



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmembers Harrison (Author), Robinson (Author), and Bartlett (Co-Sponsor)

Subject: Resolution in Support of Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections

RECOMMENDATION

Adopt a resolution in support of Senate Bill 271, the Sheriff Democracy and Diversity act, to allow for more diverse and democratic Sheriff elections.

Send copies of the resolution to Governor Newsom and State Senator Scott Wiener.

BACKGROUND

Sheriffs in California are constitutionally elected officials that exercise great authority in their respective County jurisdictions. All 58 counties in California have a Sheriff's department, and 41 counties provide for the Sheriff to assume the role of Coroner. The Sheriff has three primary duties: keep the peace, attend to the courts, and operate the county jail. Generally, the Sheriff has six functional operations: patrol, detention, civil, court services, records, coroner, administrative, and investigative.

Prior to 1988, the California constitution required no special qualifications to run for the office of Sheriff. After former prisoner rights' attorney Michael Hennessey was elected to Sheriff of San Francisco county, the California State Sheriff's Association successfully lobbied for a bill that restricted candidates to those with current and former law enforcement experience, codified at Government Code Section 24004.3. As a result, the pool of candidates grew smaller and many Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent.¹

San Francisco Sheriff Michael Hennessey enacted many successful reform and anti-recidivism programs and was reelected seven times, becoming widely respected and the longest tenured Sheriff in California history. Meanwhile ongoing protests against

¹ <https://theappeal.org/politicalreport/california-overturn-sheriff-requirements/>

police brutality have called for elected officials to “reimagine public safety,” by shifting some duties away from armed officers to unarmed civilians and social workers.

Several counties including Los Angeles, Santa Clara, and San Diego have created civilian oversight boards due to reports of horrific conditions in their jails, and misconduct by their Sheriff’s department. In *Dibb v. County of San Diego* (1994), the California Supreme Court upheld the authority to create such boards.

However, the restrictions limiting candidates to those with law enforcement experience has resulted in Sheriffs that are generally not well suited to reimagining public safety, as they lack de-escalation training, rehabilitative and restorative justice backgrounds, and mental health crisis intervention training as these are typically not provided by police and sheriff’s training academies. Sheriffs in counties with larger populations manage thousands of employees, most of which are unarmed civilian employees. Such employees outnumber armed sworn employees in each of the 58 California counties.

Across California, Sheriffs have enacted policies that run contrary to the values of most Californians, prompting calls for structural reform:

- Sheriffs in California formally opposed the sanctuary protections provided by SB 54 (California Values Act) enacted into law in 2018, and many continue to cooperate with Immigrations and Customs Enforcement (ICE).²
- In July 2017, a woman gave birth alone while confined to solitary confinement at Santa Rita Jail, despite screaming for hours for medical attention. Alameda County and Sheriff Ahern are now the subject of a federal civil rights lawsuit.³
- After paying \$149 million in just five years due to civil rights violations, sexual assault, excessive force, and killings, and due to resisting oversight and reform efforts, in 2020 the Board of Supervisors for the County of Los Angeles voted to explore removing Sheriff Villanueva and making the office of Sheriff an appointed position.⁴
- In 2017 Alameda County Sheriff Ahern invited The Oath Keepers to participate in his Urban Shield SWAT training and equipment exposition and allowed them to distribute propaganda. Members of The Oath Keepers have since been investigated and/or arrested by the FBI for participating in the January 6, 2021 Capitol Riot.⁵
- Sheriffs have resisted calls to release or socially distance inmates and employees suffering from Covid-19 outbreaks in their respective jails, even as

² <https://www.latimes.com/california/story/2020-10-08/ice-sanctuary-policies-arrest-san-diego>

³ <https://www.eastbaytimes.com/2018/08/21/woman-who-gave-birth-alone-in-alameda-county-jail-screaming-for-hours-sues-county/>

⁴ <https://www.latimes.com/california/story/2020-11-10/supervisors-seek-sheriff-removal-options>

⁵ https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207_story.html

their own staff began to suffer the negative health consequences of the coronavirus, including death⁶. San Diego Sheriff Gore's response to the crisis has been to prioritize privatization of the county jail's health care services, which could eliminate 350 county employee positions.⁷

- An independent internal San Diego County review found that a woman was left alone to die, after striking her head in jail. According to records cited by the San Diego Union-Tribune, more than 150 people have died in custody in San Diego County jails since Sheriff Gore took office. The Union-Tribune also reported that San Diego County has the highest jail mortality rate of the state's six most populous counties.⁸
- In January 2021, California Attorney General Becerra launched an investigation into the Los Angeles County Sheriff's department for "pattern and practice" civil rights violations.⁹

Only thirteen states including California require that candidates seeking the office of Sheriff have prior law enforcement experience in order to run. Senator Wiener, along with colleagues Senator Skinner, Assembly Member McCarty, Assembly Member Kalra, Assembly Member Lee, Assembly Member Wicks, and Assembly Member Ting, has introduced Senate Bill 271 ("The Sheriff Diversity and Democracy Act") to return California to its original constitutional language for candidates seeking the office of County Sheriff, which if enacted would no longer require law enforcement experience to seek the office of Sheriff.

