



19 APR -5 AM 9:04

Councilmember Nikki Fortunato Bas

CITY OF OAKLAND

CITY HALL, 1 FRANK OGAWA PLAZA, 2ND FLOOR, OAKLAND, CALIFORNIA 94612

DATE: April 4, 2019
TO: City Council and Members of the Public
FROM: Councilmember Nikki Fortunato Bas, District 2
SUBJECT: Resolution In Support Of Assembly Bill 392, The California Act To Save Lives: Introduced By Assembly Members Shirley Weber And Kevin McCarty

RECOMMENDATION

Councilmember Bas recommends that the City Council adopt a resolution (1) To Support California State Assembly Bill 392¹ (California Act to Save Lives) Authored By Assembly Members Holden, Bradford And Mitchell And Introduced By Assembly Members Weber And McCarty, Which 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 To Include Self-defense Or Defense Of Another, Or To Prevent The Escape Of A Fleeing Felon Whose Immediate Apprehension Is Necessary To Prevent Death Or Serious Injury; (2) Urges Governor Newsom to sign into law the California State Assembly Bill 392; and (3) Directs The City Clerk To Convey A Copy Of The Resolution To The State Legislature And Governor Gavin Newsom.

SUMMARY

A coalition of advocates whose loved ones were killed by police, California Families United 4 Justice, along with the ACLU of CA, Alliance for Black Men of Color, Anti Police-Terror Project, Black Lives Matter CA, CA Faculty Association, CURYJ, PICO CA, Silicon Valley DeBug, United Domestic Work Association Local 3930, Youth Justice LA, and STOP Coalition, are partnering with Assembly Members Shirley Weber and Kevin McCarty to pass Assembly Bill 392 ("AB 392"), The California Act To Save Lives. AB 392 is the revised version of a 2018 bill, aimed to hold police officers accountable who use deadly force not deemed "necessary." AB 392 will update California's outdated use of force policies established

¹ CA Assembly Bill 392 available at:
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB392.

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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 death or serious bodily injury.

BACKGROUND

For decades, California families and communities have been impacted by unnecessary police violence and killings. According to the ACLU, the rate of police extrajudicial killings in California is 37 percent higher than the national per capita average.² According to figures from the California Department of Justice, California police killed 172 people in 2017, half of whom were unarmed. The problem is felt even more acutely for people of color. Of the 172 killed in 2017, more than two-thirds were people of color, and of those who were completely unarmed, three quarters were people of color.³

Even when police officers are charged for deadly shootings, rarely are they convicted for their actions.⁴ One of the primary reasons is due to California's current use of force policies, which date back to 1872, and call for a high burden of proof. Currently, under California law, officers are allowed to use "reasonable" force when making an arrest as well as lethal force when it is deemed "objectively reasonable."

The City of Oakland, where police extrajudicial killings of people of color is disproportionate,⁵ would benefit from the passage of AB 392, which strives to improve California's police departments by instituting common-sense changes to the use of force policies. These changes are based on best practices from the recommendations of policing experts and scholars, including the Obama Administration Department of Justice and the California Attorney General's office.⁶ The bill is modeled after local ordinances in San Francisco, Seattle, and other jurisdictions, in which city officials implemented the elevated threshold for deadly force to "necessary" and have reported fewer civilian deaths.⁷

ANALYSIS AND POLICY ALTERNATIVES

This bill seeks to update and reform California's use of force policies to decrease police violence and prioritize de-escalation practices as opposed to lethal force. This bill changes California's existing law to mandate that lethal force only be used when there are no alternatives remaining for the officer. Additionally, the bill considers the officer's actions leading up to the use of deadly force, for instance, if their behaviors escalated the situation.

