



## Legislation Text

---

**File #:** 2019-0672, **Version:** 1

---

**To:** Sonoma County Board of Supervisors

**Department or Agency Name(s):** Human Services

**Staff Name and Phone Number:** Karen Fies 565-6990 & Mark Mahre 565-8544

**Vote Requirement:** Majority

**Supervisorial District(s):** All

**Title:**

Authorizing Sonoma County Welfare Fraud Investigators to Carry Firearms on Duty

**Recommended Actions:**

Adopt a resolution to allow Welfare Fraud Investigators, designated as peace officers with the primary duty of enforcing the provisions of the Welfare & Institutions Code, to carry firearms for defensive purposes during the course of their employment pursuant to California Penal Code 830.35.

**Executive Summary:**

In December 1970, Sonoma County Welfare Fraud Investigators were designated peace officers and authorized to carry firearms. In April 1972, the authorizing Penal Code section changed but Welfare Fraud Investigators retained the authorization to carry firearms. In December 1988, the Board determined that it was no longer necessary for Welfare Fraud Investigators to carry firearms in Sonoma County and authorization was withdrawn.

Due to an increase in investigations resulting in criminal prosecution, an increase in public assistance fraud resulting in the termination of benefits, and an increase of threats of violence relating to public assistance fraud, the Human Services Department is requesting the Board again allow Welfare Fraud Investigators to carry firearms during the course of their employment. The decision of whether to authorize Welfare Fraud Investigators rests with their employing agency pursuant to California Penal Code 830.35.

**Discussion:**

**Traditional law enforcement vs Welfare Fraud Investigations.**

The primary role of law enforcement agencies, such as municipal police departments or county sheriff offices, is to maintain the public peace and safety through the enforcement of laws. Law enforcement officers utilize a variety of tools and methods to effectively conduct their mission. In the traditional law enforcement arena, a firearm is used both defensively to counter an immediate threat posed to the officer or public, and also as a means of providing safety in a proactive enforcement action. The nature of law enforcement, and the types of incidents encountered, typically does not include an option of retreat. The imminent threat and public safety concerns generally require law enforcement agencies to maintain control or engagement of a person or situation until a resolution is obtained. In other words, the option of walking away is seldom appropriate, feasible, or lawful.

The issue of firearms for Welfare Fraud Investigators differs from that of typical law enforcement. While Welfare Fraud Investigators provide a needed service in program integrity, there is not the same inherent public safety risk or issues involved in proactive enforcement or emergency response. While a fraud allegation may be investigated proactively, there is no enforcement (arrest) component or anticipated high risk engagement scenario required. In other words, if things do not appear safe to a Welfare Fraud Investigator, he or she can and should walk away as a means of deescalating or avoiding a physical confrontation. Nevertheless, while there are notable differences in the scope of traditional law enforcement versus welfare fraud, commonality is present in the issue of personal safety with regard to an unanticipated threat.

The proposal to arm Welfare Fraud Investigators with firearms intends to address scenarios where the risk factor is not anticipated or identified in advance, and the Investigator needs protection from an imminent threat where escape or retreat is not possible. Firearms for Welfare Fraud Investigators, who work in the Special Investigation Unit (SIU) in the Human Services Department, would be for strictly self-defense purposes in the most extreme of circumstances. However, armed Welfare Fraud Investigators would also provide an increased level of security at Sonoma County Human Services Department (HSD) facilities in the event of imminent threat to staff while awaiting the emergency response of local law enforcement.

### **Rationale to Carry Firearms**

It is not uncommon for Welfare Fraud Investigators to carry firearms on duty. As of April 2019, there are 29 counties within California that have dedicated Special Investigation Units within the Human Services Department. Sixteen of those counties employ Welfare Fraud Investigators who are authorized to carry firearms (55%).

While the primary role of the SIU is to investigate allegations of fraud in the area of public assistance benefits, it also includes investigating other criminal violations such as identity theft, forgery, perjury, grand theft, and conspiracy to commit theft(s). Each of these areas of investigation carries with it a potential risk of violence.

The vast majority of all SIU investigations require some type of field operation. These operations routinely involve personal contact with suspects, witnesses, and other persons associated with the investigation. They also include surveillance operations. These contacts usually occur at the location listed as the person's residence. It is the policy and practice of SIU investigators to do law enforcement history checks on persons they intend to contact, as well as gather any available law enforcement information on the specific location where the contact is intended. These checks are for the purpose of identifying potential officer safety information regarding the subject or location. While these checks are beneficial in the assessment of potential officer safety issues, they unfortunately are never considered all-inclusive or conclusive in nature. Persons who, based on their history may be an officer safety consideration, are typically transient in nature and often contacted at locations that were not previously listed. Likewise, locations often have new tenants or associations that had not previously been known to law enforcement. In essence, these history checks are a good start for the investigator to identify a potential problem or hazard, but they never eliminate the potential for a safety issue.

