

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

239



FROM: Human Resources Department

SUBMITTAL DATE:
July 1, 2013

SUBJECT: INTRODUCTION OF ORDINANCE 440.1760, an Ordinance that amends the current County of Riverside Salary Ordinance No. 440, and Revisions to the Background Check Board Policy C-33.

RECOMMENDED MOTION: That the Board of Supervisors: 1) approve the introduction of Ordinance No. 440.1760, with adoption of the Ordinance on the following agenda; and 2) approve revisions to the Background Check Board Policy C-33 regarding pre-employment and pre-appointment background checks.

BACKGROUND: Salary Ordinance No. 440, last amended by Minute Order 3.33 3/13/2012, establishes policy and provides administrative procedures related to County employment.

Barbara A. Olivier
Asst. County Executive Officer/Human Resources

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2013/14

SOURCE OF FUNDS: From departments utilizing services	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
BY:
Alex Gann

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended, and the above ordinance is approved as introduced with waiver of reading.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: July 16, 2013
xc: HR, COB

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref. 3.33 3/13/2012; District: All Agenda Number: **3-25**
3.34/10/2007

BACKGROUND continued:

The Salary Ordinance requires that the Human Resources Director arrange for all prospective employees to be fingerprinted prior to employment (Section 5, Employment Procedures, subsections (f), (i), and (j)). Board of Supervisors Policy C-33, Countywide Background Check Policy (adopted by Minute Order 3.18 2/15/2005 and amended by Minute Order 3.3 4/10/2007), establishes policy for pre-employment and pre-appointment background checks and is administered by the Human Resources Department. Policy C-33 requires that all background checks include a Live Scan criminal records check through the California Department of Justice (DOJ). Human Resources also conducts Live Scan criminal records checks through the Federal Bureau of Investigation (FBI) for positions for which it is required by law and uses the services of third-party investigative consumer reporting agencies for out-of-state criminal records checks, sex offender registry checks, employment verifications, and education verifications.

The Human Resources Department is recommending that the Salary Ordinance be updated to remove the language from Section 5, Employment Procedures, subsections (f), (i), and (j), that requires all prospective employees be fingerprinted. Instead, the amended language would require all prospective employees to undergo a background check. In addition, subsection (j) would be updated to allow the Human Resources Director to waive the background check, when deemed advisable, for an employee in a regular position if the employment is intermittent or occasional in nature. Policy C-33 currently requires that pre-employment and pre-appointment criminal records checks always consist of a DOJ-level Live Scan check. Instead, we recommend that Human Resources determine the appropriate method and type of criminal records check based on job relatedness and the need to reduce risk. Of the methods available, a DOJ-level check may exceed what is necessary, especially for certain short term assignments. Other revisions to Policy C-33 are recommended to update recordkeeping requirements and to ensure County-wide departmental compliance.

Salary Ordinance and Policy C-33 revisions would allow Human Resources to establish the most suitable method for conducting the criminal records check based on the position, assignment or contract. In certain cases, a risk analysis for a particular position, assignment or contract may determine that utilizing the services of a third-party investigative consumer reporting agency is appropriate for the criminal records check rather than a Live Scan check. In some cases, adding an FBI-level check to the DOJ-level check may be appropriate. The revisions also set specific criteria for when non-employees, such as volunteers, must undergo a background check; non-employees in assignments that do not meet the criteria (i.e., those with a limited assignment posing little risk to the public or the County) would be exempted from the check.

Revisions would also allow the Human Resources Director to waive the background check, when deemed necessary, for non-employee assignments that do meet the risk-sensitive criteria if some factor sufficiently reduces the risk, such as the brief duration of an assignment. For certain positions or assignments, the background check may be redundant and unnecessary, such as in the case of members of advisory boards composed of local public officials, recipients of public assistance programs where a department is assisting in placing the recipient with an outside agency that conducts its own background check, or volunteers in a one-day assignment who are enrolled members of a well-known civic organization that conducts its own background check. Waivers would be rare but necessary from time to time to respond to unique situations.

