear I didn't do this."</p> <p>Specific Denials</p> <p>"I did not take \$517.82"</p> <p>"I don't own a gun!"</p> <p>Theme Acceptance</p> <p>"I understand what you're saying, but..."</p> <p>"I believe what you're telling me, but..."</p> <p>Weak Verbal</p> <p>Strong Verbal / Weak Nonverbal</p>	<p>Use Descriptive Language</p> <p>"I did not rob anyone!"</p> <p>"I did not rape her!"</p> <p><i>Clipped Denials No for Protest</i></p> <p>Definitive Statement</p> <p>"I don't care what your investigation shows - I had nothing to do with this!"</p> <p>Broad Denials</p> <p>"I've never had sexual contact with that student or any other!"</p> <p>Theme Rejection</p> <p>"Listen, even though I was drinking that night I was in control and I know I was never at that gas station!"</p> <p>Firm, Strong, Forceful</p> <p>Persistent</p>

Handout: John E. Reid & Associates, "The Reid Technique of Interviewing and Interrogation" at 64 (2000).

Misclassification Error

Truthful Individual



ATTITUDE	NON-VERBAL	VERBAL
Composed	Smooth Posture changes	Reasonable answers
Concerned	Open gestures, good eye to eye	Smooth tone of voice & speech
Cooperative	Maintains frontal alignment	Complete & clear answers
Direct and Spontaneous	Leans forward	Uses realistic words
Sincere	Open palms	Volunteers information
Open	Upright, open, casual	No long delays
		Direct, credible responses

Deceptive Individual

ATTITUDE	NON-VERBAL	VERBAL
Overly Anxious	Erratic & rapid SPC on key questions	Answers too early
Defensive	Frequent gestures	Irrational answers
	Barrired posture	Mental blocks
Unconcerned	Rigid & Immobile	Challenges
		Unjust anger
Evasive	Slouched, overly casual	Avoids realistic words
	Lacks frontal alignment	Specific denials
Overly Polite	Insincere tone of voice	"I don't know"
		"I can't recall"
Guarded	Hand over mouth or eyes	One word answers
		Qualifies answers
		Refers to God or religion

From undated presentation at University of Arkansas Law School by Reid & Associates President Joe Buckley. Materials available online at <http://law.uark.edu/documents/Judges-Reid-Technique.pdf>

Misclassification Error

Claim vs. reality

- Interrogation trainers claim an 85% accuracy rate of detecting deception
- Virtually every study shows that people are poor lie detectors (no better than chance)
- Trained professionals don't fare much better (45-60% accuracy)
- There is no human behavior or physiological response that is unique to deception

Consequences of misclassification error

- Human lie detector mythology increases police confidence in the accuracy of their judgments
- Can lead to investigator bias; triggers interrogation

Coercion Error

Interrogation

- Designed to obtain admission from a guilty person
- Accusatorial, police-dominated
- Questioning techniques can be:
 - Suggestive
 - Deceptive
 - Manipulative
 - Psychologically coercive



“[Being interrogated] felt like I was choking, like there was no more air left in the room.”

Robert Taylor, age 15
(Dixmoor, IL), conviction reversed

Summary of the Reid Technique

- Confrontation: “I have in this file the results of our investigation. Our investigation indicates that you stole the money.
- Refuse to entertain denials/objections
- Move closer to suspect in order to maintain his or her attention
- Minimization: identify a moral justification that minimizes the suspect’s sense of culpability
- Present an alternative question (with an embedded inducement):
“Was this planned, or did it happen on the spur of the moment?
We can’t work with people who plan vicious crimes, but we can work with someone who impulsively made a bad decision.”
- Confession (first oral and then, if possible, written)

Coercion: The Power of the False Evidence Ploy

False Evidence Ploy

- Can include references to fake evidence
- Can include nonspecific assertions of superior knowledge (“omniscience ploy”)
- Lying about evidence is permissible under *Frazier v. Cupp* (U.S. 1969)
- Some states draw the line at manufacturing fake evidence. See, e.g., *State v. Patton* (NJ 1993) (officers presented suspect with audiotape of an actor pretending to be a witness identifying the suspect)

Effectiveness of False Evidence Ploy

- Has been implicated in the vast majority of documented police-induced false confessions
- Some interrogation trainers actively discourage use of the ploy

Coercion: The Power of Minimization



“I thought I was going home...I didn’t understand the – the seriousness of what was going on. I didn’t understand exactly what I was getting myself into once I signed that statement.”

