



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 19, 2016

TO: Mayor and Councilmembers

FROM: Administrative Services Department

SUBJECT: State And Federal Criminal History Checks For New Employees

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Rescinding Resolution No. 12-067 and Adopting A Resolution Authorizing the City of Santa Barbara to Have Access to State and Federal Level Summary Criminal History Information Through The California Department of Justice for Employment Purposes for All Regular Employees and Hourly Employees for Specific Positions and State Level Summary Criminal History Information for All Other Hourly Employees.

DISCUSSION:

California Penal Code Sections 11105(b) and 13300(b) provide that cities and other agencies may have access to California Department of Justice ("DOJ") criminal history information for employment purposes when that information is needed to comply with a statute, ordinance, or regulation that expressly refers to specific criminal conduct. For these same purposes, these sections provide that the City may also obtain access to federal criminal background information from the Federal Bureau of Investigation ("FBI").

Santa Barbara Municipal Code (SBMC) Section 3.16.070 provides that conviction of a felony or a misdemeanor shall be prima facie disqualification of an applicant for employment by the City of Santa Barbara, and SBMC 3.16.070.5 authorizes certain City officials to have access to applicants' criminal history information. The existence of a criminal record is not necessarily a bar to City employment. Rather, the City is permitted to consider mitigating circumstances in making such a determination.

Other statutes require the City to seek criminal history information, too. For example, California Public Resources Code Section 5164, which prohibits a city from hiring potential employees or volunteers that have been convicted of certain criminal offenses if the employee or volunteer will perform services at park and recreational facilities and have supervisory or disciplinary authority over minors. The Fire Department is required by regulation to access criminal history information for the purposes of EMT licensing and/or certification.

Current Practice

All applicants for regular and hourly City employment are asked to disclose any felony and misdemeanor convictions.

Currently, the City also secures a fingerprint criminal history check through the DOJ's normal administrative process for new regular employees. Out-of-state fingerprint checks are only performed when a new employee has disclosed that he or she has worked or lived in another state, and the check is limited to that state. Only police department employees, other peace officers (e.g., harbor and airport patrol), and firefighters are subject to federal FBI criminal records checks as part of the background investigation process.

Certain hourly employees (e.g., Recreation employees working with children and peace officers) are put through the same records check as regular employees. For other hourly employees, no fingerprint check is completed. Rather, the Police Department runs the employee's name and other identifying information through local arrest and conviction records.

Recommended Change

City staff recommends that the following fingerprint records checks be performed:

- Fingerprint records check of state DOJ databases for all hourly employees;
- An expanded fingerprint records check of federal FBI databases for all regular employees.

Using federal FBI database information will improve the efficiency and accuracy of out-of-state records checks and include any criminal history in any state. The City is required to obtain a City Council resolution authorizing receipt of federal criminal background information. This new Resolution will provide the DOJ with the City Council's authorization for approved staff to access state and federal criminal background records.

BUDGET/FINANCIAL INFORMATION:

There is a \$32 fee per employee to run California state DOJ background checks. It will require approximately \$5,600 per year to include 175 new hourly employees in the statewide DOJ background check process.

There is an additional charge of \$17 per employee to add federal background check information to the statewide DOJ check; it will require \$1,190 per year to include 70 new regular employees in the federal background check.

Funds are available to cover these costs for Fiscal Year 2016, and new funding will be included in the proposed 2017 Administrative Services budget.

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APPROVED BY: City Administrator's Office