3-10/119.00 - Formal Interviews of Immediate Family Members in Officer-Involved Critical Incidents

OVERVIEW

Pursuant to Assembly Bill 572, California Government Code section 7287 was added, requiring 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.

This policy applies to all sworn members, including but not limited to sworn personnel acting in an investigative capacity.

This policy applies to any circumstance in which sworn personnel conduct an initial formal interview of an immediate family member of a person who has been killed or has sustained serious bodily injury by a peace officer.

DEFINITIONS

Government Code section 7287 includes the following definitions:

Formal interview: 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: 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 (SBI): Uses the same meaning as in paragraph (4) of subdivision (f) of Section 243 of the Penal Code. SBI is the 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: 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.

POLICY

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

- Clearly identify themselves by providing their full name and the name of the Department. For interviews

that take place in person, Department members 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 are permitted to 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 whether or not to come to the station, and advise that they may have a trusted support person with them.

A Department member conducting the initial formal interview shall document in any report generated or via Body Warn Camera (BWC) the steps taken to comply with the statute and this policy.

Department members are prohibited from using threats or deception, including knowingly using false information, fabricated evidence, or misleading statements, to coerce an interview or when conducting any interview subject to this section.

EXCEPTIONS

The requirements of the statute and the policy 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 under *Miranda v. Arizona* (1966) 384 U.S. 436.