Calvin Ollins, age 14 (Chicago, IL), conviction reversed



“I thought if I told them something they’d let me go.”

Johnathan Adams, age 12 (Carrollton, GA), conviction reversed



“I had that perception that the police were there to help...I signed a confession under the pretense that I was going to go home later on that night, but it didn’t work out that way.”

Terrill Swift, age 17 (Chicago, IL), conviction reversed

Contamination Error

What is contamination?

- “Facts” adopted by confessor from sources other than personal knowledge

Sources of contamination

- Fact-feeding/leading questions by interrogators (intentional or inadvertent)
- Showing suspect the crime scene
- Media or community gossip
- Innocent knowledge of scene

Reliability analysis

- Can the suspect produce accurate, non-contaminated information – ideally, information that the police did not know?



“After reviewing a recorded interrogation, you realize maybe you gave too much detail as you tried to encourage him, and he just regurgitated it back.”

Commander Neil Nelson,
St. Paul, Minnesota
Police Department

Questioning Brendan Dassey

Early afternoon
of Feb. 27, 2006
at Mishicot
High School
(audio only)



Late evening
of Feb. 27, 2006
at local hotel
(unrecorded)



Late afternoon
of Feb. 27, 2006
at Two Rivers
Police Dept.
(video)



Midday on
March 1, 2006
at Manitowoc
Police Dept.
(video)

Misclassification in Brendan's Case

<i>Deceptive Individual</i>			
 ATTITUDE	NON-VERBAL	VERBAL	
<i>Overly Anxious</i>	<i>Erratic & rapid</i>	<i>Answers too early</i>	
<i>Defensive</i>	<i>SPC on key questions</i>	<i>Irrational answers</i>	
<i>Unconcerned</i>	<i>Frequent gestures</i>	<i>Mental blocks</i>	
<i>Evasive</i>	<i>Barriered posture</i>	<i>Challenges</i>	
<i>Overly Polite</i>	<i>Rigid & Immobile</i>	<i>Unjust anger</i>	
<i>Guarded</i>	<i>Slouched, overly casual</i>	<i>Avoids realistic words</i>	
	<i>Lacks frontal alignment</i>	<i>Specific denials</i>	
	<i>Insincere tone of voice</i>	<i>"I don't know"</i>	
	<i>Hand over mouth or eyes</i>	<i>"I can't recall"</i>	
		<i>One word answers</i>	
		<i>Qualifies answers</i>	
		<i>Refers to God or religion</i>	



