

## REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: September 9, 2013

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller   
Chief Legislative Analyst

Council File No: 13-0002-S123  
Assignment No: 13-08-0795

SUBJECT: Resolution (Parks - Blumenfield) to support SB 569 (Lieu), which would require law enforcement to electronically record the entire custodial interrogation of a minor who is accused of committing murder

CLA RECOMMENDATION: Adopt Resolution (Parks - Blumenfield) to include in the City's 2013 – 2014 State Legislative Program SUPPORT for SB 569 (Lieu), which would require that law enforcement agencies electronically record the entire custodial interrogation of a juvenile who is suspected of committing murder.

### SUMMARY

On August 28, 2013, a Resolution (Parks - Blumenfield) was introduced to support SB 569 (Lieu) which would require law enforcement agencies to electronically record the entire custodial interrogation of a juvenile who is suspected of committing murder. The Resolution states that, five years ago, a commission made up of prosecutors, defense lawyers, judges and others presented a report that found that false confessions are one of the biggest problems in the criminal justice system. The Resolution further states that several jurisdictions utilize video recordings of confessions to address this issue, as these recordings can be examined later for clues that confessions are a result of police or prosecutorial badgering, or that a suspect is physically unfit or are otherwise in a condition that makes their statements unreliable.

The Resolution states that SB 569 is narrowly tailored, and would only require recordation of interviews with minors suspected or murder, as juvenile suspects have a higher rate of false confessions than other suspects. The Resolution, therefore, seeks an official position of the City of Los Angeles to support SB 569, which would require law enforcement agencies to electronically record the entire custodial interrogation of a juvenile who is suspected of murder.

### BACKGROUND

Under current law, law enforcement agencies are not required to record custodial interrogations of suspects that can lead to a confession. SB 569 would require that law enforcement agencies record the entire custodial interrogation of juveniles suspected of committing murder. SB 569 creates various exceptions from this requirement, including if the law enforcement officer conducting the interrogation, or their superior officer, believes that an electronic recording would disclose the identity of a confidential informant, or would jeopardize the safety of an officer, the individual being interrogated, or someone else. SB 569 would require the prosecution to show by clear and convincing evidence that an exception applies to justify no electronic recording.

Supporters of this bill argue that it is necessary because significant research has found that juveniles make false confessions at higher rates than other suspects, and are the group most prone to wrongful convictions. Researchers believe that this is because the brain's frontal lobes, responsible for mature thought and reasoning, develop last. As a result juveniles use their brains in a different manner than fully-grown adults, and require special protections from false confessions than other suspects.

Supporters of SB 569 point to the U.S. Supreme Court decisions related to juvenile convictions, where the Court found that there is a heightening risk that juvenile suspects will falsely confess to a crime when pressured by law enforcement. Supporters of this bill state that the recording of custodial interrogations has emerged as an important fact-finding tool for the criminal justice system. The recording of an interrogation allows a fact finder to evaluate whether a statement or confession made by a suspect was voluntary, or was the result of police pressure or badgering. Supporters state that this legislation would benefit law enforcement, as it allows an interviewer to conduct the interview without distractions related to taking notes and observe a suspects demeanor more closely. Supporters also state that law enforcement agencies in many parts of California record interrogations, and that those that do experience fewer allegations of improper police tactics than those who do no record custodial interrogations.

#### DEPARTMENTS NOTIFIED

Police Department

#### BILL STATUS

02/22/2013	Bill introduced
03/11/2013	Referred to the Senate Committee on Public Safety
04/19/2013	Passed in the Senate Committee on Public Safety
05/29/2013	Passed in the Senate; referred to Assembly
06/17/2013	Referred to the Assembly Committee on Public Safety
08/14/2013	Passed in Committee on Public Safety; referred to Assembly Committee on Appropriations
08/30/2013	Passed in the Assembly Committee on Appropriations
09/04/2013	Ordered to third reading

  
Joshua Drake  
Analyst

GFM:MF:jwd

Attachment: Resolution (Parks - Blumenfield)

AUG 28 2013  
13-0002-5123

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

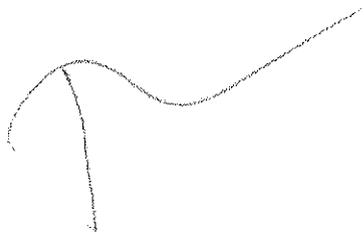
WHEREAS, Five years ago, a commission of prosecutors, defense lawyers, judges and others presented reported that one of the biggest problems in the criminal justice system was number of false confessions – assertions by people under interrogation that they had committed crimes when in fact they had not – that are made; and

WHEREAS, a solution used by several jurisdiction is to make video recordings of confessions, which can be examined later for clues that confessions were a result of police or prosecutorial badgering, or that suspects were psychologically unfit or in a condition that made their statements unreliable; and

WHEREAS, SB 569 (Lieu) is a narrowly tailored bill that would require video recording of custodial interviews with minors, whose rate of false confessions is higher than that of adult suspects; and

WHEREAS, the minimal costs of approximately \$1 million associated with implementing such a requirement should not deter the implementation of such a program, which would hold false convictions to a minimum and reduce demands on the courts .

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program SUPPORT for SB 569 which would require the electronic recordation of the entire custodial interrogation of a minor who is in a fixed place of detention, as defined, and who, at the time of the interrogation, is suspected of committing or accused of committing a specified offense.



PRESENTED BY: Bernard C. Parks  
BERNARD PARKS  
Councilmember, 8<sup>th</sup> District

SECONDED BY: Ed Humphreys