



**LEARN COMPANION**  
**to the**  
***POLICE RECORD CHECK***  
***REFORM ACT 2015 –***  
***(PRCRA)***

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**RECORD CHECK SUB-COMMITTEE  
MEMBERSHIP (AS OF JUNE 2019)**

Paul Cormier (Chairperson)..... Waterloo Regional Police Service  
Sharon Appleby ..... Peel Regional Police Service  
Sheri Crago ..... Durham Regional Police Service

**AS OF JANUARY 2013**

Paul Cormier (Chairperson)..... Waterloo Regional Police Service  
Sharon Appleby ..... Peel Regional Police Service  
Sheri Crago ..... Durham Regional Police Service  
Susan Gagnon ..... Windsor Police Service  
Bonnie Marks..... Peel Regional Police Service

Special thanks to the following people for their contributions to the June 2014 revision:

Deputy Chief Scott Burns ..... Durham Regional Police Service  
Abby Dushman ..... Canadian Civil Liberties Association  
Mark Scott..... Royal Canadian Mounted Police

**ORIGINAL - MARCH 2011**

Susan Cardwell (Chairperson).....Durham Regional Police Service  
Eldon Amoroso .....London Police Service  
Sandra Gellow..... Waterloo Regional Police Service  
Sherry Joyes.....London Police Service  
Bonnie Marks..... Peel Regional Police Service  
Sharon Stephens..... Hamilton Police Service  
Karen Vandervelde ..... Peel Regional Police Service

**LEARN MISSION**

The Mission of the Law Enforcement and Records (Managers) Network (LEARN) is to share information, discuss ideas and develop guidelines for the benefit of the policing community; promote records management; and encourage consistency among police agencies.

**CONTACT**

If you have questions, comments or corrections please write to:

**Ontario Association of Chiefs of Police**  
LEARN Companion to Police Record Check Reform Act  
40 College Street, Suite 605  
Toronto, Ontario M5G 2J3

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## INTRODUCTION

The LEARN Companion (LC) for the *Police Record Checks Reform Act (2015)* is intended to assist police services understand and apply relevant legislation, policies, procedures and directives to the processing of Police Record Checks. It is also intended to promote consistency in processing methods as well as terminology used throughout the Province of Ontario. The legislation is referred to as *the Act* or *PRCRA* throughout this document.

**Note: This document does not address third party, for profit or not-for-profit companies. For further information refer to the *PRCRA* and CCRTIS Dissemination of Criminal Record Check Information Policy.**

All decisions relating to Police Record Checks must also be consistent with internal policies and Board By-laws of the respective police service.

This document incorporates provisions of the:

- *Police Record Checks Reform Act (PRCRA)*
- *Criminal Records Act (CRA)*
- CPIC Policy and User Manuals
- *Freedom of Information and Protection of Privacy Act (FIPPA)*
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*
- *Youth Criminal Justice Act (YCJA)*
- Ministerial Directive on the Release of Criminal Records (2010)

The *Police Record Checks Reform Act, 2015* takes effect on November 1, 2018. The *Act* sets out a process governing requests for searches of the Canadian Police Information Centre databases, or other police databases, in connection with screening an individual for certain purposes. The *Act* does not apply in respect of certain searches conducted regarding specified government activities.

The *Act* authorizes police services to conduct three types of police record checks: Criminal Records Check (CRC), Criminal Record and Judicial Matters Check (CRJMC) and Vulnerable Sector Check (VSC). Certain other parties are authorized to conduct those types of police record checks if they are permitted to do so under an agreement with a police service or under the laws of Canada.

The Schedule to the *Act* sets out the type of information that is authorized for disclosure for each type of police record check.

The *Act* does not apply in respect of the following:

- (1) A search required under the *Children's Law Reform Act* in respect of an application for custody of a child by a person who is not a parent of the child.
- (2) A search required for the purpose of the Office of the Children's Lawyer representing a child or reporting to a court under section 112 of the *Courts of Justice Act*.
- (3) A check required under the *Change of Name Act* in respect of an application for a change of name.
- (4) A search requested by the sheriff under the *Juries Act*.
- (5) A search conducted in relation to the administration of the *Firearms Act* (Canada).
- (6) A search required for the purpose of carrying out the Attorney General's functions under the *Ministry of the Attorney General Act*.
- (7) A search required for the purpose of fulfilling the duties assigned to Crown Attorneys and provincial prosecutors under the *Crown Attorneys Act*.
- (8) Any other searches that may be prescribed. [[PRCRA O.Reg 347/18](#)]

There are also exemptions made by regulation (see Appendix E). Organizations with exemptions to the PRCRA do not require police services to provide additional levels of searches. Exemptions only allow them to use other means to conduct more thorough record checks, such as an MTO abstract or credit check. When specific information is required under another piece of legislation, such as the CLRA or Change of Name Act, police services are required to provide the relevant information that is contained within their local database.

### The Evolution of Police Record Checks in Ontario

Prior to 2011:

- The demand for police record checks increases in both the private and volunteer sectors.
- Canadian academics researching the impacts of releasing police contact and non-conviction records found that the disclosure of these records is serving as a barrier in areas as diverse as employment, volunteer and educational opportunities, housing, public assistance, insurance and immigration.
- The LEARN Sub-Committee for Police Record Checks is formed. Their mandate is to produce a document that will find a balance between providing information for the safety of our communities while protecting the privacy, human rights and presumption of innocence of individuals.

- The LEARN Sub-Committee conducts extensive consultation with the following stakeholders:
  - Royal Canadian Mounted Police
  - Canadian Criminal Real Time Identification Services (CCRTIS)
  - The Ontario Human Rights Commission
  - The Information and Privacy Commission
  - Volunteer Toronto
  - Justice for Children and Youth
  - Ontario Association of Patient Councils
  - Community and Legal Aid Services Program
  - Canadian Mental Health Association Ontario
  - Psychiatric Patient Advocate Office
  - Police Record Check Coalition

### 2011

- The LEARN Sub-Committee completes the Guidelines and submits to OACP for approval
- OACP endorses the LEARN Guideline for Police Records Checks
- In March of 2011, the LEARN Guideline for Police Record Checks is released in an attempt to systemize the record check process across the province and in particular, address significant concerns about the impact of releasing mental health-related police records.
- The Guidelines were welcomed and applauded as a strong first step in the right direction.

### 2012

- Canadian Civil Liberties Association (CCLA) release a report, *Presumption of Guilt: The Disclosure of Non-conviction Records in Police Background Checks*, recommending policy changes to presumptively prevent the release of non-conviction records.
- Several court cases are launched challenging police services' release of non-conviction records, one of which was dismissed on procedural grounds by the Ontario Court of Appeal.
- In October 2012, the Minister of Community Safety and Correctional Services requests that the OACP revisit the way in which the LEARN Guidelines dealt with non-conviction records
- In November 2012, the John Howard Society of Ontario and the CCLA co-host a one-day symposium on non-conviction records, which was attended by a wide range of police, justice, civil society and government representatives.

2013

- In September of 2013 the LEARN Guideline is updated to rectify some oversights regarding the treatment of diverted charges, absolute and conditional discharges.
- In November of 2013, extensive consultation took place with the following community and government partners as police leaders sought to find the right balance between public safety and privacy:
  - Canadian Civil Liberties Association
  - Canadian Mental Health Association Ontario
  - John Howard Society Ontario
  - Justice for Children and Youth
  - Legal Aid Ontario
  - Mental Health Lawyers' Committee
  - Ontario Association of Patient Councils
  - Ontario Human rights Commission
  - Police Record check Coalition
  - Psychiatric Patient Advocate Office
  - Schizophrenia Society of Ontario
  - University of Toronto
  - Volunteer Toronto

2014

- In February of 2014 the OACP Board of Directors pass several motions regarding record checks in the Province of Ontario:
  - Public education about the benefits and limitations of Criminal Record Checks
  - Presumption against disclosure of non-conviction records
  - Crafting a narrow public safety exception to protect the most vulnerable people in our communities.
  - Work for provincial change to:
    - (a) Lobby for legislation
    - (b) Implement an evidence-based, centralized procedure for determining when non-conviction information can be disclosed.
- In July 2014, the LEARN Guidelines are updated and approved for release by the OACP. The OACP also calls upon the Government of Ontario to introduce legislation that would ensure consistency by police services in conducting police record checks and the



implementation of an evidence-based procedure for determining when non-conviction information can be released.

- In December 2014, after meeting with the OACP and other members of major stakeholders, the Minister of Community Safety and Correctional Services announced that the province would table legislation surrounding police record checks.

2015

- On June 3, 2015, a press conference is held introducing the Police Record Checks Reform Act. The proposed legislation is modeled on the OACP's LEARN Guideline for Police Record Checks.
- On December 1, 2015, the Police Record Checks Reform Act, 2015 is passed.

2016

- In March & April 2016, the LEARN Sub-Committee consults with the Ministry to provide input regarding the Regulatory development.

2017

- The LEARN Records Check Sub-Committee responds to questions from the Ministry

2018

- In March 2018 the Regulations are posted for public comment. It is announced that the Police Record Checks Reform Act will be proclaimed November 1, 2018.
- The LEARN Record Check Guideline is updated and changed to LEARN Companion to the PRCRA.

2019

- Various updates have been made to the LEARN Companion to the PRCRA and **highlighted** throughout.

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# 1: THREE LEVELS OF POLICE RECORD CHECKS

# 1

The *PRCRA* requires police services to provide three levels of record checks [*PRCRA 8.1*]. *YCJA* records have specific requirements [*PRCRA 11* and O.Reg 349/18]. Please refer to **Section 10**.

