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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

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**Bill No:** AB 229                      **Hearing Date:** July 13, 2021  
**Author:** Holden  
**Version:** June 7, 2021  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** GC

**Subject:** *Private investigators, proprietary security services, private security services, and alarm companies: training: use of force*

### HISTORY

Source: Author

Prior Legislation: AB 230 (Caballero); Ch. 285; Stats. of 2019  
AB 392 (Weber); Ch. 170; Stats. of 2019

Support: Oakland Privacy

Opposition: None known

Assembly Floor Vote: 73 - 0

### PURPOSE

*The purpose of this bill is 1) to add course training in use of force to current requirements for categories regulated by the Bureau of Security and Investigative Services (BSIS or Bureau) in order for a firearms permit to be issued; 2) to specify that a private patrol operator (PPO) must report the discharge of a firearm, altercations with a member of the public, and additional new uses of force within 7-business-days; 3) increases fine amounts for failing to provide required reports; 4) prohibits a person required to be registered as a security guard from carrying or using a firearm or baton unless the security guard is an employee of PPO, the state, or a political subdivision of the state, and 5) permits the BSIS to deny, suspend, or revoke a license under the Private Security Services Act if they determine that the licensee or their manager, or any officers, directors, or partners committed any use of force in violation of the standards prescribed by the BSIS by regulation.*

*Existing law* establishes the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (DCA), which licenses and regulates the private security industry, private investigators, locksmiths, repossessioners, and alarm companies. (Business and Professions Code (BPC) §§ 7512 *et seq.*)

*Existing law* establishes the Private Security Services Act, which provides for the BSIS's regulation of PPOs who employ private security guards and security patrolpersons. (BPC §§ 7580 *et seq.*)

*Existing law* requires BSIS to issue a firearms permit to an applicant is a licensed under the PI Act, the Private Security Services Act, or the Alarm Company Act, as specified, when specified conditions are met and when they have determined that carrying and use of a firearm presents no apparent threat to public safety. (BCP §§ 7542.2, 7583.23, 7596.3)

*Existing law* prohibits any person, corporation, or firm from selling, loaning, or transferring a firearm to a minor or from selling a handgun to anyone under 21 years of age. (Penal Code § 27505)

*Existing law* requires sales, loans, or transfers of firearms to occur through a licensed firearms dealer unless certain requirements are met. (Penal Code §§ 27545, 27875, 27880)

*Existing law* prohibits a person, including a licensed firearms dealer, from selling, supplying, delivering, or giving possession or control to any person under 21 years old, except if the person is an active peace officer, federal officer, law enforcement agent, a reserve peace officer, or a specified military personnel. (Penal Code § 27510)

*Existing law* prohibits a private patrol officer from failing to properly maintain accurate and current records of proof of completion be each employee of the licensee of the course in the training of the power to arrest, the security officer skills training, and the annual practice and review, as specified. An employee's completion of the course of training in the exercise of the power to arrest must be certified before the employee is placed at a duty station. Violation of this provision results in a fine of \$500. (BCP §§ 7583.2, 7587.8)

*Existing law* requires a person entering the employ of a licensee as a security guard or a security patrolperson to complete a course in the exercise of the power to arrest before being assigned to a duty location. (BCP § 7583.6)

*Existing law* requires a person registered pursuant to the Private Security Services Act to complete at least 32-hours of training in security officer skills within six months from the date the registration card is issued and that 16 of the hours must be completed within 30-days of the registration card issuance. (BCP § 7583.6)

*Existing law* requires a course provider to issue a certificate to a security guard upon satisfactory completion of a required course and authorizes a PPO to provide additional training programs and courses. Requires a registrant who is unable to provide their employer the certificate to complete 16-hours or the training within 30-days of the registrant's employment date and the 16 remaining hours within six months of the registrant's employment date. (BCP § 7583.6)

*Existing law* requires the DCA to develop and approve by regulation a standard course and curriculum for skills training and authorizes the course of training to be administered, tested, and certified by any licensee, organization, or school approved by the DCA. Requires the DCA to consult with consumers, labor organizations, and subject matter experts to do so. (BCP § 7583.6)

