The Florida Senate

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Committee on Criminal Justice James E. "Jim" King, Jr., President

ELECTRONIC RECORDING OF SUSPECT INTERROGATIONS

SUMMARY

Although it is difficult to fathom, people sometimes confess to committing crimes they did not in fact commit. The availability of improved DNA testing has shown this to be true in Florida, as well as in other states. Critics of law enforcement interrogation techniques have called for electronic recording of suspect interrogations, from beginning to end, as a potential solution to the false confession problem.

A few states have enacted laws requiring electronic recording of suspect interrogations, while others have legislation currently under consideration, and still others require it by virtue of state constitutional authority.

Eleven of the sixty-nine local law enforcement agencies that responded to staff's survey require electronically recorded suspect interrogations. The procedures vary among the agencies from recording the entire interrogation to only a summary, recording in all felonies to only homicides, and recognition of various exceptions to the general recording policy.

A national survey done over a decade ago indicated that those agencies that recorded interrogations found it to be beneficial, and that the resistance to recording was largely due to general resistance to change.

Law enforcement responses to staff's survey cited a cost factor, a belief that recording is not necessary, and a general theme that such a decision should be within the discretion of the investigating officer, taking into account the individual case and suspect, among those reasons for not requiring recording. The agencies that record suspect interrogations generally report success with it.

BACKGROUND

There has been a recent move toward videotaping suspect interrogations or confessions in Florida's law enforcement community. Two jurisdictions, Duval and Broward counties, have agencies that adopted electronic recording policies in the wake of criticism for the handling of several high-profile cases in which confessions by the primary suspects were apparently false confessions.

The attention focused on the false confession phenomenon has not been limited to Florida cases. One has only to pick up a newspaper from anywhere in the country, or even beyond our borders, to find such cases. One example is last year's revelation that the five young men, convicted of the savage attack of a jogger in New York's Central Park in 1989, were exonerated because another man had confessed and DNA tests matched him to semen collected at the crime scene.

There is a strong link between improvements in DNA testing techniques with cases in which wrongfully convicted defendants are later exonerated. It is logical that with the advent of techniques that are able to test smaller or more degraded samples of DNA, present-day testing can lead to an exoneration. What is mind-boggling is that in many cases, a wrongful conviction may have been based in large part on the defendant's own confession to a crime he or she apparently did not commit.

It cannot be assumed that videotaping or audio taping suspects' statements will entirely eliminate false confessions – in fact, the young men in the Central Park jogger case confessed on videotape – but it is one factor that bears examination.

METHODOLOGY

Staff reviewed publications, conducted legal research, solicited and quantified responses from a law enforcement survey, and conducted follow-up interviews with law enforcement officers and prosecutors.

FINDINGS

How and Why Do False Confessions Occur?

The Central Park case, a Duval county case (Brenton Butler), several Broward county cases (Timothy Brown and Jerry Frank Townsend, also convicted on cases in Miami), a Detroit case (Eddie Joe Lloyd), and an Illinois case (Corethian Bell) are a few examples of some of the factors researchers have found to be prevalent in cases of false confessions: in these cases the suspects were either teens, mildly mentally handicapped, or mentally ill.

The young men in the Central Park jogger case were ages 14 to 16 at the time of the attack. They were reportedly questioned off and on for 14 to 30 hours before their confessions were videotaped.

Brenton Butler was 16 years old at the time of his acquittal in a Duval county murder case. He claimed to have been beaten into confessing to the crime.

Timothy Brown was a 15-year-old young man, reported to be mentally handicapped, when he confessed to the murder of a Broward sheriff's deputy, Patrick Behan. Brown claims he was smacked, screamed at, and threatened during his three-hour interrogation. FDLE later cleared two detectives of accusations that they had used physical abuse or criminal misconduct to elicit the confession. (It should be noted that, according to prosecutors, a federal court ultimately released Brown from jail on the Behan murder, but he is now serving time in federal prison on an unrelated conviction.)

Jerry Frank Townsend was released from a Florida prison in the summer of 2001, after serving 22 years for six murders and a sexual battery he confessed to in 1979. He is reported to be mentally handicapped, with an IQ of about 58 and the mental capacity of a 7 or 8-year-old. His confessions were captured on audiotape. DNA evidence helped to exonerate him.

Eddie Joe Lloyd, was freed in August 2002, after being found guilty of a rape-murder in 1984 in Detroit. He was reportedly in a mental hospital and on medication when he confessed to the crimes. DNA testing showed he did not commit them.

