

<p style="text-align: center;">City of Petaluma, CA Administrative Policy</p>	<p>Number: Established Date: 07-19-04 Last Revision Date:</p>
<p style="text-align: center;">Subject: Fingerprinting Policy</p>	<p style="text-align: center;">Authority: City Manager <i>Michael A. Bierman</i> City Manager</p>

**POLICY FOR FINGERPRINTING
CITY EMPLOYMENT CANDIDATES, CITY EMPLOYEES,
INDEPENDENT CONTRACTORS AND CITY VOLUNTEERS**

I. PURPOSE

This policy establishes the City of Petaluma's requirement that designated candidates for employment and non-employees required by state law, will be fingerprinted, and establishes the City's procedures for the fingerprint processing of said individuals.

II. POLICY

A person appointed or assigned to regular, authorized full-time or part-time employment in designated positions that are classified as confidential or security sensitive shall be fingerprinted. In addition, state law and City policy require employees - in all categories of employment, including part-time, temporary, or hourly employment - occupying job categories assigned to work with or around or supervising minors to undergo fingerprinting prior to assignment to work with or around minors. State law and City policy also require non-employees (e.g., independent contractors and volunteers) assigned to work with or around or supervising minors in City programs to undergo fingerprinting prior to placement.

A. Fingerprinting Requirements for City Employees in Confidential or Sensitive Positions

A person appointed or assigned to regular, full-time or part-time employment for designated positions that are classified as confidential or require security clearance before performing job duties shall have his/her fingerprints submitted to the State Department of Justice (DOJ) on or before the first day of employment or assignment to the position with the City. This requirement applies to current employees who are transferred, promoted, or reassigned to positions that are identified as confidential or security sensitive.

Following the City's submission of fingerprints to the DOJ for employees subject to background check for confidential and security sensitive positions, a criminal history report will be issued to the City's Human Resources Department. Review of this report, along with other considerations, will assist the Human Resources Department and the

hiring Department Director in making a determination regarding an individual's suitability for employment.

B. Fingerprinting Requirements for Individuals Working with Minors

Individuals assigned to work with or supervise minors are subject to California DOJ fingerprinting requirements. Such individuals include City employees, volunteers, temporary placement agency employees, and independent contractors. Assignment of these individuals to work with or supervise children under 18 years of age is contingent upon: 1) the City's submission of the individual's fingerprints to the California DOJ; and 2) the individual's possession of a criminal history that satisfies state requirements in accordance with Penal Code Section 11105.3 (Attachment B). This requirement applies to current employees who are transferred, promoted, or reassigned to positions that are assigned to work with or supervise minors.

State law requires that a fingerprint submission be made prior to an individual's assignment to work with or supervise minors. Following the City's submission of fingerprints to the DOJ, a criminal history report will be issued to the City's Human Resources Department. Review of this report, along with other considerations, will assist the Human Resources Department and the hiring Department Director in making a determination regarding an individual's suitability for employment according to state requirements for individuals assigned to work with or supervise minors.

C. Applicant Disclosure

At the time of application, the applicant is required to reveal convictions for any violation of the law (with certain exceptions)¹. It is noted on the City's application form that failure to list all convictions (other than those excluded) will be considered fraud in securing appointment and will be grounds for elimination from the hiring process and/or termination.

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- 1 Applicants (who are not applicants for peace officer positions) are not required to reveal the following information on their applications:
- Marijuana convictions occurring more than two years before the date of the application which involved violations of California Health and Safety Code section 11357 (b) or (c), possession; section 11360(c), paraphernalia; sections 11363 or 11365, aiding and abetting use; or section 11550, using or being under the influence of marijuana;
 - Arrests or detentions that did not result in convictions (by plea, verdict or finding of guilt);
 - Information concerning a referral to, and participation in, any pre-trial- or post-trial diversion program;
 - Traffic citations involving fines of less than \$150.
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III. FINGERPRINTING PROCEDURES AND RESPONSIBILITIES

A. Human Resources Department's Responsibilities

The City's Human Resources Department is responsible for ensuring the fingerprinting processing of any individuals as necessary to comply with this policy and state law. In addition, the Human Resources Department offers technical assistance to departments to coordinate the fingerprinting of employees and non-employees as necessary to comply with City policy and state law.

Human Resources serves as the liaison between the City and the DOJ regarding fingerprinting processing for employees and non-employees assigned outside of the Petaluma Police Department. Further, the Human Resources Department is responsible for receiving reports and reviewing results with Department Directors and managers making hiring/placement decisions.

