

PUBLIC SAFETY POLICY COMMITTEE

Thursday, June 13, 2019

10:00 a.m. – 3:00 p.m.

Sacramento Convention Center, Room 202, 1400 J Street, Sacramento

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League’s website at www.cacities.org and clicking on “Bill Search” found at the left column. Be sure to review the most recent version of the bill.

SPECIAL ORDER: State Budget and Issues Briefing for all policy committee members
10:00 – 10:45 a.m., Room 204, Sacramento Convention Center
Upon adjournment, individual policy committee meetings will begin

AGENDA

I. Welcome and Introductions

II. Public Comment

III. Legislative Agenda (Attachment A)

- **[AB 1544](#) (Gipson) Community Paramedicine & Triage to Alternate Destination** *Action*
Proponents: Brian Rice, President – California Professional Firefighters
Christy Bouma, Director of Governmental Affairs – California Professional Firefighters
Jeff DelBono, Division Chief, Alameda Fire Department
Opponent: Jimmy Pierson, Owner – Medic Ambulance (for the California Ambulance Association)
- **[SB 438](#) (Hertzberg) Emergency Medical Dispatch Services** *Action*
Speakers: Chief Jeff Meston, President – California Fire Chiefs Association
Brian Rice, President – California Professional Firefighters
Christy Bouma, Director of Governmental Affairs – California Professional Firefighters
- **[AB 1215](#) (Ting) Facial Recognition & Other Biometric Surveillance** *Action*
Speaker: Charles Harvey, Legislative Representative

IV. Legislative Update (Attachment B)

Informational

Speaker: Charles Harvey, Legislative Representative
A brief update on issues relating to police use of force, cannabis, and more.

Next Meeting (tent.): Annual Conference, Long Beach, October 16

Staff will notify committee members after August 22nd if the policy committee will be meeting in October.

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). 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.

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.

Informational Items: Any agenda item listed for information purposes may be acted upon by the Policy Committee if the Chair determines such action is warranted and conforms with current League policy. If the committee wishes to revise League policy or adopt new policy for an item listed as informational, committees are encouraged to delay action until the next meeting to allow for preparation of a full analysis of the item.

**PUBLIC SAFETY POLICY COMMITTEE
Legislative Agenda
June 13, 2019**

1. [AB 1544 \(Gipson\): Community Paramedicine or Triage to Alternate Destination Act](#)

Bill Summary:

Assembly Bill 1544 creates the Community Paramedicine or Triage to Alternate Destination Act of 2019, which authorizes a local emergency services agency to develop and seek approval for a program that provides community paramedic or triage paramedic services as specified.

Existing Law:

As current law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical services (EMS) systems. The Act establishes the [Emergency Medical Services Authority](#) (“Authority”), which is responsible for the coordination and integration of EMS systems. Among other duties, the Authority is required to develop planning and implementation guidelines for EMS systems, provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of EMS systems, and receive plans for the implementation of EMS and trauma care systems from local EMS agencies.

Existing law also:

- Authorizes a county to establish an emergency medical care committee and requires the committee, at least annually, to review the operations of ambulance services operating within the county, emergency medical care offered within the county, and first aid practices in the county.
- Requires the county board of supervisors to prescribe the membership, and appoint the members, of the committee.
- Establishes the [Commission on Emergency Medical Services](#) with 18 members. The commission, among other things, reviews and approves regulations, standards, and guidelines developed by the authority.

Bill Description:

AB 1544 would establish until January 1, 2030, the Community Paramedicine or Triage to Alternate Destination Act of 2019. Specifically, the bill would:

- Authorize a local EMS agency to develop a community paramedicine or triage to alternate destination program, to provide specified community paramedicine services.
- Define “Triage to alternate destination program” as a program that offers the following services:
 - Providing care and comfort services to hospice patients in their homes in response to 911 calls, including grief support in collaboration with the

- patient's hospice agency until the hospice nurse arrives to treat the patient.
 - Providing patients with advanced life support triage and assessment by a triage paramedic and transportation to an alternate destination facility.
- Define "Community paramedicine program" as a program that offers the following services:
 - Providing short-term discharge follow-up for persons recently discharged from a hospital due to a serious health condition in collaboration with home health services when eligible.
 - Providing directly observed therapy to persons with tuberculosis in collaboration with a public health agency to ensure effective treatment and prevent the spread of the disease.
 - Providing case management services to frequent emergency medical services users in collaboration with existing community resources.
- Require the Authority to develop regulations that establish minimum standards and curriculum for a program, and would further require the Commission on Emergency Medical Services to review and approve those regulations.
- Require the Authority to review a local EMS agency's proposed program and approve, approve with conditions, or deny the proposed program no later than 6 months after it is submitted by the local EMS agency.
- Require a local EMS agency that opts to develop a program to do the following:
 - Integrate the proposed program into the local EMS agency's EMS plan;
 - Develop a process to select community paramedic providers at a periodic interval established by the local EMS agency;
 - Facilitate any necessary agreements with one or more community paramedicine or triage to alternate destination providers for the delivery of services within the local EMS agency's jurisdiction, and to provide medical control and oversight of the program; and
 - Prohibit a local EMS agency from including a community paramedic services agreement within an existing or proposed contract for the delivery of EMS within an exclusive operating area.
- Require the Emergency Medical Services Authority to submit an annual report on the community paramedicine or triage to alternate destination programs operating in California to the Legislature, as specified.
- Require the authority to contract with an independent third party to prepare a final report on the results of the community paramedicine or triage to alternate destination programs on or before June 1, 2028, as specified.
- Prohibit a person or organization from providing community paramedicine or triage to alternate destination services or representing, advertising, or otherwise implying that it is authorized to provide those services unless it is expressly authorized by a local EMS agency to provide those services as part of a program approved by the authority.
- Prohibit a community paramedic or a triage paramedic from providing their respective services unless the community paramedic or triage paramedic has been certified and accredited to perform those services and is working as an employee of an authorized provider.

