
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 237 **Hearing Date:** March 24, 2015
Author: Anderson
Version: February 17, 2015
Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: Animal Control Officers

HISTORY

Source: Roy Curtis Marcum Foundation and Humane Society of the United States

Prior Legislation: SB 1278 (Leno) – 2014, held in Senate Appropriations
SB 1655 (Presley) – Ch. 82, Stats. 1990
AB 2209 (Vicencia) – Ch. 1575, Stats. 1985

Support: California Attorneys for Criminal Justice; LIUNA Locals 777 and 792

Opposition: None known

PURPOSE

The purpose of this bill is to expand current training requirements for animal control personnel by requiring: (1) all animal control officers to complete a course in the exercise of powers of arrest and to serve warrants, as specified; (2) each person appointed as a director, manager, supervisor, or any person in control of an animal control agency on or after July 1, 2016 complete a course in the exercise of powers of arrest and to serve warrants within one year of appointment; and, (3) all animal control officers have 40 hours of continuing training every three years, as specified.

Existing law provides that animal control officers are not peace officers but may exercise the powers of arrest of a peace officer, as specified, and the power to serve warrants, as specified, during the course and within the scope of their employment, if those officers successfully complete a course in the exercise of those powers pursuant to Section 832. That part of the training course specified in Section 832 pertaining to the carrying and use of firearms shall not be required for any animal control officer whose employing agency prohibits the use of firearms. (Penal Code § 830.9.)

Existing law further provides:

- An arrest is taking a person into custody, in a case and in the manner authorized by law and that an arrest may be made by a peace officer or a private person. (Penal Code § 834.)

- An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subjected to such restraint as is reasonable for his or her arrest and detention. (Penal Code § 835.)
- A private person may arrest another person for a public offense committed or attempted in his or her presence, when the person arrested has committed a felony regardless of whether it was committed in his or her presence, and when a felony has been committed and he or she has reasonable cause for believing the person to be arrested has committed it. (Penal Code § 837.)
- With limited exceptions, a peace officer may arrest a person when the officer has reasonable cause to believe the person to be arrested has committed a public offense in the officer's presence, when the person arrested has committed a felony regardless of whether it was committed in the officer's presence, and when the officer has reasonable cause to believe the person to be arrested has committed a felony. (Penal Code § 836.)

Existing law requires peace officers, and specified other public officers “not a peace officer,” to complete training prescribed by the Commission on Peace Officer Standards and Training (POST) and to pass an appropriate POST examination. (Penal Code § 832.)

Existing law requires that fees for the issuance of dog license tags and fines collected for a violation of the provisions regulating and licensing dogs be paid into the county, city or city and county treasury and that they be used for specified purposes, including to pay costs and expenses related to: (1) the issuance of dog license tags, (2) to pay fees, salaries, costs, expenses, or any or all of them for the enforcement of the dog licensing provisions, (3) to pay damages to owners of livestock which are killed by dogs, and (4) to pay costs of any hospitalization or emergency care of an abandoned and neglected animals. (Food and Agriculture Code § 30652.)

This bill would require all animal control officers to complete a course in the exercise of powers of arrest and to serve warrants, administered by POST. Specially, the bill would require every person appointed as an animal control officer prior to July 1, 2016, to complete a course in the exercise of the powers of arrest and to serve warrants no later than July 2, 2017. And, every Animal Control Officer, appointed after July 1, 2016, to complete the course within one year of beginning employment.

This bill would require each person appointed as a director, manager, supervisor, or any person in control of an animal control agency on or after July 1, 2016 complete a course in the exercise of powers of arrest and to serve warrants, administered by POST, within one year of appointment, as specified.

This bill would require that during each three-year period following the date of appointment as an animal control officer, every animal control officer shall satisfactorily complete at least 40 hours of continuing education and training relating to the powers and duties of an animal control officer as determined by the California Animal Control Directors Association.

This bill would expand the list of purposes for which dog license fees can be used to include paying for initial and in-service training for persons charged with enforcement animal control laws, including animal control officers.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In its most recent status report to the court (February 2015), the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity." (Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted)).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14)). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

The author states:

Animal control officers (ACOs) enforce state and local laws pertaining to animal care and control as well as public safety. ACOs are not peace officers, but they may exercise the same powers of arrest and serving warrants within the scope of their duties. They can investigate felony crimes and make felony arrests, ACOs also routinely enter private property to seize animals when there is evidence of animal cruelty, neglect or the need for quarantine. This is often done over the angry and sometimes violent objections of owners that put ACOs in dangerous situations.

Humane officers, who work on behalf of non-profit humane societies issuing citations for violations, have clear and strict training requirements. Humane officers are required to complete basic training and must complete 40 hours of continuing education every three years. Despite ACOs having greater authority to enforce animal welfare and other laws, humane officers are subject to stricter and more standardized training than ACOs.

2. Effect of This Legislation

The impetus behind this legislation is the 2012 death of Animal Control Officer Roy Marcum. In November 2012:

An unarmed animal control officer was shot and killed in Sacramento County . . . while trying to retrieve pets from a home whose owner was evicted the previous day.

The officer had gone to the home to rescue dogs and cats authorities thought had been left behind, a day after Joseph Francis Corey was served an eviction notice and a sheriff's deputy changed the locks.

The officer — Roy Curtis Marcum, 45, of Elk Grove — and a bank employee knocked on the door when Corey fired a shotgun through the door, striking the officer in the torso, Sacramento County Sheriff's Sgt. Jason Ramos said.

(Calif. animal control officer killed in eviction, The Daily Republic, November 30, 2012.)

According to the Humane Society and the Roy Curtis Marcum Foundation, who are co-sponsoring this legislation:

Despite the duties of enforcing state and local laws, including felonies, there is no standardized training or in-service training for ACOs. In fact, humane officers and security guards have stricter training requirements than ACOs. The lack of

officer training can contribute to tragic results. In 2012, Sacramento County Animal Care and Regulation Officer Roy C. Marcum was fatally shot through the front door by an irate animal owner. Despite Officer Marcum's years of experience, he lacked the necessary and ongoing training to safely address the hazards he faced.

Given this, the legislation seeks to not only standardize training on the powers of arrest and serving warrants, but also requires continuing education and training.

3. Argument in Support

LIUNA Locals 777 and 792, representing animal control officers, state:

SB 237 seeks to institute standardized training for animal control officers in order to provide better officer safety, to protect the rights of animal owners and to ensure animal welfare. The bill brings animal control officers on par to similar training standards required of humane officers.

Animal control officers (ACOs) enforce state and local law pertaining to animal control and care as well as public safety. ACOs are not peace officers, but they may exercise the same powers of arrest and serving warrants within the scope of their duties. They can investigate felony crimes and make felony arrests pertaining to state animal welfare laws. ACOs also routinely enter private property to seize animals when there is evidence of animal cruelty, neglect or need for quarantine. This is often done over the angry and sometimes violent objections of the owners that put ACOs in dangerous situations.

Despite the duties of enforcing felony animal welfare laws, there is not standardized training for ACOs in the powers of arrest and serving warrants. In fact, security guards have stricter training requirements in these powers than ACOs do. All ACOs should have basic training in approaching potentially dangerous situations, be better prepared to address combatant animal owners and know the boundaries of their duties.

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