

Senate Judiciary Committee
Testimony February 7, 2023
SB 2376

Thank you, Chairman Larson and members of the Committee. My name is James Mayer and I'm a Managing Attorney with the Great North Innocence Project. We work in North Dakota, among other places, to remedy and prevent wrongful convictions through litigation and policy advocacy.

I am here to testify in support of Senate Bill 2376, a bill that provides for study of the recording practices of local and state law enforcement during custodial interrogations. The purpose of the Study Bill is to figure out whether it might be practicable and worthwhile to establish a uniform standard for the recording of interrogations in North Dakota.

To be clear, as an organization, we support a statewide standard requiring the recording of interrogations. Recording interrogations minimizes the risk that innocent people are convicted on the basis of false confessions. It's hard to grasp why a person would falsely confess to a serious crime that they didn't commit, but we know that it happens. And it happens a lot more than you'd think. There have been about 375 wrongful convictions overturned through DNA evidence over the past few decades, and nearly a third of those cases involved a false confession.

False confessions have many causes, some having to do with characteristics of the suspect – youth, mental illness, stress and exhaustion, to name a few. Other causes have to do with the circumstances and methods of the interrogation – this could include false statements about the presence of incriminating evidence, promises that a confession will lead to lenient treatment, or coercive intimidation of the suspect, either real or perceived.

Recording of interrogations makes false confessions less likely, and it also make it easier for law enforcement and the courts to separate valid confessions from questionable ones. And recording interrogations helps law enforcement by providing proof of authentic confessions, with an objective record of what happened in the interrogation room. Recording also prevents -- or provides a defense to -- false claims of officer misconduct during interrogations.

So recording interrogations can protect the innocent and protect law enforcement, and will also enhance the public's trust in our criminal legal system.

As our organization started exploring the idea of a recording bill in North Dakota, we learned that a number of law enforcement jurisdictions already record custodial interrogations as a matter of policy, probably for many of the reasons I just mentioned. But before pushing for any new uniform standard, we believe it makes sense to study the issue.

The study bill is designed to get a picture of what recording practices are in North Dakota, identifying the best practices, and gaining insight into potential costs or other barriers to implementing any uniform standard. That we can come at the issue with a perspective based on actual conditions and practices throughout the state of North Dakota.

Thank you, and I will stand by for any questions members of the Committee may have.