County of Los Angeles
CHIEF EXECUTIVE OFFICE
KENNETH HAHN HALL OF ADMINISTRATION
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

January 29, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

EXPANSION OF THE CRIMINAL BACKGROUND CHECK PROGRAM TO INCLUDE RECOMMENDATIONS FROM THE LIVE SCAN FEASIBILITY REPORT (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

The Chief Executive Officer (CEO) and the Director of Personnel recommend that the Board approve recommendations for changes to the County's criminal history background check program to expand the scope of the search to a federal review for all employees and certain volunteers and contractors in sensitive positions, fingerprint all current employees in sensitive positions, further define the personnel subject to the background check, standardize language regarding criminal background checks in new contract solicitations, delegate authority to the Director of Personnel to evaluate all requests for exemption from the process, and approve the concept of employee self-reporting of arrests and convictions.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the following recommendations relating to the County of Los Angeles criminal history background check program:

1. Expand the local and State criminal history background checks to include a federal level review for all employees and certain volunteers and contractors in sensitive positions;

2. Require all current County employees and volunteers in sensitive positions to undergo the expanded criminal background check;

3. Exempt elected officials; volunteers who work less than three days for each event or period of service; and at the discretion of the appointing power, minors 14 years of age and older who work under constant supervision of a permanent County employee;

4. Require criminal history background checks to be conducted on all contract personnel who work within County facilities or have remote electronic access to medical or criminal information, consistent with existing standards established for employees in sensitive positions working in the County; and approve standard language to be included in new contract solicitations that sets forth this requirement;

5. Delegate authority to the Director of Personnel to evaluate and resolve all requests for exemption from the criminal background check process, approve if good cause exists, and annually report to the Board of Supervisors all exemptions that were granted;

6. Approve the concept of a County ordinance that requires all employees and volunteers in sensitive positions to self-disclose any arrests and convictions that occur while employed within 72 hours of the arrest and/or conviction, and self-disclose all criminal convictions at the time of hire and on an annual basis thereafter; and

7. Direct the CEO to consult with the County's labor groups regarding the program changes.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Background

On November 10, 1998, the Board adopted a resolution authorizing the County to access State and local summary criminal history information for employment purposes of individuals working in sensitive positions. A sensitive position was defined in the resolution as any duties posing a potential threat or risk to the County or to the public when performed by persons who have criminal history incompatible with those duties, whether those persons are employees of the County or perform those services pursuant to contract. The County's general practice has been to use the California Department of Justice (DOJ) electronic Live Scan system for this purpose.

On August 4, 2009, the Board approved a new resolution (Attachment A) that provided the authority to expand the State and local summary criminal history information to include access to federal level information. The Board also instructed the Director of Personnel to immediately implement all of the provisions of the new resolution prospectively for the most highly qualified executive recruitment candidates for department head, chief deputy, and the assistants/deputies who report to the chief deputy.

The Board further directed the Director of Personnel to work with the CEO to conduct a feasibility study to consider expanding the criminal background check program to include a federal level review for all other employees on the occasion of transfers, promotions, and new hires. Also, the study was to consider the feasibility of phasing in the implementation of local, State, and federal background checks for:

- All current employees, including those who have not transferred or promoted since the County Live Scan policy went into effect in 1998;
- Existing and future contractors; and
- Existing and future volunteers.

On February 28, 2012, upon a motion by Supervisor Molina, the Board directed the Department of Children and Family Services (DCFS) to immediately begin conducting Live Scans of all DCFS employees who have contact with children and have not been previously scanned (Attachment B). The Board also directed the CEO and the Department of Human Resources (DHR) to report on the status of the Live Scan Feasibility Study (Attachment C).

On March 16, 2012, the CEO and DHR convened a meeting with your representatives to obtain feedback on a draft Live Scan Feasibility Report and implementation plan. A final report was submitted to your offices on May 10, 2012 (Attachment D). Thereafter, a meeting was held on June 7, 2012, with your representatives to obtain input on the final report, and receive further direction on the Live Scan program and policy.

Feasibility Study Findings

Federal Level Background Check - The feasibility study determined that many County employees and candidates for employment have previously resided and worked outside of the State of California. There are also part-time workers and contract personnel who currently reside and/or work in other states. Therefore, a federal level review should be conducted for all employees, certain volunteers, and designated contract personnel in

sensitive positions. This will ensure a comprehensive criminal background check is obtained. Additionally, a nationwide review is a risk management tool for identifying all convictions incompatible with job duties vital to effective County operations and public protection.

Fingerprinting of Current Employees - Currently, only new hires and employees who receive promotions or transfer to a different County department are fingerprinted. There are a significant number of employees who were hired before the criminal background check resolution was adopted and have not had a qualifying event (promotion or transfer) subsequent to that time. Therefore, it is recommended that a Live Scan be conducted on all current employees in sensitive positions, which includes the federal level review.

Live Scan Exemptions - The Board has exempted from the criminal background check process all minor volunteers under the age of 14. It is recommended that minors 14 years and older who work under constant supervision of a permanent County employee also be exempted at the discretion of the appointing power. An example of this would be those minors who work at County libraries under adult supervision.

Compensated election personnel who work less than three days per election are also exempted currently. It is recommended that this exemption be extended to *all* volunteers who work less than three days for each event or period of service as it would not be practicable to fingerprint these individuals and could negatively impact their availability to perform critical services on a short-term basis.

Elected officials should also be exempted from Live Scan because the County has no authority to make job suitability determinations as they are elected by their constituency.

Contract Workers Subject to Live Scan - For contract personnel, it is recommended that those contractors who work in a sensitive position within County facilities, or those who possess remote access to medical or criminal information via electronic means, be subject to a criminal background check. Unless otherwise required or necessary due to the proximity of the public (e.g., recreation areas and parks), background checks would not be required for contract workers in less sensitive areas or assignments.

It is recommended that the following standard language be included in all new contract solicitations that require criminal background checks:

> *Each of the Contractor's staff performing services under this Contract who is in a designated sensitive position, as determined by County in County's sole discretion, shall undergo and pass a background investigation to the*

satisfaction of County as a condition of beginning and continuing to perform services under this Contract. Such background investigation must be obtained through fingerprints submitted to the California Department of Justice to include State, local, and federal-level review, which may include, but shall not be limited to, criminal conviction information. The fees associated with the background investigation shall be at the expense of the Contractor, regardless if the member of Contractor's staff passes or fails the background investigation.

Requests for Special Exemption from Live Scan - Currently, there are no defined provisions for exemption from the Live Scan requirement. However, special or emergency circumstances may arise where exemption from a criminal background check may be in the best interests of the service and/or the County, such as a hiring emergency in which life, health or property is in jeopardy or a project where it is impractical to await Live Scan results for a large number of workers. Therefore, it is recommended that exceptions be made in limited situations, after review and approval by the Director of Personnel. For monitoring purposes, it is recommended that the Director of Personnel annually report to the Board of Supervisors all exemptions from Live Scan that have been granted for that calendar year.

Self-Reporting of Arrests and Convictions - Candidates for employment and current employees who apply for promotional opportunities are required to disclose any criminal convictions on County employment applications and online job applications. They are not required to disclose arrests or convictions at any other time, except by department policy if one exists. The DOJ Live Scan system does provide alerts on subsequent arrests or convictions in California for an employee or candidate who has been fingerprinted. However, sometimes those notifications are delayed or do not occur if an arresting jurisdiction does not report the information to the DOJ. Subsequent arrests and convictions outside of California are not reported.

An early alert regarding an arrest would enable the County to take precautionary measures such as reassignment, ordered absence, or an unpaid leave per Civil Service Rule 18.01 pending the resolution of a court matter. An early alert regarding a criminal conviction would allow the County to determine if there is job nexus and suitability for continued employment. Therefore, it is recommended that an ordinance and related policy be adopted that would require employees and volunteers in sensitive positions to notify their human resources office within 72 hours of an arrest or conviction. This information would also be collected on an annual basis, similar to the report of outside employment. If your Board approves this concept, consultation with employee unions will be immediately initiated prior to implementation.

Consultation with Labor Unions

In August 2012, the CEO provided copies of the Live Scan Feasibility Study report to all certified employee organizations and extended an invitation to meet with them to discuss the findings. In response to their request, CEO Employee Relations and DHR staff met with representatives from the Services Employees International Union (SEIU) Local 721 and the Coalition of County Unions. Both groups expressed concern that currently all positions in the County have been designated as sensitive. In addition, they advised that they were reserving their rights under the Employee Relations Ordinance, as well as enforcing their contractual rights contained in memoranda of understanding, on any recommendations contained in the Study and approved by the Board.

The recommendation to continue the consultation with the County labor groups regarding the criminal background check program will ensure that appropriate communication occurs regarding any changes that may impact its members.

Other Actions

Since the adoption of the August 4, 2009 resolution, DHR has taken several actions to strengthen the County's criminal background check program as follows:

Central Live Scan Unit – A Central Live Scan Unit was established in DHR to provide countywide oversight of criminal background checks to ensure compliance with DOJ and Board requirements. This unit maintains the departmental sensitive position lists and the inventory of Live Scan equipment throughout the County. It also provides fingerprinting services and support to other departments; obtains local Superior Court records; maintains County policies relating to the criminal background check process; serves as the central point of contact for all questions relating to Live Scan; and conducts training, as required.

Superior Court Records – The DOJ information resulting from a Live Scan check is considered confidential and must be destroyed once an employment decision is made. Therefore, court documents, which are public records, are necessary to take administrative actions relating to the convictions. DHR consulted with Los Angeles Superior Court management regarding an expedited process to access their records to confirm the convictions reported by the DOJ. In response, the Court developed a system known as the Data and Document Exchange Service (DDES) that provides direct access to their records. The County executed a Memorandum of Understanding with the Court on August 9, 2010, to access this system. The Central Live Scan Unit is now able to provide expedited retrieval of court documents for County departments.

Policy Changes – DHR has drafted an updated policy to reflect all Board changes that resulted from the August 2009 resolution, as well as clarifications and efficiencies that resulted from a countywide Live Scan review conducted in 2008-2009. The changes include elimination of the redundancy of background checks and associated costs conducted by multiple Live Scans of employees promoted in the same department, the addition of DOJ requirements and recordkeeping protocols, and a modification to require disclosure of all felony convictions dismissed or set aside pursuant to Penal Code Section 1203.4.

Discipline Roundtable – In response to the February 2012 Board order regarding fingerprinting of current DCFS employees, DHR has provided assistance and guidance to the department on administrative activities relating to this process. In addition, DHR coordinated the establishment of a cross-department roundtable to discuss the appropriate disciplinary action to take for previously undisclosed criminal convictions in which job nexus has been determined. The members of the roundtable include representatives from the department, DHR, and County Counsel. This process will also be used for other departments should the Board approve the recommendation to Live Scan all current employees.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The County Strategic Plan directs that we maximize the effectiveness of processes, structure, and operations to support timely delivery of customer-oriented and efficient public services (Goal 1). Expanding the County's criminal background check program to include more extensive reviews is another strategy to ensure that individuals entrusted with performing the duties related to this goal have backgrounds compatible with County employment. The recommendations will also result in more effective, comprehensive, and consistent processes, procedures and policies addressing existing legal requirements and appropriate personnel practices.

FISCAL IMPACT/FINANCING

The costs to implement the expansion of the criminal background check program to include federal level criminal history information and to fingerprint current employees and volunteers in sensitive positions is estimated at $4.1 million. The estimate is based on the State of California Department of Justice fees for processing local, State, and federal level Live Scan requests. The cost estimates for prospective personnel are limited to the federal level criminal background check, as the costs associated with local and State background checks are already accounted for in each department's existing budget. To mitigate the immediate impact of the program expansion, an implementation

plan has been developed that allows for a phased-in approach for various categories of personnel, which spreads estimated costs over two years.

The costs related to conducting background checks for contract personnel in sensitive positions will be assumed by the prospective vendors selected to conduct business with the County. While it is anticipated that any cost increases due to new program requirements will be assumed initially by the selected contractors, these increases may ultimately be charged back to the County as part of the total cost of the contract.

The Board previously set aside $2.0 million in a General Fund Designation to cover the anticipated costs for fingerprinting current employees in positions involving the direct care, oversight, and protection of children. The CEO will work with DHR and affected departments to consider funding the costs incurred by the expansion of the criminal background check program to a federal level review, and to all current employees and volunteers in sensitive positions.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

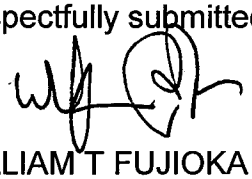
On August 4, 2009, pursuant to Penal Code Section 11105(b)11, your Board adopted a new resolution that provided authority to expand the State and local summary criminal history background check to include access to federal level information. At that time, the expanded federal review was limited to executive level recruitment candidates. The current request is to extend the review to all employees and certain volunteers and contractors serving in sensitive positions. No additional legal authority is required for this action based on the August 4, 2009 resolution that includes this provision.

The other recommendations are policy decisions within the Board's authority. Should the Board adopt the concept of self-disclosure of arrests and convictions, an ordinance will be drafted for your consideration, after consultation with labor unions.

IMPACT ON CURRENT SERVICES

The recommendations contained herein to expand the current criminal background check program are designed to further strengthen the County's workforce capacity and employment practices. The benefits of conducting comprehensive screenings of current and prospective employees, and certain volunteers and contractors in designated sensitive positions outweigh the financial impact to the County. The addition of a federal level (nationwide) criminal background check will ensure that the County has exercised due diligence in determining the fitness for duty of every member of the County workforce assigned to a sensitive position, and fulfill its risk management responsibilities in connection with hiring, retention and other employment decisions.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:EFS:LMG:
GS:LG:cg

Attachments

c: Executive Office, Board of Supervisors
County Counsel
Human Resources

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County of Los Angeles
CHIEF EXECUTIVE OFFICE
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LOS ANGELES, CALIFORNIA 90012
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WILLIAM T FUJIOKA
Chief Executive Officer

ATTACHMENT A

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

REVISED

July 14, 2009

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 August 4, 2009

SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

ACCESSING CRIMINAL HISTORY INFORMATION ON COUNTY EMPLOYEES AND CANDIDATES FOR EMPLOYMENT WITH THE COUNTY OF LOS ANGELES (ALL DISTRICTS) (3-VOTES)

SUBJECT

The recommendation of the Chief Executive Officer (CEO) and the Acting Director of Personnel is to replace the Board Resolution of November 10, 1998 regarding criminal history background checks (Attachment I) with a new resolution (Attachment II) that will provide the authority to expand current access to State and local summary criminal history information to include access to federal-level criminal history information on County employees and candidates for employment with the County of Los Angeles.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the new resolution (Attachment II) to authorize the Director of Personnel and each appointing authority to access federal, State, and local summary criminal history information for employment purposes.

