

## **Police records check information**

A screening tool that often raises more questions than answers is the police records check, also known as the criminal records check or background check. Should every volunteer have one done? What will the check tell you? If someone has a record can he/she still be a volunteer? Is someone with no police record a “safe” volunteer? Screening is certainly much more than a police records check. It should only be used to enhance a thorough risk management plan and never be relied on exclusively. In the listing below we have gathered the most commonly asked questions with further information. If you have questions that are not listed here, please forward them to Volunteer BC so we can update our information list. It raises more questions that

### **Intro**

## **What do you need to know about police records checks to effectively use them as a screening tool?**

### **Why does my organization need police records checks for volunteers?**

As an organization we have a legal obligation to protect our clients, volunteers, staff and the general public. To fulfill that legal obligation we need to do the best we can to ensure that our programs are safe by carefully screening all volunteers who join our organization and supervise and evaluate them when performing services on our behalf. Screening is a comprehensive process that starts with proper program planning and design to minimize the risk in each volunteer position and requires careful recruitment and selection. This process involves interviewing a volunteer applicant, checking references and possibly running a police records check. However, the specific levels of screening applied to an applicant depend on the position he/she has applied for. By no means do all volunteers need a police records check. The check can be useful for bringing to light any convictions that an applicant has that would be relevant to the position he/she is applying for. As your organization has an obligation to reduce the risk in your programs, the police records check is simply one tool at your disposal that can be utilized. Not obtaining the information may be considered negligent behaviour if the information would have had a significant impact on the safety of your programs.

### **Why not use the police records check as your only screening tool?**

As formal and official as a police records check may seem, it will only tell you whether a person at that time has a record with the police. It doesn't tell you anything else. It does not tell you about the person's skills and abilities or appropriateness to be a volunteer within your organization. Using a police records check as a screening tool will possibly scare off people with a record who do not want to reveal this information. However, these people may have a record that is totally irrelevant to the position and you may miss out on an excellent volunteer. On the other hand it may not screen out

some potential applicant that you should be worried about (see below limitation of a police records check).

### **What are the limitations of a police records check?**

All a police records check will turn up are convictions for which a pardon hasn't been received (see more on pardons below).

Keep in mind that:

Someone may have a criminal history but has never been convicted

A person may be deliberately misrepresenting their identity in order to avoid detection

A very recent conviction may not show up on the records checks, as there is a backlog for data entry of records.

A person may have a record from another country that we cannot access

A person may have received a pardon for a crime committed

A person may have a record as a minor that is now sealed

In short, a negative police records check does not guarantee that a volunteer applicant is necessarily safe. The organization needs to apply other screening mechanisms to ensure that an inappropriate volunteer applicant isn't accepted into a position where there is a risk to a client or other volunteers.

### **Why use the police records check at all?**

Even with all the limitations, the tool can reveal useful information. Volunteers with certain records should not be working in a position of trust with vulnerable individuals and as an organization you have an obligation to ensure that these individuals are not placed in such positions.

In some occasions, applicants with a history of abuse of vulnerable clients will go through great efforts to find opportunities to get involved with these groups. They may seek out organization that may seem weak on screening. Having a thorough and consistent screening may deter these individuals from approaching your organization. The use of a police records check also send a strong message to the public who still sees the check as a solid screening tool.

However, as an organization you need to evaluate each and every one of the volunteer positions and decide if the nature of the position, vulnerability of the client, level of supervision and relationship between client and volunteer merit a police records check. If the outcome of a police records check would not alter your decision on whether you'd hire a volunteer or if the fact that someone had a record would not change the risk involved in the position, you may not require a police records check at all.

### **What do we need to have in place before we can use police records checks as a screening tool**

## **How do we decide if we should use a police records check in our screening**

As an organization you need to do a risk assessment of all your volunteer positions, evaluating the nature of the position, vulnerability of the client, level of supervision and relationship between client and volunteer merit a police records check.

As you evaluate the risk for each position and evaluate the other screening tools in place you can decide whether the information from a police records check would add any value to your screening. Would a record (and if so what kind of record) make a difference in whether you'd place a volunteer in a specific position or not? If the answer is no than maybe you shouldn't be using police records checks at all.

