

**PUBLIC SAFETY POLICY COMMITTEE**

Thursday, March 28, 2019

**10:00 a.m. – 3:00 p.m.**

Hilton Orange County/Costa Mesa, Catalina I Room, 3050 Bristol Street, Costa Mesa

**A G E N D A**

**SPECIAL ORDER: State Budget and Issues Briefing for all policy committee members**  
**10:00 – 10:45 a.m., Catalina II Room**  
*Upon adjournment, individual policy committee meetings will begin*

**I. Welcome and Introductions**

**II. Public Comment**

**III. Policy Agenda (Attachment A)** *Informational*  
[FirstNet Program](#) by the First Responder Network Authority: Chris Baker, Sr. Advisor, Northern California – Battalion Chief and Investigator, Roseville, CA (ret.); Kevin Nida, Sr. Advisor, Southern California – Battalion Chief, City of Los Angeles (ret.); Jeanette Kennedy, Government Affairs (Attachment A)

**IV. Legislative Agenda (Attachment B)** *Action*  
[AB 266 \(Choi\)](#): Tax Credit for Attic Vent Closures  
[SB 257 \(Nielsen\)](#): Firearms and Prohibited Persons  
[AB 997 \(Low\)](#): Firearms and Persons Detained for Examination of Mental Condition  
[AB 1096 \(Melendez\)](#): Concealed Carry Licenses  
[AB 1297 \(McCarty\)](#): Concealed Carry Licenses  
[SB 230 \(Caballero\)](#): Police Use of Force

**V. Legislative Update – Charles Harvey**

**Next Meeting: Thursday, June 13, Sacramento Convention Center, Sacramento**

*Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:*

- 1) Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
- 2) A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

*A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.*

*NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC's mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action.*

*If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League. The lunches tend to run in the \$30 to \$45 range. To review a copy of the FPPC's most recent letter on this issue, please go to [www.cacities.org/FPPCletter](http://www.cacities.org/FPPCletter) on the League's Website.*

## FirstNet Program

### Overview:

FirstNet is a nationwide wireless broadband network, dedicated to first responders, and is being built and deployed through a public-private partnership between the federal government and AT&T. FirstNet offers public safety entities a communications network built and customized to meet their needs.

The [First Responder Network Authority](#) is the federal entity charged with overseeing the creation and delivery of the FirstNet network. Housed within the Department of Commerce, National Telecommunications and Information Administration, the agency's role is to ensure AT&T delivers on the terms of its contract and creates a network that meets the needs of public safety now and into the future.

### Background:

Authorized by Congress in 2012, FirstNet's mission is to develop, build, and operate the nationwide, broadband network that equips first responders to save lives and protect U.S. communities. After an open and competitive request for proposal process, in 2017 FirstNet entered into a 25-year public-private partnership agreement with AT&T to deliver the network that public safety asked for—one that has security built in from the ground up, and provides an interoperable platform using standards-based technology. The FirstNet network and services are operational today across the 56 states and territories, including California, will continue to expand coverage, and will keep up with new wireless technology evolutions at no extra cost to users.

FirstNet is the only public safety wireless network that has 20 MHz of nationwide spectrum and can apply quality of service, priority and pre-emption (QPP) tools for public safety. Unlike other networks, the FirstNet Authority is required to report annually to Congress on the status and operation of the network. Use of FirstNet by public safety is voluntary. For eligible local government and agency public safety officials, FirstNet is a price-competitive mobility offering available on CalNET, NASPO, and nppgov.com.

FirstNet can be incorporated into smart community plans. The "Internet of Life Saving Things" incorporates sensors, wearables and connected devices that both allow agencies to aggregate data and apply analytics tools to drive efficiency and utilize resources more effectively.

### Fact Sheets:

[Ten Ways FirstNet Helps](#)

Presenters:

Chris Baker, Region Lead, Northern California

Chris Baker has 31 years of prior fire and law enforcement experience, and most recently retired as a Battalion Chief and Investigator with the Roseville (CA) Fire Department where he was assigned to investigations, administration, technology, and safety. Mr. Baker also served as a reserve deputy sheriff in working assignments in patrol, detention, and inter-agency drug eradication. Prior to his full-time career in the fire service, Mr. Baker worked as an engineer in the commercial wireless industry constructing and operating wireless networks across the U.S., training engineers, and developing wireless testing tools, and continued to consult in the commercial wireless and homeland security sectors since then. Mr. Baker is a registered California Professional Engineer, Paramedic, and a member of the State Bar of California, and volunteers with the Civil Air Patrol.

