

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **5931**



Introduced by **Rep. MARIO VITTORIO "MARVEY" A. MARIÑO**
5th District, Batangas

EXPLANATORY NOTE

It has been said, time and again, that it is better to set ten guilty men free than let an innocent man suffer. This is the bedrock of the Bill of Rights enshrined in the 1987 Constitution of the Philippines. The law and our courts have consistently and strongly condemned the use of force, coercion or intimidation to extract confession or influence witness testimonies. Still, police officers have continuously employed force, coercion and intimidation to extort false confessions and testimonies.

There are times when law enforcement use harsh interrogation tactics with uncooperative suspects. But some police officers, convinced of a suspect's guilt, occasionally use tactics so persuasive that an innocent person feels compelled to confess.¹ In fact, in a number of cases, it was found that physical, emotional and mental torture were employed by the police just to get a confession. Often times, it is through these coerced confessions that lead to their convictions. Thus, those who did not factually and actually commit the crimes are forced to admit guilt and put to jail, or worse, face the death penalty.

Extensive research and studies by the Innocence Project reveal that more than 1 out of 4 people wrongfully convicted but later on exonerated by DNA evidence made false confession or incriminating statement.² In fact, from 1989 to 2012, 15% of the exonerations are due to false confessions.³ False confessions by the accused can be attributed to factors during custodial interrogations. Research reveals that duress, coercion, ignorance of the law, fear of violence, and the actual infliction of harm are factors that can contribute to a false confession during a police interrogation.⁴ In fact, in the Philippines, the Supreme Court has overturned convictions based on abuses of law enforcers and prosecutors during custodial investigations.

The Supreme Court, in *People v. Buscato*, the accused was convicted on the basis of extrajudicial confessions extracted through maltreatment during custodial

¹ *Ibid.*

² False Confessions or Admissions, Innocence Project. Retrieved April 27, 2017 from <https://www.innocenceproject.org/causes/false-confessions-admissions/>

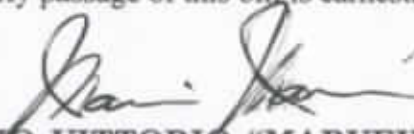
³ Exonerations in the United States, 1989-2012, *Report by the National Registry of Exonerations*

⁴ *Ibid.*

investigation.⁵ The Court reversed the conviction on the ground that the physical, mental, and moral coercion exerted upon them rendered confessions inadmissible as contrary to the right of self-incrimination.⁶ In the case of *People v. Galit*,⁷ a prisoner was arrested for killing a person on the occasion of a robbery. Notwithstanding the fact that there was no evidence linking him to the crime, he was detained and continuously interrogated. Galit, on the other hand, maintained his innocence. In spite of the mauling and physical torture, the accused consistently maintained his innocence. The maltreatment continued until he could no longer take it, leaving him no choice but to admit what the investigating officers wanted him to admit and even signed the confession they prepared. The Supreme Court in a similar case held that "appellant's confessions having been extracted by force and violence, they stand discredited in the eyes of the law and cannot be the basis for sustaining a judgment of conviction."⁸

Taking these studies and cases into consideration, there is a clear case of wrongful conviction by reason of coerced confession made in the hands of the police officers. It is for this reason that civil society and legal pundits believe that electronic recording of interrogations, from beginning to end, is the single best reform available to prevent wrongful convictions caused by false confessions.⁹ The recording of custodial interrogations will improve the credibility and reliability of authentic confessions, while protecting the rights of innocent suspects.¹⁰ Also, the recording of these interrogations would help deter law enforcers from using illegal or devious tactics to secure a confession.¹¹

In view of the foregoing, the early passage of this bill is earnestly requested.


MARIO VITTORIO "MARVEY" A. MARIÑO

⁵ Cruz, I. (2007). Constitutional Law. Manila: Rex Publishing

⁶ *Ibid.*

⁷ *People of the Philippines v. Francisco Galit*, G.R. No. L-51770, March 20, 1985

⁸ *People of the Philippines v. Ricardo Cabrera and Loreto Sipe*, G.R. No. L-51858, January 31, 1985

⁹ False Confessions or Admissions, Innocence Project. Retrieved April 27, 2017 from <https://www.innocenceproject.org/causes/false-confessions-admissions/>

¹⁰ *Ibid.*

¹¹ *Ibid.*

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**AN ACT DIRECTING THE ELECTRONIC RECORDING OF
CUSTODIAL INTERROGATIONS TO PROTECT THE
CONSTITUTIONAL RIGHTS OF THE ACCUSED DURING
CUSTODIAL INVESTIGATIONS¹²**

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

SECTION 1. *Short Title* – This Act shall be known as the “Integrity in
Interrogations Act.”

SECTION 2. *Declaration of Policy* – It is the policy of the State to protect the
rights of the accused during custodial investigations. To prevent “false confessions”
from the accused leading to wrongful convictions, it shall establish an objective
record of what transpired during the course of the interrogation process.

