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Contact: Kathryn Dolan
317.234.4722

NEW SUPREME COURT EVIDENCE RULE FAVORS RECORDING OF POLICE INTERROGATIONS

The Indiana Supreme Court has amended the Indiana Rules of Evidence to prohibit evidence of a suspect's statement taken during police station questioning unless it was electronically recorded. There are exceptions to the rule. The new rule applies to statements made on or after January 1, 2011.

To review the entire rule, Indiana Evidence Rule 617, Unrecorded Statements During Custodial Interrogation, visit courts.in.gov. The rule, which was approved by majority vote, states in part, "In a felony criminal prosecution, evidence of a statement made by a person during a Custodial Interrogation in a Place of Detention shall not be admitted against the person unless an Electronic Recording of the statement was made."

A place of detention means a jail, law enforcement agency station house, or facility owned and operated by law enforcement. An electronic recording means an audio-video recording. The exact definitions for "place of detention" and "electronic recording" can be found in Rule 617 online.

There are seven exceptions to the rule which can be found online as well. Generally, the exceptions include the following:

1. statements made as a part of routine processing or "booking"
2. statements made when the suspect does not agree to be electronically recorded
3. when there is an equipment malfunction
4. when the interrogation takes place in another jurisdiction
5. when law enforcement officers reasonably believe the crime under investigation is not a felony
6. the statement made is spontaneous and not in response to a question
7. substantial exigent circumstances exist which prevent the recording

The rule change is aimed at helping police, prosecutors, courts and juries in their search for truth, justice, and due process of law. As the Supreme Court order amending the rule details, a complete audio video recording, which captures the voice, facial expressions and body language of the suspect and interrogator can be a valuable tool for law enforcement, courts, and citizens. The electronic recording can provide strong evidence of guilt, confirm police gave suspects all required warnings, and ultimately lead to more guilty pleas. The recordings are also likely to lessen factual disputes in court and reduce the number of motions to suppress evidence. The Order states, "With the foregoing considerations in mind, the Court finds that the interests of justice and sound judicial administration will be served by the adoption of a new Rule of Evidence."

In March 2009, at the request of the Supreme Court, the Court's Committee on Rules of Practice and Procedure asked the public to comment on the idea of recording custodial interrogations. The Committee forwarded the comments to the Court for its consideration. The Court also reviewed a significant body of existing legal and scientific research including the rules, statutes, and actual results in over a dozen other states and jurisdictions that already follow this practice. The Rules of Evidence can be found at courts.in.gov/rules.