BACKGROUND continued:

The benefit of using an investigative consumer report for the background check instead of Live Scan is lower costs and quicker placement. This method for conducting the background check would be most appropriate for non-employees working low-risk short-term assignments, such as volunteers and student interns. An investigative consumer report that includes a county-level criminal records check and sex offender registry check would cost on average about \$15 to \$25 versus the \$42 cost of a Live Scan (\$32 DOJ fee plus \$10 fingerprint rolling fee). Besides lower fees, there would be additional savings resulting from avoided administrative costs related to Live Scan fingerprinting, such as the cost of staff, equipment, records management, and delays in obtaining fingerprinting services. This revision to Policy C-33 would also prohibit departments from passing background check fees on to volunteers, formalizing a directive given by the Executive Office. In the case of volunteer assignments and internships in which a department is providing career training or work experience for the benefit of the volunteer, departments would be allowed, though not required, to pass these fees on to volunteers so as to preserve these important development opportunities.

Recordkeeping revisions to Policy C-33 would require that background check records be managed in accordance with Board Policy A-43, County Records Management and Archive Policy, as the retention of such records may be necessary for defending against legal actions or for determining an applicant's employability for other positions or an employee's future promotability. For Criminal Offender Record Information (CORI) records (i.e., the protected records maintained by DOJ and FBI), Human Resources would continue to follow the recommendation of DOJ and destroy CORI upon the hiring decision as the civil and criminal liability surrounding the unlawful disclosure of CORI to unauthorized persons makes this a best practice. A copy of CORI is provided to the subject in cases of adverse action (Penal Code Sec. 11105(t)).

Finally, revisions to Policy C-33 regarding County-wide compliance would mandate that departments conducting background checks maintain departmental policies and procedures and that Human Resources review such policies to ensure they meet or exceed Policy C-33 requirements. Changes to departmental background check policies would be reviewed by and kept on file with Human Resources. Departments that conduct background checks, usually because of more extensive requirements or because of special discounted Live Scan fees, include the Community Action Agency, the Department of Public Social Services, the Office of the District Attorney, the Office of the Public Defender, the Probation Department, the Regional Park and Open Space District, and the Sheriff's Department.

Should the Board adopt the recommended updates to the Salary Ordinance and Policy C-33, any change to use investigative consumer reports instead of Live Scan for appropriate employment positions would include a thorough risk analysis. Human Resources will immediately begin working with departments to identify assignments for which a criminal records check through an investigative consumer reporting agency may be appropriate rather than a Live Scan check, and identify non-risk sensitive volunteer assignments for which the background check may be waived or limited.

**COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

<u>Subject:</u>	<u>Policy Number</u>	<u>Page</u>
BACKGROUND CHECK POLICY	C-33	1 of 4

Purpose:

To establish County policy for conducting pre-employment background and reference checks on potential new hires and for promotion to high-level and risk-sensitive positions, as defined herein.

Policy:

Employees

It is the policy of the Board of Supervisors to have pre-employment and pre-appointment reference and background checks conducted on potential new hires and for all regular and temporary positions, and for promotional candidates for specified high-level and risk-sensitive positions.

The successful operation of organizational units within the County of Riverside is dependent upon selection of individuals who possess the skills, knowledge, abilities and valid credentials required of their position; and have the personal and professional attributes that will enable success in the position to which they are appointed. In addition, those selected for high level positions should have a demonstrated history of responsible and effective leadership.

To enable appointing authorities to make well-informed selections/placements, ~~Live Scan~~ criminal records ~~check~~ ~~checks~~ ~~through the California Department of Justice (DOJ)~~ will be conducted prior to every new hire or rehire following a break in service, but excluding reinstatement, for regular and temporary employment at the County of Riverside. ~~Other~~ ~~The~~ components of the pre-employment background and reference check, including the criminal records check, are established by the Human Resources Department based on the classification and job assignment. Background and reference checks, including a Live Scan criminal ~~record~~ ~~records~~ check, are also to be conducted prior to promotion into positions at the Deputy Director level or higher, or other sensitive positions.

Non-Employees

It is the policy of the Board of Supervisors to have pre-appointment and pre-selection background checks conducted on potential volunteers, interns, and contractors for risk-sensitive assignments, internships, and contracts. The components of the background check, including the criminal records check, are established by the Human Resources Department based upon the assignment, internship, or contract. Risk-sensitive is defined for non-employees as any volunteer assignment, internship, or contract involving:

**COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

<u>Subject:</u>	<u>Policy Number</u>	<u>Page</u>
BACKGROUND CHECK POLICY	C-33	2 of 4

1. The care or supervision of patients, children, the elderly, the disabled or the mentally impaired;
2. The access unsupervised by County staff to patients, children, the elderly, the disabled or the mentally impaired;
3. The care or handling of animals;
4. The direct access to prescription drugs or other controlled substances;
5. The handling of cash;
6. The use of or access to non-public, confidential information;
7. The use of or contact with hazardous substances, dangerous equipment or materials, or unsafe environments;
8. The use of a County identification badge or a building access card;
9. The use of a County vehicle or personal vehicle used for County business;
10. The use of password-protected County information systems; or
11. The issuing of public assistance benefits.

