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April 10, 2007

To: Members of the Connecticut Judiciary Committee  
From: Amanda Melpolder, Policy Advocate

Re: Recording of Custodial Interrogations (SB 149 and HB 7364),  
Compensation for the Wrongfully Convicted (HB 6673)

I am writing to express the Innocence Project's *support* for videotaping of custodial interrogations (HB 7364/SB 149) and compensation for the wrongfully convicted (HB 6673). This written testimony will address all three issues with additional support materials included in the accompanying packet.

The Innocence Project was established in 1992 at the Benjamin N. Cardozo School of Law in New York City to exonerate the innocent through post-conviction DNA testing. Since its introduction, forensic DNA testing has proven the innocence of 198 people who had been wrongly convicted of serious crimes.

**The Innocence Project regards each exoneration as a learning opportunity, a chance to review where the system failed and identify factually-supported policies and procedures to minimize the possibility that such errors will impair justice again in the future.**

#### RECORDING OF CUSTODIAL INTERROGATIONS

While it can be hard to understand why someone would falsely confess to a crime, psychological research has provided some answers – and 198 DNA exonerations nationwide have proven that the problem is more widespread than many people think. **In more than 25% of the wrongful convictions overturned with DNA evidence, defendants made false confessions, admissions or statements to law enforcement officials.** This problem affects people regardless of race, class, or creed. It obscures justice. And with a simple, affordable reform, this problem can be effectively addressed.

Electronically recording custodial interrogations from Miranda onward removes serious questions about the “confession” in question, by enabling the finder of fact to consider the most accurate presentation of the confession evidence at trial, thus narrowing the possibility of a wrongful conviction.

Electronic recording of interrogations will assure protections to the innocent, which in turn will allow law enforcement to focus its attention on the apprehension of the true culprit. Less than ideal interrogation procedures have contributed to or been the main factor in nearly one in five wrongful convictions of individuals later exonerated through DNA evidence. In each of these cases, the true perpetrator remained at large, able to commit additional crimes. The mandatory recording of interrogations is a reform whose time has come.

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### Ancillary Benefits of Recording Interrogations

There are a number of ancillary benefits that can be achieved through the implementation of mandatory recording:

- A record of the interrogation can resolve disputes about the conduct of law enforcement officers—allegations of police misconduct can be disproven.
- Investigators will not have to focus upon writing up a meticulous account of the statements provided by the suspect, and may instead focus his attention on small details, such as subtle changes in the narrative, which he might have otherwise missed.
- Having a record of good interrogation techniques can be a useful training device for police departments, particularly as cases with distinctive characteristics come to light.
- Overburdened courts will welcome a huge reduction in defense motions to suppress unrecorded statements and confessions as well as pretrial and trial hearings focused upon establishing what transpired during the course of an interrogation.

**Electronic recording of interrogations provides additional benefits to law enforcement.** The production of an electronic recording creates a permanent record of original statements provided by suspects. The decision to record interrogations enhances public confidence in law enforcement, while reducing the number of citizen complaints against the police. If a shift in the investigative focus occurs later, law enforcement can easily refer back to the recording to yield additional details which may have been initially deemed irrelevant.

The presence of a recording removes the potential for disputes about how an officer conducted himself or treated a suspect. Electronic recordings protect innocent police officers and law enforcement agencies accused of coercing confessions. In the absence of a recording, the defense has ample opportunity to offer scenarios that seem plausible to fact-finders and can result in sizable settlements.

### Recording of Interrogations Being Adopted by Law Enforcement Across the Country

**Legislative efforts are currently pending in Arizona, California, Florida, Georgia, Indiana, Iowa, Kansas, Maryland, Montana, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont and Virginia to mandate the recording of interrogations – as well as Connecticut.**

The single best reform available to hinder the occurrence of false confessions, the mandatory electronic recording of interrogations, is being embraced by police departments around the country, now estimated at 500 law enforcement agencies in all 50 states.

In the summer of 2004, Thomas P. Sullivan, the former U.S. Attorney for the Northern District of Illinois, published a report detailing police experiences with the recording of custodial interrogations.

