



Council Meeting: September 28, 2010

SUBJECT: Adoption of Resolution to Authorize the City of Sunnyvale to Receive Federal and State Criminal History Information for Employees Who are Required to Obtain EMT and/or Advanced EMT Certification

REPORT IN BRIEF

This report recommends the City Council adopt a Resolution to authorize the City of Sunnyvale to access Federal and State summary criminal history information for employees who are required to obtain Emergency Medical Technician (EMT) and/or Advanced EMT Certification as part of their job requirement and include the California State EMS Authority as a secondary recipient.

In doing so, an additional applicant type will be added to the Department of Public Safety's (DPS) livescan fingerprint machine. This is necessary to satisfy new requirements with the passing of AB2917, on July 1, 2010. Pursuant to said bill, all EMTs and Advanced EMTs are required to have a California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) criminal background check whereby the certifying entity (DPS) and the California State EMS Authority receive subsequent arrest notification from the DOJ.

BACKGROUND

California Penal Code Sections 11105(b)(11) and California Penal Code Section 13300(b)(1) allow cities to access summary criminal history information from the State Department of Justice and from the Federal Bureau of Investigations for the purpose of fulfilling employment, certification, or licensing duties when access is specifically authorized by the City Council.

As a condition of employment, DPS currently conducts a criminal background check obtaining both DOJ and FBI clearance; however, with the passing of AB2917, DPS is required to fingerprint all EMTs for certification purposes and include the California State EMS Authority as a secondary recipient.

EXISTING POLICY

Law Enforcement Sub-Element

4.1.A Provide a safe and secure environment for people and property in the community.

DISCUSSION

In order to ensure compliance with AB2917, it is mandatory that all Public Safety employees who are required to obtain and maintain EMT and/or Advanced EMT Certification as part of their employment, undergo a DOJ and FBI criminal background check whereby the certifying entity (DPS) and the California State EMS Authority receive subsequent arrest notification from the DOJ.

FISCAL IMPACT

DPS has completed all provisions necessary to meet the “grandfathering” criteria; therefore, there will be no fiscal impact to the city.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Adopt the Resolution authorizing the City of Sunnyvale to receive Federal and State Criminal History Information for employees who are required to obtain EMT and/or Advanced EMT Certification and include the California State EMS Authority as a secondary recipient.
2. Do not adopt the Resolution, and direct staff to conduct further investigation of the related statutes and report back to Council with additional information.

RECOMMENDATION

Staff recommends Alternative #1: Adopt the Resolution authorizing the City of Sunnyvale to receive Federal and State Criminal History Information for employees who are required to obtain EMT and/or Advanced EMT Certification.

Reviewed by:

Don Johnson, Director, Public Safety
Prepared by: Rachel Vasquez, Sr. Office Assistant

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Resolution

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AUTHORIZING THE DEPARTMENT OF PUBLIC SAFETY ACCESS TO STATE AND FEDERAL CRIMINAL HISTORY INFORMATION FOR EMPLOYEES REQUIRED TO HAVE EMT OR ADVANCED EMT CERTIFICATION

WHEREAS, Penal Code Sections 11105(b)(11) and 133(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 records; 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 BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE that the Department of Public Safety of the City of Sunnyvale is hereby authorized to access state and federal level summary criminal history information for employees required to obtain EMT or Advanced EMT certification and may not disseminate the information to a private entity; and

BE IT FURTHER RESOLVED that the City of Sunnyvale 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), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.

Adopted by the City Council at a regular meeting held on _____, 2010, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney