Date of Hearing: March 25, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 572 (Kalra) – As Introduced February 12, 2025

Updated

As Proposed To Be Amended in Committee

SUMMARY: Requires specified law enforcement officers, prior to interviewing an immediate family member of a person who has been killed or seriously injured by a peace officer, to inform that person that their family member has been killed or seriously injured. Specifically, **this bill**:

1) Requires a peace officer or prosecuting attorney, prior to commencing any interview, questioning, or interrogation by law enforcement, regardless of whether they are in a police station, with an immediate family member of a person who has been killed or seriously injured by a peace officer, to do the following:

    a) Clearly identify themself, identifying the full name of the agency by whom they are employed. If the interview takes place in person, the party shall also show the person a business card, official badge, or other form of official identification.

    b) Inform the person of the status of their family member, including whether the family member has been killed or seriously injured by law enforcement.

    c) Inform the person that they can consult with an attorney or trusted support person, they are not required to speak with officers, and they are not required to go to the police station.

    d) Inform the person that they are conducting an investigation and that the investigation may or may not involve the culpability of the person that was killed or injured.

2) Defines "immediate family" to mean the victim's spouse, domestic partner, parent, guardian, grandparent, aunt, uncle, brother, sister, and children or grandchildren who are related by blood, marriage, or adoption.

EXISTING LAW:

1) Provides that, to the extent that such privilege exists under the Constitution of the United States or the State of California, a person has a privilege to refuse to disclose any matter that may tend to incriminate them. (Evid. Code, § 940.)

2) Requires all peace officers to complete an introductory course of training prescribed by the Commission on Peace Officers Standards and Training ("POST"), demonstrated by passage of an appropriate examination developed by POST. (Pen. Code, § 832, subd. (a).)

3) Requires the Robert Presley Institute of Criminal Investigation to provide an array of investigation training, including core instruction in matters common to all investigative activities, advanced instruction through foundation specialty courses in the various investigative specialties, and completion of a variety of elective courses pertaining to investigation. (Pen. Code § 13519.9, subd. (b).)

4) Requires a state prosecutor to investigate incidents of officer-involved shootings resulting in the death of an unarmed civilian. (Gov. Code, § 12525.3, subd. (b)(1).)

5) Requires law enforcement to provide certain information to victims of domestic violence and sexual assault, including information about their rights and available services. (Pen. Code, §§ 680.2, subd. (a), 13701, subds. (c)(9).)

6) Requires each department or agency that employs peace officers to make a record of any investigations of misconduct involving a peace officer in the officer's general personnel file or a separate file designated by the department or agency. (Pen. Code, § 832.12, subd. (a).)

7) Requires every person employed as a peace officer to immediately report all uses of force by the officer to the officer's department or agency. (Pen. Code, § 832.13.)

8) States that except as specified, peace officer or custodial officer personnel records maintained by any state or local agency pursuant to citizens' complaints against personnel are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery, among other exemptions (Pen. Code, § 832.7(a).)

9) Provides that peace officer or custodial records maintained by their agencies shall not be confidential and shall be made available for public inspection pursuant to the CPRA. These include:

    a) A record relating to the report, investigation, or findings of:

        i) An incident involving the discharge of a firearm at a person by a peace officer;

        ii) An incident in which the use of force by a peace officer against a person resulted in death, or in great bodily injury;

        iii) A sustained finding involving a complaint that alleges unreasonable or excessive force; or

        iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

    b) Any record relating to an incident in which a sustained finding was made by a law enforcement or oversight agency that a peace officer engaged in sexual assault, as specified;

    c) Any record relating to an incident in which a sustained finding was made by a law enforcement or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or

directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, as specified;

d) Any record relating to an incident in which a sustained finding was made by a law enforcement or oversight agency that a peace officer or custodial officer engaged in conduct involving prejudice or discrimination, as specified; and

e) Any record relating to an incident in which a sustained finding was made by a law enforcement or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search. (Pen. Code, § 832.7(b)(1)(A)-(E))

10) Requires any agency employing a peace officer to report to POST any complaint, charge, or allegation of conduct against a peace officer that could render that officer subject to suspension or revocation of certification, within 10 days of the event. (Pen. Code § 13510.9, subd. (a).)