Instruct the Acting Director of Personnel to:

a. Immediately implement, on a prospective basis, all the provisions of the resolution, including federal access, for the most highly qualified executive recruitment candidates for department head positions and the next two levels down (Chief Deputies and Assistants/Deputies), as defined in the Charter of the County of Los Angeles Section 33(c) and (i) and update Board and County policy as necessary;

b. Continue the current criminal background check for State and local summary criminal history information for all other employees, on the occasion of transfers, promotions and new hires; hiring of contract personnel; and volunteers; and conduct a feasibility study to consider expanding such background checks to include federal criminal background checks;

c. Exempt minor volunteers under the age of 14, and compensated election personnel who work less than three days per election, as approved by the Department of Human Resources and update appropriate County policies; and

d. Work with the CEO to study the feasibility of phasing in the implementation of local, State and federal criminal background checks for:

- ~~New hires and~~ All current employees, including those who have not transferred or promoted since the Live Scanning policy went into effect in 1998;
- Existing and future contractors; and
- Existing and future volunteers.

PURPOSE /JUSTIFICATION OF RECOMMENDED ACTION

The current Board resolution on accessing criminal history for employment purposes is limited to State and local information. The new resolution will allow access for federal-level information as well. This will allow for a more comprehensive evaluation of the most highly qualified applicants for executive-level positions. Screening the backgrounds of these individuals to determine if they have criminal convictions that are incompatible with the duties of high-level sensitive positions is vital to County operations and public protection. All other Board requirements relating to criminal background checks remain in effect, such as designation of sensitive positions and the standards for determining the types of convictions that warrant withholding of employment or appointment to these positions.

The recommendation to exempt minor volunteers (under age 14) and compensated election personnel who work less than three days per election will resolve issues that came up during the DHR Live Scan audit process. Related Board and County policies will be updated as appropriate.

It is proposed that CEO and Department of Human Resources explore the feasibility of applying the nationwide provisions of the new resolution to existing County staff, volunteers, and contract personnel in phases at a later date. As part of the feasibility study, we will need to meet and confer with all employee unions. Any proposed implementation

plan must recognize current budgetary constraints. Such a plan must also include specific provisions to address circumstances where it is determined that an existing employee can no longer stay in a sensitive position and should consider the County's flexibility and capacity to make reassignments as needed. Once those matters have been resolved, we will come back to your Board with the results of the feasibility study.

Recently, the Department of Human Resources conducted a Countywide review of departmental practices relating to criminal background checks in response to your Board's order dated October 28, 2008 (Attachment III). Departments reported that approximately 35% of the current workforce has not been fingerprinted or does not have a "flag" in the Department of Justice system to notify the County of subsequent arrests/convictions. The review identified several issues such as the need to fingerprint current County employees, especially those who provide services to children, the type of contractors and volunteers that are subject to Live Scan, the limitations and requirements relating to fingerprinting minors, and job suitability determinations for court referrals. These issues will also be addressed in the feasibility study.

Implementation of Strategic Plan Goals

The County Strategic Plan directs that we maximize the effectiveness of processes, structure, and operations to support timely delivery of customer-oriented and efficient public services (Goal 1). A comprehensive criminal background check is one of the methods to ensure that the individuals who are entrusted with performing the duties related to this goal have backgrounds that are compatible with County employment. It is especially critical that there be immediate implementation of the resolution's provisions for those individuals who are appointed to executive-level positions and have the responsibility for ensuring this goal is carried out within their organizational units, as they must demonstrate that their conduct, both present and past, reflects the integrity required of a high-level County official.

FISCAL IMPACT/FINANCING

There will be no increase in costs as a result of adoption of this resolution and limiting implementation to the most highly qualified executive-level, unclassified sensitive positions. Funds are budgeted within each County department for this purpose. The fiscal impact for all other sensitive positions will be detailed in the feasibility study that will be submitted at a later date.

FACTS AND PROVISIONS/ LEGAL REQUIREMENTS

On November 10, 1998, your Board authorized the County to access State and local summary criminal history information for employment purposes for persons in sensitive positions, whether those persons are employees of the County or perform services

ATTACHMENT A

pursuant to contract. However, the County now requires the authority to access that information on a federal basis as many candidates for County employment in executive-level unclassified sensitive positions have resided and worked outside of the state of California and it is essential that a comprehensive nationwide review of their background take place. Penal Code Section 11105(b)(11) authorizes cities, counties and districts to access federal level criminal history information with the express authority of their local governing body, which for the County of Los Angeles is your Board. The attached resolution will provide such express authority.

IMPACT ON CURRENT SERVICES

The recommendations contained herein to expand the current background check program to access federal criminal history information, and to update County policy to immediately implement these provisions for candidates for executive-level unclassified sensitive positions, is designed to strengthen the County's employment practices to ensure that high-level County officials have backgrounds suitable for their employment based on County standards.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:EFS:LMG
SKT:egf

Attachments (3)

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors

ATTACHMENT A

ATTACHMENT I

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DECLARING ITS INTENTION TO PROVIDE FOR THE ACCESS OF CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT IN SENSITIVE POSITIONS

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) authorize counties to access state and local summary criminal history information for employment purposes; and

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) provide that there be a requirement for or exclusion from employment based on specific criminal conduct by the person who is the subject of the record.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Los Angeles that:

(1) The Director of Personnel and each appointing authority of the County be authorized to access summary criminal history information for employment purposes in such sensitive positions as identified by the Director of Personnel and the appointing authority; and

(2) The County of Los Angeles shall consider as sensitive any position involving duties which pose a potential threat or risk to the County or to the public when performed by persons who have a criminal history incompatible with those duties, whether those persons are employees of the County or perform those services pursuant to contract; and

(3) The County of Los Angeles shall not place a person in a sensitive position if he or she has been convicted of a felony or a misdemeanor; except that such conviction may be disregarded if it is determined that there were mitigating circumstances or that the conviction is not related to the position and poses no threat or risk to the County or to the public.

BE IT FURTHER RESOLVED that each County department shall review and identify its specific sensitive positions. All departments must secure criminal conviction information on candidates being considered for positions within the following categories:

- Positions that involve the care, oversight, or protection of persons through direct contact with such persons.
- Positions having direct or indirect access to funds or negotiable instruments.
- Positions that require state and/or professional licensing.
- Positions that involve public safety and/or law enforcement.
- Positions that have access to or charge for drugs or narcotics.
- Positions that have access to confidential or classified information including criminal conviction information.
- Positions that involve the care, oversight, or protection of County, public, or private property.

Each appointing authority may establish additional categories of sensitive positions, with the approval of the Director of Personnel and of the Affirmative Action Compliance Officer.

Each department's personnel officer shall maintain the list of sensitive positions.

The Director of Personnel and the Affirmative Action Compliance Officer will periodically review this list.

BE IT FURTHER RESOLVED that the following procedures are adopted to safeguard the sensitive and private criminal history information.

The California Administrative Code requires criminal conviction information be released only to those persons with a legitimate need to know and only at the time they require such knowledge. Further, unauthorized disclosure of criminal history information is punishable as a crime. Therefore, each department's personnel officer is designated as the custodian of the information and will be responsible for its security and confidentiality. The personnel officer will establish the following procedures to maintain confidentiality, and may establish such additional procedures as are necessary to implement this policy:

- The information will be maintained under lock and key and will not leave the premises of the personnel office.
- The personnel officer will determine "need to know" and will ensure that only those individuals with a legitimate "need to know" are permitted to review the information.
- The personnel officer will maintain a log containing:
  - The name and title of the individual reviewing the information;
  - The date and time the individual examined the information in the personnel office;
  - The individual "need to know" reason for viewing the information; and,
  - The personnel officer's signature approving the examination of the information.

— All automated systems containing conviction information must be secured to prevent unauthorized access, alteration, deletion, or release of the information.

The foregoing resolution was on the 10th day of November 1990, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

JOANNE STURGES, Executive Officer-
Clerk of the Board of Supervisors
of the County of Los Angeles

By: Sylvia J. Villalobos
Deputy

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By: _____
Deputy

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ATTACHMENT II

Res. No. 77055
ATTACHMENT A

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES

WHEREAS, Penal Code Sections III05(b)(11) and 13300(b)(11) authorize counties to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section III05(b)(11) authorizes counties 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; and

WHEREAS, Penal Code Sections III05(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; and

WHEREAS, Penal Code Sections 11105(b)(11)and 13300(b)(11) require the Board of Supervisors of a county to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Los Angeles that: the County of Los Angeles is hereby authorized to access state and federal level summary criminal history information for purposes of

employment (including volunteers and contract workers), and may not disseminate the information to a private entity; and

BE IT FURTHER RESOLVED that the County of Los Angeles shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract workers), 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, or work in question.

The foregoing resolution was on the 4th day of ~~June~~ AUGUST 2009, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI
Executive Officer
Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting County Counsel

By _____
LESTER J. TOLNAI
Assistant County Counsel
Executive Office

LJT:mm

HOA.614038.1

ATTACHMENT A

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held October 28, 2008, the Board took the following action:

38-C
The following item was called up for consideration:

Report by the Chief Executive Officer on the actions that have been taken to address items established, filled or staffed in the Department of Health Services relating to Criminal Background Investigations.

William T Fujioka, Chief Executive Officer, and Gregory Polk, Manager, Chief Executive Office; Michael J. Henry, Director of Personnel, and Epifanio Peinado, Senior Human Resources Manager, Department of Human Resources; Dr. John F. Schunhoff, Interim Director, James Jones, Administrative Deputy, and Ann Marinovich, Chief of Human Resources, Department of Health Services, responded to questions posed by the Board.

Arnold Sachs addressed the Board.

After discussion, on motion of Supervisor Antonovich, seconded by Supervisor Molina, unanimously carried (Supervisor Knabe being absent), the Board took the following actions:

1. Received and filed the attached report presented by the Director of Personnel, Michael J. Henry; and

2. Directed the Chief Executive Officer to report back in two weeks on the actions that have been taken or will be taken to address the following:

   - Items established in the Department of Health Services (DHS) and items filled or staffed by existing personnel to process criminal background investigations;

(Continued on Page 2)

38-C (Continued)

- Operational procedures established in DHS to ensure compliance with the Board Adopted Resolution, updated on November 2, 2007, on the Designation of Sensitive Positions and Requirements for Criminal History Information. These procedures should include both job nexus determinations and determinations on an employee's suitability for employment (Phase I and Phase II referenced in the Director of Personnel's report);

- Operational procedures established in DHS to ensure appropriate and timely communication with Hospital Chief Executive Officers and Program Directors, or their designees, regarding all determinations and findings regarding employees that require a criminal background investigation. The report should include time frames for processing background investigations;

- Actions that will be taken to evaluate Countywide compliance with criminal background investigation requirements; and

- The disposition and implementation status of the recommendations made by the Director of Personnel.

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Attachment

Copies distributed:
Each Supervisor
Chief Executive Officer
County Counsel
Director of Personnel
Interim Director of Health Services

25-A. Recommendation as submitted by Supervisor Molina: Direct the Director of Children and Family Services to immediately begin live scanning all Children and Family Services employees who have contact with children and have not yet been live scanned, and report back within two weeks on the status of this request; also instruct the Chief Executive Officer and the Director of Personnel to report to the Board within two weeks on the status of the Live Scan Feasibility Study, along with an implementation plan for remaining County departments; and develop a process for mitigation of those employees who receive negative reports on their live scan, when there is a nexus to their jobs. (12-0942)

Dr. Genevieve Clavreul and Arnold Sachs addressed the Board.

Supervisor Molina amended her motion as follows:

1. **Direct the Director of Children and Family Services, as provided in and consistent with Welfare and Institutions Code 16501, to immediately begin live scanning all Department of Children and Family Services' employees who have contact with children and have not yet been live scanned, and report back to the Board within two weeks on the status of this request; and**

2. **Instruct the Chief Executive Officer and the Director of Personnel to:**

   - **Immediately begin consultation with the union(s) representing the subject employees; and**

   - **Report to the Board within two weeks on the status of the Live Scan Feasibility Study, along with an implementation plan for remaining County Departments.**

On motion of Supervisor Molina, seconded by Supervisor Antonovich, this item was approved as amended.

Ayes: 5 - Supervisor Molina, Supervisor Ridley-Thomas, Supervisor Knabe, Supervisor Antonovich and Supervisor Yaroslavsky

ATTACHMENT C

County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

March 14, 2012

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

FROM: William T Fujioka
Chief Executive Officer

Lisa M. Garrett
Director of Personnel

STATUS REPORT ON LIVE SCAN FEASIBILITY

On February 28, 2012, upon the motion of Supervisor Molina, your Board directed the Chief Executive Office (CEO) and the Department of Human Resources (DHR) to report on the status of the Live Scan Feasibility Study, along with an implementation plan for conducting live scans in the remaining County departments. As instructed, this memorandum provides the status of the Live Scan Feasibility Study and implementation plan, and provides an update on the Countywide Live Scan program enhancements.

On March 8, 2012, the CEO and DHR presented the draft Live Scan Feasibility Study and implementation plan to the Operations Cluster Board Deputies. The draft report is near completion and the Live Scan Steering Committee is working to resolve the remaining issues related to the Live Scan of current employees and contract personnel.

On March 16, 2012, the CEO and DHR will convene a meeting for the Board Offices to consider your Board's input regarding the Live Scan direction and policy. In addition, any offices requesting separate briefings will be accommodated. The final report will be submitted for your Board's review within thirty (30) days.

ATTACHMENT C

In addition to the Feasibility Study, the following enhancements have been made to the Countywide Live Scan operations by DHR:

- Implemented the Federal level criminal background checks for all executive level and unclassified candidates for hire and promotion.

- Established a Central Live Scan Unit to monitor compliance with the Department of Justice (DOJ) Live Scan requirements and County Live Scan policy, and provide guidance and customer assistance to County departments to expedite the hiring process. The Central Live Scan Unit currently conducts fingerprint-rolling services for ten (10) customer departments.

- Negotiated and entered into a memorandum of understanding with the Los Angeles Superior Court to provide DHR Central Live Scan staff access to court records through the Superior Court Document and Data Exchange Service. This service allows DHR to assist County departments in obtaining court records in a cost-effective and timely manner in order to validate criminal history information and expedite the job nexus and employment suitability decision-making process.

- Established a process to assist and ensure the compliance of County departments with the Department of Justice, Custodian of Records confirmation requirements.

- Implemented a Live Scan Web Scheduler for client departments that automated the scheduling of Live Scan appointments.

If you have any questions regarding this matter, please contact Ellen Sandt, at (213) 974-1186, or Lisa M. Garrett, at (213) 974-2406.

