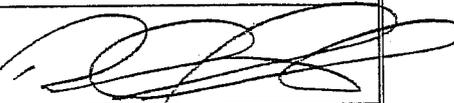


**ADMINISTRATIVE
POLICY AND PROCEDURE**

Subject: Conducting Criminal Background Checks	Index: Number: 02-5
Effective Date: 08/20/02	Prepared By: Randy Anstine City Manager
Supersedes: New	Approved By: 

POLICY FOR CONDUCTING CRIMINAL BACKGROUND CHECKS AND SECURING RECEIVED CRIMINAL HISTORY INFORMATION

I. Policy Statement

- A. To ensure that the interests of the City of Greenfield ("City"), its employees and members of the public are protected and to help minimize potential liability, the City has passed a resolution authorizing it to obtain from the Department of Justice summary criminal background information on applicants for employment and volunteer positions.
- B. The City desires to identify those prospective employees and volunteers who have a criminal history so that information about criminal history can be used in employment decisions.
- C. The City wishes to comply with Public Resources Code Section 5164 which requires that the City take reasonable steps to determine if a prospective employee or volunteer has been convicted of any crimes specified in Penal Code Section 11105.
- D. The City shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment or to be a volunteer if the felony or misdemeanor is to a crime specified in Section III

below as being relevant to the employment in question or in the case of a crime not actually listed it is determined by the City Attorney to be substantially similar in nature to those listed that a reasonable person would have had notice that such a crime would bar employment.

II. Authority

California Penal Code Section 11105 allows cities to obtain state summary criminal background information from the Department of Justice if the City Council has given the City Manager authority to obtain such records.

III. Applicability

A. The City shall obtain criminal background information on all prospective full-time and part-time employees and volunteers, including police reserves and recreation employees and volunteers. The City shall not hire individuals if records show convictions of the following crimes of moral turpitude within ten (10) years of the date of application or after hiring:¹

General:

Section 68:	Asking for or receiving bribes
Section 72:	Presentation of fraudulent claims
Section 73, 74:	Bribes for appointment to office
Section 187, 189:	Murder
Section 209:	Kidnapping for ransom, extortion or robbery
Section 211:	robbery - taking personal property in possession of someone by force or fear
Section 245:	Assault with deadly weapon
Section 261:	Rape
Section 451:	Arson of structure, forest land or property
Section 459:	Burglary
Section 484:	Theft
Section 503:	embezzlement - fraudulent appropriation of property by a person to whom it has been entrusted
Section 518:	Extortion - obtain property by a wrongful use of force or fear or under color of official right

B. In addition to A above, for positions relating to interaction with minors the following areas shall also be grounds to not hire or for discipline up to and including termination.

1. Violations or attempted violations of Penal Code Section 220, 261.5, 262, 273a, 273d, or 273.5, 288, or any sex offense listed in Section 290.

¹All sections referenced relate to the California State Penal Code.

2. Any crime described in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), provided that, except as otherwise provided in subdivision (c), no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this section within the immediately preceding 10-year period.
 3. Any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of Chapter 3 of Title 8 of the California Penal Code (commencing with Section 207), Section 211 or 215, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that offense, Section 217.1, Chapter 8 of Title 8 of the Penal Code (commencing with Section 236), Chapter 9 (commencing with Section 240), and for a violation of any of the offenses specified in subdivision (c) of Section 667.5, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this section within the immediately preceding 10-year period.
 4. Any felony or misdemeanor conviction under Penal Code Section 311, et seq., photographic use of children relative to sexual conduct.
- C. In addition to those crimes listed in A above, for positions relating to use of public funds and public records, the following shall also be grounds not to hire or for discipline up to and including termination.²

Section 115, 115.3:	Use of a false or forged public record; alteration of certified copy of public record
Section 424:	Embezzlement and falsification of accounts
Title 13, Chapter 4:	Any violation of forgery and counterfeiting

- D. For positions requiring strict public confidence such as city manager, city attorney, city clerk and department heads, in addition to A, B and C above, any penal code violation which resulted in conviction shall be grounds not to hire and after hiring grounds for discipline up to and including termination.

IV. Assignment Responsibility

It is the applicant's responsibility to report any conviction or arrest pending final adjudication to the City. The information shall be included on all employment

²All sections and titles referenced relate to the California State Penal Code.

applications. Once a person has been hired under this procedure, convictions or arrests pending conviction which occur that are in the list specified for that employee under Section III above, the employee or volunteer shall report that conviction or arrest to his or her supervisor who shall forward the information to the Department Head and City Manager. Alternatively, the City Manager may be informed directly.

V. Procedures

- A. All prospective City employees and volunteers shall be subject to a criminal records check as a condition of employment.
 1. The City shall submit a completed Applicant Fingerprint Card to the Department of Justice accompanied by any other forms or information required by the Department of Justice in order to obtain the criminal background information.
 2. Any information obtained from the Department of Justice shall be used to determine whether the applicant shall be offered a position with the City.
- C. For any employee or volunteer who has been hired subsequent to the adoption of the policy, who passed the initial screening, the individual must sign an acknowledgement that conviction of crimes listed in Section III above under their job category or determined to be substantially similar by the City Attorney shall be grounds for disciplinary action up to and including termination. Further, any such individual has the responsibility to report any such conviction to the City Manager.
- D. The City shall enter into a contract with the Department of Justice so that any subsequent conviction or arrest information concerning an employee that was originally hired subject to this policy may be obtained.
 1. Any information about existing employees' or volunteers' convictions and/or arrests pending adjudication shall be reported to the employee's or volunteer's department manager or the City Manager.
 2. Upon receipt of information regarding a conviction and/or arrest pending adjudication which is specified as not acceptable for the given position in Section III above, the Department Head and the City Manager shall evaluate the effect and potential effect of the employee's or volunteer's record or arrest on their position of employment, fellow employees and the public, and shall take appropriate action to maximize public safety and minimize potential liability while respecting the rights of the employee or volunteer.

VI. Confidentiality

State summary criminal history information is confidential and shall not be disclosed, except to those individuals designated to make employment decisions.

A. Pursuant to California Penal Code Section 11077 the Attorney General is responsible for the security of Criminal Offender Record Information (CORI) and has the authority to establish regulations to assure the security of CORI from unauthorized disclosures. The following are requirements as prescribed by the State of California, Department of Justice, Bureau of Criminal Identification and Information, Field Operations and Record Security for any agency that maintains or receives criminal history information.

1. **Record Security:** Any inquiries regarding the release, security or privacy of Criminal Offender Record Information (CORI) are to be resolved by the City Manager.
2. **Record Storage:** CORI shall be under lock and key and accessible only to the City Manager who shall be committed to protect CORI from unauthorized access, use or disclosure.
3. **Record Dissemination:** CORI shall be used only for the purpose for which it was requested by the City Manager.
4. **Record Destruction:** CORI and copies of the same shall be destroyed after employment determination has been made in such a way and to the extent that the employee's name can no longer be identified.
5. **Record Reproduction:** CORI may not be reproduced for dissemination.
6. **Training:** The City Manager and employees with access to CORI are required:
 - a. To read and abide by this policy,
 - b. To be fingerprinted and have a clearance check completed,
 - c. To have on file a signed copy of the Employee Statement Form For the Use of Criminal Record Information which acknowledges an understanding of laws prohibiting misuse of CORI.
7. **Penalties:** Misuse of CORI is a criminal offense. Violation of this policy regarding CORI may result in suspension, dismissal, and/or criminal or civil prosecution.

VII. Monitoring of this Program

The City Manager will monitor compliance with this policy and all other Department Heads shall assist the City Manager as needed.