

<b>Subject:</b>	<b>Policy and Procedures Regarding the Request and Consideration of Arrest and Conviction Records in Employment</b>	<b>Number: 2-30</b>
		<b>Date Issued: February 14, 2014</b> <b>Date Revised:</b>
<b>Responsible Department:</b>	<b>Personnel Services</b>	<b>Approved: (Signature on File)</b>

**Purpose**

The purpose of this Administrative Order is to define the policy and procedures associated with the request and consideration of arrest and/or conviction records of qualified applicants for employment and City employees.

**Policy**

The City shall utilize criminal history information related to arrests and convictions in the pre-employment and employment context, as follows:

**QUALIFIED APPLICANTS FOR EMPLOYMENT:**

Criminal history information related to convictions (including pleas of guilty, nolo contendere (no contest), or other finding of guilt) of a felony or misdemeanor shall be considered of qualified applicants of employment with the City. Consistent with Fresno Municipal Code (“FMC”) §3-224 (b), the Personnel Director shall consider the seriousness and type of offense as it relates to the nature and sensitivity of the position being applied for, based on the factors set forth in FMC §3-224(b). The qualified applicant may present evidence of rehabilitation to the Personnel Director.

The City shall also consider criminal history information related to arrests and/or detentions that did not result in convictions of qualified applicants seeking employment as peace officers, as defined in Penal Code §830 et seq.

Criminal history information does not necessarily prohibit employment with the City, except for any applicant or candidate of a peace officer position who has been convicted of any felony or misdemeanor involving moral turpitude, as required by FMC 3-224(c).

To further the objectives of this Administrative Order and FMC §3-224, the Personnel Director shall utilize the criminal history record information on file with the California Department of Justice and/or local law enforcement agencies.

All positions, with the City require passing a detailed background investigation, conducted by the Department, as a condition of employment. Dependent upon the nature of the position, the extent and content of the background may vary. At a

minimum a background investigation includes verification of prior employment but may also include verification of education, valid drivers' license, job related certificates, credit checks and the criminal background. The background for peace officers is more exhaustive consistent with the Commission on Peace Officer Standards and Training (i.e., POST) standards.

The background investigation is to be fully completed before a conditional (i.e., subject to satisfactory completion of medical and/or psychological testing) offer of employment is extended.

Once a qualified applicant satisfactorily completes the procedures noted above, with respect to criminal history information and relevant background investigation, the applicant may be offered (conditional if a medical and/or psychological examination is required for the position) employment with the City.

Personnel Services staff is responsible for the fingerprinting of all City employees and receives the report from the Department of Justice, and in some instances the Federal Bureau of Investigation. The results of the criminal background obtained through the fingerprinting process are provided by Personnel Services to the contact person in the hiring Department. If the applicant has a record Personnel Services will consult with the Appointing Authority or designee and designated City Attorney's office staff to determine the appropriate action based on the totality of circumstances.

### **CITY EMPLOYEES:**

During the course of employment with the City an employee may be subsequently arrested and/or convicted of one or more crimes. When such crime has been reported to the California Department of Justice and in some instances the Federal Bureau of Investigation, the City will be provided with a subsequent notice advising the City of the activity.

Upon receipt of a subsequent arrest and/or conviction notice, designated Personnel Services Department staff will consult with the employee's Appointing Authority, or designee, and designated City Attorney's Office staff to determine the appropriate action to take considering the totality of the circumstances. The analysis shall include consideration of whether the employee will be placed on paid administrative leave pending the conduct of an internal administrative investigation into the circumstances of the subsequent arrest and/or conviction.

Employees shall provide notice to the Department as soon as reasonably possible subsequent to an arrest. When notice is provided, the Department will accept any documentation from the employee regarding the arrest and consult with designated Personnel Services and the City Attorney's staff before taking any personnel action.

The subsequent arrest and/or conviction information obtained as set forth in this Administrative Order may be used as the starting point for any independent, internal administrative investigation of a City employee into allegations of potential misconduct. Further subsequent personnel actions shall be governed under the City's disciplinary procedures or applicable at-will employment agreements.

Criminal history information, including background investigation information, is confidential. The information collected subject to this Administrative Order shall only be shared with a person authorized to receive that information who has a business-related reason to know and will be retained in a manner that will ensure confidentiality. Unless an applicant or employee has elected not to receive the information collected, an applicant or employee has the right to receive a copy of any public record obtained by the City as authorized by this Administrative Order.