*Existing law* requires a PPO licensee, on and after January 1, 2005, to annually provide each registered employee with 8 hours of review or practice of security officer skills, as described, and to maintain records of such training. (BCP § 7583.6)

*Existing law* prohibits a security guard or security patrolperson who is employed by a licensed PPO from being issued a registration card before the instructor of the exercise of the power to arrest course properly certifies that the employee has been taught and the certificate has been sent to the DCA. (BCP § 7583.8)

*Existing law* requires a potential security guard employee, before accepting employment by a PPO, to apply for registration as a security guard and to obtain fingerprint cards for submission to the Department of Justice (DOJ) for use as specified. (BCP § 7583.9)

*Existing law* defines “deadly force” as any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm. (Gov. Code, § 7286, *subd. (a)(1).*)

*Existing law* defines “feasible” means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person. (Gov. Code, § 7286, *subd. (a)(2).*)

*Existing law* requires that each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Each agency’s policy shall include all of the following: (Gov. Code, § 7286, *subd. (b).*)

- A requirement that officers utilize deescalation techniques, crisis intervention tactics, and other alternatives to force when feasible.
- A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.
- A requirement that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.
- Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person.
- A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.
- Procedures for disclosing public records in accordance with Section 832.7.
- Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents.
- 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, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.
- Comprehensive and specific guidelines regarding approved methods and devices available for the application of force.

- An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased.
- Comprehensive and specific guidelines for the application of deadly force.
- Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Section 12525.2.
- The role of supervisors in the review of use of force applications.
- A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.
- Training standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.
- Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.
- Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.
- Factors for evaluating and reviewing all use of force incidents.
- Minimum training and course titles required to meet the objectives in the use of force policy.
- A requirement for the regular review and updating of the policy to reflect developing practices and procedures.

*Existing law* requires that each law enforcement agency shall make their use of force policy adopted pursuant to this section accessible to the public. (Gov. Code, § 7286, *subd. (c).*)

*Existing law* mandates that the Commission on Peace Officers Standards and Training (POST) shall implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the use of force and shall also develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for use of force. The guidelines and course of instruction shall stress that the use of force by law enforcement personnel is of important concern to the community and law enforcement and that law enforcement should safeguard life, dignity, and liberty of all persons, without prejudice to anyone. These guidelines shall be a resource for each agency executive to use in the creation of the use of force policy that the agency is required to adopt and promulgate pursuant to Section 7286 of the Government Code, and that reflects the needs of the agency, the jurisdiction it serves, and the law. The course or courses of the regular basic course for law enforcement officers and the guidelines shall include all of the following: (Penal Code, § 13519.10)

- Legal standards for use of force.
- Duty to intercede.
- The use of objectively reasonable force.
- Supervisory responsibilities.
- Use of force review and analysis.
- Guidelines for the use of deadly force.
- State required reporting.

- Deescalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.
- Implicit and explicit bias and cultural competency.
- Skills including deescalation techniques to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues.
- Use of force scenario training including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real-time force option decision-making.
- Alternatives to the use of deadly force and physical force, so that deescalation tactics and less lethal alternatives are, where reasonably feasible, part of the decision-making process leading up to the consideration of deadly force.
- Mental health and policing, including bias and stigma and;
- Using public service, including the rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

*This bill* requires a private investigator licensee or qualified manager of a licensee who, in the course of that person's employment or business, carries a deadly weapon to complete a training course in the appropriate use of force.

*This bill* exempts a peace officer or a federal qualified enforcement officer from this training requirement if that officer has successfully completed a course of study in the appropriate use of force.

*This bill* specifies, for a proprietary private security officer, that the required training in security skills includes the appropriate use of force, excluding from this requirement a peace officer who has successfully completed a course of study in the appropriate use of force.

*This bill* prohibits a registered security guard from carrying or using a firearm or baton, unless the security guard is an employee of a PPO licensee or an employee of the state or a political subdivision of the state.