Sonoma County encompasses 1575 square miles and currently has a population in excess of 500,000. While the majority of field contacts occur in populated urban areas, investigators frequently make field contacts in

rural areas where the ability to summon assistance is difficult, or the response time of law enforcement would be delayed. Many of these areas have limited or no cellular phone service or coverage for radio communications. Reliance on an outside law enforcement agency to assist the SIU during field contacts is not feasible based on the timely and repeated assistance of local law enforcement being unavailable.

Additionally, following the passage of AB109 (realignment), investigations involving individuals who are in violation of either their probation or parole has increased. Many of these individuals may not be receiving aid directly but are associated with or living with clients who are receiving aid. When making field contacts with clients, the risk exists that unknowingly an investigator may come in contact with an individual wanted for felony violation of probation or parole.

When SIU identifies an individual who is wanted for being in violation of their probation or parole and that individual is receiving public assistance, those public assistance benefits are terminated until which time the individual becomes eligible once again.

### **Training Standards**

Draft training standards for carrying firearms on duty have been developed. As retired law enforcement peace officers, all current Welfare Fraud Investigators employed by the County meet the legal standards to carry loaded concealed firearms outside of their current employment pursuant to section 25450 of the California Penal Code. Retired peace officers are authorized to carry loaded and concealed firearms on their persons after leaving employment in law enforcement based on the inherent safety considerations that extend beyond the officer's term of employment. The most prominent safety consideration is the potential for that retired officer to be confronted and challenged by person(s) they dealt with during their prior employment. Although the peace officer may have retired and no longer be active law enforcement, persons involved in criminal activity do not necessarily know, or care, that the officers status has changed.

The HSD SIU currently consists of four Investigators, one Senior Investigator (Supervisor), and one Chief Investigator (Manager). All are former law enforcement Officers who retired from their respective municipal law enforcement agencies in good-standing. The investigators within the SIU represent over 160 years of accumulative law enforcement experience. As a condition of employment with the HSD-SIU, all the investigators are required to meet training standards determined by the California Peace Officer Standards and Training (POST). One SIU Investigator is a current P.O.S.T. certified firearms instructor with 20 years of firearms training experience.

It would be the policy and practice of the HSD SIU for all firearms to be concealed on the Investigator's person and not open to public view. Absent an extreme circumstance, persons engaged in business at any HSD facility would be unaware that a firearm was present.

### **Steps to Date**

Human Services has been meeting with Human Resources, County Counsel, County Administrator, and Risk Management, to review and prepare for this request.

Additionally, there have been ongoing discussions with Sheriff Essick and Assistant Sheriff Naugle, Chief Probation Officer Koch, and District Attorney Ravitch. All of them have expressed support for arming Welfare

Fraud Investigators.

It should be noted that for purposes of the County Employees Retiree Law of 1937 (CERL), Welfare Fraud Investigators are not “safety members,” as their principal duties are not law enforcement.

### **Next Steps**

If your Board agrees with the recommendation and adopts the Resolution authorizing Welfare Fraud Investigators to carry firearms on duty, HSD will work with Human Resources to review and update job specifications for the affected classifications and meet and confer with the affected labor group.

Welfare Fraud Investigators will then partner with other county law enforcement agencies (Sheriff’s Office, District Attorney’s Office, and the Probation Department) for purposes of training and development of policies and procedures and will meet and confer with the affected labor group.

Arming would be effective once the meet and confer process is completed, all policies and training are in place and equipment is purchased.

### **Prior Board Actions:**

12/22/1970: Resolution number 31587 adopted designating Welfare Fraud Investigators as peace officers pursuant to Penal Code Section 830.3(p). This resolution authorized Welfare Fraud Investigators in Sonoma County to carry firearms.

04/11/1972: Resolution number 36402 acknowledged the change from Penal Code Section 830.3(p) to Penal Code Section 830.11. Welfare Fraud Investigators retained the authority to carry firearms.

12/13/1988: Resolution number 88-2268 rescinded resolution number 36402 effective January 23, 1989. The authorization for Welfare Fraud Investigators to carry firearms was withdrawn.

### **FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 18-19 Adopted</b>	<b>FY19-20 Projected</b>	<b>FY 20-21 Projected</b>
Budgeted Expenses		20,000	3,000
Additional Appropriation Requested			
<b>Total Expenditures</b>		<b>20,000</b>	<b>3,000</b>
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal		20,000	3,000
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>		<b>20,000</b>	<b>3,000</b>

**Narrative Explanation of Fiscal Impacts:**

There will be a one-time cost of \$20,000 the first year. The \$20K will entail the purchase of firearms, ammunition, and firearms-safety equipment. There will be an ongoing, annual cost for the replenishment of ammunition and range-practice fees of about \$3,000 each year going forward, ignoring inflation. The source of funding will be from Realignment Revenues as SIU activities fall within the realm of administering Realignment-eligible social services. No county General Fund is requested.

Staffing Impacts:			
Position Title (Payroll)	Monthly Salary Range (A - I Step)	Additions (number)	Deletions (number)

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Resolution

**Related Items "On File" with the Clerk of the Board:**

None