



David Phillips leads a march of about 20 people downtown on the second anniversary of his son Desmond's death. Desmond was shot and killed by Chico police during a mental health crisis on St. Patrick's Day in 2017.
PHOTO BY ASHIAH SCHARAGA

A force for change

Families of those killed by law enforcement hope use-of-force reform bill will save others

When jovial Celtic music spilled out of the doors of Duffy's Tavern on Sunday afternoon (March 17), it stood in stark contrast to the grieving procession outside.

St. Patrick's Day is not a holiday for David Phillips. Instead, it will forever be remembered as the day his 25-year-old son, Desmond, was shot and killed by Chico police officers during a mental health crisis. Phillips led the group—which included Desmond's sister, nieces, nephews and cousins—through the streets of downtown, past pedestrians clad in green and people dining outdoors. He called out his son's name, and the group echoed in response: "Justice for Desmond Phillips!"

Since Desmond's death, the Phillips family has continued to press policy makers for more crisis-intervention, de-escalation and implicit-bias training for law enforcement. This has been their charge not just for Desmond—who was killed two years ago—but also for others slain during police encounters in Butte County, including Myra Micalizio, Tyler Rushing and Breanne Sharpe.

"Every day is hard. But this day ... every St. Patrick's Day, I will be reminded that my son was murdered," David Phillips told the CN&R. "I just don't want that to happen to any other family."

Things appear to have reached a tipping point in California, which has the 11th highest rate of police-involved killings in the nation, according to the database Mapping Police Violence. At the state level, advocates for police reform, like the Phillips family, have made progress when it comes to transparency and law enforcement records, via Senate Bill 1421. They're hopeful that the proposed Assembly Bill 392 will rep-

resent the next step forward, reforming police use-of-force rules.

SB 1421, which went into effect Jan. 1, requires the release of personnel records and audio and video footage related to complaints and investigations of certain conduct, including lethal and nonlethal officer-involved shootings.

Currently, the law is being hashed out in the courts, however. Records related to incidents that occurred prior to this year have been kept confidential at many law enforcement agencies. When the CN&R requested personnel records from the Chico Police Department related to officer-involved shootings and use-of-force incidents since 2017, Commander Jeramie Struthers said the City Attorney's Office had instructed CPD not to release records prior to Jan. 1. The Butte County Sheriff's Office confirmed receipt of a similar request, but did not reply by press time. Sheriff Kory Honea told the CN&R that, "as this process unfolds, we'll get a better understanding of how the law can be applied."

Scott Rushing, whose son, Tyler, was shot and killed by a security guard and a Chico police officer in July 2017, said denying access shirks the intent of the law. He has been attempting to get the disciplinary records of all the officers involved in his son's death, to no avail.

"We want to know about the officers that killed our son," Rushing said. "It's absolutely insulting to me that law enforcement would come out and say it only applies to shootings from Jan. 1 forward."

When it comes to AB 392, advocates believe it could spark real changes in policing, as it would require officers to use alternatives to guns to prevent death

or serious bodily injury, and bar self-defense claims if an "officer's criminally negligent actions created the necessity for the use of deadly force."

Concerned Citizens for Justice (CCJ), which formed in response to Phillips' killing and concerns about use-of-force protocols, has followed this piece of legislation closely, says CCJ co-founder Margaret Swick. The bill is "huge" because it "requires de-escalation whenever possible, [and] it makes a requirement of law enforcement officers to avoid deadly force unless 'necessary.'"

"Previously, they've been able to say 'if reasonable,'" she continued. "That's very subjective."

The law has been criticized by police unions across the state, however. Chico Police Chief Mike O'Brien said he is concerned that AB 392 would create dangerous situations for officers and communities because it creates this "tier of things you need to do before you use force."

"Unfortunately, in some situations, you don't have the luxury of time, and those seconds are really valuable," he said.

O'Brien said he found the competing Senate Bill 230 to be reasonable and appropriate. It would require law enforcement agencies to create their own use-of-force policies, with de-escalation techniques and other alternatives to force used "when feasible." It also would create a state-mandated use-of-force training program.

For Rushing, current legislation is vague and antiquated, and gives officers too much leeway to act with deadly force. "I think Tyler, he might be alive today if [AB] 392 were already approved," he said.

Phillips shared a similar sentiment: AB 392 could help save other families' children.

A 2016 study published by the Social Science Research Network—a journal dedicated to the dissemination of scholarly research—examined the efficacy of use-of-force policies in over 90 U.S. police departments, finding "substantially fewer police-involved killings among departments that have more of these policies in place." Officers working for those departments also were less likely to be killed or assaulted in the line of duty.

The Phillipses and Rushings, and activists with Justice for Desmond Phillips, want to change what they see as inadequate, unchecked policing. Both families have active wrongful death lawsuits against the city of Chico, and Phillips also has filed a federal civil rights lawsuit.

Police aren't afraid of being prosecuted "because all they've got to say is, 'I was afraid,'" Phillips said. "When they start being held accountable, there's not going to be as many police shootings."

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