**NOTE: Interpol, NCIC and PARIS are not authorized to be searched for the purposes of police record checks.**

## Level 1: Criminal Record Check (CRC)

This check is intended for applicants who are involved as a volunteer, employee or in any situation where a basic CRC is requested (e.g., retail or immigration). This check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.

If the applicant has a criminal conviction, this check can only be provided by the local police service where the applicant resides. If the applicant does NOT have criminal convictions any police service may provide a negative CRC (previously known as a Clearance Letter), regardless of residency.

NOTE: Police Services do not have the authority to run a query of the investigative databank (10-29) **for this level of check**.

## **The Criminal Record Check will include the following information /PRCRA Schedule/:**

NOTE: See Section 4 - Verification of a Criminal Record

**Item #1:** Every criminal offence of which the individual has been convicted for which a pardon/record suspension has not been issued or granted. Do not disclose summary convictions if the request is made more than five years after the date of the summary conviction.

**Item #2:** Every finding of guilt under the *YCJA* in respect of the individual during the applicable period of access under that *Act*.

Note: **Only if requested in accordance with YCJA 119(1)(o)**.

**Item #8:** Any conviction for which a pardon/record suspension has been granted. Do not disclose unless disclosure is authorized under the *Criminal Records Act*.

## Level 2: Criminal Record and Judicial Matters Check (CRJMC)

This is a collection of offence information, including convictions, outstanding warrants, charges and judicial orders available from a local police agency's records management system and other systems/records where authorized.

This check is intended for applicants who are seeking volunteer and/or employment with agencies who require a criminal record check. The agency has determined that a search of sex offenders with a record suspension is NOT required, therefore this check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.

### **The Criminal Record and Judicial Matters Check will include the following information [PRCRA Schedule]:**

NOTE: See Section 4 - Verification of a Criminal Record

Item #1: Every criminal offence of which the individual has been convicted for which a pardon/record suspension has not been issued or granted. Do not disclose summary convictions if the request is made more than five years after the date of the summary conviction.

Item #2: Every finding of guilt under the *YCJA* in respect of the individual during the applicable period of access under that *Act*,

Note: Only if requested in accordance with *YCJA 119(1)(o)*.

Item #3: Every criminal offence of which the individual has been found guilty and received an absolute discharge. Do not disclose if the request is made more than one year after the date of the absolute discharge.

Note: An absolute discharge can be released from your own local files. However, this may only be released from a CRII (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy 14.1.4.1*).

Item #4: Every criminal offence of which the individual has been found guilty and received a conditional discharge on conditions set out in a probation order. Do not disclose if the request is made more than three years after the date of the conditional discharge.

Note: A conditional discharge can be released from your own local files. However, this may only be released from a CRII (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy 14.1.4.1*).

Item #5: Every criminal offence for which there is an outstanding charge or warrant to arrest in respect of the individual.

Item #6: Every court order made against the individual. Do not disclose court orders made under the *Mental Health Act* or under Part XX.1 of the *Criminal Code of Canada*. Do not disclose court orders made in relation to a charge that has been withdrawn. Do not disclose restraining orders made against the individual under the *Family Law Act*, the *Children's Law Reform Act* or the *Child and Family Services Act*.

Item #8: Any conviction for which a pardon/record suspension has been granted. Do not disclose unless disclosure is authorized under the *Criminal Records Act*.

### Level 3: Vulnerable Sector Check (VSC)

This check is restricted to applicants seeking employment and/or volunteering in a position of authority or trust relative to vulnerable persons in Canada only. It is a collection of offence information, including convictions, outstanding warrants, charges, judicial orders and sexual offence convictions for which the individual has received a record suspension where authorized by the Minister of Public Safety and Emergency Preparedness. Non-conviction information shall be released only when it meets the Exceptional Disclosure [*PRCRA 10*].

The Vulnerable Sector Check will include the following information [*PRCRA Schedule*]:

NOTE: See Section 4 - Verification of a Criminal Record

Item #1: Every criminal offence of which the individual has been convicted for which a pardon/record suspension has not been issued or granted. Do not disclose summary convictions if the request is made more than five years after the date of the summary conviction.

Item #2: Every finding of guilt under the *YCJA* in respect of the individual during the applicable period of access under that *Act*,

Note: Only if requested in accordance with *YCJA 119(1)(o)*.

Item #3: Every criminal offence of which the individual has been found guilty and received an absolute discharge. Do not disclose if the request is made more than one year after the date of the absolute discharge.

Note: An absolute discharge can be released from your own local files. However, this may only be released from a CRII (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy 14.1.4.1*).

Item #4: Every criminal offence of which the individual has been found guilty and received a conditional discharge on conditions set out in a probation order. Do not disclose if the request is made more than three years after the date of the conditional discharge.

Note: A conditional discharge can be released from your own local files. However, this may only be released from a CRII (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy 14.1.4.1*).

Item #5: Every criminal offence for which there is an outstanding charge or warrant to arrest in respect of the individual.

Item #6: Every court order made against the individual. Do not disclose court orders made under the *Mental Health Act* or under Part XX.1 of the *Criminal Code of Canada*. Do not disclose court orders made in relation to a charge that has been withdrawn. Do

not disclose restraining orders made against the individual under the Family Law Act, the *Children's Law Reform Act* or the *Child and Family Services Act*.

Item #7: Every criminal offence with which the individual has been charged that resulted in a finding of not criminally responsible on account of mental disorder. Do not disclose if request is made more than five years after the date of the finding or if the individual received an absolute discharge.

Item #8: Any conviction for which a pardon/record suspension has been granted. Do not disclose unless disclosure is authorized under the *Criminal Records Act*.

Item #9: Any non-conviction information authorized for exceptional disclosure in accordance with Section 10, Exceptional Disclosure. Set out information on prescribed form, if applicable.

## 2: Record Checks Release Criteria



### **Absolute Discharge – AFTER July 24, 1992 [PRCRA Schedule Item 3]**

ADULT:

CRC: Dispositions of Absolute Discharge issued after July 24, 1992 shall NOT be released.

CRJMC & VSC: Dispositions of Absolute Discharge do not meet the (self) declaration qualifications and therefore shall not be released from the CRII; however, can be released from your own local files. This may only be released from a CRII (another police service's record) if adult criminal convictions are released. *RCMP Dissemination of a Criminal Record Information Policy 14.1.4.1.*

After one year, no reference to the **disposition** shall be released.

YOUTH: (Please refer to **Section 10**.)

Dispositions of Absolute Discharge issued after July 24, 1992 shall not be released on a CRC.

Youth records and dispositions of Absolute Discharge do not meet the (self) declaration qualifications and therefore shall not be released from the CRII; however, the information may be released for one year after the guilty verdict from your own local files on a CRJMC or VSC if it is an applicant for a government position. After one year, no information shall be released. [YCJA 119(2)(e)]

### **Absolute and Conditional Discharge – PRIOR TO July 24, 1992**

Prior to July 24, 1992 discharges were considered a conviction, after this date it was changed to findings of guilt but not a conviction as per section 730 of the *Criminal Code*. It may still appear on the CRII. Applicants must write to the RCMP and request this to be removed from their record as the record suspension process does not apply.

ADULT:

Dispositions of Absolute or Conditional Discharge issued prior to July 24, 1992 should NOT be released on any record check.

YOUTH: (Please refer to **Section 10**.)

Dispositions of Absolute or Conditional Discharge issued prior to July 24, 1992 shall not be released on any record check.

### **Acquittal / Not Guilty [PRCA Schedule Item 9]**

An Acquittal or finding of Not Guilty is a disposition rendered by a judge. Non-convictions do not meet the (self) declaration qualifications.

ADULT:

Dispositions of Acquittal/Not Guilty shall not be released on a CRC or CRJMC. Dispositions of Acquittal/Not Guilty do not meet the (self) declaration qualifications and therefore shall not be released from the CRII.

For a VSC, the information may be released from your own local files or another police service's local file with permission, if it meets the Exceptional Disclosure.

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period (2 months). [*YCJA 119(2)(b)*]

### Appeals

When a charge results in a conviction that has then been appealed, police services should release the details under the heading of Convictions for all level of checks with the current disposition and a notation that it is under appeal. If the charge results in a non-conviction it can be considered for a VSC in accordance with the Exceptional Disclosure.

### Conditional Discharge AFTER July 24, 1992 [*PRCRA Schedule Item 4*]

ADULT:

CRC: Dispositions of Conditional Discharge issued after July 24, 1992 shall NOT be released.

CRJMC & VSC: Dispositions of Conditional Discharge do not meet the (self) declaration qualifications and therefore shall not be released from the CRII; however, can be released from your own local files. This may only be released from a CRII (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy 14.1.4.1*).

After three years, no reference to the **disposition** shall be released.

YOUTH: (Please refer to **Section 10**.)

Dispositions of Conditional Discharge issued after July 24, 1992 shall not be released on a CRC.

Youth records and dispositions of Conditional Discharge do not meet the (self) declaration qualifications and therefore shall not be released from the CRII; however, the information may be released for three years after the guilty verdict from your own local files on a CRJMC or VSC if it is an applicant for a government position. After three years, no information shall be released. [*YCJA 119(2)(f)*]

### Conviction, Suspended Sentence or Finding of Guilt (Dual/Indictable) [*PRCRA Schedule Item 1*]

Criminal convictions, Suspended Sentence or Findings of Guilt that are included on the CRII shall be released on the CRC, CRJMC and VSC.

