



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR
July 9, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Cheryl Davila, Kate Harrison, and Mayor Jesse Arreguin
Subject: Resolution in Support of AB 392 California Act to Save Lives

RECOMMENDATION

Adopt a resolution in support of AB 392 by Assemblymember Shirley Weber that would bring California Law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and direct the city clerk or designee to send a letter to our state representatives.

BACKGROUND

State Assembly Bill 392 (AB 392) "California Act To Save Lives" by Assemblymember Weber, proposes to hold police officers accountable who use deadly force that is deemed not "necessary." AB 392 will update California's outdated use of force policies established in 1872, requiring that law enforcement officers use de-escalation tactics whenever possible and avoid using deadly force unless it is the only way to prevent escape, death or serious bodily injury. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Under existing law, a homicide committed by a peace officer is justifiable when necessarily committed in arresting a person who has committed a felony and the person is fleeing or resisting such arrest.

AB 392 would redefine the circumstances under which a homicide by a peace officer is deemed justifiable to require that the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended.

AB 392 further updates and reforms California's use of force policies to decrease police violence by prioritizing de-escalation practices as opposed to lethal force, and changes California's existing law to mandate that lethal force only be used when there are no alternatives

remaining for the officer. Additionally, the new policy would take into account officers' actions leading up to the uses of deadly force, for instance, whether an officers' behaviors escalated the situation. Instituting these common-sense changes to training and use of force policies in jurisdictions such as San Francisco and Seattle, Washington reveals that this training and the elevated threshold for use of deadly force to "necessary" has resulted in fewer civilian deaths at the hands of police officers acting in the line of duty.

Finally, this resolution supports a proposed new state policy that includes the purpose of preventing police violence that disproportionately affects communities of color, specifically Black and Brown communities. In 2017, nearly 50 percent of those killed by police in California were Latino, and more than two-thirds were people of color.

FISCAL IMPACTS OF RECOMMENDATION

None

ENVIRONMENTAL SUSTAINABILITY

The protection of life under all circumstances is itself an act of environmental sustainability.

CONTACT PERSON

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District 2

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ATTACHMENT: 1: Resolution

RESOLUTION NO. ##,###-N.S.

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A RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA, IN SUPPORT OF AB 392 THE CALIFORNIA ACT TO SAVE LIVES

WHEREAS, the Berkeley City Council is in support of State of California legislation that supports and values human life; and

WHEREAS, under California's current law, police officers can use deadly force when necessary to arrest someone who has committed a felony and is fleeing from police; and

WHEREAS, according to figures from the California Department of Justice, California police killed 172 people in 2017, half of whom were unarmed, and several of our state's municipal police departments have among the highest rates of killings in the nation; and

WHEREAS, current law fails to include best practices recommended by law enforcement organizations, including the U.S. Department of Justice under President Obama and most recently, by the California Department of Justice, as being effective in preserving life while also allowing police officers the latitude needed to ensure personal and public safety; and

WHEREAS, police shootings cause extraordinary harm to impacted communities, especially Black and Brown community members; of the 172 killed by California police in 2017, more than two-thirds were people of color, and of those who were completely unarmed, three quarters were people of color; and

WHEREAS California State Assembly Bill 392 (California Act to Save Lives) introduced by Assemblymember Shirley Weber would bring California law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and necessary to prevent escape, death or serious injury;

NOW, THEREFORE, BE IT RESOLVED that the Berkeley City Council supports AB 392 and directs the City Clerk or designee to convey a copy of this Resolution to Assemblymembers Shirley Weber and Buffy Wicks, Senator Nancy Skinner, members of the State Legislature and Governor Gavin Newsom.