Misclassification in Brendan's Case

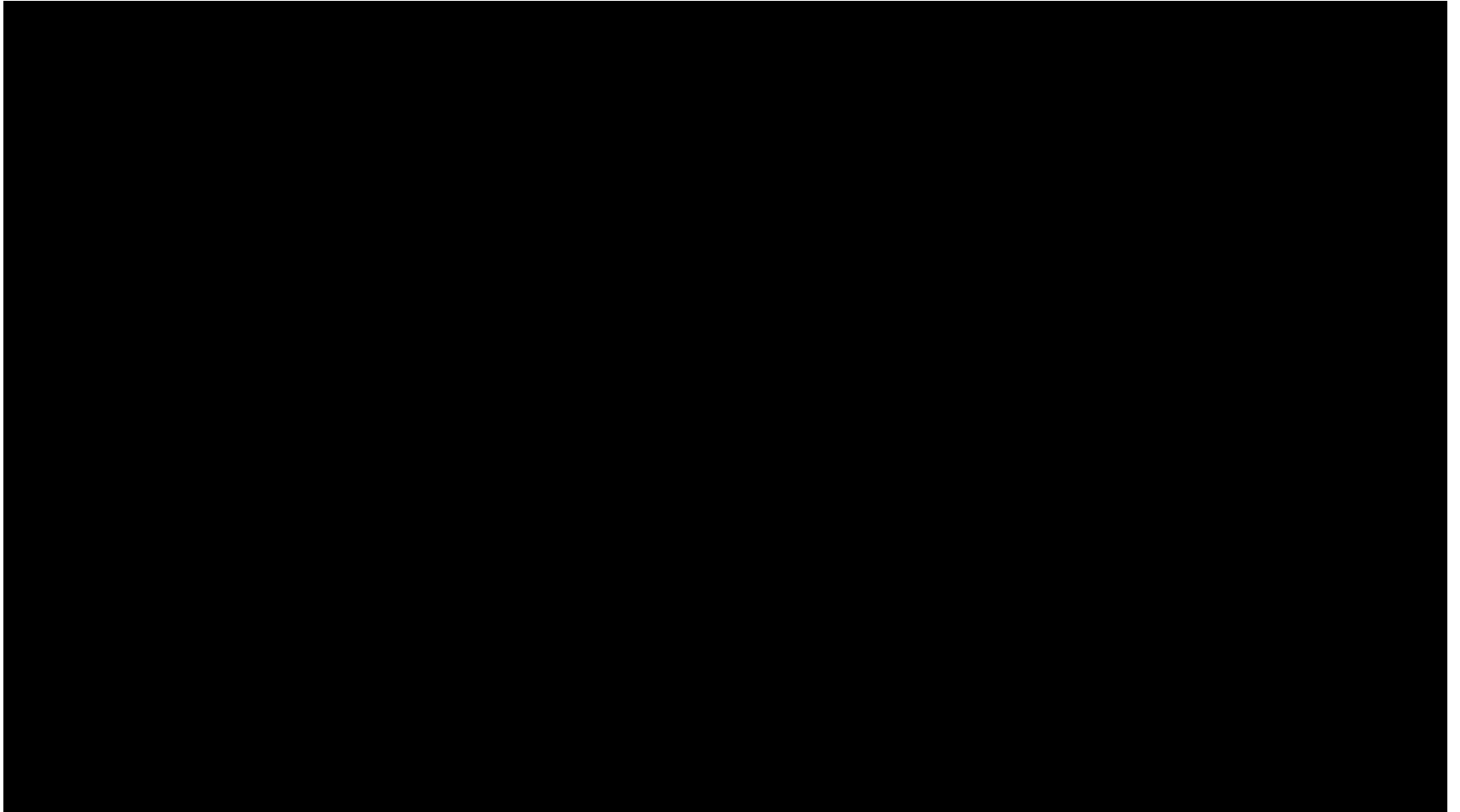


Excerpt of email from Investigator Pete Baetz to Attorneys Dean Strang and Jerome Buting (6/7/06), summarizing Brendan's psychological and intellectual profile:

