

## Mental Health Police Records Check Coalition

### QUESTIONS & ANSWERS

#### The Mental Health Police Records Check Coalition

##### What is the Mental Health Police Records Check Coalition?

- The Coalition is comprised of a group of over thirty organizations and individuals working to eliminate the discriminatory practice of releasing non-criminal information as part of the police records check process.
- The members of the Coalition represent a diverse range of interests, including organizations from the human rights, social justice, disability and youth sectors.
- Any individual or organization that supports the goals of the Coalition is encouraged to join the Coalition.

##### What are the goals of the Coalition?

- To raise awareness of the discriminatory process respecting police records checks.
- To ensure that all individuals who have contact with the police pursuant to the *Mental Health Act* are treated as equal members of society.
- To work with stakeholders and police forces to bring about change.
- To change the current practices to ensure that persons who have contact with the police are treated with respect.
- To develop consistent language and policies across the province for police records checks to facilitate understanding and prevent confusion.

#### Police Records Checks versus Criminal Records Checks

##### What is a police records check (PRC)?

- A PRC can provide much more detail than a traditional criminal records check.
- It is intended for individuals seeking employment, an educational placement or a volunteer position with vulnerable persons.
- A PRC is also known as a “vulnerable records check,” “vulnerable sector screening” or “vulnerable person records check.”
- The purpose of a PRC is to assist employers and agencies to ensure that individuals do not have a criminal history that could put their staff or clients at undue risk or to determine the suitability of successful candidates having direct contact with vulnerable persons.
- Employers and/or community agencies must register with the local police force or enter into a memorandum of understanding to obtain a PRC.

##### Who is a vulnerable person?

- The *Criminal Records Act* defines vulnerable persons as “persons who, because of their age, a disability or other circumstances, whether temporary or permanent,
  - a) are in a position of dependence on others; or
  - b) are otherwise at greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.”

- With respect to age, the *Criminal Records Act* defines children as “persons who are less than 18 years of age.”

#### What is a criminal records check (CRC)?

- A CRC is a search of the Canadian Police Information Centre (CPIC) database which is operated by the Royal Canadian Mounted Police.
- “Clearance letter,” “criminal background check” or “criminal reference check” are other names for a CRC.
- A CRC may be required for employment, volunteering or visas.
- Nobody can access another persons’ CRC without consent although there are some exceptions (e.g., law enforcement agencies).

#### What information is included in the CPIC database?

- Records of criminal convictions for any *Criminal Code* or federal statute offences.
- Findings of not criminally responsible by reason of mental disorder.
- Pending federal and/or provincial charges.
- Findings of guilt where a pardon has not been granted.
- Absolute and conditional discharges where not prohibited by legislation.
- Current judicial orders (e.g., peace bonds, probation orders and prohibition orders).

#### What information is included in a police records check (PRC)?

- A PRC is conducted by performing a CRC *plus* a search of the local police service database. Also, depending on the police service, there may be contact with other police services for information in their database.
- Local police service databases may show:
  - convictions and charges
  - information about the individual as a complaint/victim/witness in an investigation
  - findings of not criminally responsible by reason of mental disorder
  - suspect information
  - offences against provincial statutes
  - allegations of offences where charges were not laid
  - reports resulting from incidents relating to the *Mental Health Act* - e.g., “arrests” or “contact with the police”
- Although the police may have a considerable amount of information, they will not necessarily provide all of the information in a PRC – it depends on the individual police service as well as the information requested by the employer and/or community agency.

### **Additional Information about Police Records Checks**

#### Can an employer or organization obtain a PRC for an individual without his or her consent?

- No. An individual must consent to a PRC.
- However, some people may have difficulty understanding the consent form. For example, newcomers to Canada may not be able to read English. If a person does not understand what they are reading, they should seek assistance before signing.

### Does a person have to agree to a PRC?

- No. However, if an individual does not agree to a PRC, he or she is at jeopardy of not getting the job, school placement or volunteer position applied for.

### What is the procedure to obtain a PRC?

- Each police service will have a different process but there are typically two procedures. One possibility is that the person applying for an employment or volunteer position goes in person to his or her local police service, presents valid identification and completes an application form. The second possibility is that the person authorizes the employer or agency to deal directly with the police to obtain the PRC.
- Generally there is a fee ranging between \$15 to \$60 for a PRC.
- Depending on the agreement between the police and the employer or agency, the police may send the PRC directly to the individual or the employer or agency. Even if the PRC is sent directly to the individual, some police services will send a notification to the employer or community agency to advise that the results were sent to the individual.

### Can a person find out what information would be disclosed if a PRC was necessary?

- Some police services will not release the information contained in a PRC unless the person is applying for an employment or volunteer position and has signed an agreement with the police service to this effect.

### Can information included in a PRC be corrected?

- If the records are incorrect, an individual may be able to request that the record be corrected by the police service that entered the information.

### When are police records destroyed?

- Records are maintained and destroyed in accordance with police retention policies.
- Each police service has different rules as to the retention of records depending on municipal bylaws or police policies. Generally speaking, records are kept for five years.

### What are some examples of police contact that could be included in a PRC related to the *Mental Health Act*?

- The police take an individual to a psychiatric facility on a Form 1 (an application for psychiatric assessment).
- The police take an individual to a psychiatric facility on a Form 2 (an order made by a justice of the peace).
- The police take an individual to a psychiatric facility if they have reasonable grounds to believe that the person is acting or has acted in a “disorderly manner.”

## **The Negative and Discriminatory Effects of Police Records Checks**

### Is the disclosure of non-criminal information a discriminatory practice?

- In the opinion of the Coalition, the disclosure of non-criminal information is discriminatory and violates the Ontario *Human Rights Code* on the grounds of disability or perceived disability.
- Many police forces report on their databases that people are “arrested” under the *Mental Health Act* – this is inaccurate and suggests that the person committed a criminal activity.
- Reinforces the assumed link between mental illness and criminality.

- Certain detentions under the *Mental Health Act* are based on assessments made by a police officer for perceived, not diagnosed, mental health concerns.
- Individuals who come into contact with the police under the *Mental Health Act*, as well as families and stakeholders, are often not aware that this will become part of the police record.
- Although a PRC is voluntary, an individual is forced to disclose personal health information if he or she wants a job, volunteer position or school placement.
- A PRC acts as a disincentive for many people by impeding the pursuit of life and career aspirations.

#### What are Some Unintended Consequences of a Police Records Check?

- Many individuals have reported that a PRC that includes non-criminal contact with police information can have unintended consequences. For example, some individuals may not be able to pursue career or volunteer opportunities or complete a student placement. Others may be placed in the awkward position of having to disclose the personal details of the contact with the police and the mental health system.
- In some communities, the police may be the only ones available to assist during a crisis and that contact, although helpful, usually generates a "contact with police" notation on their record. In other cases, having a police record may be a consequence of individuals not getting the services they need when and where they need them.

#### **Where can I obtain more information about PRCs or the Coalition?**

- If you have any questions, please feel free to contact:  
 David Simpson  
 Program Manager  
 Psychiatric Patient Advocate Office  
 519.631.8510, x.49619 or 1.800.578.2343  
[David.Simpson@ontario.ca](mailto:David.Simpson@ontario.ca)
- More information about the Coalition, including its views and activities, can be found at [www.ppaogov.on.ca/sys-pol.html](http://www.ppaogov.on.ca/sys-pol.html).