

# Governor to take up lineup bill

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Jovan Morris was facing a prison sentence of at least 25 years to life when he went to trial last year.

He was charged with attempted murder in a Pittsburg shooting.

Morris said he didn't do it and, after a jury deadlocked at his first trial, a second jury acquitted him -- not necessarily because they believed he was innocent, but because of doubt raised by an alleged police procedure involving photo lineups.

A proposed law on the governor's desk would tighten how police lineups are conducted. Gov. Arnold Schwarzenegger has until Sunday night to decide whether to sign into law SB 756.

In the Morris case, which occurred after the bill was drafted by Sen. Mark Ridley Thomas, D-Los Angeles, the lead investigator visited the shooting victim in the hospital and showed him a photo of six possible suspects.

"This is exactly the truth that happened," the victim told a prosecutor in a taped jailhouse interview that the second jury heard. The investigator "said this is the guy who shot you. His name is Jovan. All we need is a signature and you can circle the picture for us."

The prosecutor said that the victim lied about the officer pointing to Morris' image in the photo lineup. Morris' attorney insists that his client is innocent.

Regardless of how the hospital room identification occurred, both attorneys say that the acquittal came because the victim's account raised too much doubt with the jury about whether he properly identified his shooter.

Morris' attorney said that if the officer who interviewed the victim was not involved in the investigation, he would have not been able to point out a suspect. The jury would not have been faced with a dilemma of knowing whether the officer did anything wrong.

The prosecution "would not have been open to attack for their identification procedures," said deputy alternate defender Timothy Ahern.

SB 756 sets up a task force to draft guidelines for all police agencies in the state to use in suspect lineups.

One of the main recommendations of an organization that sponsored the bill, Santa Clara-based Commission on the Fair Administration of Justice, is to create "double-blind" lineups. The technique requires an officer who does not know the identity of a suspect and has minimal knowledge of an investigation to be the one who presents photos to a witness.

"Theoretically, out of this bill, guidelines would come out that would stop this kind of thing from happening," said commission executive assistant Chris Boscia. "Even when an officer does not intend to be suggestive, there is still suggestibility in their body language and the words they use . . . It's really subtle stuff."

The commission, made up of defense proponents and law enforcement officials, examines the causes of wrongful convictions, conducts research and proposes bills to the state legislature.

The bill has mixed support from law enforcement. Several large agencies, such as the Los Angeles County Sheriff's Office and the LAPD, support it.

The statewide police organization that creates rules for police officers is against it, saying enough checks and balances already exist when prosecutors, judges and juries review the evidence.

California Peace Officer Standards and Training Commission spokesman Bob Stresak said the double-blind technique is too time-consuming and limits police in doing their jobs. It demands that when police stop a suspect, they scramble to seek another officer who is somehow unaware of the investigation.

"You'd have to find some disinterested officer who hasn't heard that broadcast," Stresak said.

Contra Costa County District Attorney Robert Kochly does not support the bill, agreeing with the training commission, especially when it comes to small police agencies with few detectives.

He said there is no realistic way to confirm at trial which police officer really knew the suspect.

"How do we determine that the officer didn't know?" Kochly said.

In the Morris case, Pittsburg police Lt. Brian Addington said that investigators were dealing with an untrustworthy victim who refused to cooperate with the prosecution. The investigator did not point out anybody.

"There is no doubt that the right person was arrested," Addington said.

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