- Requires a local EMS agency that participates in providing life support triage and assessment by a triage paramedic and transportation to an alternate destination facility, to ensure that when a patient requests to be transported to the emergency department of a general acute care hospital, he or she is actually transported there.
- Expands the Commission on EMS from 18 to 20 members, adding a physician specializing in the care of individuals with co-occurring mental health or psychosocial and substance use disorders, and a licensed clinical social worker, both of which would be appointed by the Governor.

Background:

According to a [2010 study](#) by the RAND Corporation, between 14% and 27% of all emergency department (ED) visits are for non-urgent care and could take place in a different setting, such as a doctor’s office, after-hours clinic or retail clinic, resulting in a potential cost savings of \$4.4 billion annually.

A 2010 study published in the Annals of Emergency Medicine found that frequent users comprised 4.5% to 8% of all ED patients, yet account for 21% to 28% of all visits. Patients with co-occurring chronic disease, mental illness and/or substance use disorders may use the ED periodically as their only source of care.

According to the Agency for Healthcare Research and Quality, homelessness is also associated with frequent use of EDs, and that ED encounters were nine times higher among homeless single men, 12 times higher for homeless single women and 3.4 times higher for homeless adults in families.

In November of 2014, the [Office of Statewide Health Planning and Development](#) (OSHPD) approved an application by California’s Emergency Medical Services Authority for Health Workforce Pilot Project (HWPP) #173. [HWPP #173](#) authorized the operation of specific community paramedicine programs in various local EMS agencies in California. HWPP #173 was designed to test and study community paramedicine in the field. Community Paramedicine (CP) was defined in the OSHPD application as follows:

“CP is a new and evolving model of community-based health care in which paramedics function outside of their customary emergency response and transport roles in ways that facilitate more appropriate use of emergency care resources and/or enhance access to primary care for medically underserved populations. CP programs typically are designed to address specific local problems and to take advantage of locally developed linkages and collaborations between and among emergency medical services and other health care and social service providers and, thus, are varied in nature.”

As part of the approval of HWPP #173, the University of California San Francisco was contracted to study and analyze data derived from the implementation of community paramedicine pilot programs.

The community paramedicine pilot programs implemented under HWPP #173 fall into the following categories:

- Post-Discharge, Short-term Follow-Up: Provide short-term, home-based follow-up care to people recently discharged from a hospital due to a chronic condition (e.g., heart failure) to reduce their risk of readmission and improve their ability to manage their condition.
- Frequent EMS Users: Provide case management services to people who are frequent 911 callers and frequent visitors to emergency departments (EDs) to identify needs that could be met more effectively outside of an ED and assist patients in accessing primary care and obtaining services to address nonmedical needs, such as food, housing, and substance use disorder treatment.
- Directly Observed Therapy for Tuberculosis: In collaboration with a public health agency, provide directly observed therapy (DOT) to people with tuberculosis (i.e., dispense medications and observe patients taking them) to assure effective treatment of tuberculosis and prevent its spread.
- Hospice: In response to 911 calls made by or on behalf of hospice patients, collaborate with hospice agency nurses, patients, and family members to treat patients in their homes according to their wishes instead of transporting them to an ED.
- Alternate Destination – Mental Health: In response to 911 calls, offer people who have mental health needs, but no acute medical needs, transport directly to a mental health crisis center instead of to an ED with subsequent transfer to a mental health facility.
- Alternate Destination – Sobering Center: In response to 911 calls, offer people who are acutely intoxicated but do not have an acute medical or mental health needs transport directly to a Sobering Center for monitoring instead of to an ED.

HWPP #173 was adopted under existing OSHPD authority. The pilot sites have received several extensions and are authorized to continue operations, pursuant to Governor Brown's [veto message](#) of [AB 3115](#) (Gipson), a virtually identical bill from 2018 that was approved by the Legislature with bi-partisan support.

According to the Author:

“California’s health care needs have evolved over time and the current emergency response system must be updated to reflect this. Community paramedicine and alternate destination programs have proven success in improving access to care by specially-trained paramedics. The author states that emergency departments have a primary responsibility, which is to serve as a rapid response to crises and disasters. The EMS system is not adequately designed to care for patients who have mental health care needs or those who are inebriated. Frequent 9-1-1 users aren’t able to receive the right care at the right time, as our paramedics are currently unable to send patients to medically-staffed mental health and sobering facilities.

The author notes that community paramedicine programs allow for greater ease in accessing post-discharge care and observed therapy needs. Specially-trained paramedics can provide appropriate connections to medical professionals who are able to provide individualized care to patients who need assistance in their homes or other

facilities. The author concludes that this bill authorizes community paramedicine and alternate destination programs based on strong research and evaluation of the current pilot programs and is a thoughtful measure designed to improve health care for all.”

Fiscal Impact:

Unknown

Existing League Policy:

There is no existing League policy that is specific to the proposed programs, as outlined in the bill. However, existing League policy that touches on the periphery of this legislation is as follows:

The League supports and strives to ensure local control of emergency medical services by authorizing cities and fire districts to prescribe and monitor the manner and scope of pre-hospital emergency medical services, including transport through ambulance services, all provided within local boundaries for the purpose of improving the level of pre-hospital emergency medical service.