Kevin Nida, Region Lead, Southern California

Kevin Nida has been a member of the FirstNet Authority since March of 2017. During his 37-year public safety career, he served in the Fire, EMS, 9-1-1 & Law Enforcement fields. Mr. Nida retired as a Battalion Chief in March of 2017. Mr. Nida also served 25 years as a Communications Unit Leader (COML) and Communications Technician (COMT), served for 20 years in Urban Search & Rescue Communications, and five years of experience with the Los Angeles Regional Interoperable Communications System (LA-RICS) Broadband Technology Opportunity (BTOP) Long Term Evolution (LTE) Program. From 2004 to 2014, Mr. Nida served as President of the California State Firefighters Association, representing over 20,000 career and volunteer firefighters.

Jeanette Kennedy, Government Affairs

Ms. Kennedy joined the First Responder Network Authority in 2015. She has been a tireless advocate for public safety broadband, helping government and public safety leaders realize the vision and benefits of a nationwide public safety broadband network. These team efforts and actions were a critical part of First Responder Network Authority gaining unanimous “opt-in” decisions to deploy, operate, and maintain the radio access network in all 56 U.S. states and territories. Ms. Kennedy previously represented Fortune 500 companies and trade associations on matters ranging from technical regulation, standardization, trade, procurement, wireless mobility, broadband, and environmental compliance.

**PUBLIC SAFETY POLICY COMMITTEE**  
**Legislative Agenda**  
**March 28, 2019**

**1. [AB 266 \(Choi\): Income Taxes: Credits: Attic Vent Closures](#)**

**Bill Summary:**

Assembly Bill 266 would offer a tax credit to homeowners to offset the purchase and installation of attic vent closures for their homes, with the intent to prevent the spread of residential fires.

**Existing Law:**

The Personal Income Tax Law and the Corporation Tax Law both allow various credits against the taxes imposed by those laws. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

**Bill Description:**

AB 266 seeks to reduce fires from spreading to residential homes during wildfires by providing a tax credit for the purchase and installation of attic vent closures.

Specifically, the bill:

- Allows a qualified taxpayer that installs an attic vent closure in a residential property to receive a credit equal to 40 percent of the qualified costs paid or incurred by the taxpayer for the year of the installation.
- Allows a maximum credit of \$500 per resident for each taxable year.
- Defines “qualified costs” as either: 1) the amounts paid or incurred for retrofitting, materials and costs of labor from an approved company or vendor listed on the CalFIRE website; or 2) the purchase and installation by the qualified taxpayer of one-eighth inch mesh to protect embers from entering through attic vents.
- Defines “qualified taxpayer” as an owner of residential property located in the state of California. A taxpayer who owns a proportional share of a residential property located in this state may claim the credit allowed by this section based upon the taxpayer’s share of the qualified costs.
- Allows a credit for each taxable year beginning on January 1, 2020, and ending on December 31, 2024.

**Background & Author Statement:**

California has faced a number of catastrophic fires up and down the state in recent years. The increase in both the number and severity of wildfires has prompted discussions of increased urgency on ways to mitigate or prevent the damage that a fire can cause.

The University of California Cooperative Extension reports that vents are vulnerable to wildfires when embers and flames enter into the enclosed attic or crawl spaces. These

embers can ignite combustible materials in those areas and can ultimately cause fires to easily spread between multiple homes in the case of a wildland fire. According to the author, many fire chiefs have stated that a fairly simple yet effective way of helping to prevent fires from destroying homes is to install attic vent closure systems. The author further reports that attic vent closure systems have a 95% effective rate at keeping fire embers out of the home. Research conducted by the Insurance Institute for Business and Home Safety has also shown that a 1/8 inch mesh installed around the attic vent openings can help protect against embers entering a home through the attic vents.

**Fiscal Impact:**

Unknown

**Existing League Policy:**

None that is specific to Attic Vent Closures. The League supports the fire service mission of saving lives and protecting property through fire prevention, disaster preparedness, hazardous materials mitigation, specialized rescue, as well as cities' authority and discretion to provide all emergency services to their communities.

