
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 937 **Hearing Date:** March 24, 2026
Author: Gonzalez
Version: March 10, 2026
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Law enforcement: flash-bang grenades and explosive breaching charges*

HISTORY

Source: Author

Prior Legislation: SB 627 (Wiener), Ch. 125, Stats. of 2025
AB 400 (Pacheco), vetoed by the Governor, 2025
AB 490 (Gipson), Ch. 407, Stats. of 2021
AB 48 (Gonzalez), Ch. 404, Stats. of 2021
AB 1196 (Gipson), Ch. 324, Stats. of 2020
AB 392 (Weber), Ch. 170, Stats. of 2019
SB 230 (Caballero), Ch. 285, Stats. of 2019

Support: ACLU California Action; California Community Foundation; California Public Defenders Association; Courage California; Felony Murder Elimination Project; Initiate Justice; Oakland Privacy; Policing Project at NYU Law School; San Francisco Public Defender; Sister Warriors Freedom

Opposition: California Association of Highway Patrolmen; California Narcotic Officers' Association; California State Sheriffs' Association; Peace Officers Research Association of California; Riverside County Sheriffs' Office

PURPOSE

The purpose of this bill is to prohibit law enforcement officers from using flash-bang grenades to disperse any assembly, protest or demonstration, except as specified, to require law enforcement agencies to publish a summary of instances of the use of flash-bang grenades to their internet websites for public viewing, as specified, and to prohibit the use of flash-bangs and breaching charges for the purpose of immigration enforcement.

Existing law declares the intent of the Legislature that the authority to use physical force, conferred on peace officers by existing law, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life, and that every person has a right to be free from excessive use of force by officers acting under color of law. (Pen. Code, § 835a, subd. (a)(1).)

Existing law includes a legislative finding and declaration that the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies. (Pen. Code, § 835a, subd. (a)(3).)

Existing law authorizes a peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense to use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Pen. Code, § 835a, subd. (b).)

Existing law permits a peace officer who is authorized to make an arrest and who has stated their intention to do so, to use all necessary means to effect the arrest if the person to be arrested either flees or forcibly resists. (Pen. Code, § 843.)

Existing law requires each law enforcement agency to maintain a policy that provides a minimum standard on the use of force which, among other elements, must include all of the following:

- A requirement that officers utilize de-escalation 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 immediately 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.
- 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. (Gov. Code, § 7286, subd. (b).)

Existing law prohibits a law enforcement agency from authorizing the use of a carotid restraint, as defined, by any peace officer employed by that agency. (Gov. Code, § 7286.5, subd. (a).)

Existing law prohibits a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. (Gov. Code, § 7286.5, subd. (b).)

Existing law generally prohibits law enforcement agencies from using kinetic energy projectiles and chemical agents, as defined, to disperse any assembly, protest or demonstration. (Pen. Code, § 13652, subd. (a).)

Existing law provides that kinetic energy projectiles and chemical agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace

Officer Standards and Training (POST) for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:

- De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
- Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- Persons are given an objectively reasonable opportunity to disperse and leave the scene.
- An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
- Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
- An objectively reasonable effort has been made to extract individuals in distress.
- Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
- Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
- Kinetic energy projectiles or chemical agents shall not be used by any law enforcement agency solely due to any of the following:
 - A violation of an imposed curfew.
 - A verbal threat.
 - Noncompliance with a law enforcement directive.
- If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas. (Pen. Code, § 13652, subd. (b).)

Existing law requires each law enforcement agency, within 60 days of each incident, to publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a kinetic energy projectile or chemical agent for crowd control. Provides that an agency may extend that period for 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident. (Pen. Code, § 13652.1, subd. (a).)

Existing law specifies the information that must be included in the incident summary published by law enforcement agencies, and requires the Department of Justice (DOJ) to post on its internet website a compiled list linking each law enforcement agency's reports. (Pen. Code, § 13652.1, subd. (b), (c).)

Existing law defines “destructive device” as including any bomb, grenade, explosive missile or similar device or any launching device therefor, among other applicable devices, weapons and ammunition types. (Pen. Code, § 16460, subd. (a)(2).)

Existing law makes it a crime for any person, firm or corporation from possessing any destructive device within this state, except as specified. (Pen. Code, § 18710.)

Existing law establishes other various crimes relating to the possession, use and transfer of destructive devices. (Pen. Code, §§ 18715-18780.)

Existing law exempts on-duty peace officers acting within the scope and course of their employment from the above restrictions related to destructive devices. (Pen. Code, § 18800.)

This bill prohibits the use of flash-bang grenades by any law enforcement agency for the purposes of dispersing any assembly, protest, or demonstration, and requires that flash-bangs only be deployed by a peace officer that has received training on their proper use by POST for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:

- De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
- Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- Persons are given an objectively reasonable opportunity to disperse and leave the scene.
- An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and flash-bang grenades are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
- Flash-bang grenades are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- Officers shall minimize the possible incidental impact of their use of flash-bang grenades on bystanders, medical personnel, journalists, or other unintended targets.
- An objectively reasonable effort has been made to extract individuals in distress.
- Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
- Flash-bang grenades shall not be aimed at the head, neck, or any other vital organs.
- Flash-bang grenades shall not be used by any law enforcement agency solely due to any of the following:
 - A violation of an imposed curfew.
 - A verbal threat.
 - Noncompliance with a law enforcement directive.
- Only a commanding officer at the scene of the assembly, protest or demonstration may authorize the use of flash-bang grenades.

- Flash-bang grenades shall not be deployed near school grounds, parks, or other areas where children are visibly present.
- Flash-bang grenades shall not be used by any law enforcement agency for the purposes of immigration enforcement.

This bill defines “law enforcement agency” as any of the following:

- Any department or agency of the state or any local government, special district, or other political subdivision thereof, that employs any peace officer, as defined.
- Any federal law enforcement agency

This bill expands existing prohibitions against the use of kinetic energy projectiles and chemical agents to federal law enforcement agencies.

This bill requires each law enforcement agency, within 60 days of each incident, to publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a flash-bang grenade for crowd control. Authorizes an agency to extend that period for 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident.

This bill specifies that for each incident reported, the summary is limited to that information known to the agency at the time of the report and includes only the following:

- A description of the assembly, protest, demonstration, or incident, including the approximate crowd size and the number of officers involved.
- The type of flash-bang grenade deployed.
- The number of flash-bang grenades deployed, as applicable.
- The number of documented injuries as a result of the flash-bang grenade deployment.
- The justification for using the flash-bang grenade, including any de-escalation tactics or protocols and other measures that were taken at the time of the event to de-escalate tensions and avoid the necessity of using the flash-bang.

This bill requires the DOJ to post on its internet website a compiled list linking each law enforcement agency’s reports posted pursuant to the reporting requirement.

This bill prohibits any peace officer of a local, state, or federal law enforcement agency, or a person acting on behalf of such an agency, from using explosive breaching charges for the purpose of immigration enforcement.

This bill defines “flash-bang grenade” as any less-than-lethal explosive or pyrotechnic devices that are deployed by hand or as projectiles and that produce a bright flash and loud noise intended to temporarily stun, distract, effect an arrest, or disperse a gathering of people. Specifies that flash-bang grenades include, but are not limited to, explosive or pyrotechnic devices that also emit chemical agents, kinetic energy projectiles, or shrapnel, or that are commonly referred to as blast balls, sting balls, stinger grenades, noise flash diversionary devices, concussion grenades, or stun grenades.

This bill defines “explosive breaching charge” as less lethal explosive charges that are deployed by hand to effectuate the forced opening of closed or locked points of entry often through the

destruction of doors, locks, hinges, windows, and frame materials. Specifies that these charges include, but are not limited to, detonating cords, sheet explosives, shaped charges, blasting caps, and detonators.

This bill includes a severability clause.

COMMENTS

1. Need for This Bill

According to the author:

Californians across the state have a constitutionally protected right to protest. This right has been consistently under threat in recent years, as the equipment law enforcement uses for crowd control has become increasingly militarized and dangerous. Flash-bang grenades, which emit blinding flashes of light, create overpressure, and produce extremely loud bangs, have grown in popularity as a form of crowd control and immigration enforcement actions. Though supposedly non-lethal, flashbangs can cause temporary blindness, deafness, and fire shrapnel or pellets that can seriously injure both users and the public, especially without proper training. A lack of regulation, transparency, and training also extends to explosive breaching devices, often used by law enforcement to blow open doors and windows, and posing similar safety risks.