The League supports legislation to provide a framework for a solution to long-standing conflict between cities, counties, the fire service and LEMSA's, particularly by local advisory committees to review and approve the EMS plan and to serve as an appeals body. Conflicts over EMS governance may be resolved if stakeholders are able to participate in EMS system design and evaluation and if complainants are given a fair and open hearing.

Support and Opposition:

Support: (as of 05.01.2019)

California Professional Firefighters (Co-Sponsor)

California Chapter of the American College of Emergency Physicians (Co-Sponsor)

California Fire Chiefs Association

Fire Districts of California

Opposition: (as of 05.01.2019)

California Ambulance Association

California Nurses Association

California Association for Health Services at Home

Comments:

According to a [February 2019 evaluation](#) of the state’s community paramedicine pilot program, conducted by Healthforce Center and the Philip R. Lee Institute for Health Policy Studies at UC San Francisco, these pilot projects have demonstrated that specially trained paramedics can provide services beyond their traditional and current statutory scope of practice in California. The evaluation concludes that no adverse outcome is attributable to any of these pilot projects, and that the projects are, in fact, enhancing patients’ well-being, improving the integration and efficiency of health services in the community, and reducing ambulance transports, ED visits, and hospital

readmissions. The evaluation also concludes that a majority of potential savings associated with these pilots would accrue to Medicare and Medi-Cal and to hospitals serving Medicare and Medi-Cal patients.

Based on the data and information reported, it appears as though community paramedicine programs can play a role in improving patient care and efficiency in our state's EMS system. Moreover, community paramedicine can leverage a trusted community resource, firefighter paramedics, to deliver this important community service.

Unless new legislation is enacted this year to either extend the operation of these existing programs or establish new community paramedicine and triage to alternate destination programs, these existing pilots will sunset on November 14, 2019.

Amongst the many requirements set forth in this bill, there are a couple provisions embedded in the legislation that should be viewed favorably by cities.

First, the bill provides public agencies with a first right of refusal to provide the various services of a community paramedicine or triage to alternate destination program within a local jurisdiction. Amazingly, this provision was left untouched in AB 3115, the identical bill from 2018 that was ultimately vetoed by Governor Brown. I would expect the private ambulance companies and their affiliates to seek removal of this provision for AB 1544.

Second, the bill specifically notes that in implementing a triage to alternate destination program, a local EMS agency must continue to use and coordinate with medical transport providers operating within that local EMS agency's jurisdiction, pursuant to Health and Safety Code sections 1797.224 or 1797.201. In other words, the bill seeks to preserve the .201 rights of those emergency medical transport providers that have been in continuous operation since June 1980.

At the end of the day, if signed into law, the bill would give local jurisdictions the option to establish a community paramedicine and/or a triage to alternate destination program, which could provide added flexibility for patient treatment and potential cost savings without sacrificing quality of care.

Staff Recommendation:
Support

Committee Recommendation:

Board Action:

[2. SB 438 \(Hertzberg\): Emergency Medical Dispatch Services](#)

Bill Summary:

Senate Bill 438 would prohibit a public agency from entering into a contract for 911 call processing regarding the dispatch of emergency response resources, unless the contract is with another public agency, or was created prior to January 1, 2019 by a joint powers authority that only comprises public agencies.

Existing Law:

- Requires every 911 system to include police, firefighting, and emergency medical and ambulance services. Permits 911 systems to incorporate private ambulance services. (Government Code §53110)
- Authorizes counties to develop an EMS program and designate a local EMS agency (LEMSA) responsible for planning and implementing an EMS system, which includes day-to-day EMS system operations. (Health and Safety Code §1797.200, et seq.)
- Requires every LEMSA to have a licensed physician as medical director, to assure medical accountability throughout the planning, implementation, and evaluation of the EMS system. Requires the medical direction and management of an EMS system to be under the medical control of the medical director. (Health and Safety Code §1797.202, HSC §1798)
- Requires the administration of prehospital EMS by cities and fire districts providing such services as of June 1, 1980, to be retained by those cities and fire districts and to be continued at not less than the existing level until such time that a written agreement is reached between a city or fire district and a county. (Health and Safety Code §1797.201)
- Permits a local EMS agency to create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services. Specifies that no competitive process is required if the local EMS agency develops or implements a local plan that continues the use of existing providers operating within a local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981. (Health and Safety Code §1797.224)

Bill Description:

Specifically, SB 438:

- Prohibits a public agency from delegating, assigning, contracting for “911” call processing or emergency notification duties regarding the dispatch of emergency response resources, unless the delegation or assignment is to, or the contract is with another public agency.
- Allows a joint powers authority that contracted for dispatch of emergency response resources on or before January 1, 2019, to continue such a contract, and renegotiate or adopt new contracts, if: a) the membership of the joint powers authority includes all public agencies that provide prehospital emergency medical

services (EMS), and b) the joint powers authority consents to the renegotiation or adoption of the contract.

- Provides that medical control does not affect a public safety agency's authority to:
 - Directly receive, process, and administer requests for assistance originating within the agency's jurisdiction through the 911 system; or
 - Determine the appropriate deployment of public safety and emergency response resources within the agency's territorial jurisdiction
- Provides that medical control does not authorize or permit a local EMS agency to delegate, assign, or enter into a contract in contravention of the prohibition on contracting for EMS dispatch as established by the bill.
- Provides that a public safety agency's voluntary consent to conform its prehospital response or response mode to comply with an emergency medical dispatch protocol adopted by a local EMS agency does not constitute a transfer of any of the public safety agency's authorities regarding the administration of EMS.
- Makes various findings and declarations to support its purposes.