See XXX for risk assessment resources.

A police record in itself should not necessarily exclude a volunteer from being accepted into your organization, the offence has to be relevant to the position. You may not have a blanket policy on refusing volunteers with any type of police record; the offence needs to be relevant to the position. For example a volunteer who has a conviction for injuring someone in a drunk driving accident can be an excellent office volunteer. The record however would be an issue if the volunteer were interested in driving on behalf of the organization.

## **What policies need to be in place to effectively use a police records check as a screening tool?**

Take the time to plan the policies and procedures for your programs to ensure that you have all your ducks in a row; see below a list of questions to consider. More detailed information on each of these policies can be found in the policy section.

- General policy on screening to emphasize the importance of it
- Who needs to be screened? All volunteers or only those applying for a certain position?
- Volunteers need to sign a consent form
- If there is a cost who pays the fee?
- What type of record would exclude a volunteer from a (certain) position?
- Who decides whether a volunteer has an appropriate record?
- What complaint procedure is in place if a volunteer has a concern?
- How often is a police records checks repeated, if at all?
- How long are the records stored and how is the information kept confidential?

## **How do we inform applicant about our police records check requirements?**

Organizations need to be upfront with applicants and inform them of all the screening requirements. The image you project is important and you want the public to know that your organization takes the safety and well being of its clients, volunteers, staff and the

community very seriously. It should not come as a surprise to a volunteer so mention screening whenever you can: include a statement in your brochure, list the screening requirements in your information package and application form, review them again in your interview, information or orientation session and most importantly let volunteers know that screening is an ongoing process, an important part of supervision and evaluation. It shouldn't stop once a volunteer has been accepted.

### **How do we introduce new screening measures such as a police records check with our current volunteers?**

Change can be difficult and implementing new policies that scrutinize a long-term volunteer's background can be a challenge. However if your organization decides to implement police records checks for all volunteers from this point forward you have a few options:

- Implement a blanket policy that all volunteers (new and current) need to submit to a check. If you explain the reasons for doing so and appeal to the volunteer's commitment to the safety of the programs you'll probably get a lot of people on board. Make sure that volunteers understand that not any record will get them excluded from the organization; encourage volunteers to talk to you if they have concerns about a record. However, you will need to decide how to proceed with those volunteers who are not willing to submit to a test. Will you terminate these volunteers, reassign or retrain them?
- Using a grandfather policy the new measures would apply to all new volunteers from that point on. This takes into account that you already know the current volunteers and considering that checks weren't being done at all; at least from this point forward new volunteers will fall under new policies. Grandfathering the current volunteers provides recognition of their status but needs to be weighed against the risk of not obtaining potentially important information on their background.

### **How to obtain a police records check on a volunteer applicant?**

#### **What are the local requirements for police records checks?**

Each police department and each RCMP detachment has their own procedures for performing the police records checks. Contact your local police to find out what the requirements are for performing police records checks on volunteers. The volunteer always has to provide consent and either present him/herself with valid ID at the detachment in person or sign the consent form and mail it to the police. Volunteers have the check done in the municipality that they live in, even though your organization may be in a different municipality. In some cases the volunteer receives the record check information and brings it to you, in most cases the results of the check are sent directly to the organization.

## **Does the police provide forms to for requesting a police records check?**

In most cases, the police will provide the organization with standard forms. If you live in an area where volunteers come from various municipalities you need to enquire at each one of those police departments about their police records checks procedures and obtain their specific forms. Whenever forms are not provided, the organization needs to write a letter requesting a police records check. The letter should be on letterhead and include a contact name and phone number of the person who issued the criminal record check. List the name and address of the volunteer and if you are mailing the form ask the volunteer to provide his/her consent to the request. Also include a detailed description of the reason for the record check (whether the volunteer will be working with vulnerable individuals, in a position of trust and what the duties include). For more specific information, contact the police department of the municipality in question.

## **Who do I send the form to? Is there a designated person at each detachment?**

Each police department will have someone responsible for police records; in larger municipalities this is usually a department in itself. Plan ahead by contacting your local police in advance and finding out more about the procedure in your community.