Researchers interviewed officers in 238 law enforcement agencies which have implemented the reform in 38 states and concluded, **“virtually every officer with whom we spoke, having given custodial recordings a try, was enthusiastically in favor of the practice.”**<sup>1</sup>

According to Mr. Sullivan’s research, **Bloomfield and Cheshire police departments have already adopted the practice of recording their interrogations.** The rest of the state should follow suit, taking the lead in instigating a reform whose innumerable benefits will undeniably bolster the investigations of criminal cases.

The states of Alaska, Minnesota, Maine, and the District of Columbia already require it in serious cases, and the same is done in large metropolitan cities such as Phoenix, AZ; Los Angeles, San Diego, San Francisco and San Jose, CA; Denver, CO; Portland, OR; Austin and Houston, TX.

Recording of interrogations is not just a “criminal defense” issue. While many police departments were initially skeptical of the requirement, their opinions changed after implementing the practice of recording. As veteran prosecutor Alan Harris of Minnesota says: “It’s the best thing we’ve ever had rammed down our throats.”

Many police and prosecutors have come to this conclusion because recorded interrogations provide the best evidence of a true confession and prevent attack on alleged “confessions” by criminal defense lawyers. **In short, electronically recording custodial interrogations is just good law enforcement.**

### COMPENSATION FOR THE WRONGFULLY CONVICTED

An innocent person wrongly convicted of a crime is robbed of his freedom, his family and friendships, and his livelihood – in order to be subjected to the unique horror of prison. Through the nation’s 198 DNA exonerations that reentering society is profoundly the difficult for many exonerates, despite their proven innocence.

After being released from prison, the nightmare does not always end. With no money, housing, transportation, health services or insurance, and a criminal record that is rarely cleared despite innocence, the punishment lingers long after innocence has been proven. States have a responsibility to restore these innocents’ lives to the best of their abilities.

**Along with Connecticut, Arizona, Florida, Georgia, Illinois, Michigan, New York, Rhode Island, Texas, Utah, Vermont, Virginia and Washington have introduced legislation to compensate the wrongfully convicted this year.**

Only 21 states and the District of Columbia have compensation statutes of some form: Alabama, California, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Missouri, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Tennessee, Texas, Virginia, West Virginia and Wisconsin.

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<sup>1</sup> Sullivan, Thomas, “Police Experiences with Recording Custodial Interrogations.” Report presented by Northwestern University School of Law’s Center on Wrongful Convictions, p. 6.

By ensuring compensation to the wrongfully convicted, Connecticut would be taking an important step toward ensuring the justice of its criminal justice system.

### Compensation Provides for the Needs for Every Exonoree

Although every exonoree's needs are different, there are some fundamental needs that every exonoree faces upon release from prison. Unlike a prisoner released on parole, in 29 states there is no assistance available through the state to help reintegrate the wrongfully incarcerated person back into society. The Innocence Project has found that exonorees need:

- Immediate Services
  - Financial support for basic necessities
  - Help securing affordable housing and medical/dental care
  - Assistance in the development of workforce skills
  - Psychological Services--Post-traumatic Stress Disorder is just one common issue faced by the recently released
  - Legal services to obtain public benefits, expunge criminal records, and regain custody of children
  
- Help Regaining Lost Time
  - Job counseling to overcome the loss of skills that would have otherwise been built and deficit in work/professional experience caused by wrongful conviction
  - Counseling services to repair damaged relationships and address the psychological strains of the wrongful conviction and prison experience
  
- Official Acknowledgement of a Wrongful Conviction
  - Public recognition of the harm inflicted upon the innocent fosters an exonoree's healing
  - A second injustice adds insult to injury. Society has an obligation to promptly address and compensate for the grave injustice it has caused

### THANK YOU AND CONTACT INFORMATION

I thank you for the opportunity to speak to you about these important issues today. We believe that these are important reforms that will serve the interests of law enforcement, while promising the fair administration of justice. Should you have any additional questions about these issues, please do not hesitate to contact me at (212) 364-5973 or [amelpolder@innocenceproject.org](mailto:amelpolder@innocenceproject.org)