*This bill* requires a security guard or patrolperson, who in the course of their employment or business carries a firearm, to complete a course of training in the appropriate use of force. Specifies that the completion of a course in the appropriate use of force is a condition for the issuance of a registration. Specifies that this requirement does not apply to a peace officer or a federal qualified law enforcement officer who has successfully completed a course in the appropriate use of force.

*This bill* directs the BSIS to develop an outline for the course and curriculum for the skills trainings in consultation with the Commission on Peace Officer Standards and Training. Allows the course of training in the appropriate use of force to be administered, tested, and certified by any licensee or by any organization or school approved by the BSIS. Requires the training to include the following topics:

- Legal standards for use of force.
- Duty to intercede

- The use of objectively reasonable force.
- Supervisory responsibilities
- Use of force review and analysis.
- Deescalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.
- Implicit and explicit bias and cultural competency.
- Skills, including deescalation techniques, to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues.
- Use of force scenario training, including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real-time force option decision making.
- Mental health and policing, including bias and stigma.
- Active shooter situations.

*This bill* requires the appropriate use of force training to be conducted through at least 50% traditional classroom instruction, which means instruction where the instructor is physically present with students in a classroom and is available to answer students' questions while providing the required training. In this setting, the instruction provides demonstrations and hands-on instruction in order to establish each student's proficiency as to the course content.

*This bill* permits the BSIS to deny, suspend, or revoke a license under the Private Security Services Act if they determine that the licensee or their manager, or any officers, directors, or partners committed any use of force in violation of the standards prescribed by the BSIS by regulation.

*This bill* increases fine amounts for failing to deliver to the BSIS a written report describing fully the circumstances surrounding the discharge of any firearm, or altercation with a member of the public while on duty. Raises the fine amounts to \$5,000. (Existing fines are \$1,000 for the first violation and \$2,500 for a subsequent violation.)

*This bill* subjects a security guard to a fine of \$500 for the first violation and \$1,000 for the second violation for failing to report to his or her employer within 24 hours of any incident involving the discharge of any firearm in which he or she is involved while acting within the course and scope of his or her employment.

*This bill* requires alarm company licensees or agents, who in the course of their employment carry a firearm, to complete a course in the appropriate use of force.

*This bill* requires every alarm agent to complete a course in the appropriate use of force prior to being assigned to a duty location responding to an alarm system. Increases the number of training hours from two hours to four hours.

*This bill* delays implementation of the bill's provisions to January 1, 2023. Makes other conforming changes.

## COMMENTS

### 1. Need for This Bill

According to the author:

The Golden 1 Center is an arena owned by the City of Sacramento and operated by a private entity, the Sacramento Downtown Arena, LLC. Universal Protection Service, LP, is a Pennsylvania Limited Partnership that was doing business in Sacramento. Universal Protection Service, LP, provides uniformed private security in Sacramento under the name, Allied Universal Security Service. Universal Protection Service, LP is licensed by the State of California Bureau of Security and Investigative Services (BSIS) as a private patrol operator.

Mario Matthews was a Mexican-American, who worked as a warehouse worker. According to a lawsuit filed by his parents, on July 2, 2019, at around 3:30 a.m., after attending an outdoor concert held following two NBA exhibition games, Mario entered the Golden 1 Center through a propped-open door, which was part of the main entrance. Video surveillance showed Mario running around the court and dribbling as if he was playing basketball. Two Universal Protection Security personnel began chasing Mario and eventually detained him.

The lawsuit alleges that Mario was slammed face-first into a wall, tackled and restrained face-down on the floor. His hands were handcuffed behind his back and the two security personnel got on top of his back. One security guard used his right knee to apply pressure to the side of Mario's neck for approximately four and a half minutes. In addition to the initial two Universal Protection Security personnel, a third security officer placed himself on Mario's back. After approximately ten minutes, several Sacramento Police Department officers arrived and used maximum restraints; they tied his legs together with one strap and another strap around his waist. For a total of 20 minutes, Mario was facedown with as many as four people on top of him.

