

Testimony to the  
INTERIM JUDICIARY COMMITTEE  
Prepared January 10, 2012 by the North Dakota Association of Counties  
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CONCERNING THE UNIFORM ELECTRONIC RECORDING OF CUSTODIAL  
INTERROGATIONS ACT STUDY

Chairman Nething and members of the committee, the North Dakota Association of Counties represents all of the North Dakota Counties and their respective offices. Today I am speaking to you based on a large amount of feedback I have received from our State's Attorney members.

Since this issue was first introduced in the 2011 legislature, numerous discussions have been had in the prosecutor ranks on what this concept of mandating recording would mean. The culmination of those discussions has led to one conclusion, mandating such a practice will result in more not less litigation and a guarantee of extra costs on both law enforcement and prosecutors.

For that reason the State's Attorneys Association has determined not to support this particular underlying bill that was the basis of this study. To be sure, audio and video recorded confessions are about the holy-grail in prosecutions. Certainly having law enforcement seek to record interviews can be helpful but all cases have different dynamics and imposing a one size fits all solution begins to erode an officer's flexibility in doing their job.

This original bill was introduced with one of the goals being saving prosecutors/law enforcement litigation. You don't have to look too far away to see when the Minnesota Supreme Court required recoding of suspect interviews litigation continued. Since the Scales decision in 1994 numerous Minnesota Supreme Court case have arisen attempting to figure out what that decision meant. (See State v. Scales, 518 N.W.2d 587 (Minn. 1994))

We certainly welcome the discussion on this topic and we also understand one such reason for such a requirement is to deter law enforcement misconduct but in North Dakota we believe our law enforcement community serves with the utmost integrity.

Thank you.