Corethian Bell, a mildly retarded 25-year-old man spent 17 months in an Illinois jail awaiting trial for a murder he confessed to but did not commit. He had been interrogated for 50 hours before he confessed to killing his mother. He reportedly said that he thought he could tell the judge the truth later and be released. DNA evidence led to the actual murderer.

The Central Park jogger cases, and the Butler, Brown, Townsend, Lloyd, and Bell cases are but a few examples of cases where a person has admitted to committing a crime they didn't actually commit under interrogation by law enforcement. How and why does it happen?

Modern Interrogation Methods and the Academic Research Criticizing Them

Criminologist Richard Leo has described police interrogation as a confidence game. "The essence of the con…lies in convincing the suspect that he and the interrogator share a common interest, that their relationship is a symbiotic rather than an adversarial one." (Leo, *Miranda's Revenge: Police Interrogation as a Confidence Game,* 30 Law & Soc'y Rev. 259, at 266 (1996)).

The basic textbook of interrogation techniques is *Criminal Interrogation and Confessions*, now in its fourth edition. (F. Inbau, J.E. Reid, Joseph Buckley, Brian C. Jayne, 4th ed. 2001). The book is used to instruct law enforcement officers on the art, science and psychology of interrogation techniques. One of the many private companies that teach interrogation methods throughout the world is John E. Reid and Associates, Inc., based in Chicago. The company has taught more than 100,000 investigators using its patented nine-step "Reid Technique." The technique has been criticized by researchers and experts on false confessions. The criticism has been addressed in detail on the company's website (http://www.reid.com/critic-interrogation.html).

Within the law, an investigator can use such methods as trickery, deceit, and sophisticated psychological tactics in obtaining a confession. Law enforcement officers should not be criticized for using every lawful means at their disposal to obtain truthful confessions. However, the law enforcement community is on notice now that there have been occasions when people have confessed, for whatever reasons, to crimes they did not commit. The basic theme in the criticism is that, as seekers of the truth, law enforcement officers should discern between truthful and false confessions at the earliest point in the process.

One critic of the Reid Technique of interrogation is Saul Kassin, professor of psychology and chairman of the legal studies program at Williams College. He

describes three types of false confessions as follows:

- Voluntary confession – no external pressure, typically occur in high-profile cases (ex: 200 people confessed to kidnapping the Lindbergh baby)
- Coerced-compliant – confessor knows he is innocent but confesses to get out of the interrogation situation, to gain a promised reward, or to avoid a threat ("you can't go home, you're not cooperating" may imply the suspect can leave if only he will cooperate; "I need to know *why* you did it" may imply there could be a reason that would provide an excuse for committing the crime)
- Coerced-internalized – innocent suspects come around to believing they actually committed the crime (repressed memory, black-out, etc.)

(paraphrased from a speech entitled "Police Interrogations and Confession: Does Innocence Put Innocents at Risk?," Saul Kassin, November 8, 2002, reported by the University of Virginia School of Law, http://www.law.virginia.edu/home2002/html).

Professor Kassin points to several research experiments he and others have conducted for the premise that the investigator's presumption of the suspect's guilt is a key to a false confession. He posits that often in cases involving false confessions, there is a paucity of other evidence and the investigator's efforts during the interrogation are more apt to apply greater pressure. (paraphrased from a speech entitled "Police Interrogations and Confession: Does Innocence Put Innocents at Risk?," Saul Kassin, November 8, 2002, reported by the University of Virginia School of Law, http://www.law.virginia.edu/home2002/html).

Kassin's experiments led him to conclude: with high levels of confidence, seasoned investigators commit false positive errors and presume innocent suspects to be guilty; believing in the power of their innocence, suspects who did not commit crimes waive their Miranda rights; despite repeated, plausible denials, innocent suspects are nonetheless subjected to aggressive interrogations; the introduction of false evidence into the interrogation scenario increases the chances of false confessions; and police "over believe" false confessions. (paraphrased from a speech entitled "Police Interrogations and Confession: Does Innocence Put Innocents at Risk?," Saul Kassin, November 8, 2002, reported by the University of Virginia School of Law, http://www.law.virginia.edu/home2002/html).