SECTION 3. *Definitions* – For the purposes of this Act, the following terms shall
be defined as follows:

- a. *Place of Detention* – a jail, police station, holding cell, correctional or
detention facility, or other place where persons are questioned in
connection with criminal charges or juvenile delinquency proceedings.
- b. *Custodial interrogation* – any questioning done during custodial
investigation, involving a law enforcement officer’s questioning that is
reasonably likely to elicit incriminating responses and in which a
reasonable person in the subject’s position would consider himself to be
in custody, beginning when a person should have been advised of his
rights as an accused and ending when the questioning has completely
finished.
- c. *Custodial investigation* – any inquiry initiated by law enforcement
officers after a person has been taken into custody otherwise deprived of
his freedom of action in any significant way. It shall include the practice

¹² This bill was originally filed by Senator Miriam Defensor-Santiago in the 15th Congress

his freedom of action in any significant way. It shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law.

- d. *Electronic recording or electronically recorded* – an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation.
- e. *Statement* – an oral, written, sign language or nonverbal communication.

SECTION 4. *Electronic Recording Procedures* –

- A. All statements made by a person during a custodial interrogation shall be electronically recorded using equipment capable of audio-visual recording. The recording equipment shall be simultaneously focused upon both the interrogator and the suspect. All recording shall commence with the proper identification of all persons involved in the interrogation.
- B. If any part of the interrogation necessarily takes place outside of a place of detention, or if audio and video equipment are not available, audio recording maybe resorted to, provided all persons present during the interrogation shall properly identify themselves during the recording, and provided further that a public prosecutor certifies to the unavailability of proper equipment.
- C. The interrogating officers shall inform the persons under custodial interrogation of the recording.

SECTION 5. *Presumption of Inadmissibility* – Except as provided in Sections 6 of this Act, all statements made by a person during a custodial interrogation that are not electronically recorded, and all statements made thereafter by the person during the custodial interrogations, including but not limited to statements that are electronically recorded, shall be inadmissible as evidence against the person in any criminal or juvenile delinquency proceeding brought against the person

SECTION 6. *Overcoming the Presumption of Inadmissibility* – The presumption of inadmissibility of statements provided in Section 5 of this Act may be overcome, and statements that were not electronically recorded may be admitted into evidence in a criminal or juvenile delinquency proceeding brought against the person, if the court finds:

- A. That the statements are admissible under applicable rules of evidence;
- B. Before or during a custodial interrogation, after having consulted with his or her lawyer, the person unambiguously declared on videotape that he or she would only respond to the officer's questions if his or her statements were not electronically recorded;
- C. Exigent circumstances existed which prevented the making of, or rendered it not feasible to make, an electronic recording of the custodial interrogation.

SECTION 7. *Monitoring Requirement –*

- A. Compliance with the electronic recording requirement shall be monitored by the Department of Justice (DOJ) through the submission of forms developed by the DOJ to survey recorded interrogations and outcomes and identify any patterns of noncompliance. These forms shall be submitted by the trial judge and the prosecutor for:
 - 1. Cases in which recorded interrogations were introduced as evidence in a criminal case;
 - 2. Cases in which interrogations were not recorded and a plea of guilty to felony charges was entered and accepted by the court.
- B. Compliance with the electronic recording requirement shall be monitored by the Philippine National Police (PNP) through the submission of forms by the interrogating officer(s) in each case of recorded and unrecorded interrogation. These forms shall be developed by the PNP, with the expectation that the reporting forms shall identify any patterns of noncompliance.

SECTION 8. *Handling and Preservation of Electronic Recordings.*

- A. Every electronic recording of a custodial interrogation shall be properly authenticated and clearly identified and catalogued by law enforcement personnel. The DOJ shall take steps to ensure proper standards in the process of authentication and cataloguing of electronic recordings.
- B. If a criminal or juvenile delinquency proceeding is brought against a person who was the subject of an electronically recorded custodial investigation, the electronic recording shall be preserved until all appeals, post-conviction and habeas proceedings are final and concluded, or the time within which such proceedings must be brought has expired.
- C. If no criminal or juvenile delinquency proceeding is brought against a person who has been the subject of an electronically recorded custodial interrogation, the related electronic recording shall be preserved by law enforcement personnel until all applicable statutes of limitations bar prosecution of the person.
- D. The DOJ may establish regional storage facilities for electronic recordings which shall be sufficiently protected and equipped with the proper technology needed to preserve the recordings.
- E. Should technology be developed that would preserve the data in the electronic recording in a more effective, efficient and practical manner, the electronic recording may be transferred to such technology. The DOJ shall establish rules to protect the integrity of the electronic recording proposed to be transferred.

SECTION 9. *Appropriation* – To carry out the provisions of this Act, such amount as may be necessary is hereby authorized to be appropriated from the National Treasury. Thereafter, the amount necessary for the continuous monitoring, handling and preservation of electronic recordings shall be included in the annual appropriation of the DOJ and the PNP.

SECTION 10. *Separability Clause* – If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 11. *Repealing Clause* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent with the provision of this Act is hereby repealed, modified, or amended accordingly.

SECTION 12. *Effectivity Clause* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.