

August 8, 2014

The Honourable Kathleen Wynne
Premier of Ontario
Room 281, Main Legislative Building, Queen's Park
Toronto, Ontario M7A 1A1

Dear Premier Wynne,

Congratulations on your recent election victory. We wish you the very best in your renewed mandate.

We are writing on behalf of the John Howard Society of Ontario (JHSO), the Canadian Civil Liberties Association (CCLA), the Ontario Association of Chiefs of Police (OACP), the Ontario Nonprofit Network (ONN) and the Ontario Chamber of Commerce (OCC) to request a meeting at your earliest convenience to address the inconsistency and lack of clarity around the type of information presented in police record checks in Ontario. This is an issue that impacts all Ontarians and all sectors - from business, to non-profits and charities to government and policing stakeholders. As such, we believe this is an issue that can be best addressed through an inter-ministerial and cross-sectoral response.

As you know, information currently disclosed in Ontario's record checks is not limited to records of conviction – Ontario police services frequently release non-conviction records, including mental health apprehensions, unproven allegations that may have never resulted in charges, and criminal charges that have been withdrawn, dismissed, stayed, or acquitted.

Presently there is uncertainty across private, public, and non-profit sectors around legal obligations to request police record checks, what police record checks entail and how to use this information in a fair and objective manner. Throughout our consultations, all stakeholders we have spoken with – civil society actors, police services, volunteer associations and service providers – have strongly supported the need for clear legislative limits on what police services should release, as well as the establishment of a centralized agency to conduct vulnerable sector screening.

As documented in two recently released reports by JHSO¹ and CCLA², this is an issue that impacts an enormous number of people in this province: based on Statistics Canada data, at least 1.35 million Ontarians have a criminal record of conviction; the number of individuals with non-conviction records could be closer to 4 million. Increasingly, Ontarians will be impacted by this issue due to growing demand from record checks by employer, volunteer, and academic organizations.

¹ John Howard Society of Ontario (2014). [Help Wanted*: Reducing Barriers for Ontario's Youth with Police Records.](#)

² Canadian Civil Liberties Association (2014). [False Promises, Hidden Costs: The Case for Reframing Employment and Volunteer Police Record Check Practices in Canada](#)

Encouraging community engagement, finding well-matched candidates for jobs or volunteer positions, and protecting vulnerable populations are all important goals. There is no evidence, however, that non-conviction records are useful indicators of future behaviour in workplaces. Indeed, the evidence shows that even records of conviction are often not correlated with an increased likelihood to commit an employment-related offence. What we do know is that jobs, and the economic and social stability that accompanies employment, are significant protective factors against criminal offending. In light of this evidence, record checks are simply not useful – or justifiable – as standard workplace screening tools, and widespread, unnecessary record checks are more likely to undermine, rather than enhance, public safety.

The OACP would welcome legislated record check requirements, including specific guidelines on releasing information. Since 2007, the OACP have worked with many community stakeholders to develop the *Law Enforcement and Records Managers Network (LEARN) Record Check Guideline*³ to support the consistent application of record checks across the province. More recently the guideline has been updated to remove police interactions, including mental health apprehensions, from all levels of record checks. Non-conviction records have been removed from the first two levels of record checks, and are now only released on the *Police Vulnerable Sector Check* where there is a significant risk to the vulnerable population. The choice to adopt this guideline rests with each police service.

The ONN has also been actively engaged on this issue for many years. With 59,000 nonprofits and charities across the province, this sector is struggling with inconsistent procedures, costs and protocols associated with police checks. Volunteer managers and directors of nonprofits often do not have the resources or expertise to know when police checks are appropriate, what level of police checks should be requested, what information might be returned, or what to do with the information they receive. It is our collective experiences, there is persistent, widespread, and significant confusion regarding the appropriate and legal uses of police record checks. There is also a concerning tendency to over-rely on the results of the record check as an ‘approval’ mechanism, to the exclusion of other organizational practices aimed at protecting vulnerable populations. These observations are reinforced by the Canadian Civil Liberties Association’s study, which was informed by interviews from across the country.

As Ontario’s largest business organization, the OCC is concerned that inconsistency in police record checks is having a negative affect on the productivity levels of employers in the private sector. Like nonprofits, businesses face administrative barriers as a result of police record checks--the vast majority of small and medium sized enterprises (SMEs) in the province lack the capacity to accurately interpret and make hiring decisions based on the abundance of information disclosed in police record checks. Additionally, the length and inconsistency of processing times across the province further delays employers from making hiring decisions. Eliminating unnecessary hurdles in hiring processes is an important element in tackling Ontario’s diverse labour market challenges. Whenever reasonable, practices that place undue burden on employers and prohibit hiring should be avoided.

Legislation prohibiting the release of non-conviction information, the establishment of a centralized agency to standardize vulnerable sector screening, and the modification of Ontario’s privacy and human rights laws to match protections offered in other provinces is critically needed.

We are pleased that the Government has committed to studying ways to standardize the system for releasing information from police background checks. We very much look forward to a meeting with you to

³ OACP [LEARN Record Check Guideline](#) – July 2014.

further discuss how we can collaborate together in the best interests of our citizens, communities and employers. Please contact Abby Deshman, Director of the Public Safety Program at the Canadian Civil Liberties Association at 416 363-0321 ext. 223 or adeshman@ccla.org for meeting arrangements or further information.

Sincerely,



Sukanya Pillay
General Counsel
Canadian Civil Liberties Association



Paula Osmok
Executive Director,
John Howard Society of Ontario



Cathy Taylor
Executive Director,
Ontario Nonprofit Network



Ron Bain
Executive Director
Ontario Association of Chiefs of Police



Allan O'Dette
President and CEO,
Ontario Chamber of Commerce

- C.C. The Honourable Madeleine Meilleur, Attorney General
The Honourable Yasir Naqvi, Minister of Community Safety and Correctional Services
The Honourable Kevin Flynn, Minister of Labour
The Honourable Reza Moridi, Minister of Training, Colleges and Universities
The Honourable Brad Duguid, Minister of Economic Development, Employment and Infrastructure
The Honourable David Oraziotti, Minister of Government and Consumer Services
The Honourable Helena Jaczek, Minister of Community and Social Services
The Honourable Tracy MacCharles, Minister of Children and Youth Services