
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: SB 882 **Hearing Date:** March 15, 2022
Author: Eggman
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Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Advisory Council on Improving Interactions between People with Intellectual and Development Disabilities and Law Enforcement*

HISTORY

Source: The Arc California and the United Cerebral Palsy Partnership CA
Collaboration
United Domestic Workers, AFSCME Local 3930
The Association of Regional Center Agencies

Prior Legislation: AB 1718 (Hertzberg), Ch. 200, Stats. of 2000
AB 1762 (Villaraigosa, 2000), failed passage in Assembly Appropriations
AB 71 (Rodriguez), Ch. 462, Stats. of 2015
SB 11 (Beall), Ch. 468, Stats. of 2015
SB 29 (Beall), Ch. 469, Stats. of 2015
AB 1170 (Frazier, 2019), failed passage in Assembly Appropriations
AB 680 (Chu, 2019), failed passage in Senate Appropriations

Support: California Public Defenders Association; FASD Network of Southern California;
Wayfinder Family Services

Opposition: None Received

PURPOSE

The purpose of this bill is to create an advisory council within the Department of Justice responsible for evaluating and reporting on existing training for peace officers related to interactions between law enforcement and people with intellectual and developmental disabilities. Additionally, this bill requires use of force incident reports sent to the Department of Justice by local law enforcement agencies to include information on whether someone involved had an intellectual or developmental disability.

Existing law requires the Commission on Peace Officer Standards and Training (POST) to adopt rules establishing minimum standards relating to the recruitment, training and fitness of state and local law enforcement officers. (Pen. Code, § 13510 (a) and (b); § 13510.5)

Existing law requires that the course of basic training for law enforcement officers include adequate instruction in specified procedures and techniques relating to the handling of persons with developmental disabilities or mental illness. (Pen. Code § 13519.2 (a))

Existing law requires that the course of instruction relating to the handling of developmentally disabled or mentally ill persons be developed in consultation with appropriate groups and individuals having an interest and expertise in this area, and that it include information on the cause and nature of developmental disabilities and mental illness, as well as the community resources available to serve these persons. (Pen. Code § 13519.2 (b))

Existing law requires POST to establish and continually update a training course relating to law enforcement interaction with persons with mental disabilities, in consultation with appropriate community, local, and state organizations and agencies that have expertise in the area of mental illness and developmental disability, and with appropriate consumer and family advocate groups. (Pen. Code, §13515.25(a))

Existing law requires that the training course established under subdivision (a) include, at a minimum, instruction in all of the following:

- 1) The cause and nature of mental illnesses and developmental disabilities;
- 2) How to identify indicators of mental disability and how to respond appropriately in a variety of common situations;
- 3) Conflict resolution and de-escalation techniques for potentially dangerous situations involving a person with a mental disability;
- 4) Appropriate language usage when interacting with a person with a mental disability;
- 5) Alternatives to lethal force when interacting with potentially dangerous persons with mental disabilities;
- 6) Community and state resources available to serve persons with mental disabilities and how these resources can be best utilized by law enforcement to benefit the mentally disabled community; and,
- 7) The fact that a crime committed in whole or in part because of an actual or perceived disability of the victim is a hate crime. (Pen. Code, § 13515.25 (b))

Existing law requires POST to establish and keep updated a classroom-based continuing training course that includes instructor-led active learning, such as scenario-based training, relating to behavioral health and law enforcement interaction with persons with mental illness, intellectual disability, and substance use disorders. (Pen. Code, § 13515.27 (a))

Existing law requires the instructor-led active learning course to be at least three consecutive hours, may include training scenarios and facilitated learning activities, shall address issues related to stigma, shall be culturally relevant and appropriate, and shall include all of the following topics:

- The cause and nature of mental illness, intellectual disability, and substance use disorders;
- Indicators of mental illness, intellectual disability, and substance use disorders;
- Appropriate responses to a variety of situations involving persons with mental illness, intellectual disability, and substance use disorders;
- Conflict resolution and de-escalation techniques for potentially dangerous situations;