Background:

The Warren-911-Emergency Assistance Act requires every local public agency to establish and operate an emergency telephone system using the digits 911. The purpose of the Act is to ensure an efficient statewide system for delivery of 911 calls to the appropriate local agency's Public Safety Answering Points (PSAPs) that answer and respond to requests for emergency assistance. The Warren-911-Emergency Assistance Act also authorizes the state to oversee the development and operation of the 911 system. Under the 911 Act, every 911 system must include police, firefighting, and emergency medical and ambulance services. These systems may include private ambulance service.

A call to 911 first goes to the primary PSAP, which is always a law enforcement agency. When the primary PSAP receives a call, the dispatcher determines whether the call is related to law enforcement, fire, or medical needs, and are routed appropriately to a secondary PSAP: law enforcement personnel, the local government with fire protection responsibility, or the emergency medical services (EMS) provider.

Beginning in 1978, the Legislature began to consider imposing some consistent structure on the delivery of emergency medical services prior to a patient arriving at a hospital. In 1980, the Legislature enacted the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (EMS Act) to create the modern-day EMS system (SB 125, Garamendi). The EMS Act created the Emergency Medical Services Authority (EMSA) within state government to coordinate and integrate all state activities concerning EMS, as well as to establish minimum standards, policies, and procedures that local agencies must meet and follow when delivering EMS. The EMS Act allowed counties to develop an EMS program and designate a Local EMS Agency (LEMSA) to implement the state standards and develop medical protocols. Under the EMS Act, cities and fire districts can only provide EMS if they were providing it on January 1, 1980, and cannot expand the territory that they serve beyond what they

served at that time unless through an agreement with a LEMSA. Today, seven regional EMS systems covering multiple counties and twenty-six single county agencies have responsibility for developing protocols and standards for EMS response and care.

The EMS Act vests “medical control” with the LEMSA—the LEMSA’s medical director adopts policies and procedures for dispatch, patient destination policies, patient care guidelines, and quality assurance requirements to ensure that EMS under its jurisdiction meets state standards, such as response times. EMS may be provided under contract by private services, by contract or agreement with fire departments or other public agencies, or by both public and private entities. In order to provide comprehensive EMS coverage, a LEMSA may employ both private entities and public agencies. For example, depending on the location of the emergency, the medical needs of the patient, and the capabilities of the public and private agencies, one call may be routed to the private ambulance service that contracts with the LEMSA, while another call may be routed to a fire district to send an engine. Concerned that private EMS dispatchers are prioritizing private ambulance companies when determining who should respond to a call, both fire chief and firefighter union representatives want to ensure that public agencies are in charge of EMS dispatch, and thereby ensure that the safety and care of patients is prioritized.

City of Tracy

Supporters of the measure point to an unfortunate incident that occurred in the City of Tracy years ago as a primary example that underscores the need for the bill. In Tracy, the San Joaquin County LEMSA apparently had a practice of routinely authorizing private ambulances to respond to what were deemed “low acuity” calls—calls that are otherwise determined to be a lower level emergency—even where the city fire department could arrive at the scene faster than the private ambulance unit could. In response to one such “low acuity” call, the private ambulance summoned experienced a significant delay, taking approximately 19 minutes to arrive on the scene. It was reported that the patient was experiencing shortness of breath, and that the EMT’s delayed arrival ultimately resulted in the patient’s death.

According to the Author:

“The provision of fire protection services, rescue and emergency medical services, hazardous material emergency response, ambulance and other services related to the protection of lives and property is critical to the public peace, health and safety of the state. Likewise, the call processing and administration of such emergency response functions has traditionally been recognized as one of the highest priorities and obligations of government. Public agencies finance these services with tax dollars and determine the appropriate deployment strategies and levels of emergency response services appropriate for their communities.

EMS has been a part of the fire service for more than 70 years. Fire service-based EMS systems are strategically positioned to deliver time critical response, effective patient care, and scene safety. Additionally, integral parts of the EMS system (e.g. firefighters, apparatus, and facilities) are already being paid for as part of the department’s “all hazards response infrastructure.” Fire departments comprise the largest group of

providers of pre-hospital EMS care in North America by covering 97% of the 200 most populated communities in the United States. Additionally, fire departments provide Advanced Life Support (ALS) to 90% of the 30 most populated United States. No other entity, public or private, provides pre-hospital emergency response at the same level as fire departments.

However, many jurisdictions choose to outsource their local emergency services, under the guise of a cost-savings. However, efforts to privatize public services, such as law enforcement, fire protection, and emergency medical response and the dispatch of such services, have resulted in increased costs to citizens and/or a reduction in services provided and in some cases a failure to deliver timely services.

The New York Times, in its 2016 investigative article, [*When You Dial 911 and Wall Street Answers*](#), reports that for governments and their citizens, the effects of privatization have often been calamitous. When dealing with emergency care and other vital services, like firefighting, privatization often results in an inherent pressure: the demand to turn a profit while caring for people in their most vulnerable moments.”

Fiscal Impact:

None

Existing League Policy:

The League supports and strives to ensure local control of emergency medical services by authorizing cities and fire districts to prescribe and monitor the manner and scope of pre-hospital emergency medical services, including transport through ambulance services, all provided within local boundaries for the purpose of improving the level of pre-hospital emergency medical service.