**Support and Opposition:**

Sponsored by the Author

**Comments:**

California's fire record dates back to 1932; of the 10 largest fires since then, nine have occurred since 2000, five since 2010 and two happened in 2018 alone.

As wildfires increase in frequency and intensity, it is imperative that thoughtful, comprehensive policies are crafted to help address this major threat affecting so many Californians. This includes increased funding for wildfire suppression, improving our policies around forest management, land use management and building codes — particularly in high wildfire risk areas — hardening utility infrastructure in high fire risk areas, and, when unfortunate fires do occur, properly allocating responsibility for their consequences.

While the government continues to grapple with establishing effective state policy in attempt to address fires and other disasters, it is important to promote incentives that individuals can undertake to help safeguard themselves and their homes.

By offering a tax credit on attic vent closures, this bill encourages responsible home ownership practices for residents in fire-prone communities, and is another tool that can ultimately help protect against the spread of fire between residences.

**Staff Recommendation:**

Support

## **2. SB 257 (Nielsen): Firearms: Prohibited Persons**

### **Bill Summary:**

Senate Bill 257 would require the state Department of Justice, to notify local law enforcement upon discovering that a person in the Armed Prohibited Persons (APPS) database has attempted to acquire a firearm.

### **Existing Law:**

Existing law makes it a crime for certain persons to own, purchase, receive, or possess a firearm. Such persons include:

- Those who were convicted of a felony;
- Those who are addicted to the use of a narcotic drug;
- Those convicted of specified violent offenses;
- Those who have been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness; and
- Those who have been admitted to a facility, are receiving inpatient treatment, and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment, are a danger to themselves or others.

### **Bill Description:**

SB 257 would require the California Department of Justice (DOJ), if the department determines that a person that prohibited from owning, purchasing, receiving, or possessing a firearm has attempted to acquire a firearm, to notify the local law enforcement agency with primary jurisdiction over the area of the person's last known residence.

### **Background:**

According to a recent [article](#) by the San Francisco Chronicle, California has seemingly struggled to enforce a unique state law that allows officials to seize guns from people with criminal convictions or mental health problems, leaving firearms in the hands of thousands of people legally barred from owning them.

Legislators first took notice of the problem in 2013, after the Sandy Hook mass shooting claimed the lives of 20 children and six adults at a Connecticut elementary school, and set aside \$24 million to reinvigorate the firearms-seizure program. A representative for then-Attorney General Kamala Harris said eliminating a backlog that had grown to nearly 20,000 people was her "top priority," and estimated it could be done in three years.

Six years later, the state has been able to cut the list only in half. As of July, the backlog of people whose guns should be confiscated totaled about 9,000.

The state's Armed and Prohibited Persons System (APPS) is a database that checks gun sales against records of criminal convictions, mental health holds and domestic violence restraining orders to flag prohibited owners who have not relinquished their weapons. The APPS program is meant to serve as a backstop to the universal

background checks that California adopted in 1991. It alerts authorities to people who became ineligible to possess firearms after legally acquiring them.

At present, DOJ can authorize field teams of special agents go to subjects' homes to seize their guns and ammunition, but the department has reported that the issue is resources, or lack thereof, that prevent the department from keeping pace with the number of prohibited persons that are regularly added to the database.

**According to the Author:**

No statement provided.

**Fiscal Impact:**

Unknown

**Existing League Policy:**

None that pertains to the regulation of firearms.

**Support and Opposition:**

Unknown

**Comments:**

This is a common sense bill, which fosters communication between DOJ and local law enforcement agencies. In the event that a person on DOJ's APPS database attempts to purchase or otherwise acquire a firearm, it is in the public's best interest that local law enforcement informed of the person's existence and provided his or her most recently reported address.

**Staff Recommendation:**

Support

**3. [AB 997 \(Low\): Firearms: Persons Detained or Apprehended for Examination of Mental Condition](#)**

**Bill Summary:**

Assembly Bill 997 would prohibit a person that is detained or apprehended for examination of his or her mental condition from possessing a firearm for up to 30 days following their release. The bill would also prohibit the person from possessing a firearm for 5 years if a court, at the conclusion of a specified hearing, determines that the return of a person's firearm would likely endanger the person or others. Lastly, the bill would make a violation of this prohibition a crime, punishable as a misdemeanor or a felony.