## **How long does it take to perform a police records check?**

When the applicant has to present him/herself in person at the police station, the check is usually performed on the spot and the information processed immediately. When the request for a police records check is done by mail it can take up to a few weeks. If a fingerprint match is required and the file has to be sent to Ottawa for verification it can take up to three or four months, depending on the caseload.

## **What records/databases are searched?**

Generally both RCMP and municipal police access the following systems:  
CPIC (Canadian Police Information Center) national database of convictions  
RMS (records management systems) a national database  
PIRS (police information review system) RCMP national database  
Local databases

All databases contain a wealth of information, not only on convictions but in general for the purpose of a police records check, the police will only share information on convictions.

## **Levels of police check**

On most RCMP forms you'll find four categories of information disclosure. A volunteer has to give consent for each level to be searched. If the volunteer gives a general consent the RCMP would normally perform all four levels of the search. Level 1 searches only CPIC for records for which a pardon has not been granted. Level 2 checks

CPIC for convictions for which a pardon has not been granted as well as any outstanding criminal charges. Level 3 also searches for discharges in addition to the info obtained in level 1 and 2. Finally level 4 runs the most thorough check looking at all computer systems, including CPIC, PIRS, local databases and checking information beyond convictions such as charges.

For the most thorough search you need the volunteer to give permission for all four levels by initialling the form.

### **What information comes back to the organizations?**

In most cases the form is mailed back to the organization with a comment on whether a police record matched with the applicant's data. Information is usually provided on convictions only and may contain the date and type of offence or no information at all, except for the statement that a match may or may not exist. The reason why the police makes this statement deliberately ambiguous is because unless a person has submitted fingerprints it is impossible to make a guaranteed match. There could be several people with the same name or very similar data (typos happen) or someone could have changed their name. If the police informs an organization that there may be a match, the organization should follow up with the volunteer and decide if it wants to proceed with fingerprints to obtain further details on the records of this individual.

### **How do I decide what a relevant record is?**

It is important for your organization to discuss prior to using police records checks as a screening tool what types of convictions would screen someone out (you can't just make it up as you go). What kind of offences would exclude someone from being a volunteer and why. Be very clear on your motivation as an applicant or someone else may challenge you on this. Review the risk for each position before deciding if a police records check is required at all and if so what types of records would pose a risk. It can be helpful to talk to other organizations that carry out similar types of programs. Always ensure that your screening process is thorough and comprehensive as even someone without a relevant record may pose great risk to your organization.

### **Will the RCMP provide any guidelines on whether a person with a certain record should be a volunteer?**

No, the police will not make any recommendations or offer any guidelines. However, it may be helpful to ask the police what types of convictions they would screen for when running a police records check for a certain position.

### **When does a potential volunteer get fingerprinted?**

Some police detachments have an agreement with certain organizations that they always fingerprint all applicants (for example the Boys and Girls Club). In most cases fingerprints are only required if there is a match with the information provided (name, date of birth, sex and race) to ensure that the person truly is the one matched with the fingerprints. If there is no match at all fingerprints are not required.

### **Why is there a cost in some municipalities for performing a police records check?**

The cost of the police records check is not determined by the police department but by the city who pays for a portion of the police services and charges user fees to offset some of the cost. In many municipalities the fee is waived or significantly reduced for volunteer applicants. For questions or follow-up on the cost contact your city hall.

### **Is there a difference between a check performed by the RCMP and non-RCMP police services? Do both follow the same guidelines for police records checks?**

There are no standard guidelines for performing police records checks. Guidelines vary from police department to police department and may even depend on who is performing the check. However, in all cases both municipal police and the RCMP access all the major national databases (PIRS, CPIC and RMS). In addition, each police department can search local information at its discretion.

### **Is it possible to do a police records check on a minor?**

Here you will receive conflicting information, depending on whom you ask. In principle, a minor's record under the Young Offender's Act should be sealed once he/she reached the age of majority. However if the person has maintained a very active file, the record may remain open for an extended period of time. In some cases, when the police records check brings up a record under the Young Offender's Act, the police will hand the results of the records check to the volunteer who can then decide whether he/she wants to disclose the information.