- Appropriate language usage when interacting with potentially emotionally distressed persons;
- Resources available to serve persons with mental illness or intellectual disability; and,
- The perspective of individuals or families who have experiences with persons with mental illness, intellectual disability, and substance use disorders. (Pen. Code, § 13515.27 (b))

Existing law requires POST to provide mental health training as part of its basic course for peace officers that address issues related to stigma, shall be culturally relevant and appropriate, and shall include all of the following topics:

- Recognizing indicators of mental illness, intellectual disability, and substance use disorders;
- Conflict resolution and de-escalation techniques for potentially dangerous situations;
- Use of force options and alternatives;
- The perspective of individuals or families who have experiences with persons with mental illness, intellectual disability, and substance use disorders; and,
- Mental health resources available to the first responders to events that involve mentally disabled persons. (Pen. Code, § 13515.26 (a) and (c))

Existing law requires the basic course of instruction for peace officers relating to persons with a mental illness, intellectual disability, or substance use disorder to be at least 15 hours, and include training scenarios and facilitated learning activities relating to law enforcement interaction with persons with mental illness, intellectual disability, and substance use disorders. (Pen. Code, § 13515.26 (d))

Existing law requires that field training officers who provide instruction in the field training program participate in crisis intervention behavioral health training to better train new peace officers on how to effectively interact with persons with mental illness or intellectual disability, and requires that training to cover a range of topics, such as identification of illness, communication techniques, and available resources. (Pen. Code, § 13515.28(a) and (b))

Existing law requires POST to establish and keep updated a field training officer course relating to competencies of the field training program and police training program that addresses how to interact with persons with mental illness or intellectual disability. (Pen. Code, § 13515.29(a))

This bill creates the Advisory Council on Improving Interactions between People with Intellectual and Developmental Disabilities (hereinafter, “Council”) within the Department of Justice.

This bill provides that the Council shall consist of 16 members, as follows:

- One person with an intellectual or developmental disability appointed by the Senate Rules Committee.
- One person with a mental health disorder appointed by the Speaker of the Assembly
- One parent or family member of a person with a disability appointed by the Speaker of the Assembly.
- One parent or family member of a person with a mental health disorder appointed by the Senate Rules Committee.

- One representative from an advocacy organization that represents the intellectual and developmental disability community appointed by the Senate Rules Committee.
- One representative from an advocacy organization that represents the mental health community appointed by the Speaker of the Assembly.
- One representative from the State Department of Developmental Services appointed by the Governor.
- One representative from the State Department of Developmental Services Regional Centers appointed by the Governor.
- One representative from the California Police Chiefs' Association appointed by the Speaker of the Assembly.
- One representative from the California State Sheriffs' Association appointed by the Speaker of the Assembly.
- One representative from the Commission on Peace Officer Standards and Training appointed by the Speaker of the Assembly.
- One representative from a labor organization that represents providers of in-home personal care services appointed by the Senate Rules Committee.
- One representative from a labor organization that represents county behavioral health or intellectual and developmental disability service providers appointed by the Speaker of the Assembly.
- One representative from an academic institution who has expertise in research on developmental disabilities appointed by the Governor.
- One representative from an academic institution who has expertise in research on mental health disorders appointed by the Governor.
- One representative from an emergency dispatch system appointed by the Attorney General.

This bill specifies that the appointment of members to the council shall ensure, to the greatest extent possible, that the council's membership is representative of the ethnic, cultural, age, gender, sexual orientation, and disability diversity of the state, and all the geographic areas of the state.

This bill specifies that the Council's duties include:

- Evaluating existing training for peace officers specific to interaction with the developmentally disabled community and individuals with mental health disorders;
- Identifying gaps in peace officer training related to law enforcement interactions with these groups; and,
- Providing recommendations for improving outcomes in interactions between law enforcement and these groups.