Information may only be released from the Identification Databank through the submission of fingerprints to CCRTIS or if the police service is satisfied the applicant's (self) declaration of a criminal record matches the information from the CRII (See Section 4 - Verification of a Criminal Record) or confirmation can be made through your local in-house records.

If the applicant's (self) declaration of a criminal record does not match the information found on the CRII the applicant must submit fingerprints. Dispositions may be released from your local in-house records if satisfied with the identity of the applicant.

When information relating to these dispositions **does not** appear on the CRII, the relating information may be released from your local database. **Ensure this is not the result of a records suspension (and therefore sealed from the CRII).**

YOUTH: (Please refer to **Section 10**.)

Criminal dispositions may not be (self) declared by a young person and therefore any information identified by way of a CRII query may not be included on a CRC, CRJMC or VSC without the submission of fingerprints; however, if the information is confirmed through your own local database, the information may be released on a CRC, CRJMC or VSC, **to a government agency [YCJA 119(2)(o)]**, as follows:

If a young person has been found guilty of an indictable offence, the information should be released from your own local database on a CRC, CRJMC or VSC for a period of five years after the youth sentence has been completed. [YCJA 119(2)(h)]

NOTE: If the young person is subsequently found guilty of committing another criminal offence during the disclosure period of a preceding offence, the disclosure period for the prior offence becomes equal to that of the current offence/disposition. Additionally, if the subject commits a criminal offence as an adult during the disclosure period of any previous charges under the YCJA, and is subsequently convicted, the youth record becomes a part of a permanent adult record [YCJA 119(9)] and the offences no longer are disclosed on a separate page for youth.

### **Conviction, Suspended Sentence or Finding of Guilt (Summary)** *[PRCRA Schedule Item 1]*

Summary offences that are included on the CRII shall be released on the CRC, CRJMC and VSC.

Summary convictions from your local police database or from other local police service databases **shall** only be released for five years.

**The intent of the legislation is to release all adult conviction records that appear on CPIC (CRII), the 5 year period does not apply. Although the legislation is not clear, the Ministry advises this section will be updated to provide more clarity in the future.**

YOUTH: (Please refer to **Section 10**.)



Criminal dispositions may not be (self) declared by a young person and therefore any information identified by way of a CRII query may not be included on a CRC, CRJMC or VSC without the submission of fingerprints; however, if the information is confirmed through your own local database, the information may be released on a CRC, CRJMC or VSC, to a government agency [YCJA 119(2)(o)], as follows:

If a young person has been found guilty of a summary offence, the information should be released from your own local database on a CRC, CRJMC or VSC for a period of three years after the youth sentence has been completed. [YCJA 119(2)(g)]

NOTE: If the young person is subsequently found guilty of committing another criminal offence during the disclosure period of a preceding offence, the disclosure period for the prior offence becomes equal to that of the current offence/disposition. Additionally, if the subject commits a criminal offence as an adult during the disclosure period of any previous charges under the YCJA, and is subsequently convicted, the youth record becomes a part of a permanent adult record [YCJA 119(9)] and the offences no longer are disclosed on a separate page for youth.

### **Current Court (Judicial) Orders [PRCRA Schedule Item 6]**

A query of the Investigative Databank of the Canadian Police Information Centre (CPIC system) should be conducted for CRJMC and VSC to identify any current Judicial Orders (e.g., Firearm Prohibition Orders, Probation Orders, etc.) held by any Canadian Police Service.

If there are orders for an offence under a provincial act on the Investigative Databank (e.g., Real Estate and Business Brokers Act) then it may be released as a court order for a CRJMC or VSC.

As per the Section 11.2.1.3 of the CPIC Policy Manual, must not be disclosed without prior confirmation and permission from the originating agency.

Although the PRCRA states, “Every court order made against the individual,” this only refers to current court orders.

### **Dismissed [PRCRA Schedule Item 9]**

ADULT:

Dispositions of Dismissed shall not be released on a CRC or CRJMC. Dispositions of Dismissed do not meet the (self) declaration qualifications and therefore shall not be released from the CRII.

For a VSC, the information may be released from your own local files or another police service’s local file with permission, if it meets the Exceptional Disclosure.

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period (2 months). [*YCJA* 119(2)(c)]

### Dispositions

A query of the Identification Databank of the Canadian Police Information Centre (CPIC system) must be conducted to identify court dispositions (e.g., convictions, suspended sentence, conditional discharge, etc.). These queries are generally referred to as a Criminal Name Index (CNI) and a CRII. Dispositions may also be found within local in-house records.

NOTE: When foreign dispositions are included on a CRII they must not be included on any level of police record checks as per Section 3.1 of the INTERPOL Charter. The exception is entries on the conviction part of the CRII identified as “International transfer of offenders” may be disclosed. Entries in the Summary of Police Information section of the CRII is not to be released.

Information may only be released from the Identification Databank through fingerprint confirmation or if the police service is satisfied the applicant’s (self) declaration matches the information from the CRII (See Verification of a Criminal Record section).

Information relating to Summary Conviction offences for which fingerprints were not taken will only be available through local police databases. This information should be included on a CRC, CRJMC and VSC from your own local database for a period of five years.

Querying the Firearms Interest Police (FIP) database, the Police Information Portal (PIP) and your local occurrence database may also reveal criminal dispositions.

When (self) declaration is used instead of fingerprints to confirm information on the Identification Databank, the response must use the standard wording specified in Section 4, Verification of a Criminal Record.

### Extrajudicial Measures

YOUTH:

Extrajudicial Measures refers to actions other than judicial proceedings under the *Youth Criminal Justice Act*. See Section 2(1) of the *YCJA*.

Extrajudicial Measures include:

- no further action
- warning
- police caution (not formally used in Ontario)
- Crown caution (post-charge the Crown may establish caution program)
- referral to community program or agency with consent of young person.

Where an occurrence was dealt with by way of an Extrajudicial Measure, including “no further action”, the information must not be included on a CRC, CRJMC or VSC. [YCJA 9]

### **Family Court Restraining Orders [PRCRA Schedule Item 6]**

Family Court Restraining Orders shall not be released.

### **Finding of Guilt with Reprimand**

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable YCJA disclosure period (2 months). [YCJA 119(2)(c)]

### **Firearms Interest Police (FIP)**

A query of the Firearms Interest Police (FIP) databank should be done through a Canadian Police Information Centre (CPIC) query. A FIP query can be used as a tool to identify reports held by other police services. Hit confirmation MUST be conducted on all hits and permission to include the information (not the FIP entry) on a CRJMC or VSC must be obtained from the originator. If criminal convictions are identified, they may also be released on a CRC.

### **INTERPOL**

INTERPOL must not be queried for any level of police record checks as per Section 3.1 of the INTERPOL Charter.

### **Ministry of Transportation, Police Automated Registration Information System (PARIS)**

Vehicle and driver information has been made available by the Ministry of Transportation to Category I Police Services through the Ancillary Databank to CPIC for investigative purposes only. **MTO**, as the owner of the information, has the authority to restrict both access and further dissemination. PARIS must not be queried for any level of police record checks.

### **National Crime Information Centre (NCIC)**

NCIC must not be queried for any level of police record checks as per the CPIC Policy and User Manuals.

### **Non-Convictions [PRCRA Schedule Item 9]**

When processing a VSC, occurrence databases should be reviewed to identify if the applicant has had any non-conviction with police that meets Exceptional Disclosure.

Suspect information, Victim/Complainant information and Witness information is not released.

YOUTH: (Please refer to **Section 10**.)

Non-conviction records for VSC should be considered for release if it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period.

### **Not Criminally Responsible (NCR) [*PRCRA Schedule Item 7*]**

ADULT:

Dispositions of NCR shall not be released on a CRC or CRJMC. Dispositions of NCR do not meet the (self) declaration qualifications and therefore shall not be released from the CRII.

For a VSC, do not disclose if the request is made more than five years after date of the findings or if the individual received an absolute discharge.

CPIC entries relating to an applicant who has been found Not Guilty by Reason of Insanity (prior to February 1992) or Not Criminally Responsible on Account of a Mental Disorder (after February 1992) and is awaiting disposition from a Review Board will be found in the CPIC Investigative Databank under the Accused or SIP category.

A disposition or a disposition order is a determination by the Court of the Ontario Review Board regarding a person who has been found not criminally responsible due to mental disorder of committing an offence or who has been found unfit to stand trial. There are three types of final dispositions: Absolute Discharge, Conditional Discharge and Custodial.

YOUTH: (Please refer to **Section 10**.)

The only reference to disposition of Not Criminally Responsible within the *YCJA* can be found in Section 119(2) (b) which states:

"The period of access referred to in subsection (1) is: if the young person is acquitted of the offence otherwise than by reason of a verdict of not criminally responsible on account of mental disorder, the period ending two months after the expiry of the time allowed for the taking of an appeal or, if an appeal is taken, the period ending three months after all proceedings in respect of the appeal have been completed".

The *YCJA* indicates the period of disclosure and the *PRCRA* indicates a disposition of NCR shall not be disclosed on a CRC or CRJMC. The information will only be disclosed on a VSC during the applicable time period above.

### **Outstanding Criminal Charges & Warrants [*PRCRA Schedule Item 5*]**

A query of the Investigative Databank of the Canadian Police Information Centre (CPIC system) should be conducted, for CRJMC and VSC, to identify outstanding criminal charges and warrants held by any Canadian Police Service.

