

My name is Jim Trainum. I am retired from the DC Metropolitan Police Department where I was a homicide detective and led the department's Violent Crime Case Review Project. Now I work with law enforcement agencies across the country to help improve investigative and interrogation practices. I am here to express my support for Senate Bill 2376.

I learned about false confessions the hard way. During one of my first major homicide cases in 1994. I obtained a confession from a suspect. It contained numerous details about the crime that we thought only the true perpetrator would have known. During our follow-up investigation, we discovered the suspect had an ironclad alibi. In spite of that, we continued to believe that she had to have been involved. She just knew too many details

Because we had recorded the majority of the interrogation, which was not the common practice at the time, we were able to go back and see how she was able to provide the details that she did. We found that we had unintentionally provided the suspect with those details, often in very subtle ways.

Mandatory videotaping of interrogations in their entirety is unquestionably the best way to show the jury that proper interrogation practices were followed and the resulting confession is reliable. Having addressed this issue many times across the country, I have heard all of the reasons for resisting or limiting the practice. I will not address them here, as it has been repeatedly shown by other agencies adopting the practice that they are either invalid or can be overcome. Instead, I want to point out a couple of reasons that videotaping of interrogations in their entirety is the way to go.

First: Confessions are the most powerful evidence that any prosecutor can have. A confession often will trump even the most overwhelming evidence of a suspect's innocence. Videotaping of interrogations, a practice that is now widely expected by the public, is the best way to show that the interrogation was conducted using acceptable means and the confession was not tainted by contamination. When no videotape is available, the prosecution can only argue this through the investigator's documentation and testimony. Studies and research have repeatedly shown that the investigator's reports invariably fail to document the critical information that is necessary to make a reliable evaluation of both the interrogation and confession. What often occurs is a swearing match between the investigator's account and the suspect's. This increases the chance of a wrongful conviction. It also increases the chances that a true and reliable confession will be rejected by the jury, and an guilty person will go free.

Second – though there may be initial resistance to the idea, once such practices are implemented, history has shown that investigators and prosecutors will come to love it. My own department is a classic example. We refused to implement the practice until our city council was forced to step in and pass legislation which also included sanctions for failure to videotape. Now, investigators go well beyond what is mandated. They routinely videotape suspects who are not in custody as well as witness interviews. Like my old commander said "It was the best thing ever to be shoved down our throats."

A characteristic of a profession is conforming to the technical or ethical standards of a profession. Obtaining best evidence by videotaping of interrogations in their entirety is now an accepted standard of the profession of law enforcement. This bill, with the adoption of the Uniformed Electronic Recordation of Custodial Interrogation Act will go far in helping increase the professionalism of North Dakota's law enforcement agencies.