

**Senate Judiciary Committee
February 7, 2017
Senate Bill 92**

**Testimony of the Kansas Association of Criminal Defense Lawyers
Proponent**

Dear Chairman Wilborn and Members of the Committee:

We are pleased to join other groups and individuals in support of SB 92. SB 92 is narrowly tailored and does not provide any new negative consequence for law enforcement who fail to comply. It does not impose an undue burden on law enforcement.

Having a policy for recording specific interrogations helps both the innocent and law enforcement.¹ For example, electronic recording helps the innocent by creating a record of the entire interrogation, including the interaction leading up to the confession, as well as ensuring that the suspect's rights are protected in the interrogation process. In addition, recording assists law enforcement by preventing disputes about how an officer conducted himself or treated a suspect and by creating a record of statements made by the suspect, making it difficult for a suspect to later change an account of events.

This policy has ten exceptions. That said, even if a law enforcement officer does not record an interrogation and does not meet one of those exceptions, the officer would still suffer no consequences that do not already exist. Specifically, it is already common practice for defense counsel to question an officer during trial about why he/she did not record a statement. It is already the law that a court consider all of the evidence in front of it in determining whether a defendant's statement should be suppressed. Honestly, we wish this measure had more "teeth" to it. But we respect the Judicial Council committee that reviewed and debated this measure over five meetings in order to produce this piece of legislation.

Recording custodial interrogations in murder and felony sex offenses cases not only helps guard against false confessions and wrongful convictions, but also helps develop the strongest evidence to aid in convicting the guilty.

Thank you for your consideration,

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¹ <http://www.innocenceproject.org/free-innocent/improve-the-law/fact-sheets/false-confessions-recording-of-custodial-interrogations>