As per the CPIC Policy Manual, hit confirmation MUST be conducted on all hits and permission to include the information must be obtained from the originator.

NOTE: Outstanding criminal charges and warrants shall not be included on a CRC.

Police Services do not have the authority to run a query of the investigative databank (10-29) for this level of check.

As per the Section 11.2.1.3 of the CPIC Policy Manual, **information** must not be disclosed without prior confirmation and permission from the originating agency.

### Police Information Portal (PIP)

A query of the Police Information Portal (PIP) database should be conducted. A PIP query can be used as a tool to identify reports held by other police services. Hit confirmation MUST be conducted on all hits and permission to include the information on a VSC must be obtained from the originator. If indictable/dual criminal convictions are identified, they may also be released on a CRJMC. (See Section 6 - PIP)

### Prohibition Orders [*PRCRA Schedule Item 6*]

*(Criminal Code)*

Prohibition orders will be identified through a query of the CPIC Investigative Databank. *Criminal Code* Prohibition Orders will include children, liquor, firearms, vehicle/driving (including boat operation), hunting or any other court or statute-imposed prohibition such as those under the *Aeronautics Act*.

Prohibition Orders shall not be included on CRC.

Once confirmed and permission from the originator is obtained, all *Criminal Code* Prohibition Orders should be released on CRJMC or VSC.

NOTE: Non-criminal driving suspensions shall NOT be included on a CRC, CRJMC or VSC.

YOUTH: (Please refer to **Section 10**.)

Prohibition orders for youth shall not be released after/if the corresponding finding of guilt has reached non-disclosure. (*YCJA 119(10)*).

### Provincial Offences

Information relating to Provincial Offences (e.g., Speeding, Intoxicated in Public, Bylaw offences) will be available through in-house records management systems; however, they shall not be released on a CRC, CRJMC or VSC. Information relating to the final court disposition is not readily available to police and therefore the information may not be current or appropriate for release.

If there are orders for an offence under a provincial act on the Investigative Databank (e.g., Real Estate and Business Brokers Act) then it may be released as a court order for a CRJMC or VSC.

### **Record Suspension [PRCRA Schedule Item 8]**

Unless written authorization has been granted by the Minister of Public Safety and Emergency Preparedness, information relating to an offence and disposition for which a Record suspension has been granted shall not be released on a CRC, CRJMC or VSC. (See Record suspensions – Sexual Offences)

Record suspensions do not negate a Prohibition Order. Prohibition Orders are released for the duration of the order.

### **Record Suspensions – Sexual Offences [PRCRA Schedule Item 8]**

(Bill C7, *Criminal Records Act* 2000)

As a result of Bill C7 passed on August 1, 2000, the *CRA* was amended to permit the flagging of sex offenders with a record suspension. CPIC system changes were made to permit CPIC agencies with law enforcement authority (Category I Agencies) to conduct queries using the CNI format screen and the “VS” keyword (Vulnerable Sector). This query searches the CPIC system for any flagged sex offenders with a record suspension for the purpose of conducting any level of police record checks for persons wanting to work or volunteer in a position of authority or trust with the vulnerable sector.

Police Services are encouraged to work with organizations in their jurisdiction to educate them on the legislation and the applicable processes. The organizations are responsible for advising the police service when a “VS” query is required. Police should not make this determination; however, they must satisfy themselves in some manner that the position being applied for is one that will be dealing with the vulnerable sector as defined in the *CRA*.

**For instructions see Section 3 - Vulnerable Sector CPIC Query.**

### **Special Interest Police (SIP)**

A query of the Canadian Police Information Centre (CPIC system) may reveal a Special Interest Police (SIP) hit. When foreign information is entered in the SIP category (e.g., foreign warrants) the information must not be included on any level of police record checks as per Section 3.1 of the INTERPOL Charter.

### **Stayed/Stay of Proceedings [PRCRA Schedule Item 9]**

ADULT:

Dispositions of Stayed shall not be released on a CRC or CRJMC. Dispositions of Stayed do not meet the (self) declaration qualifications and therefore shall not be released from the CRII.

For a VSC, the information may be released from your own local files or another police service’s local file with permission, if it meets the Exceptional Disclosure.

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period (1 year). [*YCJA 119(2)(d)*]

**Withdrawn [*PRCRA Schedule Item 9*]**

ADULT:

Dispositions of Withdrawn shall not be released on a CRC or CRJMC. Dispositions of Withdrawn do not meet the (self) declaration qualifications and therefore shall not be released from the CRII.

For a VSC, the information may be released from your own local files or another police service's local file with permission, if it meets the Exceptional Disclosure.

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period (2 months). [*YCJA 119(2)(c)*]

**Withdrawn – Diversion (Alternative Measures) (Adult)**

Dispositions of Withdrawn – Diversion shall not be released from local files in any manner (*CC S 717.4*).

**Withdrawn – Diversion (Youth)**

Dispositions of Withdrawn – Diversion shall NOT be released on a CRC, CRJMC or VSC

**Withdrawn – Extrajudicial Sanction (Youth) [*PRCRA Schedule Item 9*]**

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period (2 years). [*YCJA 119(2)(a)*].

**Withdrawn – Peace Bond [*PRCRA Schedule Item 9*]**

ADULT:

Dispositions of Withdrawn – Peace Bond shall not be released on a CRC or CRJMC. Dispositions of Withdrawn – Peace Bond do not meet the (self) declaration qualifications and therefore shall not be released from the CRII.

For a VSC, the information may be released from your own local files or another police service's local file with permission, if it meets the Exceptional Disclosure.

YOUTH: (Please refer to **Section 10**.)

Information relating to this court disposition shall not be released unless it meets the Exceptional Disclosure within the applicable *YCJA* disclosure period (2 months). [*YCJA 119(2)(c)*]

## 3: VULNERABLE SECTOR CPIC QUERY

# 3

As part of the Vulnerable Sector Check (VSC), a vulnerable sector (VS) CPIC query must be conducted. This query is used to determine if an individual seeking employment and/or volunteering in a position of authority or trust relative to vulnerable persons has any convictions for a sexual offence listed in the *Criminal Records Act (CRA)* for which a record suspension was granted.

Section 6.3(3) of the *CRA* places the responsibility on the employer (whether that be an individual or an organization) or volunteer agency to determine the need for a VSC. However, police services are prohibited from conducting VS checks if the positions do not meet the requirements for a VS check [*CRA* 6.3(4)]. In compliance with the *CRA*, the applicant must be responsible for the well-being of vulnerable persons.

**6.3(3)** At the request of any person or organization responsible for the well-being of a child or vulnerable person and to whom or to which an application is made for a paid or volunteer position, a member of a police force or other authorized body shall verify whether the applicant is the subject of a notation made in accordance with subsection (2) if:

(a) the position is one of trust or authority towards that child or vulnerable person; and

(b) the applicant has consented in writing to the verification.

Child means: a person who is less than 18 years of age.

Vulnerable Persons means: A person who, because of his or her age, a disability or other circumstances, whether temporary or permanent,

(a) is in a position of dependency on others; or

(b) is otherwise at a greater risk than the general population of being harmed by a person in a position of trust or authority towards them.



**Therefore, a query of Sex Offenders with a record suspension will be conducted through CPIC if:**

1. The person or organization has determined that the applicant will be responsible for the wellbeing of one or more children or vulnerable persons; **and**
2. The applicant is a resident of the local police service's jurisdiction (as per the RCMP Dissemination of Criminal Record Information Policy); **and**
3. The applicant provides identification; **and**
4. The applicant completes the RCMP Vulnerable Sector Consent FORM 1 or the police service's application with equivalent wording incorporated into the form.

A possible match on a query will respond with the following pre-formatted message:

“For screening of applicants applying for positions working with vulnerable persons, submit fingerprints on Form C216-C and consent forms to the RCMP Identification Services in Ottawa. Any records returned may or may not pertain to the subject of your enquiry. Positive identification can only be confirmed through the submission of fingerprints. No information relating to this message may be disclosed.”

If the above message is received, fingerprints are mandatory to complete a VSC.

NOTE: There will be no name associated to this pre-formatted message. The hits returned from this CNI VS query may also include CNI information on other possible hits which may or may not pertain to the applicant.

**Refusal to submit fingerprints**

If the applicant refuses to submit fingerprints the VSC application process must be discontinued.

**Fingerprinting for a possible VS match**

If the applicant elects to continue the process, the police service must submit the following package to Canadian Criminal Real time Identification Service (CCRTIS):

- (a) Ensure that the mandatory fields are complete on the C-216 Form.
  - Clearly identify that the fingerprints are being submitted for the purpose of a VS check, the position applied for, details regarding the responsibilities towards children or vulnerable person(s) and the return address of the Police Service.
- (b) For volunteers, a letter on letterhead from the volunteer organization confirming that a VS check is a requirement. A letter is required for the submission of volunteer VS fingerprints to waive the RCMP fee.
- (c) For non-volunteer VS checks the RCMP charges a fee. See RCMP website at <http://www.rcmp-grc.gc.ca/cr-cj/vulner/index-eng.htm>

If the RCMP returns the fingerprints with no disclosed sexual offence convictions for which a record suspension was granted, the police service will complete the search using the VSC policy.

If the RCMP confirms that the applicant has a sex offence with a record suspension, the information will be forwarded to the Minister of Public Safety to authorize disclosure of the information contained in the file.

NOTE: If the applicant chooses not to sign RCMP Form 2, the police service will contact the requesting person (employer) or volunteer agency in writing indicating that the police service was unable to complete the VSC.