The League supports legislation to provide a framework for a solution to long-standing conflict between cities, counties, the fire service and LEMSA's, particularly by local advisory committees to review and approve the EMS plan and to serve as an appeals body. Conflicts over EMS governance may be resolved if stakeholders are able to participate in EMS system design and evaluation and if complainants are given a fair and open hearing.

Support and Opposition:

Support: (as of 05.03.2019)

- Alameda County Fire Chief's Association
- Alameda Fire Department
- Alpine Fire Protection District
- Anderson Fire Protection District
- Apple Valley Fire Protection District
- Big Bear Fire Department
- Bodega Bay Fire Protection District
- Bonita Sunnyside Fire Protection District
- Branciforte Fire Protection District
- California City Fire Department

California Fire Chiefs Association (Co-Sponsor)
California Metropolitan Fire Chiefs Association
California Professional Firefighters (Co-Sponsor)
Cambria Community Services District Fire Department
Central County Fire Department
Chino Valley Fire District
Chula Vista Firefighters Local 2180
City of Atascadero Fire & Emergency Services
City of Carlsbad Fire Department
City of Chula Vista Fire Department
City of Colton
City of Corona Fire Department
City of Culver City
City of Dinuba Fire Department
City of Dixon Fire Department
City of Fountain Valley Fire Department
City of Huntington Beach Fire Department
City of Lodi Fire Department
City of Loma Linda Fire Department
City of Ontario
City of Oxnard Fire Department
City of Palm Springs Fire Department
City of Palo Alto Fire Department
City of Petaluma Fire Department
City of Rohnert Park Department of Public Safety
City of Sacramento Fire Department
City of San Diego Fire-Rescue Department
City of San Marcos
City of Santa Cruz Fire Department
City of Santa Rosa Fire Department
City of Santee Fire Department
City of South Lake Tahoe Fire Department
City of Stockton Fire Department
City of Ventura Fire Department
City of Vista
Cordelia Fire Protection District
Cosumnes Fire Department Community Services District
Fire Districts Association of California
Firefighters Local 1186
Foresthill Fire Protection Department
Fresno County Fire Protection District
Gilroy Fire Department
Humboldt Bay Fire
Lake County Fire Protection District
Lathrop-Manteca Fire Protection District
Linda Fire Protection District
Mammoth Lakes Fire Protection District

Marina Fire Department
Mid-Coast Fire Brigade
Montecito Fire Department
Monterey County Fire Chiefs Association
Monterey Firefighters Association
Newport Beach Fire Department
Newport Beach Firefighters Local 3734
North County Fire Authority
North County Fire Protection District
North Tahoe and Meeks Bay Fire Protection Districts
Northshore Fire Protection District
Novato Fire District
Orange City Fire Department
Orange County Fire Chief's Association
Sacramento Metropolitan Fire District
San Benito-Monterey Chapter CALFIRE Local 2881
San Bernardino County Fire Protection District
San Joaquin County Regional Fire Dispatch Authority
Santa Clara County Fire
Scotts Valley Fire Protection District
Seaside Fire Department
Sonoma County Fire District
South Placer Fire District
Southern Marin Emergency Medical Paramedic System
Southern Marin Fire Protection District
Stanislaus Consolidated Fire Protection District
Thornton Rural Fire Protection District
Tiburon Fire Protection District
Tracy Firefighters Association Local 3355
United Firefighters of Los Angeles
Waterloo Morada Fire District
Williams Fire Protection Authority

Opposition: (as of 05.03.2019)

American Medical Response (unless amended)
California State Association of Counties
County Health Executives Association of California
County of Fresno
Emergency Medical Services Administrators Association of California
Emergency Medical Services Medical Directors Association of California
Montezuma Fire Protection District
Ripon Consolidated Fire District
Rural County Representatives of California
San Joaquin County Joint Radio Users Group
San Mateo County Board of Supervisors
San Mateo County Health
Shasta County Board of Supervisors

Opponents Argue:

“This measure would restrict county oversight and accountability for the operation of public safety answering points (PSAPs), including 9-1-1 EMS dispatch centers, and circumvent the authority of LEMSA medical directors to ensure the appropriate deployment and use of EMS resources.

SB 438 attempts to overturn 22 years of Supreme Court precedent in *County of San Bernardino v. City of San Bernardino* (1997 15.Cal. 4th 909). The State Supreme Court explained in enacting the EMS Act in 1980, “the Legislature conceived of ‘medical control’ in fairly expansive terms, encompassing matters directly related to regulating the quality of emergency medical services, including policies and procedures governing dispatch and patient care.” Other subjects of medical control include those policies designed to improve the “speed and effectiveness” or emergency response as well as “how the various providers will interact at the emergency scene.”

LEMAs are required to adhere to stringent medical control standards established by the Emergency Medical Services Authority (EMSA) when enacting local policies and procedures, including those that govern EMS dispatch and response. EMSA enforces adherence to these state standards through the local EMS plan approval process. Local EMS agency medical directors are charged with ensuring that all dispatch entities, whether public or private, operate under medical control to the benefit of the patients within their boundaries.

Should SB 438 become law, local municipal agencies would be permitted to act outside of the medical control of the LEMSA medical director, and EMSA, in the response and delivery of prehospital emergency care. This fragments the EMS system and may result in considerable variation in the care provided to patients. It also would risk patient safety, as deviations from LEMSA policies and procedures may occur without LEMSA and EMSA oversight and authority to monitor dispatch and response times, as well as issue corrective actions. It is for these reasons that our organizations regrettably must oppose SB 438.”

