



Date: 4-23-19

Item No. 2

City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: APRIL 23, 2019**

FROM: POLICE DEPARTMENT **WARDS: ALL**

SUBJECT: POLICE USE OF FORCE LEGISLATION – RESOLUTION TO SUPPORT SENATE BILL 230 AND RESOLUTION TO OPPOSE ASSEMBLY BILL 392

ISSUES:

Adopt a resolution opposing Assembly Bill 392 to amend Sections 196 and 835a of the Penal Code in regards to Police Use of Force, and adopt a resolution supporting Senate Bill 230 to amend Section 196 of and add Section 13519.10 to the Penal Code in regards to Police Use of Force.

RECOMMENDATIONS:

That the City Council:

1. Adopt a resolution opposing Assembly Bill 392 to amend Sections 196 and 835a of the Penal Code in regards to Police Use of Force; and
2. Adopt a resolution supporting Senate Bill 230 to amend Section 196 of, and add Section 13519.10 to the Penal Code in regards to Police Use of Force.

BACKGROUND:

Assembly Bill 392 (AB 392) is proposing to change and raise the legal standard established by the U.S. Supreme Court, *Graham v. Conner*, 490 U.S. 386 (1989), which set a long established, objectively reasonable standard on use of force in the United States. AB 392 would challenge the U.S. Supreme Court standing decision by removing the objectionably “reasonable” standard and requiring force be restricted to only that which was later deemed “necessary,” after the fact. This presents a dangerous hindsight judgement of police use of force.

AB 392 creates situations whereby police officers would second-guess split-second decisions that are often life-saving reactions to safeguard the officer or community.

Additionally, AB 392 would make criminal an officer’s use of force if deemed unnecessary, and make the already dangerous job of a police officer even more so. It would also threaten the security of citizens in the Riverside community.

Senate Bill (SB 230) is proposing changes that are less subjective and more comprehensive that implement evidence-based, precedent-setting, consistent statewide policies to minimize use of force and ensure that the law enforcement officer falls back on training to make critical, split-second decisions.

Additionally, SB 230 would mandate wide reform in the nation for the use of force policing standards, policies, practices, training and reporting. Specifically, SB 230:

1. Sets a clear and enforceable standard for authorizing the use of force;
2. Provides every law enforcement officer with uniform training and resources proven to minimize the use of force; and
3. Mandates that every department adopt comprehensive use of force policies and sets a minimum standard that those policies must meet or exceed.

DISCUSSION:

The loss of life is always tragic, and an officer's use of serious force must be a last resort. Unfortunately, our society has many dangerous threats, and just as our peace officers cannot anticipate what they will encounter on any given day, our policies governing their engagement must account for the dangerous scenarios we see too often confronting law enforcement.

In those tense, life-threatening situations, our peace officers fall back on their training to make critical split-second decisions. Rigorous training programs and clear guidelines have effectively and significantly reduced uses of force in cities throughout California. SB 230 will bring these evidenced-based best practices to every law enforcement agency in our state.


SB 230 is an effective approach based on collaboration, science, and reason that will protect the safety of our families, our communities, and all Californians.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

Prepared by: Sergio G. Diaz, Chief of Police
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer
Approved by: Lea Deesing, Assistant City Manager
Approved as to form: Gary G. Geuss, City Attorney

Sponsored by:



Jim Perry, Council Member, Ward 6



Mike Gardner, Council Member, Ward 1

Attachments:

1. Resolution opposing AB 392
2. Resolution supporting SB 230