### **Disclosure of Information**

When the information is authorized for disclosure by the Minister of Public Safety and Emergency Preparedness, any sex offence with a record suspension and criminal records associated with the fingerprints will be returned to the submitting police service. If CCRTIS returns the criminal record and a record suspension for a sex offence do not transcribe the record, release the RCMP product as authorized by the Minister.

If CCRTIS returns the opened criminal record and sex offender with a record suspension record the police service will then obtain the applicants consent in writing for disclosure on RCMP FORM 2.

Once the applicant has signed FORM 2 giving consent for the release of the record(s) the police service must forward the result to the person (employer) or volunteer agency. Under Section 6.3(7) of the *CRA*, “a police force or other authorized body shall disclose the information referred to in subsection (6) to the person or organization that requested verification, if the applicant for a position has consented in writing to the disclosure”.

The RCMP does not retain any fingerprints submitted for a VS query. Therefore, if the employer or volunteer organization requires future VS checks, the applicant must submit fingerprints.

If the information is not authorized for disclosure, no reference is to be made to the information.

NOTE: Fingerprints returned from CCRTIS should be returned to the applicant.

### **Fingerprinting for Child Custody Applications**

Although a VS search for child custody applications (e.g., adoption, CLRA Non-Parent Custody Applications, Kinship, etc.) does not fall within the *CRA* requirements, it is recommended that fingerprints be submitted to the RCMP for all such record checks. When fingerprints are submitted for these purposes Canadian Criminal Real Time Identification Services (CCRTIS) will conduct a query of sex offender with a record suspension records.

NOTE: Returned fingerprints will indicate that a VS search was not requested.

## 4: VERIFICATION OF A CRIMINAL RECORD

# 4

There are two methods for verification of a Criminal Record; either through the submission of fingerprints or by (self) declaration.

(Self) Declaration of a Criminal Record is a process whereby the Applicant declares their adult criminal convictions to the Police Service in accordance with the CCRTIS Dissemination of Criminal Record Information policy, Section 9.6.5.

### **Declaration MUST include:**

- a) **All** convictions for offences under Federal Law.

### **Declaration must NOT include:**

- (a) A conviction for which the applicant has received a Record Suspension in accordance with the *Criminal Records Act*.
- (b) A Finding of Guilt where the applicant was a “young person” under the *Youth Criminal Justice Act*, however, the RCMP will provide a response if fingerprints are submitted.
- (c) An Absolute or Conditional Discharge, pursuant to section 730 of the *Criminal Code*.
- (d) An offence for which the applicant was not convicted.
- (e) Any Provincial or Municipal offences.
- (f) Any charges dealt with outside of Canada.

In order to release criminal convictions identified through a name based query, the Police Service must be satisfied that the applicant’s declared criminal record information is a match to their registered criminal record held at the RCMP National Repository of Criminal Records.

### **NAME-BASED CRIMINAL RECORD CHECK RESPONSES**

#### **NEGATIVE – Standard Response**

When the CNI/CRS query does not identify any possible criminal record associated to the Applicant:

“Based solely on the name(s) and date of birth provided and the criminal record information declared by the applicant, a search of the RCMP National Repository of Criminal Records did NOT identify any records with the name(s) and date of birth of the applicant. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by FINGERPRINT comparison. Delays do exist between a conviction being

rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.”

### **CONFIRMATION OF A CRIMINAL RECORD – Standard Response**

When the CNI/CRS query identifies a criminal record that matches to the criminal record information declared by the Applicant:

“Based solely on the name(s) and date of birth provided and the criminal record information declared by the applicant, a search of the RCMP National Repository of Criminal Records has resulted in a POSSIBLE match to a registered criminal record. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by FINGERPRINT comparison. As such, the criminal record information declared by the applicant does NOT constitute a Certified Criminal Record by the RCMP. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.”

### **INCOMPLETE – Standard Response**

When the CNI/CRS query identifies any criminal record of possible association to the Applicant that does not match to the criminal record information declared by the Applicant:

“Based solely on the name(s) and date of birth provided and any criminal record information declared by the applicant, a search of the RCMP National Repository of Criminal Records could NOT be completed. Positive identification that a criminal record does or does not exist requires the applicant to SUBMIT FINGERPRINTS to the RCMP National Repository of Criminal Records by an authorized police service or accredited private fingerprinting company. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.”

## **NAME-BASED VULNERABLE SECTOR CHECK RESPONSES**

### **NEGATIVE – Standard Response**

When the CNI/CRS query does not identify any possible criminal record associated to the Applicant AND the scoring criteria have not been met for Flagged Suspended Sex Offender Records (VS: Y):

Based solely on the name(s) and date of birth provided and the criminal record information declared by the applicant, a search of the RCMP National Repository of Criminal Records, including suspended sex offender records, did NOT identify any records with the name(s) and date of birth of the applicant. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by FINGERPRINT

comparison. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

**CONFIRMATION OF A CRIMINAL RECORD (Active criminal record only) – Standard Response**

When the CNI/CRS query identifies a criminal record that matches to the criminal record information declared by the applicant AND the scoring criteria have not been met for Flagged Suspended Sex Offender Records (VS:Y):

“Based solely on the name(s) and date of birth provided and the criminal record information declared by the applicant, a search of the RCMP National Repository of Criminal Records, including suspended sex offender records, has resulted in a POSSIBLE match to a registered criminal record, but not to a suspended sex offender record. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by FINGERPRINT comparison. As such, the criminal record information declared by the applicant does NOT constitute a Certified Criminal Record by the RCMP. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.”

**INCOMPLETE – Standard Response**

When the CNI/CRS query identifies any criminal record of possible association to the Applicant that does not match to the criminal record information declared by the applicant AND/OR the scoring criteria have been met for Flagged Suspended Sex Offender Records (VS:Y):

“Based solely on the name(s) and date of birth provided and the criminal record information declared by the applicant, a search of the RCMP National Repository of Criminal Records, including suspended sex offender records, could NOT be completed. Positive identification that a criminal record does or does not exist requires the applicant to SUBMIT FINGERPRINTS to the RCMP National Repository of Criminal Records by an authorized police service or accredited private fingerprinting company. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.”

## 5: NON-JURISDICTIONAL RESIDENTS

# 5

**The following applies to police services who utilize (self) declaration to confirm identity and for those who choose to process CRC and CRJMC for non-jurisdictional residents.**

*The Ministerial Directive Concerning the Release of Criminal Record Information by the Royal Canadian Mounted Police* defines the basic authorities for doing criminal record checks using the Identification Databank. The CCRTIS Policy on the Dissemination of Criminal Record Information provides the detailed policies for implementing the ministerial directive.

*The Ministerial Directive Concerning the Release of Criminal Record Information by the Royal Canadian Mounted Police* states under Section 1 of ‘Reporting with respect to Criminal Records’:

Where a Confirmation of a Criminal Record has been sought by an applicant, a police service of local jurisdiction where the applicant resides may release to the applicant a report, in a form to be established by the RCMP, of the applicant’s adult convictions and associated criminal record information from the RCMP National Repository of Criminal Records.

This paragraph **prohibits the release** of criminal record (CRII) information by a Police Service **outside** of the jurisdiction where the applicant lives. It **permits** the release of criminal record (CRII) conviction information within the jurisdiction where the applicant lives.

For individuals residing **outside** of the police service’s jurisdiction in accordance with the Ministerial Directive and CPIC Policy, a Police Service can only **verify** the information claimed on the (self) declaration.

To clarify, when dealing with an applicant who resides outside of the Service’s jurisdiction, the Service responds using one of the three standard responses (Negative, Incomplete, or Confirmation of a Criminal Record).

### **If the applicant HAS (self) declared:**

If the police service **is satisfied** that the declared criminal record information is a match to the registered (CRII) information, Confirmation of a Criminal Record standard response is checked and the Verification of a Criminal Record form is included.

If the police service is **not satisfied** then the Incomplete standard response should be checked, and the Verification of a Criminal Record form not included.

**If the applicant HAS NOT (self) declared:**

If no Criminal Record exists, reply using the standard Negative response.

If a Criminal Record does exist, respond using the Incomplete standard response requiring the applicant to submit fingerprints. Fingerprint results will be mailed directly to the applicant from the RCMP. Again, no information is to be released by the Police Service.

The PRCRA does not mandate police services provide a record check to non-jurisdictional residents.

## 6: PIP POLICE INFORMATION PORTAL

# 6

The Police Information Portal (PIP) should be searched to process a CRJMC to locate possible indictable/dual convictions that are not on CPIC. PIP should be searched to process VSC to locate possible indictable/dual convictions and non-convictions to determine if it meets the Exceptional Disclosure.

A direct quote from Section 6.36-6.39 of the PIP manual follows:

### Queries for Non-Criminal Purposes

6.36 If there is a request for release of any PIP information for security and reliability clearances, the requester must have documented written consent of the subject of the query. The subject must agree to the release of information identifiable to that person that may be on the PIP System. This information must be verified as per PIP Policy.

6.37 PIP can be utilized for Vulnerable Sector checks, accreditation for special events, high risk government positions or locations (i.e. airports, marine ports, etc) and police personnel. In order to complete these checks, written consent of the subject of query must be obtained.

6.38 Victim Services workers shall not have direct access to PIP and all requests for indices checks shall be performed by CPIC Category I Agency personnel. Information obtained from the PIP, where the victim's consent has been obtained, will be vetted to ensure that only Information directly related to the victim is released.