WTF:EFS
LMG:EP:ef

c: Executive Office, Board of Supervisors
County Counsel

03.14.2012 board update live scan feasbility study.docm

County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
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ATTACHMENT D

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

May 10 , 2012

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

From: William T Fujioka
Chief Executive Officer

Lisa M. Garrett
Director of Personnel

Subject: **LIVE SCAN FEASIBILITY REPORT**

On February 28, 2012, upon a motion by Supervisor Gloria Molina, your Board directed the Chief Executive Office (CEO) and the Department of Human Resources (DHR) to report on the status of the Live Scan Feasibility Study, along with an implementation plan for conducting Live Scans in the remaining County departments. The Status Report was provided to you on March 14, 2012, as well as an update on the Countywide Live Scan program enhancements.

A draft report on the feasibility study was provided to your offices and on March 16, 2012, the CEO and DHR convened a meeting with your representatives to obtain feedback on the draft. The report has now been finalized and is attached for your review.

CEO and DHR will again convene a meeting with your Board offices to obtain input on the final report and receive further direction on the Live Scan program and policy. Thereafter, a Board letter will be prepared regarding any program changes that require your formal approval.

Should you have any questions regarding this matter, please contact Ellen Sandt at (213) 974-1186, or Lisa M. Garrett at (213) 974-2406.

WTF:ES:LMG
SKT:smh

Attachment

ATTACHMENT D

Live Scan
Feasibility Study

D | H | R

Department of Human Resources
County of Los Angeles

APRIL 2012

ATTACHMENT D

Live Scan Feasibility Study
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LIVE SCAN FEASIBILITY STUDY

EXECUTIVE SUMMARY

On August 4, 2009, the Los Angeles County Board of Supervisors approved a new resolution that provided the authority to expand current access to State and local summary criminal history information to include access to this information on a federal level for County employees and candidates for employment (Attachment 1). This information is obtained via the State of California, Department of Justice's automated fingerprinting process known as Live Scan. The Board instructed the Director of Personnel to immediately implement all of the provisions of the new resolution, including federal access, prospectively for the most highly qualified executive recruitment candidates for department head positions and the next two levels down (chief deputy and the assistants/deputies who report to the chief deputy).

For all other employees, the current policy of conducting only a State and local check at the time of their hire and on the occasion of their transfer and promotion was to continue. This level of a criminal background check also applied to volunteers and contract personnel.

The Board further instructed the Director of Personnel to work with the Chief Executive Officer to conduct a feasibility study to consider expanding the background check for these individuals to include the federal-level review. The study was to consider the feasibility of phasing in the implementation of local, State and federal background checks for:

- All current employees, including those who have not transferred or promoted since the Live Scanning policy went into effect in 1998;
- Existing and future contractors; and
- Existing and future volunteers.

Any additional matters relating to the criminal background check program were also to be addressed in the feasibility study (e.g., more clearly defining the type of contractors and volunteers subject to the provisions of the Resolution).

In order to address these issues, several committees were formed comprised of members from central agencies and line departments. The efforts from these groups resulted in changes in policy to ensure the administration of the criminal background check program was comprehensive, legally compliant, more efficient and better met the objective of ensuring employees, volunteers, and contractors in sensitive positions have backgrounds that are compatible with County hiring standards. In addition, the

committees submitted the following recommendations to the Board of Supervisors for consideration:

1. Expand criminal background checks to include federal level review for all current and prospective represented and non-represented employees, certain volunteers and contractors in designated sensitive positions; and implement on a phased basis.

2. Exempt elected officials; volunteers who work less than three days for each event or period of service; and at the discretion of the appointing power, minors 14 years of age and older who work under constant supervision of a permanent County employee. (Minors under 14 are already exempt).

3. Establish that contractor personnel who work within County facilities, or those who possess remote access to medical or criminal information via electronic means, are subject to Live Scan, consistent with existing standards established for sensitive positions working in the County. Unless otherwise required or necessary due to the proximity of the public (e.g., public parks, etc.), background checks would not be required for contract workers in less sensitive areas or assignments.

4. Approve standard language that will be included in all new contract solicitations that sets forth the requirement for a State, local, and federal criminal background check.

5. Delegate authority to the Director of Personnel to evaluate and resolve all requests for exemption from Live Scan and approve if good cause exists (e.g., immediate hiring of disaster service workers during declared emergencies).

6. Establish a Central Live Scan Unit in the Department of Human Resources to provide central coordination of criminal background check policy and practices and to provide Live Scan services for other County departments.

7. Require all designated employees and volunteers to self-disclose (1) any arrests and convictions that occur while employed, within 72 hours of the arrest and/or conviction, and (2) self-disclose all criminal convictions at the time of hire and on an annual basis thereafter.

8. Direct the Chief Executive Officer to consult with the County's labor groups regarding the findings and recommendations from the study.

BACKGROUND

On November 10, 1998, the Los Angeles County Board of Supervisors adopted a resolution in which the Director of Personnel and each appointing authority of the

County was authorized to access State and local summary criminal history information for employment purposes for individuals working in sensitive positions. A sensitive position was defined in the Resolution as any position involving duties which pose a potential threat or risk to the County or to the public when performed by persons who have a criminal history incompatible with those duties, whether those persons are employees of the County or perform those services pursuant to contract. The categories of sensitive positions are as follows:

- Positions that involve the care, oversight, or protection of persons through direct contact with such persons;
- Positions having direct or indirect access to funds or negotiable instruments;
- Positions that require State and/or professional licensing;
- Positions that involve public safety and/or law enforcement;
- Positions that have access to or charge for drugs or narcotics;
- Positions that have access to confidential or classified information including criminal conviction information;
- Positions that involve the care, oversight, or protection of County, public, or private property.

On November 25, 1998, the Department of Human Resources (DHR) issued County policy and procedures that implemented the Board's resolution and provided guidelines on the designation of sensitive positions. The policy was formally reiterated in DHR's Policies, Procedures, and Guidelines No. 514, Designation of Sensitive Positions and Requirements for Criminal History Information, effective November 2, 2007. The policy established standards for determining the types of convictions that warrant withholding of appointment to such sensitive positions. It also established the requirement that the criminal conviction information be obtained through fingerprints submitted to the California Department of Justice (DOJ). The County's general practice has been to use DOJ's Live Scan system for this purpose. Live Scan technology allows digitally scanned fingerprints to be electronically submitted and processed by the DOJ.

In May 2002, the Chief Executive Office (CEO) incorporated security protocols in their Volunteer Program Policy Manual that required a criminal background investigation be completed for all volunteers applying for or assigned to a sensitive position.

On August 4, 2009, the Board of Supervisors approved a new resolution that provided the authority to expand the State and local summary criminal history information to include access to this information on a federal level for employment purposes. At that time, the Board also instructed the immediate implementation of the provision for federal access prospectively for the most highly qualified executive recruitment candidates for department head positions and the next two levels down (chief deputy and the assistants/deputies who report to the chief deputy).

The Board also exempted minor volunteers under the age of 14 and compensated election personnel who work less than three days per election, as approved by the Department of Human Resources.

For all other employees, the existing policy of conducting only a State and local check at the time of their hire and on the occasion of their transfer and promotion was to continue. This level of a criminal background check also applied to volunteers and contract personnel. In addition, the Board directed that a feasibility study be conducted to consider the following:

- Expanding the background check to a federal-level review for employees who are newly hired, promoted and/or transferred; and certain contract personnel and volunteer workers who are newly assigned.
- Phasing in the implementation of local, State and federal background checks for all *current* employees, including those who have not transferred or promoted since the Live Scan policy went into effect in 1998; and *existing* contractors and volunteers.
- Establishing guidelines for when an existing employee can no longer remain on a sensitive position and the County's capacity to make reassignments when needed.
- Identifying the types of contractors and volunteers that are subject to Live Scan.
- Determining the limitations and requirements relating to fingerprinting minors.
- Determining job suitability for workers who are not employees, contractors, or volunteers (e.g., court referrals).

On August 4, 2009, the Board also directed that all appropriate County policies be updated to include the provisions of the new resolution and other related changes approved by them.

On September 15, 2009, the DOJ approved the Board's resolution expanding authority for Los Angeles County to access State, local and federal summary criminal history information for employment purposes (Attachment 2).

METHODOLOGY

A Live Scan Steering Committee was formed comprised of members from the Chief Executive Office (including CEO Employee Relations), County Counsel, Office of Affirmative Action Compliance, and the Department of Human Resources. The Steering Committee convened weekly to address the Board Order and other administrative issues related to the criminal background check program.

Four sub-committees were formed to address issues unique to the following workforce groups: represented employees, non-represented employees, volunteer workers, and contract personnel. Each subcommittee was specifically charged with addressing the types of workers subject to the criminal background check provisions, providing information to assist in projecting costs for expansion of the program, assessing the feasibility of fingerprinting current staff, determining the phases in which any action will be implemented, and addressing any other issues unique to their group.

All of the committees were instructed to carefully consider several factors, such as potential liability to the County, good personnel practices, and business necessity when formulating their recommendations. In addition, ongoing consultation took place with the DOJ to clarify issues and ensure conformity to their requirements. The County's Chief Information Office was also consulted on information technology issues. Further, meetings and discussions took place with representatives from the Los Angeles Superior Court relating to access to their criminal records; and a Countywide survey of background check practices for contract personnel was conducted.

WORKFORCE GROUPS

REPRESENTED EMPLOYEES

The Represented Employees Subcommittee was comprised of members from CEO Employee Relations, County Counsel, and the Department of Human Resources.

This Subcommittee determined that based on recent updates, departments had designated all positions within each represented classification as "sensitive", with the exception of two student worker positions. Therefore, any permanent or temporary employee with a change in status (hired, transferred or promoted) would be subject to the Live Scan process; and if found to have criminal history, would have a job nexus and employment suitability evaluation.

Currently, there are 61,857[1] represented employees in the County workforce that are considered for this study. Based on previous information reported by departments, 35% or approximately 21,650 of these individuals have never been Live Scanned nor do they have a flag in the DOJ system to notify the County of subsequent arrests and convictions. This is due to the employees being hired before the implementation of Live Scan and never having a qualifying event (promotion or transfer) subsequent to that time. In addition, there were some employees who should have been Live Scanned but were never fingerprinted. As a result, there may be individuals currently in the workforce who have backgrounds incompatible with County standards. Therefore, this

[1] All numbers for current employee populations exclude District Attorney, Probation, and Sheriff as these departments have long-standing comprehensive criminal background check programs that include federal checks for all individuals hired into their departments.

Subcommittee recommends the current population be required to undergo the criminal background check process.

If the recommendation for implementing Live Scan for current employees is approved, union consultation would need to take place prior to implementation as this would be a change to current policy.

Due to the large population of represented employees, the financial impact associated with these actions would be costly and logistically unwieldy. Therefore, the Subcommittee recommends the implementation for current employees be done in phases and prioritized based on the susceptibility of the population served and the potential liability to the County. The Steering Committee suggests the two categories of personnel for priority implementation are:

- Employees with direct care, oversight, and protection of persons; and
- Employees with access to funds or negotiable instruments.

RECOMMENDATIONS
Represented Employees

1. Require current and prospective represented employees to undergo the criminal background check process.
2. Consult with employee unions regarding the policy changes.
3. Implement the changes in phases, with priority implementation based on the susceptibility of the population served and high potential for County liability.

NON-REPRESENTED EMPLOYEES

The Non-Represented Employees Subcommittee was comprised of members from the Chief Executive Office, Department of Human Resources and the Internal Services Department.

The Subcommittee determined that currently there are approximately 10,090[1] non-represented employees, all of whom are in designated sensitive positions and subject to a criminal background check at the time of their hire into the County, upon promotion, and/or transfer to a different County department. As reported by departments, some of these individuals have never been fingerprinted. Since many members of the non-represented workforce are managers, supervisors, or employees with job responsibilities in highly-sensitive areas, it is imperative that their backgrounds reflect the integrity of individuals held to a higher standard of conduct. Therefore, the Subcommittee recommends all of the current non-represented employees be required to undergo the criminal background check process. Since they are not represented by an employee union, no further consultation is required for implementation after approval

by the Board of Supervisors. However, it is recommended that the implementation be done in the same phases and priorities established for represented employees.

Included in the non-represented category of employees are elected officials. The Subcommittee is recommending this group be exempted from the criminal background check process. This exemption stems from the fact that these individuals are elected by constituents; therefore, the County does not have the authority to make job suitability determinations.

RECOMMENDATIONS
Non-Represented Employees

4. Require current and prospective non-represented employees to undergo the criminal background check process.
5. Exempt elected officials from the criminal background check process.

VOLUNTEERS, MINORS, COURT REFERRALS

The Subcommittee that reviewed issues related to volunteers, minors, and court referrals was led by the CEO Countywide Volunteer Coordinator, and was also comprised of members from the Department of Human Resources, Parks and Recreation, Public Health, and Public Library.

Currently, there are 49,663 individuals who perform hours of voluntary services in County departments without compensation for services rendered, except for reimbursement of expenses, reasonable benefits, nominal fees, or a combination thereof.

The program guidelines for volunteers, as well as the need for a criminal background check for those assigned to sensitive positions, were initially covered by Board policy and outlined in the 2002 CAO Volunteer Program Policy Manual. On August 4, 2009, volunteers were included in the new Board resolution. In addition, on that date, the Board exempted minor volunteers under the age of 14. Board Policy No. 9.100 has been updated to reflect the new provisions (Attachment 3).

The Volunteers Subcommittee recommends that the exemption be expanded to include minors 14 years old and older who work under constant supervision of a permanent County employee, at the discretion of the appointing power. An example of this would be those minors who work at County libraries under adult supervision. However, a check for criminal history would be conducted for any minors 14 and older who are in sensitive positions in which they work more independently or if the appointing authority believes it would be in the best interests of the County to do so. Parental consent would be required for any minors subject to Live Scan.

The Volunteers Subcommittee also recommends that exemption from Live Scan be given to all volunteers who work less than three days for each event or period of service. The Board has already provided this exemption to compensated election personnel who work less than three days. It would not be practicable to fingerprint volunteers who are similarly situated and could negatively impact their availability to perform critical services on a short-term basis.

The Court Referral Program is an alternate sentencing option for Superior, Municipal, Traffic and Juvenile Courts in which community service hours are assigned generally to governmental or non-profit agencies in addition to, or in lieu of, incarceration and/or a fine. The program carefully screens the individuals before assigning them to an agency. Therefore, it is recommended that criminal background checks for these individuals be at the discretion of the hiring authority.

RECOMMENDATIONS
Volunteer Workers

6. Exempt all volunteers who work less than three days for each event or period of service.
7. Exempt minor volunteers over the age of 14 who work under constant supervision by a permanent County employee, at the discretion of the appointing power.
8. Require criminal background checks for court referrals at the discretion of the hiring authority.

CONTRACT PERSONNEL

The Contracts Subcommittee was led by the Internal Services Department (ISD) and was also comprised of representatives from the CEO, County Counsel and DHR, as well as several departments with diverse contracting operations including Health Services, Mental Health, Parks and Recreation, Public Works, and Regional Planning.