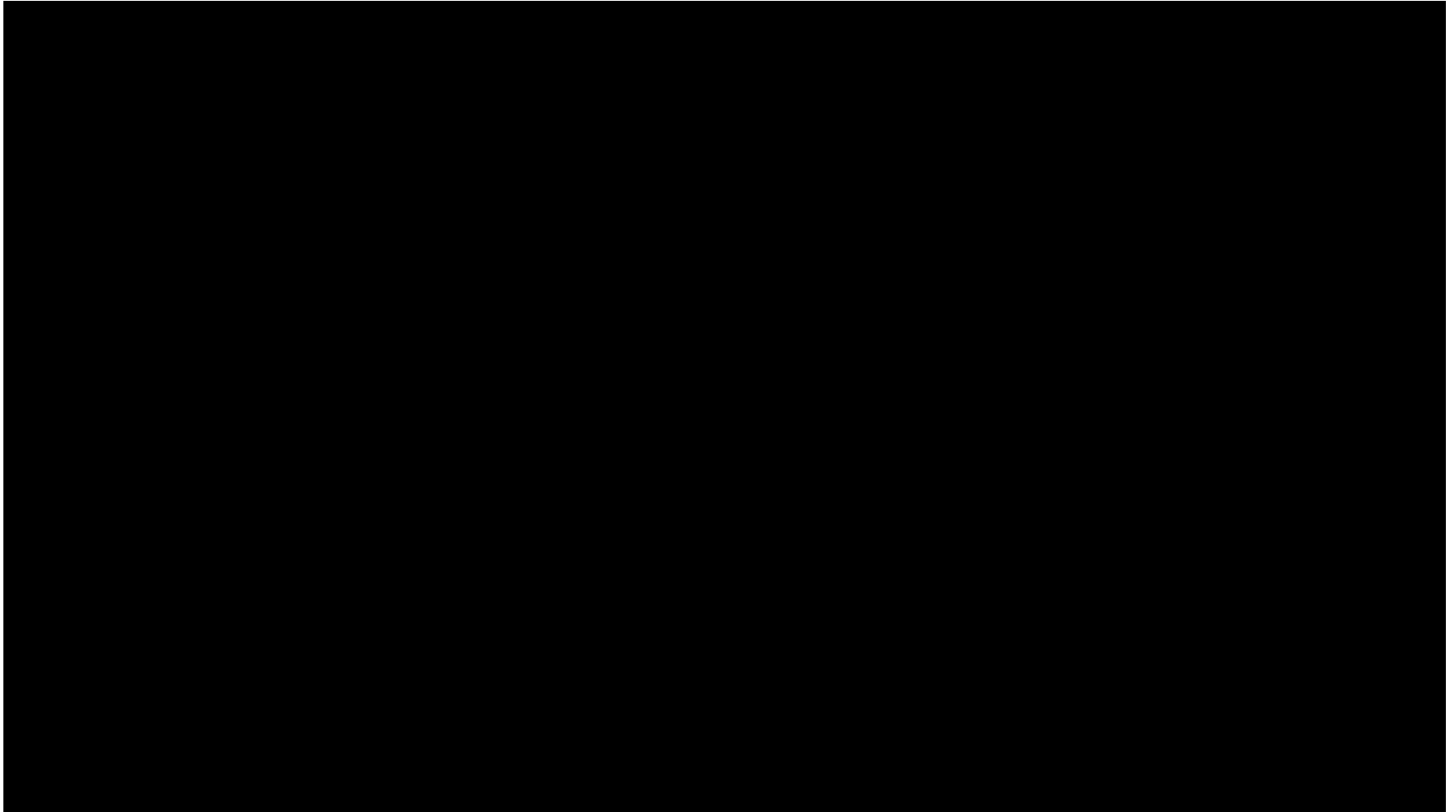
This kid has had problems since kindergarten, particularly in the social area. It is noted, for example from as early as 3rd grade that he can't look an adult in the eye, is withdrawn, doesn't function with others etc. He has been in special ed classes since grade school and according to the last report in Sep 05, has trouble understanding vocabulary both to and from him.

He has been continually diagnosed, by school personnel, as having a learning disability. I suspect there is a personality disorder. He is easily intimidated, apparently, and withdraws into himself in confrontational situations.