NOTE: In response to claims by the opposition, the California Fire Chiefs Association (Cal Chiefs), a co-sponsor of the measure, has sought to make clear what SB 438 does not do. According to Cal Chiefs, the bill does NOT:

- *Limit or undermine the county Medical Director’s lawful authority to formulate proper prehospital EMS training and certification standards, training program approval standards, or patient treatment protocols and guidelines for patient care in the prehospital EMS environment.*
- *Limit the Medical Director’s ability to control the “speed” of the medical response (e.g. code 3 v. code 2) or the nature and content of any medical-related pre-arrival instructions (e.g. CPR, choking, etc.).*

Comments:

Consistent with League policy, SB 438 seeks to address, in part, a long-standing conflict between cities and counties on the provision of one component of EMS—dispatch services for emergency medical and pre-hospital transportation services.

Practical Implications

In short, the bill seeks to do two things. First, it would make clear that county LEMSAs do not have the power to dictate when city fire department or fire district units are dispatched to respond to a 9-1-1 call in their own jurisdictions. As such, the bill would restrict LEMSAs from unilaterally preventing available public-safety resources from responding within a local agency’s territorial jurisdiction by concocting local medical control policies that favor a private entity response. Second, with the exceptions of any existing contracts for dispatch services between a public agency and a private entity or future any JPA agreements between public agencies only, the bill would prohibit local agencies from entering into any future contracts for dispatch services with non-public entities.

The Provision on Prohibited Contracting

SB 438 would permanently bar any city that does not have an existing contract for private EMS dispatch services, from entering into such an agreement in the future. This is undoubtedly important as such a provision not only could constrain cities with limited flexibility in providing fire services in times of financial distress, but could also set a precedent for CPF or any other labor group to go after other services that cities might otherwise wish to contract for.

According to discussions with Fire Chiefs affiliated with the League, there is a clear understanding and acknowledgment that under this bill, local fire departments would relinquish whatever fiscal flexibility that private contracting for dispatch services might provide. For them, the benefit of added clarity and certainty of statutorily “establishing home rule” for cities and fire districts to respond to medical emergencies within their own borders far outweighs the drawback of an inability to privately contract for dispatch services.

Given all of these considerations, the central question cities must ask themselves is this:

Are cities, city fire departments and fire districts willing to accept the permanent inability to privately contract for emergency medical dispatch services, in exchange for the certainty that local EMS providers can respond to emergency calls within their jurisdiction, in light of the aforementioned potential consequences,?

Staff Recommendation:

None

Committee Recommendation:

Board Action:

3. AB 1215 (Ting): Facial Recognition and Other Biometric Surveillance

Bill Summary:

AB 1215 would prohibit a law enforcement official from installing, activating, or using any biometric surveillance system in connection with an officer camera or data collected by an officer camera. The bill would also authorize a person to bring an action for equitable or declaratory relief against a law enforcement agency or official who violates that prohibition.

Existing Law:

- Encourages agencies to consider best practices in establishing when data should be downloaded to ensure the data is entered into the system in a timely manner, the cameras are properly maintained and ready for the next use, and for purposes of tagging and categorizing the data. (Penal Code § 832.18(b))
- Encourages agencies to consider best practices in establishing specific measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of body-worn camera data. (Penal Code § 832.18 (b)(3))
- Encourages agencies to consider best practices in establishing the length of time that recorded data is to be stored. States that non-evidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. Provides that an agency may keep data for more than 60 days to have it available in case of a civilian complaint and to preserve transparency. (Penal Code § 832.18(b)(5)(A).)
- Declares that it is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage data recorded by a body-worn camera worn by a peace officer; these policies and procedures shall be based on best practices. (Penal Code, § 832.18(a))

Bill Description:

AB 1215 prohibits a law enforcement officer or agency from installing, activating, or using a biometric surveillance system in connection with a law enforcement agency's body-worn camera or any other camera. Specifically, this bill:

- States that a law enforcement agency or law enforcement official shall not install, activate, or use any biometric surveillance system in connection with an officer camera or data collected by an officer camera.
- Permits a person to bring an action for equitable or declaratory relief in a court of competent jurisdiction against a law enforcement agency or law enforcement official that violates this section, in addition to any other sanctions, penalties, or remedies provided by law.

- Defines "biometric data" to mean "a physiological, biological, or behavioral characteristic that can be used, singly or in combination with each other or with other information, to establish individual identity."
- Defines "biometric surveillance system" to mean "any computer software or application that performs facial recognition or other biometric surveillance."
- Makes several findings and declarations including:
 - Declares that facial recognition and other biometric surveillance technology pose unique and significant threats to the civil rights and civil liberties of residents and visitors.
 - Declares that the use of facial recognition and other biometric surveillance is the functional equivalent of requiring every person to show a personal photo identification card at all times in violation of recognized constitutional rights.
 - States that this technology also allows people to be tracked without consent, would generate massive databases about law-abiding Californians and may chill the exercise of free speech in public places.

Background:

Governments around the world have begun experimenting with FRS in law enforcement, military, and intelligence operations. In March 2018, U.S. Customs and Border Protection [began testing facial recognition technology](#) at around a dozen U.S. airports. The New York Times [reported](#) on the use of facial recognition software (FRS) for security purposes in the private sector, notably in Madison Square Garden and at the American Airlines Center in Dallas. Despite broad experimentation, there is no federal law governing the use of this technology—although [Illinois and Texas](#) have laws that mandate informed consent. Whether used by governments or in private enterprise, the technology appears to be developing faster than the law.