**Existing Law:**

Existing law requires a peace officer to confiscate the firearms or other deadly weapons of a person who has been detained or apprehended for examination of their mental

condition, who is found to own or have possession of a firearm or deadly weapon and to issue a receipt. Upon release of the person who was apprehended or detained for examination of their mental condition, existing law requires the confiscating law enforcement agency to initiate a petition in the superior court within 30 days for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others.

Existing law prohibits firearm possession for an individual who has been adjudicated as a mental defective or who has been committed to a mental institution.

Existing law specifies that a person who has been taken into custody on a 72 hour hold, assessed as specified, and admitted to a designated facility because that person is deemed a danger to himself, herself, or others, is prohibited from owning or possessing any firearm for a period of five years after the person is released from the facility.

Existing law provides that a person subject to a 72-hour hold may make a single request for a hearing at any time during the five-year period.

Existing law states that a person taken into custody on a 72 hour hold may possess a firearm if the superior court has found that the people of the State of California have not met their burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner.

**Bill Description:**

AB 997 seeks to do three things: 1) The bill would require that during the 30-day time period—between the person’s date of release after adhering to an examination of their mental condition and the date by which the law enforcement agency has to petition the court for a hearing to determine the recently detained person’s mental fitness to possess a firearm—the person is prohibited from possessing or owning a firearm. 2) The bill specifies that if, after such a hearing, the court determines that the return of a firearm or other deadly weapon would likely endanger the person or others, the person is prohibited from possessing, purchasing, receiving or otherwise having under their control a firearm or other deadly weapon for a period of five years. 3) The bill provides for up to a one-year sentence in county jail for persons who violate this provision.

**Background:**

The Lanterman-Petris Act governs the involuntary treatment of mentally ill persons in California. Enacted by the Legislature in 1967, the act includes among its goals: ending the inappropriate and indefinite commitment of the mentally ill, providing prompt evaluation and treatment of persons with serious mental disorders, guaranteeing and protecting public safety, safeguarding the rights of the involuntarily committed through judicial review, and providing individualized treatment, supervision and placement services for the gravely disabled by means of a conservatorship program.

In June of 2008, the United States Supreme Court, in [\*District of Columbia v. Heller\*](#), held that the Second Amendment of the United States Constitution, U.S. Const. Amend. II,



confers an individual right to keep and bear arms, and guarantees the individual right to possess and carry weapons in case of confrontation.

However, the Supreme Court stated that its opinion should not be taken to cast doubt on long-standing prohibitions on the possession of firearms by felons and the mentally ill, laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

Subsequent to the *Heller* decision, the Fourth District Appellate Court upheld a court order precluding a defendant from possessing firearms, pursuant to California's current law barring possession of firearms by a person detained for a mental disorder. The case, [People v. Jason K.](#), applied to an individual who had been detained for 72-hour psychiatric evaluation and then discharged. In issuing its ruling, the court rejected the detainee's argument that the state law was unconstitutional insofar as it deprived him of his right to bear arms based on a showing by a preponderance of the evidence that he would not be likely to use firearms in a safe and lawful manner.

**According to the Author:**

No statement provided.

**Fiscal Impact:**

Unknown

**Existing League Policy:**

None that pertains to the regulation of firearms.

**Support and Opposition:**

Unknown

**Comments:**

Assembly Member Low introduced a bill last year, AB 1968, which also related to mental health and firearms. The bill required that a person who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to himself, herself, or others, on account of a mental health disorder more than once within a one-year period, be prohibited from owning a firearm for the remainder of his or her life. The bill maintained due process in that it allowed such persons the right to challenge the prohibition at periodic hearings. The League issued a formal "Support" position on AB 1968, which was signed into law by Governor Brown.

In November 2018, League board members and designated affiliates met in Newport Beach for the League Leaders Conference, the League's annual gathering where attendees are tasked with establishing the League's Strategic Goals for the upcoming year.

During the time period between the signing of AB 1968 and League Leaders Conference, a mass shooting occurred at a bar in the City of Thousand Oaks, resulting in thirteen deaths, including the perpetrator who died from a self-inflicted gunshot wound. It was reported that the perpetrator was “a troubled veteran,” raising the question of whether he suffered from some form of mental instability that led to the incident in question.

With the Thousand Oaks tragedy still fresh on many persons’ minds, League Leaders Conference attendees established “Strategic Goal #4: Addressing Public Safety,” which including the following objective, “Protect public safety by reducing access to firearms for the mentally ill.”

