



October 19, 2013

## O.C. Spaulding: Police should use more technology

CHARLESTON, W.Va. -- The goal of our Judiciary is to discover the truth about an allegation. In the 21st century, advancements in technology and the forensic sciences have greatly promoted that goal.

For example, DNA evidence has made our search for the truth a more reliable process. It is the type of evidence we want jurors to rely upon, regardless of whether that evidence shows guilt or innocence. Jurors also have an increased expectation of technology and science being introduced in the courtroom, thanks in part to the proliferation of crime investigation television programming. Although many shows, such as CSI, focus largely on the investigations solved in laboratories, a large number of crimes are still solved by the oldest investigative technique: The confession.

While we live in a society where the ability to video conference business meetings, or video chat with loved ones is done quite frequently, it is alarming that the same technological equipment is not uniformly implemented when it comes to persons accused of serious crimes. Unfortunately, too often there is no record of what an accused did or did not say, or the circumstances surrounding what was said. This can easily be corrected by requiring all interviews with suspects at the police station to be electronically recorded. I bought my first VCR in 1978. Thirty-five years later the use of this simple technology in the interrogation room is underutilized by law enforcement in our state.

I strongly believe that all officers of the criminal justice system -- from law enforcement, to prosecutors, to defense attorneys, to judges, and even the jury -- are called to both protect the public from lawbreakers and to protect the innocent from being wrongfully convicted. Electronic recording is a simple tool that serves both of these goals -- and the statistics support the need for its immediate implementation.

Twenty-six percent of our nation's wrongful convictions overturned by DNA evidence involved a false confession. We now know for a fact that there are men and women who admit to crimes they never committed, and that innocent people serve time -- and some lose their lives -- while the true perpetrator remains free. It is imperative that we implement common-sense best practices, such as electronic recording of interrogations, to allow judges and juries to observe statements that could potentially deprive one of life and liberty.

To date, 20 states and the District of Columbia require statewide electronic recording policies via legislation or court action. Over 150 law enforcement agencies utilize electronic recordation of a suspect's confession. Some police agencies in West Virginia have already adopted electronic recordation of interrogations policies within their jurisdictions voluntarily. Furthermore, every State Police detachment in West Virginia currently has video and audio recording capability in place, which promises to ease implementation. When one looks at the benefits of such policies, it is easy to see why not a single law enforcement agency that currently electronically records has not returned to old pencil and paper method.

Law enforcement benefits because it allows them to do their job thoroughly, without being consumed with the administrative task of filling out forms and taking detailed notes during the interrogation. Officers also find they can protect themselves from false accusations of coercion and brutality. Further they do not have to tolerate lengthy examinations on the witness stand about their conduct during the interrogation process. The electronic record will speak for itself. Even if a guilty suspect does not confess during the interrogation process the officers can still show how the suspect lied, evaded and misdirected when confronted with incriminating evidence,

The court benefits because recordation promotes efficiency in the court. The practice will yield more plea agreements, cutting down on the number of cases that go to trial, and limiting the "he said, she said" testimony which takes up valuable time in court proceedings.

Juries benefit because they are receiving the best evidence possible -- an archive -- which they can rewind, review, and reference during deliberations. More than just words on a piece of paper, recorded interrogations allow jurors to assess how words were stated and other factors that may have contributed to a confession. Jurors will have peace of mind knowing they were given the best evidence for them to carry out their function.

Uniform electronic recordation increases the public's trust in law enforcement and strengthens the integrity of the criminal justice process as a whole.

With my experience of 16 years prosecuting crime and 19 years as a judge, I wholeheartedly support legislation calling for uniform mandatory electronic recording of interrogations. I know how instrumental a recorded interrogation of a suspect is to the court. It is by far the best evidence for all parties involved, and the video and audio recording of the entire interview is a win for everyone but the guilty. There are no disadvantages if the truth is our goal. Unless you are a perpetrator, there is no downside.

*Spaulding, of Hurricane, is a retired Putnam County circuit judge.*