6.39 PIP Information will not be shared with or made available to any third party.

Proper use of information must be observed. For example, Extrajudicial Measures (EJM) under the *YCJA* may be used for police investigative purposes but shall not be used for non-investigative purposes such as record checks. All information must be confirmed and authorized for release by the contributing agency.

### **List of Services Currently Publishing to PIP**

Only Category 1, Law Enforcement agencies can obtain a copy of the police services currently publishing to PIP by sending an email to [CPIC-CENTRE-PIP@rcmp-grc.gc.ca](mailto:CPIC-CENTRE-PIP@rcmp-grc.gc.ca) and requesting a copy. This email address can be used for any PIP questions.



## 7: ONTARIO HUMAN RIGHTS CONSIDERATIONS



It is the responsibility of the agency, not the police service, to determine whether an applicant requires a Criminal Record Check (CRC), a Criminal Record and Judicial Matters Check (CRJMC) or a Vulnerable Sector Check (VSC). The agency should have the applicant obtain a police check as one of the last steps involved in the hiring process only after a conditional offer has been made, because of the potential for discrimination under Ontario's *Human Rights Code*.

Prior to having an applicant apply for a police check, an agency should determine if it is a bona fide requirement for the job in question. The Supreme Court of Canada has set out a three step test which states such a requirement must be:

1. For a purpose or goal that is rationally connected to the function being performed.
2. Made in good faith, in the belief that it is necessary for the fulfillment of the purpose or goal.
3. Reasonably necessary to accomplish its purpose or goal, in the sense that there is no other alternative to accomplish the goal and it is impossible to accommodate the claimant without undue hardship (i.e., the health and safety of others is put at risk, or cost.).

## 8: RECONSIDERATION / CORRECTION OF CRC



### RECONSIDERATION PROCESS

The *PRCRA* reconsideration process is specifically for Vulnerable Sector Check (VSC) non-conviction dispositions only [*PRCRA 10.4 and O.Reg 348/18*]. An applicant whose non-conviction information is contained on their VSC may submit a request for a reconsideration in accordance with O.Reg 348/18.

#### **Making a request for reconsideration and submissions** [*O.Reg 348/18 5.2*]

- A request for reconsideration must be made in writing no later than 45 days after receiving the record unless, through no fault of their own, the individual was unable to make the request within that time period.
- A request for reconsideration may include written submissions in support of the request for reconsideration.
- For greater certainty, a request for reconsideration may be made by electronic means that comply with the *Electronic Commerce Act, 2000*.

#### **Timelines**

Police services shall provide the individual with a response to their reconsideration request within 30 days of receipt of the request. [*PRCRA 10.4*]

#### **Process** [*O.Reg 348/18 3a-c*]

In reconsidering its determination, police services must:

- Apply the criteria set out in subsection 10 (2) of the *PRCRA* (Criteria for Exceptional Disclosure; see section 9 of the LEARN Companion);
- Consider entries on the individual's VSC; and
- Consider the individual's written submissions.

#### **Panel** [*O.Reg 348/18 3(d)*]

The Reconsideration Panel must consist of three members, including at least one member who is above the rank of the original decision maker.

#### **Notification of Decision** [*O.Reg 348/18 4*]

The police record check provider must notify the individual of the reconsideration decision in writing.

## **CORRECTION PROCESS**

Every police record check provider shall create and implement a process to respond to a request from an individual to correct information in respect of the individual if the individual believes there is an error or omission in the information. *[PRCRA 15(1)]*.

Police services should give consideration to the following principles when developing this process:

- Minimal barriers to individual
- No additional cost
- Quick response (as timely as possible considering all responses are not within your control)
- Attempts should be made to facilitate any corrections with other police services prior to sending the individual directly to them

## **RECORD SUSPENSION PROCESS**

Individuals wishing to have convictions removed from their criminal record can utilize the Record Suspension process through the Parole Board of Canada.

# 9: EXCEPTIONAL DISCLOSURE OF NON-CONVICTION INFORMATION



Non-conviction records are not released on a CRC or a CRJMC. In exceptional circumstances, non-convictions may be considered for release on a VSC [PRCRA 10(1)].

Non-conviction information about the individual is not authorized for exceptional disclosure unless the information satisfies **all** of the following criteria: [PRCRA 10(2)].

1. The criminal charge to which the information relates is for an offence specific in the regulations. See *O.Reg 350/18 – Specific Offences – Exceptional Disclosure of Non-Conviction Information*.
2. The alleged victim was a child or a vulnerable person
3. After reviewing entries in respect of the individual, the police record check provider has reasonable grounds to believe that the individual has been engaged in a pattern of predation indicating that the individual presents a risk of harm to a child or a vulnerable person, having regard to the following:
  - i. Whether the individual appears to have targeted a child or a vulnerable person.
  - ii. Whether the individual’s behavior was repeated and was directed to more than one child or vulnerable person.
  - iii. When the incident or behavior occurred.
  - iv. The number of incidents.
  - v. The reason the incident or behavior did not lead to a conviction.
  - vi. Any other prescribed considerations.

## FORMAT OF DISCLOSURE

If a police service makes the decision to disclose non-conviction information they shall ensure that the record they are providing to an individual contains the following:

### **Definition of Non-conviction Information:** [PRCRA 1(1)]

*“Non-conviction information” means, subject to subsection (4), information concerning the fact that an individual was charged with a criminal offence if the charge was dismissed, withdrawn or stayed, or resulted in a stay of proceedings or an acquittal.”*

### **Information about the Reconsideration Process Including:** [O.Reg 348/18 1]

- How the process works;
- How and when to make a request for reconsideration; and
- How and when to make written submissions.

For Example:

*“Individuals are able to request reconsideration for the release of non-conviction information. Please complete and submit the Reconsideration Request form within 45 days of receipt of this record check. You may include submissions in support of your request which must be no more than four (4) pages long.”*

It is recommended that the decision to release non-conviction information should not be made by the member processing the record check. When applicable, the member will forward the information to a decision maker who is another member in a supervisory or managerial position, in order to determine if exceptional disclosure of non-conviction has been met.

If non-conviction information is to be released, utilize the Police Record Check Supplementary Information page with the heading of Non-Conviction Records with the non-conviction information definition on the previous page (see [Appendix D](#)).

If the non-conviction records are from another police service, permission must be granted for release.

# 10: DISCLOSURE OF YOUTH RECORDS

# 10

Section 119 (1)(o) YCJA allows for disclosure of youth records “for the purpose of carrying out a criminal record check required by the Government of Canada, or the government of a province or a municipality for purposes of employment or the performance of services, with or without remuneration.”

Youths shall only be permitted to obtain a PRC for positions working or volunteering with the “Government”. This does not include organizations receiving government funding such as schools, universities or hospitals.

A PRC for a Youth (working and/or volunteering with the government) shall be completed in the following manner:

If there are no convictions	Provide the Youth with a PRC. The Youth can provide this document directly to the government agency.
If there are convictions	Mail the PRC directly to the provincial or municipal government using the contact name and address provided on the consent form.  Supply a copy of the PRC to the Youth *See below for additional criteria

When a copy of a government PRC is provided to the youth, police services must adhere to the following as set out in the PRCRA:

1. The information shall be disclosed to the youth in a separate record from any record containing other information disclosed in respect of the individual in the prescribed form, if any. [PRCRA 11]
2. The page numbering must not be sequential to pages containing other information and/or suggest in some way that other information was disclosed. [O.Reg 349-18, 1]
3. If an individual’s own finding of guilt under the YCJA is disclosed to that individual, the separate record for the disclosure of a finding of guilt under the YCJA must include or have attached to it the following notice in both English and French. [O.Reg 349-18, 2]  
English Wording:

*This record contains information about your findings of guilt under the Youth Criminal Justice Act. The Youth Criminal Justice Act restricts you from sharing this information, and no one may require you to provide it. Remove this record before sharing your police*

*record check with anyone else, including a potential employer or organization with which you seek to volunteer or enter into a contract.*

French Wording:

*Le présent dossier contient des renseignements concernant vos déclarations de culpabilité prononcées en vertu de la Loi sur le système de justice pénale pour les adolescents. Il vous est interdit, en application de cette loi, de communiquer ces renseignements, et nul ne peut vous demander de les fournir. Retirez ce dossier avant de communiquer votre vérification de dossier de police à quiconque, y compris un employeur éventuel ou une organisation éventuelle pour lesquels vous cherchez à faire du bénévolat ou avec lesquels vous cherchez à conclure un contrat.*

If a youth wants to access their own record in accordance with Section 119(a)(a) of the YCJA, police services can provide this through a process outside of the *PRCRA* (e.g., RTID or FOI).

In keeping with the principle of applicants seeing their own results, it is recommended police services send the youth a copy of the check at the same time it is sent to the government agency.

**Youth** may not necessarily mean someone under 18, as an adult of any age, could have a youth record which is permitted to be disclosed for the purposes of a record check under YCJA 119(1)(o). E.g., a young person with an indictable finding of guilt at 17 with a 2 year probation would be released for this purpose for 7 years (5 years after the end of the sentence). Or an adult of any age charged with a historic offence as a young person.