While denying that its interrogation techniques are designed to or apt to elicit false confessions, the Reid company at the same time cautions that "when interrogating suspects of a younger age or lower IQ, the investigator must be cautious in the level of domination and persuasion involved in eliciting the first admission of guilt. In addition, extra effort should be made to develop corroborative information from the suspect that can be verified through further investigation." (http://www.reid.com/critic-interrogation.html)

The company also asserts that "we teach that the length of an interrogation should be restricted to a reasonable time period based on such factors as the crime under investigation, the suspect's age, intelligence and experience with the criminal justice system. … The Reid Technique teaches that it is improper to attempt to convince a suspect that he is guilty of the crime. Often the suspect invites this discussion by saying something like, 'I don't know. Maybe I did this but I don't remember.' We teach that the investigator should respond to this statement by telling the suspect that we only want him to tell us things he can remember. As with all confessions, the best test of trustworthiness is to have the suspect relate information about the crime that only the guilty person would know. … Furthermore there is no evidence that supports a concern that innocent suspects subjected to the same interrogation techniques would choose to confess rather than to maintain their innocence. Exempt from this statement would be suspects who, because of mental incapacitation or a similar handicap, would not respond in a rational manner to persuasive reasoning." (http://www.reid.com/critic-interrogation.html).

Professor Kassin makes many of those same points in his New York Times article of November 1, 2002, wherein he suggests ways to determine whether a confession corroborates an admission of guilt – a common sense approach to recognizing false confessions for what they are. He suggests a three-step process:

- see if there are factors present that would have increased the likelihood of coercion, i.e., the age of the suspect, his competency, the conditions of custody, and interrogation;
- consider whether the confession contains details that are consistent with the statements of others, accurate in their match to the facts, and lead to evidence unknown to the police; and
- determine if the accurate facts are things only the perpetrator would know.

(Saul Kassin, *False Confessions and the Jogger Case*, New York Times, November 1, 2002).

In Broward County, in November 2002, the Sheriff's Office added special provisions to its interrogation procedures for interviewing suspects believed to be mentally disabled. The Sheriff also required 180 investigators to attend a seminar led by Professor Richard Leo, to learn techniques for interrogating the mentally impaired. Sheriff Jenne said: "Where we have an obligation is to start training our detectives to recognize and to prevent false confessions. The truth is, the best person to look someone in the eye, look at whether it is a real confession or not, is a trained law enforcement investigator." (The Miami Herald, *Experts: Tape Police Interrogations*, December 24, 2002).

Survey Results

Staff surveyed law enforcement agencies throughout the state in an effort to ascertain how many agencies are electronically recording interrogations at the present time.

A sample of municipal police departments received the survey. Twenty-one agencies responded. Of the sixty-seven Florida Sheriffs, forty-eight responded. Identical surveys were sent to the police chiefs and the sheriffs. Follow-up was done with seven different agencies by telephone. (Survey responses are on file with the Committee on Criminal Justice.)

Interestingly, the survey responses fell into fairly distinct patterns. It appears that within the agencies that responded, there are three basic variations of official policies/informal practices with regard to electronic recording of suspect interrogations. The basic categories are as follows:

- recording is discretionary,
- recording is encouraged but not required, and
- recording is required.

The survey responses break down as reflected in the tables that follow:

Florida Sheriff's Departments Policy/Practice Variations	
Interrogations recorded at discretion of investigator	28
Recordings encouraged, when practical, but not required	13
Recordings required in (serious) felonies	3
No recording done	4
Total Responding Departments	**48**

Florida Police Departments Policy/Practice Variations	
Interrogations recorded at discretion of investigator	5
Recordings encouraged, when practical, but not required	7
Recordings required in (serious) felonies	8
Agency has no policy/practice, but is currently drafting a policy	1
Total Responding Departments	**21**

Agency Totals Combined Policy/Practice Variations	
Interrogations recorded at discretion of investigator	33
Recordings encouraged, when practical, but not required	20
Recordings required in (serious) felonies	11
No recording done	4
No current policy	1
Total Responding Departments	**69**

Nine of the eleven responding agencies that require recording have adopted official policies, while the remaining two agencies have an informal practice of recording. Required recording is usually limited to felonies that result in serious bodily injury, sex crimes, and homicide investigations, although one agency records all felonies unless the suspect refuses. That agency reports that approximately 90 percent of the suspects acquiesce to the recording. The various explanations of policies and practices followed by the eleven responding agencies that require electronic recording repeat the same basic themes, discussed below.

Recording Entire Interrogation vs. Summary

Three responding agencies electronically record only confessions or summaries of the suspect's statement. Six responding agencies record the custodial interrogation in its entirety. The remaining two of the eleven agencies that require recording did not specify if they record all or part of the interrogation.

