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

Location: Citywide

Recommendation: Pass a Resolution authorizing the City to access local, state and federal summary criminal history information for employment, certification, and licensing purposes, including the permitting of cannabis businesses.

Contact: Joe Devlin, Chief of Cannabis Policy and Enforcement, (916) 808-4772; Zarah Cruz, Program Specialist, (916) 808-8925, Office of Cannabis Policy and Enforcement, Department of Finance

Presenter: None

Attachments:
1-Description/Analysis
2-Resolution
3-Resolution 2009-535
4-Resolution 2007-521
Description/Analysis

Issue Detail: City departments access criminal history information to screen prospective employees, volunteers, independent contractors, and license and permit applicants and holders. Prior to July 2007, only the Police Department had the ability to obtain this critical information. Resolution 2007-521 adopted by the City Council on July 17, 2007, authorized City departments to access to such criminal history information (Attachment 3).

Subsequently, Resolution 2009-535 adopted on August 18, 2009, as required by the Department of Justice (DOJ), specified the licenses and permits that require access to such information (Attachment 4). The resolution also allowed City departments that require criminal history information to submit individual applications to the DOJ for access to criminal history background information, referred to as “LiveScan” access. The attached resolution will allow the Office of Cannabis Policy and Enforcement to access to criminal history information in order to streamline the background check process for interested parties in cannabis businesses.

Policy Considerations: California Penal Code Section 11105 allows cities, when access is specifically authorized by resolution of the City Council, to access state summary criminal history information from the DOJ and information from the Federal Bureau of Investigation to assist in fulfilling employment, certification or licensing duties. California Penal Code Section 13300 allows cities, when authorized in the same manner, to access local summary criminal history information for the same purpose. The proposed resolution adds cannabis businesses to the list of permits that City departments can access information on and will allow the Office of Cannabis Policy and Enforcement to submit individual applications and access criminal history information for the required background checks on interested parties, defined as persons with a 20% interest or more in the cannabis business, chief executive officers, members of the board of directors, managers, as well as all delivery drivers and distribution drivers.

Environmental Considerations: This action is not a project that is subject to CEQA because it is an administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines §15378(b)(5).)

Sustainability: Not applicable

Commission/Committee Action: Not applicable

Rationale for Recommendation: Interested parties, defined in Title 5, Chapter 5.150 as persons with a 20% interest or more in the cannabis business, chief executive officers, members of the board of directors, managers, as well as all delivery drivers and drivers for
distribution businesses, must undergo a background check as a requirement to obtain a City Business Operating Permit (BOP). The City, through the Revenue Division has been issuing BOPs for medical cannabis dispensaries since 2012. With the adoption of a series ordinances throughout 2017 allowing cannabis cultivation, manufacturing, testing, distribution and delivery-only dispensaries, the volume of individuals required to undergo a background check has increased significantly. While fingerprint-rolling functions will stay in the Revenue Division, the proposed resolution will allow the Office of Cannabis Policy and Enforcement to submit individual applications and Livescan access requests to the DOJ, thereby streamlining the background check process for all interested parties.

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

**Local Business Enterprise (LBE):** Not applicable
AUTHORIZING ACCESS TO SUMMARY CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT, CERTIFICATION AND LICENSING PURPOSES

BACKGROUND

A. Penal Code sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, and districts to access state and local summary criminal history information for employment, licensing or certification purposes.

B. Penal Code section 11105(b)(11) authorizes cities, counties, and districts to access federal criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to Federal Bureau of Investigation.

C. Penal Code sections 11105(b)(11) and 13300(b)(11) require that the state and local criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject and contains a requirement or exclusion expressly based on that specific criminal conduct.

D. Penal Code Sections 11105(b)(11) require the City Council, Board of Supervisors, or governing body of a city, county or district to specifically authorize access to summary criminal history information for employment, licensing or certification purposes.

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

Section 1. The City of Sacramento, its officers, and officials are hereby authorized to access local, state and federal summary criminal history information to fulfill employment, certification, and licensing duties.
Section 2. The authorization in Section 1 above includes, but is not limited to, access necessary to assist the City in fulfilling its duties, pertaining to the following statutes, ordinances, and regulations that expressly refer to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct:

1) Adult-related establishment permit (Sacramento City Code (SCC) Ch. 5.04)
2) Massage technician permit (SCC Ch. 5.04)
3) Escort permit (SCC Ch. 5.04)
4) Adult-entertainment business permit (SCC Ch. 5.06)
5) Adult performer permit (SCC Ch. 5.06)
6) Figure model permit (SCC Ch. 5.06)
7) Alcoholic beverage license (SCC Ch. 5.08)
8) Amusement arcade license (SCC Ch. 5.12)
9) Astrology and related practices license (SCC Ch. 5.16)
10) Billiard and pool parlor license (SCC Ch. 5.20)
11) Bingo license (SCC Ch. 5.24)
12) Cable television franchise (SCC Ch. 5.28)
13) Cable television license (SCC Ch. 5.28)
14) Cardroom license (SCC Ch. 5.32)
15) Cardroom work permit (SCC Ch. 5.32)
16) Journey-level plumbers’ certificate of competency (SCC Ch. 5.36)
17) Coin operated gaming permit (SCC Ch. 5.48)
18) Firearm and ammunition sales license (SCC Ch. 5.64)
19) Firearm and ammunition sales work permit (SCC Ch. 5.64)
20) Food vending vehicle permit (SCC Ch. 5.68)
21) Food vending vehicle driver permit (SCC Ch. 5.68)
22) Junk dealer, secondhand dealer, pawnbroker and pallet reseller permit (SCC Ch. 5.64)
23) Food or flower vendors’ permit (SCC Ch. 5.88)
24) Pedicab owner permit (SCC Ch. 5.94)
25) Pedicab driver permit (SCC Ch. 5.94)
26) Pedicab vehicle permit (SCC Ch. 5.94)
27) Entertainment permit (SCC Ch. 5.108)
28) Solicitor license (SCC Ch. 5.116)
29) Canvasser permit (SCC Ch. 5.116)
30) Somatic practitioner permit (SCC Ch. 5.124)
31) Somatic practitioners’ establishment permit (SCC Ch. 5.124)
32) Tattooing permit (SCC Ch. 5.132)
33) Taxicab fleet association permit (SCC Ch. 5.136)
34) Taxicab vehicle permit (SCC Ch. 5.144)
35) Taxicab driver permit (SCC Ch. 5.144)
36) Tow car vehicular permit (SCC Ch. 5.144)
37) Tow car driver permit (SCC Ch. 5.144)
38) Funeral escort permit (SCC Ch. 10.28)
39) Curb painting permit (SCC Ch. 12.08)
40) Cannabis businesses (SCC Ch. 5.150)
RESOLUTION NO. 2009-535