The Legislature has already taken steps to curtail the use of other dangerous non-lethal devices, such as tear gas and kinetic energy projectiles, like rubber bullets and beanbag rounds. SB 937 builds upon these existing restrictions and training requirements and applies them to flash-bang grenades. The bill also prevents the use of explosive breaching devices for immigration enforcement purposes. This bill is vital to ensuring the safety of both citizens exercising their right to protest and law enforcement.

2. Recent Uses of “Less Lethal” Munitions for Crowd Control in California

Law enforcement officers utilize a range of “less lethal” munitions in order to compel compliance, disperse gatherings, or incapacitate individuals during crowd control incidents. These weapons and devices include several broad categories, including kinetic energy projectiles (such as rubber bullets or beanbag rounds), chemical agents or irritants (such as pepper spray and tear gas) and other disorientation or incapacitation devices, including everything from long-range acoustic devices, water cannons, and flash-bang grenades. Although dubbed “less lethal,” these weapons are capable of causing serious injury and even death in rare cases, especially when they are used at close range or against vulnerable individuals. Flash-bang grenades, the subject of this bill, have been found to carry unique and significant risks. According to a recent report published jointly by a trio of human rights organizations:

Disorientation devices, also known as “flashbangs” or stun grenades, create a loud explosion and, in some instances, a bright flash of light. They are made of both metal and plastic parts that may fragment during the explosion and therefore carry risks of blast injuries to targeted individuals and bystanders. Explosions that occur

close to people have led to amputation, fractures, burns and death. Additionally, the ability to precisely place these thrown devices is questionable, especially when used in protest settings. There are frequent news reports and anecdotal evidence of injuries and deaths from these weapons, including reports of injuries to military, corrections, and other law enforcement officials while handling these devices.¹

Recent incidents involving the use of flash-bang grenades by law enforcement – primarily in the context of large-scale protests against federal immigration enforcement efforts – have brought these risks to the forefront of public discourse. In early June 2025, Immigration and Customs Enforcement (ICE) work raids at several restaurants in San Diego ended with federal agents using flash-bang grenades against residents protesting the operations in an attempt to disperse the crowd.² These events were the subject of recent litigation between a group of protestors, journalists and legal observers and the federal agencies that deployed crowd control munitions against them.³ The judge in that case ultimately enjoined the defendant federal agencies from using crowd control weapons – including kinetic impact projectiles, chemical irritants and flash-bang grenades – against members of the press, legal observers, and protestors who are not themselves posing a threat of imminent harm to a law enforcement officer or another person.⁴ The same month, during the “No Kings” protests in downtown Los Angeles, a protestor lost two fingers after a flash-bang grenade deployed by Los Angeles County Sheriff’s Office deputies detonated next to him, blowing off one finger and requiring another to be amputated later.⁵ According to the author, these events heavily contributed to the introduction of this bill.

3. Existing Law Regarding Use of Force and Less Lethal Munitions for Crowd Control

In 1989, the U.S. Supreme Court set the standard for reasonable use of force in law enforcement. The general rule for how much force a law enforcement officer can use in response to a given situation is determined by a reasonableness test, requiring the careful balancing of the force against the countervailing government interest at stake.⁶ The central question of this legal inquiry is whether the amount and type of force applied was reasonably necessary in light of the police need to prevent the subject from engaging in whatever conduct it was that they were engaging in at the time the force was used. Three important factors to that test are: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the person is actively resisting arrest or attempting to evade arrest by flight. With specific regard to “flash-bangs” the Ninth Circuit held in *Boyd v. Benton County* (2004) 374 F.3d 773 that:

There are likely circumstances in which a risk to officers’ safety would make the use of a flash-bang device appropriate. And we recognize that less-than-lethal

¹ “Lethal In Disguise 2: How Crowd-Control Weapons Impact Health and Human Rights.” *Published by the International Network of Civil Liberties Organizations and Physicians for Human Rights in collaboration with the Omega Research Foundation*. March 2023, p.13. [REPORT-Lethal-in-Disguise-2-PHR-INCLC-March-2023.pdf](#); for more on flash-bangs and other disorientation devices, see pp. 88-97 of this report.