11) Specifies circumstances under which a peace officer shall have their certification revoked, and when a peace officer may have their certification suspended or revoked based on termination for cause or serious misconduct. (Pen. Code § 13510.9)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "The relatives of individuals affected by police violence have a reasonable expectation of transparency and information about the circumstances surrounding their loved ones' welfare without encountering deceiving and threatening information. The coercive methods law enforcement officers use to interrogate family members of the victim not only inflict harm upon the victim and their family, but also erode trust in law enforcement. AB 572 will provide family members with information that could protect them from a coercive interrogation when they are at their most vulnerable."

2) **Effect of this Bill:** AB 572 seeks to prevent law enforcement from misleading family members of persons who have been killed by law enforcement for the purposes of securing advantageous information about the deceased family member. It proposes to require a peace officer or prosecuting attorney, prior to interviewing an immediate family member of a person who has been killed or seriously injured by an officer, to inform that person that their family member has been killed or seriously injured. Specifically, prior to commencing any interview, questioning or interrogation, of such an immediate family member, such a law enforcement officer would be required to: 1) clearly identify themselves and their employing agency; 2) inform the person of the status of their family member, including whether the family member has been killed or seriously injured by law enforcement; 3) inform the person that they can consult with an attorney or trusted support person, they are not required to speak with officers, and they are not required to go to the police station; and 4) inform the person that they are conducting an investigation, which may or may not involve the culpability of the person that was killed or injured.

3) **Need for this Bill:** Recent reports indicate that many law enforcement agencies in California have been trained, in the aftermath of a police-involved killing, to immediately question

family members of the deceased and refrain from disclosing that such a person was killed, prior to the family members finding out about the death of their deceased family member.[1] This enables law enforcement to secure information (including advantageous and potentially incriminating information) about the deceased person, as family members may be less willing to share information with law enforcement upon finding out that law enforcement killed their family member. Incriminating information (e.g. history of drug use, propensity for violence, mental health issues) gained during such interviews can assist law enforcement agencies in defending against future civil suits pertaining to the death of that person, and ultimately lower potential settlement amounts associated with police-involved killings.[2]

According to a recent *Los Angeles Times* report:

> For years, law enforcement agencies across California have been trained to quickly question family members after a police killing in order to collect information that, among other things, is used to protect the involved officers and their department, an investigation by the Los Angeles Times and the Investigative Reporting Program at UC Berkeley's Graduate School of Journalism has found.
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> Police and prosecutors routinely incorporate the information into disparaging accounts about the people who have been killed that help justify the killings, bolster the department's defense against civil suits and reduce the amount of money families receive in settlements and jury verdicts, according to police reports, court records and interviews with families and their attorneys.
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> The Times and the Investigative Reporting Program documented 20 instances of the practice by 15 law enforcement agencies across the state since 2008. Attorneys specializing in police misconduct lawsuits say those cases are just a fraction of what they describe as a routine practice.[3]

In one example - a teenager suffering from mental health issues stabbed his father. While his father was being transported to a hospital, the teenager was shot by police. That same night, detectives went to the hospital and asked the father numerous questions, which led to the father disclosing information about his son's use of drugs, lack of impulse control, and suicidal thinking. The officer's never disclosed that his son was already dead, and only after the detectives left did the father find out about his son's death.[4]

In another example - a 19 year old women with bipolar disorder was shot and killed by the police, who alleged the black drill she was holding looked like a gun. Just two hours after the shooting, detectives interviewed her father in an interrogation room, seeking information about her mental health. Her father was under the impression she was being treated in a hospital, and didn't find out about her death until 27 minutes into the interview.[5]

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[1] Howey, *After police killings, families are kept in the dark and grilled for information*, L.A. Times (Mar. 28, 2023), available at: https://www.latimes.com/california/story/2023-03-28/police-shootings-california-families-grilled-information
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*

Other reports shine light on an opposite, although just as concerning practice; law enforcement falsely informing family members of suspects that their loved one has been killed, for the purposes of securing a guilty confession.[6] For example, one man was being interrogated by police about his father, who had been missing. The police suspected the son had killed his father. Hours into the interrogation the detectives told the son that his father had been found dead. The son repeatedly claimed innocence, before eventually falsely confessing to the crime after several more hours of interrogation. The son subsequently attempted to hang himself. The catch – hours later the the father was located alive and well.[7] While this example is distinct from incidents of law enforcement refraining to disclose to a person that their family member has been killed, it supports the author's concern that there is a pattern of law enforcement misleading people about the health of their family members, when they are most vulnerable, for the purposes of securing advantageous information.

