

SUBJECT: CRIMINAL HISTORY INVESTIGATIONS/FINGERPRINTING

I. PURPOSE

This directive establishes a standard policy and method of investigating criminal history, through fingerprinting of candidates, consistent with Personnel Rule VIII, SECTION 4, and Personnel Procedures Manual Chapter 11, and applicable Federal and State laws.

II. POLICY

It is the policy of the City of Lompoc to investigate the criminal history of candidates (open and promotional recruitments and transfers) whom the City is considering offering a permanent full-time, part-time, or temporary position (six months or longer, in addition to shorter length, part-time recreation positions) in one of the job classifications set forth in Attachment II. Criminal history information will be obtained from federal and state records via fingerprinting. This information will be used to determine whether a candidate has had a criminal conviction related to the position.

Attachment II outlines the specific classifications and the types of misconduct, which may remove a candidate from consideration or may cause an employee to be terminated from employment.

III. SCOPE

This directive applies to all City departments, except for the Police Department, which is governed by separate statutes. Where any section, subsection, sentence, clause, or phrase of this procedure is found inconsistent with an approved memorandum of understanding enacted between the City and a recognized employee organization, the current Memorandum of Understanding shall prevail. Exceptions to this procedure shall be allowed only when approved by the City Administrator.

IV. AMENDMENTS

This directive may be amended by the City Council from time to time.

V. LEGAL GUIDELINES

A. Employment Decisions Involving Criminal Histories:

1. Penal Code Section §11105 allows the California Attorney General to furnish summary criminal history information to any city official when access is needed to assist such official in fulfilling employment certification, or licensing duties, and when such access is specifically authorized by City Council. The City shall show a reasonable specific connection between the status of being a criminal offender and the responsibilities connected with the position sought.

2. The City of Lompoc does not necessarily deny employment (open and promotional recruitments and transfers) to an applicant convicted of a crime to whom the City is considering offering a position. All circumstances will be considered prior to the decision to accept or reject an applicant. Factors which may be considered in hiring or making employment decisions are:
 - a. the nature and seriousness of the offense;
 - b. the circumstances surrounding the conviction;
 - c. the age of the person at the time of the conviction;
 - d. the presence or absence of rehabilitation or efforts at rehabilitation;
 - e. the length of time since the conviction;
 - f. the classification, including sensitivity, to which the person is applying or being certified and whether the duties and responsibilities of the classification are related to the conviction.

The hiring decision will be made on a case-by-case basis in which the hiring authority (generally the department head), the City Attorney, and Human Resources Director consult on the facts of the case.

- B.** Along with other background investigation inquiries such as reference checks, employment verification, education verification, etc. of the candidate, being considered for hire, the Human Resources Department will notify the candidate that he/she is being considered for hire and will request the candidate to sign a release (See Attachment I) allowing the City to take his/her fingerprints and submit them to the California Department of Justice (“DOJ”) for a records search. Refusal to sign the release will preclude the candidate from further consideration for the position. The Human Resources Department will complete the necessary paperwork for fingerprinting the candidate. The candidate then will be sent to the Police Department for fingerprinting.

The Police Department will submit the digitally taken prints to the DOJ. The DOJ will provide the Human Resources Department, via fax, with the results. Upon receipt of the results, if no criminal record exists, no action is necessary. If a criminal record exists, the Human Resources Director or his/her designee will confer with the City Attorney, the hiring authority, and City Administrator, if necessary, to decide what action to take in accordance with the above stated guidance (V.A. 1 and 2). If it is determined that a candidate will not be hired based on his/her criminal record, he/she will be notified in writing of his/her expected disqualification, and provided an opportunity to correct factual errors, if any, in the criminal record.