It is in the public interest that the Berkeley City Council express its support for the passage and implementation of Senate Bill 271.

FISCAL IMPACTS OF RECOMMENDATION

Clerk time is necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

Reforming Sheriff election rules could help strengthen the resilience of communities in the face of climate and environmental disasters.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

⁶ <https://www.kpbs.org/news/2020/dec/22/covid-19-cases-surge-san-diego-jails-detention/>

⁷ <https://www.sandiegouniontribune.com/news/watchdog/story/2020-11-16/new-covid-19-outbreak-forces-transfer-of-dozens-of-county-jail-inmates>

⁸ <https://www.sandiegouniontribune.com/news/watchdog/story/2021-02-07/woman-left-alone-to-die-after-striking-her-head-while-collapsing-in-jail-independent-review-finds?fbclid=IwAR2XsvDnrtj91GSv1ih1Yd5zN5tGhrgfIWKPdUIMUhyE0r8KUASg9vSmSEQ>

⁹ <https://ktla.com/news/local-news/california-ag-launches-civil-rights-investigation-into-l-a-county-sheriffs-department/>

1. Resolution
2. Letter

RESOLUTION NO. ##,###-N.S.

RESOLUTION IN SUPPORT OF SENATE BILL 271, THE SHERIFF DEMOCRACY
AND DIVERSITY ACT, TO ALLOW FOR MORE DIVERSE AND DEMOCRATIC
SHERIFF ELECTIONS

Whereas, Sheriffs in California are constitutionally elected officials that exercise great authority in their respective County jurisdictions. All 58 counties in California have a Sheriff's department, and 41 counties provide for the Sheriff to assume the role of Coroner. The Sheriff has three primary duties: keep the peace, attend to the courts, and operate the county jail. Generally, the Sheriff has six functional operations: patrol, detention, civil, court services, records, coroner, administrative, and investigative; and

Whereas, prior to 1988, the California constitution required no special qualifications to run for the office of Sheriff. After former prisoner rights' attorney Michael Hennessey was elected to Sheriff of San Francisco county, the California State Sheriff's Association successfully lobbied for a bill that restricted candidates to those with current and former law enforcement experience, codified at Government Code Section 24004.3. As a result, the pool of candidates grew smaller and many Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent¹; and

Whereas, San Francisco Sheriff Michael Hennessey enacted many successful reform and anti-recidivism programs and was reelected seven times, becoming widely respected and the longest tenured Sheriff in California history; and

Whereas, protests against police brutality have called for elected officials to "reimagine public safety", by shifting some duties away from armed officers to unarmed civilians and social workers; and

Whereas, several counties including Los Angeles, Santa Clara, and San Diego have created civilian oversight boards due to reports of horrific conditions in their jails, and misconduct by their Sheriff's department. In Dibb v. County of San Diego (1994), the California Supreme Court upheld the authority to create such boards; and

Whereas, the restrictions limiting candidates to those with law enforcement experience has resulted in Sheriffs that are generally not well suited to reimagining public safety, as they lack de-escalation training, rehabilitative and restorative justice backgrounds, and

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mental health crisis intervention training as these are typically not provided by police and sheriff's training academies; and

Whereas, Sheriffs in counties with larger populations manage thousands of employees, most of which are unarmed civilian employees. Such employees outnumber armed sworn employees in each of the 58 California counties; and

Whereas, Sheriffs in California formally opposed the sanctuary protections provided by SB 54 (California Values Act) enacted into law in 2018, and many continue to cooperate with Immigrations and Customs Enforcement (ICE)²; and

Whereas, in 2017 Alameda County Sheriff Ahern invited The Oath Keepers to participate in his Urban Shield "war games" and allowed them to distribute propaganda. Members of The Oath Keepers have since been investigated and/or arrested by the FBI for participating in the January 6, 2021 Capitol riot challenging the certification of President Joe Biden's election results³; and

Whereas, in July 2017, a woman gave birth alone while confined to solitary confinement at Santa Rita Jail, despite screaming for hours for medical attention. Alameda County and Sheriff Ahern are now the subject of a federal civil rights lawsuit⁴; and