Should there be limits on the extent to which law enforcement can mislead someone about the health and wellbeing of a family member who has been killed or seriously injured by police?

4) **Maintaining Consistency With Miranda Warnings and Peace Officer Investigation Obligations:** The author may wish to make some clarifying changes to avoid overlap with the constitutionally required admonitions that law enforcement are required to give before interrogating certain suspects, and ensure law enforcement can still arrest and detain suspects of crimes when necessary.

For background, "Miranda warnings" are a series of admonitions that generally must be given by police prior to interrogating a suspect of a crime. The purpose of Miranda warnings is to advise people that have been arrested of their constitutional right against self-incrimination. They are the product of the landmark U.S. Supreme Court decision *Miranda v. Arizona* (1966) 384 U.S. 436. In deciding that case, the Supreme Court imposed specific, constitutional requirements pertaining to the advice an officer must provide prior to engaging in a custodial interrogation and held that statements taken without such warnings are inadmissible against the defendant in a criminal case. (*Miranda v. Arizona* (1966) 384 U.S. 436.) The Court summarized its decision as follows:

> [T]he prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive

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[6] Chabria and Garrison, *Cops lie to suspects during interrogations. Should detectives stick to the truth?* L.A. Times (Dec. 23, 2024), available at: https://www.latimes.com/california/story/2024-12-23/cops-lie-to-suspects-during-interrogations-should-detectives-stick-to-the-truth
[7] *Ibid.*

> effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned. (*Id.* at 444-45.)

In sum, Miranda warnings are meant to inform people who are in custody of their constitutional right not to be a witness against themselves. Police are not required to speak a specific set of words but generally must convey that the person has the rights enumerated above. Notably, law enforcement need only give Miranda warnings to people "taken into custody or otherwise deprived of [their] freedom of action in any significant way"—i.e. people seized for questioning about a crime. (*Miranda v. Arizona* (1966) 384 U.S. 436, 444-45.) Such warnings are not required to be given to, among others, witnesses of crime, the family members of a defendant, or family members of a person killed by a peace officer.

In order to avoid confusing the obligations of this bill with Miranda warnings, and to ensure police can still make lawful arrests when needed, the author may wish to clarify that certain requirements of this bill do not apply if the family member is under arrest or subject to custodial interrogation. This is most applicable to the requirements that an officer inform a person whose immediate family member has been killed or seriously injured that they can consult with an attorney or trusted support person, they are not required to speak with officers, and they are not required to go to the police station, as well as the requirement that officers inform a family member that they are conducting an investigation that may or may not involve the culpability of the person who was killed or injured.

It is reasonable for police to inform immediate family members of persons who have been killed by police that they are not required to go to a police station in cases where that family member *is not under arrest*. On the other hand, if that family member is under arrest, or otherwise subject to custodial interrogation because they are a suspect, then requiring police to tell them that they do not need to go to a police station would be inaccurate. For example, say the police are pursuing two brothers who allegedly committed a murder. One is shot and killed by police, and the other, the police follow to an apartment. Upon detaining the surviving brother at the apartment with plans to arrest and take him to a police station, AB 572 could be interpreted to require the police to inform the brother that he is not required to go to the police station. Such a statement would be contradictory in scenarios such as this, where law enforcement would be well within their right to arrest him and take him to a police station. Similarly, in cases where an immediate family member of a person killed by the police is taken into custody for interrogation, the requirement to issue Miranda warnings will be triggered.

Further, requiring a family member that they are conducting an investigation that may or may not involve the culpability of the person that was killed or injured, may not be applicable if an officer is not in fact conducting an investigation. And if that family member is a suspect, as discussed above, making such a statement could interfere with law enforcement investigatory efforts.

5) **Additional Considerations:** The author may wish to clarify certain terms and provisions of this bill.

