



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: January 17, 2012 REPORT NO: 12-06  
ATTENTION: Public Safety and Neighborhood Services Committee  
SUBJECT: Police Department Live Scan Resolution

REQUESTED ACTION:

Adopt the resolution requesting the California Department of Justice (DOJ) add the national criminal history check (F.B.I) to the San Diego Police Department's Live Scan account for Police Regulated Occupations and Businesses.

STAFF RECOMMENDATION:

Approve the resolution requesting the DOJ add the national criminal history check (F.B.I.) to the San Diego Police Department's Live Scan account.

SUMMARY:

The San Diego Police Department [Department] is responsible for issuing permits and regulating a variety of businesses and occupations collectively referred to as *Police Regulated Occupations and Businesses*. This designation requires the Department the ability to conduct thorough background checks for operators and employees to ensure compliance with the standards set forth in the Municipal Code (33.0301SDMC). It also allows the Department to inspect and regulate these businesses and occupations to ensure there is no criminal activity or violations of the rules governing those businesses and occupations.

This resolution will enable the Department to utilize 'Live Scan' for national criminal records checks through DOJ. This will also include the ability to receive subsequent arrest data as a result of any arrest or conviction of a permit holder which may occur outside the State of California. This automation will work toward enhancing public safety.

Background Investigations

The Vice Permits and Licensing Unit manages and conducts investigations, commonly referred to as background checks, of approximately 3500 permit applicants each year. These checks are limited to owners, operators, and employees. The Municipal Code requires a separate permit for each police-regulated business. In addition, the Municipal Code requires the Department to access the applicant's fitness to work, own or manage a police-regulated business.

Officers assigned to the Permits and Licensing Unit oversee many industries that include nude entertainment establishments, adult entertainers, arcade establishments, auto dismantlers, card room establishments, card room employees, going out of business, curb painters, pawn shops, second hand dealers, firearms dealers, firearm employees, solicitors, holistic health practitioners, holistic health practitioner establishments, massage establishments, massage therapist, off-premise massage therapist, off-premise massage business, money exchanges, outcall nude entertainers, outcall nude entertainer business, peep show establishments, pool room establishments, bowling alleys, promoters, swap meets, tobacco retailers, and entertainment establishments. Each of these industries is required to provide fingerprints and submit to a background check per San Diego Municipal Code section 33.0304.

This resolution will enable the Department to utilize Live Scan for national criminal records checks through DOJ. This will also include the ability to receive subsequent arrest data as a result of any arrest or conviction of a permit holder which may occur outside the State of California. The applicant will be required to obtain, at their expense, a Live Scan from one of the approved locations throughout the County of San Diego.

Cost Recovery Discussion

The cost of the Live Scan would be approximately \$71.00. This cost is paid by the permit applicant at one of the Live Scan locations. There will be no additional expense for the City.

FISCAL CONSIDERATIONS:

This cost will be paid by the permit applicant only once. There will be no additional expense for the City.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Notices of the changes to Live Scan will be provided to current permit holders and new applicants at the time of application or renewal and will be posted at all San Diego Police Department facilities. The Live Scan requirement will also be posted on the City's web site.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include all current and future permit holders.

Respectfully submitted,



William Lansdowne  
Police Chief

ATTACHMENT

RESOLUTION NUMBER R- \_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE REQUEST TO THE  
CALIFORNIA DEPARTMENT OF JUSTICE TO ADD THE  
NATIONAL CRIMINAL HISTORY CHECK (F.B.I) TO THE  
SAN DIEGO POLICE DEPARTMENT'S LIVESCAN  
ACCOUNT.

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; and

WHEREAS, the San Diego Municipal Code section 33.0101 requires the San Diego  
Police Department to oversee, regulate and license certain industries; NOW THEREFORE,

BE IT RESOLVED, that the City of San Diego is hereby authorized to access state and  
federal level summary criminal history information for licensing of Police Regulated activities,

specifically, nude entertainment establishments, adult entertainers, arcade establishments, auto dismantlers, card room establishments, card room employees, going out of business sale, curb painters, pawn shops, second hand dealers, firearms dealers, firearm employees, solicitors, holistic health practitioners, holistic health practitioner establishments, massage establishments, massage therapist, off-premise massage therapist, off-premise massage business, money exchanges, outcall nude entertainers, outcall nude entertainer business, peep show establishments, pool room establishments, bowling alleys, promoters, swap meets, tobacco retailers, and entertainment establishments.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

\_\_\_\_\_  
John C. Hemmerling  
Deputy City Attorney

JCH:jdf  
1/5/2012  
Or.Dept:Police  
Doc. No.: 299433

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