Survey Results

As part of their review, this Subcommittee conducted a Countywide survey of departments to determine the total number of service contracts and contract workers who performed services for the County. In addition, through survey and discussion, the Subcommittee obtained information on the variety of departmental practices relating to criminal background checks of contract personnel. The results of the survey determined County departments administered more than 5,810 service contracts with more than 55,226 contract workers who performed services to or on behalf of the

County during the indicated period. It was estimated that over 48,784 of those workers performed in sensitive positions as currently defined, of which 24,452 underwent the criminal background check process.

Types of Contractors

Since the 1998 Board resolution, County departments have independently assessed and applied the criminal background check provisions to contract workers within their respective operations. Although departmental practices for conducting contract worker background checks differ, the following generally applies:

1. Departments conduct background checks for contract workers that provide services in sensitive areas, including patient care, mental health facilities and other health and human services, information technology, children and family services, etc.

2. Departments generally do not conduct or require background checks for workers in less sensitive areas, such as:

   - Commodity agreements (e.g., supplies and equipment acquisitions, and deliveries)
   - Office equipment repair services
   - Short term and/or supervised consultant or professional services (e.g., training)
   - Facilities services (e.g., landscaping, pest control, asbestos abatement, and rubbish removal)
   - Construction or Job Order Contracting (JOC).

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In addition, some County contractors are required to independently secure criminal background information on employees as a licensing condition of the federal or State government. Examples include healthcare insurance companies such as Anthem Blue Cross and Kaiser Permanente, and State-licensed juvenile group homes.

However, in some instances, the reference to contract workers in the Resolution was interpreted as applying only to temporary agency staffing or registry workers who worked in sensitive positions. For example, in the Departments of Health Services and Mental Health, Live Scan screening was conducted on temporary or registry workers who provide services to patients and clients in County-operated facilities, as though they were members of the County's workforce.

Additionally, there are instances in which departments have agreements to provide services, such as mental health, primary care outpatient visits to uninsured patients, and substance abuse services, at locations other than County-operated facilities. Often, under these agreements, the County, in administering federal and/or State programs, makes payments to the contractors that will later be claimed for federal and/or State

reimbursement. In some cases, although not all, there may be a County share of costs for these programs.

In such instances, requiring criminal background checks for all employees of the contract agencies listed above would represent a substantial undertaking and present several operational issues and hurdles. This includes, among other considerations, the number of criminal background checks that would need to be conducted annually given the staff turnover at the contract agencies.

Therefore, one of the most challenging issues presented to the Contracts Subcommittee was to provide a recommendation to the Board as to the types of contract personnel that should be subject to a criminal background check in order to offer clarity in this regard.

Based on the review by the Subcommittee, it is recommended that the Board establish that contractor personnel that work within County facilities or those that have remote access to medical or criminal information via electronic means would be subject to Live Scan consistent with those existing standards established for sensitive positions.

Background Check Process for Contractors

Currently, County departments have two methods of obtaining criminal background information on contract workers:

- Departments with the infrastructure and resources conduct the Live Scan process internally; or

- Departments require the contractor to secure criminal background information of employees through contracting provisions, and use local law enforcement or private agencies to perform this function.

We recommend no change to this practice as it relates to the fingerprinting of the contract workers. However, it is recommended that the results of the DOJ check be sent to the County department in which the contract worker is being considered for assignment (or other designated County agency). Said County department or agency can then conduct the job suitability review.

Standard Contract Language

During the review, it was determined that contractors cannot be compelled to undergo fingerprinting if that requirement is not included in their contract in which both parties are in agreement. Therefore, in order to ensure the contract agencies are aware of the criminal background check requirement, the Subcommittee recommends standard language be included in all prospective new contract solicitations as follows:

Each of the Contractor's staff performing services under this Contract who is in a designated sensitive position, as determined by County in County's sole discretion, shall undergo and pass a background investigation to the satisfaction of County as a condition of beginning and continuing to perform services under this Contract. Such background investigation must be obtained through fingerprints submitted to the California Department of Justice to include State, local, and federal-level review, which may include, but shall not be limited to, criminal conviction information. The fees associated with the background investigation shall be at the expense of the Contractor, regardless if the member of Contractor's staff passes or fails the background investigation.

RECOMMENDATIONS
Contract Personnel

9. Determine that the contract personnel subject to the criminal background check process are those workers who have designated sensitive-position assignments in County facilities or those sensitive positions outside such as remote access to medical and criminal information via electronic means.
10. Unless otherwise required or necessary due to the proximity of the public (e.g., public parks, etc.), department would not conduct or require background checks for contract workers in less sensitive areas or assignments.
11. Require standard language be included in all prospective new contract solicitations that set forth the requirement for a State, local, and federal criminal background check.

LIVE SCAN

EXPANSION OF FEDERAL-LEVEL ACCESS

On September 15, 2009, the California Department of Justice (DOJ) approved the Board's resolution expanding authority for Los Angeles County to access State, local and federal-level criminal history information for employment purposes, pursuant to Penal Code Section 11105.

Subsequent to obtaining DOJ authorization and as approved by the Board, this expanded provision for federal-level review has been implemented for executive-level candidates for employment. All other employees, volunteers, and contract personnel are limited to State and local summary criminal history information, with the exception of employees in the District Attorney's Office, Probation, and Sheriff, which have long-standing background check programs that include the federal-level review.

Many of the individuals employed by the County have previously resided and/or worked in states other than California. In addition, there are some part-time workers and contract personnel who currently reside and/or work in other states. As a result, it is highly possible that criminal convictions may have occurred outside of California in which we are unaware due to the current limitation to State and local information. Therefore, in order to ensure a comprehensive criminal background check is obtained, it is recommended that it be expanded to the federal-level for all potential and current employees, volunteers, and contract workers who work in sensitive positions and are subject to Live Scan. Consultation with labor unions will need to take place prior to implementation for future and current represented employees.

RECOMMENDATION
Federal-Level Access

12. Expand the criminal background check for all current and prospective employees and designated volunteers and contract personnel in sensitive positions to include a federal-level review.

EXEMPTION FROM LIVE SCAN

Currently, there are no defined provisions for exemption from the Live Scan requirement due to special or emergency circumstances where it may be in the best interests of the service. Therefore, the Steering Committee has recommended that a process be established that in limited situations, exceptions can be made to the requirement for Live Scan or allow for hiring prior to clearance. It is further recommended that the Board delegate authority for the determination of these special exemptions to the Director of Personnel and require that all approved exemptions be reported to the Board on an annual basis.

All requests for exemption will be required to be submitted in writing to the Department of Human Resources and signed by the requesting agency's department head. It must provide specific information as to the basis for the request. Examples of reasons which could be considered include:

- A hiring emergency exists in which life, health or property is in jeopardy, such as disaster services workers hired during declared emergencies.
- One-time only, large-scale projects or assignments where it is impractical to await the results of Live Scan for a large number of workers, such as the 10,000 volunteers hired to administer the vaccine for potential HINI pandemic flu.

- There has been a delay of 60 days or more in receiving Live Scan results and the criminal history clearance has been obtained from a different source approved by the Department of Human Resources.

- A contract agency that independently conducts criminal background checks that meet County hiring standards.

- A unique or unusual circumstance that will justify exemption from the general policy.

Attachment 4 are the draft guidelines and form to be used for the exemption process.

RECOMMENDATION
Exemption from Live-Scan

13. Authorize the Director of Personnel to evaluate and resolve all requests for exemption from Live Scan and approve if good cause exists.
14. Annually report to the Board of Supervisors all exemptions from Live Scan that have been granted for that calendar year.

CENTRAL LIVE SCAN UNIT

The Live Scan Steering Committee determined there is a need for central coordination of the County's criminal background check program. The need for one central unit is even greater as the County expands this program. At the time of the study, fingerprinting services were being provided for departments by three different central agencies, and several different units had responsibility for addressing Live Scan issues, conducting compliance reviews, providing Countywide training, and approving designations of sensitive positions.

It is recommended that the Central Live Scan Unit be located in the Department of Human Resources and given the following responsibilities:

- Provide oversight for the phased implementation of criminal background checks on current employees and the expanded federal-level reviews.

- Fingerprint, forward/receive results and subsequent arrest information, and determine employment suitability as required for all department heads, chief deputy directors, administrative deputies, and departmental human resources managers.

- Provide fingerprinting services to other County departments as needed.
- Access and provide Los Angeles Superior Court records to departments to validate DOJ information regarding arrests and convictions.
- Request annually and maintain sensitive position lists for departments on all employees, volunteers, and contract workers.
- Maintain County policies, conduct training, provide guidance, and respond to questions on Live Scan issues.
- Ensure County practices are consistent with DOJ, Board, and DHR requirements.
- Maintain an updated Countywide inventory of Live Scan equipment.
- Evaluate and respond to all requests for exemptions to the provisions of the Live Scan policy and prepare the annual report of such exemptions to the Board of Supervisors.

RECOMMENDATION
Central Live Scan Unit

15. Establish a Central Live Scan Unit in the Department of Human Resources to provide central coordination of criminal background check policy and practices and to provide Live Scan services for other County departments.

POLICY CHANGES AND EFFICIENCIES

COUNTYWIDE LIVE SCAN AUDIT

On October 28, 2008, the Board directed the Chief Executive Officer to evaluate Countywide compliance with criminal background investigation requirements. In response to the Board order, the CEO assigned this responsibility to the Department of Human Resources. DHR initiated its review in November 2008 to determine Countywide compliance with:

- The 1998 Board Resolution on access to criminal history information for employment in sensitive positions;
- DHR's Policies, Procedures, and Guidelines (PPG) No. 514, *Designation of Sensitive Positions and Requirements for Criminal History Information*; and

- Department of Justice (DOJ) requirements for agencies with access to State and local criminal offender record information.

A standard number of random sample records were identified in each County department for personnel transactions that required a criminal background check on the subject employees. In addition, the personnel records of the staff involved in conducting the background checks were reviewed to ensure their employment and background history were compatible with this assignment. Finally, DHR conducted on-site observations to ensure Live Scan equipment and confidential records were properly secured to prevent unauthorized access.

At the conclusion of each review, an exit meeting was held with department management to discuss review findings and corresponding actions to achieve compliance. DHR requested that each department take such actions within 30 days from the date of the exit meeting. Follow-up reviews were conducted after the 30-day timeframe to ensure the corrective actions had been implemented. At the end of the Countywide audit in July 2009, 82% of the corrective actions had been completed. DHR has continued to follow-up to ensure full compliance. It is recommended that a routine audit be conducted on a biannual basis to further ensure conformity with regulations, confirm sound hiring decisions are made for employees with criminal history, evaluate trends to ensure there is no disparate impact to protected groups, and determine the need for any policy changes. To assist in this process, it is also recommended that an automated tracking system be developed to monitor and document that criminal background checks are consistently conducted as required by policy.

The Countywide Live Scan Review identified a number of areas in which actions were needed immediately to ensure consistency in departmental practices. For example, a standard form was developed to standardize the process for analyzing criminal history to determine job suitability. In addition, four training sessions, in which representatives from 36 County departments attended, were held that provided information on the DOJ and County policy requirements, documentation of the criminal history review, and retention and security of related records.

Some of the other recommendations from the Countywide Live Scan Audit were examined as part of this feasibility study and are discussed in other sections of this report (e.g., policy changes, better access to Court records, establishment of a central Live Scan unit, etc.).

In addition to the Countywide review, in June 2009, a survey was conducted of the top 10 California counties (nine responded), the City of Los Angeles and three out-of-state agencies. Following are the findings.

Counties

- Eight of the nine counties utilized Live Scan (Alameda, Contra Costa, Fresno, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara)
- Five of the nine counties Live Scan all employees (Alameda, Riverside, San Bernardino, San Diego, and Ventura)
- One of the nine counties conducts an FBI check (San Diego)
- The practice of Live Scan for contractors, volunteers, minors or court referrals varied by county and was based on the appointing authority's request
- Live Scan practices based on type of personnel transactions (new hires, promotions, transfers) varied
- Two counties centralized their criminal background check process (Alameda and Riverside)

City of Los Angeles

- The City utilizes Live Scan to conduct criminal background checks
- Live Scan is left to the discretion of the hiring authority
- The City does not request FBI checks for all positions
- Live Scan is a centralized function

Out-of-State Agencies

- Two agencies utilize fingerprints to obtain criminal background history and conduct FBI checks (Miami-Dade County, Florida and New York City, New York)
- The obtaining of criminal history by position and employee transaction varied by agency
- One agency centralized the fingerprinting process (Harris County, Texas)

There are no additional recommendations to modify Los Angeles County's criminal background check based on the survey results of other governmental agencies,

RECOMMENDATIONS
Countywide Live Scan Audits

16. Conduct biannual review of departmental compliance with DOJ and County regulations for criminal background checks.

17. Develop an automated tracking system to monitor and document criminal background checks are consistently conducted as required by policy.[2]

POLICY CHANGES

Following the November 10, 1998 Board adoption of the resolution on criminal background checks, on November 25, 1998 the Department of Human Resources issued a memorandum to each department head that provided guidance and policy for the designation of sensitive positions and the requirements for criminal history information. On November 2, 2007 these instructions were reissued as DHR's Policies, Procedures, and Guidelines (PPG) No. 514. It has been determined at this time that the definition and categories of sensitive positions should remain the same. The 2008-09 Countywide Live Scan Review and the review conducted by the Steering Committee as part of this feasibility study resulted in several recommendations for changes to the criminal background process and other policy areas.

Currently, the policy requires that a criminal background check be conducted on all new hires, present County employees who transfer or are promoted to sensitive positions, and contract personnel in sensitive positions. (The August 4, 2009 Board resolution added volunteer workers who work in sensitive positions to this list.) The recommendations for contract personnel and volunteer workers are discussed in different sections of this report. Below are the recommendations for employee transactions.

New Hires – No change is recommended for this group. However, it should be clarified in the policy that this requirement applies to reinstatements and other types of rehires.

Transfers – There has been some confusion in the interpretation of who falls within this category. Therefore, it is recommended that it be clarified in the policy as referring to the interdepartmental transfer of an employee from a position in one department to another position in a different department pursuant to Civil Service Rule 15.02.

Promotions – The current policy has been costly and resulted in unnecessary redundancy for those individuals who are promoted within the same department. We have confirmed that all departments have an agreement with the DOJ to provide subsequent arrest and conviction information on individuals active in their system; hence, there is no additional value added or information learned from fingerprinting an employee who has already been fingerprinted in their current

[2] Effective April 12, 2012, this recommendation was met by the new on-boarding personnel processing feature in eHR, which allows for the recording of each step of the Live Scan review process and maintains the Live Scan completion date in the system for record keeping purposes.

department. Therefore, it is recommended that the policy be modified to only require a criminal background check on promoted employees who have not been previously fingerprinted in the promoting department and/or do not have an active record with the DOJ in said department.