First, the author may wish to define what it means to be "seriously injured." Definitions elsewhere in the Penal Code may be informative. For example, "great bodily injury" is defined elsewhere as "a significant or substantial physical injury? (Pen. Code, § 12022.7(f)(1).) Alternatively, "serious bodily injury" is defined as "a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement." (Pen. Code, § 243(f)(4).)

Second, the author may wish to further define what is encompassed by the requirement that a law enforcement officer inform the person "of the status" of their family member. This could be interpreted to apply only to whether that family member has been killed or seriously injured. Alternatively, it could be interpreted to require additional disclosure of information such as the family member's location, type of injuries, and whether they are in custody.

6) **Argument in Support**: According to the *California Public Defenders Association*, "CPDA has a long-standing history of advocating for police transparency, accountability, and accessibility. We have supported numerous pieces of legislation aimed at ensuring community access to information about law enforcement and policing. Over the last 5 years, we have proudly supported specific efforts by members of the California Legislature to put police policies and procedures online (SB 978 (Bradford), increase transparency of some police disciplinary records (SB 1421 (Skinner) and SB 16 (Skinner)) and to create a commission to investigate and decertify police officers who commit misconduct (SB 2 (Bradford.))

"AB 572 would require a peace officer, a prosecuting attorney, or an investigator for the prosecution, prior to interviewing an immediate family member of a person who has been killed or seriously injured by a peace officer, to clearly identify themself, if the interview takes place in person, to show identification, and to state specified information, including that the family member has the right to ask about the status of their family member prior to answering questions, has the right to remain silent, and before speaking with the interviewer, can consult with a trusted person and can have that person with them while they speak to the interviewer.

"AB 572 provides more transparency and accountability by providing members of the community information about whether the person attempting to interview them is a member of the prosecution, or law enforcement or someone else entirely, as well as their purpose in conducting the interview. People who have lost a loved one are understandably emotionally distraught and often confused about what is happening and should be provided clear information about whom the person is who is asking questions of them. AB 572 will provide some clarity about the purpose of the inquiry being made by law enforcement.

"An individual who has lost a loved one will be more willing to cooperate and aid the police in its investigation knowing the purpose of the questioning. It will help to foster more trusting relationships between the community and law enforcement by providing some assurance that a person is not misrepresenting themselves. Advising members of the public

with this most basic information takes little time and energy and it will aid law enforcement in obtaining accurate and reliable information that may be used to further their investigative efforts."

7) **Argument in Opposition**: According to the *Peace Officers Research Association of California*, "PORAC is deeply concerned that AB 572 will impede the pursuit of truth and justice by hindering the ability of investigators to gather accurate information from immediate family members of individuals involved in deadly force or serious injury incidents involving peace officers. By requiring these warnings and creating opportunities for family members to consult with attorneys before providing statements, AB 572 will result in witnesses declining to provide immediate interviews or statements, thereby inviting legal obstruction and the withholding of crucial information. Investigators rely on prompt interviews to capture spontaneous, detailed accounts before narratives solidify and external influences intervene to prevent the disclosure of or misrepresentation of critical details involving the actions of the suspect and the officer leading up to the shooting. For example, after consulting with a lawyer, a spouse who feared her husband would stab her may refuse to disclose her husband was wielding a knife or downplay her fear he would stab her.

"The prompt questioning of witness family members best serves the public by providing investigators with more truthful, accurate, and complete statements. First, fresh memories are more reliable. Statements obtained closer to the event reduce the risk of memory distortion or loss. Consultation with an attorney may result in significant delay, degrading their ability to vividly recall details like the officer and the suspect's actions prior to the shooting, the sequence of events, or environmental factors.

"Second, consultation with a lawyer will result in strategic framing tailored to legal strategies (e.g., minimizing the suspect's culpability to support a wrongful death claim). Attorneys may encourage selective recall aligned with civil litigation goals rather than a comprehensive account. For example, a sibling might initially recall the suspect reaching for a weapon but, post-attorney, focus only on the officer's actions, skewing their statement. Witnesses do not need a Miranda-like warning because they have no risk of self-incrimination or criminal exposure.