Adopted by the Sacramento City Council

August 18, 2009

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

BACKGROUND

A. Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, and districts to access state and local summary criminal history information for employment, licensing or certification purposes.

B. Penal Code Section 11105(b)(11) authorizes cities, counties, and districts to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

C. Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record.

D. Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, or governing body of a city, county, or district to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

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

Section 1. The City of Sacramento is hereby authorized to access local, state and federal level summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.

Section 2. The authorization in Section 1 above includes, but is not limited to, access necessary to assist the City in fulfilling its duties pertaining to the following licenses and permits:

1) Adult-related establishment permit (Sacramento City Code (“SCC”) Ch. 5.04)
2) Massage technician permit (SCC Ch. 5.04)
3) Escort permit (SCC Ch. 5.04)
4) Adult-entertainment business permit (SCC Ch. 5.06)
5) Adult performer permit (SCC Ch. 5.06)
6) Figure model permit (SCC Ch. 5.06)
7) Alcoholic beverage license (SCC Ch. 5.08)
8) Amusement arcade license (SCC Ch. 5.12)
9) Astrology and related practices license (SCC Ch. 5.16)
10) Billiard and pool parlor license (SCC Ch. 5.20)
11) Bingo license (SCC Ch. 5.24)
12) Cable television franchise (SCC Ch. 5.28)
13) Cable television license (SCC Ch. 5.28)
14) Cardroom license (SCC Ch. 5.32)
15) Cardroom work permit (SCC Ch. 5.32)
16) Journey-level plumbers' certificate of competency (SCC Ch. 5.36)
17) Coin operated gaming permit (SCC 5.48)
18) Firearm and ammunition sales license (SCC Ch. 5.64)
19) Firearm and ammunition sales work permit (SCC Ch. 5.64)
20) Food vending vehicle permit (SCC Ch. 5.68)
21) Food vending vehicle driver permit (SCC Ch. 5.68)
22) Junk dealer, secondhand dealer, pawnbroker and pallet reseller permit (SCC Ch. 5.80)
23) Food or flower vendors' permit (SCC Ch. 5.88)
24) Pedicab owner permit (SCC Ch. 5.94)
25) Pedicab driver permit (SCC Ch. 5.94)
26) Pedicab vehicle permit (SCC Ch. 5.94)
27) Entertainment permit (SCC Ch. 5.108)
28) Solicitor license (SCC Ch. 5.116)
29) Canvasser permit (SCC Ch. 5.116)
30) Somatic practitioner permit (SCC Ch. 5.124)
31) Somatic practitioners' establishment permit (SCC Ch. 5.124)
32) Tattooing permit (SCC Ch. 5.132)
33) Taxicab fleet association permit (SCC Ch. 5.136)
34) Taxicab vehicle permit (SCC Ch. 5.136)
35) Taxicab driver permit (SCC Ch. 5.136)
36) Tow car vehicular permit (SCC Ch. 5.144)
37) Tow car driver permit (SCC Ch. 5.144)
38) Funeral escort permit (SCC Ch. 10.28)
39) Curb painting permit (SCC Ch. 12.08)

Section 3. The City of Sacramento shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract employees), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.
Adopted by the City of Sacramento City Council on August 18, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.

Attest:

Mayor Kevin Johnson

Shirley Concolino, City Clerk
RESOLUTION NO. 2007-521

Adopted by the Sacramento City Council

July 17, 2007

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

BACKGROUND

A. Penal Code Sections 11105(b)(10) and 13300(b)(10) authorize cities, counties, and districts to access state and local summary criminal history information for employment, licensing or certification purposes.

B. Penal Code Section 11105(b)(10) authorizes cities, counties, and districts to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

C. Penal Code Sections 11105(b)(10) and 13300(b)(10) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record.

D. Penal Code Sections 11105(b)(10) and 13300(b)(10) require the City Council, Board of Supervisors, or governing body of a city, county, or district to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

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

Section 1. The City of Sacramento is hereby authorized to access local, state and federal level summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.

Section 2. The City of Sacramento shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract employees), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.
Adopted by the City of Sacramento City Council on July 17, 2007 by the following vote:

Ayes: Councilmembers, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmember Cohn.

Attest:
Shirley Concelino, City Clerk

Mayor, Heather Fargo