Mario became unresponsive and was taken to the hospital. He passed away two days later. The lawsuit claims that the Sacramento County Coroner acknowledged that restraint was a cause of Mario's death. Additionally, the coroner's pathologist noted deep bruising of Mario's back as a result of the weight and pressure that had been placed on him. Mario weighed 125 pounds.

### 2. Use of Force Updates for Security Guards

California underwent an overhaul on the issue of uses of force, and standards for deadly force in 2019 with the passage of AB 392 (Weber) and AB 230 (Caballero). These bills updated California's use of force statutes, and the mandated training of law enforcement in the updated standards. The standard for use of deadly force in California prior to the 2019 amendments was enacted in 1872 and at the time was the single oldest un-amended

law enforcement use of force statute in the country. Like the standards for law enforcement, the standards for private armed security is due for an update to reflect the standards implemented in 2019.

This bill would apply many of the same principles applied to law enforcement agencies to licensed private security. California has chosen to emphasize policing techniques which require use of force when that force is objectively reasonable under the circumstances, and deadly force when necessary. Additionally, California law has begun to encourage techniques such as implementation of de-escalation, awareness of implicit and explicit bias, recognizing a duty to intercede on others using excessive or unreasonable force, and awareness of mental illness and developmental disabilities. This bill would require education in these circumstances.

### **3. Author's Amendments to be Taken in Committee**

The author has agreed to take amendments in Senate Public Safety at the behest and in consultation with the Senate Committee on Business, Professions, and Economic Development. The amendments will do the following:

- Require a minimum of 50% in person training; and
- Returns the definition of “altercation” to “physical altercation” for purposes of the written report a PPO must provide to BSIS describing the circumstances surrounding an altercation with a member of the public while on duty.

### **4. Argument in Support**

According to Oakland Privacy:

Oakland Privacy is writing in support of Assembly Bill 229, which would prohibit private security workers from carrying or using a firearm or baton unless the security guard is an employee of a private patrol operator licensee or an employee of the state and would require the course in the carrying and use of firearms to include training in the appropriate use of force.

Oakland Privacy is a citizen's coalition that works regionally to defend the right to privacy, enhance public transparency, and increase oversight of law enforcement, particularly regarding the use of surveillance techniques and equipment. We were instrumental in the creation of the first standing municipal citizens' privacy advisory commission in the City of Oakland, and we have engaged in privacy enhancing legislative efforts with several Northern California cities and regional entities. As experts on municipal privacy reform, we have written use policies and impact reports for a variety of surveillance technologies, conducted research and investigations, and developed frameworks for the implementation of equipment with respect for civil rights, privacy protections and community control. We occasionally weigh in on policy questions regarding civil and human rights and policing.



Assembly Bill 229 is a timely piece of legislation as the use of private security patrols is mushrooming, spreading from commercial business districts to homeowners associations and even to some municipal functions after budgetary cuts.

Such “private police” can supplement public services that are stretched thin, but if poorly trained and poorly regulated, they threaten to recreate the problems of modern policing with even less scrutiny and less safeguards.

AB 229 seeks to address that problem in two ways:

Firstly, the bill limits the use of firearms and batons to licensed private patrol operators, ensuring that weapons capable of deadly force are not out in the field with little to no training or accountability.

Secondly, the bill increases training hours to specifically include use of force training that is in line with California's recently updated use of force guidelines, including the definition of what is objectively reasonable force, along with implicit bias and de-escalation training.

While we would argue that 10 hours of training remains somewhat minimal and would encourage the Legislature to look at doubling that number, it is essential that changes in use of force standards be disseminated to California's private police, not just its public police.

From a fiscal point of view, we would state that poorly trained private security create enhanced litigation that is not beneficial for business enterprise in the state. While training and regulation costs money, those funds are well-spent when they prevent post-incident litigation, as well as economic consequences from trauma, disability, business interruption and even death.

-- END --