This bill requires the Council to meet quarterly beginning July 1, 2023, and to submit a report to the Legislature within 24 months of the body's first convening which includes recommendations for improving outcomes of interactions between people with intellectual and developmental disabilities and mental health conditions, and law enforcement.

Existing law requires that each law enforcement agency furnish to DOJ on a monthly basis a report of all instances when a peace officer employed by that agency is involved in any of the following:

- An incident involving the shooting of a civilian by a peace officer.
- An incident involving the shooting of a peace officer by a civilian.
- An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.
- An incident in which use of force by a civilian against a peace officer results in serious bodily injury or death. (Government Code, § 12525.2)

Existing law specifies that for each incident reported under subdivision (a), the information reported to the Department of Justice shall include, but not be limited to, all of the following:

- The gender, race, and age of each individual who was shot, injured, or killed.
- The date, time, and location of the incident.
- Whether the civilian was armed, and, if so, the type of weapon.
- The type of force used against the officer, the civilian, or both, including the types of weapons used.
- The number of officers involved in the incident.
- The number of civilians involved in the incident.
- A brief description regarding the circumstances surrounding the incident, which may include the nature of injuries to officers and civilians and perceptions on behavior or mental disorders. (Government Code, § 12525.2)

This bill requires that each incident report submitted to DOJ under PC §12525.2 must also include whether an individual involved had an intellectual, developmental, physical or mental disability.

COMMENTS

1. Need for This Bill

According to the author:

Research indicates that individuals with an intellectual developmental disability (IDD) or mental health needs, are more likely to pass after violent interactions with law enforcement. Currently, there is no national database tracking fatal interactions between law enforcement and people with IDD and or mental health needs. Danger for these individuals increases with comorbid diagnoses such as substance use disorder or mental health needs. Oftentimes exhibited symptoms can range from lack of eye contact, odd behavior, fixations, lack of verbal skills or repetitive motions. Law enforcement is more likely to perceive people with IDD and MH needs as combative or dangerous, resulting in research documenting that people with these different abilities and needs are more likely to be killed after interactions with law enforcement.

While SB 29 (Beall, 2015) required trainings for law enforcement concerning individuals with IDD and Mental Health needs, a report done by the Little Hoover Commission in November 2021 surveyed law enforcement and reported that “53 percent said there are subjects not adequately covered by existing training curriculum. Mental health was one of the most common topics officers identified that is not addressed well by current training.”

With the absence of a national database tracking these types of interactions, this bill will require the tracking of such interactions in California. [This bill also] a council within the Attorney General's office to assess the trainings that police are taking for evaluating their efficacy and identifying what trainings may be working, and what trainings may have room for improvement.

2. Background on Police Interactions with Intellectually and Developmentally Disabled (IDD) Individuals and Individuals with Mental Illness

According to the National Alliance on Mental Health (NAMI) and the federal Centers for Disease Control (CDC), approximately 53 million adults in the United States experienced mental illness in 2020, and 61 million American adults live with some type of disability.¹ Of these individuals, a significant proportion struggles with a disability or mental illness that has regular and serious impacts on their daily lives. Although these individuals are no more likely to engage in criminal behavior than other adults, their disability or mental illness can lead to dramatically different interactions with law enforcement.

Recently, as police officers and agencies across the country have come under greater public scrutiny, so too has their role as first responders to incidents involving people with disabilities or mental illness. In 2020, it was estimated that around 20% of law enforcement agencies' calls for service were to respond to incidents involving someone experiencing a mental health or substance abuse crisis.² Yet despite the frequency of these interactions, a staggering number of them have deadly consequences. A database of police shootings published by The Washington Post shows that Americans with mental illnesses make up nearly a quarter of those killed by police officers.³

Notably, many IDD and mentally ill individuals killed by police are also people of color, with Native and African-Americans disproportionately affected. In 2015, several cases involving IID people of color received national attention, including that of Freddie Gray, who had a developmental disability caused by lead poisoning and died while being transported in a Baltimore Police Department Vehicle, and Tanisha Anderson, who died while having a mental health crisis after being violently restrained by police in Cleveland.

