



Chris Cunico, J.D.  
Policy Analyst  
Tel: 512.441.8123 ext. 103  
Email: ccunico@criminaljusticecoalition.org  
www.criminaljusticecoalition.org

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HOUSE BILL 219

Dear Members of the Committee,

Thank you for the opportunity to present testimony regarding House Bill 219. The Texas Criminal Justice Coalition is in favor of this bill because it not only aids in the prevention of wrongful convictions and secures the rights of suspected persons in custodial interrogations, but it also provides strong tools for both police and prosecutors to ensure effective prosecutions. This bill will also enhance public safety by helping to make sure that the justice system works to apprehend and convict the right person, thereby decreasing the risk that a dangerous individual remains at large.

## REQUIRE THE ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS

### PROBLEM

The State of Texas leads the nation in wrongful convictions. Recently, we have seen waves of individuals who have been exonerated after serving sentences, sometimes for more than a decade, for crimes they did not commit. These wrongful convictions destroy public trust and confidence in the justice system. Guilty culprits are free, threatening communities and preventing justice for victims.

False confessions are significant factors in wrongful convictions.

### KEY FINDINGS

- The American Bar Association,<sup>1</sup> the National Association of Criminal Defense Lawyers,<sup>2</sup> and the National District Attorneys Association<sup>3</sup> all support the videotaping of custodial interrogations.
- According to a special report published by the Center on Wrongful Convictions at the Northwestern School of Law, electronic recording of custodial interrogations has proven to be an efficient and powerful law enforcement tool. Both audio and video recording methods create a permanent record of what occurred, thereby preventing disputes about officers' conduct, the treatment of suspects, and/or any statements they made. Recording custodial interrogations also prevents law enforcement officers from having to be called upon later to paraphrase statements or try to describe a suspect's words, actions, or attitudes.<sup>4</sup>

### SOLUTION: SUPPORT H.B. 219 BY REPRESENTATIVE GALLEGO

- **H.B. 219 will protect the rights of the accused.** H.B. 219 would require that each electronic recording of a custodial interrogation be preserved until the defendant's conviction is final, all appeals have been exhausted, and the time to file a petition for a writ of habeas corpus has expired. This preservation requirement will ensure that the same evidence is available and consistent at each stage of a defendant's trial or appeal, and that the integrity of that evidence will remain intact.
- **H.B. 219 will aid police and prosecutors during trials of dangerous defendants.** H.B. 219 gives police and prosecutors a meaningful opportunity to collect strong evidence for use at trial. An electronic recording is some of the strongest evidence available and will allow police to focus on questions and answers rather than documentation of the interrogation. Furthermore, if police are falsely accused of unfair interrogation practices, the recording may clear them of any wrongdoing and allow the evidence to stand on its own merits.<sup>5</sup> Finally, prosecutors will be able to more quickly flag improper confessions and interrogations, reduce frivolous suppression hearings, and create a more exact and effective record for trial.

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<sup>1</sup> American Bar Association Resolution 8A, *Videotaping Custodial Interrogations*,  
[http://www.nacdl.org/sl\\_docs.nsf/freeform/MERI\\_attachments/\\$FILE/ABA-MERI\\_Resolution\(2-9-04\).doc](http://www.nacdl.org/sl_docs.nsf/freeform/MERI_attachments/$FILE/ABA-MERI_Resolution(2-9-04).doc).

<sup>2</sup> National Association of Criminal Defense Lawyers, *Resolution Supporting Mandatory Videotaping of Law Enforcement Interrogations*,  
<http://www.nacdl.org/public.nsf/26cf10555dafce2b85256d97005c8fd0/7cac8b149d7416a385256d97005c81bb?OpenDocument>.

<sup>3</sup> National District Attorneys Association, *Policy on Electronic Recording of Statements*,  
[http://www.ndaa.org/pdf/ndaa\\_policy\\_electronic\\_recording\\_of\\_statements.pdf](http://www.ndaa.org/pdf/ndaa_policy_electronic_recording_of_statements.pdf).

<sup>4</sup> Thomas P. Sullivan, “Police Experiences with Recording Custodial Interrogations,” Number 1, Northwestern University School of Law – Center on Wrongful Convictions, Summer 2004, pg. 6;  
<http://www.law.northwestern.edu/wrongfulconvictions/issues/causesandremedies/falseconfessions/SullivanReport.pdf>.

<sup>5</sup> *Ibid.*, pg. 8: “If the officers conduct themselves properly during the questioning, there is no basis to challenge their conduct or exclude the defendants’ responses from evidence. Officers are spared from defending themselves against allegations of coercion, trickery, and perjury during hostile cross examinations.”