Hon. Bill Perkins  
State Senator of New York  
163 West 125th Street  
Harlem State Office Bldg., Suite 912  
New York, NY 10027

Dear Senator Perkins:

On behalf of the Civil Rights and Liberties Committee (the “Committee,”) and the Criminal Justice Section (the “Section”) of the New York County Lawyers’ Association, we write in support of S1255-2013, which would require that all police interrogations of suspects in police custody (“custodial interrogations”) be video recorded.¹

Recording all custodial interrogations would provide significant benefits for law enforcement and the courts, while safeguarding the rights of suspects. While the issue of recording interrogations is often framed as a method of deterring questionable police-interrogation tactics, it also protects the police from baseless claims of police misconduct. Further, by providing definitive factual records, these recordings increase judicial economy by minimizing the potential for contentious legal challenges to the admissibility of statements obtained in interrogations.

Perhaps the most beneficial effect of recording all custodial interrogations would be reducing the number of false confessions. Suspects confess to crimes that they did not commit with surprising frequency. According to the Innocence Project, approximately 25% of wrongful convictions that were later overturned through the use of DNA evidence in New York involved false confessions.² In New York, ten out of 23 such wrongful convictions involved a false confession, including the infamous wrongful convictions in the Central Park Jogger case.

¹ These views are those of the Committee and Section only, have not been approved by the New York County Lawyers’ Association (“NYCLA”) Board of Directors and do not necessarily represent the views of its Board. However, NYCLA has been an early proponent of videorecording interrogations. In 2004, NYCLA issued a report, “The Report on the Electronic Recording of Police Interrogations,” researched and written by the Civil Rights & Liberties Committee in 2003. The Report, which was later approved by both the New York State Bar Association and the American Bar Association, concluded that recording interrogations saves time and money and serves as compelling evidence.

There are various reasons that false confessions occur, including mental illness, misidentification by eyewitnesses, and high-pressure law enforcement tactics. Wrongful convictions are clearly tragic for those who make false confessions, but they are also problematic for other reasons. Put simply, wrongful convictions necessarily mean that the actual perpetrators have not faced justice for their crimes and likely remain at large, endangering public safety. Thus, taking steps to reduce false confessions benefits not only individuals that have been falsely accused, but also society as a whole.

While recording custodial interrogations has been shown to greatly diminish the number of false confessions, police departments stand to benefit from a policy of recording all custodial interrogations as well. Police are often wrongfully accused of misconduct in custodial interrogations, and may have to devote significant officer hours and resources to combating baseless accusations of alleged misconduct. Consistent recording of custodial interrogations would significantly mitigate these problems. Recording custodial interrogations would also allow police to improve the quality of the interrogations by enabling officers to focus on questioning, rather than note taking. Police departments also stand to benefit from improved community relations, particularly in large metropolitan areas such as New York City, where citizens may suspect that the “third degree” and other harsh interrogation methods of the past remain commonplace. Recording custodial investigations shows communities that the police have nothing to hide, and can showcase best practices for how custodial interrogations are conducted.3

Approximately one-third of all states and the District of Columbia require that at least some custodial interrogations be recorded, and many more use video recordings on a voluntary basis.4 By passing S1255, New York would be taking an appropriate place at the vanguard of states adopting common-sense policies to assure integrity and efficiency in law enforcement and the courts.

One way this bill could be strengthened, further cementing New York’s status as a national leader on this issue, would be to ensure that the video recordings capture both the person being interrogated and the questioner. In the United States and elsewhere, most video recordings of custodial interrogations are conducted with the camera lens focused solely on the suspect.5 Exhaustive academic research conducted over 25 years on “camera perspective bias” has conclusively demonstrated that the perspective from which an interrogation is videotaped heavily

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influences the fact-finder’s determination of whether a confession was voluntarily given, as well as a suspect’s innocence or guilt.\textsuperscript{6}

The NYPD has recently taken steps towards recording custodial interrogations involving homicides and sexual assaults.\textsuperscript{7} The Committee and Section applaud this step forward; however, as proposed in S1255, recordings should be required for all custodial interrogations throughout the state. Recording all custodial interrogations would improve New York’s criminal justice system by strengthening the rights of the accused, helping police departments conduct better interrogations, increasing judicial efficiency, and decreasing the number of false convictions. Accordingly, the Committee and Section fully support S1255.

Sincerely,

Samuel Cohen, Esq., Co-Chair, Civil Rights & Liberties Committee
Louis Crespo, Esq., Co-Chair, Civil Rights & Liberties Committee

Geoffrey Bickford, Esq., Co-Chair, Criminal Justice Section
Alison Wilkey, Esq., Co-Chair, Criminal Justice Section

H. Joseph Cronen, Esq.,
Elliot Dolby-Shields, J.D.
Abdul Washington, Esq.,
Legislative Affairs Subcommittee, Civil Rights & Liberties Committee\textsuperscript{8}

\textsuperscript{6} Id. at 770.

\textsuperscript{7} Police Expand Interrogation Taping: Commissioner Kelly Reverses Course in Announcing Plans to Video Record Suspects in Cases of Murder and Sexual Assault, THE WALL STREET JOURNAL, (Sept. 19, 2012), available at http://online.wsj.com/article/SB10000872396390444620104578006662863254972.html

\textsuperscript{8} H. Joseph Cronen, Elliot Dolby-Shields and Abdul Washington are primary authors of this letter, for which the co-chairs of the Committee and Section are most grateful.