Whereas, after paying \$149 million in just five years due to civil rights violations, sexual assault, excessive force, and killings, and due to resisting oversight and reform efforts, in 2020 the Board of Supervisors for the County of Los Angeles voted to explore removing Sheriff Villanueva and making the office of Sheriff an appointed position⁵; and

Whereas, Sheriffs have resisted calls to release or socially distance inmates and employees suffering from Covid-19 outbreaks in their respective jails, even as their own staff began to suffer the negative health consequences of the coronavirus, including death⁶. San Diego Sheriff Gore's response to the crisis has been to prioritize privatization of the county jail's health care services, which could eliminate 350 county employee positions⁷; and

Whereas, an independent internal San Diego County review found that a woman was left alone to die, after striking her head in jail. According to records cited by the San

² <https://www.latimes.com/california/story/2020-10-08/ice-sanctuary-policies-arrest-san-diego>

³ https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207_story.html

⁴ <https://www.eastbaytimes.com/2018/08/21/woman-who-gave-birth-alone-in-alameda-county-jail-screaming-for-hours-sues-county/>

⁵ <https://www.latimes.com/california/story/2020-11-10/supervisors-seek-sheriff-removal-options>

⁶ <https://www.kpbs.org/news/2020/dec/22/covid-19-cases-surge-san-diego-jails-detention/>

⁷ <https://www.sandiegouniontribune.com/news/watchdog/story/2020-11-16/new-covid-19-outbreak-forces-transfer-of-dozens-of-county-jail-inmates>

Diego Union-Tribune, more than 150 people have died in custody in San Diego County jails since Sheriff Gore took office. The Union-Tribune also reported that San Diego County has the highest jail mortality rate of the state's six most populous counties⁸; and

Whereas, in January 2021, California Attorney General Becerra launched an investigation into the Los Angeles County Sheriff's department for "pattern and practice" civil rights violations⁹;

Whereas, only thirteen states including California require that candidates seeking the office of Sheriff have prior law enforcement experience in order to run;

Whereas, Senator Wiener, along with colleagues Senator Skinner, Assembly Member McCarty, Assembly Member Kalra, Assembly Member Lee, Assembly Member Wicks, and Assembly Member Ting, has introduced Senate Bill 271 ("The Sheriff Diversity and Democracy Act") to return California to its original constitutional language for candidates seeking the office of County Sheriff, which if enacted would no longer require law enforcement experience to seek the office of Sheriff.

NOW, THEREFORE BE IT RESOLVED, the City Council of Berkeley expresses its support for Senate Bill 271 (Wiener), and the California legislature to pass and Governor Gavin Newsom to sign into law Senate Bill 271.

BE IT FURTHER RESOLVED, that copies of this Resolution will be sent to Governor Newsom and the Office of California Senator Wiener, along with a copy of the letters referenced below.

⁸ <https://www.sandiegouniontribune.com/news/watchdog/story/2021-02-07/woman-left-alone-to-die-after-striking-her-head-while-collapsing-in-jail-independent-review-finds?fbclid=IwAR2XsvDnrtj91GSv1ih1Yd5zN5tGhrfIWKPdUIMUhyE0r8KUASg9vSmSEQ>

⁹ <https://ktla.com/news/local-news/california-ag-launches-civil-rights-investigation-into-l-a-county-sheriffs-department/>

The Honorable Gavin Newsom
Governor, State of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

Re: Support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections

Dear Governor Newsom:

The Berkeley City Council would like to convey its urgent support for your support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to allow for more diverse and democratic Sheriff elections.

Only thirteen states including California require that candidates seeking the office of Sheriff have prior law enforcement experience in order to run. SB 271 would return California to its original constitutional language for candidates seeking the office of County Sheriff, which would no longer require law enforcement experience to seek the office of Sheriff.

Ongoing protests against police brutality have called for elected officials to “reimagine public safety,” by shifting some duties away from armed officers to unarmed civilians and social workers.

To date, unnecessary restrictions have reduced the pool of candidates for Sheriff and today most Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent.

Thank you for your leadership and consideration.

Sincerely,

The Berkeley City Council

The Honorable Scott Wiener
State Capitol
Room 5100
Sacramento, CA 95814-4900

Re: Support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections

Dear State Senator Wiener:

The Berkeley City Council would like to convey its urgent support for your support for Senate Bill 271, the Sheriff Democracy and Diversity Act, to allow for more diverse and democratic Sheriff elections.

Thank you for your leadership on this important issue.

Sincerely,

The Berkeley City Council

