26-03 - Criminal Procedure: Interrogations

Los Angeles County Sheriff's Department

NEWSLETTER

Field Operations Support Services

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CRIMINAL PROCEDURE: INTERROGATIONS

OVERVIEW

Pursuant to AB 572, a provision of the California Government Code section 7287 was added. The new law requires every law enforcement and prosecutorial agency to maintain a policy related to the formal interview for evidence following a law enforcement incident **resulting in a person's death or serious bodily injury caused by a peace officer**. The policy must be issued on or before January 1, 2027, and must adhere to certain provisions.

All sworn personnel are directed to review and familiarize themselves with the requirements of this statute. This statute applies to all sworn employees, including but not limited to homicide detectives, station detectives, and any sworn members conducting service comment reviews, inquiries, force investigations, administrative investigators, and internal criminal investigators. These statutory requirements are applicable to any circumstance in which sworn personnel conducts a formal interview of an immediate family member of a person who has been killed or has sustained serious bodily injury by a peace officer.

STATUTORY REQUIREMENTS

Before any initial formal interview with an immediate family member of the person killed or seriously injured by a peace officer, or upon confirming the relationship as an immediate family member, a peace officer must do all of the following:

- Clearly identify themselves by providing their full name and the name of their employing agency. For interviews that take place in person, they shall also display a business card, badge, or other form of official departmental identification.

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

- Inform the person that they are conducting a formal interview for the purposes of an investigation that may or may not involve an assessment of the conduct of the person that was killed or injured.

- Inform the person that they can have a support person with them. If the family member is asked to go to a station for a formal interview, inform the family member that they have a choice to come to the station, and advise that they may have a trusted support person with them.

- A peace officer or prosecuting attorney is prohibited from using threats or deception, including knowingly using false information, fabricated evidence, or misleading statements, to coerce an interview or conducting any interview subject to this section.

Exceptions

The requirements of the statute do **not** apply under the following circumstances:

- When a reasonable officer believes that delay would result in the loss or destruction of evidence or pose an imminent threat to public safety.

- When the immediate family member has received advisements substantially equivalent to those required by this section or under Miranda v. Arizona (1966) 384 U.S. 436.

DEFINITIONS
Government Code section 7287 includes the following definitions.

Formal interview means an interview conducted in person or via secure remote communication, including, but not limited to, video or audio conferencing, designed to elicit specific, material information about an incident and documented through written, audio, or video records.

Immediate Family Member means a person known by the officer at the time of the interview to be a spouse, parent, grandparent, brother, sister, or child or grandchild related by blood, marriage, or adoption of the person who was killed or injured.

Serious Bodily Injury has the same meaning as in paragraph (4) of subdivision (f) of Section 243 of the Penal Code. “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.

Support Person means an individual selected by the immediate family member to provide moral and emotional support, provided the support person is not a percipient witness to or person of interest or suspect in the incident involving the individual who was killed or seriously injured by police. No certification, training, or other special qualification is required for an individual to act as a support person.

NOTE: Further policy and guidance are forthcoming.

If you require further information, contact Field Operations Support Services at (323) 890-5411 or fossunit@lasd.org.

REFERENCES
California Legislative Information – California Government Code 7287 (as amended by AB 572)