"Statements obtained contemporaneously are inherently more reliable because the emotional state of the witness can enhance the recall of vivid details and reduce the risk of deception, for similar reasons to the excited utterances exception to hearsay. An emotional outpouring often leads to unfiltered statements, potentially revealing details they'd later suppress or alter after legal advice.

"In high-profile cases, family members might face pressure from activists, the media, other family members, or civil rights lawyers to align with a false narrative to maximize the recovery on meritless claims. Prompt interviews might reflect raw emotion, but delayed ones after counsel could balance personal truth with external influences.

"In addition, this bill is predicated on the false notion that family members are inherently vulnerable and require special protections to prevent coercion. In reality, family members are often the individuals with the most direct knowledge of the deceased or injured person's state of mind, potential threats they posed, and relevant circumstances surrounding the incident. Preventing investigators from obtaining truthful statements from these individuals before

they can be coached or advised to remain silent undermines the pursuit of justice."

8) **Related Legislation**:

a) AB 1388 (Bryan), would prohibit a law enforcement agency from entering into a settlement agreement with a peace officer who has a pending complaint of misconduct with a term that requires the law enforcement agency to keep the misconduct confidential. AB 1388 is pending a hearing in this committee.

b) AB 1178 (Pacheco), would additionally require a law enforcement agency to redact records of specified sworn officers working an undercover assignment, all sworn personnel attached to a federal or state task force, and members of a law enforcement agency who received verified death threats to themselves or their families within the last ten years because of their law enforcement employment. AB 1178 is pending referral to a policy committee.

9) **Prior Legislation**:

a) AB 3021 (Kalra), of the 2023-2024 Legislative Session, would have established procedures that law enforcement must follow prior to interviewing, questioning, or interrogating the family member of person who has been killed or seriously injured by a peace officer. AB 3021 was ordered to the Senate inactive file.

b) SB 494 (Dodd), of the 2021-2022 Legislative Session, would have required POST to develop and implement a course of instruction for law enforcement officers in the use of advanced interpersonal communication skills, and the use of science-based interviewing. SB 494 was vetoed by the Governor.

c) AB 1506 (McCarty), Chapter 326, Statutes of 2020, requires a state prosecutor to conduct an investigation of any officer-involved shooting that resulted in the death of an unarmed civilian, as specified.

d) SB 203 (Bradford), Chapter 355, Statutes of 2020, requires that, prior to any custodial interrogation and before the waiver of any Miranda rights, a youth of 17 years or younger must consult with legal counsel in person, by telephone, or by video conference.

e) AB 332 (Skinner) Chapter 172, Statutes of 2019, required POST to submit a report to the Legislature and Governor with specified data relating to students' completion of the basic training course for peace officers and the availability of remedial training and retesting when a student fails to complete a course.

f) SB 395 (Lara) Chapter 681, Statutes of 2017 requires that a youth 15 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights.

g) SB 1052 (Lara), of the 2015-2016 Legislative Session, would have required that a youth under the age of 18 consult with counsel prior to a custodial interrogation and before waiving any specified rights. SB 1052 was vetoed by Governor Brown.

h) AB 1329 (Epple) Chapter 43, Statutes of 1994 established the Robert Presley Institute of Criminal Investigation in statute.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Asian Law Alliance
California Alliance for Youth and Community Justice
California Civil Liberties Advocacy
California Coalition for Women Prisoners
California for Safety and Justice
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Check the Sheriff
Coalition for Justice and Accountability
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Families Demanding Justice
Felony Murder Elimination Project
Fresh Lifelines for Youth
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Matlin Legal
Oakland Privacy
Pacifica Social Justice
Peace and Justice Law Center
Restoring Hope California
Reuniting Families Contra Costa
Rubicon Programs
Ryse Center
San Francisco Public Defender
San Jose Peace and Justice Center
Silicon Valley De-bug
Silicon Valley Debug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
The W. Haywood Burns Institute
Urban Peace Movement
Vera Institute of Justice
Vietunity South Bay
Voices of Strength
Youth United for Community Action (YUCA)

Oppose

Arcadia Police Officers' Association
Association for Los Angeles Deputy Sheriffs (ALADS)
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
San Diego County District Attorney's Office
Santa Ana Police Officers Association

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