



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Edgardo Garcia

SUBJECT: SEE BELOW

DATE: August 8, 2018

Approved

Date

8/9/18

SUPPLEMENTAL

**SUBJECT: AUDIT OF THE POLICE ACTIVITIES LEAGUE,
(RECOMMENDATIONS 19 AND 20)**

REASON FOR SUPPLEMENTAL

At the June 14, 2018 meeting of the Neighborhood Services and Education Committee, committee members had several questions regarding the history of how the Police Athletic League (PAL) had conducted fingerprint background checks of adults involved in the program as staff, coaches, or volunteers. The San José Police Department committed to providing this information via memorandum prior to the City Council discussion of the audit of PAL.

BACKGROUND

In the June 2018 report, "An Audit of the Police Athletics League," the City Auditor made the following recommendations:

- Recommendation #19: The City should require fingerprint background checks (Live Scan) of all adults serving in a supervisory or disciplinary role over children to ensure that all coaches and relevant volunteers comply with the California Public Resource Code 5164 and relevant City policies.
- Recommendation #20: The City should require maintenance of an updated roster of all players, coaches, and other relevant volunteers participating in each of PAL's activities.

California Public Resources Code requires that counties and cities shall not hire or utilize volunteers in a position of supervisory or disciplinary authority over a minor who has been convicted of certain criminal offenses. Individuals with a criminal conviction, outlined in California Public Resource Code 5164, are restricted from serving in any capacity with PAL.

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ANALYSIS

The Police Department agrees with both recommendations, and as the PAL audit was in process, the Department reviewed its internal procedures related to PAL background checks and determined a more comprehensive system should be put in place. This memorandum provides an overview of the backgrounding process that was in place prior to the audit of the PAL program, discusses changes that have been made since the audit, and responds to questions raised at the Committee meeting on June 14, 2018.

Previous Background Process

Prior to the City audit of the PAL program, PAL required volunteers and coaches to undergo a fingerprint background check, but the Police Department did not retain or record the results. When an individual was interested in volunteering or coaching for PAL, the staff directed the prospective volunteer or coach to be fingerprinted via Live Scan. The Department of Justice (DOJ) then sent an e-mail with the results of each fingerprint check via a Secure Message Server (SMS) to the PAL sergeant, who acted as the Custodian of Records. The PAL sergeant reviewed all returns to determine if individuals were eligible to coach / volunteer for PAL; any coaches or volunteers deemed ineligible were prohibited from participating in PAL programs.

The background results sent via SMS message automatically purged after 90 days and the Custodian of Records did not have the ability or authority to save the SMS messages electronically. PAL does not have access to the DOJ database to search for persons once the results are automatically purged is deleted. In the past, the Police Department did not create an independent database to track and record the results on an on-going basis. Additionally, while coaches and volunteers were directed to have a Live Scan performed, the Department did not thoroughly audit coaching rosters and volunteer lists to ensure each listed person had completed and passed the background process.

It is important to note, that the Department did receive updates from the DOJ in addition to the initial results of a Live Scan. If an individual had been fingerprinted for PAL service was subsequently arrested for a crime, the DOJ sent "subsequent arrest notifications" to the Custodian of Records. Based on the updates, the Custodian of Records determined if the coach or volunteer should continue to volunteer for PAL.

At the Committee meeting, staff was asked if it was possible to review those coaches and volunteers who are no longer with PAL to see if subsequent arrests have emerged. As the Police Department did not previously retain background results for coaches and volunteers, this information cannot be determined. The Committee also asked if the Police Department could conduct background checks on coaches who were no longer associated with PAL (going back as many as to three years). This task is not feasible, as former coaches would not fall under the requirements of Public Resources Code 5164 that requires such background checks.

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New Background Process

At the initial onset of the PAL Audit, the Police Department became aware of the retention flaws with the existing Live Scan process and the failure to independently record the background results of volunteers and coaches. Immediate changes were made to correct the issue; PAL now requires all coaches, beginning in 2018 with the start of their respective sport's season, to submit to a Live Scan. Coaches have been directed to complete the process, even if they completed the process in the previous year, to ensure every person has been fingerprinted and the results are documented.

The PAL sergeant has delegated the role of Custodian of Records to the PAL police officer. Currently, the PAL Custodian of Records reviews all active team rosters and verifies each coach has completed a Live Scan. The Custodian of Records also ensures each coach is free of any criminal conviction that would restrict him or her from serving in any capacity with PAL. If DOJ returns give rise for concern, the Custodian of Records advises the PAL sergeant. Additionally, the COR reviews "subsequent arrest notifications" and determines if the coach or volunteer should continue to volunteer for PAL. Team rosters and Live Scan receipts are printed and will be retained at PAL in accordance with City policies for three years beyond the end of volunteer service.

To simplify the process, PAL has formed an agreement with a professional Live Scan company to provide on-location fingerprinting service to coaches at PAL Stadium. PAL has utilized this service for soccer coaches; thirty coaches were fingerprinted during a meeting. Baseball, boxing, and Tae Kwon Do coaches and volunteers, as well as the adult PAL cadets, have completed the Live Scan background process. Once the football background checks are completed, all 2018 PAL coaches will have been fingerprinted. Any new coaches (late additions) will have to complete their Live Scans prior to conducting practices or coaching games.

Since implementing the new processes, the DOJ/SMS system has flagged one volunteer, who has since been suspended. Over the last six months, the PAL Custodian of Records has received several subsequent arrest notifications from DOJ; however, these coaches were determined to no longer volunteer / coach for PAL and have not coached for PAL for several years.

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EVALUATION AND FOLLOW-UP

PAL is committed to complying with California Public Resource Code 5164 and City policies. The PAL Custodian of Records continues to monitor current records and conduct weekly audits of the DOJ SMS. If a negative DOJ hit occurs, PAL will continue to thoroughly investigate the incident and evaluate the individual's coaching status through the Office of the Chief of Police. Convictions for prohibitive offences are grounds for termination from service as a coach or a volunteer. Live Scan results and coaching rosters are now retained at PAL for three years beyond the end of volunteer service.

/s/

EDGARDO GARCIA

Chief of Police

For questions, please contact Sergeant Thomas Boyle, Police Activities League, San José Police Department, at (408) 272-9725.