

File No. 150657

Committee Item No. _____

Board Item No. 34

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date June 23, 2015

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|--------------------------|-------------------------------------|------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Senate Bill 411</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Joy Lamug

Date June 18, 2015

Completed by: _____

Date _____

1 [Supporting California State Senate Bill 411 (Lara) - The Right to Record Bill]

2
3 **Resolution supporting California State Senate Bill 411, The Right to Record Bill,**
4 **authored by Senator Ricardo Lara which states that anyone making an audio or video**
5 **recording of a police or peace officer in a public place that the individual has a right to**
6 **be in is not breaking the law.**

7
8 WHEREAS, On April 2, 2015, the San Francisco Board of Supervisors held a hearing
9 to address racial bias and inequality in the San Francisco Justice System in response to
10 revealed racist and homophobic text messages among 12 San Francisco Police Officers and
11 in response to local and national protests and demonstrations that have called for elected
12 leaders to create policy and programs that address this inequality and injustice within our
13 justice systems; and

14 WHEREAS, African-Americans accounted for 43% of the arrests in San Francisco from
15 2009 to 2014 while decreasing to only 5% of the City's total population; and

16 WHEREAS, African American San Franciscans are arrested at a rate seven times
17 greater than other races in other Cities in the California; and

18 WHEREAS, African Americans were arrested for felony drug crimes nineteen times
19 more often than other races in San Francisco; and

20 WHEREAS, African American women in San Francisco face arrest rates thirteen times
21 higher than women of other races in San Francisco; and

22 WHEREAS, Officer-involved shootings and homicides in any City seldom lead to a
23 charges, and even much more rarely a conviction; and

24 WHEREAS, Many African American men are living in a society and culture in San
25 Francisco in which staggering racial disparities exist at all levels of government not just within

1 the police department and has historically been the root of racial tensions in San Francisco
2 and other cities; and

3 WHEREAS, The deaths of Oscar Grant, Eric Garner, Walter Scott, Tamir Rice, and
4 other young African American men may have been overlooked if they had not been recorded
5 by citizens with video cameras; and

6 WHEREAS, In the current climate of distrust, questions about how often such incidents
7 are handled, San Francisco must take steps to rebuild the trust that the community has in our
8 law enforcement departments by fully embracing a community policing model that works for
9 both law enforcement and our citizenry; now, therefore, be it

10 RESOLVED, That San Francisco should continue to create policies, and establish clear
11 priorities to ensure police accountability and to eradicate any racism, bias and inequities
12 within our City by taking the following actions or requiring the following information:

13 1. Require SFPD to train officers more effectively in the use of force, especially lethal
14 force. Such training should not only define conditions in which officers may use lethal force
15 but also, more broadly, show them how to avoid it; and

16 2. Receive an Informational Report and Possible Action Adopting Officer reporting and
17 disclosure requirements for both responding and on-scene officers in all use of force cases;
18 mandatory firing and criminal prosecution for failure to report and/or disclose officer
19 misconduct and for providing false information; and

20 3. Support State Senate Bill 411 The Right to Record bill introduced by Sen. Ricardo
21 Lara, D-Long Beach, which states that anyone making an audio or video recording or taking a
22 photograph of a police or peace officer in a public place that the individual has a right to be in
23 is not breaking the law and adopt local Legislation establishing a Right to Record ordinance
24 which states that anyone making an audio or video recording or taking a photograph of a

1 police or peace officer, in a public place that the individual has a right to be in, is not breaking
2 the law within a sage distance; and

3 4. Establish policies on the release of criminal and personal information of officers
4 involved in excessive Use of Force cases and officer involved shootings; and

5 5. Develop a bias-free 21st Century policing policy that makes clear that biased
6 policing, including detaining someone based solely on racial and/or gender stereotypes, is
7 prohibited. This also includes training on cultural competency and implicit bias; and

8 6. Require San Francisco to collect data regarding activities of the San Francisco
9 Police Department including Use of Force data and Stop and Search practices, and to publicly
10 report this data.

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California
LEGISLATIVE INFORMATION

SB-411 Crimes. (2015-2016)

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

No. 411

Introduced by Senator Lara

February 25, 2015

An act to amend Sections 69 and 148 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 411, as introduced, Lara. Crimes.

