

CITY OF SEBASTOPOL  
CITY COUNCIL  
AGENDA ITEM

**Meeting Date:** November 19, 2019  
**To:** Honorable Mayor and City Councilmembers  
**From:** Chief James Conner  
Lieutenant Greg DeVore  
**Subject:** Resolution authorizing the City of Sebastopol to access FBI criminal history information on new hire employee background checks  
**Recommendation:** Adopt resolution authorizing the City to receive criminal history information for new hire applicants from the FBI.  
**Funding:** Currently Budgeted:  Yes  No  N/A  
Net General Fund:  
Amount: No cost to city

**INTRODUCTION:** This item is to request the City Council adopt a resolution that would allow the City to receive criminal history information retained by the FBI for new hire applicants to City positions.

**BACKGROUND:**

It has been a long-standing practice, and in some cases a legal requirement, for the City to do a fingerprint background check on new hire applicants. The fingerprint check is done via a livescan process through the police department, in which the Department of Justice searches for past criminal history information on the applicant.

**DISCUSSION:**

There are two levels of criminal history checks that are possibly available. The first check is only through the Department of Justice. This background check only reveals criminal history retained in a database by the State of California. The second check is through the FBI. This background check could reveal criminal history retained by another state within a national database. Currently the City can only run an FBI background check on applicants for a Law Enforcement position. The City would like to run FBI background checks for all applicants. For the ability to run FBI checks on all applicants the Department of Justice and California statute requires the City adopt a resolution authorizing this level of background check.

Upon adoption of this resolution, a copy of the resolution must be sent to the Department of Justice notifying them of the request. The Department of Justice then forwards the resolution to the FBI, who has the authority to either approve or deny the request for information.

**RECOMMENDATION:** Adopt the attached resolution and direct the police department to send a copy of the resolution to the Department of Justice.

**Attachment(s):**

Copy of proposed resolution

## **CITY OF SEBASTOPOL**

### **RESOLUTION NO.**

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL AUTHORIZING THE CITY TO ACCESS STATE AND LOCAL SUMMARY CRIMINAL HISTORY FOR NEW 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 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 Sebastopol/Sebastopol Police Department are hereby authorized to access state and federal level summary criminal history information for employment (including volunteers and contract employees) and may not disseminate information to a private entity.

IN COUNCIL DULY PASSED this 3rd day of December 2019.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council by the following vote:

APPROVED: \_\_\_\_\_

Mayor, City of Sebastopol

VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: \_\_\_\_\_

Larry McLaughlin, City Attorney