

112TH CONGRESS
1ST SESSION

H. R. 3750

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Attorney General to provide grants to States and units of local government for the video recording of custodial interrogations.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2011

Ms. RICHARDSON (for herself and Ms. JACKSON LEE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Attorney General to provide grants to States and units of local government for the video recording of custodial interrogations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Custodial Interroga-
5 tion Recording Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) According to the National Conference of
2 Commissioners on Uniform State Laws, research
3 has demonstrated that video recording of custodial
4 interrogations furthers three important civic values:
5 truth-finding, efficient and fair administration of
6 justice, and protection of constitutional guarantees.
7 See Richard A. Leo, *Police Interrogation and Amer-*
8 *ican Justice* 296–305 (2008); Thomas P. Sullivan,
9 *Recording Federal Custodial Interviews*, 45 *Am.*
10 *Crim. L. Rev.* 1297 (2008).

11 (2) Video recording of the entire process of cus-
12 todial interrogation has proven to be a major ad-
13 vance in law enforcement, improving the ability to
14 solve crimes and prove cases while lowering the over-
15 all costs of investigation and litigation.

16 (3) Video recording of custodial interrogations
17 promotes truth-finding in several ways, including by
18 reducing the incentive to fabricate, compensating for
19 faulty or unreliable recollections of witnesses, deter-
20 ring problematic interrogation methods, filtering out
21 weak cases, and enhancing the ability of finders of
22 fact to assess witness credibility and veracity.

23 (4) Video recording of custodial interrogations
24 promotes efficiency in the administration of the
25 criminal justice system by reducing the number of

1 frivolous suppression motions, improving the quality
2 of police investigations, improving the quality of re-
3 view and case screening by prosecutors, and reduc-
4 ing the likelihood of hung juries.

5 (5) Video recording of custodial interrogations
6 safeguards constitutional rights and values by mak-
7 ing it easier for courts to adjudicate motions to sup-
8 press, by making it easier for prosecutors to pre-
9 serve and disclose material exculpatory evidence re-
10 quired under the Supreme Court decision in *Brady*
11 *v. Maryland*, 373 U.S. 83 (1963), by making it easi-
12 er for superiors to train police officers in how to
13 comply with constitutional mandates and for the
14 press, and by making it easier for the press, the ju-
15 diciary, prosecutors, independent watchdog groups,
16 and police administrators to identify and correct
17 misuses of power by law enforcement.

18 (6) Video recordings of custodial interrogations
19 make it easier to identify and avoid biases, which
20 would otherwise be difficult to detect and correct be-
21 cause such biases are often unconscious, thus oper-
22 ating outside police awareness.

23 (7) Video recordings of custodial interrogations
24 help to improve public confidence in the fairness and
25 professionalism of policing, which in a democracy

1 not only is a good in itself but also a proven means
2 of reducing crime and enhancing citizen cooperation
3 in solving crimes.

4 (8) Video recording of the entire process of cus-
5 todial interrogation is likely to be a major boon to
6 law enforcement, improving its ability to prove its
7 cases while lowering overall costs of investigation
8 and litigation. Such recording will also, however, im-
9 prove systemic accuracy, fairness to the accused and
10 the state alike, protection of constitutional rights,
11 and public confidence in the justice system.

12 **SEC. 3. AMENDMENT.**

13 Title I of the Omnibus Crime Control and Safe
14 Streets Act of 1968 (42 U.S.C. 3711) is amended—

15 (1) in section 1001(a), by adding at the end the
16 following:

17 “(27) There are authorized to be appropriated
18 to carry out part LL such sums as may be necessary
19 for each of the first 5 fiscal years beginning after
20 the date of the enactment of such part.”; and

21 (2) by adding at the end the following:

1 **“PART LL—CUSTODIAL INTERROGATION VIDEO**

2 **RECORDING GRANTS**

3 **“SEC. 3021. CUSTODIAL INTERROGATION VIDEO RECORD-**

4 **ING GRANTS.**

5 “(a) GRANT PROGRAM.—The Attorney General shall
6 make grants to States and units of local government to
7 take whatever steps the Attorney General determines to
8 be necessary to achieve the complete and accurate record-
9 ing, by both audio and video means, of every custodial in-
10 terrogation occurring within the State or unit of local gov-
11 ernment.

12 “(b) MATCHING REQUIREMENT.—The portion of the
13 costs of a program funded by a grant under this section
14 may not exceed 75 percent.

15 “(c) DEFINITION OF CUSTODIAL INTERROGATION.—
16 In this section, the term ‘custodial interrogation’ means
17 questioning or other conduct by a law enforcement officer
18 which is reasonably likely to elicit an incriminating re-
19 sponse from an individual and occurs when reasonable in-
20 dividuals in the same circumstances would consider them-
21 selves in custody.”.

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