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GARY PENROD, SHERIFF-CORONER

April 9, 2007

The Honorable Mark Ridley-Thomas
Senator, 26th District
State Capitol Building
Sacramento, CA 95814

POSITION: **OPPOSE** – SB 756: Criminal investigations: eyewitness identifications

Dear Senator Ridley-Thomas,

As the Sheriff of San Bernardino County I must respectfully oppose your bill SB 756. This bill 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.

One of the recommendations is that an officer not involved in the investigation, and who is unaware of the suspect's identify, conduct the lineup. This presents a problem in that our agency immediately puts out a broadcast describing the suspect's physical appearance and name if known, last known location or direction of travel and the vehicle (if applicable) description. Every officer on duty will learn the suspect's description and a brief synopsis of the crime that occurred. This ensures swift capture of the alleged suspect. We would have to call in an officer that was not on duty to conduct the lineup, and this would pose an overtime issue, which can be costly. Also, it would delay securing witness information while we're trying to determine if we caught the right person. This is disruptive to the witnesses and very inefficient in most jurisdictions. In the event of multiple suspects, there would be a need for multiple "unaware" investigators to conduct the lineups.

Another recommendation by the Commission addresses the situation where two or more witnesses 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). The Commission's recommendations is that once a single witness has made a lineup identification, that the other witnesses may not view the suspect, but must await a lineup at a later time. This procedure increases the chances that an innocent person might be wrongly arrested, because a mistaken identification by the first witness was not allowed to be promptly disclaimed by the other witnesses. In this case, a wrong person may be taken into custody while the actual suspect got away. It is very important to secure witness information as soon as possible and to ensure their availability to testify in court.

The current procedures that law enforcement uses for lineups are time-tested and court approved. All of our criminal investigative reports are seriously scrutinized by the District Attorney's office prior to formally charging a defendant. It is not necessary to change the investigative procedures for identifying an alleged suspect. It is for these reasons that I must oppose your bill.

If I can be of assistance in this matter please feel free to contact me.

Best Regards,

GARY S. PENROD, Sheriff

By: Barbara Ferguson, Lieutenant
Legislative Liaison

Cc: Senate Committee on Public Safety
The Honorable Gloria Romero, Chair
The Honorable Dave Cogdill, Vice-chair

Kaye Bassett, Governor's Office of Planning & Research