Under existing law, every person who deters or prevents an executive officer from performing any of his or her duties, or knowingly resists the officer, is punishable by a fine or imprisonment, or both, as specified.

This bill would provide that the fact that a person takes a photograph or makes an audio or video recording of an executive officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, is not, in and of itself, a violation of the above-mentioned provision.

Under existing law, every person who willfully resists, delays, or obstructs any public officer, peace officer, or emergency medical technician in the discharge or attempt to discharge any of his or her duties shall be punished by a fine or imprisonment, or both, as specified.

This bill would provide that the fact that a person takes a photograph or makes an audio or video recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, is not, in and of itself, a violation of the above-mentioned provision, nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 69 of the Penal Code is amended to read:

69. (a) Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon ~~such~~ *the* officer by law, or who knowingly resists, by the use of force or violence, ~~such~~ *the* officer, in the performance of his or her duty, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(b) The fact that a person takes a photograph or makes an audio or video recording of an executive officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a).

SEC. 2. Section 148 of the Penal Code is amended to read:

148. (a) (1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(2) Except as provided by subdivision (d) of Section 653t, every person who knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a public safety radio frequency shall be punished by a fine not exceeding one thousand dollars (\$1,000), imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) Every person who, during the commission of any offense described in subdivision (a), removes or takes any weapon, other than a firearm, from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment in a county jail not to exceed one year or pursuant to subdivision (h) of Section 1170.

(c) Every person who, during the commission of any offense described in subdivision (a), removes or takes a firearm from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Except as provided in subdivision (c) and notwithstanding subdivision (a) of Section 489, every person who removes or takes without intent to permanently deprive, or who attempts to remove or take a firearm from the person of, or immediate presence of, a public officer or peace officer, while the officer is engaged in the performance of his or her lawful duties, shall be punished by imprisonment in a county jail not to exceed one year or pursuant to subdivision (h) of Section 1170.

In order to prove a violation of this subdivision, the prosecution shall establish that the defendant had the specific intent to remove or take the firearm by demonstrating that any of the following direct, but ineffectual, acts occurred:

- (1) The officer's holster strap was unfastened by the defendant.
- (2) The firearm was partially removed from the officer's holster by the defendant.
- (3) The firearm safety was released by the defendant.
- (4) An independent witness corroborates that the defendant stated that he or she intended to remove the firearm and the defendant actually touched the firearm.
- (5) An independent witness corroborates that the defendant actually had his or her hand on the firearm and tried to take the firearm away from the officer who was holding it.
- (6) The defendant's fingerprint was found on the firearm or holster.
- (7) Physical evidence authenticated by a scientifically verifiable procedure established that the defendant touched the firearm.
- (8) In the course of any struggle, the officer's firearm fell and the defendant attempted to pick it up.

(e) A person shall not be convicted of a violation of subdivision (a) in addition to a conviction of a violation of subdivision (b), (c), or (d) when the resistance, delay, or obstruction, and the removal or taking of the weapon or firearm or attempt thereof, was committed against the same public officer, peace officer, or emergency medical technician. A person may be convicted of multiple violations of this section if more than one public officer, peace officer, or emergency medical technician are victims.

(f) This section shall not apply if the public officer, peace officer, or emergency medical technician is disarmed while engaged in a criminal act.

(g) The fact that a person takes a photograph or makes an audio or video recording of a public officer or peace

officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a), nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Cohen

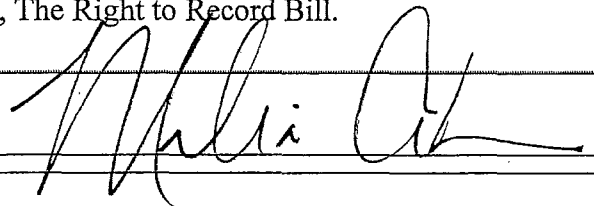
Subject:

[]

The text is listed below or attached:

Resolution urging the State of California to adopt Senate Bill 411, The Right to Record Bill.

Signature of Sponsoring Supervisor:



For Clerk's Use Only: