

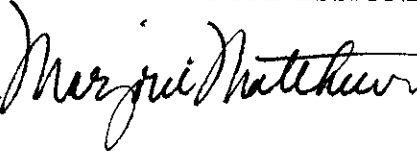
FOR INFORMATION ONLY

**CITY OF LOS ANGELES
DEPARTMENT OF RECREATION AND PARKS**

April 3, 2002

TO: BOARD OF RECREATION AND PARK COMMISSIONERS

FROM: ELLEN OPPENHEIM
Assistant General Manager



SUBJECT: LETTER TO RECREATION AND PARKS GENERAL CONTRACTORS

The attached letter and Public Resources Code §5164, is being sent to our General Contractors, Sureties and City Officials to place our contractors on notice. It is the intention of the Department to ensure that incidents such as those noted in this letter will not occur in our parks again.

Prepared by Maureen Tamuri, Assistant General Manager.

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PARK COMMISSIONERS

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DEPARTMENT OF
RECREATION AND PARKS
200 N. MAIN ST.
13TH FLOOR
LOS ANGELES, CA 90012

(213) 473-8833
FAX - (213) 978-0014

ELLEN OPPENHEIM
GENERAL MANAGER

March 27, 2002

Dear Recreation and Parks General Contractor:

In recent months, the Department has been made aware by LAPD of three very troubling incidences at the job sites where security guards, hired by the General Contractor, were arrested. Two of the arrests were for rape, one of a minor, and the other arrest was for solicitation of sexual acts from a minor.

We are sending this letter out to remind you that protection of the public while working at our parks is one of your most important responsibilities. We can see by these incidences that protection of the public, and especially our youth, can extend to more than just fencing the site and locking away tools and equipment. It extends to the individuals that you employ.

While screening of job personnel on our sites is not a contract requirement, we strongly encourage you to review your internal hiring procedures for all employees and subcontractors, especially for security personnel who are on our park job sites after hours. By way of information, we are providing you a copy of the Public Resources Code which governs who can be employed by the Department of Recreation and Parks. Note that we are prevented from hiring a person in a position where they will be supervising or directing children if they have a prior criminal history involving felony offences as rape, murder, sexual crimes or assault.

The Contract, under General Provision 28 WORKMANSHIP AND MATERIAL (e), allows the Department to request the removal of any person employed by the Contractor who is, in the opinion of the General Manager, found to be objectionable. Please be advised that the attached Public Resources Code will be the standard the Department will utilize in determining if security personnel employed on park property are objectionable.

We thank you for your resolve in working to make your park project as safe as possible for the thousands of children who come in contact with your organization.

Sincerely,

ELLEN OPPENHEIM
General Manager
EO/MT:st

Attachment

PUBLIC RESOURCES CODE §5164 (emphasis added)

(a) A county or city or city and county or special district **shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if that person has been convicted of any offense specified in paragraph (1) of subdivision (h) of Section 11105.3 of the Penal Code, or any offense specified in paragraph (3) of subdivision (h) of Section 11105.3 of the Penal Code. However, this section shall not apply to a misdemeanor conviction under paragraph (3) of subdivision (h) of Section 11105.3 of the Penal Code unless that person has a total of three or more misdemeanor or felony convictions specified in Section 11105.3 of the Penal Code within the immediately preceding 10-year period.**

(b)(1) To give effect to this section, a county or city or city and county or special district **shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted** of any offense specified in subdivision (a). The county or city or city and county or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for that person's criminal background.

(b)(2) Any local agency requests for Department of Justice records pursuant to this subdivision **shall include the prospective employee's or volunteer's fingerprints**, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

PENAL CODE §11105.3 (emphasis added)

(h) Records of the following offenses shall be furnished as provided in subdivision (a):

(1) **Violations or attempted violations of Section 220, 261.5, 262, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4.**

(3) Any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a) or any felony conviction that is over 10 years old if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of **Chapter 3 (commencing with Section 207), Section 211 or 215, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that offense, Section 217.1, Chapter 8 (commencing with Section 236), Chapter 9 (commencing with Section 240), and for a violation of any of the offenses specified in subdivision (c) of Section 667.5, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this section within the immediately preceding 10-year period or has been incarcerated for any of those convictions within the preceding 10 years.**

CRIMINAL BACKGROUND SCREENING

Pursuant to Section 5164 of the Public Resources Code, the Department of Recreation and Parks (RAP) will not hire an employee or volunteer in a position having authority over any minor if the employee or volunteer has been previously convicted for any of the following Penal Code (PC) offenses:

- PC 220 Assault with intent to commit rape, sodomy, or oral copulation
- PC 243.4 Sexual battery against an individual who is unlawfully restrained, institutionalized, or disabled
- PC 261 Rape
- PC 261.5 Sexual intercourse with a minor
- PC 262 Spousal rape
- PC 266 Procuring, assignation, or seduction of a female minor
- PC 266c Use of fear or threat to obtain consent to engage in sexual conduct
- PC 266h Pimping
- PC 266i Pandering
- PC 266j Providing or transporting child under 16 for purpose of lewd or lascivious act
- PC 267 Abduction of minor for prostitution
- PC 269 Aggravated sexual assault
- PC 272 Contributing to delinquency of a minor
- PC 273a Child abuse/neglect
- PC 273d Child cruelty
- PC 273.5 Inflicting corporal injury on spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child
- PC 285 Incest
- PC 286 Sodomy

- PC 288 Lewd act on child under 14
- PC 288a Oral copulation
- PC 288.2 Distributing harmful material for the purpose of seducing a minor
- PC 288.5 Continuous sexual abuse of a child
- PC 289 Sexual penetration
- PC 311.2 Distribution of obscene material depicting minors
- PC 311.4 Using a minor in the production of obscene material
- PC 311.10 Advertising obscene material for sale or distribution that depicts a minor engaging in or simulating sexual conduct
- PC 311.11 Possession or control of obscene material that depicts a minor engaging in or simulating sexual conduct
- PC 314 Indecent exposure
- PC 647.6 Child molestation (previously 647a)
- PC 653f(c) Soliciting another to commit rape, sodomy, or oral copulation by force or violence

In addition, pursuant to Section 5164 of the Public Resources Code, RAP will not hire an employee or volunteer in a position having authority over any minor if the employee or volunteer has a felony conviction, or if the employee or volunteer has a total of three or more misdemeanor convictions within the last 10 years, for any of the following PC offenses:

- PC 207 Kidnaping
- PC 209 Kidnaping for ransom or to commit robbery, rape, spousal rape, oral copulation, sodomy, or sexual penetration
- PC 209.5 Kidnaping during the commission of a carjacking
- PC 210 Representing oneself as a kidnaper to obtain ransom
- PC 211 Robbery accomplished through the use of a deadly or dangerous weapon
- PC 215 Carjacking accomplished through the use of a deadly or dangerous weapon

- PC 217.1 Assault upon the President, Vice President, Governors, justices, judges, former judges, judicial officers, government department heads, elected officials, mayors, city council members, county supervisors, sheriffs, district attorneys, prosecutors, assistant prosecutors, former prosecutors, former assistant prosecutors, public defenders, assistant public defenders, former public defenders, former assistant public defenders, chiefs of police, peace officers, jurors, or the immediate family of any of these officials, in retaliation for or to prevent the performance of the victim's official duties
- PC 236 False imprisonment
- PC 240 Assault
- PC 242 Battery
- PC 667.5 Violent felony related to:
Murder or voluntary manslaughter
Mayhem
Rape
Sodomy by force or fear
Oral copulation by force or fear
Lewd acts on a child under 14
Robbery
Arson
Attempted murder
Kidnaping
Continuous sexual abuse of a child
Carjacking
Extortion
First degree burglary

In addition, RAP will exercise its own discretion when considering hiring an employee or volunteer in a position having authority over any minor if the employee or volunteer has been convicted for a crime described under the California Uniform Controlled Substances Act (Division 10, commencing with Section 11000, of the Health and Safety Code; these are offenses related to the import, distribution, possession, or possession for sale, of a controlled substance) or has been convicted for other offenses not specifically addressed by Section 5164 of the Public Resources Code. In evaluating the conviction(s) of an applicant, RAP may consider issues such as the nature of the conviction(s), the recency of the conviction(s), the age of the applicant at the time of the conviction(s), a history of convictions indicative of incorrigibility, or a history of convictions where the offenses or sentences have become progressively more serious. The previously listed issues for consideration are intended to be illustrative and not exhaustive.

Revised 02/02