² “ICE agents with assault rifles toss flash-bangs in trendy San Diego neighborhood. Community fights back.” *Los Angeles Times*. 2 June 2025. [ICE agents with assault rifles toss flash-bangs in San Diego neighborhood. City officials outraged - Los Angeles Times](#)

³ *L.A. Press Club v. Noem* (2025) 799 F.Supp.3d 1036.

⁴ *Id.* at 1073-1074.

⁵ “Law enforcement violating rules on less-lethal weapons in ICE protests, critics say.” *Los Angeles Times*. 11 July 2025. [Less-lethal weapons cause physical, psychological harm, critics say - Los Angeles Times](#).

⁶ *Graham v. Connor* (1989) 490 U.S. 386, 396.

alternatives are intended to avoid unnecessary fatalities. Nonetheless, given the inherently dangerous nature of the flash-bang device, it cannot be a reasonable use of force under the Fourth Amendment to throw it “blind” into a room occupied by innocent bystanders absent a strong governmental interest, careful consideration of alternatives and appropriate measures to reduce the risk of injury.

In 2019, California refined its use of force statutes in order to provide clearer guidance to law enforcement and the public, specifically regarding the when the use of deadly force is appropriate. Namely, AB 392 (Weber), Chapter 170, Statutes of 2019, specified the circumstances in which deadly force is and is not appropriate, and SB 230 (Caballero), Chapter 285, Statutes of 2019, required law enforcement agencies to update their training and policies with specific requirements regarding use of force, including 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.⁷

A couple of years later, in the wake of the nationwide protests sparked by the murder of George Floyd in Minneapolis, the Legislature passed another raft of legislation aimed at limiting how law enforcement may deploy certain tactics. One such measure was AB 48 (Gonzalez), Chapter 404, Statutes of 2021, enacting Penal Code section 13652, which generally prohibited law enforcement agencies from using kinetic energy projectiles and chemical agents to disperse any assembly, protest or demonstration. However, that bill allowed for the deployment of those less lethal munitions in limited circumstances, namely where the peace officer has received training on proper use by POST, if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual or to bring an objectively dangerous and unlawful situation safely under control, and if other enumerated conditions aimed at mitigating unintended consequences are met.⁸ AB 48 also included a requirement that law enforcement agencies, within 60 days of an incident in which kinetic energy projectiles or chemical agents are used, publish a summary of the incident on its website.⁹

4. Effect of This Bill

This bill consists of two distinct components: the first incorporates flash-bang grenades into the AB 48 framework and expands its applicability to include federal law enforcement agencies, and the second prohibits peace officers from using explosive breaching charges for the purpose of immigration enforcement. Regarding the first component, the bill defines the term “flash-bang grenade” and treats them similarly to kinetic energy projectiles and chemical agents, prohibiting law enforcement from using them to disperse an assembly, protest, or demonstration unless the aforementioned conditions aimed at mitigating unintended consequences are met. In addition to imposing these existing requirements on the use of flash-bangs, this bill prohibits flash-bang grenades from being deployed “near school grounds, parks, or other areas where children are visibly present.” This language may be too vague to give law enforcement officers adequate guidance regarding when deployment of a flash-bang grenade is permissible. In urban areas especially, schools and parks are often integrated into residential and commercial areas where protests might take place. The author and Committee may wish to amend this language to include a specific distance from schools, parks, and other areas where children are visible within which deploying flash-bangs is prohibited.

⁷ Gov. Code, § 7286, subd. (b).

⁸ Pen. Code, § 13652. For the full list of these conditions see p.3 of this analysis.

⁹ Pen. Code, § 13652.1.

This component of the bill also includes flash-bang grenades in the reporting requirement enacted by AB 48, requiring law enforcement agencies, within 60 days of each incident, to publish a summary on its website of all instances in which a peace officer used a flash-bang grenade for crowd control. Although this requirement and the general prohibition against the use of less lethal munitions for crowd control are part of the same regulatory scheme, the latter provision defines “law enforcement agency” while the former does not, raising the question of whether the intent of the bill is to include federal agencies in this reporting requirement. The Author and Committee may wish to clarify this.

