



OFFICE OF THE  
DISTRICT ATTORNEY  
SACRAMENTO COUNTY

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District Attorney

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Chief Deputy

September 11, 2007

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol  
Sacramento, CA 95814

Re: SB 756 -- Request for Veto

Dear Governor Schwarzenegger:

As District Attorney of Sacramento County I am strongly opposed to SB 756, relating to eyewitness identifications.

SB 756 declares a legislative intent that law enforcement officials study and consider adoption of new procedures recommended by the National Institute of Justice and the California Commission on the Fair Administration of Justice regulating eyewitness lineup identifications to ensure a decrease in the number of misidentifications.

This bill would require monumental changes to our criminal justice system based almost exclusively on peer-reviewed studies of eyewitness identification procedures. A review of the studies in turn led to findings by the Commission that there is a need to improve the accuracy of eyewitness identifications. Then procedures to accomplish these goals were suggested by the Commission and essentially became the essence of SB 756, requiring the creation of guidelines and policies to regulate something already being regulated by existing case law.

Eyewitness evidence is a critical part of the criminal justice process. Any changes to the procedures for criminal identification would significantly impact to the manner in which our system currently operates, both in terms of boot-on-the-streets police work and in the criminal courtroom.

SB 756 states one of its goals as finding and apprehending the person(s) responsible for committing a crime, yet their recommendations do not support that goal. Take for example the recommendation to disallow two or more witnesses who are available for an in-field lineup (where an alleged suspect in a recent crime is detained in the field for prompt identification or elimination by drive-by viewing) to actually participate in the line-up. The Commission recommends that once a single witness has made a line-up identification, that the other witnesses may not view the suspect, but must await a lineup at a later time. This suggested procedure is problematic for two reasons. First, it is very important to secure witness information as soon as possible when possible, and secondly, it may have the unintended

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consequence of actually increasing the chances that an innocent person be wrongly arrested, because a mistaken identification by the first witness was not allowed to be promptly disclaimed by the other witnesses.

The current procedures used by law enforcement for eyewitness identifications have grown from a long history of cases, which are continually being scrutinized by courts throughout the state. Legislation to change the investigative procedures for identifying an alleged suspect is not necessary.

Thank you for your consideration of my request. Please feel free to contact me if I may be of assistance to you on issues related to this legislation.

Very truly yours,

  
JAN SCULLY  
DISTRICT ATTORNEY  
SACRAMENTO COUNTY

cc: The Honorable Mark Ridley-Thomas  
Mr. Christopher Ryan, Deputy Legislative Secretary