

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: February 1, 2010

Reviewed by: BP

SUBJECT: Letter in Support of Attorney General’s Petition to the California Supreme Court for Review of Court Decision Nullifying Penal Code Section 12370 (which prohibits a violent felon from possessing “body armor”).

REPORT BY: Mike McQuiston, Chief of Police

STAFF RECOMMENDATION

Staff Recommends authorizing the issuance of a letter in support of the Attorney General’s Petition for Review in this matter.

BACKGROUND

Mayor Wile has asked that this matter be brought before the City Council for consideration

DISCUSSION

The California Legislature first enacted the James Guelff Body Armor Act to prohibit felons convicted of a violent crime from possessing body armor in 1998. San Francisco Police Officer Guelff was murdered by a heavily armed carjacking suspect who wearing body armor at the time. In a December 17, 2009 decision, the California Court of Appeal held that Penal Code section 12370, subdivision (a), which prohibits a violent felon from possessing “body armor,” is unconstitutionally vague and therefore void. This decision has an “immediate and serious impact on public and (police) officer safety.” Consequently, Attorney General Edmund G. Brown Jr. is seeking a review of the appellate court’s decision by the California Supreme Court. By allowing convicted violent felons to possess body armor, this decision needlessly places law enforcement officers and the public at greater risk.

SUSTAINABILITY IMPACT

None.

FINANCIAL IMPACT

None.

Attachments:

Letter of Support