The second piece of the bill prohibits peace officers from utilizing explosive breaching charges for the purpose of immigration enforcement, where “explosive breaching charges” are defined as less lethal explosive charges that are deployed by hand to effectuate the forced opening of closed or locked points of entry often through the destruction of doors, locks, hinges, windows, and frame materials. This provision defines peace officer as an officer of a local, state or federal law enforcement agency, or a person acting on behalf of such an agency.

5. Constitutional Considerations

Both of this bill’s major provisions – the less lethal munition requirements and the breaching charge restriction – explicitly apply to federal law enforcement agencies, and in the case of breaching charges, to a person acting on behalf of a federal law enforcement agency. As discussed below, the regulation of federal agencies and officers is constitutionally questionable, specifically with regard to the Supremacy Clause of the U.S. Constitution.

State laws that conflict with federal laws or attempt to regulate the federal government may be invalidated for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”¹⁰ The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution, and demands that “the activities of the Federal Government are free from regulation by any state.”¹¹ This makes a state regulation invalid if it “regulates the United States directly or discriminates against the Federal Government or those with whom it deals.”¹² “A state or local law discriminates against the federal government if it treats someone else better than it treats the government.”¹³ However, it is well settled that generally applicable state laws can apply to federal entities.¹⁴

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted, which “includes cases where compliance with both federal and state regulations is a physical impossibility, and those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.”¹⁵ For example, in *United States v. California* (2019) 921 F.3d 865, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had “no doubt that SB 54 makes the jobs of federal immigration

¹⁰ U.S. Const., Art. VI, Cl 2.

¹¹ *United States v. California* (9th Cir. 2019) 921 F.3d 865, 879.

¹² *N.D. v. United States* (1990) 495 U.S. 423, 435; *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839

¹³ *Boeing, supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.

¹⁴ See *United States ex rel. Drury v. Lewis*, 200 U.S. 1, 7-8 (1906); *Johnson v. Maryland*, 254 U.S. 51, 56 (1920).

¹⁵ *U.S. v. California, supra*, F.3d at pp. 878-879; *Arizona v. United States*, 567 U.S. 387, 399 (2012).

authorities more difficult.”¹⁶ But the court concluded that “this frustration does not constitute obstacle preemption,” because federal law “does not require any particular action on the part of California or its political subdivisions.” The court reasoned that “even if SB 54 obstructs federal immigration enforcement, the United States’ position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule,” and that “California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts.”¹⁷ The court concluded that SB 54 does not violate the United States’ intergovernmental immunity for similar reasons.

The provisions of this bill seeking to regulate federal agencies and their agents will undoubtedly be subject legal challenge under the doctrines of intergovernmental immunity and conflict preemption. Though the outcome of such a claim is unclear and dependent on several factors, a recent decision from the U.S. District Court for the Central District of California, which assessed the constitutionality of SB 627 (Wiener), Chapter 125, Statutes of 2025, and SB 805 (Perez), Chapter 126, Statutes of 2025, provides some useful guidance.¹⁸ SB 627 prohibited local and federal law enforcement officers from wearing certain facial coverings in the performance of their duties, and SB 805 required local, state, and federal officers to visibly display identification, including a name or badge number and their agency, when performing their duties. The court ultimately concluded, analyzing the statutes under the intergovernmental immunity doctrine, that:

[SB 805] does not violate the Supremacy Clause by directly regulating the federal government. Further, because it does not treat federal officers differently from state officers, [SB 805] does not discriminate against the federal government. [...] With regard to SB 627 [...] the United States has failed to demonstrate that the facial covering prohibition directly regulates the federal government. The Court finds that federal officers can perform their federal functions without wearing masks. However, because [SB 627] as presently enacted does not apply equally to all law enforcement officers in the state, it unlawfully discriminates against federal officers. Because such discrimination violates the Supremacy Clause, the Court is constrained to enjoin the facial covering prohibition.¹⁹

Given the court’s reasoning in this case, the success of a Supremacy Clause challenge to this bill may turn on whether the less lethal munitions in question are so essential to federal law enforcement as to interfere with or control federal law enforcement functions. If they are as or less essential to such functions as the masking and identification practices at issue in *U.S. v. State of California* were, because the bill does not appear to discriminate against federal law enforcement (i.e., applies equally to local, state, and federal law enforcement), it is very possible that the bill would survive a Supremacy Clause challenge.