DOJ Requirements

In the Countywide Live Scan Review, it was determined that some of the DOJ requirements, especially those related to who can review the DOJ results, inactivating requests for subsequent hits, and recordkeeping protocols, were not known or being followed. It is recommended that this information be added to the policy to ensure compliance with the Department of Justice regulations.

Disclosure of Dismissed Convictions

There is a related DHR policy, PPG No. 120, Sealed Records and Convictions Protected from Disclosure by Valid Court Orders, which should be consolidated into the criminal background check policy. PPG 120 indicates juvenile convictions that have been vacated by any applicable code provisions or valid court orders do not have to be reported. It also indicates criminal convictions as an adult that have been set aside, dismissed and/or pardoned pursuant to Penal Code Section 1203.4 do not have to be reported. However, County Counsel has advised that the County may, if it so chooses, ask for disclosure of *felony* convictions dismissed or set aside pursuant to Penal Code Section 1203.4 in determining whether an individual is suitable to hold, in an ongoing or permanent capacity, a public office or a position exercising the sovereign duties of a public officer. For all other persons seeking employment, the County may request disclosure of felony convictions; however, it may not rely on the fact of the conviction as a disqualifying factor for employment. In those cases, the County may conduct an independent investigation into the facts underlying the conviction and make appropriate decisions in view of its independent findings.

We are recommending that the County modify the policy and exercise its authority to obtain and use this information as specifically allowed in the Code. This will further ensure the County is evaluating all available information regarding an applicant's criminal history, if any, in making sound hiring decisions.

A draft of the revised policy that reflects all of the recommended changes is attached (Attachment 5). The CEO Employee Relations Division and DHR will consult with the County labor unions prior to the implementation of changes to the Live Scan policy that may affect the represented employee groups.

RECOMMENDATION
Policy Updates

18. Modify DHR PPG No. 514 to:
    - clarify Live Scan requirements for new hires includes all reinstatements and rehires, transfers refer to interdepartmental transfers, and promotions refer to employees who have not been previously fingerprinted and/or have active DOJ records in the promoting department
    - add information regarding DOJ regulations for Live Scan usage
    - consolidate PPG No. 120 provisions regarding "Sealed Records and Convictions Protected from Disclosure by Valid Court Orders."

19. Require all employees and candidates for County employment to disclose felony convictions dismissed under Penal Code Section 1203.4, which will only be used for the purpose of conducting independent investigations to determine their job suitability.

SELF-DISCLOSURE OF ARRESTS AND CONVICTIONS

The County's Employment Application requests information regarding a job applicant's record of criminal history as part of the examination process. This information is not officially required to be disclosed at any other time, unless by departmental policy or practice. Since job applications are maintained with examination materials and cannot be placed in official personnel folders, a County practice exercised by some departments is to require employees, at the time of new hire orientation or prior to promotion, to complete a personal information sheet in which disclosure of any criminal history is requested. However, it has been determined that not all departments utilize this practice and the language used in requesting this information varies among departments. It is recommended that a standardized form be developed to capture this and other personal information prior to an employee's appointment to a new position or one in which a criminal background check is required. A draft Candidate Information Sheet is attached for consideration (Attachment 6).

This will partially address the gap in obtaining information regarding an employee's criminal history. However, the completion of a Candidate Information Sheet is only triggered by action on the part of an individual seeking a new or different position. There are a significant number of employees who were hired prior to the implementation of the criminal background check program who have never sought a promotion or other change in position. Those individuals may have convictions that are incompatible with their current job or with County employment in general. These convictions could have

occurred prior to or while employed with the County. In addition, there are employees who have been arrested and going through the court process where the nature of the arrest requires precautionary measures such as reassignment, ordered absence, or an unpaid leave per Civil Service Rule 18.01 pending the resolution of the court matter. There is no mechanism in place to bring such cases to the attention of County management except in a limited number of departments (usually the peace officer agencies) that require self-disclosure at the time of the incident. Therefore, it is recommended that an ordinance compelling employees provide that information be implemented (Attachment 7).

The ordinance and related policy would require employees and volunteers to notify their human resources office within 72 hours of an occurrence of an arrest or conviction. (This requirement would not apply to contract personnel except through specific provisions in their contract.) In addition to the 72 hour reporting requirement, this information would be collected on an annual basis similar to the reporting of outside employment. Failure to disclose would result in appropriate disciplinary action, up to and including discharge from County service. Upon approval of this concept by the Board, consultation with employee unions will be immediately initiated prior to implementation.

RECOMMENDATIONS
Self-Disclosure of Arrests and Convictions

20. Require employees at the time of hire and when a Live Scan is required to complete a Candidate Information Sheet in which they are required to disclose criminal conviction history.
21. Approve the concept of self-reporting arrests and convictions on an annual basis and within 72 hours of occurrence and implement after consultation with employee unions.

LOS ANGELES SUPERIOR COURT RECORDS

Criminal history information received from the Department of Justice as part of the Live Scan process is considered confidential and can only be used in making hiring decisions. Once the employment decision has been made, this information must be destroyed. It cannot be shared or used in any other capacity (e.g., in administrative hearings if the information is challenged by the employee or used by support staff in documenting the Live Scan results). Also, there have been occasions when the information provided is not accurate. Therefore, on the recommendation of County

Counsel, DHR has required that all DOJ records be verified by court documents, which are public record.

The process of obtaining court records can be time-consuming and delays the hiring process. Usually, a request is made by mail, which can take up to two weeks or more to receive. In Los Angeles, this problem was exacerbated after the Countywide Live Scan Review when the requirement for court records documenting the convictions was implemented. This created a hardship on the Court in meeting the demand, especially for records that had been archived.

DHR consulted with Los Angeles Superior Court management regarding this issue. It was determined that electronic direct access to the Court information would best resolve the issue. The Court then developed a system known as the Data and Document Exchange Service (DDES) that provides that access. This access is limited to Los Angeles Superior Court records. The retrieval of court records for other jurisdictions must be done by mail, Internet, or in person.

A memorandum of understanding with the Court was entered into on August 9, 2010 that allows DHR's use of the DDES system. DHR will provide this service Countywide for departments as one of its service offerings for the Central Live Scan Unit.

RECOMMENDATIONS
Court Records

22. Implement the electronic retrieval of Los Angeles Superior Court criminal history records Countywide.

EVALUATION OF NEGATIVE LIVE SCAN RESULTS

Completion of the Live Scan on current County of Los Angeles employees will likely yield instances where a criminal history is discovered. A two-phase approach consistent with existing Live Scan evaluation protocols will be used to evaluate these cases.

Phase I is a job nexus evaluation to determine whether the nature of the conviction presents a conflict with the function performed by the employee or with County employment in general. The Phase I review will include an evaluation of the function performed and whether the employee disclosed the conviction.

Phase II is an evaluation to determine the suitability for employment. The Phase II evaluation will afford the employee the opportunity to provide a written statement regarding his/her conviction(s) and will consider several factors including:

- The seriousness of the offense
- The recency of the last offense
- The extent of the criminal record
- Any evidence of rehabilitation by the employee
- The employee's work history and record of discipline
- Performance evaluations
- The length of employment
- Prior disclosure of the convictions
- Level of responsibility and scope of authority in current position
- Impact on the Department's mission

Completion of the review may result in a variety of different outcomes depending on the individual factors of each case. The range of possible outcomes spans from a determination that the individual's conviction does not have a nexus to his/her employment and no action is necessary to a determination that the combination of factors related to the particular situation makes the individual unsuitable for continued employment. Each of these situations will be handled on a case-by-case basis and in accordance with all County of Los Angeles rules, polices and guidelines.

FISCAL IMPACT/FINANCING

The costs to implement the expansion of the criminal background check program to include federal criminal history and to fingerprint current employees is estimated at $4.1 million (Attachment 8). This is based on the DOJ's fees for processing Live Scan requests. It does not include any administrative costs for rolling fingerprints, equipment needed, or new staff that may be required as a result of the expansion of the criminal background check program. The estimated costs related to prospective personnel are limited to the federal criminal background check only because the costs associated with the State and local background check is already accounted for in the departments' existing budgets.

An implementation plan has been developed that allows for a phased-in approach for various categories of personnel, which will spread the costs over a two year period.

The costs related to conducting background checks on contract workers will be assumed by the prospective vendors selected to conduct business with the County. Although it is anticipated that cost increases due to the new requirement is initially assumed by the selected contractor, the increase may ultimately be charged back to the County as part of the total contract cost.

The Board previously set aside $2.0 million in a General Fund Designation to cover the anticipated costs for fingerprinting current employees in positions involving the direct care, oversight and protection of children. The CEO will work with DHR and affected departments to consider funding the costs incurred by the expansion of the criminal background check program to a federal-level review and to all current employees and volunteers in sensitive positions.

CONCLUSION

In response to the Board of Supervisors' order to conduct a study to determine the feasibility of expanding the County's criminal background check program to include a federal-level review, several committees were established to determine the benefits, costs and impact of such an action. It was found that while there would be a significant financial impact by expanding the program, it is out-weighed by the benefits of conducting a comprehensive screening of potential employees. A nationwide criminal background check could reveal information that would better ensure that the County has exercised its due diligence in determining employee fitness for duty. By further expanding the screening to the current workforce, the County also fulfills its risk management responsibilities in connection with previous employment decisions and reflects efforts to avoid negligent retention situations.

The study also provided an opportunity to reevaluate the County's criminal background check program to determine how it could be more effective and efficient. Several recommendations have been made that would ensure consistent practices are utilized throughout the County and establish comprehensive policies to provide clarity as to legal requirements and appropriate personnel practices.

Rev. 05/03/12

ATTACHMENT D

ATTACHMENT 1

Adopted Board Letter dated August 4, 2009

ATTACHMENT D

County of Los Angeles
CHIEF EXECUTIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

REVISED

July 14, 2009

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 August 4, 2009

SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

ACCESSING CRIMINAL HISTORY INFORMATION ON COUNTY EMPLOYEES AND CANDIDATES FOR EMPLOYMENT WITH THE COUNTY OF LOS ANGELES (ALL DISTRICTS) (3-VOTES)

SUBJECT

The recommendation of the Chief Executive Officer (CEO) and the Acting Director of Personnel is to replace the Board Resolution of November 10, 1998 regarding criminal history background checks (Attachment I) with a new resolution (Attachment II) that will provide the authority to expand current access to State and local summary criminal history information to include access to federal-level criminal history information on County employees and candidates for employment with the County of Los Angeles.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the new resolution (Attachment II) to authorize the Director of Personnel and each appointing authority to access federal, State, and local summary criminal history information for employment purposes.

Instruct the Acting Director of Personnel to:

a. Immediately implement, on a prospective basis, all the provisions of the resolution, including federal access, for the most highly qualified executive recruitment candidates for department head positions and the next two levels down (Chief Deputies and Assistants/Deputies), as defined in the Charter of the County of Los Angeles Section 33(c) and (i) and update Board and County policy as necessary;

ATTACHMENT D

b. Continue the current criminal background check for State and local summary criminal history information for all other employees, on the occasion of transfers, promotions and new hires; hiring of contract personnel; and volunteers; and conduct a feasibility study to consider expanding such background checks to include federal criminal background checks;

c. Exempt minor volunteers under the age of 14, and compensated election personnel who work less than three days per election, as approved by the Department of Human Resources and update appropriate County policies; and

d. Work with the CEO to study the feasibility of phasing in the implementation of local, State and federal criminal background checks for:

- ~~New hires and~~ All current employees, including those who have not transferred or promoted since the Live Scanning policy went into effect in 1998;
- Existing and future contractors; and
- Existing and future volunteers.

PURPOSE /JUSTIFICATION OF RECOMMENDED ACTION

The current Board resolution on accessing criminal history for employment purposes is limited to State and local information. The new resolution will allow access for federal-level information as well. This will allow for a more comprehensive evaluation of the most highly qualified applicants for executive-level positions. Screening the backgrounds of these individuals to determine if they have criminal convictions that are incompatible with the duties of high-level sensitive positions is vital to County operations and public protection. All other Board requirements relating to criminal background checks remain in effect, such as designation of sensitive positions and the standards for determining the types of convictions that warrant withholding of employment or appointment to these positions.

The recommendation to exempt minor volunteers (under age 14) and compensated election personnel who work less than three days per election will resolve issues that came up during the DHR Live Scan audit process. Related Board and County policies will be updated as appropriate.

It is proposed that CEO and Department of Human Resources explore the feasibility of applying the nationwide provisions of the new resolution to existing County staff, volunteers, and contract personnel in phases at a later date. As part of the feasibility study, we will need to meet and confer with all employee unions. Any proposed implementation

plan must recognize current budgetary constraints. Such a plan must also include specific provisions to address circumstances where it is determined that an existing employee can no longer stay in a sensitive position and should consider the County's flexibility and capacity to make reassignments as needed. Once those matters have been resolved, we will come back to your Board with the results of the feasibility study.

Recently, the Department of Human Resources conducted a Countywide review of departmental practices relating to criminal background checks in response to your Board's order dated October 28, 2008 (Attachment III). Departments reported that approximately 35% of the current workforce has not been fingerprinted or does not have a "flag" in the Department of Justice system to notify the County of subsequent arrests/convictions. The review identified several issues such as the need to fingerprint current County employees, especially those who provide services to children, the type of contractors and volunteers that are subject to Live Scan, the limitations and requirements relating to fingerprinting minors, and job suitability determinations for court referrals. These issues will also be addressed in the feasibility study.

Implementation of Strategic Plan Goals

The County Strategic Plan directs that we maximize the effectiveness of processes, structure, and operations to support timely delivery of customer-oriented and efficient public services (Goal 1). A comprehensive criminal background check is one of the methods to ensure that the individuals who are entrusted with performing the duties related to this goal have backgrounds that are compatible with County employment. It is especially critical that there be immediate implementation of the resolution's provisions for those individuals who are appointed to executive-level positions and have the responsibility for ensuring this goal is carried out within their organizational units, as they must demonstrate that their conduct, both present and past, reflects the integrity required of a high-level County official.

FISCAL IMPACT/FINANCING

There will be no increase in costs as a result of adoption of this resolution and limiting implementation to the most highly qualified executive-level, unclassified sensitive positions. Funds are budgeted within each County department for this purpose. The fiscal impact for all other sensitive positions will be detailed in the feasibility study that will be submitted at a later date.