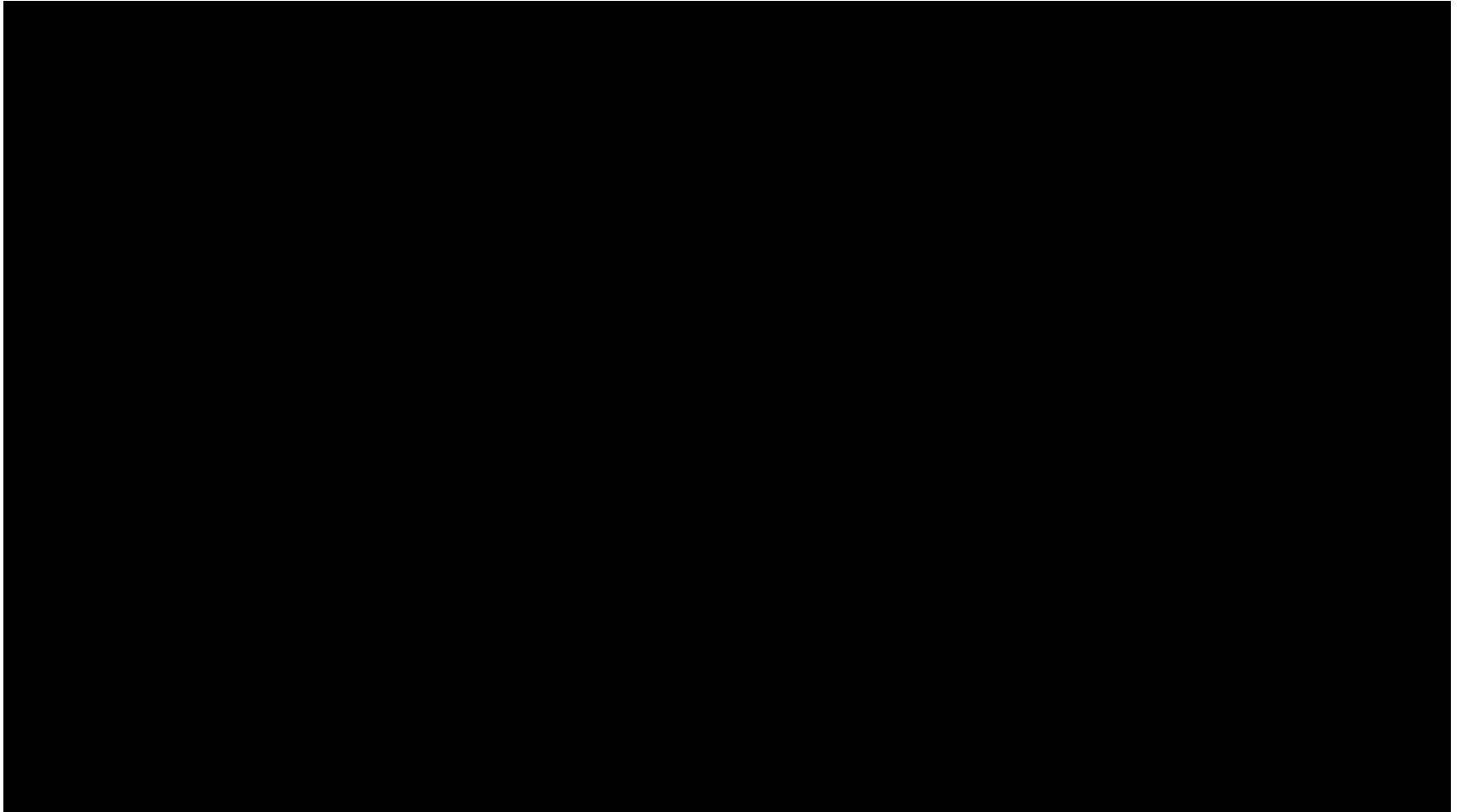
Coercion in Brendan's Case: Omniscience Ploy



