



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

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Second District

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Third District

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Fourth District

MICHAEL D. ANTONOVICH
Fifth District

October 30, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

STATUS REPORT – IMPROVING COUNTY PERSONNEL PRACTICES AROUND FELONY CONVICTIONS

On September 22, 2009, your Board instructed the Chief Executive Officer and the Acting Director of Personnel to do the following:

1. Expedite the completion of the Live Scan Feasibility Study and the presentation of the proposed annual Conviction Ordinance change to the Board, and include this expedited time frame in the status report.
2. Conduct an investigation of the incident that occurred in July 2005, to determine who was responsible for evaluating this incident and recommending and approving the related disciplinary action. The report on this investigation should include recommendations for corrective action for any identified performance or process deficiencies.
3. Conduct a review of the actions taken by the Department in addressing the current situation, including recommendations to ensure improved communications with outside agencies, and a greater sense of urgency in resolving matters such as this.
4. Work with the District Attorney's office and Department of Human Resources to review best practices in other jurisdictions, then propose protocols for reporting convictions of County employees to the Department of Human Resources for Departmental notification.

This memorandum is to provide a report back on the above activities, and specifically on Item 1 and Item 4. Please note that Item 2 and Item 3 involve a

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confidential personnel matter that is anticipated to be the subject of litigation. Therefore, the report on the latter items, which was prepared with the advice and assistance of legal counsel, will be provided under separate cover through the Office of County Counsel.

Live Scan Feasibility Study

On August 4, 2009, your Board directed the Acting Director of Personnel to work with the Chief Executive Officer to study the feasibility of the expansion and phased implementation of the County's background check program to include access to federal-level criminal history information. A Live Scan Steering Committee was immediately formed comprised of members of several key departments, including the Chief Executive Office (CEO), the Department of Human Resources (DHR), County Counsel, and the Office of Affirmative Action Compliance. Four subcommittees were also formed, which included representatives from several line departments, to address issues unique to represented employees, non-represented employees, contract personnel and volunteers.

In order to expedite the completion of the feasibility study, the committees have been meeting on a weekly basis to address the myriad of issues relating to criminal background checks. Significant progress has been made to date, which is detailed in a comprehensive status report that will be submitted, under separate cover, to your Board on November 4, 2009. It is anticipated that the matters that are pending final determination will be completed by mid-December 2009 and the implementation of the expanded program will commence in January 2010.

Conviction Ordinance

A draft ordinance has been prepared by County Counsel that requires all persons employed in the classified or unclassified service, other than elected officials, to immediately report (in no event later than 72 hours) to their appointing authority any arrest for which the person is incarcerated or is out on bail on his or her own recognizance, pending trial. Additionally, the proposed ordinance requires every person employed in the classified or unclassified service, other than elected officials, to report annually, under penalty of perjury, whether he or she has been convicted of a felony or misdemeanor. Subsequent to your meeting of September 22, 2009, a provision was added to the draft ordinance that indicated these requirements will also apply to volunteers.

The proposed ordinance will require union consultation prior to implementation. Once that process has been completed and the draft has been finalized, we will

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submit the proposed ordinance to your Board for consideration. It is anticipated that this will occur by December 2009.

Best Practices of Other Jurisdictions for Reporting Employee Convictions

The District Attorney's office has an automated system that has extensive information regarding cases being handled by their office. However, pursuant to criminal justice standards, its use is restricted to prosecutorial purposes only. The system cannot be used for employment reasons; thus, it is not a viable option for obtaining information regarding County employees to be used in determining their incarceration status or continued suitability for employment.

DHR surveyed the top ten California counties (based on population size) and the City of Los Angeles regarding their practices in reporting employee convictions. Responses were received from eight of these agencies. Generally, only the public safety (e.g., Sheriff, District Attorney) departments within the surveyed agencies require the self-reporting of arrest and/or conviction information. The only exception is Alameda County, which requires applicants for other positions to report arrests under specific situations, such as an arrest under any section of Penal Code Section 290 (Megan's Law).

The County of Los Angeles' proposed policy will be more comprehensive than those of the counties responding to the survey in that it will require *all* employees and volunteers to self-report within 72 hours of an arrest and to annually report convictions. Other protocols and the specific process that will be utilized for this purpose are under-development at this time and will be finalized upon completion of the union consultation.

If you have any questions or require additional information, please contact Ellen Sandt, Deputy Chief Executive Officer at (213) 974-1186 or Lisa Garrett, Acting Director of Personnel, at (213) 974-2406.

WTF:ES
LMG:SKT:ef

c: District Attorney
Executive Officer, Board of Supervisors
Acting County Counsel
Acting Director of Personnel
Director, Office of Affirmative Action Compliance