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### **Governor vetoes bills on wrongful convictions**

#### **Measure to record interrogations called too vague**

- Bob Egelko, Chronicle Staff Writer  
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Gov. Arnold Schwarzenegger has vetoed legislation that would have required police to tape-record interrogations of violent crime suspects, which supporters said would reduce the chances of innocent people going to prison.

At the urging of some police groups, Schwarzenegger rejected the interrogation bill Saturday and a second measure that would have led to the establishment of statewide guidelines for eyewitness identifications of suspects.

The two bills were the first to be recommended to lawmakers by a commission established by the state Senate in 2004 to look into the causes of wrongful convictions.

The 19-member Commission on the Fair Administration of Justice includes prosecutors, defense lawyers, police representatives and scholars.

One of the vetoed bills, SB171 by state Sen. Elaine Alquist, D-Santa Clara, would have required that police make audio tapes of violent felony suspects when the interrogations took place in a police station.

Confessions that were not recorded could still have been introduced in court, but the trial judge would have had to tell jurors to consider the confession with caution.

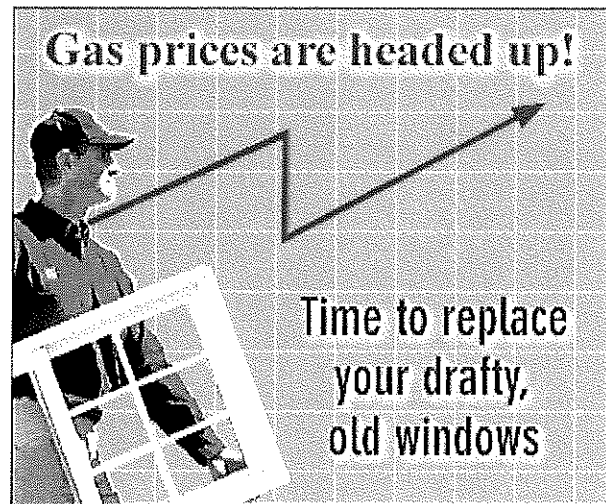
A report by the commission in July found that suspects often confess to crimes they didn't commit and concluded that tape-recording would safeguard against erroneous convictions.

The commission said many law enforcement agencies already tape a majority of their interrogations, including the San Francisco Police Department, sheriff's offices in Alameda and Contra Costa counties, and all agencies in Santa Clara County.

But Schwarzenegger said in his veto message that the bill failed to define the suspects whose interrogation would have to be recorded.

The governor said legislators should work with law enforcement on a measure that "helps ensure the reliability of confessions while not creating opportunities for those guilty of violent crimes to avoid punishment because of a technical loophole."

The commission chairman, former state Attorney General John Van de Kamp, disputed



Schwarzenegger's interpretation Monday, saying the bill would have created no loopholes and would have helped law enforcement by making evidence more reliable.

A recording could "resolve claims that coercive interrogation techniques were used, ensuring the admission of confessions that were obtained in compliance with the law, and the exclusion of those that were not," Van de Kamp said.

"In the proposal to guard against mistaken eyewitness identifications, the commission initially considered drafting guidelines for all police agencies, but ultimately recommended a milder proposal.

Under SB1544 by state Sen. Carole Migden, D-San Francisco, Attorney General Bill Lockyer and a state police-training agency would have issued the guidelines after considering the commission's recommendations.

The most important of those would have required that police officers who supervise lineups and photo identifications be unaware of the suspect's identity and therefore be unable to give subtle hints to the witness.

In his veto message, Schwarzenegger said such standards should be set by legislators rather than state agencies.

*E-mail Bob Egelko at [beigelko@sfnchronicle.com](mailto:beigelko@sfnchronicle.com).*

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