

REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent
August 18, 2009

Honorable Mayor and
Members of the City Council

**Title: Access to Summary Criminal History Information for Employment,
Certification and Licensing Purposes**

Location/Council District: Citywide

Recommendation: Adopt a **Resolution 1**) authorizing City access to state and federal level summary of criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes; and 2) establishing that the City of Sacramento shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract employees), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.

Contact: Dafna Gauthier, Business Permit Manager, 808-7800

Presenters: N/A

Department: Finance

Division: Revenue

Organization No: 06001231

Description/Analysis

Issue: On July 17, 2007, the City Council adopted Resolution No. 2007-521 authorizing the City to have access to summary criminal history information. However, the California Department of Justice (DOJ) has asked for more specificity regarding the particular licenses and permits that require this type of access. The format of the proposed Resolution includes the information requested and has been approved by DOJ.

City departments require access to summary criminal history information to screen prospective employees, volunteers, independent contractors, and license and permit applicants and holders. Currently, only the Police Department has the ability to obtain this critical information. Council approval of the attached resolution will satisfy

DOJ's requirements to provide access to other City departments.

Policy Considerations: In order to ensure that the interests of the City, its employees, and members of the public are protected, and to help minimize potential liability, it is necessary for other City departments to access summary criminal history information regarding prospective employees, volunteers, independent contractors, and license and permit holders.

Environmental Considerations:

California Environmental Quality Act (CEQA):

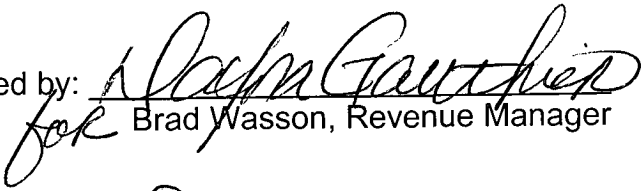
This report concerns administrative activities that will not have any significant effect on the environment and that do not constitute a "project", as defined by the California Environmental Quality Act ("CEQA"). (CEQA Guidelines, Cal. Code Regs, tit. 14, §§ 15061, subd.(b)(3); 15378, subd. (b)(2).)

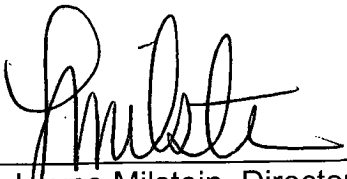
Rationale for Recommendation: In order for other City departments to access summary criminal history information to ensure that the interests of the City, its employees, and members of the public are protected, it is necessary for the City Council to authorize access pursuant to Penal Code section 11105.

Financial Considerations: DOJ does not charge an application fee for access to criminal history information. However, all personnel within an agency requesting access must undergo a background check as part of the application process.

The fee for each employment and license permit applicant is 84.00. This fee for service will be passed on to the applicants and will not significantly impact the City's revenue or expenditure budgets.

Emerging Small Business Development (ESBD): N/A

Respectfully Submitted by: 
for Brad Wasson, Revenue Manager

Approved by: 
Leyne Milstein, Director of Finance

Recommendation Approved:



Ray Kerridge
City Manager

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Background

On July 17, 2007, the City Council adopted Resolution No. 2007-521 authorizing the City to have access to summary criminal history information. However, the Department of Justice (DOJ) has asked for more specificity regarding the particular licenses and permits that require this type of access. The format of the proposed Resolution has been approved by DOJ.

The City Police Department currently conducts criminal background checks. However, the Police Department can not share this information with other City staff who are not authorized to receive it.

California Penal Code Section 11105 allows cities, when access is specifically authorized by resolution of the City Council, to access state summary criminal history information from the DOJ and information from the Federal Bureau of Investigation, to assist in fulfilling employment, certification, or licensing duties. California Penal Code Section 13300 allows cities, when authorized in the same manner, to access local summary criminal history information for the same purpose. Once this resolution is adopted, City departments that require this information may submit individual applications to DOJ for access to criminal history background information, referred to as "Livescan" access.

Several City divisions currently need this access. For example, the City Code requires applicants for certain permits and licenses to undergo a criminal background check; however, the City Manager and Director of Finance (and their designees), who process these applications, do not have the ability to obtain summary criminal history information regarding the applicants for these permits and licenses.

RESOLUTION NO. 2009-

Adopted by the Sacramento City Council

**AUTHORIZING ACCESS TO SUMMARY CRIMINAL HISTORY INFORMATION FOR
EMPLOYMENT, CERTIFICATION AND LICENSING PURPOSES.**

BACKGROUND

- A. Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, and districts to access state and local summary criminal history information for employment, licensing or certification purposes.
- B. Penal Code Section 11105(b)(11) authorizes cities, counties, and districts to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.
- C. Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record.
- D. Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, or governing body of a city, county, or district to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

- Section 1. The City of Sacramento is hereby authorized to access local, state and federal level summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.
- Section 2. The authorization in Section 1 above includes, but is not limited to, access necessary to assist the City in fulfilling its duties pertaining to the following licenses and permits:
 - 1) Adult-related establishment permit (Sacramento City Code ("SCC") Ch. 5.04)
 - 2) Massage technician permit (SCC Ch. 5.04)
 - 3) Escort permit (SCC Ch. 5.04)
 - 4) Adult-entertainment business permit (SCC Ch. 5.06)
 - 5) Adult performer permit (SCC Ch. 5.06)

- 6) Figure model permit (SCC Ch. 5.06)
- 7) Alcoholic beverage license (SCC Ch. 5.08)
- 8) Amusement arcade license (SCC Ch. 5.12)
- 9) Astrology and related practices license (SCC Ch. 5.16)
- 10) Billiard and pool parlor license (SCC Ch. 5.20)
- 11) Bingo license (SCC Ch. 5.24)
- 12) Cable television franchise (SCC Ch. 5.28)
- 13) Cable television license (SCC Ch. 5.28)
- 14) Cardroom license (SCC Ch. 5.32)
- 15) Cardroom work permit (SCC Ch. 5.32)
- 16) Journey-level plumbers' certificate of competency (SCC Ch. 5.36)
- 17) Coin operated gaming permit (SCC 5.48)
- 18) Firearm and ammunition sales license (SCC Ch. 5.64)
- 19) Firearm and ammunition sales work permit (SCC Ch. 5.64)
- 20) Food vending vehicle permit (SCC Ch. 5.68)
- 21) Food vending vehicle driver permit (SCC Ch. 5.68)
- 22) Junk dealer, secondhand dealer, pawnbroker and pallet reseller permit (SCC Ch. 5.80)
- 23) Food or flower vendors' permit (SCC Ch. 5.88)
- 24) Pedicab owner permit (SCC Ch. 5.94)
- 25) Pedicab driver permit (SCC Ch. 5.94)
- 26) Pedicab vehicle permit (SCC Ch. 5.94)
- 27) Entertainment permit (SCC Ch. 5.108)
- 28) Solicitor license (SCC Ch. 5.116)
- 29) Canvasser permit (SCC Ch. 5.116)
- 30) Somatic practitioner permit (SCC Ch. 5.124)
- 31) Somatic practitioners' establishment permit (SCC Ch. 5.124)
- 32) Tattooing permit (SCC Ch. 5.132)
- 33) Taxicab fleet association permit (SCC Ch. 5.136)
- 34) Taxicab vehicle permit (SCC Ch. 5.136)
- 35) Taxicab driver permit (SCC Ch. 5.136)
- 36) Tow car vehicular permit (SCC Ch. 5.144)
- 37) Tow car driver permit (SCC Ch. 5.144)
- 38) Funeral escort permit (SCC Ch. 10.28)
- 39) Curb painting permit (SCC Ch. 12.08)

Section 3. The City of Sacramento shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract employees), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.