Perceived Benefits

Some argue that the biggest benefit, and perhaps the most compelling argument for FRS, is that it can make law enforcement more efficient. FRS allows a law enforcement agency to run a photograph of someone just arrested through its databases, in order to identify the person and see if he or she is wanted for other offenses. It also can help law enforcement officers who are out on patrol or monitoring a heavily populated event identify wanted criminals if and as they encounter them.

For instance:

- A law enforcement officer wearing a body camera with FRS capability could quickly identify, from within a huge crowd, a person suspected of planning to detonate a bomb, or find a known missing person.
- The ambient presence of FRS applied to a feed from stadium cameras would allow law enforcement to identify dangerous attendees in cooperation with the company managing event security.

Noted Concerns: Inaccuracy, Government Abuse and Hacking

Inaccuracy

One commonly raised concern is that facial recognition software is not 100 percent accurate. Using a particular image to search through a facial database can lead to false

positives. If the government is conducting the search, this means that some individuals may be subject to questioning or investigation even though the FRS has misidentified them as a suspect, triggering concerns of fourth amendment violations.

The Electronic Frontier Foundation reports that the accuracy problems are worse for persons of color; that is, FRS misidentifies African Americans and ethnic minorities at a higher rate than whites. At least [one study](#) conducted by researchers at the Massachusetts Institute of Technology has shown that FRS from IBM, Microsoft and Face++ is less accurate when identifying females.

Government Abuse

A report from March 2017 found that the FBI was storing about 50 percent of adult Americans' photographs in facial recognition databases [without their knowledge or consent](#). The FBI uses *Next Generation Identification*, a biometric database launched in 2010, which garners images from law enforcement activities and drivers' licenses. When the U.S. government accountability office evaluated the FBI's use of FRS in 2016, it found that it [lacked sufficient oversight](#).

Hacking

Once the government or a corporation has created a database of faces, that data becomes a target for hackers. This would apply to other commonly collected and stored biometric data, such as fingerprints. Companies—such as Apple—are using [feature-based facial recognition](#), which means the system takes a set of facial measurements, creates a facial architecture in code, and then creates a unique “hash ID.” Anyone who can break into the database of hash IDs can steal that ID and pretend to be someone else on any platform that uses that database.

According to the Author:

“In response to public concern over police-involved shootings, agencies across the state have implemented body camera programs to help increase accountability and mend trust with the communities they are sworn to protect. However, technology has been developed to allow for facial recognition and biometric scanning in body cameras, which can lead to dire consequences for Californians.

Subjecting law-abiding citizens to perpetual police line-ups, tracking their movements without their consent, and creating new databases susceptible to exploitation and hacking undermines public trust and the effectiveness of law enforcement, threatens the safety of Californians, and unduly intrudes on constitutional rights to privacy.”

“Facial recognition applies computer software that automatically converts the unique features on a person's face into a mathematical code, called a faceprint. But unlike other biometric identifiers like fingerprints or DNA, facial recognition technology allows faceprints to be taken without our permission or knowledge, with no way to opt-out – taking away an individual's longstanding legal right to protect their identity if they haven't done anything wrong.

Additionally, facial recognition is often inaccurate, particularly when used against women and other people of color, according to multiple MIT studies. In a test conducted last year, Amazon’s “Rekognition” system falsely identified 28 sitting members of Congress as people in a mug shot database, with members of color disproportionately misidentified. Big Brother Watch, a United Kingdom privacy advocacy organization, reported that London Metropolitan Police’s facial recognition matches were 98% inaccurate.

Law enforcement body cameras coupled with facial recognition software would transform thousands of individual cameras carried by law enforcement officers into roving surveillance devices that record who we are, where we go, and where we have been over time – from the homes of friends, to medical offices, therapists, places of worship, and political gatherings. Such constant and pervasive surveillance would not only corrupt the purpose of body cameras, it would undermine trust in law enforcement and discourage victims and vulnerable groups from seeking help. Errors could result in false accusations or the inappropriate use of force, with potentially tragic consequences.”

Fiscal Impact:

None

Existing League Policy:

None

Support and Opposition:

Support: (as of 04.23.2019)

American Civil Liberties Union of California (Sponsor)

API Chaya

Anti-Police Terror Coalition

Asian Law Alliance

Council on American-Islamic Relations of California

California Attorneys for Criminal Justice

California Public Defenders Association

Center for Media Justice

Color of Change

Data for Black Lives

Defending Rights and Dissent

Electronic Frontier Foundation

Fight for the Future

Indivisible CA

Justice Teams Network

Media Alliance

Oakland Privacy

RAICES

San Jose/Silicon Valley NAACP

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Secure Justice
National Association of Criminal Defense Lawyers
Library Freedom Project
Tor Project
X-Lab

Opposition: (as of 04.23.2019)
California Police Chiefs Association
California State Sheriffs' Association

Comments:

The author and proponents of AB 1215 argue that FRS technology has the potential to subject law-abiding citizens to perpetual police lineups, tracking their movements without their consent, and creating new databases susceptible to exploitation and hacking. They conclude that this “undermines both public trust and the effectiveness of law enforcement, threatens the safety of Californians, and unduly intrudes on constitutional rights to privacy.”

At the end of the day, the proliferation of FRS technology probably warrants the exploration of policy into practical safeguards that not only account for noted dangers, such as identification inaccuracy and hacking, but also deter potential abuse practices such as pervasive surveillance of individuals.