- C. Criminal Records Search** -- Three types of searches exist: State DOJ search; National FBI search; and Child Abuse Central Index (for employees working with children). A state and national search will be conducted for all positions shown in Attachment II, except for Parks and Recreation Department applicants/employees. (Certain Parks and Recreation applicants/employees will require the Child Abuse Central Index search only or any combination of the three searches, depending on the position.) The Human Resources Department must determine what type(s) of criminal records’ search must be done in consultation with the Department of Justice.
- D. Records Retention** -- Results of criminal records search will be maintained in a secured file separate from the employee personnel files.

VI. INTERPRETATION AND IMPLEMENTATION

Any questions relating to the intent or application of these procedures shall be directed to the Human Resources Director.

AUTHORIZED:

/s/ Frank L. Priore
Frank L. Priore, City Administrator

3/21/02
Date

ATTACHMENT I

**HOLD HARMLESS AGREEMENT
FOR
BACKGROUND INVESTIGATION**

The undersigned voluntarily consents to the conduct of a background investigation in connection with my application for the position of _____.
I have been informed that this investigation includes fingerprinting for the purpose of obtaining criminal history information, and that such information will be used only in connection with this pending application.

The undersigned hereby releases the City of Lompoc, its officials, employees, officers, and agents from all liability, claims, and demands of the undersigned for any loss or damage of any kind whatsoever arising out of this background investigation.

APPLICANT:

Printed Name

Signature

Date

WITNESS:

Printed Name

Signature

Date

ATTACHMENT II

Classifications Requiring Criminal History and Criminal Convictions Which May Remove a Candidate from Consideration

CLASSIFICATION

TYPES OF MISCONDUCT

Only positions in below classifications that deal with cash or accounts:

Theft or theft related crimes; use of and/or sale of non-prescribed controlled substances.

Accounting Technician
Utility Accountant
Accountant
Treasury Clerk - all levels
Account Clerk - all levels
Office Staff Assistants - all levels dealing with cash or bookkeeping

Only positions in below classifications that deal with highly sensitive and/or confidential documents:

Crimes involving moral turpitude; theft of any kind; use and/or sale of non-prescription controlled substances

Office Staff Assistants
Administrative Aide
Administrative Analyst
Administrative Assistant
Secretary to the City Administrator
Paralegal
Deputy/Assistant City Attorney
Deputy City Clerk
Safety Officer
All "Confidential" positions
Custodian series
Lead Custodian

Only positions in below classifications in which incumbent enters customer's property:

Theft or related crimes; lewd acts; or such acts against the will of the other party; use and/or sale of non-prescribed controlled substances; hate and violence related crimes.

Electrical Personnel - ground support, lineworkers, crew leaders
Streets Maintenance Workers
Tree Trimmers
Water Distribution Workers
Wastewater Collection Workers
Customer Service Workers
Meter Maintenance Technicians

Only positions in below classifications that interact with children:

All Recreation Classifications
Parks Maintenance Workers
Fire Personnel
Tree Trimmers
Maintenance Worker Trainee - in
Parks, on customers' property

Lewd Acts; violent acts

Only positions in below classifications which have a high level of trust, deal with funds, supervise and/or manage personnel and operations:

Supervisors,
Division and Department Heads
City Administrative Staff

Any criminal act dealing with theft; lewd acts or such acts against the will of the other party; use and/or sale of non-prescribed controlled substances; unlawful carrying of a concealed weapon; hate and violence related crimes.

Only positions in below fire service classifications which have a high level of trust and enter private property:

All Fire Service Classifications

Same crimes shows for supervisors, division heads, and City Administrative staff.

Only positions in below classifications that regularly operate and/or drive equipment and vehicles:

Maintenance classifications

Convictions related to violations of the Motor Vehicle Code; hate and violence related crimes; use and/or selling of non-prescribed controlled substances.

Only positions in below classifications whose duties could adversely impact public safety, including water contamination and/or disruption of energy services:

Water utility classifications
Electrical utility classifications

Hate and violence related crimes; any conviction which may pose a threat to the potable water system or electrical energy services (Executive Order 13130)