From a practical standpoint, there are valid arguments to be made for both practices. Some of those arguments include:

- Recording the entire interrogation protects not only the suspect but the law enforcement officer as well. If the interrogation is not coercive, that will be reflected in the electronic recording.

- Recording only the confession or a summary of the entire interrogation offers the same benefits as recording the entire interrogation. In the summary format, the suspect's Miranda rights are reviewed, showing the statement to be free and voluntary, and then a concise statement of the facts of the crime are recorded.
- It is time-consuming for the prosecution to review the sometimes lengthy interrogation recordings in their entirety. The same applies to defense attorneys when they are provided the recording of the interrogation during the discovery process.
- Defense attorneys are possibly more apt to file motions to suppress a confession if only the confession and not the entire noncoercive interrogation is recorded. This provides an opportunity to argue that coercion occurred prior to the recording beginning.

Extenuating Circumstances Taken into Account
While it is tempting to see mandatory start-to-finish electronic recording of suspect interrogations as a panacea, one has only to speak with law enforcement officers in the field to re-evaluate that perspective. Even the agencies that require electronic recording recognize that circumstances may not always be such that the recording can be accomplished.

Although some agencies have interview rooms that are equipped with multiple recording devices, other agencies may rely on one device, and it may malfunction. This circumstance can result in attacks on the officer's credibility by the defense attorney ('You didn't record the interrogation, even though it's your department's policy to do so…why not, officer? So you could coerce/trick/intimidate my client?')

The same basic issues arise when recording a lengthy interrogation, relying on a single recording device – at some point in time the tape or the DVD will run out necessitating a change. ('How much time elapsed during the tape change, officer? What did you say/do/intimate to my client while the recorder was off?')

Prosecutors in the 17th Circuit, where the State Attorney recommended last fall that interrogations be recorded from the beginning, report that there has been a period of adjustment since the policy was adopted by the law enforcement community there. The type of questions and insinuations mentioned above are being raised in cases in which arrests were made even before the adoption of the policy. ('You're recording now, why not in this case?')

There may be instances where the suspect flatly refuses to be recorded. Public safety should always be in the forefront of the officer's mind, and it is likely that the recording would be foregone in the interest of public safety, and the potential for getting a dangerous suspect off the street.

In some situations, the suspect may make incriminating statements or confess to a crime before arriving at the formal interrogation site where the recording equipment is located.

As law enforcement officers have aptly pointed out during the research for this report, the situations are as varied as the suspects and the crimes. For the reasons mentioned above, that is to say, the unforeseen circumstances that may arise in any given situation, the agencies that require recording recognize exceptions to the policy.

For example, the following exceptions to the general recording policy are in effect at three different departments:

- All homicide suspect statements are audio and video taped. All other statements may be taped at the case detective's discretion. … The policy also covers some exceptions in the event the equipment becomes inoperable or other unusual circumstances arise.
- All homicide suspect interrogations will be audio and video taped. Exceptions: equipment inoperable; interview conducted somewhere other than CID interview room; or other unusual situations.
- All homicide and serious life-threatening assault suspect interviews will be audio/video recorded in summary format unless extenuating circumstances exist.

Costs Associated with Electronic Recording
Some agencies that participated in our survey provided estimates of the initial cost involved in implementing their recording policy, some reported recurring cost estimates, while others reported that prohibitive costs is a reason the agency has not adopted such a policy.

As should be expected, recurring costs vary depending upon the scope of the recording policy (only homicides or all felonies; record the entire interrogation or a summary) as well as the size of the department's

jurisdiction and number of investigations that reach the suspect interrogation stage.

Five departments reported estimates of start-up and recurring costs as follows:

- $1,500 – This department has been recording for approximately 4-5 years using multiple video systems; the video room had been pre-wired for audio; the department procures audiotapes ($.50) and videotapes ($1) in bulk, at a cost savings.
- $2,000 – This department has been recording since 1997. In an effort to keep pace with advancing technology, the department is in the process of re-modeling to provide 3 video-equipped interview rooms. The expectation is that the cost of the upgrade will be $15,000.
- $4,900 – In December 2003, this department equipped 2 interview rooms with cameras, a DVD recorder, and TV/VCR combinations as back-up equipment.
- $36,000 – this is a large department that modified existing space to create two interview rooms with 3 cameras each, and various recording equipment. Despite this substantial expenditure, the department reports problems with the equipment requiring repairs and potential replacement.
- $75,000 – this large department equipped three interview rooms with soundproofing material and DVD and VHS recording equipment. The estimate of annual recurring cost is $25,000. It should be noted that the department provides original recordings to the prosecutor who then provides one original to the defense attorney during the discovery process.