Notwithstanding these considerations, it seems imprudent and shortsighted to ban law enforcement’s use of FRS technology altogether. Biometric surveillance systems are merely another tool that can assist law enforcement’s ability to identify and detain suspects of criminal activity. In fact, the potential investigatory benefits that can be derived from facial recognition software could be incredibly useful for law enforcement, and potentially live saving.

Staff Recommendation:

Oppose

Committee Recommendation:

Board Action:

Public Safety Update

Police Use of Force

The two-year debate over police use of force appears to have reached a compromise. This year there were two competing measures—AB 392 (Weber) and SB 230 (Caballero). Shortly after the introduction of both bills, the League issued formal support for SB 230 and formal opposition for AB 392.

AB 392 (Weber)

AB 392 was the subject of lengthy, passionate debate over the last several months as both police groups and reformists criticized the bill. The bill initially sought to revise the legal standard on law enforcement's use of deadly force from one of "necessarily committed" or reasonableness, to an unprecedented standard whereby officers may engage in such force only if "necessary," and when there is "no reasonable alternative." This ACLU-sponsored measure was viewed as very problematic for law enforcement agencies, in that it did not appropriately account for the split-second decisions that officers often make during rapidly evolving situations.

SB 230 (Caballero)

This measure is co-sponsored by the California Police Chiefs Association, and is supported by virtually all law enforcement agencies throughout the state. The bill encompasses a comprehensive approach in addressing police use of force. Specifically, the bill: 1) establishes guidelines for use-of-force training by every California law enforcement agency, 2) requires every law enforcement agency to maintain an internal policy that includes specified guidelines on use of force and 3) requires each law enforcement agency to make its use of force policy accessible to the public. As part of the amendments made by the Senate Public Safety Committee, SB 230 was made contingent upon the enactment of AB 392. In other words, the provisions of SB 230 can only take effect if AB 392 is also signed into law, forcing stakeholders to come together in an effort to work out a legislative compromise.

Compromise

By May 23, 2019, stakeholders had reached an agreement on the provisions of AB 392. The bill, substantially restructured, retains the "necessary" language in the findings and declarations section, but the term's definition has been removed. Also removed was language explicitly requiring officers to exhaust nonlethal alternatives before resorting to deadly force, along with a component that would have allowed officers to be held criminally liable for negligence-related deaths. With the recent amendments, all law enforcement entities have since removed their opposition and are now neutral.

Cannabis

Although not specifically cited as an objective within Strategic Goal #4, cannabis remains at the forefront of issues that warrant the League's attention.

2018 was the first year that Prop. 64, the Adult Use of Marijuana Act, took effect, wherein state and local licensing requirements, taxation policies and regulatory efforts

got underway. But that didn't slow the legislative or regulatory process in this hot and lucrative policy area; efforts to change applicable laws and regulations continued unabated. Eighteen bills were signed by Governor Brown, and the Bureau of Cannabis Control (BCC) adopted nearly 100 pages of new regulations.

AB 1530 (Cooley) Restrictions on Cannabis Delivery

One of these recent regulations approved by the Bureau of Cannabis Control authorizes the delivery of cannabis statewide, irrespective of any local jurisdiction's prohibition or limiting ordinance on commercial cannabis. Assembly Bill 1530 (Cooley) was a legislative effort that sought to undo this rule (which is also being challenged by cities in the court system) but was voted down in the Assembly Business & Professions Committee in early April. A coalition of cities filed litigation earlier this year challenging the BBC's delivery regulation.

AB 1356 (Ting) Local Jurisdictions & Retail Commercial Cannabis Activity

To underscore the cannabis industry's brashness and growing influence in the Legislature, Assembly Member Ting introduced AB 1356, a measure that seeks to mandate the adoption of retail commercial cannabis by cities and counties. The most recent version of the bill states that if more than 50 percent of the voters of a local jurisdiction voted in favor of Proposition 64, these local jurisdictions would be required to issue a minimum of one retail cannabis license for every six liquor licenses, or one retail cannabis license for every 15,000 residents. AB 1356 was recently moved to the Assembly Floor Inactive File, and cannot be taken up again until 2020.

Reducing Access to Firearms for the Mentally Ill

Current law regulates the sale, possession and transfer of firearms, and prohibits the possession of firearms by specified persons, including those convicted of certain criminal offenses and specified persons with mental health impairments. While there have been measures introduced relating to gun violence and mental health, legislative efforts that specifically aimed to limit access to firearms for mentally ill persons did not make it far in the legislative process.

AB 997 (Low), which sought to prohibit a person that is detained or apprehended for examination of his or her mental condition (5150 evaluation) from possessing a firearm for up to 30 days following their release, was voted down in the Assembly Public Safety Committee.

AB 1121 (Bauer-Kahan), a measure that sought to prohibit a person who is granted a pretrial diversion, based on a mental health disorder, from owning or possessing a firearm, was recently held in the Assembly Appropriations Committee.

Additional tools and resources for addressing critical community challenges

The May Revision of the Governor's Budget Proposal includes allocated funding for the following:

- \$8.8 million ongoing funding to establish two new 60-bed female reentry facilities

- \$71.3 million one-time funding in 2019-20 and \$161.9 million ongoing funding beginning in 2020-21 to implement an integrated substance use disorder treatment program throughout all 35 CDCR institutions

The League will continue to monitor and support both legislation and budgetary proposals that seek to address the issues of mental health, domestic violence, drug rehabilitation, human trafficking and workforce development for ex-offender reentry.