In California, according to the Washington Post database referenced above, 224 of the 1,040 people shot and killed by police since 2015 had a mental illness. And in recent years, several high profile police killings have cast the issue of police interaction with individuals with IDD and mental illness back into the spotlight. In 2019, Kenneth French, a non-verbal and mentally disabled man from Corona, was gunned down by an off-duty police officer inside a Costco Wholesale store.⁴ And last year, Kurt Reinhold, a homeless man in San Clemente experiencing

¹ "Mental Health by the Numbers." *National Alliance on Mental Illness*. <https://www.nami.org/mhstats>; "Disability Impacts All of Us." *Centers for Disease Control and Prevention*.

<https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>

² "Mental Health And Police Violence: How Crisis Intervention Teams Are Failing." *NPR*.

<https://www.npr.org/2020/09/18/913229469/mental-health-and-police-violence-how-crisis-intervention-teams-are-failing>

³ "Fatal Force." *The Washington Post*. Updated 14 February 2022.

https://www.washingtonpost.com/graphics/investigations/police-shootings-database/?itid=lk_inline_manual_3

⁴ "Manslaughter charges filed against LAPD officer who killed disabled man at Costco." *Los Angeles Times*. 9 August 2021. <https://www.latimes.com/california/story/2021-08-09/california-a-g-files-manslaughter-charges-against-lapd-officer-who-killed-disabled-man-at-costco>

a mental health crisis, was killed by police after initially being stopped for jaywalking.⁵ These and other incidents across the state have resulted in efforts at the state and local level to establish first responder programs for mental health calls that do not involve police.⁶ However, most of these efforts are still in their early stages.

3. Existing Training for Officers Related to IDD and Mental Illness

As outlined above, California law requires POST to provide, and peace officers to complete, extensive training related to interactions with individuals with IDD and mental illness. Most of these requirements were added by SB 11 (Beall, Chapter 468, Statutes of 2015) and SB 29 (Beall, Chapter 469, Statutes of 2015). These statutes require officers to complete, at a minimum, POST's Regular Basic Course (RBC) curriculum, which includes 15 hours of instruction on disability laws, developmental disabilities, physical disabilities and mental illness. SB 29 required field training officers who are instructors in the field training program to have at least 8 hours of crisis intervention behavioral health training. Additionally, existing law requires officers to complete at least 24 hours of Continuing Professional Training (CPT) every two years, a part of which may be satisfied by the mental health training course developed by POST under SB 11. However, the course is not mandated as part of the biennial CPT requirement.⁷

Of particular relevance to this bill, SB 11 and SB 29 also required POST to conduct a review and evaluation of its existing training, identify critical gaps, and work with the appropriate stakeholders to update the training to help officers effectively address incidents involving persons with mental illness or intellectual disability.⁸ The advisory council proposed under SB 882 is tasked with similar responsibilities. Considering the relatively recent nature of POST's review, the author and Committee may wish to consider whether additional evaluation is needed, and whether POST or the DOJ is capable of conducting additional evaluation independently, absent legislation to create an advisory council.

4. Tracking Law Enforcement Use of Force

A separate provision of this bill deals with the existing requirement that California law enforcement agencies submit monthly reports to the DOJ regarding police shootings and use of force incidents that result in serious bodily injury or death. Existing law requires law enforcement agencies to submit a monthly report to the DOJ on any shootings of civilians by peace officers and vice versa, as well as violent interactions between civilians and peace officers that result in death or serious bodily injury, even if no firearm was used. Under current law, those reports must include specific information about the incident and individuals involved, including the race, gender and age of individuals involved, the type of force used, whether the civilian was armed, among other details. This bill would add to that list information on whether an individual involved had an intellectual, developmental, physical or mental disability. Existing law also requires the reports to include a brief description regarding the circumstances

⁵"O.C. deputies argued over whether to stop Black man before fatally shooting him." *Los Angeles Times*. 18 February 2021. <https://www.latimes.com/california/story/2021-02-18/orange-county-deputies-argued-prior-to-shooting-black-man>

⁶ See AB 118 (Kamlager), Chapter 694, Statutes of 2021.

