

The City Attorney
City of San Diego
MEMORANDUM
236-6220

DATE: July 28, 1986

TO: San Diego Police Department
FROM: City Attorney
SUBJECT: Revision of Memorandum of Law Regarding
Investigation Procedure dated June 23, 1986

The Memorandum of Law regarding Background Investigation Procedure dated June 23, 1986 has been revised to reflect the following changes. A copy of the original memorandum is attached for your convenience with the changes noted. The original memo should be disregarded and the revised memo utilized as our advice on the questions posed.

The last paragraph of page three beginning with "Regarding your second question. . ." should be replaced with the following two paragraphs:

Regarding your second question, a distinction must be made between an applicant whose application was rejected (disqualified) and one who successfully completed the application process but was not selected for employment.

Neither instance requires an explanation from the Police Department as to the underlying reasons. However, an applicant who was rejected may appeal in writing within five (5) days of the rejection to the Civil Service Commission for a review of the ruling. The Commission must afford the applicant an opportunity to be heard on the issue of his rejection. San Diego Municipal Code Section 23.0306(2).

Therefore, a police applicant who was rejected by Personnel, or whose application was returned to the Personnel Director for rejection because of information gathered during the background investigation has a right to have his or her rejection reviewed within the confines of the above cited section. An applicant who is merely not selected has no comparable rights by law. Thus, while neither situation requires an

explanation by the Police Department, the
refected applicant has a right of review by
the Civil Service Commission.

JOHN W. WITT, City Attorney

By

William S. Donnell

Deputy City Attorney

WSD:ls:520.1

Attachment

MS-86-13