FACTS AND PROVISIONS/ LEGAL REQUIREMENTS

On November 10, 1998, your Board authorized the County to access State and local summary criminal history information for employment purposes for persons in sensitive positions, whether those persons are employees of the County or perform services

ATTACHMENT D

pursuant to contract. However, the County now requires the authority to access that information on a federal basis as many candidates for County employment in executive-level unclassified sensitive positions have resided and worked outside of the state of California and it is essential that a comprehensive nationwide review of their background take place. Penal Code Section 11105(b)(11) authorizes cities, counties and districts to access federal level criminal history information with the express authority of their local governing body, which for the County of Los Angeles is your Board. The attached resolution will provide such express authority.

IMPACT ON CURRENT SERVICES

The recommendations contained herein to expand the current background check program to access federal criminal history information, and to update County policy to immediately implement these provisions for candidates for executive-level unclassified sensitive positions, is designed to strengthen the County's employment practices to ensure that high-level County officials have backgrounds suitable for their employment based on County standards.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:EFS:LMG
SKT:egf

Attachments (3)

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors

ATTACHMENT D

ATTACHMENT I

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DECLARING ITS INTENTION TO PROVIDE FOR THE ACCESS OF CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT IN SENSITIVE POSITIONS

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) authorize counties to access state and local summary criminal history information for employment purposes; and

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) provide that there be a requirement for or exclusion from employment based on specific criminal conduct by the person who is the subject of the record.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Los Angeles that:

(1) The Director of Personnel and each appointing authority of the County be authorized to access summary criminal history information for employment purposes in such sensitive positions as identified by the Director of Personnel and the appointing authority; and

(2) The County of Los Angeles shall consider as sensitive any position involving duties which pose a potential threat or risk to the County or to the public when performed by persons who have a criminal history incompatible with those duties, whether those persons are employees of the County or perform those services pursuant to contract; and

(3) The County of Los Angeles shall not place a person in a sensitive position if he or she has been convicted of a felony or a misdemeanor; except that such conviction may be disregarded if it is determined that there were mitigating circumstances or that the conviction is not related to the position and poses no threat or risk to the County or to the public.

BE IT FURTHER RESOLVED that each County department shall review and identify its specific sensitive positions. All departments must secure criminal conviction information on candidates being considered for positions within the following categories:

- Positions that involve the care, oversight, or protection of persons through direct contact with such persons.
- Positions having direct or indirect access to funds or negotiable instruments.
- Positions that require state and/or professional licensing.
- Positions that involve public safety and/or law enforcement.
- Positions that have access to or charge for drugs or narcotics.
- Positions that have access to confidential or classified information including criminal conviction information.
- Positions that involve the care, oversight, or protection of County, public, or private property.

Each appointing authority may establish additional categories of sensitive positions, with the approval of the Director of Personnel and of the Affirmative Action Compliance Officer.

Each department's personnel officer shall maintain the list of sensitive positions.

The Director of Personnel and the Affirmative Action Compliance Officer will periodically review this list.

BE IT FURTHER RESOLVED that the following procedures are adopted to safeguard the sensitive and private criminal history information.

The California Administrative Code requires criminal conviction information be released only to those persons with a legitimate need to know and only at the time they require such knowledge. Further, unauthorized disclosure of criminal history information is punishable as a crime. Therefore, each department's personnel officer is designated as the custodian of the information and will be responsible for its security and confidentiality. The personnel officer will establish the following procedures to maintain confidentiality, and may establish such additional procedures as are necessary to implement this policy:

- The information will be maintained under lock and key and will not leave the premises of the personnel office.
- The personnel officer will determine "need to know" and will ensure that only those individuals with a legitimate "need to know" are permitted to review the information.
- The personnel officer will maintain a log containing:
  - The name and title of the individual reviewing the information;
  - The date and time the individual examined the information in the personnel office;
  - The individual "need to know" reason for viewing the information; and,
  - The personnel officer's signature approving the examination of the information.

ATTACHMENT D

— All automated systems containing conviction information must be secured to prevent unauthorized access, alteration, deletion, or release of the information.

The foregoing resolution was on the 10th day of November 1990, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

JOANNE STURGES, Executive Officer-
Clerk of the Board of Supervisors
of the County of Los Angeles

By: Sylvia J. Villalobos
Deputy

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By: _____
Deputy

Bd2:PC11105.bd

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES

WHEREAS, Penal Code Sections III05(b)(11) and 13300(b)(11) authorize counties to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section III05(b)(11) authorizes counties 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; and

WHEREAS, Penal Code Sections III05(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; and

WHEREAS, Penal Code Sections 11105(b)(11)and 13300(b)(11) require the Board of Supervisors of a county to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Los Angeles that: the County of Los Angeles is hereby authorized to access state and federal level summary criminal history information for purposes of

ATTACHMENT D

employment (including volunteers and contract workers), and may not disseminate the information to a private entity; and

BE IT FURTHER RESOLVED that the County of Los Angeles shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract workers), 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, or work in question.

The foregoing resolution was on the 4th day of ~~June~~ AUGUST 2009, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI
Executive Officer
Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting County Counsel

By _____
LESTER J. TOLNAI
Assistant County Counsel
Executive Office

LJT:mm

HOA.614038.1

ATTACHMENT D

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held October 28, 2008, the Board took the following action:

38-C
The following item was called up for consideration:

Report by the Chief Executive Officer on the actions that have been taken to address items established, filled or staffed in the Department of Health Services relating to Criminal Background Investigations.

William T Fujioka, Chief Executive Officer, and Gregory Polk, Manager, Chief Executive Office; Michael J. Henry, Director of Personnel, and Epifanio Peinado, Senior Human Resources Manager, Department of Human Resources; Dr. John F. Schunhoff, Interim Director, James Jones, Administrative Deputy, and Ann Marinovich, Chief of Human Resources, Department of Health Services, responded to questions posed by the Board.

Arnold Sachs addressed the Board.

After discussion, on motion of Supervisor Antonovich, seconded by Supervisor Molina, unanimously carried (Supervisor Knabe being absent), the Board took the following actions:

1. Received and filed the attached report presented by the Director of Personnel, Michael J. Henry; and

2. Directed the Chief Executive Officer to report back in two weeks on the actions that have been taken or will be taken to address the following:

   - Items established in the Department of Health Services (DHS) and items filled or staffed by existing personnel to process criminal background investigations;

(Continued on Page 2)

38-C (Continued)

- Operational procedures established in DHS to ensure compliance with the Board Adopted Resolution, updated on November 2, 2007, on the Designation of Sensitive Positions and Requirements for Criminal History Information. These procedures should include both job nexus determinations and determinations on an employee's suitability for employment (Phase I and Phase II referenced in the Director of Personnel's report);

- Operational procedures established in DHS to ensure appropriate and timely communication with Hospital Chief Executive Officers and Program Directors, or their designees, regarding all determinations and findings regarding employees that require a criminal background investigation. The report should include time frames for processing background investigations;

- Actions that will be taken to evaluate Countywide compliance with criminal background investigation requirements; and

- The disposition and implementation status of the recommendations made by the Director of Personnel.

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Attachment

Copies distributed:
Each Supervisor
Chief Executive Officer
County Counsel
Director of Personnel
Interim Director of Health Services

ATTACHMENT D

ATTACHMENT 2

DOJ Approval of Federal-Level Access

ATTACHMENT D

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

BUREAU OF CRIMINAL INFORMATION AND ANALYSIS
P.O. BOX 903387
SACRAMENTO, CA 94203-3870
Facsimile: (916) 227-0696
Public: (916) 227-2720

September 15, 2009

Steven Hill
County of Los Angeles - HR
500 West Temple Street, Suite 555
Los Angeles, CA 90012

RE: Authorization Approval

Dear Mr. Hill:

Your request to access state and federal criminal history information has been reviewed. Based on the reviews, the **County of Los Angeles** is authorized access to state and federal level criminal history information for **employment purposes** pursuant to Penal Code section 11105.

Title 11, Article 1, Section 707 of the California Code of Regulations requires that a criminal record check be conducted on all personnel with access to state summary criminal history information. Therefore, before submitting the fingerprints of applicants for employment please ensure that **County of Los Angeles** staff that will have access to the information has had the required background check.

If you do not have access to livescan, you may obtain a Live Scan Request Packet at http://ag.ca.gov/fingerprints/pdf/LiveScanPacketRev06.pdf and the Subsequent Arrest form at http://ag.ca.gov/fingerprints/forms/subarr.pdf Please complete both documents and submit to the address indicated in the livescan packet. Please be aware that there is a $32.00 and $19.00 processing fee required for state and federal criminal record checks. If you have any questions, please contact me at (916) 227-2720.

Sincerely,

NICHOLE DEVELEY, Analyst
Record Security Section
Bureau of Criminal Information and Analysis

For EDMUND G. BROWN JR.
Attorney General

cc: Rosa Longer

ATTACHMENT D

ATTACHMENT 3

Board Policy No. 9.100

ATTACHMENT D

Los Angeles County
BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
9.100	Volunteer Program Policy	07/30/81

PURPOSE

Establishes a County Volunteer Program that encourages citizens, County employees and County retirees to volunteer their time and talents to public service programs.

Encourages county departments to support and promote voluntarism and volunteer projects as a creative partnership targeting program enhancement, productivity enhancement and image enhancement.

Supports and advocate enabling legislation that promotes volunteer programs in the public sector and supports creation of volunteer incentives and recognition.

Provides a central policy and standardized policy and procedures on volunteer program reporting, insurance, recruitment and recognition.

REFERENCE

July 30, 1981 Board Order, Synopsis 22

September 29, 1981 Board Order, Synopsis 10

October 21, 1981 Chief Administrative Office memo, "Status Report - Board Orders of July 30, 1981 and September 1981 Regarding Employment of County Retirees"

December 2, 1981 Chief Administrative Office memo, "County Volunteer Programs and the Use of Retired County Employees on a Volunteer or Paid Basis"

January 27, 1982 Chief Administrative Office memo, "Status Report: The Use of Retired County Employees on a Volunteer Basis and current/Projected Vacancies in County Volunteer Programs"

April 14, 1982 Chief Administrative Office memo, "Status Report: The Use of Retired County Employees on a Volunteer Basis and Current/Projected Vacancies in County Volunteer Programs"

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October 2, 1997 County of Los Angeles Volunteer Program Policy Manual

POLICY

The County Board of Supervisors has approved the establishment of a Countywide Volunteer Program. Department Heads, and Volunteer Program Directors are directed to actively recruit County employees, retirees and citizens, including youth, as volunteers in departmental volunteer programs or special volunteer projects.

A volunteer is defined as an individual who performs hours of voluntary service in a County department for civic, charitable, humanitarian, recreational, health, public safety or general welfare reasons, without promise, expectation or receipt of compensation for service rendered, except for reimbursement of expenses, reasonable benefits, nominal fees or a combination thereof.

Individuals shall be considered volunteers only when their services are offered freely and without pressure of coercion, direct or implied, from the County. Volunteers do not supplant County employees. Volunteers are to assist paid staff in providing service enhancements and/or new services. Volunteers over the age of 14 and those who volunteer more than three days for each event or period of service will be subject to the County's background check process.

Departments should advocate legislation that supports the purpose of County Volunteer Program, voluntarism, public-private volunteer partnerships and volunteer recognition.

RESPONSIBLE DEPARTMENT

Chief Executive Office

DATE ISSUED/SUNSET DATE

Issue Date: October 2, 1997
Review Date: October 18, 2001
Review Date: October 20, 2005
Review Date: October 20, 2010

Sunset Review Date: October 2, 2001
Sunset Review Date: October 2, 2005
Sunset Review Date: October 2, 2010
Sunset Review Date: October 2, 2015

ATTACHMENT D

ATTACHMENT 4

Request for Exemption from Live Scan

DEPARTMENT OF HUMAN RESOURCES

ATTACHMENT D

REQUESTS FOR EXEMPTION FROM LIVE SCAN

In accordance with the August 4, 2009 resolution by the Board of Supervisors, all employees, contractors and volunteers who are assigned to designated sensitive positions must undergo and complete a Live Scan criminal background check prior to employment, unless specifically exempted. The County of Los Angeles shall not place a person in a sensitive position if he or she has been convicted of a felony or misdemeanor, except that such conviction may not preclude employment if it is determined that there were mitigating circumstances or that the conviction is not related to the position and poses no threat or risk to the County or the public.

The following individuals in sensitive positions are not subject to Live Scan based on County policy:

- Compensated election personnel who work less than three days per election
- All volunteers who work less than three days for each event or period of service
- All minors under the age of 14; and at the discretion of the appointing power, minors 14 years of age or older or court referrals who work under constant supervision by a permanent County employee

In addition, there may be special or emergency circumstances where, in the best interest of the service, exemption from the Live Scan requirement and/or assignment may be considered. The best interest of the service is generally defined on the basis of such considerations as:

- When a hiring emergency exists in which life, health or property is in jeopardy.
- One-time only large-scale projects or assignments where it is impractical to await the results of Live Scan for a large number of workers.
- Where there has been a delay of 60 days or more in receiving Live Scan results and the criminal history clearance has been obtained from a different source approved by the Department of Human Resources.
- Any contractor that independently conducts criminal background checks that are consistent with County hiring standards.
- A unique or unusual circumstance that will justify exemption from the general policy.

Procedures

All requests for an exemption from Live Scan should be submitted in writing by the Department Head to Lisa M. Garrett, Director of Personnel, for review and approval. In addition, an *Exemption from Live Scan Request Form* (see attached) with the signature of the Department Head must be completed as part of the review and approval process.

The *Exemption from Live Scan Request Form* may be obtained by contacting Robert Meyers, head of the DHR Central Live Scan Unit, by telephone at (213) 351-2931 or by electronic mail at rmeyers@hr.lacounty.gov. Completed exemption request forms should be sent to:

Department of Human Resources
Central Live Scan Unit
3333 Wilshire Boulevard, Suite 300
Los Angeles, CA 90010

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Upon receipt of an exemption request form, DHR will immediately review the form to ensure the exemption request information is complete and that the reason for the request meets the best interest of the service exemption criteria.

For most requests, which do not require additional information from the requesting department or consultation with County Counsel, a response from DHR can be expected within five (5) business days. The Department will receive the *Exemption from Live Scan Request Form* indicating whether the request is approved by the Director of Personnel.

DHR will maintain copies of all requests from departments for Live Scan exemptions. All exemptions granted by the Director of Personnel will be reported to the Board of Supervisors on an annual basis.