None of the departments that provided cost information mentioned on-going maintenance and repair costs, but these expenses can be safely assumed to exist, although no dollar figure was specified.

Some departments have provided specialized training in interrogation techniques as well as the operation of the electronic equipment. One department expects to spend $3,000, plus airfare and accommodations for the instructor, for a two-day training program for 30-35 participants early in 2004.

Pros and Cons for Required Electronic Recording

As may be expected, the opinions of law enforcement officers on whether electronic recording of suspect interrogations should be required, either at the department level through policy or statewide by legislation, fall rather squarely into two camps. Either the ranking officer staff interviewed embraced the departmental policy that requires recording or the officer vehemently opposed not only what is perceived as unnecessary legislative encroachment but the very idea of such a requirement.

Examples of arguments both for and against required electronic recording of suspect interrogations, paraphrased, follow:

- One ranking officer in a small department that began recording 4-5 years ago said he couldn't imagine doing it any other way. He reported that they had bigger problems (with defense attorneys) before they implemented the recording policy. It is his belief that juries have accepted the videos, and that they have been most helpful in homicide trials.
- Financial issues, both initial costs and recurring expenses, were raised by more than one officer.
- An officer who has been in law enforcement for 33 years cited great success, and an 82 percent confession rate on video, with their relatively new policy. In his opinion, the potential issues ripe for a suppression hearing (i.e., suspect didn't understand or waive Miranda rights, suspect was coerced) are diminished with the policy.
- Prosecutors indicate that even if the interrogation does not culminate in a confession, often details that corroborate the theory of how the crime was committed are revealed, and that is helpful in building a prosecutable case.
- One officer from a department that has recently implemented a required recording policy opined that the days where a jury would believe a police officer's testimony just because they are a police officer are gone, and that procedures must change to keep up with the times.
- One 25-year veteran of law enforcement drew a comparison between purposely revealing the methods utilized by undercover officers (i.e., where the body microphone is generally hidden) to required electronic recording of suspect interviews. He considers the details of his interview techniques to be as much a part of an investigation as any other part of the job. It is his belief that the system provides adequate checks and balances for the protection of the suspect from coercion, namely Miranda rights, judges, prosecutors, defense attorneys, and the appellate courts. The officer explained in some detail how he does whatever he can, within the law, to get a suspect to confess. He is concerned that making the methods he uses public, through videotape later used in court, would diminish future success.

- In one department that has a long-standing policy of recording interrogations, a ranking officer stated the obvious – as with anything else, there are pros and cons. He went on to cite an example where the suspect's taped statement was found by a judge not to be freely and voluntarily given because the Spanish translation of the Miranda waiver had not been verbatim. On the other hand, he gave an example from a homicide case in which the investigators, in the recorded interview, got the suspect's consent to gather fingernail scrapings (for DNA evidence) and to take his shoes for examination. The investigators then left the room without gathering the evidence. No sooner had they walked out than the suspect began licking his fingers and wiping his shoes on the rug – captured on video.

Electronic Recording in Other States

Currently, four states require electronic recording of suspects' interrogations or confessions. Two of those states (Illinois and Texas) have enacted legislation, and two state courts have found it to be constitutionally required under their respective state constitutions (Alaska and Minnesota). Two additional states are considering legislation during the 2004 legislative sessions that begin in January. A brief synopsis of current law, and the pending bills follows.

Alaska

In *Stephan v. State*, 711 P.2d 1156 (1985), as a matter of due process under the Alaska Constitution, the Supreme Court of Alaska required that custodial interrogations be electronically recorded from the beginning, including the giving of the suspect's Miranda rights. The Court also announced a general rule of exclusion. Any time the recording is not done and the validity of the statement is contested the statement is suppressed, unless the State can show, by a preponderance of the evidence, that recording was not feasible under the circumstances.

Minnesota

The Supreme Court of Minnesota reached a similar conclusion in its consideration of the issue, but not based on a Due Process right, but rather "in the exercise of our supervisory power to insure the fair administration of justice." *State v. Scales*, 518 N.W.2d 587 (1994). Thus, in Minnesota, all custodial interrogations, including the Miranda warnings, must be recorded, or the statement is subject to suppression.

State Courts that have considered the issue and not found a state constitutional right to electronic recording in their state include: Indiana, Michigan, Massachusetts, Pennsylvania, Hawaii, West Virginia, Utah, Maine, Colorado, Idaho, Illinois, Georgia, Vermont, and Mississippi.

