



Murder. BART and CSU Peace Officers. Legislative Initiative Amendment.

Official Title and Summary Prepared by the Attorney General

MURDER. BART AND CSU PEACE OFFICERS. LEGISLATIVE INITIATIVE AMENDMENT.

- Existing law provides that the punishment for the murder in the second degree of specified peace officers is life without the possibility of parole if the crime occurs while the officer is on duty and aggravating factors are present. This measure specifies these enhanced sentence provisions would also apply when the victim is a peace officer employed by the Bay Area Rapid Transit District or the California State University System.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Unknown, probably minor, additional state costs.
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Final Votes Cast by the Legislature on SB 1690 (Proposition 19)

Assembly: Ayes 70	Senate: Ayes 36
Noes 3	Noes 0



Background

Under California law, there are two “degrees” of murder.

First degree murder is generally defined as murder that is intentional or deliberate, or that takes place during certain other crimes, including arson, rape, or robbery. It is generally punishable by a sentence of 25 years to life imprisonment with the possibility of release from prison on parole.

All other types of murder are second degree murder. Second degree murder is generally punishable by imprisonment for 15 years to life with the possibility of release from prison on parole. An exception is provided in some cases involving the second degree murder of specific peace officers identified in state law, including county sheriffs and city police officers, and various state law enforcement personnel.

Specifically, state law provides that if one of these specified peace officers is killed in the line of duty and the person convicted of the second degree murder knew or should have known that the victim was a peace officer, the crime is punishable by a prison term of 25 years to life with the possibility of release from prison on parole. State law also provides that the second degree murder of a specified peace officer is punishable by a longer term of life in prison without the possibility of parole if it is also

found that the murderer specifically intended to kill or greatly injure the peace officer, or used a firearm or other dangerous weapon in the crime.

Proposal

This measure requires longer prison sentences for offenders convicted of the second degree murder of law enforcement personnel working for the California State University system and the San Francisco Bay Area Rapid Transit (BART) District, consistent with penalties now provided for cases involving the murder of other specified peace officers in California. It would add peace officers working for these two public employers to the list of peace officers for whom a conviction for their second degree murder would result in a punishment of 25 years to life or, under certain circumstances, life imprisonment without possibility of parole.

Fiscal Effect

This proposition would increase state costs primarily as a result of longer prison terms for the murderers who would receive a life sentence without the possibility of parole. Also, there could be increased state costs for appeals of sentences of life without the possibility of parole. These costs are unknown, but probably minor, because relatively few offenders are likely to be affected by this measure.

For text of Proposition 19 see page 118



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Argument in Favor of Proposition 19

In 1998 the voters of California overwhelmingly approved Proposition 222 which enhanced criminal sentences for persons convicted of murdering police officers under specified circumstances. In approving this proposition, by a vote of 77% in favor to 23% opposed, the citizens of California recognized that police officers face day-to-day hazards in protecting us against harm and enforcing the law that make them vulnerable to serious injury and death. Existing law acknowledges these dangers by providing increased protections against the murder of police officers.

Later in 1998, the state legislature passed Senate Bill 1690 which amends this initiative statute, subject to voter approval, to ensure that these same protections are applied to police officers of the California State University (CSU) and the San Francisco Bay Area Rapid Transit District (BART). The legislature recognized that the officers of these full-service police departments

handle the same types and variety of criminal investigations—from petty theft to murder—as their city, county and state counterparts, and as such, assume the same daily life and death risks. The Senate passed Senate Bill 1690 on a vote of 36–0, the Assembly voted 70–3 in favor of the proposal, and the Governor promptly signed the bill into law.

Proposition 19 asks the voters of California to approve this legislative action which would provide the same protection against the murder of CSU and BART police, as municipal police, county sheriffs and the police of the University of California currently enjoy.

RICHARD RAINEY
State Senator, 7th Senatorial District
THOMAS M. BLALOCK
Vice President, BART Board of Directors

Rebuttal to Argument in Favor of Proposition 19

Wait just a minute! Proposition 19 does a lot more than just cover penalties for murdering police officers. Proponents are saying this just extends Proposition 222 from the last election. But Proposition 19 also covers:

- a. falsely reporting a bomb threat to BART police and university police;
- b. falsely reporting any crime to BART police and university police;
- c. falsely identifying yourself to BART police and university police to evade proper investigation by the officer;
- d. joining a posse to catch criminals, when told to do so by BART police and university police; and
- e. exempting retired BART police and university police officers from prohibitions on carrying concealed weapons.