⁷ Commission on Peace Officer Standards and Training website. "Mental Health Training in Law Enforcement." <https://post.ca.gov/mental-health-training-in-law-enforcement>

⁸ Pen. Code §§ 13515.26, 13515.295

surrounding the incident. This bill adds to the list of details that may be included in that description the officers' perceptions on possible behavioral crisis.

5. Additional Considerations

This bill, which would become operative January 1, 2023, requires the Speaker of the Assembly, the Senate Rules Committee, the Governor, and the DOJ to convene a 16-member advisory council composed of representatives from a diverse array of stakeholder groups, and requires the body to hold its inaugural meeting no later than July 1, 2023. Further, the measure requires the advisory council to meet quarterly, and submit a report to the Legislature within 24 months of its first meeting. The measure does not address the purpose or dissolution of the council after issuing its final report.

This framework raises several logistical questions:

- 1) Can Senate, Assembly, Governor and DOJ vet and appoint candidates to a body this large within the designated timeframe (6 months)?
- 2) The bill has more members appointed by the Assembly than Senate Rules, what is the reason for this disparity?
- 3) Is a 16-member body too large to hold productive meetings on a quarterly basis and achieve its stated goals?⁹
- 4) Would the council continue to meet after issuing its report? To what end?

The author may wish to consider amendments clarifying these issues.

6. Author's Amendment to Be Taken in Committee

The Author has agreed to accept an amendment in committee removing an erroneous reference to the "State Department of Developmental Services Regional Centers," and replacing it with the "Association of Regional Center Agencies."

7. Argument in Support

According to UDW, AFSCME Local 3930, one of the bill's sponsors:

"It is with no doubt that a clear disconnect exists between populations living with I/DD and/or mental health conditions and the law enforcement community that desperately needs to be addressed. While California currently has mandates in place for law enforcement officer training related to recognizing and responding to individuals with disabilities and/or mental health conditions, there is always room to improve upon existing curriculum. According to the Little Hoover Commission Survey on California Law Enforcement, over half of officers reported that current trainings do not adequately cover how to interact with these populations, with mental health being the most common. The report concluded that training outcomes prove to be lacking and that the Commission on Peace Officer Standards and Training (POST) should continue to monitor trainings and adjust them accordingly."

⁹ Consider SB 369 (Hertzberg, 2020), which would have established a 22-member commission to coordinate statewide reentry efforts. Governor Newsom ultimately vetoed the measure, and the veto message implied that the size of the commission was a key factor in that decision.

8. Concerns with the Bill

Disability Rights California has no position on the bill, but has raised concerns, stating:

“First, DRC believes that the primary issue is not a lack of training. The primary issue is the overreliance on law enforcement to respond to every social problem, from behavioral health crises to homelessness. Focusing on training obscures the point that, in many instances, law enforcement personnel cannot help resolve a crisis for individuals with mental disabilities.” [...]

“Finally, DRC has concerns regarding the Little Hoover Commission’s position and approach, which is inconsistent with that of our organization. Its recommendations amount to minimizing civilian oversight of law enforcement, deferring to CPOST on an evaluation of its own training—a clear conflict of interest. The report from 2021 purports to examine whether current training standards give communities “what they need,” but it assumes that what they need is better-trained police officers. It doesn’t question the underlying assumption about whether communities need law enforcement in its current form in the first place.”

-- END --