Texas

Under the Texas Code of Criminal Procedure, the Texas Legislature has made statements generally inadmissible unless they are either recorded, the suspect waived his Miranda rights during the recording, or some fact that flowed from the statement is independently corroborated (i.e., the weapon is found where the suspect said it would be found). *Art.38.22, Section 3*, Texas Code of Criminal Procedure.

Illinois

In 2003, Governor Rod Blagojevich signed legislation requiring electronic recording of interrogations in homicide cases. The bill gave law enforcement two years to establish procedures for recording the custodial interrogations. An unrecorded statement is presumed inadmissible unless the state can show by a preponderance of the evidence that it was freely and voluntarily made, or one of the other listed exceptions apply. *725 ILCS 5/103-2.1*

Bills Under Consideration

Bills are under consideration in both Maryland (LD 891) and Maine (HB 387) that would require custodial interrogations to be electronically recorded. In both states the Legislature convenes in January 2004.

National Institute of Justice Study

The National Institute of Justice published an article in March of 1993, *Videotaping Interrogations and Confessions*, that summarized the findings of a 1990 nationwide survey of law enforcement agencies regarding videotaping interrogations. Although the information gathered is over a decade old, the study continues to be valid. The study was reviewed in 1998 by the International Association of Chiefs of Police/National Law Enforcement Policy Center, in the *Policy Review, Vol. 10, No.3, Fall 1998*.

The article in *Policy Review* concluded that "[w]hile differing opinions exist concerning the strengths and weaknesses of videotaped interrogations and confessions, on the whole, videotape appears to be a

valuable investigative resource when structured through sound policy and procedures. Videotape in these contexts tends to protect the rights of defendants while ensuring a factual and often fairer presentation of evidence and criminal liability. It is a persuasive tool for prosecutors and juries alike." *Id.* at pg. 4.

Some of the findings reported in the 1993 National Institute of Justice article include:

- In 1990 one-third of all police and sheriff's departments serving populations of 50,000 or more videotaped at least some interrogations – it was estimated that by 1993 at least 60 percent would videotape.
- Police officers and prosecutors who did not videotape suspects' statements had strong views against doing so. Some reasons given for not videotaping included cost, the belief that a suspect would not talk on tape, and that the investigative process works well without it.
- Some officials feared that taping *some* suspect statements would result in the necessity of taping *all* because judges and juries would view the lack of a videotape adversely. Interestingly, investigators who expressed that concern were those who were not videotaping. Survey results indicated that 70 percent of responding agencies reported that it was no harder to present confessions in court without video documentation, even though the agency had the capacity to videotape. Thirty percent reported it was more difficult, however.
- Agencies were sharply divided between videotaping full statements versus a summary or recap.
- The vast majority of responding agencies believed that videotaping had led to improvements in interrogations including better preparation for interviews, less distractions in the interview room, monitoring by supervisors, training opportunities using old tapes, and the ability to show an accomplice's taped confession to an uncooperative suspect.
- 8.6 percent of agencies reported suspects more willing to talk on videotape, while 28.3 percent said they were less willing. 63.1 percent noted no change.
- Prosecutors interviewed reported that videotaping had a positive effect on their plea negotiations and ability to get longer sentences.

  Videotaping Interrogations and Confessions, Geller, March 1993, National Institute of Justice, NCJ 139962.

The national survey found that 97 percent of all agencies that have ever videotaped suspects' statements find it to be useful, on balance. Early resistance by investigators has been transformed into active support by most. Sixty percent of the agencies that began using videotape reported mixed feelings or disapproval among the agencies' investigators. When the 1990 survey was conducted most agencies had several years of experience using videotape and the mixed feelings or disapproval rating had fallen to 26 percent. The interviews indicated that initial resistance was primarily a general resistance to change. *Id.*

The article concluded that "the weight of opinion among criminal justice practitioners who have firsthand knowledge of videotaping interrogations and confessions thus seems clearly positive." *Id.*

RECOMMENDATIONS

Staff would encourage the continued monitoring of local law enforcement agencies for implementation of departmental policies that require electronic recording of suspect interrogations. It is staff's belief that the recent scrutiny of the criminal justice system and the issue of false confessions has raised awareness among investigators to the extent that a greater level of caution will be exercised in assessing suspects' confessions. This greater level of caution, and perhaps training on the issue, should result in a sharp reduction in convictions based on false confessions.