For purposes of this policy, the Human Resources Director or designee is appointed as the City's Custodian of Records for DOJ reports and records for non-police personnel, contractors and volunteers. Under the provisions of the DOJ "Subsequent Arrest Notice," the Human Resources Department will continue to receive DOJ notices for all employees during the term of their employment.

B. Department Directors' Responsibilities

Department Directors and department supervisors or managers are responsible for identifying those positions subject to working with or around minors and ensuring that fingerprints are processed in accordance with state law prior to the assignment of an individual to a position working with minors. Specifically, Department Directors, supervisors, or managers responsible for hiring or placement shall notify the Human Resources Department regarding any employee or non-employee who will be working with minors. This notice shall be made prior to hiring or placement via memo, email notice or the hiring Personnel Action Form signed by the Department Director or designee. Completion and submission of the DOJ fingerprint form must precede or accompany the Personnel Action Form at time of hire or contractor agreement before placement.

The Department Director who is responsible for contracting with individuals who work with minors is also responsible for ensuring that the contractor's fingerprints are submitted to Human Resources Department for processing with the DOJ. Contractors are eligible to be assigned to work with minors only following the City's receipt of confirmation that his/her criminal history satisfies state requirements under Penal Code 11105.3.

C. Police Department's Responsibilities

The Petaluma Police Department will be responsible for the actual fingerprinting for all full-time and part-time, probationary, and limited duration employees, contractors, or volunteers in the City.

[Applicants for peace officer positions are subject to greater scrutiny regarding their criminal background history than non-peace officer applicants. In conducting criminal background checks for peace officer applicants, the Police Department will obtain all relevant information regarding the applicant's criminal background history permitted by applicable law.]

D. Procedures to Complete Fingerprinting

- 1) When a hiring Department Director is considering extending an offer of employment to an individual assigned to work with minors in any capacity, whether a full time, part time/temporary employee or non-employee, the Department Director, supervisor or manager shall make the fingerprint requirement known to the applicant.
- 2) The Department Director, supervisor or manager shall contact the Human Resources Department to obtain the Fingerprinting Packet (Attachment C) that includes necessary forms and instructions for completing the fingerprinting process, and make arrangements to have the individual fingerprinted.
- 3) Employees/non-employees covered by this policy are required to complete a Fingerprinting Packet and must show photo identification prior to being fingerprinted. Qualified Petaluma Police staff will perform fingerprinting for the City.
- 4) Use of the paper fingerprint method will result in a report from the DOJ within approximately thirty (30) days from date of submission. (** At such time that the Applicant Live Scan system is in service for non-police employees, this policy will be amended.)
- 5) Upon receiving notice from the DOJ of a criminal history report that appears to violate state law or City policies, the Human Resources Department will notify the Department Director and will make a recommendation regarding that individual's placement. If the candidate does not have a disqualifying criminal history, the Human Resources Department will so advise the Department Director.

E. Record Maintenance

The Human Resources Department shall maintain evidence of completion of fingerprinting in each employee's personnel file for those employees required by this policy to be fingerprinted. Evidence of completion of fingerprinting shall be retained for the duration of the individual's assignment, plus two years.

The Human Resources Department shall maintain DOJ criminal history reports for employees and non-employees in a confidential manner consistent with applicable legal requirements.

ATTACHMENTS:

Attachment A Penal Code Section 11105.3

Attachment B *Fingerprinting Packet*

PENAL CODE SECTION 11105.3

11105.3. (a) Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (a) of Section 15660 of the Welfare and Institutions code of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request. However, no fee shall be charged to a nonprofit organization.

(c) (1) Where a request pursuant to this section reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4, and where the agency or employer hires the prospective employee or volunteer, the agency or employer shall notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer. A conviction for a violation or attempted violation of an offense committed outside the State of California shall be included in this notice if the offense would have been a crime specified in this subdivision if committed in California. The notice shall be given to the parents or guardians with whom the child resides, and shall be given at least 10 days prior to the day that the employee or volunteer begins his or her duties or tasks. Notwithstanding any other provision of law, any person who conveys or receives information in good faith and in conformity with this section is exempt from prosecution under Section 11142 or 11143 for that conveying or receiving of information. Notwithstanding subdivision (d), the notification requirements of this subdivision shall apply as an additional requirement of any other provision of law requiring criminal record access or dissemination of criminal history information.