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COUNTY OF LOS ANGELES
DEPARTMENT OF HUMAN RESOURCES
EXEMPTION FROM LIVE SCAN REQUEST FORM

COUNTY DEPARTMENT INFORMATION

Department: _____ Date of Request: _____

Address: _____ Telephone: _____

City: _____ State & Zip Code: _____

Contact Person: _____

Department Head Name:

ORGANIZATION INFORMATION (IF NOT A COUNTY DEPARTMENT)

Organization Name: _____ Contact Person: _____

Type of Services Provided: _____

Does the organization conduct criminal background checks prior to appointment? Yes ☐ No ☐

Type of criminal background checks conducted by the organization:

	Yes	No		Yes	No
Live Scan	☐	☐	Local check through law enforcement agency	☐	☐
Name Search	☐	☐	Other (explain below):	☐	☐

EXEMPTION REQUEST INFORMATION

Estimated number or name of personnel to be exempted: _____

Length of assignment: _____

Location of assignment: _____

Please check the item that best describes the Department's request for the exemption: (Please explain reason below)

- ☐ A hiring emergency exists in which life, health or property is in jeopardy.
- ☐ One-time only large-scale projects or assignments where it is impractical to await the results of Live Scan for a large number of workers.
- ☐ There has been a delay of 60 days or more in receiving Live Scan results and the criminal history clearance has been obtained from a different source approved by the Department of Human Resources.
- ☐ Contractor independently conducts criminal background checks that are consistent with County hiring standards.
- ☐ A unique or unusual circumstance that justifies exemption from the general policy.

Department's explanation: _____

_____

_____

_____

Department Head Signature

INSTRUCTIONS: Submit this completed form to the following office location:

Department of Human Resources - Central Live Scan Unit
3333 Wilshire Blvd., Suite 300, Los Angeles, CA 90010

DEPARTMENT OF HUMAN RESOURCES (DHR use only)

Approved ☐ **Denied** ☐

_____ _____

Date Director of Personnel Signature

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ATTACHMENT D

ATTACHMENT 5

DHR Policies, Procedures, and Guidelines No. 514 (revised)

County of Los Angeles
Department of Human Resources
POLICIES, PROCEDURES, AND GUIDELINES

ATTACHMENT D

Subject:	Policy Number: 514	Page(s): 1 of 14
DESIGNATION OF SENSITIVE POSITIONS AND REQUIREMENTS FOR CRIMINAL HISTORY INFORMATION	Effective Date: TBD	
	Approved By: /s/	

PURPOSE

The purpose of this policy and procedure is to provide guidelines to line Departments to implement the Resolution adopted by the Board of Supervisors, on August 4, 2009, regarding access of criminal history information in connection with employment in sensitive positions.

BACKGROUND

On November 10, 1998 the Board adopted a resolution allowing the Director of Personnel and each appointing authority to access State and local summary criminal history information for employment purposes for individuals working in sensitive positions.

On November 25, 1998, the Department of Human Resources (DHR) issued County policy and procedures that implemented the Board's resolution and provided guidelines on the designation of sensitive positions. The policy was formally reiterated in DHR Policies, Procedures, and Guidelines No. 514, Designation of Sensitive Positions and Requirements for Criminal History Information, effective November 2, 2007.

On August 4, 2009, the Board approved a new resolution that provided the authority to expand access to summary criminal history information at the State and local level to the federal level for employment purposes (including volunteers and contract personnel).

POLICY

In accordance with the August 4, 2009 Board Resolution, the County of Los Angeles is authorized to access State and federal level summary criminal history information for purposes of employment (including volunteers and contract personnel), from the California Department of Justice (DOJ) and from the United States Federal Bureau of

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Investigations (FBI) for all individuals placed in sensitive positions. Fingerprinting for the background check will be conducted using Live Scan to capture and electronically transfer individual's fingerprints to the Department of Justice/FBI.

The County of Los Angeles shall not place a person in a sensitive position if he or she has been convicted of a felony or a misdemeanor; except that such conviction may be disregarded if it is determined that there were mitigating circumstances or that the conviction is not related to the position and poses no threat or risk to the County or to the public; and, the County of Los Angeles shall consider as sensitive any position involving duties which pose a potential threat or risk to the County or to the public when performed by persons who have a criminal history incompatible with those duties, whether those persons are employees of the County or perform those services pursuant to contract.

GUIDELINES

Positions Subject to Background Checks

Criminal history background information should be secured for new hires, re-hires, reinstatements, present County employees who transfer or are promoted to sensitive positions, volunteers, and contract personnel in sensitive positions.

The following may be used as a guide to help determine when employees, applicants, volunteers, or contract personnel must be fingerprinted:

Candidates for unclassified executive positions (Department Head positions and the next two levels down) will have State and federal criminal background checks performed by DHR prior to appointment.

All other current and prospective employees shall undergo the existing criminal background check process for State and local summary criminal history information.

- For promotional appointments, a new Live Scan shall be conducted on employees who have not been previously fingerprinted and/or do not have an active record with DOJ in the promoting Department. If the candidate was previously Live Scanned by the Department, and criminal conviction information was obtained, a re-Live Scan may be necessary.

- For interdepartmental transfers, a new Live Scan of the employee shall be conducted, in order for the new Department to receive *Subsequent Arrest Notifications*. (An interdepartmental transfer refers to the change of an employee from a position in one department to another position in a different department pursuant to Civil Service Rule 15.02.)

- For intradepartmental reassignments, the employee does not have to be re-Live Scanned. However, the Department must conduct a new evaluation of the employee's criminal history, to determine job suitability by comparing the nature of the offense(s) in relation to the duties of the new position.

- Recurrent employees not on a reemployment list shall be Live Scanned; including temporary recurrent employees who work for the County on an ongoing basis.

- Volunteers and contract personnel subject to the criminal background check process, including the need to be Live Scanned, are those who have sensitive-position assignments in County facilities or sensitive positions outside, such as positions having remote access to medical and criminal information via electronic means.

- Volunteers and contract personnel who do not fall into designated sensitive positions may not have to be Live Scanned, unless otherwise required or necessary due to the proximity of the public (e.g. public parks, etc.). Such non-sensitive positions may include contracts that relate to commodity agreements (e.g. supplies and equipment acquisitions, and deliveries), office equipment repair, short term and/or supervised consultant or professional services (e.g. training), construction or Job Order Contracting (JOC), and facilities services (e.g. landscaping, pest control, asbestos abatement, and rubbish removal).

Exempt Positions:

- Minor volunteers over the age of 14 who work under constant supervision by a permanent County employee, at the discretion of the appointing power.

- All volunteers who work less than three (3) days for each event or period of service.

Mandatory Criminal History Information Request – Sensitive Positions

All Departments must secure criminal history information on likely candidates for employment positions, volunteers, and contract personnel performing duties, within the following categories:

- Positions that involve the care, oversight, or protection of persons through direct contact with such persons (e.g. Children's Social Worker, Home Nursing Attendant, Lifeguard, Juvenile Crew Instructor, Clinic Driver, Deputy Public Guardian, etc.).

- Positions having direct or indirect access to funds or negotiable instruments (e.g., Assistant Deputy Director, Chief Investment Officer, Finance Manager, Portfolio

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Manager, Deputy Purchasing Agent, Cashier, etc.).

- Positions that require state and/or professional licensing (e.g., Attorney, Physician, Registered Nurse, Certified Public Accountant, Pharmacist, Physical Therapist, etc.).

- Positions that involve public safety and/or law enforcement (e.g., Deputy Sheriff, Safety Police Officer, Probation Officer, Public Health Investigator, Environmental Health Specialist, etc.).

- Positions that have access to or charge for drugs or narcotics (e.g. Pharmacist, Pharmacist Technician, Pharmacy Helper, Physician, Registered Nurse, etc.).

- Positions that have access to confidential or classified information including criminal conviction information (e.g. Departmental Human Resources Manager, Welfare Fraud Investigator, Psychiatric Social Worker, etc.).

- Positions that involve the care, oversight, or protection of County, public, or private property (e.g., Estate Property Custodian, Golf Course Manager, Warehouse Worker, etc.).

Department Options

Each appointing authority may establish additional categories of sensitive positions based on this policy, with the approval of the Director of Personnel.

Potentially Disqualifying Job Related Offenses

The following shows offenses which, under certain conditions, may be incompatible with specific work functions. These lists shall be used as guidelines in determining which criminal offenses are related to the duties of sensitive positions;

1. Function – Care, Oversight, or Protection of Persons Through Direct Contact with Such Persons

Robbery	Intoxication	Theft
Embezzlement	Fraud	Forgery
Kidnapping	Manslaughter	Assault
Homicide	Receiving Stolen Property	
Drug or Narcotics Offenses		

Sex Offenses which Involve Victims; e.g., Rape, Child Molestation, etc.

2. Function – Direct or Indirect Access to Funds or Negotiable Instruments

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Bribery	Robbery	Theft
Fraud	Embezzlement	Forgery
Receiving Stolen Property		

3. Function – Requirement of State and/or Professional Licensing

Violation of any certification or licensing provisions relating to duties of the position in question may also be the basis for disqualification.

4. Function – Public Safety or Law Enforcement

Robbery	Theft	Fraud
Embezzlement	Kidnapping	Assault
Homicide	Intoxication	Forgery
Drug or Narcotics Offenses		

Sex Offenses which Involve Victim; e.g., Rape, Child Molestation, etc.

5. Function – Access to or Charge for Drugs or Narcotics

Robbery	Fraud	Theft
Embezzlement	Forgery	
Drug or Narcotics Offenses		
Receiving Stolen Property		

6. Function – Access to Confidential or Classified Information Including Criminal Conviction Information

Extortion	Robbery	Theft
Fraud	Forgery	Perjury
Receiving Stolen Property		

7. Function – Charge of or Access to County, Public or Private Property

Robbery	Embezzlement	Theft
Receiving Stolen Property		

Hiring Standards

A full disclosure of all criminal convictions is required on the County *Employment Application* and *Candidate Information Sheet*. If the applicant fails to fully complete the conviction information on the County *Employment Application*, the application may be rejected. Failure to disclose convictions will result in the applicant's disqualification from the Civil Service examination.

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A criminal history background check will be conducted prior to the effective date of the appointment. The appointment shall be after a job offer is extended to the candidate, contingent upon a successful completion of a background check and medical evaluation. All new or promoted employees, contract personnel, and volunteers may not begin employment until the results of the background check are obtained and reviewed by the appropriate hiring authority.

Persons with criminal convictions may still be placed in a sensitive position for which they qualify and if their previous conviction does not pose a risk. Each case should be individually reviewed and evaluated based on the following criteria:

- The nature of the offense in relation to the duties of the position.
- The seriousness of the offense as evidenced by conditions surrounding the crime and the sentence given. Any extenuating circumstances are to be taken into consideration.
- The recency of the offense.
- The age of the individual at the time the offense and the conviction took place.
- The extent of the individual's criminal record. Was the offense and conviction an isolated incident or does it represent a continuing pattern?
- The evidence and extent of rehabilitation by the applicant.
- The subsequent period of stability (i.e., has the applicant been free from further convictions?).

Steps Involved in Review of Criminal History

Departments shall use the *Application/Criminal History Approval Form,* developed by DHR for details on how to conduct and document job nexus determinations and criminal history reviews.

The following are steps involved in the review of criminal history:

- Request written statements from candidates/employees in regards to convictions.
- Obtain court records for all criminal history information reported on DOJ notifications including Section 1203.4 Penal Code dismissals. Note: Court records do not need to be certified to make job suitability determinations unless the Department plans to take administrative action or an employee challenges an employment decision.
- Review all documents that provide a candidate/employee an opportunity to self

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disclose, such as prior *Candidate Information Sheets* and County *Employment Applications.*

- Incorporate departmental and County hiring standards included in policy when making job suitability determination.

- If applicable, send a *Letter of Determination* to current employees upon completing criminal history review and determining suitability for appointment/ongoing employment. Note: A *Letter of Determination* is not considered discipline and should **not** be maintained in the *Official Employee Personnel Folder.*

- For County employees, a review and analysis of the employee's work history should be conducted and the following factors considered:

  - Work history (positive or negative) as documented in the Official Personnel File and/or Area files (e.g., performance evaluations, length of service, prior disciplinary actions, commendations, counseling, etc.)

  - Documented accountability and disclosure(s) on prior *Candidate Information Sheets* and/or *County Employment Applications*

  - Level of responsibility and scope of authority in their current position

  - Impact on the Department's mission and service objectives

Self-Reporting of Arrests and/or Convictions

It is the responsibility of employees and volunteers to report any arrest pending final adjudication or conviction to the Departmental Human Resources Manager within seventy-two (72) hours per County Code Section 5.02.070. Arrest pending final adjudication means an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial, pursuant to Labor Code 432.7 (a).

If any conviction or arrest pending final adjudication occurs while the employee, contract personnel, or volunteer is working for the County, the designated departmental representative shall be informed within seventy-two (72) hours. The *Self-Reporting of Arrests and/or Convictions Form* shall be completed and sent to the Departmental Human Resources Manager, as required in the DHR Policies, Procedures, and Guidelines No. 502, Self Reporting of Arrests and/or Convictions. All employees and candidates for County employment are required to disclose felony convictions dismissed under Penal Code Section 1203.4, which will only be used for the purpose of conducting independent investigations to determine their job suitability.

Privacy Issues

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Penal Code Sections 11105 and 13300 identify who may have access to criminal history information and under what circumstances it may be released. The California Administrative Code requires criminal conviction information be released only to those persons with a legitimate need to know and only at the time they require such knowledge. Further, unauthorized disclosure of criminal history information is punishable as a crime.

PROCEDURES

All County Departments are required to comply with all California Department of Justice (DOJ) requirements including those outlined within the *Live Scan Subscriber Agreement* form. The *Live Scan Subscriber Agreement* is between the user (County Department) and the DOJ. Criminal conviction information will be obtained through fingerprints submitted to the DOJ.

Criminal Offender Record Information (CORI or ORI) and the information derived from there shall be accessible only to the Custodian of Records and/or hiring authority charged with determining the suitability of the applicant. The CORI may also be reviewed by those individuals who have a "need to know."

Custodian of Records

Pursuant to Penal Code section 11101.2, beginning January 1, 2011, the Department of Justice (DOJ) implemented a confirmation program to process fingerprint-based criminal offender record information background responses on individuals designated by applicant agencies to serve as Custodian of Records. Effective July 1, 2011, no person shall serve as an agency Custodian of Records unless they have been confirmed by the DOJ. For more information about the DOJ Custodian of Records confirmation process, please contact the Department of Human Resources – Central Live Scan Unit.

The Departmental Human Resources Manager as the recipient of the criminal conviction information from the DOJ and FBI must sign the required DOJ *Custodian of Records* form acknowledging an understanding of the CORI security requirements. Upon receipt of criminal conviction information, the Departmental Human Resources Manager will take custody of the information and be responsible for maintaining the security and confidentiality of the information.

All staff receiving access, or in proximity to terminals or fax machines, to background check information obtained from the DOJ and/or FBI must undergo a background check. The Custodian of Records shall ensure the appropriate staff undergo background check and is required to maintain a record/log to verify that all staff who has a role in the Live Scan and criminal history review process has been Live Scanned.

