



# CITY OF LONG BEACH

## PERSONNEL POLICIES + PROCEDURES

### Policy 1.4

### Review of Summary Criminal History Information for Employment with the City

Effective Date: April 1, 2021

Last Revision Date: May 15, 1979

#### I. SCOPE

Applicable to all City departments and offices responsible directly to the City Manager. It is also requested that elective offices and other independent offices and departments of the City comply with these procedures in the interest of administrative uniformity.

#### II. POLICY STATEMENT

The City of Long Beach will conduct background investigations of all potential City employees, including contractors and volunteers, as part of the pre-employment process. A candidate will only be subject to a background investigation if the candidate has received a conditional job offer. A candidate refusing to undergo a background investigation will not be considered for employment with the City of Long Beach. In addition, this policy is to be consistent with local, state, and federal laws.

Persons seeking employment as peace officers or persons seeking employment for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 Penal Code are not covered under this policy.

#### III. REASON FOR THE POLICY

The purpose of this policy is to outline the criminal history investigation pre-employment process.

#### IV. DEFINITIONS

##### A. Adjudication

A formal judgment on a disputed matter.

##### B. Applicant

Any person who has filed an application for employment with the City.

**C. Background Investigations**

A criminal history conducted by the Department of Justice or City of Long Beach Police Department.

**D. Conditional Offer of Employment**

A job offer that is contingent upon a candidate meeting certain conditions or requirements such as a background check, physical exam, and/or drug test.

**E. Conviction**

Includes a plea, verdict, or finding of guilt, regardless of whether a sentence is imposed by court. Conviction does not include, and shall not be construed to include, any adjudication by a juvenile court or any other court order or action taken with respect to a person who is under the process or jurisdiction of juvenile court.

**F. Conviction History**

Conviction history includes an arrest not resulting in conviction only in the specific, limited circumstances described in Section 432.7 of the Labor Code; or an arrest for which an individual is out on bail or their own recognizance pending trial.

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**V. PROCEDURE****A. Pre-Employment Background Checks**

As part of the pre-employment process, all candidates who have received a conditional offer of employment will be fingerprinted. The fingerprints will be forwarded to the State Department of Justice and/or Federal Bureau of Investigation (FBI), who will search their files for a record of criminal activity. Any record of arrest or conviction will be provided to the City.

Unless otherwise required by law, criminal background checks will only be conducted after a candidate has met all other criteria for the position being sought and has been provided with a conditional offer of employment pending successful completion of a criminal background check.

All State Summary Criminal History information will be forwarded to the Department of Human Resources, who will review all arrest/conviction information.

**B. Process**

Once a candidate has received a conditional offer of employment, they will receive a Request for Live Scan form. The candidate must follow the instructions on the form to be fingerprinted by the Long Beach Police Department.

In accordance with Labor Code Section 432.7, the City shall not ask a candidate to disclose, in writing or verbally, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or post-trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.425, 1203.45, and 1210.1 of the Penal Code.

**C. Individualized Assessment**

The review of state and/or federal criminal history report from the Department of Justice will determine whether adverse results from a criminal background check may preclude employment. The determination will be made on an individualized assessment and shall include the following factors:

- The nature and gravity of the offense or conduct
- The time that has passed since the offense or conduct and completion of the sentence
- The nature of the job held or sought

The City will not consider:

- Arrests not followed by conviction, except in the circumstances permitted in Section 432.7 of the Labor Code;
- Referral to or participation in a pretrial or post-trial diversion program; or
- Convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation.

**D. Notifications to Candidate**

After a criminal background check has been performed, and a preliminary decision that any of the conviction(s) listed on the state and/or federal criminal history report from the Department of Justice disqualifies a candidate from employment and is a basis to rescind the City's conditional offer of employment, the following process will be followed in accordance with Government Code Section 12952:

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**1. Notice of Preliminary Decision to Rescind Conditional Job Offer**

The City will notify the candidate in writing of the preliminary decision to rescind the offer of employment. Such written notification will include:

- a) the conviction(s) that disqualify the candidate and/or caused the candidate to receive preliminary decision to rescind conditional job offer notice;
- b) a copy of the conviction history report, if any;
- c) the candidate's right to respond to the City's preliminary decision to rescind the condition offer of employment within five (5) business days from the date the notice was mailed;
- d) notice that the candidate may include evidence to challenge the conviction history such as evidence of rehabilitation, evidence of mitigating circumstances, or both.

**2. Notice of Final Decision to Rescind Conditional Job Offer**

If no written response is received from the candidate within five (5) business days after the mailing date of the preliminary decision to rescind conditional job offer; or

If the candidate's response to challenge the accuracy of the criminal history report is received by the provided deadline, and the Department of Human decides after review of the documentation submitted to uphold the preliminary decision to rescind conditional job offer, the candidate will be notified in writing of the final decision to rescind the conditional offer of employment. The final notification will advise the candidate of the City's procedure to challenge the final disqualification and the right to file a complaint with the Department of Fair Employment and Housing. The Custodian of Records or their designee will notify the department if a conditional job offer should be rescinded.

**3. Notice of Final Decision to Not Rescind Conditional Job Offer**

If the candidate's written response to challenge the accuracy of the criminal history report and/or documentation supporting the candidate's challenge is received by the deadline provided, the City will review the documentation. If the Department of Human Resources decides, after review of the documentation submitted, to not rescind the conditional offer of employment, the candidate will be notified in writing.

**E. Notification of Subsequent Arrests/Convictions**

As part of this procedure, the Department of Justice will notify the City of all subsequent arrests and/or conviction of its employees.

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**F. Designated Custodian of Records**

The Custodian of Records will be given the authority and responsibility for seeing that the policies and procedures set forth herein are followed, and will ensure that records are held in a secure, confidential place, separate from the personnel file.

The Custodian of Records for City Manager controlled departments shall be the Director of Human Resources or their designee.

**G. Retention of Criminal History Information**

The record will be retained for not less than three (3) years and shall contain the following information:

- Name of Employee to which record pertains
- Date of information received
- Name of person reviewing information
- Disposition of record

Under no circumstances is criminal history information to be released to unauthorized persons or reproduced in any form.

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**VI. REFERENCES**

- A. California Labor Code Section Labor Code 432.7
  - B. Government Code Section 12952 under the Fair Employment and Housing Act
  - C. Personnel Administration Policies and Procedures Section: V. Chapter 3  
Employment Practices
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Approved:



Tom Modica  
City Manager



Date