



REPORT TO COUNCIL

City of Sacramento

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Consent
July 17, 2007

**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 the City of Sacramento to access state and federal level summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and prohibiting dissemination of the information to a private entity; 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.

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

Presenters: N/A

Department: Finance

Division: Revenue Division

Organization No: 1124

Description/Analysis

Issue: City departments require access to summary criminal history information to screen prospective employees, volunteers, independent contractors, and license and permit holders. Currently, departments do not have the ability to obtain this critical information.

Policy Considerations: Chapter 5 of the City Code requires the City Manager to make decisions based on criminal history from fingerprint background checks for various business permits issued.

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 City departments to access summary criminal history information regarding prospective employees, volunteers, independent contractors, and license and permit holders.

This resolution does not automatically grant access to all City departments to summary criminal history information. Rather, each department that requires access to summary criminal history information to fulfill its legally mandated employment, certification, or licensing duties must submit an application for access to the DOJ. The DOJ reviews each application to ensure the particular department is entitled to this information and only grants access after it has made this determination. In addition, departments that retain this information are, as a condition of their access, under the duty to retain and store this information in a secure and confidential location, apart from other personnel records.

Environmental Considerations: 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 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: Adoption of this resolution will have a minor impact on the City's operating budget. The DOJ's charge for each summary criminal information report is \$32.00. The Revenue Division will be recovering this cost from applicants for licenses and permits. Sacramento Metropolitan Arts Commission (SMAC) will assume these costs, estimating approximately 30 reports may be run in a typical year at a cost of \$960. SMAC has budgeted this expense within program expenses for Organization 4245, Arts Education.

Emerging Small Business Development (ESBD): N/A

Respectfully Submitted by: Walker Black for
Brad Wasson, Division Manager

Approved by: Russell Fehr
Russell Fehr, Director of Finance

Recommendation Approved:

Ray Kerridge
Ray Kerridge
City Manager

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Background

The City Police Department currently conducts criminal background checks. However, the Police Department cannot share this information for employment or licensing considerations because their access is primarily for criminal investigative purposes, and the Police Department's agreement with the Department of Justice prohibits such release.

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 Department of Justice 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 requiring this information may submit individual applications to the Department of Justice for access to criminal history background information, referred to as "Livescan" access.

City divisions currently need this access. For example, through its Arts Education Program, the Sacramento Metropolitan Arts Commission ("SMAC") pays professional artists and arts educators to provide arts education to children, youths and adult members of the public in schools and community/recreational centers within the City and County of Sacramento. The artists and educators teach art to children in classrooms and recreational centers and have supervisory and disciplinary authority over the students they teach. Nevertheless, there is currently no legal or comprehensive means by which SMAC can obtain summary criminal history information regarding prospective and current arts educators prior to, or during their employment with the City.

In addition, the City Code requires the City Manager and the Director of Finance (or their designees) to conduct criminal background investigations for applicants seeking certain permits for permit and licensing approvals.; at present, however, neither the City Manager nor the Director of Finance has the ability to obtain summary criminal history information regarding the applicants for these permits and licenses.

RESOLUTION NO. 2007-

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)(10) and 13300(b)(10) 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)(10) 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)(10) and 13300(b)(10) 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)(10) and 13300(b)(10) 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 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.