(2) The notification requirement pursuant to paragraph (1) shall not apply to a misdemeanor conviction for violating Section 261.5 or to a conviction for violating Section 262 or 273.5. Nothing in this paragraph shall preclude an employer from requesting records of convictions for violating Section 261.5, 262, or 273.5 from the department of Justice pursuant to this section.

(d) Nothing in this section supersedes any law requiring criminal record access or dissemination of criminal history information. In any conflict with another statute, dissemination of criminal history information shall be pursuant to the mandatory statute. This subdivision applies to, but is not limited to, requirements pursuant to Article 1 (commencing with Section 1500) of Chapter 3 of, and Chapter 3.2 (commencing with Section 1569) of Chapter 3.4 (commencing with Section 1596.70) of, Division 2 of, and Section 1522 of, the Health and Safety Code, and Sections 8712, 8811, and 8908 of the Family Code.

(e) The department may adopt regulations to implement the provisions of this section as necessary.

(f) As used in this section, "employer" means any nonprofit corporation or other organization specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(g) As used in this section, "human resource agency" means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing with Section 1568.01), and the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)) of division 2 of the Health and Safety Code, responsible for determining the character and fitness of a person who is:

- (1) Applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired
- (2) Applying to be a volunteer who transports individuals impaired by drugs or alcohol.
- (3) Applying to adopt a child or to be a foster parent.

(h) Except as provided in subdivision (c), any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

City of Petaluma

INSTRUCTIONS: FINGERPRINTING PROCESSING

The Fingerprinting Packet shall be obtained from the Human Resources Department. The Human Resources Department offers technical assistance to departments to coordinate the fingerprinting of employees and non-employees as necessary to comply with state law. The City's Human Resources Department shall arrange for all new regular, authorized full time, part time employees and non-employees who are required by state law to complete the fingerprinting process for the DOJ. In order to ensure that fingerprinting is completed as legally required for public agency employees and non-employees, fingerprinting will be done only by qualified staff at the Petaluma Police Department. Human Resources will supply the Fingerprinting Packet that will contain the materials for fingerprinting, including the Department of Justice (DOJ) fingerprint cards that are to be used for fingerprinting public agency employees.

The Fingerprinting Packet includes Applicant Information Sheet and DOJ Fingerprint Card. The Process is as follows:

1. Supervisor provides Applicant Information Sheet

- Applicant completes the information sheet providing all information for the DOJ fingerprint card. All fields must be completed.
- The Applicant Information Sheet is returned to department supervisor.

2. Supervisor completes the DOJ Fingerprint Card

- Must be typed or legibly printed or DOJ will return without processing.
- Using the *Applicant Information Sheet*, all information fields must be completed.
- Contributing Agency and Address will be printed on the DOJ fingerprint card:
 City of Petaluma
 Human Resources Department
 PO Box 61
 Petaluma, CA 94953-0061

3. Obtain Fingerprints from Designated Authority

- Arrangements for fingerprinting at the Petaluma Police Department will be made by the department supervisor by contacting the Police Department Investigations Secretary.
- Applicants must use the Petaluma Police Department staff to ink and roll fingerprints.
- Applicant Signature must be done in presence of Police staff person doing fingerprinting.
- Signature of responsible person processing Fingerprint Card must be on card.

4. Supervisor submits DOJ Fingerprint Card and Applicant Information Sheet to Human Resources. Supervisor/Department is responsible for submitting to Human Resources.

- Submit at least 30 days prior to expected hire date.
- Human Resources will review the DOJ Fingerprint Card and Applicant Information Sheet for completeness and accuracy.
- Human Resources will prepare *Transmittal Form*, submit check request to Finance to obtain check for payment of fees using the hiring department's expense account, and send fingerprint cards and payment to DOJ for processing.

5. DOJ responses will be received by Human Resources

- Human Resources will be responsible for all DOJ records and proper record maintenance.
- Department supervisors Human Resources will notify when results are received from the DOJ.

Supervisor's Name _____

CITY OF PETALUMA
Fingerprinting Process - Department of Justice

APPLICANT INFORMATION

Full Name: _____
Last First Middle (full)

AKA's/Maiden Name:

Job Position: _____

Date of Birth: _____

Place of Birth: _____
State

Driver's License No.: _____

Sex: _____ **Height:** _____ **Weight:** _____

Hair Color: _____ **Eye Color:** _____

Social Security Number: _____

Residence Address: _____

City State Zip Code

Telephone Number: _____