AB 997 appears to align very well with this objective.

There are a couple of implementation questions that might need to be answered before the bill is signed into law, such as:

- 1) Who is tasked with tracking the 5-year prohibition period for persons that are found to be a danger to themselves or others and how is this enforced for a person throughout the state?
- 2) After a law enforcement agency requests a hearing to determine whether a person is fit to possess a firearm, subsequent to the person’s release from adhering to mental examination, is the person able to obtain a firearm after 30 days has passed, but prior to the date of the requested hearing?

Despite these current outstanding questions, AB 997 is sensible measure that could be helpful in addressing the concern of persons with potential mental instability having access to firearms.

**Staff Recommendation:**  
Support

#### **4. AB 1096 (Melendez): Firearms: Concealed Carry Licenses**

**Bill Summary:**

Assembly Bill 1096 would require, instead of authorize, a county sheriff or chief of police to issue a license to carry a handgun if good cause exists for the issuance and the applicant satisfies other enumerated criteria. The bill would also define the term “good cause” with the intent of clarifying the requirements for concealed carry weapon (CCW) license applicants.

**Existing Law:**

Existing law authorizes the sheriff of a county, or the chief or other head of a municipal police department, to issue a license to carry either a concealed handgun or a loaded and exposed handgun upon proof of certain criteria. These necessary criteria include:

- that good cause exists, as defined, for the issuance of the license;

- the applicant is of good moral character;
- the applicant is either a resident of the local jurisdiction, or the applicant’s principal place of employment or business is within the local jurisdiction and the applicant spends a substantial amount of time in that place of employment or business; and
- the applicant has completed a training course that:
  - Is at least eight hours in length, but not longer than 16 hours in length;
  - Includes instruction on firearm safety, firearm handling, shooting technique, and laws regarding the permissible use of a firearm;
  - Includes live-fire shooting exercises on a firing range; and
  - Includes a demonstration by the applicant of safe handling of, and shooting proficiency with each firearm that the applicant is applying to be licensed to carry.

**Bill Description:**

AB 1096 requires, instead of authorizes, the sheriff of a county, or the chief or other head of a municipal police department, to issue a license to carry either a concealed handgun or a loaded and exposed handgun, upon proof of all of the previously stated criteria under existing law.

The bill would clarify that if the population of a county is less than 200,000 persons (according to the most recent federal decennial census), the county sheriff or a municipal police chief of a city within such a county may issue a license to carry a loaded and unconcealed handgun within that county only.

The bill also seeks to define “good cause” to include self-defense, defending the life of another, or preventing crime in which human life is threatened. The bill further provides procedural guidelines to the issuing authority on determining the presence or absence of “good cause.”

**Background:**

The case of *Peruta v. San Diego* is perhaps the most recent applicable court decision that provides guidance on concealed carry weapons in California. *Peruta* was a decision issued by the federal Ninth Circuit Court of Appeals, pertaining to the legality of San Diego County's policy, which requires documentation of “good cause” that “distinguishes the applicant from the mainstream and places the applicant in harm's way” before issuing a concealed carry permit.

After an initial ruling of 2-1 in 2014, which held that the Second Amendment protected the right to carry a concealed weapon, the Ninth Circuit reheard the case *en banc*<sup>1</sup>. Ultimately, the Ninth Circuit affirmed the lower court’s ruling, and held that concealed carry of a firearm in public is not protected by the Second Amendment. While the ruling technically applied to all states and territories under the jurisdiction of the Ninth Circuit, it only applied to California and Hawaii in practice because the remaining states in the

---

<sup>1</sup> In law, an *en banc* session is when a case is heard before all the judges of a court rather than by a panel of judges selected from them.

Ninth Circuit's area of responsibility either have "Shall-Issue" licensing policies or allow concealed carry without a permit.

**According to the Author:**

"Currently, citizens seeking to apply for a CCW permit face uncertainty and confusion throughout the process, which is already incredibly long and expensive. Furthermore, individuals who are not California residents, but regularly commute here for work or family matters are barred from even applying for a permit simply because they do not live in the state.

Additionally, the omission of defining "good cause" has resulted in the unequal application of the law across the state and the arbitrary denial of CCW permits to Californians. In fact, depending on the county someone resides in, an individual may be denied their request for a CCW despite passing the background check and meeting all the requirements. In some communities throughout the state, the standard policy is to deny, essentially, all requests for a CCW."

