

## Missouri measure would require recording of certain suspect interrogations

Platte County Prosecutor Eric Zahnd was convinced jurors would convict Ali M. Mahamud of first-degree murder.

There was little dispute that in June 2005, Mahamud stabbed and cut his victim 54 times and then dumped the body in a shallow creek.

Police recorded a statement from Mahamud, but not the interrogation that preceded it.

During trial, Mahamud's defense attorney criticized the police for not recording the questioning. The jury convicted Mahamud, but of second-degree murder, not the initial charge of first-degree murder.

Afterward, one of the jurors told Zahnd the jury was upset that the entire interrogation had not been recorded.

New state legislation that would require law enforcement authorities to record certain suspect interrogations probably would have helped jurors in that case and others, Zahnd said.

"In today's world, it's reasonable for jurors to want to see the entire interrogation of a person suspected of committing a dangerous felony," he said.

The requirement is included in a measure that Missouri lawmakers recently sent to Gov. Jay Nixon, who is expected to sign it into law this summer.

Under the measure, law enforcement agencies must have a written policy to record interrogations of people suspected of committing or attempting to commit dangerous felonies.

An increasing number of police agencies make video or audio recordings of entire suspect interrogations. Some departments, such as those in Raytown and Lee's Summit, began the practice several years ago. The FBI does not record interrogations. Kansas City police use cameras for most murder confessions and some others, but the recording starts after what can be hours of unrecorded interrogation.

Kansas City police Capt. Rich Lockhart said the department was evaluating the impact of the new measure. The department has not determined how it will store the recordings, train investigators or decide which cases warrant recordings, Lockhart said.

The requirement will be an effective tool for law enforcement and defense lawyers, said Steven Drizin, legal director for the Center on Wrongful Convictions at Northwestern University School of Law in Chicago.

"It removes the guesswork about what happened during an interrogation," Drizin said. "When someone's life may be on the line, such critical questions ought not to be resolved based on the faulty and biased memories of suspects and defendants.

"If justice is the pursuit of truth, recording will improve the truth-seeking function of our criminal justice system."

Because of his conversation with the juror, Zahnd said he drafted the language that eventually passed as part of a House crime bill.

Mahamud, 23, is serving a 28-year sentence. Had he been convicted of first-degree murder, he would have faced life in prison.

Zahnd, who worked on the measure with the Missouri Sheriffs' Association and the Missouri Police Chiefs Association, said he wanted the bill to provide a transparent system of recording interrogations.

"It's good for the cause of justice when judges, jurors, defense attorneys and defendants themselves get to see exactly what a defendant said when questioned about a crime," Zahnd said. "Just as importantly, it will help ensure that we do not convict innocent people of crimes they did not commit."

Tony Rothert, the legal director of the ACLU of Eastern Missouri, said the agency also pushed for the new law. The benefits will outweigh burdens, he said.

"We think it is a good start," said Rothert, who added that it would eliminate disputes.