

**MEMORANDUM**

**TO: City Council**

**FROM: Mayor Darrell Steinberg**

**SUBJECT: Deadly Use of Force Recommendation**

**DATE: May 3, 2021**

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Council Colleagues:

I will be asking for a motion at Tuesday's meeting establishing the City's policy on the use of deadly force by peace officers.

***Deadly force shall only be used as a last resort.***

***Last resort means that peace officers shall use tactics and techniques that may persuade the suspect to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation safely.***

The Sacramento Community Police Review Commission recommended that the City go beyond compliance with AB 392 by stating that deadly force should only be used by a peace officer as a "last resort."

In the staff report, the Sacramento Police Department (SPD) expressed concern that last resort is inconsistent with its current policies. It argues that AB 392 does not include last resort, and that left undefined, last resort would mean "something done only if nothing else works."

SPD then cited SB 230, the 2019 companion bill to AB 392. It quotes the "de-escalation" section of 230 and acknowledges that the language is part of POST training.

The key section of SB 230 and the POST training states, "when officers are called upon to detain or arrest a suspect who is uncooperative or actively resisting, may attempt to flee, poses a danger to others, or poses a danger to themselves, they should consider tactics and techniques that may persuade the suspect to voluntarily comply or may mitigate the needs to use a higher level of force to resolve the situation safely."

I am proposing that we adopt the Commission's strong last resort language as City policy and define it using the substance of SB 230, which the Sacramento Police Department supported.

The “tactics and techniques” embodied in SB 230 are not prescriptive. They do not require the officer to exhaust every conceivable option in a split second, the main concern expressed by SPD. However, the statute does require an officer to use their training and purposely de-escalate if at all possible.

The motion is more than a convenient cut and paste to seek the middle ground. This motion uses SB 230 language but provides a definition of “last resort,” which AB 392 does not explicitly provide, but which can be implied from its use of the word “necessary.”

Prior to AB 392, the standard for determining whether an officer appropriately used deadly force was whether his/her actions were “reasonable.” AB 392 changed the standard to whether deadly force was in fact “necessary” and established a floor – not a ceiling – for what local jurisdictions could pursue in policy.

AB 392 is limited, however. It defines “necessary” as how an “objectively REASONABLE (emphasis added) officer” acts considering all of the “particular circumstances” he or she confronts.

While AB 392 was an important advance for reform, the prior reasonable standard changed to necessary, only to have necessary defined by what is reasonable.

“Last resort” as defined by SB 230 is a clear, common sense definition of whether a peace officer’s use of force was in fact necessary.

Some argue that the language of the statute or policy is not nearly as important as the training for new and continuing peace officers. I agree.

Yet all sides feel very strongly about the actual language, which drives the training and the culture of the department.

The above resolution is an attempt to achieve consensus on an issue that divides stakeholders and community members.

I urge the council to reach a decision that does not outright reject the strongly held views of leaders who in fact have at least one mutual goal: keep everyone safe. For the protection of both the community and the officers, reduce the chances and circumstances of an officer having to use deadly force.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Darrell Steinberg". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

Darrell Steinberg  
Mayor, City of Sacramento