

Vetoes Sink Reforms for Justice System

Panel's Legislation Sought to Avoid Conviction Errors

Bills to Be Reintroduced

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SACRAMENTO — Former California Attorney General John Van de Kamp said Monday that he believes Gov. Arnold Schwarzenegger misunderstood recommendations made by a bipartisan commission when he vetoed proposed reforms to the state's justice system.

On Saturday, the governor vetoed bills that would have required law enforcement officers to record interrogations in homicide and violent-felony investigations and set up guidelines to ensure accuracy of eyewitnesses.

Van de Kamp is chairman of the California Commission on the Fair Administration of Justice, which

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made the proposals. The commission is exploring ways to eliminate wrongful criminal convictions. He said the governor's staff did not seek clarification of the commission's proposals and apparently misunderstood how they would operate.

"We are gratified by the strong legislative support for our recommendations and remain optimistic that once the governor's staff understands the reasons for these measures, we can reach closure with language he is willing to accept," he said.

The commission, composed of representatives of nearly every facet of criminal law, including prosecutors, defense lawyers and victim advocates, achieved "virtual unanimity" in its recommendations, Van de Kamp said. He said the commission would seek to reintroduce similar legislation in the next session.

Schwarzenegger is facing re-election in November, a time when most candidates are trying to appear tough on crime before an electorate that traditionally has voted against candidates they believe to be too lenient. In his veto message, the governor said the measures "denie[d] the public and their elected representatives the chance to approve or deny a statewide policy that could have a life-altering impact on an individual participating in our justice system."

SB 1544 by Sen. Carole Migden, D-San Francisco, would have required the Department of Justice and Commission on Peace Officer Standards and Training to develop

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statewide guidelines on the handling of eyewitness identifications.

The bill would have required the administrator of police lineups, in which a witness is asked to identify a suspect within a group of people, to not know who the suspect is. The measure also would have required members of the lineup to be presented sequentially and not simultaneously.

Research has shown mistaken identification is the leading cause of wrongful convictions, the commission said.

No group was listed in bill analyses as opposed when the Legislature voted to send it to the governor.

But in his veto message, Schwarzenegger said, "It is unthinkable that we would allow the DOJ and POST such unprecedented authority over a fundamental step in our criminal justice system."

In response, Van de Kamp said the delegation of authority by the Legislature has never been viewed as circumvention, and said the guidelines were to be developed with input from all criminal justice agencies.

"It is hard to imagine a more life-altering impact upon an individual than to be wrongfully convicted and sent to prison or executed," Van de Kamp said.

He said wrongful convictions impose tremendous costs on taxpayers through lawsuits and compensation.

Also Saturday, the governor vetoed SB 171, a bill that would have mandated electronic recording of interrogations of people when they are suspected of committing one of several violent crimes.

In its recommendations, the commission said a substantial number of police agencies already record interrogations.

In his veto message, Schwarzenegger objected to a definition of "custodial interrogation" he said differed from one used by the U.S. Supreme Court, and said the bill did not specify what "suspected" meant, when it required recording of someone suspected of a crime.

"These drafting errors could lead to confusion for all involved parties and potential situations where law enforcement unknowingly fails to comply with the mandates of the bill," Schwarzenegger wrote.

Van de Kamp said the only difference in the bill's definition of "custodial interrogation" is it limited recordings to interrogations at the place of detention, rather than squad cars and other places that the court's definition included.

He said the bill did not create any loopholes for guilty persons to escape punishment, but would provide an objective and fair way to resolve claims that an interrogation was improperly coerced and would lead to less litigation.

In other vetoes Saturday, the governor refused to sign a bill that would have allowed the attorney general to collect legal fees and the costs of successfully prosecuting public rights cases against corporations.

Schwarzenegger campaigned into office on a tort reform platform, and tort reform advocates opposed SB 1489, authored by Sen. Denise Ducheny, D-San Diego.