**Fiscal Impact:**

Unknown

**Existing League Policy:**

None that pertains to the regulation of firearms.

**Support and Opposition:**

Unknown

**Comments:**

This bill is essentially a reintroduction of [AB 3026](#) (Melendez) from 2018. AB 1096 would essentially repeal California's "good cause" requirement by requiring licensing authorities to merely accept an applicant's "stated good cause," without additional inquiry, that he or she desires a CCW license for self-defense or crime prevention purposes. Consequently, this bill would affirmatively prevent law enforcement from requiring additional evidence from such applicants regarding any specific circumstances pertaining to their "stated good cause."

With regard to the issuance of firearms, the assurance of local regulatory authority promotes community trust and peace of mind. The proposed legislation would effectively abrogate current protections in that would remove the discretion to issue a concealed carry weapon license currently afforded to sheriffs and municipal police chiefs, and by extension, the cities and counties they serve and protect.

**Staff Recommendation:**

Oppose

## **5. AB 1297 (McCarty): Firearms: Concealed Carry Licenses**

### **Bill Summary:**

Assembly Bill 1297 would require, rather than authorize, a local licensing authority to charge a fee for that is equal to the reasonable costs associated with processing a concealed carry weapon (CCW) license application, issuing a CCW license, and enforcing the license, as specified. The bill would also delete the prohibition on charging more than \$100 for the fee.

### **Existing Law:**

Existing law authorizes the sheriff of a county, or the chief or other head of a municipal police department, to issue a license to carry either a concealed handgun or a loaded and exposed handgun upon proof of certain criteria, as outlined in the previous bill analysis.

Existing law also requires an applicant for a license or a renewal of a license to pay a fee to the Department of Justice, as specified, to cover costs associated with background checks. Existing law allows the licensing authority of a city, county or city and county, to charge an additional fee for a new license in an amount equal to the actual costs for processing the application for a new license. Under current law, this additional fee may not exceed \$100.

### **Bill Description:**

AB 1297 would require, rather than authorize, a sheriff, chief, or other head of a municipal police department issuing a concealed carry permit, to charge an applicant for the license a fee sufficient to cover the reasonable costs of issuing and enforcement of the license. The bill also seeks to remove the \$100 cap on licensing fees that local licensing entities may not exceed.

### **Background:**

It appears the author, Assembly Member McCarty from Sacramento, has been at odds with the Sacramento County Sheriff, Scott Jones, at least with regard to the issue of concealed carry weapon licenses. According to a [Sacramento Bee article](#), under Jones, the number of CCW permits issued has gone from 350 when he took office in 2011, to nearly 8,000 as of 2016, making Sacramento County home to the state's third-largest number of concealed-carry permits, trailing Fresno and Orange counties.

The article noted that permit seekers in Sacramento County pay a \$20 application fee, \$80 upon issuance, and \$122 for fingerprinting, which is not a cost subject to the current \$100 cap on fees by local licensing entities. The article further noted that, according to Jones' budget numbers, the staffing cost to grant permits were expected to run about \$461,000 in 2016, but that he fees charged to permit seekers cover less than half that, leaving taxpayers to pick up the remainder of nearly \$239,000.

In response, Asm. McCarty attempted to pass nearly identical legislation with what he is proposing in AB 1297. That bill from 2016, [AB 450](#), sailed through the legislature, but

was ultimately vetoed by Governor Brown, who indicated in his veto message, that he was “unaware of a larger problem” outside of the local dispute in Sacramento County, and thereby did not merit a statewide change.

**According to the Author:**

“Current state law prohibits any person from carrying a concealed weapon unless the person applies for and obtains a permit. The requirements for obtaining CCW permits are that the applicant must show that they have a “good cause” to obtain the license and that they are of good moral character. The issuing authority, usually a county sheriff, may charge a fee to process the permit application.

There is a lack of guidance on what constitutes a “good cause” or how much to charge for the application fee. Given this vagueness, it is unsurprising that different issuing authorities have interpreted the law differently. This has led to unequal treatment across the state for permit applicants.

In 2017, the California State Auditor performed an audit on the San Diego, Sacramento and Los Angeles Sheriff Department’s CCW issuing policies. The audit found vast inconsistencies between the different departments and even within the application of each department’s own internal policies. It also found inconsistencies in the fees charged by each department.

