

CCDLA
“Ready in the Defense of Liberty”
Founded 1988

Connecticut Criminal Defense Lawyers
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April 10, 2007

Hon. Andrew J. McDonald, Senator
Hon. Michael P. Lawlor, House Representative
Chairmen, Judiciary Committee
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: Raised Bill No. 7364,
An Act Concerning Electronic Recording of Interrogations

Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of 300 lawyers dedicated to defending people accused of criminal offenses. Founded in 1988, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States Constitutions are applied fairly and equally, and that those rights are not diminished.

CCDLA strongly supports and recommends the passage of Raised Bill No. 7364, *An Act Concerning Electronic Recording Of Interrogations*. Mandating the electronic recording of police interrogations of impressionable juveniles and those accused of the most serious offenses enhances the reliability and integrity of the criminal justice system. Raised Bill No. 7364 is sufficiently tailored to limit its mandates to custodial interrogations at police stations, courthouses, correctional facilities, community correctional centers and detention facilities. Notably Raised Bill No. 7364 does not render unrecorded statements inadmissible in any court proceeding; rather it provides in jury cases for an instruction advising the jury “that it may consider the fact that the interrogation was not electronically recorded in its entirety in determining the reliability of the oral admission, confession or statement and the weight to be given to it”, and, in court cases, for consideration of the non-recording by the Court in determining the reliability and weight of the statement or confession.

Modern technology has become an imposing presence in the every day workings of the criminal justice system and has, by all accounts, immeasurably improved the accuracy of the system. Whether by improved communication and information systems, evolving forensic science technology, DNA testing or computer graphics, all parties to the system--victims, suspects, defendants, law

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enforcement agents, prosecuting officials, defense attorneys and the courts-- have benefited from this technological revolution. The Innocence Project is just one example of how technology has been used to correct deficiencies in the system.

The one area that has lagged behind, however, is the electronic recording of custodial interrogations in felony and juvenile cases. The equipment required for such recordings is already available in most police departments, courthouses, and correctional facilities. The videotaping or audio recording of the interrogation captures for all to review what was actually said, and the manner in which it was elicited. Such a recording goes a long way to ascertaining the truth which is the ultimate goal of our criminal justice system. An accused's guilt, in some cases, would no longer hinge on subjective interpretations of what was said months or even years earlier; fact-finders would no longer be reduced to balancing the credibility of police officials against the citizen accused, but could instead see and hear for themselves the exact words and demeanor of the accused in giving a confession. Courts too would benefit from the recording in making the threshold determination of the voluntariness of a confession.

Electronically recorded custodial interrogation preserves the process for the parties, the lawyers, the courts and the public. It assures accountability and reliability. It aids in the conviction of the guilty and the exoneration of the innocent. It preserves the integrity of law enforcement interrogation tactics in the face of claims on constitutional violations. More than 500 police departments in all 50 states now make electronic recordings of at least some interrogations. Former U.S. Attorney Paul K. Charlton of Arizona was ousted last year after spending months protesting FBI policy forbidding the taping of confessions. Indeed Mr. Charlton blamed the FBI policy for certain acquittals rendered in child sex, domestic violence and murder cases, and unfavorable plea deals in others that he believed would have been averted if the custodial interrogations and confessions had been recorded.

In 2002, the Connecticut Commission on the Death Penalty recommended that formal custodial interrogations be recorded in all murder investigations. While law enforcement continues to urge the legislature to allow it to develop its' own policies without a legislative mandate, we are no further today in 2007 than we were in 2002. Today many police stations in Connecticut have extensive video surveillance throughout the building recording the exterior of the building as well as much of what occurs inside the building including the arrest and processing of DUI offenders. Police vehicles are equipped with video cameras often recording routine roadside stops. Taser guns, carried by police officers and used in lieu of deadly force, are equipped with video cameras and record the tasing of a suspect. Recording everything but interrogations is suspect and denigrates this vital aspect of the process.

It is time to electronically or digitally record the custodial interrogations of the most serious and juvenile offenders in order to bring Connecticut's criminal justice system into the 21st century. Doing so will ensure due process and a just result for defendants and victims of crime so that Connecticut

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residents can justifiably say we have the best system in the world--one that seeks to convict the guilty and protect the innocent. Connecticut's current movement toward openness in the judicial system is consistent with Raised Bill 7364's directive to record custodial interrogations in the most serious cases and those involving impressionable children, and should be passed.

Thank you for your consideration.

Respectfully Submitted, CCDLA

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