

## 86-044 Release of Criminal History Information to Contract Cities

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Los Angeles County Sheriff's Department

### FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

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#### RELEASE OF CRIMINAL HISTORY INFORMATION TO CONTRACT CITIES

This directive delineates the policies and procedures for providing pre-employment record checks and the release of criminal history information to contract city personnel.

#### Legal Authority

Cities wishing to receive criminal history records from either the Sheriff's Department or from the California State Department of Justice (DOJ), whether for pre-employment purposes, certification or licensing requirements must, according to law, qualify as "authorized agencies". Penal Code Sections 11105(b) (10) and 13300(b) (10) authorized cities to receive criminal history information for employment, licensing or certification purposes, provided they have passed a resolution which grants them such access and which specifies that the information obtained is necessary to fulfill conditions of employment, licensing or certification.

#### Becoming An Authorized Agency

Any city may become recognized by DOJ as authorized to receive criminal history records by passing a resolution outlining the requirement.

Following approval, the city may notify DOJ and request to be added to the list of authorized cities.

DOJ maintains a list of all cities in California who meet the legal requirements and are entitled to receive criminal history information.

#### Department Policy

It is the policy of the Sheriff's Department to adhere to the same standards of record security as those established by DOJ (refer to Manual of Policy and Procedures Section 3-09/090.00). Therefore, contract cities who wish to receive "local" criminal history information must qualify as "authorized agencies" as defined by DOJ.

#### Obtaining Criminal History Records

Authorized contract cities may obtain "local" criminal history information from the Records and Statistics Bureau.

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A contract city shall submit a written request (sample form attached) for criminal history information to the local Sheriff's station.

When a contract city requests criminal history information, the following shall be noted:

- Departmental personnel shall determine whether or not the individual agency requesting the information is recognized as an "authorized agency" by DOJ. This may be accomplished by contacting Records and Statistics Bureau.
- If the letter of request is submitted to the station and the city is verified as being an "authorized agency", the letter is to be accepted and forwarded to the Records and Statistics Bureau, Attention: Chief Clerk. The Records and Statistics Bureau will maintain a list of individuals authorized by their contract city to receive criminal history information. Each contract city will be responsible for providing our Department with a list of authorized personnel. In the absence of an authorized representative, criminal history information will be forwarded to the city's Personnel Director.
- Once Records and Statistics Bureau receives a request for criminal history information and verifies the requesting city as an "authorized agency", a "local" record check will be initiated. A "local" record check consists of a search for both arrest records and warrants of arrest only in information systems maintained by the Sheriff's Department. These records may be maintained in either electronic or manual files.
- The following information index systems can be queried using a name only:
  - The automated Index (AI), Personal History Information (PHI) and Arrest Trailer File (ATF)
  - Automated Wants and Warrants System (AWWS) and Wanted Person System (WPS).
  - Microfiche bookings (or, for dispositions, arrest reports contained on microfilm).
  - Old Criminal History Index File (manual search).

A more comprehensive record search of these index systems can be made if a fingerprint card is submitted with the record request. The fingerprint card will be classified by Records and Statistics Bureau personnel. The fingerprints will be coded and the resultant numerical code used to access the automated arrest information systems previously described.

The advantage of this kind of record check is that it permits accurate identification of the subject and allows the Department to determine whether the subject has been arrested under different names.

In addition, a manual search for records of arrest will be conducted at Records and Statistics Bureau if, with the initial request, a fingerprint card is submitted.

**NOTE:** Only information on arrests that resulted in conviction may be released.

Only Records and Statistics Bureau has all of the microfiche records needed to provide a comprehensive "local" arrest record search. A "local" arrest record search, by definition, does not include an inquiry of DOJ, NCIC, or neighboring policy jurisdiction's criminal history files.

### **Release of Criminal History Information By Telephone**

Current Departmental policy permits the release of criminal history information to authorized persons by telephone provided the identity of the caller can be verified; however, it is more appropriate that all requests

for this type of information be handled by formal correspondence. This requirement ensures a better audit trail.

If an emergent situation exists, or the information is not readily obtainable by other means, criminal history record information may be given by telephone. In those cases, a Criminal Record Transmittal form (SH-R-368) must be completed by the person releasing the information.

### **Conviction Information Only**

According to Section 432.7 of the Labor Code, law enforcement agencies are prohibited from disclosing, with intent to affect a person's employment, any information pertaining to an arrest which did not result in a conviction. Exceptions may be made under the following circumstances:

- Applicants seeking employment as peace officers or positions within a law enforcement agency with access to criminal offender information.
- Applicants seeking employment with a health facility as defined in Section 1250 of the Health and Safety Code, and who would have regular contact with patients, are not protected under the provisions of Section 432.7 of the Labor Code. Arrest information on any crime referenced under Section 290 (a) of the Penal Code, regardless of whether it resulted in conviction, may be disclosed.
- Applicants seeking positions which afford access to drugs are not protected under the provisions of Section 432.7 of the Labor Code. Any arrest for offenses referenced in Section 11590 of the Health and Safety Code could be disclosed, regardless of whether the arrest resulted in conviction.

### **Initiating Request for Record Checks**

A contract city may request a criminal history record check to complete a pre-employment background profile on a prospective employee. The city's formal letter of request should specify that the record check is part of the pre-employment process.

The applicant shall bring a letter from the concerned city requesting a local record check. Additionally, the applicant shall provide a stamped envelope addressed to the city official making the request. The record check will be returned in this envelope.

### **Requesting State (DOJ) Record Checks**

The Sheriff's Department is capable of providing only local criminal history record information, not State (DOJ) criminal history summaries. If the city wishes a DOJ record check, it may apply directly to DOJ or it may request our Department to forward the request. If a DOJ check is desired, the city should supply the applicant with a stamped 8 1/2 x 11 manila envelope addressed to: State Department of Justice, Bureau of Criminal Identification, 4949 Broadway Street, Sacramento, California 95820. The envelope should contain a letter requesting a State criminal history record check and a fingerprint card. The name of the contract city must be printed on the fingerprint card in the box titled, "Contributing Agency and Address." DOJ will bill the city for processing this record check.

Department personnel will do the fingerprinting and provide all required fingerprinting cards. Fingerprinting can be done at any one of the local Sheriff's stations. Most stations provide fingerprinting on regularly scheduled days at a cost of \$7.00 per card. If the applicant is applying for a civil service position with a contract city, the fee can be waived pursuant to section 3-09/200.05 of the Manual of Policy and Procedures.

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When the prints are taken, the applicant should present a letter from the concerned contract city requesting that the fee be waived.

### **Billing Procedure**

Contract cities requesting a "local" record check will be billed by the Fiscal Services Bureau, which develops the cost for processing requests for criminal history information. The Records and Statistics Bureau will submit a SH-AD 32A to the Fiscal Services Bureau indicating that a record check was completed and returned pursuant to the city's request. This will initiate the billing process. A copy for the city's request for the record check should be attached to the SH-AD 32A.

### **Cost**

The current cost for processing criminal history information inquiries are as follows:

LASD Record Search (Developed by the Fiscal Services Bureau) - \$29.00

State Department of Justice (DOJ) - \$17.50

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