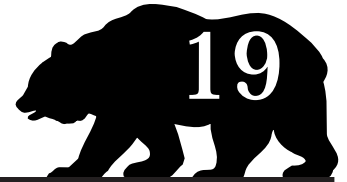
Voters need to decide if they want all these provisions

to be adopted. As a matter of fact, we agree with most of Proposition 19—all except the item labeled (d) above. We should pause at giving more officers the power to FORCE average citizens to join a posse to catch dangerous criminals. We would repeal the law giving any officers this power, rather than expanding it.

Often much of a law sounds good, but there is a “poison pill” that should cause voters to say NO. Three Assemblymen whose records show strong support of law enforcement voted against putting Proposition 19 on the ballot. We agree with them and urge you to vote NO.

GAIL K. LIGHTFOOT
Past Chair, Libertarian Party of California
LARRY HINES
Legal Secretary
TED BROWN
Insurance Adjuster/Investigator

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Argument Against Proposition 19

California, 1885: The Sheriff says, “OK, men, let’s get the posse together and ride out of town. There are two gunslingers hiding out in the desert and we’re going to bring them in.”

California, 2000: The BART train officer says, “OK, train riders, you’re now a posse. If you don’t help me capture the crazed gunman in the next car, I can arrest YOU and have you fined \$1000!”

We thought that posses went out a hundred years ago. But Proposition 19 will expand the power of government so that police on BART trains and at college campuses can force people to help capture criminals—without arms, training or pay. Don’t want to help? Well, you could be fined \$1000!

Most of Proposition 19 is reasonable. Indeed, BART police, University of California police and California State University police should be treated the same as other police officers. But some existing police powers should be ended rather than extended.

There’s nothing wrong with a voluntary posse. An officer can ask for help, and should do so if he needs it. But to force a random citizen to help with possibly dangerous police work is downright crazy.

In the Wild West days, most men carried firearms and knew how to use them. So when the sheriff asked for volunteers, he could be sure the men were able to help.

Now it’s policy for local sheriffs and police chiefs to refuse to issue permits for concealed weapons—except for prominent, politically well-connected individuals. Any citizen who is not a violent felon or a mental patient should be issued a permit. We all have a 2nd Amendment right to keep and bear arms for self-defense.

Proposition 19 also gives off-duty and retired BART and university police the right to carry concealed weapons. This is fine. But why not recognize this right for the rest of us as well? Shouldn’t teachers, grocery clerks, dentists and plumbers have the same right and ability to defend themselves?

Please vote NO on Proposition 19.

GAIL K. LIGHTFOOT
Past Chair, Libertarian Party of California

TED BROWN
Insurance Adjuster/Investigator

LARRY HINES
Legal Secretary

Rebuttal to Argument Against Proposition 19

Those making the argument against Proposition 19 apparently do not understand its provisions. Proposition 19 has absolutely nothing to do with expanding police powers to form a posse or carry concealed weapons when off duty. Police officers throughout the state, including CSU and BART police, already have that authority.

Proposition 19 simply asks the voters of California to approve a portion of a bill, passed by the legislature with bi-partisan support in 1998, that makes the murder of CSU and BART police subject to the same penalties as the murder of other police officers.

The Legislature recognized that CSU police and BART police face the same day-to-day dangers as other police officers, and overwhelmingly approved this amendment. There was no opposition to this proposal as it passed through the legislative process. In fact, even the

opposition argument above supports this proposition; it states, “Indeed, BART police, University of California police and California State University police should be treated the same as other police officers.”

Proposition 19 accomplishes just that purpose. It amends Section 190 of the Penal Code to make enhanced sentences for second degree murder of California police officers throughout the state apply equally for second degree murder of CSU and BART police officers.

Please vote YES on Proposition 19.

RICHARD RAINEY
State Senator, 7th Senatorial District

THOMAS BLALOCK
Vice-President, BART Board of Directors