For instance, Sacramento County is facing a shortfall of approximately \$400,000 this year alone caused by inadequate CCW application fees. Whereas, San Diego and Los Angeles could not even determine whether their CCW programs operated at a surplus or a deficit.”

**Fiscal Impact:**

Non-fiscal

**Existing League Policy:**

None that pertains to the regulation of firearms.

**Support and Opposition:**

Sponsored by the Author

**Comments:**

Similar to the previous bill, AB 1297, as proposed, would remove the discretion currently afforded to county sheriffs and municipal police chiefs to charge a fee for the processing of concealed carry weapon license applications.

On a positive note, to the extent that current costs of processing an application exceed \$100 for any jurisdictions, the provision seeking to remove the \$100 fee cap would provide more flexibility to local licensing authorities, and potentially aids in their ability to cover their reasonable costs of processing these applications.

**Staff Recommendation:**

Oppose Unless Amended. The proposed amendment would be to strike the provision requiring local licensing authorities to charge a fee.

**6. [SB 230 \(Caballero\): Law Enforcement: Use of Deadly Force: Training: Policies](#)****Bill Summary:**

Senate Bill 230, in an effort to improve outcomes for use of force incidents, essentially seeks to do four things.

- 1) The bill would require all law enforcement agencies to maintain a policy that provides guidelines on the use of force, utilizing deescalation techniques and other alternatives to force when feasible, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents, among other things.
- 2) The bill would require each agency to make their use of force policy accessible to the public.
- 3) The bill would refine the circumstances under which a homicide by a peace officer is justifiable.
- 4) The bill would require the [Commission on POST](#) to:
  - a. Implement a coursework for periodic officer training, and
  - b. Develop uniform, minimum guidelines on the use of force for adoption by California law enforcement agencies.

**Existing Law:**

Existing law authorizes a peace officer to use reasonable force to effect an arrest, to prevent escape, or to overcome resistance. Existing law does not require an officer to retreat or desist from an attempt to make an arrest because of resistance or threatened resistance by the person being arrested.

Under existing law, the use of deadly force resulting in the death of a person is justified when it was “necessarily committed” in: 1) overcoming actual resistance to an arrest, 2) apprehending a felon who had escaped from custody, or 3) arresting a person charged with a felony and who was fleeing from justice or resisting arrest.

Existing case law prohibits the use of deadly force by a peace officer unless, among other criteria, there is a reasonable fear of death or serious bodily harm to the officer or another person.

**Bill Description:**

SB 230 is measure that takes a comprehensive approach addressing law enforcement officers’ involvement in serious use of force incidents. Specifically, the bill would:

- 1) Require all law enforcement agencies to maintain a policy that provides guidelines on the use of force, and on the following:
  - Utilizing deescalation techniques, crisis intervention teams, and other alternatives to force when feasible;

- Balancing the amount of force with the seriousness of the suspected offense and the reasonably perceived level of actual or threatened resistance;
  - An officer's duty to report to a superior after observing another officer use force that the officer believes to be beyond that which the officer believes to be objectively reasonable under the circumstances;
  - An officer's duty to intercede when present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject;
  - Approved methods and devices available for the application of force with corresponding guidelines for each;
  - The officer's responsibility to carry out duties, including use of force, in a manner that is fair and unbiased;
  - Specific guidelines for the application of deadly force;
  - Prompt internal reporting and notification requirements regarding a use of force incident, including notifying the Department of Justice;
  - The role of supervisors in the review of use of force applications;
  - Ensuring medical assistance is procured, when reasonable and safe to do so, for persons following a use of force incident;
  - Training standards and requirements relating to an officer's demonstrated knowledge and understanding of their law enforcement agency's use of force policy;
  - Training and guidelines regarding vulnerable populations, such as children, elderly persons, persons who are pregnant, and those with physical and developmental disabilities;
  - Situations involving the discharge of a firearm at a moving vehicle;
  - Factors for evaluating and reviewing all use of force incidents;
  - Minimum entry level and annual hourly training to meet the objectives in the use of force policy.
- 2) Require each law enforcement agency to make its use of force policy accessible to the public.
- 3) Refine and clarify the circumstances under which a homicide by a peace officer is justifiable to the following situations:
- When a suspect is fleeing from justice or resisting arrest and the officer reasonably believes the suspect poses an imminent threat of death or serious physical injury to the officer or others; and
  - When a suspect is fleeing from arrest and the officer reasonably believes that a suspect has committed a forcible or atrocious felony.
- 4) Require the Commission on Peace Officer Standards and Training to:
- Implement coursework for the regular and periodic training of law enforcement officers on the use of force; and



- Develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for use of force.