The Human Resources Director may waive the background check for non-employees meeting the risk-sensitive criteria if some factor sufficiently mitigates the risk, such as the brief duration of the volunteer assignment, internship or contract.

Policy Amplifications:

Background and reference checks are used to verify information provided by the applicant and to obtain additional information (i.e., a criminal record and/or significant job-related problems in prior employment) to determine suitability for the position for which they are being considered.

~~The County has Human Resources Department contracts with several background check firms (third party vendors) investigative consumer reporting agencies to conduct background and reference checks. In addition, the Human Resources Department performs Live Scan fingerprint checks.~~

It shall be the policy of the County for the following steps to be taken prior to extending formal offers of employment:

1. Obtain as much job-related information as possible from the current and former employer(s) of potential hires.
2. Verify degrees, licenses and other job-related credentials and current status of same.
3. Conduct criminal background and public records checks.

**COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject:	Policy Number	Page
BACKGROUND CHECK POLICY	C-33	3 of 4

The background check is solely intended for determining an individual's initial employability, promotability, and/or acceptability as a provider of public services. Applicants will not be cleared for hire until their background checks have been completed and approved through Human Resources, unless the Human Resources Director approves a special exemption pending receipt of the background report. The Human Resources Director may waive the background check for any employee in a regular position, the compensation for which is fixed on an hourly or piecework basis, if the employment is intermittent or occasional in character and not on a full time basis.

Applicants must complete and sign the appropriate disclosure, release/waiver form(s) and authorization forms prior to the County accessing background check information. ~~Job applicants~~ Applicants are consumers and are entitled to protections under the Federal Fair Credit Reporting Act (FCRA) and the California Investigative Consumer Reporting Agency/Agencies Act (ICRAA).

~~Information received~~ Background check records are managed in accordance with Board Policy A-43, County Records Management and Archive Policy. As recommended by the California Department of Justice (DOJ), Criminal Offender Record Information (CORI) records (i.e., the protected records maintained by DOJ and FBI) related to background checks shall not be stored electronically and will be destroyed after the hiring or licensing determination. Destruction of this information shall be to the extent that the identity of the individual can no longer be determined. Pursuant to Penal Code section 11105(t), a copy of the CORI will be expeditiously furnished to the person to whom the information relates if the information is a basis for adverse action.

Background check fees are paid by the hiring, appointing, or selecting department. If a department is providing career training or work experience through a volunteer service assignment, such as in an unpaid professional internship, the department may require that the volunteer pay the background check fees.

Departments conducting background checks will maintain departmental background check policies and procedures for completing and approving background checks. Such policies and procedures will be reviewed by the Human Resources Department to confirm that they meet or exceed Board Policy requirements and comply with applicable laws and regulations. Changes to departmental policies must be reviewed by and kept on file with the Human Resources Department.

Reference:

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:

BACKGROUND CHECK POLICY

Minute Order 3.18 of 02/15/05
Minute Order 3.3 of 04/10/07
Minute Order x-xx of 00/00/00

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COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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To enable appointing authorities to make well-informed selections/placements, a criminal records check will be conducted prior to every new hire or rehire following a break in service, but excluding reinstatement, for regular and temporary employment at the County of Riverside. The components of the pre-employment background and reference check, including the criminal records check, are established by the Human Resources Department based on the classification and job assignment. Background and reference checks, including a Live Scan criminal records check, are also to be conducted prior to promotion into positions at the Deputy Director level or higher, or other sensitive positions.

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BOARD OF SUPERVISORS POLICY

<u>Subject:</u>	<u>Policy Number</u>	<u>Page</u>
BACKGROUND CHECK POLICY	C-33	2 of 3

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<u>Subject:</u>	<u>Policy Number</u>	<u>Page</u>
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Reference:

Minute Order 3.18 of 02/15/05

Minute Order 3.3 of 04/10/07

Minute Order x-xx of 00/00/00