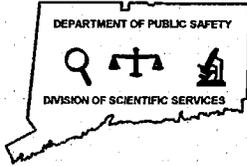




STATE OF CONNECTICUT



DEPARTMENT OF PUBLIC SAFETY OFFICE OF THE COMMISSIONER

John A. Danaher III
Commissioner

Lieutenant Edwin S. Henion
Chief of Staff

Rep. Michael P. Lawlor, Co-Chairman
Sen. Andrew J. McDonald, Co-Chairman
Judiciary Committee
Legislative Office Building
Hartford, CT 06106

April 10, 2007

HB 7364 AAC ELECTRONIC RECORDING OF INTERROGATIONS

The Department of Public Safety opposes this bill and advises of fiscal impact.

As a preliminary matter, the committee should be advised of procedures currently used by the Connecticut State Police. These procedures do not require custodial interrogations involving capital felony, class A or class B felony violations of the Connecticut General Statutes to be electronically or digitally recorded. Connecticut is not alone in this regard: the FBI also does not require confessions or statements obtained during custodial interrogation to be electronically or digitally recorded. Connecticut Department of Public Safety investigative procedures for custodial interrogation involving a major criminal investigation require the presence of two sworn State Police investigators. After advising the accused in writing of his Miranda Rights, the investigators discuss the criminal act with the accused prior to obtaining a voluntary written statement on department paperwork. Upon completion, this written statement is read and visually reviewed by the accused. Once complete and accurate, the accused initials corrections on each page and signs the last page. The document is then notarized by a State Police investigator. Both State Police investigators sign the written statement as witnesses and a copy of the statement is provided to the accused. The State Police have continually had success in defending written confessions and statements when testifying in court trials. This testimony has led to convictions of crimes including murder, robbery, sexual assault, and other serious crimes. This existing successful procedure should not be legislatively replaced without good cause.

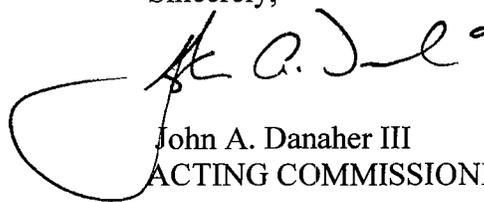
Requiring confessions and statements obtained during custodial interrogation to be electronically or digitally recorded may hinder the investigators' interview techniques. Defense attorneys may use the tape in an attempt to divert the focus of a jury's attention in a criminal trial from the accused to criticism of an investigator's interrogation techniques.

Not all accused individuals will agree to be taped. An individual convicted in Connecticut on three counts of murder in 2004 refused to be taped, stating that he never wanted his mother to see or hear him say what he did. He did provide investigators a detailed written statement of the incident that was used against him at trial along with the testimony of the investigators who obtained it.

On many occasions, once apprehended in the field and advised of their Miranda Rights, accused individuals confess or discuss the criminal act with investigators prior to reaching the troop or booking area. The phrase 'when feasible' in subsection (b) will cause the investigators to have to defend why they did not record the interview and may allow the defense to suggest possible coercion. While section (b) sets forth the locations where custodial interrogations must be recorded and does not include car transport, it is probable that the question of whether confessions made en route are 'custodial' within the meaning of this bill would be litigated and become a question of fact.

In addition to the policy reasons, the committee should be aware that this bill will have fiscal impact. Requiring these custodial interrogations to be electronically or digitally recorded will involve equipping all investigators with an audiovisual device. Concerns pertaining to tampering with the electronic or digital recordings will have to be addressed. As the recordings may be subject to chain of evidence rules, there will be the administrative cost of securing the same pending trial.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Danaher III". The signature is stylized with a large, sweeping initial "J" and "D".

John A. Danaher III
ACTING COMMISSIONER