# 11: GLOSSARY

# 11

Absolute Discharge Adult	A court disposition where the accused is not convicted, but is found guilty of an offence and is discharged with no conditions. [CC 730]
Absolute Discharge Youth	A court disposition where the accused youth is not convicted, but is found guilty of an offence and is discharged with no conditions. [YCJA 42(2)(b)]
Accused	A person against whom legal proceedings have commenced.
Acquittal	A court disposition where the accused has been found not guilty of the charges presented before the court.
Agency	An organization, company, bureau or in some cases an individual that would require an applicant to obtain a Police Record Check.
Alternative Measures	A lighter court disposition regarding an adult accused of a criminal charge that would be prepared to plead guilty or at minimum, acknowledge guilt. The result is a mild penalty such as community service, an apology to the victim or counseling. May also be referred to as Diversion. [CC 717]
Ancillary Databank	The Ancillary Databank is one of four databanks of operational information within the CPIC system. It contains diverse files of information on subjects such as vehicle registered owners, driver's licences, wandering persons and penitentiary inmates. The information in the files is contributed and maintained by either non-police agencies (e.g., Correctional Services of Canada for inmate data) or police agencies (e.g., the RCMP). Only the owner of the information may grant access to the data.
Authorized Body	A body authorized for the purposes of section 6.3 of the <i>Criminal Records Act</i> (Canada)



Bill C7 (1999)	Proclaimed August 1, 2000 to amend the <i>Criminal Records Act</i> to permit the flagging of sex offenders with a record suspension.
Canadian Criminal Real Time Identification Services  CCRTIS	Canadian Criminal Real Time Identification Services (CCRTIS) maintains the national repository of fingerprint and criminal record information and is mandated to provide direct operational support to the Canadian law enforcement, criminal justice and public security communities, as well as international partners such as the Federal Bureau of Investigation (FBI) and INTERPOL for criminal, civil and immigration purposes. CCRTIS is the national provider of biometric-based criminal record verifications for civil and criminal court purposes as well as the security screening environment for all levels of government and the general public.
CCRTIS Dissemination of Criminal Record Information Policy	CCRTIS policy that outlines the requirements for name based criminal record and VS checks of the Identification Databank on CPIC.
Canadian Police Information Centre – CPIC	The Canadian Police Information Centre (CPIC) is a computerized national repository of information that facilitates the sharing of information among authorized agencies. The CPI Centre manages the CPIC system as well as PIP and PSP.
Certified Criminal Record Product	A collection of an individual’s offence convictions and non-convictions (where authorized) that are releasable in accordance with federal laws. Based on the results of a Fingerprint-based Criminal Record Verification.
Child	Means a person under the age of 18 years
Conditional Discharge Adult	A court disposition where the accused is not convicted but found guilty of an offence and is discharged with conditions. [CC 730]
Conditional Discharge Youth	A court disposition where the accused youth is not convicted but found guilty of an offence and is discharged with conditions. [YCJA 42 (2)]
Consent Form 1	A form to be signed by the applicant that allows police services to conduct a query for sex offences with a record suspension for the purpose of vulnerable sector screening. [CRA 6.3(3) & Reg. Part 2 CRA]

Criminal Name Index CNI	CPIC query function based on name, gender and date of birth. This query is used to match names against possible criminal records on the Identification Databank or to identify potential hits to a sex offence with a record suspension.
CRI/CRII	CPIC query functions based on a fingerprint section ID number (FPS number). This query provides a listing of criminal dispositions found in the Identification Databank of the CPIC system. A CRI provides convictions only whereas a CRII provides both convictions and non-convictions.
Criminal Offence	Means subject to <i>[PRCRA 1.3]</i> , an offence under the <i>Criminal Code of Canada</i> , <i>The Controlled Drugs and Substances Act (Canada)</i> or any other law of Canada.
Criminal Record Check CRC	This level of screening is intended for applicants who are involved as a volunteer, employee or in any situation where a basic CRC is requested (e.g., retail or immigration). This check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.
Criminal Record and Judicial Matters Check CRJMC	This level of screening is intended for applicants who are seeking volunteer and/or employment with agencies who require a criminal records check. The agency has determined that a search of sex offenders with a record suspension is NOT required (e.g., border crossing or visa) therefore this check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.
(Self) Declaration of Criminal Record	A process whereby the Applicant declares all offence convictions to the CPIC Agency in accordance with CRJMC policy requirements and federal laws. Based on the declared criminal record information, the CPIC Agency may confirm that the Applicant's declared criminal record information possibly matches to a registered criminal record held at the RCMP National Repository of Criminal Records, pursuant to the CCRTIS Dissemination of Criminal Records Information Policy.
Dismissed	A court disposition where the court stops or interrupts criminal proceedings against the accused.

Diversion	A lighter disposition of a criminal charge regarding an adult accused that would be prepared to plead guilty or at minimum, acknowledge guilt. The result is a mild penalty such as community service, an apology to the victim or counseling. May also be referred to as Alternative Measures. [CC 717]
Dual Procedure Offence	An offence that can be prosecuted either as a summary conviction offence or an indictable offence. The Crown Attorney chooses the mode of prosecution. Examples include but are not limited to: Impaired Driving, Assault, Theft Under. Also referred to as Hybrid Offences.
Exceptional Disclosure of Non-Conviction Information	A decision-making tool used to determine when non-conviction dispositions are authorized for release on a VSC.
Extra Judicial Measures EJM	Extrajudicial Measures are actions other than judicial proceedings under the <i>Youth Criminal Justice Act (YCJA)</i> used to deal with a young person alleged to have committed an offence. Extrajudicial Measures include: Warning, Caution, Referral, No Further Action [YCJA 2(1)]
Finding of Guilt	A court disposition where a young person is found guilty (the term convicted does not apply to youth), or an adult is discharged of an offence pursuant to 730 CC.
Finding of Guilt with Reprimand	A youth found guilty receives a lecture or warning from the judge. [YCJA 42.2(a)]
Firearms Interest Police FIP	Firearms Interest Police (FIP) is a category within the Investigate Databank on CPIC. This category is used to record data on persons who, in the last five years, have been involved in incidents such as, but not limited to: violence, harassment and drug related events. See CPIC User Manual for further details.
Foreign Information	Information obtained via CPIC contributed by foreign countries.
Hit	A response to a CPIC query.

Identification Databank	The Identification Databank within the CPIC system contains criminal record information. The RCMP CCRTIS maintains the information on behalf of police agencies who contribute the records. See RCMP National Repository of Criminal Records and CRI/CRIL.
Indictable Offence	An indictable offence is a serious crime that has sufficient evidence where the judge/jury can formally charge a person with committing the crime.
Individual	A person undergoing a Police Record Check.
INTERPOL	INTERPOL is an international police organization, with 187 member countries. Created in 1923, it facilitates cross-border police co-operation, and supports and assists all organizations, authorities and services whose mission is to prevent or combat international crime.
Investigative Databank	The Investigative Databank within the CPIC system contains information, grouped into Persons, Vehicles, Marine and Property files, on cases under investigation and includes details on wanted and missing persons, stolen vehicles, stolen boats and other items of stolen or lost property. The information in this databank is contributed and maintained by police agencies.
Law Enforcement and Records (Managers) Network  LEARN	Law Enforcement and Records (Managers) Network (LEARN), a sub-committee of the Ontario Association of Chiefs of Police (OACP).
LEARN Companion	A procedural document researched and prepared by the Law Enforcement and Records Managers Network (LEARN), intended to complement the <i>Police Record Checks Reform Act</i> .
Local files	Local contact and criminal dispositions held by individual police services, including those not supported by fingerprints.
<i>Mental Health Act</i>  MHA	The <i>Mental Health Act</i> in Ontario is a law that governs how people are admitted to psychiatric facilities, how their mental health records are kept and accessed, their financial affairs are handled, and their release into the community.

Minister	Means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be assigned the administration of this <i>Act</i> under the <i>Executive Council Act</i> .
National Crime Information Centre NCIC	The National Crime Information Centre is the United States central database for tracking crime-related information. It is a computerized index of criminal justice information.
Non-conviction information	Means subject to subsection (4) PRCRA, information concerning the fact that an individual was charged with a criminal offence if the charge (a) was dismissed, withdrawn or stayed, or (b) resulted in a stay of proceedings or an acquittal.
Not Criminally Responsible NCR	No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong. [CC 16 and 672.34]
Not Guilty	This court disposition simply means the accused has not been found guilty; however, it does not necessarily equate to innocence. It is a determination by the court that the evidence is insufficient to convict the accused.
Ontario Association of Chiefs of Police OACP	The mandate of the Ontario Association of Chiefs of Police (OACP) is to promote competent administration of policing services; to coordinate police training and education; to provide a timely and efficient flow of information to its members; and to address membership concerns and priorities through a unified voice to government. The OACP is the governing body of the Law Enforcement and Records Managers Network (LEARN) and many other sub-committees.
Occurrence	A report generated as a result of an incident or event investigated by police.
Offender	A person who had been determined by a court to be guilty of an offence, whether on acceptance of a plea of guilty or a finding of guilt.

Organization	An agency, company or bureau that would require the individual to obtain a Police Record Check.
Pardon	See Record Suspension
Police Automated Registration Information System  PARIS	The Police Automated Registration Information System (PARIS) is an Ancillary Databank within the CPIC system. It contains information regarding vehicle registration and driver information through the Ministry of Transportation
Police Record Check  PRC	A search described in Subsection 2(1) PRCRA
Police Record Check Provider	Means (a) Chief of Police (b) a member of a police service designated by a chief of police for the purposes of this act (c) an entity permitted by the Royal Canadian Mounted Police to access the Canadian Police Information Centre databases (d) an authorized body, or (e) a third party entity.
Police Record Check Reform Act, 2015  PRCRA	Legislation implemented by the Government of Ontario in 2015. Enacted November 1, 2018.
Peace Bond	A Court Order that requires a person to keep the peace and be of good behaviour especially toward another person. It may also include a no contact condition. [CC 810]
Police Information Portal  PIP	A nationally integrated master name indexing and records management gateway, allowing participant agencies to access certain information contained in each other's law enforcement databases.
Prescribed	Prescribed by regulations under the Police Record Checks Reform Act, 2015.
Prohibition Orders	A Court Order that prohibits the subject from certain rights or behaviour. (Examples: driving, hunting, firearms, parks, etc.)

