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DEPARTMENT OF JUSTICE
CRIMINAL DIVISION

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60 LAW OFFICERS—Authority and Jurisdiction
90A-1-(b) PUBLIC FUNDS & CONTRACTS —Professional Services

It is appropriate for a municipal police department to charge a fee for criminal history reports required by employers of hospitals, nursing homes, etc. . . The fee charged should be reasonable and deposited in the City account.

Dear Mayor Angelle,

Your request for an opinion of this office has been forwarded to the undersigned for research and reply. As I understand them, your questions are as follows:

- (3) Is it appropriate for the Carencro Police Department to conduct criminal background checks on individuals at the request of private concerns, i.e. hospitals, nursing homes, while charging a fee?
- (4) If it is appropriate, should the fee received for such services be retained by the Carencro Police Department or deposited in the City's general fund?

As per inquiry number one, it is appropriate for the Carencro Police Department to conduct criminal background checks on individuals at the request of certain public and private entities while charging a fee. The revised statutes dictates which entities/employers may receive criminal history reports. Your request specifically mentioned hospitals and nursing homes, therefore this response is tailored as per that request.

La. R.S. 15:587 gives the Louisiana Bureau of Criminal Identification and Information the duty to provide information contained in the criminal history record and identification files of the bureau to specific state agencies.

La. R.S. 15:587 lists specific agencies that may request such information. They include:

[a]ny eligible criminal justice agency, Department of Health and Hospitals, Department of Social Services, Department of Insurance, Louisiana State Racing Commission, Senate and Governmental Affairs Committee, Department of Labor, Board of River Port Pilot

Commissioners, Office of Financial Institutions in the governor's office, and any department responsible for reviewing applications for alcoholic beverages.

This statute also confers local law enforcement agencies the authority to perform such screening functions. According to La. R.S. 15:587 (D),

Any local law enforcement agency may conduct any screening function conducted by the bureau, except those screening functions conducted for entities regulated by any office of the Department of Public Safety and Corrections, and also may charge a reasonable processing fee of not more than fifteen dollars per inquiry for information provided. The provisions of this subsection also apply to any screening function provided for in R.S. 15:587.1. (emphasis added)

Therefore, the Carencro Police Department is a local law enforcement agency and may conduct screenings for those entities listed in the article.

The revised statutes also allow criminal history checks for private entities.

Local law enforcement agencies may provide criminal history checks for employers under the Child Protection Act (CPA). La. R.S. 15:587.1 provides that criminal history checks may be provided to employers whose employees have a position of supervisory or disciplinary authority over children. R.S. 15:587 (D) allows local law enforcement to provide criminal history checks for employers under the CPA.

Furthermore, La. R.S. 40:1300.52 allows criminal history checks for non-licensed person or any licensed ambulance personnel to provide nursing care, health-related services, medic services or supportive assistance to any individual. La. R.S. 40:1300.52 (A)(1) allows:

Except as otherwise provided in Subsection C of this section, prior to any employer making an offer to employ or to contract with a non-licensed person or any licensed ambulance personnel to provide nursing care, health-related services, medic services or supportive assistance to any individual, the employer shall request a criminal history check be conducted on the non-licensed person or any licensed ambulance personnel pursuant to the provisions of this section.

Subsection B states, "An employer shall request the office [State Police] or *authorized agency* to conduct a criminal history check . . ." (emphasis added)

A local police department is an authorized agency according to La. R.S. 15:587. Pursuant to the above statutes, a local police department may conduct screening for non-licensed personnel at nursing homes or hospitals and licensed ambulance drivers.

Local law enforcement agencies may not conduct screening for entities regulated by any office of the Department of Public Safety and Corrections, i.e. Gaming or personnel employed by the Department of Public Safety. La. R.S. 15:587.

As per inquiry number two, the Carencro Police Department may charge a reasonable fee for the performance of such criminal history checks. The standard fee is not to exceed \$15.00 and may be deposited in the City's general fund.

La. R.S. 15:587(B) states;

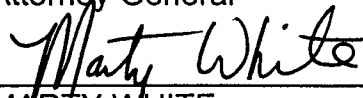
Pursuant to the Administrative Procedure Act the bureau may charge a reasonable processing fee for information provided to any agency statutorily eligible to receive this information, except another state or local law enforcement agency, pursuant to a request to assist the agency in performing a screening function as part of any regulatory or licensing scheme. Payment of the processing fee shall accompany the request for such information and shall be deposited by the bureau immediately upon receipt into the state treasury.

The Louisiana Bureau of Criminal Identification and Information must deposit any monies in the State Treasury pursuant to La. R.S. 15:587(B). By analogy, it would be appropriate to deposit any monies in the City's general fund.

Very Truly Yours,

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By:



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MW/rj/jy