



Let's make a deal

Civil liberties and law enforcement groups agree on bill to reduce police shootings

BY LAUREL ROSENHALL / CALmatters

After months of negotiations to craft a bill meant to reduce police shootings in California, legislative leaders have landed on a version that appears likely to pass, with law enforcement groups removing their opposition, civil liberties advocates declaring victory and Gov. Gavin Newsom lauding a policy that “will help restore community trust in our criminal justice system.”

Assembly Bill 392 would give California a new and tougher legal standard to justify the use of deadly force by police. It was inspired by the death last year of Stephon Clark, an unarmed man Sacramento police killed after mistaking the cell phone he was holding for a gun.

With outrage over police shootings spreading amid the rise of the Black Lives Matter movement, Clark's case attracted national attention and contributed to a groundswell of political momentum in the state Capitol. Though the Legislature's first attempt to pass a new use of force standard stalled last year, lawmakers vowed to keep working at it and appear to have made good on the promise.

The new version of the bill unveiled May 23 says police may only use deadly force when “necessary in defense of human life”—a stricter standard than prosecutors apply now, which says police can shoot when doing so is “reasonable.” Supporters say the policy will save lives by putting new limits on police.

“Assuming this bill passes, then California will have one of the strongest use of force laws in the nation,” said Lizzie Buchen, a lobbyist for the American Civil Liberties Union, a key backer of the bill. “It retains the core elements that we’ve always had, which is that officers can only use deadly force when it is necessary and that ‘necessary’ includes the actions of the officers leading up to the force.”

But the new version of the bill doesn't go as far as originally proposed, removing some key provisions that were particularly loathed by law enforcement. It removes a section that would have held officers criminally liable in cases of criminal negligence resulting in someone's death.

It also deletes a definition that says a “necessary” use of force is when there is “no reasonable alternative.” Police objected to that wording, arguing it would encourage prosecutors to second-guess their actions in hindsight.

“It's clearly a compromise,” said Seth Stoughton, a professor at the South Carolina School of Law, who has studied use of force standards around the country and supported the initial version of the bill. He added that even with the compromise language, the strictness of California's standards would be in the nation's “top tier.”

The bill's author, Assemblywoman Shirley Weber of San Diego, had promised to work with police to find some common ground after the bill passed a committee with tepid support from some fellow Democrats. The original version of her bill appeared unlikely to pass the full Assembly as long as police groups remain opposed.

With their agreement to go neutral on the new version, passage appeared nearly certain on the Assembly floor this week. It must then go through the Senate before reaching Newsom's desk.

“AB 392 now reflects the shared experiences, perspectives and expertise from everyone at the table, from families and communities to the officers who have sworn to serve and protect them,” Ron Lawrence, president of the California Police Chiefs Association, said in a statement.

Law enforcement groups have proposed their own bill intended to reduce police shootings with more training and tougher police department policies. Senate Bill 230 has become a companion measure to Weber's bill and would train officers on the new standard and alternatives to drawing their guns.

The two bills together “create a legislative package that will do more than any other state legislation to achieve better outcomes and minimize the use of force in our communities,” said a statement from Brian Marvel, president of the Peace Officers Research Association of California, a federation of police unions. □

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