

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 9:05 AM
To: Tracy, Mary
Subject: FW: CRrLJ 3.7 and CrR 3.7 - Recording Interrogations

From: Brandes, Ramona [mailto:Ramona.Brandes@kingcounty.gov]
Sent: Tuesday, April 30, 2019 9:03 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: CRrLJ 3.7 and CrR 3.7 - Recording Interrogations

Recording interrogations is critical to document not only the substance of a statement, but the context, tenor, and tone as well. I have had a case with a false confession, which fortunately was recorded. That case was King County case, State v. Burrows, 09-C-00937-2 SEA. In that case three Fort Lewis soldiers were accused of robbing various UW students. The assailants were described two white males, and a black male. Even though two while males had already pled to the crimes, and my client had sent text messages during the time of the robberies when the victims said no one was using their phones, the prosecutors were convinced that my client was the third assailant because there was a confession. This confession was taped and when I went to the very detailed scene at UW described in the confession, I realized it was at a different location than the very detailed location described by the victims. I was able to locate both scenes and realized that they were blocks apart, which meant that my client had confessed to the crime in a location where the crime clearly did not occur. The detective who obtained the confession had not gone out to the scene, so he was unaware of this discrepancy. After closely scrutinizing the transcript of the confession, I realized that every single piece of information that my client confessed to that matched the crime was fed to him early on in the confession by the officer. Every time my client tried to deny participation, the detective interrupted him, refused the allow him to complete the sentence, and (falsely) told him they had multiple witness placing him at the scene of the crime, and demanding he confess. My client --a very young and impressionable soldier used to following orders of those in authority--repeatedly said "I didn't do this but if people are saying I did, I don't know what else to do but tell you I did this. This case did proceed to trial and the client was found not guilty of all charges. Absent a recording of this so-called "confession" he very likely could have been convicted despite other the evidence that pointed to another suspect.

Another case much older case I had demonstrates the bad faith of the officers in trying to conceal a recording of the proceedings. In this matter, it was an allegation of a robbery, which would have been the client's third strike and would have resulted in life in prison. In that matter the client reported to me that the police office did have a recorder and tried to get him to confess to the crime. The officer had a DNA report that the officer claimed showed that my client's fingerprints were left in the tips of rubber gloves caught in tape used to bind the victims. Since my client wasn't involved, he knew that this was a false DNA report. When the client asked the officers how many cigarettes they would let him smoke and how many coca-colas they would let him drink before they realized he wasn't making any confession, the officer knocked the recorder off the table in a fit. I would have suspected the veracity of this report by the client, except that we actually uncovered the false DNA report. The DNA report was issued from a Seattle Police Department Crime Lab-- which is a laboratory that doesn't exist, was signed by a scientist who doesn't exist, and reported results that don't exists.

While the police may claim that recording interrogations is overly burdensome, this argument is incongruent with the ease of documentation in this digital age. Recording interrogations is critical to preserving evidence and to documenting the actions of the police behind closed doors. I understand that prosecutors are shocked that there is a distrust of police officers, but frankly, this distrust is something that the police have earned. Time and time again we are seeing public videos in direct contraction to those statements of police. The two cases I cite above are just two of many experiences I

have had with dishonest officers. I have seen countless reports where video evidence directly contradicts the statements of police—and I have often these contradictions are so egregious it can only be attributed to bad faith, not mere oversight. I Police are no more reliable than any other person and to blindly trust the statements of police officers without requiring the most simple of checks is foolhardy, and contravenes notions of justice. I understand that police and prosecutors want to be in complete control of all the information available in a case, but that doesn't serve the constitutional requirements for a fair trial. What is fair is that all parties have equal access to an uncorrupted version of the evidence that isn't skewed by any party. This can only be done by ensuring that rules are in place which require police to document interrogations via recordings.

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