



8CAN'TWAIT: CURRENT LAW and ALTERNATIVES

In 2019, CPCA led law enforcement stakeholder engagement in discussions that ultimately set a new legal standard for peace officers' use of deadly force in California (AB 392, Weber) and CPCA sponsored legislation, which set national precedent by establishing a minimum use of force policy standard for all departments (SB 230, Caballero). Most of the policies outlined in the *8Can'tWait* campaign have been captured by these two new landmark laws. However, several provisions, most notably the requirement officers' exhaust all alternatives, were not included in either bill due to shared concerns by law enforcement and policymakers. Instead, alternatives to those provisions were embraced to accomplish our shared goal of reducing deadly force incidents. Outlined below are the provisions in the *8Can'tWait* platform already captured directly in statute, or concerns and alternatives with what is being proposed:



De-Escalation Requirement:

SB 230 requires that "officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible." SB 230 also mandates each policy require officers to conduct all duties in a manner that is fair and unbiased. Additionally, SB 230 requires all officers be trained in alternatives to deadly force and de-escalation techniques.



Require warning before shooting:

AB 392 states: "where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts." This requirement is consistent with federal case law.



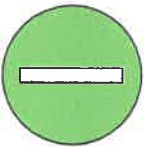
Duty to Intervene:

SB 230 sets forth a "requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances." This provision is consistent with federal law as well.



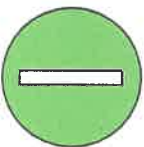
Require Comprehensive Reporting:

SB 230 already requires "comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident." Additionally, legislation from 2015 (Assembly Bill 71) requires statewide detailed reporting requirements on serious use of force incidents. SB 230 also requires officers to report excessive force they witness.



Ban Chokeholds and Strangulations:

SB 230 requires that "an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense." Any excessive force beyond this requirement is unreasonable. CPCA does not have a position on the outright ban of less lethal force options, but instead leaves that to each agency for determination. However, any use of force should meet this standard.



Ban Shooting at Moving Vehicles:

Again, outright prohibitions in all circumstances does not account for situations where the driver of a vehicle may be threatening death or great bodily injury to others. SB 230 requires "Comprehensive and specific guidelines for the application of deadly force," which should include guidance on the limited situations that would warrant shooting at moving vehicles.



Require Use of Force Continuum

The use of force continuum is an outdated model that has proven impractical, even dangerous, when applied in real life situations. Instead, policies should focus on requiring officers to create space and separation in an attempt to utilize de-escalation techniques, which is captured in the training and policy requirements within SB 230.



Require Exhaust all Alternatives Before Shooting

Arguably, the most controversial provision in 8CantWait's platform, this requirement was rejected in AB 392 debate because of the untenable position it puts officers and departments in, by permitting second-guessing of split-second decisions. Instead, the focus should be on training alternatives to deadly force, requirements on proportional force, and de-escalation requirements, all of which are contained in SB 230. If this requirement is implemented, an officer's decision concerning the use of force alternative should be judged based upon the totality of the circumstances and reasonable officer standard in AB 392.