6. Argument in Support

According to the Policing Project at New York University School of Law:

The right to engage in peaceful demonstration is a cornerstone of American democracy. While police can facilitate peaceful demonstrations, they can also fail to

¹⁶ *Id.* at 886.

¹⁷ *Id.* at 888-891.

¹⁸ *The United States of America v. State of California et al* (2026) Case No. 2:25-cv-10999-CAS-AJRx. gov.uscourts.cacd.995805.63.0_29.pdf

¹⁹ *Id.* at 29-30.

strike the right balance. This happens when police approach demonstrations as a threat to public safety, rather than as an expression of constitutionally protected rights, resulting in negative outcomes for protestors and for police. Indeed, police use of dangerous or aggressive tactics and weaponry is itself a public safety issue, and can escalate situations unnecessarily.

The Policing Project has worked with law enforcement leaders to provide clear guidance on how to protect public safety *and* democratic freedoms. Any agency's ability to successfully facilitate a demonstration, and if necessary help de-escalate any situations that move beyond peaceful protest, will depend in large part on the relationship it has with the public before the event. Put simply, if an agency has not earned the public's trust with its everyday policing, it will struggle to de-escalate situations during a protest. This means that officers and agencies must adhere to clear, well-communicated standards, including those proposed in SB 937.

SB 937 would add flash-bang grenades to an existing list of military-grade weapons that California restricts and regulates the use of during First Amendment activities. This addition would improve public safety and trust by recognizing the serious danger that comes from this weaponry. Flash-bang grenades (also known as blast-balls, sting balls, stun grenades, concussion grenades, M84, noise flash diversionary devices, or stinger grenades) are military-grade explosive pyrotechnic devices meant to disperse and disorient enemy combatants.³ They produce a subsonic deflagration⁴, a form of combustion. The visual emission is a light bright enough to cause flash blindness. The auditory emission is a bang loud enough to cause deafness, tinnitus, and inner ear disturbances. [...]

Current state law restricts the use of some less-lethal military weaponry for crowd-control, including chemical weapons like tear gas and kinetic energy projectiles (KEPs) like rubber bullets and beanbag rounds.⁷ Existing law also requires training, announcing intent to use the weaponry, and reporting.⁸ SB 937 would update the law to include flash-bangs. Because of the high danger that comes with flash-bangs, this bill is a simple and logical extension of current state practices to similar weaponry, bringing the state further in line with the model protocols the Policing Project has outlined regarding use of force during protests and demonstrations.⁹ Proper protocol and training for dangerous devices would improve public safety and trust.

7. Argument in Opposition

According to the California Police Chiefs Association:

SB 937 establishes an absolute prohibition on the use of flashbang devices near schools, parks, and other areas where children may be present, regardless of the nature or severity of the threat. While we fully support heightened caution in these sensitive locations, an outright ban fails to account for real-world scenarios where violent suspects, armed individuals, or hostage situations may unfold in or near these environments. Flashbang devices are often used as a critical de-escalation and distraction tool designed to prevent the need for lethal force. Removing this option entirely—even in life-threatening situations—limits officers' ability to resolve incidents safely and may lead to worse outcomes.

Additionally, SB 937 includes provisions related to immigration enforcement, despite the fact that California law already comprehensively governs local law enforcement's role in this area. Senate Bill 54 (2017) established clear limitations and guidance regarding cooperation with federal immigration authorities. That framework has been in place for years and continues to guide law enforcement agencies statewide. The additional restrictions proposed in SB 937 are therefore duplicative and risk creating confusion and conflict with existing law, without providing meaningful additional protections.

More broadly, the bill applies sweeping restrictions without sufficient flexibility for officers to exercise professional judgment based on the totality of the circumstances. Law enforcement officers are required to make split-second decisions in high-risk environments, and policies governing use of force must allow for reasonable discretion when lives are at stake. By imposing categorical prohibitions rather than standards based on objective reasonableness, SB 937 undermines the very goal of ensuring safe and effective outcomes.

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