## **Volunteer drivers**

### **Is a police records check useful for screening someone's driving record?**

In some cases a police records check can be useful for identifying a driver related offence but these criminal offences are only a small part of the types of driving offences that people can commit such as running red lights, speeding and other reckless driving. To check for these offences, volunteers need to obtain a driver's abstract or driver's record. The abstract shows all driving offences for the last five years. Driver's abstracts are provided free of charge.

### **How do I obtain a driver's abstract?**

Driver's abstracts are provided free of charge. You can obtain a copy of your driver's abstract free of charge via fax or mail by calling the Driver Licensing information phone line at 1-800-950-1498 or in Victoria 250/978-8300. You can also visit a Driver

Licensing office and request a copy. Only the license holder can request a copy of his/her driver's record. For more information see [www.icbc.com](http://www.icbc.com).

## **Pardons and other info on police records**

### **POLICY ON THE RETENTION/DISPOSAL OF CRIMINAL RECORDS**

Criminal Records are retained until the subject of the record is eighty (80) years of age with no criminal activity reported in the last ten (10) years, **except** where the subject:

has been sentenced to life imprisonment.

has been designated a "dangerous offender", and/or is still under the sentence of a court.

is still the subject of a prohibition order which has not expired.

has an outstanding warrant or an interest has been expressed by an agency engaged in the execution or administration of the law.

In each of these instances, the criminal record is retained until:

the subject completes his/her sentence and remains crime free for a period of ten years.

the subject attains one hundred (100) years of age, or

confirmation of death is supported by fingerprints.

Pardonable offences. Only summary or dual offences can receive a pardon. Indictable offences such as murder, assault cannot be pardoned. Once pardoned the files are sealed (unless upon request of the solicitor general).

### **What is a pardon?**

A pardon is a formal recognition that a person, who was convicted of a criminal offence and has completed a sentence, has demonstrated law-abiding behavior in the community over a period of time.

### **What is the effect of a pardon?**

The effect of a pardon, if granted or issued, is that the criminal record will be kept separate and apart from other criminal records and any information pertaining to the person's convictions and will be taken out of the Canadian Police Information Centre (CPIC). It means that after a pardon is granted or issued, any search of the CPIC will not show that you have a criminal record. It will also not divulge the existence of a pardon, as this would reveal that a conviction had occurred.

This applies to criminal records kept within federal departments and agencies. Courts and police services other than the RCMP are under provincial and municipal legislation. This means that they do not have to keep records of convictions separate and apart from other criminal records, although most do.

## **When can someone apply for a pardon?**

To apply for a pardon, the person must have completely served his/her sentence and a waiting period of either three years for summary convictions or five years for indictable convictions (criminal offences).

For example, if you only received a fine, the waiting period begins the date you paid that fine in full. For any court-imposed surcharge, restitution or compensation orders, term of imprisonment or probation, the waiting period is calculated from the date you completed the entire sentence, including any part of the sentence you may have served in the community.

### **Indictable offence:**

An offence which, in Canada, is more serious than those which can proceed by summary conviction. This is the Canadian equivalent to the USA "felony". Murder and treason are examples of crimes committed in Canada which would be indictable offences. These crimes are usually tried by federally-appointed judges and carry heavy sentences.

### **Summary offence:**

In Canada, a less serious offence than indictable offences for which both the procedure and punishment tends to be less onerous.

## **Can anyone receive a pardon for a conviction?**

The pardon process is an application process and not automatically awarded. Furthermore, dangerous offenders and those with a life sentence cannot be pardoned.

## **Is it true that changes have been made to the *Criminal Records Act* concerning pardons for sex offenders?**

There have been no changes that affect how or whether sex offenders will be granted or denied a pardon. There were, however, some changes to the legislation that became law in August 2000, which may affect sex offenders who have already been granted a pardon.

These new changes enhance the capacity of police forces to explore the criminal background of those who wish to work with children. This includes a review of criminal records for designated sex offences where a pardon has been granted.

By placing a 'flag' on the records of sex offenders in the Canadian Police Information Centre, police can be alerted that a pardoned record exists so they can request the Solicitor General's authorization to unseal it.

When an individual who has been pardoned for a sex offence has applied for a position

that involves working with children or vulnerable persons, the police may verify whether the applicant has been pardoned. Before doing so, however, they must obtain the applicant's consent in writing. A separate consent form specifically for this person needs to be submitted in addition to the consent form for a police records check.

See sample form attached.

## **Questions regarding police records checks under the Criminal Records Review Act**

### **Who is required to have a criminal record check completed under the Criminal Records Review Act?**

All individuals who work with children or may have unsupervised access to children in the regular course of their employment in organizations that are funded, operated or licensed by, or receive operating funds from the provincial government are required to undergo criminal record checks. Doctors, nurses, hospital employees, dentists, teachers, non-teaching staff such as school cleaners, and child care providers are just some of the groups whose records must be checked.

The only volunteers that are covered by the Act are those individuals at child care facilities licensed by a local health authority, or unlicensed child care facilities registered with the Child Care Resource and Referral Program. As an organization you will be informed if your volunteers require this type of screening.

### **If a volunteer is covered under the Criminal Records Review Act:**

#### **Is there a standard form that organizations use to request the check?**

There are standard authorization forms available that are provided to the organization that requires the check to be completed. They are to be completed and signed, and returned to the organization for submission to the program.

#### **Is there a cost?**

Criminal record checks are no charge through the Criminal Records Review Program, however if an individual is required to go for fingerprinting, they are responsible for the \$20 fee.

#### **How long does it take?**

The process takes approximately one week from submission of an authorization to issuance of a clearance letter, providing there is no missing or incorrect information on the authorization form, and the record is clear. Delays in processing depend on the

accessibility to the correct information. If a relevant offence is found, the fingerprint and adjudication process can extend the time frame to over three months.

### **What records are checked?**

Canadian Police Information Centre (CPIC) is checked, and provincial case files are checked. If a relevant offence is located, contact with the originating police agency and relevant court registry is made.

### **How are minors, refugees or new immigrants screened?**

Minors, refugees and new immigrants are checked in the same fashion as other individuals' record checks. Checks on minors are subject to Young Offender Act restrictions.

### **What information does the organization receive back?**

The organization that submitted the authorization receives information about the status of the authorization, the process itself, and the final results of the check. The organization does not receive detailed information about any criminal record located.

### **What happens when a volunteer has a record?**

When a volunteer has a record check done through the CRRP and a match is found, the individual and the organization get a notice that the person is being referred to an adjudicator and the results will be known when completed. If the person is cleared for working with children, they can continue to work with these groups. If they are found to be a risk to children, the organization must ensure they do not work with these groups. The volunteer can appeal, and then the appeal outcome indicates whether the adjudicator's original decision is upheld or overturned.

### **Can an organization refuse a volunteer who has gone through the adjudication process and found to have a relevant record?**

Some organizations have their own policies and do not allow someone to work with vulnerable individuals while the process is under way. (i.e., they don't schedule any hours, or find them an alternate position that doesn't involve working with these specific groups.) An organization would have to be aware of BC Human Rights and not jump to conclusions regarding the finding of a relevant offence.

### **Does the information go straight to the organization or the individual?**

Information is sent to both the individual and organization about the adjudication process and the results, however details of the criminal record are not released to the

organization. The organization may request written reasons for a decision that may contain references to the criminal record.

**Is it a one-time only check or should it be repeated annually? What if a volunteer takes a leave of absence and then returns?**

The check needs to be completed only when the individual is first employed or starts volunteering, or begins a new position working with vulnerable individuals. However, if the employee/volunteer is charged or convicted of a new offence, they must comply with the Act and immediately submit a new signed authorization form and a subsequent check will be completed.

If an employee/volunteer takes a leave of absence, the employer or agency must determine if the leave warrants a new check to be completed. Factors to consider would include how long since the initial check, the length of time away, the reason for the leave, and whether there is concern about the individual's return to working with vulnerable individuals. The responsibility lies with the employer or agency to make the appropriate decision.

**If a volunteer signs up at two different organizations does he/she need to undergo two checks?**

Yes. Both agencies would conduct record checks independent of each other as each agency has the same responsibility to do so.