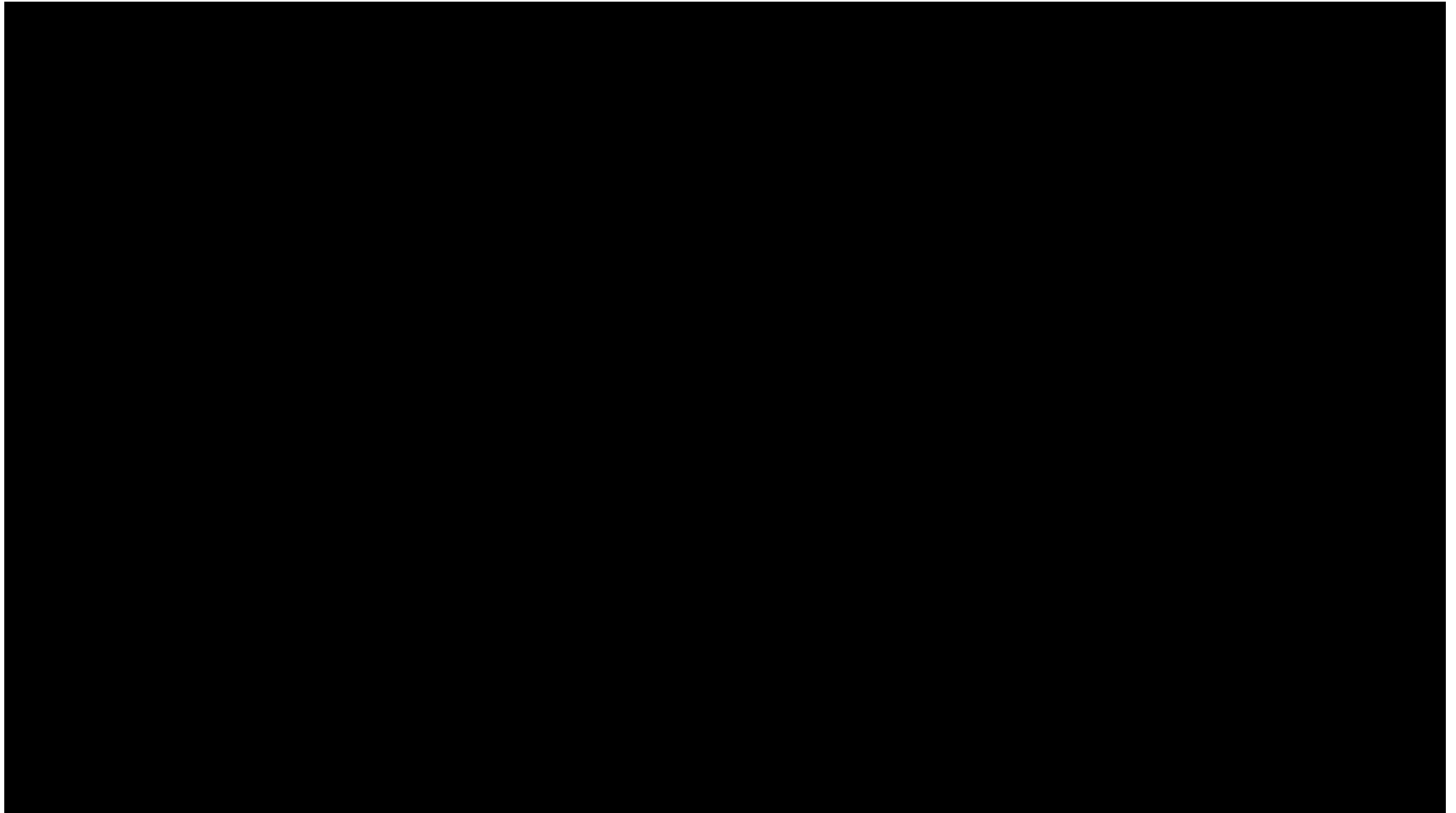
Coercion in Brendan's Case: Promises of Help



