

Reporters tactics a question in Innocence Project

The surreptitious recording of conversations by a reporter – a tricky legal and ethical issue – is the latest charge that prosecutors have raised about the tactics used by David Protess' students at the Medill Innocence Project.

State's Attorney Anita Alvarez maintained in a written statement that the secret recording raised "serious legal and ethical questions about the methods that the professor and his students employed during their investigation." The Innocence Project's investigation concluded that Anthony McKinney was innocent of the 1978 murder of a security guard in Harvey, Ill. The Innocence Project has been influential in freeing 11 people from death row in Illinois.

The prosecutor has spent more time during the past year investigating the reporting tactics used by Protess and his class than their evidence suggesting that McKinney was not the killer. The prosecutors have issued subpoenas for internal memos, class documents, notes, grades, and other materials in their effort to back up claims that Protess' students used unethical and possibly illegal methods.

The pressure from the prosecutor has weakened Northwestern's support for Protess. At first, Northwestern defended Protess' opposition to turning over the documents sought by the prosecutor. Now the university has relented on documents and has hired a former federal prosecutor to conduct its own investigation of the Innocence Project. Protess says he does not oppose that independent [investigation](#). The focus of the prosecutor's latest charge is a 2004 conversation that was secretly taped by one of Protess' students. This was illegal, the prosecutors charge, because Illinois is a two-party consent state, which means that both parties to a conversation

have to consent to it being recorded. Proress says he did not know about the taping, but thinks it was legal.

The *Chicago Tribune* obtained a copy of an Innocence Project memo on the recorded conversation. It says the students went downstate in May 2004 to interview a man they thought might be the killer. The man interviewed was himself a convicted killer and the students were worried about the “possibility of bodily harm.” The students confronted the man with audio accounts from people who blamed him for the murder.

One student wore a wire. The Innocence Project’s private investigator, Sergio Serritella, listened to the interview in his car. The suspect being interviewed acted “erratically,” pacing and raising his voice, then demanding money, the *Tribune* [reported](#). Serritella started recording the conversation, according to the memo.

The Innocence Project memo on the incident, written in 2006, maintained that the students didn’t violate the state eavesdropping law because it exempts recordings made with “reasonable suspicion” the recorded party will commit a crime against the recording party. Even if the taping were illegal, the statute of limitations for 2004 has expired.

The use of hidden microphones and cameras by journalists is frequently the subject of legal and ethical discussions about the proper role of journalists.

The Code of Ethics of the Society of Professional [Journalists](#) states: “Avoid undercover or other surreptitious methods of gathering information except when traditional open methods will not yield information vital to the public.” Arguably, the secret recording was essential to gathering key [information](#). [SlideDeck id='405' width='100%' height='300px']