



**Agenda Item No: 4.e**  
**Meeting Date: November 20, 2023**

<b>SAN RAFAEL CITY COUNCIL AGENDA REPORT</b>	
<b>Department: Human Resources</b>	
<b>Prepared by: Marissa Sanchez, Human Resources Director</b>	<b>City Manager Approval:</b>

**TOPIC: STATE AND FEDERAL SUMMARY CRIMINAL HISTORY FOR EMPLOYEE BACKGROUND INFORMATION**

**SUBJECT: RESOLUTION AUTHORIZING THE CITY OF SAN RAFAEL TO ACCESS STATE AND FEDERAL SUMMARY CRIMINAL HISTORY FOR EMPLOYEE BACKGROUND INFORMATION THROUGH THE DEPARTMENT OF JUSTICE**

**RECOMMENDATION:**  
Adopt a resolution to authorize the City to access state and federal summary criminal history for employee background information through the Department of Justice.

**BACKGROUND:**  
Since 2008, the City has implemented an administrative policy to collect fingerprints and obtain a background check on every applicant who has accepted a conditional offer of employment with the City. California Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities to access state and local summary criminal history information for employment, licensing, or certification purposes, and federal-level criminal history by transmitting fingerprint images and related information to the Department of Justice who, in turn, transmits that information to the Federal Bureau of Investigation (FBI).

On August 16, 2021, the City Council adopted [Ordinance No. 1999](#) to add Chapter 2.22 to the San Rafael Municipal Code entitled "Background Checks". It established the requirement of background checks for all employee types. Currently, the San Rafael Police Department is the Custodian of Records and receives all pre-employment fingerprint and background check results.

**ANALYSIS:**  
The Human Resources Department works closely with the San Rafael Police Department to schedule fingerprint appointments for applicants with conditional job offers. The Police Department obtains state criminal history information by transmitting fingerprints to the California Department of Justice. When a check against the national criminal database is required, as it typically is, the State acts on the City's behalf and transmits the fingerprints to the federal Department of Justice for a report from the FBI.

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**FOR CITY CLERK ONLY**

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

In this current process, the Custodian of Records in the Police Department receives the results of the summary criminal history. In a continuous effort to improve the operational efficiency of the hiring process, staff have identified opportunities to streamline the process of relaying results from the Custodian of Records to the Human Resources Department. These enhancements will foster quicker and more consistent communication between the Police Department and the Human Resources Department, reducing the potential for delays, accelerating the progression of applicants to the formal offer stage of employment, and ensuring a smoother experience for all involved parties.

If approved, the attached resolution would authorize the City to continue to access the state and federal summary of an applicant with a conditional offer as required under Chapter 2.22 of the San Rafael Municipal Code. This would improve the City's overall recruitment timeline. The FBI has approved the proposed resolution language and now requires City Council approval.

**FISCAL IMPACT:**

There is no additional fiscal impact associated with the recommended action. Police Department staff currently collect and submit fingerprints and receive the results of background checks. Any fees associated with background checks have been included in the budget for the Human Resources Department.

**OPTIONS:**

The City Council has the following options to consider on this matter:

1. Adopt resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

**RECOMMENDED ACTION:**

Adopt a resolution to authorize the City of San Rafael to access state and federal summary criminal history for employee background information through the Department of Justice.

**ATTACHMENTS:**

1. Resolution

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY OF SAN RAFAEL TO ACCESS STATE AND FEDERAL SUMMARY CRIMINAL HISTORY FOR EMPLOYEE BACKGROUND INFORMATION THROUGH THE DEPARTMENT OF JUSTICE**

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

**WHEREAS**, Penal Code Section 11105(b)(11) authorizes cities, counties, districts and joint powers authorities 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 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification expressly 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 city council, board of supervisors, governing body of a city, county or district or joint powers authority to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

**NOW THEREFORE, BE IT RESOLVED**, that the City of San Rafael is hereby authorized to access state and federal level summary criminal history information for employment with City of San Rafael (including volunteers and contract employees) and may not disseminate the information to a private entity; and

**BE IT FURTHER RESOLVED** that the City of San Rafael shall not consider a person who has been convicted of a violent or serious felony or misdemeanor eligible for employment (including volunteers and contract employees, if applicable), if and to the extent required by applicable law for a certain position.

**I, LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 20<sup>th</sup> day of November 2023, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

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LINDSAY LARA, City Clerk