The coursework of basic training for law enforcement officers, must include adequate consideration of specified subjects, including but not limited to: 1) Legal standards for use of force; 2) Duty to intercede; 3) The reasonable force doctrine; 4) de-escalation; and 5) Guidelines for the use of deadly force.

Under the bill, the guidelines and course of instruction must stress that: 1) the use of force by law enforcement personnel is of important concern to the community and law enforcement, and 2) that law enforcement should safeguard life, dignity, and liberty of all persons, without prejudice to anyone.

These guidelines, as developed by the Commission on POST, are to serve as a resource for each agency executive to use in the creation of a use of force policy that the agency is encouraged to adopt and promulgate, and that reflects the needs of the agency, the jurisdiction it serves, and the law.

**Background:**

Following the incident on March 18, 2018 in which an unarmed black man, [Stephon Clark, was killed by police in Sacramento](#), Assembly Member Weber introduced AB 931, sponsored by the ACLU, as a statutory amendment that sought to significantly restrict an officer's use of deadly force to only that which is "necessary," as defined in the bill. While this action served to rally protesters and appealed to the anti-police groups, it understandably raised great concern by law enforcement—as they were not at all included in the development of such legislation, which likely resulted in furthering the divide between parties that should be allies, not adversaries, when trying to promote the collective goal of safeguarding human life.

The League took a formal 'Oppose' position on the AB 931, which ultimately died before reaching a vote on the Senate Floor. In the aftermath, stakeholders on all sides pledged to work on future legislation in an effort to address the ongoing and emotionally charged issue of police use of deadly force.

Fast forward to the present, there are now two competing bills—[AB 392](#) (Weber) and SB 230 (Caballero)—that seek to address the ongoing use of force issue.

AB 392, sponsored by the ACLU, is largely a reintroduction of last year's AB 931, in that it would redefine the legal standard on the use of deadly force in a way that, by application, judges in hindsight how an officer reacted in a split-second to a dangerous situation.

Under current state law a peace officer may kill anyone charged with a felony who is fleeing or resisting arrest. Enacted in 1872, [California Penal Code § 196](#) is the single oldest un-amended law enforcement use of force statute in the country. Since the

passing of this statute, the United States Supreme Court has issued a couple decisions that have added guidance on the use of force issue.

In the 1985 case of [Tennessee v. Garner](#), the court held that “where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.” In short, a police officer may not seize an unarmed, non-dangerous suspect by shooting him dead.

In the 1989 case of [Graham v. Connor](#), the court held that an objective reasonableness test should be used as the standard to determine whether a law enforcement official used excessive force in the course of making an arrest, or other action.” The court in Graham went on to say that the “reasonableness of the particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”

It has been argued that California, despite the *Graham* and *Garner* decisions, has been operating in a reality where its statutes related to police use of force are outdated and potentially unconstitutional. On its face, one could further argue that the California Penal Code justifies an officer killing any person charged with a felony who is fleeing or resisting arrest – whether or not the person poses a danger to the officer or someone else ([Penal Code § 196](#)).

In response to the many conversations on Use of Force that took place in 2018 during the legislature’s consideration of AB 931, the California Police Chiefs Association has developed the proposal at issue, SB 230, in an effort to be part of the solution in helping to improve outcomes during incidents involving officer use of force.

**According to the Author:**

No statement provided.

**Fiscal Impact:**

Unknown.

**Existing League Policy:**

None relating to peace officer conduct, including use of force.

**Support and Opposition:**

Support: California Police Chiefs Association (Sponsor),

Opposition: Unknown

**Comments:**

The provisions in the bill will not satisfy all criminal justice advocates. Likewise, if signed into law, not all personnel from each law enforcement agency will be excited to embrace the changes in policy and practices as proposed by this legislation.

In short, while it is not a perfect bill, law enforcement's formal acknowledgment of the issue and willingness to work with policy makers and criminal justice advocates to address the various challenges associated with Use of Force is a meaningful step forward in helping to build and/or restore trust between law enforcement and members of the public.

**Staff Recommendation:**

Support