Confidential information received electronically or via mail shall be used solely for the

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purpose for which it was requested and shall not be reproduced for secondary dissemination. Retention of criminal history records beyond this time must be based upon documented legal authority and need. All State summary criminal history records obtained for employment, purposes should be destroyed by cross-cut shredding, once an employment decision is made.

The Custodian of Records is also responsible for the retention, maintenance, and destruction of all criminal history record information. The Departmental Human Resources Manager shall establish the following procedures to maintain confidentiality, and may establish additional procedures as are necessary to implement this policy:

- *Record Security* – The information will be maintained under lock and key and will not leave the premises of the human resources office.

- *Record Storage* – CORI or related background information shall **not** be filed in the *Official Employee Personnel Folder*. Note: A temporary background file may be generated only as necessary while the background history information is retained for evaluation, until destroyed.

- *Record Dissemination* – The Departmental Human Resources Manager will determine "need to know" and will ensure that only those individuals with a legitimate "need to know" are permitted to review the information.

- *Record Reproduction* – CORI is confidential and shall not be reproduced for dissemination.

The Departmental Human Resources Manager will maintain a log containing:

- The name and title of the individual reviewing the information.

- The date and time the individual examined the information in the human resources office.

- The individual "need to know" reason for viewing the information.

- The signature of the Departmental Human Resources Manager approving the examination of the information.

- All automated systems containing conviction information must be secured to prevent unauthorized access, alteration, deletion, or release of the information.

Certified Operators

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The Live Scan operator is responsible for confirming the photo identification validity of an applicant and subsequently operating a Live Scan device and/or providing applicant fingerprint services. Every operator providing services on behalf of any County Department shall possess and maintain a valid Fingerprint Roller Certificate issued by DOJ. Operators are also required to complete the DOJ *Security and Disclosure Certification* form to acknowledge the responsibilities of protecting confidential applicant information, and the restrictions concerning the use of such information and the penalties for misuse.

The Department shall maintain a current list of all operators providing fingerprint services. CORI shall be accessible only to the hiring authority charged with determining the suitability for employment of an applicant. The Department is to ensure that operators who function in a primary role or serve as back-up operators are not authorized to receive and/or review CORI or related background information.

Employees Who Access and/or Review DOJ Notifications

All staff with access to CORI must receive training and counseling on the handling of CORI. Recipients of DOJ and/or FBI information are required to maintain confidentiality and only share information with authorized individuals. Staff involved in the Live Scan process must sign *Employment Statement Forms* acknowledging an understanding of the criminal penalties of misuse of the strictly confidential CORI requirements.

In addition to any administrative action, penalties for improper and unauthorized disclosure of background check information may include criminal prosecution as authorized by California Penal Code 11140, 11142, and 11143.

Departments should maintain records of training for certified operators and staff with access to CORI, including confidentiality training.

Review and Handling of Subsequent Arrest Notifications (Arrests vs. Convictions)

The DOJ provides notification for the arrest of any employee, volunteer, or contract personnel whose fingerprints are maintained on file with DOJ. The notification shall consist of a current copy of the State summary criminal history records. The designated departmental representative shall evaluate subsequent arrest notification leading to a conviction for a current employee, volunteer, or contract personnel in a sensitive position, on a case-by-case basis.

Upon receipt of information regarding a conviction and/or arrest pending final adjudication, the designated departmental representative shall evaluate the effect and/or potential effect of the record or arrest of the employee, volunteer, or contract personnel. The Department shall take appropriate action to maximize public safety and minimize potential liability while respecting the rights of the employee, volunteer, or contract personnel. Subsequent arrest

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notifications should be handled in the same confidential manner as the initial DOJ notification.

Note: Generally convictions, not arrests, are relevant to a job nexus determination for suitability of employment.

No Longer Interested Notification Process

The DOJ shall be notified immediately, that the Department is no longer interested in subsequent arrest notification/CORI on any employee, volunteer, or contract personnel who transferred or terminated service and/or an applicant disqualified from employment. It is the responsibility of the Department to send timely *No Longer Interest Notification Forms* to DOJ, and to document the date the forms were faxed/mailed to DOJ. Any Department who fails to provide DOJ with timely notification may be denied further subsequent arrest notification service. Failure to notify DOJ is a Penal violation (Penal Code 11105.2 Subsection D).

Additionally, when a Department merges with or 'splits' from another County Department, the outgoing Department must contact DOJ to ensure that subsequent arrest and conviction information regarding the former employees will no longer be sent to the outgoing Department. The incoming Department will then need to prepare DOJ information for the new or transferred employees entering the Department.

The Department shall maintain records that verify the date that *No Longer Interested Notification Forms* were sent to DOJ, for audit compliance purposes.

Information Required on Sensitive Positions

All Departments shall maintain a list of all positions, volunteers and contract personnel designated for criminal conviction background checks for periodic review by DHR.

The following information is required to be submitted annually to the Director of Personnel on all mandatory sensitive positions.

- Listing of all Classifications
- Organizational unit where such positions work
- Documentation regarding prior approval

The following information is required to be on file with the Departmental Human Resources Manager of the Department for each position:

- Title of position
- Duties of position

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- Offenses which are incompatible with the responsibilities of the position
- A description of the relationship between the offenses and job performance adequate to justify securing criminal records.

Compliance with these procedures is subject to audit by the California Department of Justice and the DHR. Departments will be assisted by DHR with any questions regarding confidentiality and security of conviction information. Any questions regarding County policy and procedures on placing persons in sensitive positions should be referred to the Central Live Scan Unit.

DEFINITIONS

Applicant Live Scan – a system for the electronic submission of applicant fingerprints and the subsequent automated background check and response. Fingerprints can be digitized through an electronic process (Live Scan), enabling the electronic transfer of the fingerprint image data, in combination with personal descriptor information, to central computers at the Department of Justice.

Background Check – The act of reviewing both confidential and public information to investigate a person or entity's history. Background checks are commonly performed by employers to ensure that: (1) an employee is who he or she says they are, (2) to determine that the individual does not have a damaging history (such as criminal activity) that may reflect poorly on the company, (3) to confirm information that an applicant included on their application for employment.

Criminal Offender Record Information – State summary criminal background information identified through fingerprint submission to the DOJ. It is confidential information disseminated to applicant agencies authorized by California statute for the purposes of employment, licensing, certification, and volunteer clearances.

Live Scan – A computer-based device that allows for the capture of digitized fingerprint images and Applicant data, and the electronic transmission of fingerprint images and data to centralized computers at DOJ.

Summary Criminal History – A list of arrests and convictions provided by DOJ. Information is added to the summary criminal history, any time law enforcement conducts a criminal investigation. The history lists, arrest information such as the date, the charges, and the final disposition (what happened). The history also lists all criminal convictions, including the date of the conviction, the charges, the sentence, and whether the crime was a felony or a misdemeanor.

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AUTHORITY

- Penal Code Sections 11105(b)(10)
- Penal Code Section 13300(b)(10)
- November 10, 1998, Resolution of the Board of Supervisors of the County of Los Angeles declaring its intention to provide for the access of criminal history information for employment in sensitive positions
- August 4, 2009, Resolution of the Board of Supervisors of the County of Los Angeles providing authority to expand access to summary criminal history information at the State and local level to the federal level for employment purposes
- DHR Policies, Procedures, and Guidelines No. 502, Self-Reporting of Arrests and/or Convictions

DATE ISSUED/REVIEW DATE

Original Issue Date: Memo issued on November 25, 1998 Revised: October 30, 2008
Review Date: Sunset Date:

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ATTACHMENT D

ATTACHMENT 6

Candidate Information Sheet

COUNTY OF LOS ANGELES
CANDIDATE INFORMATION SHEET

ATTACHMENT D

(PLEASE PRINT IN INK)

1. Last Name	First Name	Middle Name	2a. Social Security No. 2b. Driver License Number and Expiration date.

3. Other Name(s) Used			4. Do you have a relative currently employed by the County? Yes ☐ No ☐ If yes, please indicate Name, Relationship and Department below:
5. Residence – Street Address	City	State, Zip Code	
6. Since (date)	7. Telephone No.		
8. Date of Birth	9. Date Residency Established in California	10. Date Residency Established in Los Angeles County	
11. In Emergency Notify:		12. Telephone No.	
13a. Street Address		13b. City, State, Zip Code	
14a. Military Service in the Armed Forces of the United States	From	To	14b. Serial No.
14c. Highest Rank or Rating	14d. Branch	14e. Type of Discharge	
14f. Military Service as a Reservist	From	To	

15. Foreign Languages	CHECK			16. Education (Name & Location of School)	Last Grade Completed	Date Completed	Major	Degree or Diploma
	Read	Write	Speak					
Spanish				Grammar/High School				
Other				Other				
Other				Other				

17. Professional or Technical Licenses, Permit, etc. (Write state, county or city in which registered/licensed)

18a. A full disclosure of all convictions is required. Failure to disclose convictions will result in disqualification. Not all convictions constitute an automatic bar to employment. Factors such as age at the time of the offense(s), and the recency of offense(s) will be taken into account, as well as the relationship between the offense(s) and the job for which you are being appointed. However, any applicant or employee for County employment who has been convicted of worker's compensation fraud is automatically barred from employment with the County of Los Angeles (County Code Section 5.12.110). **ANY CONVICTIONS OR COURT RECORDS WHICH ARE EXEMPTED BY A VALID COURT ORDER DO NOT HAVE TO BE INCLUDED.**

Have you ever been convicted of a misdemeanor or felony in a criminal proceeding or by a military court?

Yes ☐ No ☐ If yes, please complete 18b, 18c, 18d, 18e and 18f.

18b. Offense or Case Name (Provide Penal or other code section if known)	18c. Case Number
18d. Conviction/Order Date (Month/Day/Year)	18e. Location of the Court (City & State)

18f. Sentence or Fine

19. Have you ever been convicted of a crime under a different name? If so, please provide details.

20. Have you ever worked for the County of Los Angeles under a different name? If so, please provide details.

21. For County employment you must be either (a) a citizen of the United States of America, or (b) a registered alien with

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government permission to work in this country. Does either (a) or (b) describe your status as a resident of this Country?

Yes ☐ No ☐

ATTACHMENT D

22. Shifts you are willing to work:

A. ☐ Day B. ☐ Evening C. ☐ Night D. ☐ Rotating E. ☐ On Call

F. ☐ Weekend and Holidays G. ☐ Any

23. EMPLOYMENT HISTORY: Begin with present or last experience Account for past ten years or past ten employers

From Mo-Yr	To Mo-Yr	Time in Mos.	Position or Occupation	Duties performed in each employment	Wages or Salary	Name and addresses of all former employers including other county depts. As well as private firms	Reason for Leaving

If discharged give details

24. CERTIFICATION of Applicant:

I certify that all information and statements made in this Candidate Information Sheet (CIS) and on any attachments pertaining thereto are true and complete to the best of my knowledge. I understand that any false information and/or statements of material facts or omissions, may subject me to disqualification or dismissal.

DATE SIGNATURE OF APPLICANT

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ATTACHMENT D

ATTACHMENT 7

Self-Reporting of Arrests and Convictions Ordinance

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ATTACHMENT D

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 5.02.070 is hereby added to read as follows:

Reporting Requirements For Arrests And Convictions Of Employees And Volunteers.

(A) Every person employed in the classified or the unclassified service of the County of Los Angeles as defined in Section 33 of Article IX of the Charter of the County of Los Angeles, other than officers elected by the people, shall immediately and in no event later than seventy-two (72) hours report to his or her appointing power any arrest for which that person is incarcerated, or is out on bail or on his or her own recognizance pending trial. Failure to report an arrest shall be cause for discipline in the classified service, including discharge, or removal from the unclassified service.

(B) Every person employed in the classified or unclassified service of the County of Los Angeles as defined in Section 33 of Article IX of the Charter of the County of Los Angeles, other than officers elected by the people, shall upon appointment and annually thereafter be required to file a report on a form provided by the County disclosing, under penalty of perjury, whether he or she has been convicted of a felony or a misdemeanor. Failure to disclose a conviction, whether or not such conviction was previously disclosed or may be unrelated to the position held with the County or would pose no threat or risk to the County or to the public, shall be cause for discipline in the classified service, including discharge, or removal from the unclassified service. Disclosure is not required if, by operation of State or federal law, the conviction is exempt from disclosure.

(C) The provisions of subdivisions (A) and (B) of this section shall apply equally, to the extent administratively feasible, to any person employed in the classified or unclassified service of the County of Los Angeles on other than a permanent basis, and to any person providing services to the County of Los Angeles without compensation or as a volunteer, in accordance with guidelines issued by the director of human resources.

ATTACHMENT D

ATTACHMENT 8

Implementation Plan and Estimated Costs for Live Scan Expansion

ATTACHMENT D

EXPANSION OF CRIMINAL BACKGROUND CHECK PROGRAM IMPLEMENTATION PLAN AND ESTIMATED COSTS FOR FBI

Target Start Date	Phase	Category of Personnel	Subcategory	Estimated Number Impacted*	Background Check Fees: State & Local $32 per person	Background Check Fees: Federal $17 per person	Estimated Fingerprinting Costs
March 2012	I (DCFS)	Non-rep employees	Current employees in DCFS that have never been live scanned.	71	**	**	**
		Represented employees	Current employees in DCFS that have never been live scanned.	1,857	**	**	**
June 2012	II (DCFS)	Non-rep & Rep employees	Current employees in DCFS that have never had a Federal background check.	3,902	124,864	66,334	191,198
July 2012	III (care of others)	Represented employees	Current employees with direct care, oversight, and protection of persons, excluding employees covered in Phase I and II (Parks, Fire, Library, Mental Health)	10,140	324,480	172,380	496,860
		Non-rep employees	Current employees with direct care, oversight, and protection of persons, excluding DCFS employees (Parks, Fire, Library, Mental Health)	640	20,480	10,880	31,360
August 2012	IV (care of others)	Represented employees	Current employees with direct care, oversight, and protection of persons, excluding employees covered in Phase I – III (Health, Public Health, & all others)	11,000	352,000	187,000	539,000
		Non-rep employees		900	28,800	15,300	44,100
November 2012	V (financial)	Represented employees	Current employees with direct access to funds and/or negotiable instruments, excluding employees covered in previous phases	21,000	672,000	357,000	1,029,000
		Non- rep employees		3,000	96,000	51,000	147,000
January 2013	VI (remaining employees and volunteers)	Represented employees	Current personnel not covered in previous phases	18,000	576,000	306,000	882,000
		Non-rep employees		5,000	160,000	85,000	245,000
		Volunteers		10,000	320,000	170,000	490,000
				TOTAL COST	$2,674,624	$1,420,894	$4,095,518

* Numbers exclude elected officials, volunteers who are minors and who work less than 3 days under the age of 14, and the following departments that currently perform state, local, and federal checks for all personnel: District Attorney, Probation and Sheriff.

** The cost of conducting the background for these employees is included in the department's existing budget.

May 11, 2012