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## Bill would mandate recording suspects

### Intent to eliminate interrogation issues

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September 30, 2007

The shocking discovery that 12-year-old Stephanie Crowe of Escondido was killed in her bed in January 1998 was soon followed by another stunner: Her brother, Michael, and a high school friend confessed to the stabbing.

Those confessions turned out to be false. But the notorious investigation that followed raised an important question: Why would someone confess to a slaying he did not commit?

Judges and jurors concluded that the suspects had buckled under enormous psychological pressure brought to bear by zealous detectives with mistaken assumptions. They reached that conclusion after watching videotapes Escondido investigators had made of the boys' interrogations.

Now a bill being considered by Gov. Arnold Schwarzenegger would make it mandatory for police agencies throughout California to record what goes on in the interrogation room.

The legislation, SB 511, requires the electronic recording – either audio or video – of interrogations of suspects in custody in connection with homicides and other violent felonies, such as rape.

Schwarzenegger vetoed a version of the bill last year, saying that while he favored such action, he feared that confusing language would create technical loopholes that might allow criminals to avoid punishment.

Schwarzenegger has until Oct. 14 to decide on the current measure, which some police associations are opposing.

Through legislation or court rulings, 10 states and the District of Columbia require police to record interrogations of those suspected of violent crimes.

### False confessions

Richard Leo, a law professor at the University of San Francisco and an expert on police interrogation, said that of 200 wrongfully convicted men and women exonerated by DNA evidence since 1989, as many as 20 percent had falsely confessed.

The mandatory-recording bill is a product of the California Commission on the Fair Administration of Justice, set up four years ago by the state Senate to examine causes of wrongful convictions and recommend ways to avoid them. Members include judges, law professors, police chiefs, prosecutors, trial attorneys and civil rights advocates.

The intent of SB 511 is to eliminate court disputes over what happened during an interrogation. That would help prosecute the guilty while protecting the innocent, said Gerald Uelmen, executive director of the commission.

"False confessions usually happen to the most vulnerable of defendants, those with mental disabilities or juveniles, like (then-14-year-old) Michael Crowe," Uelmen said. "About 60 percent of false-confession cases fall into one of these categories.

"There is a tremendous advantage to police in doing this."

Of eight recent California false-confession cases, as determined by DNA evidence, two were from San Diego County, Uelmen said: the Crowe case and a 1995 case involving an Escondido caretaker who confessed that one of her multiple personalities had killed a man in her care. The death was ruled an accident, and charges were dropped.

More than three dozen California police agencies, including six in San Diego County, routinely record such interrogations.

Yet several law enforcement organizations, including the California State Sheriffs' Association and the California Police Chiefs Association, oppose the legislation.

### **Citing 'technicalities'**

"We agree with the concept," said Nick Warner, the Sacramento-based legislative director for the sheriffs association. "But there are real-world occasions where the details in this bill are a problem, like when a suspect won't speak 'unless you turn that thing off,' or when there is a technical malfunction. It's our position that if you put this into law, bad guys will get off on technicalities."

Uelmen and other supporters of taped interrogations said the bill provides exceptions for equipment failure or for the unavailability of a recording device. Should suspects object to the recording machine, California is among the few states that allow police to secretly record interrogations, the bill's supporters said.

"I don't understand their objections," said Uelmen, who noted that the state will reimburse police departments for the cost of recording equipment. "It seems like what it comes down to is, 'We don't like to be told what to do.'"

Capt. Mary Cornicelli of the San Diego Police Department's homicide unit said detectives now routinely record interrogations of suspects in custody.

"It protects the officer, protects the rights of the suspect and preserves the integrity of the case," Cornicelli said.

Cheryl Crowe, mother of Stephanie and Michael Crowe, said she sees "both sides of the coin, but I think the positives of recording interrogations far outweigh any negatives for police."

"If the defense is arguing, as we were, that the confession was coerced, jurors can see it with their own eyes," Crowe said. "The same is true for police officers – jurors can see the questioning was done fair and square."

Escondido police continue to videotape interrogations in homicides and other violent-crime cases.

"We can live with a law like this," a department spokesman said.

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