

AB 392: California Act to Save Lives

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SUMMARY

Law enforcement is tasked with keeping the public safe. Protecting and preserving human life should guide how they approach this task. Current law, however, results in officers killing civilians far more often than is necessary, leaving many families and communities devastated and the general public less safe.

With the aim of preserving the lives of both officers and civilians, AB 392 will update California’s use of force standard to reflect the best practices of policing by authorizing deadly force only when necessary to prevent imminent death or serious bodily injury.

BACKGROUND

American political ideals require careful consideration of how government exercises power over its people. Vigilance is especially necessary in policing where, on a daily basis, democratic notions of liberty, security and autonomy are poised against the demands of public safety and the force that may be required to effect it. Because the power to use force is granted by the governed, every effort must be made to ensure that force is exercised with careful attention to preserving the life and dignity of the individual to remain legitimate.

In 2017, officers killed 172 people in California, only half of whom had guns. Police kill more people in California than in any other state – and at a rate 37% higher than the national average per capita. Of the 15 police departments with the highest per capita rates of police killings in the nation, five are in California: Bakersfield, Stockton, Long Beach, Santa Ana and San Bernardino. A 2015 report found that police in Kern County killed more people per capita than

in any other U.S. county. These tragedies disproportionately impact communities of color as California police kill unarmed young black and Latino men at significantly higher rates than they do white men.

Community trust in law enforcement is undermined when force is used unnecessarily and disproportionately. Police are less able to do their job when community distrust leads to decreased respect and cooperation, a situation that increases the risks to officers and civilians.

As recent events have made clear, Californians will no longer tolerate these deaths as acceptable collateral damage for preserving the status quo, especially when there are effective best practices that will save both officer and civilian lives.

EXISTING LAW

California’s law governing when a homicide by an officer is “justified” was written in 1872, and not only fails to include best practices but authorizes deadly force that would violate the U.S. constitution.

Under current law, police can use deadly force whenever an “objectively reasonable” officer would have done so under the same circumstances – regardless of whether there was an immediate threat to life or bodily security, or whether there were available alternatives. This standard provides legal cover for killings that can be justified under the law, but were not necessary.

THIS BILL

Incorporating policing best practices, AB 392 authorizes police officers to use deadly force only when it is necessary to prevent imminent and serious bodily injury or death – that is, if, given the totality of the circumstances, there was no

reasonable alternative to using deadly force, including warnings, verbal persuasion, or other nonlethal methods of resolution or de-escalation.

However, this bill specifies that officers can always invoke the self-defense law that applies to the public.

If AB 392 becomes law, police departments can discipline or fire officers who use deadly force that is unnecessary, and in cases where the use of force was not in self-defense or in defense of another person, local District Attorneys could file criminal charges.

This bill reflects policies that policing experts recognize as effective at better preserving life while also allowing officers the latitude needed to ensure public safety. Under President Obama, the U.S. Department of Justice helped many cities adopt similar policies, including San Francisco and Seattle. Seattle's federal monitor determined that the policy change resulted in a marked reduction in serious uses of force without compromising the safety of officers.

SUPPORT

ACLU of California
Alliance for Boys and Men of Color/PolicyLink
Anti Police-Terror Project
Black Lives Matter – California
California Faculty Association
Communities United for Restorative Youth Justice (CURYJ)
Families United for Justice
PICO California
Silicon Valley DeBug
STOP Coalition
UDW America – AFSCME Local 3930
Youth Justice Coalition

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