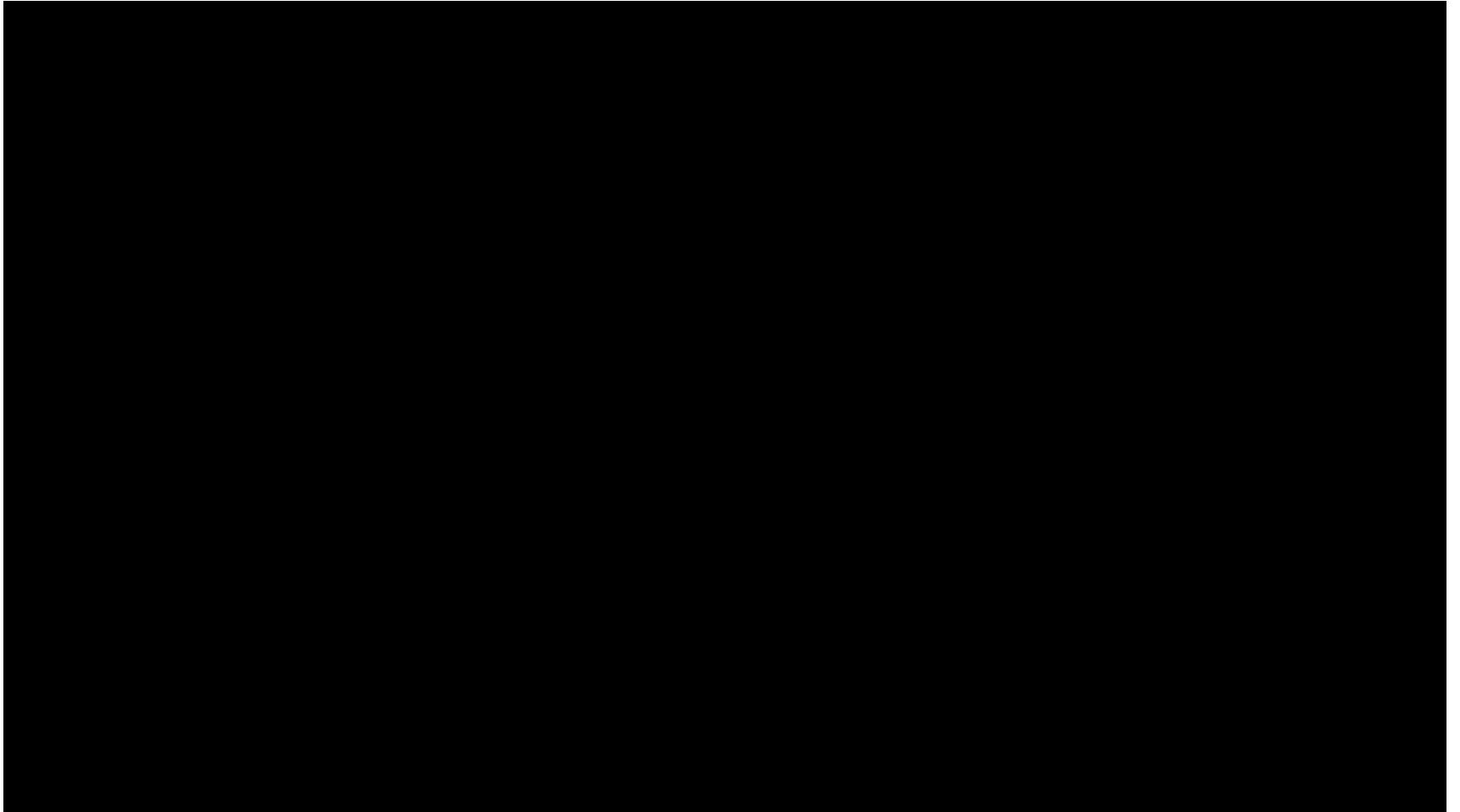
Coercion in Brendan's Case: Parental Dynamic



Contamination in Brendan's Case



Aftermath of Brendan's Confession



Brendan's Case Today

- Court declined to suppress his confession
- Convicted on the basis of his videotaped confess
 - Recantation was never shown to jury
 - No false confession expert testimony
- Wisconsin courts upheld the conviction
- Federal petition for a writ of habeas corpus has been granted; affirmed on appeal to CA7; now proceeding to *en banc* review
 - Confession thrown out as coerced and involuntary
 - State was given 90 days to retry or release Brendan
 - That 90-day period on hold pending conclusion of the appeals process



Center on Wrongful Convictions of Youth

www.cwcy.org