² <https://www.aclu.org/blog/criminal-law-reform/reforming-police-practices/new-bill-limits-when-california-police-can-use?page=3>

³ <https://www.aclunc.org/blog/new-bill-limits-when-california-police-can-use-deadly-force>

⁴ <https://www.cnn.com/2017/05/18/us/police-involved-shooting-cases/index.html>

⁵ <http://www.antievictionmappingproject.net/opd.html>

⁶ <https://sacobserver.com/2019/02/legislators-introduce-bills-to-regulate-police-use-of-force/>

⁷ <https://www.sacbee.com/news/local/article227432324.html>

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According to a 2009 Harvard Kennedy School Report⁸ and news reports referencing police departments in Stockton, San Francisco, Los Angeles, and Seattle, police departments with more restrictive use of force policies not only engage in fewer shootings, but also experience lower rates of assault against officers and lower crime rates.⁹ Furthermore, according to a 2018 report by the U.S. Commission on Civil Rights, when police use alternative tactics to de-escalate tensions including warnings, verbal persuasion, or other nonlethal methods, these result in fewer shootings while ensuring community safety by providing a clear definition for when officers are permitted to use deadly force.¹⁰

FISCAL IMPACT

This resolution commits the City of Oakland to support a policy that may reduce deadly shootings by police and save the City the cost of these incidences.

PUBLIC OUTREACH / INTEREST

Stakeholders advancing the bill, including legal advocacy nonprofits and community groups, have sought the Councilmember's support.

COORDINATION

This report and resolution were coordinated with the City Attorney's office.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic impacts.

Environmental: There are no environmental impacts.

Social Equity: This resolution supports a proposed state policy that has a purpose of preventing police violence, which disproportionately impacts 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.¹¹

ACTION REQUESTED BY THE CITY COUNCIL

Councilmember Bas recommends the City Council:

Adopt a resolution in support Of Assembly Bill 392, The California Act to Save Lives, introduced by Assembly Members Shirley Weber and Kevin McCarty.

⁸ <http://assets.lapdonline.org/assets/pdf/Harvard-LAPD%20Study.pdf>

⁹ <https://www.sacbee.com/opinion/article228554799.html>

¹⁰ <https://www.usccr.gov/pubs/2018/11-15-Police-Force.pdf>

¹¹ <https://www.sacbee.com/opinion/california-forum/article228508959.html>

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For questions regarding this report, please contact Lia Azul Salaverry, Policy Analyst and Community Liaison, Office of Councilmember Nikki Fortunato Bas, at 510-238-7021.

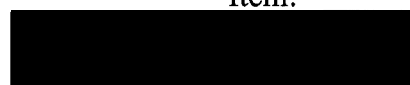
Respectfully Submitted,



Nikki Fortunato Bas
Councilmember, District 2

Prepared by:
Lia Azul Salaverry
Policy Analyst and Community Liaison
Office of Councilmember

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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER NIKKI FORTUNATO BAS

**RESOLUTION IN SUPPORT OF ASSEMBLY BILL 392,
THE CALIFORNIA ACT TO SAVE LIVES: INTRODUCED BY
ASSEMBLY MEMBERS SHIRLEY WEBER AND KEVIN
MCCARTY**

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 police departments have among the highest rates of killings in the country; 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 public safety; and

WHEREAS, according to a 2018 report by the U.S. Commission on Civil Rights, when police use alternative tactics to de-escalate tensions including warnings, verbal persuasion, or other nonlethal methods, these result in fewer shootings while ensuring community safety by providing a clear definition for when officers are permitted to use deadly force; and

WHEREAS, according to a 2009 Harvard Kennedy School Report, police departments with more restrictive use of force policies not only engage in fewer shootings, but also experience lower rates of assault against officers and lower crime rates; 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) authored by Assembly Members Holden, Bradford and Mitchell and introduced by Assembly Members Weber and McCarty 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 to include self-defense or defense of another, or to prevent the escape of a fleeing felon whose immediate apprehension is necessary to prevent death or serious injury ; now, therefor be it

RESOLVED: That the Oakland City Council urges the California Legislature to pass and Governor Newsom to sign into law the California State Assembly Bill 392; and be it

FURTHER RESOLVED: The Oakland City Council hereby directs the City Clerk to convey a copy of the Resolution to the State Legislature and Governor Gavin Newsom.

CITY OF OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of the [