Record Suspension	A record suspension allows people who were convicted of a criminal offence to have their criminal record kept separate and apart from other criminal records. Under the <i>Criminal Records Act</i> , the National Parole Board may issue, grant, deny or revoke record suspensions for convictions under federal acts or regulations of Canada. [ <i>CRA 4.1</i> ]
Restraining Order	A Court Order that prohibits the subject from having direct or indirect contact with identified person(s).
RCMP National Repository of Criminal Records	Canada’s repository of criminal records relating to individuals that have been charged with indictable and/or hybrid offences. Since the <i>Identification of Criminals Act</i> only allows the taking of fingerprints in relation to indictable or hybrid offences and the RCMP National Repository of Criminal Records is fingerprint-based, the National Repository only contains information relating to these two categories of offences. Summary conviction offences are only included in the National Repository if submitted to the RCMP as part of an occurrence involving an indictable or hybrid offence. With the exception of “young person” indictable or hybrid offence convictions, police agencies are not required by law to report offences to the RCMP. A search of local police records may reveal criminal record information that has not been reported to the RCMP. See Identification Databank
Special Interest Police SIP	Special Interest Police (SIP) is a category within the Investigative Databank on CPIC. This category is used to record data on persons who are KNOWN to be dangerous to self or others, a record suspension applicant, overdue on a pass from a federal institution, etc. See CPIC User Manual for further details.
Stayed/Stay of Proceedings	A “Stay” can be entered by the Crown under S. 579. This type of stay is discretionary and can be reversed at the discretion of the Crown.
Summary Conviction Offence	Summary Conviction Offences encompass minor offences in the <i>Criminal Code</i> (e.g., Cause Disturbance, Harassing Telephone Calls). Charges are proceeded with summarily or without an indictment or full trial. The court is generally comprised of a Provincial Court Judge or a Justice of the Peace.

Suspect	A person believed to have committed a crime or offence.
Suspended Sentence	Unless law prescribes a minimum punishment, the court has the power to suspend the passing of sentence (generally for a period of three years) and place the offender on probation. It is the passing of the sentence, not the sentence itself that is being suspended. This means that if the defendant is convicted of another offence during the period when the passing of sentence had been suspended, then the offender may be sentenced for the original offence. [CC 731]
Third Party Entity	Means an entity that has an agreement with a police force to provide services related to conducting a police record check, such as intake of requests, performance of searches or disclosure of results.
Unfit To Stand Trial	Unable on account of mental disorder to conduct a defense at any stage of the proceedings before a verdict is rendered or to instruct counsel to do so. [CC 673.31]
Vulnerable Person	A person who, because of his or her age, a disability or other circumstances, whether temporary or permanent, (a) is in a position of dependency on others; or (b) is otherwise at a greater risk than the general population of being harmed by a person in a position of trust or authority towards them. [CRA 6.3(1)]
Vulnerable Sector Check	This level of screening is restricted to applicants seeking employment and/or volunteering with vulnerable individuals. It is a collection of offence information, including convictions and non-conviction information which have met the Exceptional Disclosure from a local police agency's records management system and other systems/records where authorized. This check will include sexual offence convictions for which the individual has received a record suspension where authorized by the Minister of Public Safety and Emergency Preparedness. [(CRA 6.3(3)].
Withdrawn	Withdrawn refers to the Crown stopping or interrupting criminal proceedings against the accused.



<p><i>Youth Criminal Justice Act</i></p> <p><i>YCJA</i></p>	<p>An <i>Act</i> in respect of criminal justice for young persons and to amend and repeal other Acts.</p> <p>The <i>Youth Criminal Justice Act (YCJA)</i> replaced the <i>Young Offenders Act</i> on April 1, 2003.</p> <p>The <i>Young Offenders Act (YOA)</i> replaced the <i>Juvenile Delinquents Act (JDA)</i> in 1984.</p> <p>The <i>Juvenile Delinquents Act</i> was introduced in 1908 as Canada's first legislation to govern young persons in conflict with the law.</p>
<p>Young Person</p>	<p>The <i>Youth Criminal Justice Act</i> defines a young person as someone twelve years of age or older, but less than eighteen years of age at the time of committing an offence or alleged to have committed an offence. [<i>YCJA 2(1)</i>]</p>

## Appendix A: AUTHORIZED DISCLOSURE TABLE

*Refer to Section 2 - Records Check Release Criteria for further details  
[PRCA Schedule-Table Authorized Disclosure]*

Item	Type of Information	Criminal Record Check	Criminal Record and Judicial Matters Check	Vulnerable Sector Check
1.	Every criminal offence of which the individual has been <b>convicted</b> for which a pardon has not been issued or granted.	Disclose.  However, do not disclose summary convictions if the request is made more than five years after the date of the summary conviction.	Disclose.  However, do not disclose summary convictions if the request is made more than five years after the date of the summary conviction.	Disclose.  However, do not disclose summary convictions if the request is made more than five years after the date of the summary conviction.
2.	Every <b>finding of guilt</b> under the <i>Youth Criminal Justice Act</i> (Canada) in respect of the individual during the applicable period of access under that <i>Act</i> .	Disclose.	Disclose.	Disclose.
3.	Every criminal offence of which the individual has been found guilty and received an <b>absolute discharge</b> .	Do not disclose.	Disclose.  However, do not disclose if the request is made more than one year after the date of the absolute discharge.	Disclose.  However, do not disclose if the request is made more than one year after the date of the absolute discharge.

Item	Type of Information	Criminal Record Check	Criminal Record and Judicial Matters Check	Vulnerable Sector Check
4.	Every criminal offence of which the individual has been found guilty and received a <b>conditional discharge</b> on conditions set out in a probation order.	Do not disclose.	Disclose.  However, do not disclose if the request is made more than three years after the date of the conditional discharge.	Disclose.  However, do not disclose if the request is made more than three years after the date of the conditional discharge.
5.	Every criminal offence for which there is an <b>outstanding charge or warrant</b> to arrest in respect of the individual.	Do not disclose.	Disclose.	Disclose.
6.	Every <b>court order</b> made against the individual.	Do not disclose.	Disclose.  However, do not disclose court orders made under the <i>Mental Health Act</i> or under Part XX.1 of the <i>Criminal Code</i> (Canada).  Do not disclose court orders made in relation to a charge that has been withdrawn.  Do not disclose restraining orders made against the individual under the <i>Family Law Act</i> , the <i>Children’s Law Reform Act</i> or the <i>Child and Family Services Act</i> .	Disclose.  However, do not disclose court orders made under the <i>Mental Health Act</i> or under Part XX.1 of the <i>Criminal Code</i> (Canada).  Do not disclose court orders made in relation to a charge that has been withdrawn.  Do not disclose restraining orders made against the individual under the <i>Family Law Act</i> , the <i>Children’s Law Reform Act</i> or the <i>Child and Family Services Act</i> .

Item	Type of Information	Criminal Record Check	Criminal Record and Judicial Matters Check	Vulnerable Sector Check
7.	Every criminal offence with which the individual has been charged that resulted in a finding of <b>not criminally responsible</b> on account of mental disorder.	Do not disclose.	Do not disclose.	Disclose.  However, do not disclose if the request is made more than five years after the date of the finding or if the individual received an absolute discharge.
8.	Any conviction for which a <b>pardon</b> has been granted.	Do not disclose unless disclosure is authorized under the <i>Criminal Records Act</i> (Canada).	Do not disclose unless disclosure is authorized under the <i>Criminal Records Act</i> (Canada).	Do not disclose unless disclosure is authorized under the <i>Criminal Records Act</i> (Canada).
9.	Any <b>non-conviction</b> information authorized for exceptional disclosure in accordance with section 10.	Do not disclose.	Do not disclose.	Disclose.  Set out the information in the prescribed form (if applicable).

# Appendix B: POLICE RECORD CHECK APPLICANT FACT SHEET

## FOR INDIVIDUALS SEEKING EMPLOYMENT OR VOLUNTEER OPPORTUNITIES

The “insert name” Police Service (the Service) will complete a Police Record Check on a potential candidate for employment or volunteer duties when:

1. You reside within the jurisdiction of this police service
2. You have signed the required consent forms.

The requesting agency plays an integral role in the initial stages of the hiring process. Even before an individual applies for a Police Record Check the agency should:

- (a) Complete an initial review for suitability and be considering you for an employment or volunteer opportunity.
- (b) Understand its obligation under the *Human Rights Code* with respect to evaluation, hiring and training volunteers or employees and what constitutes a bona fide reason for refusing to hire any individual or volunteer.
- (c) Determine that if a Vulnerable Sector Check is required, it is done so only for the purpose of assisting the Agency to determine your suitability for employment and/or volunteer duties responsible for the well-being of persons who, because of their age, disability or other circumstances are at a greater risk than the general population.

### **The “insert name” Police Service offers three levels of record checks:**

1. Criminal Record Check
2. Criminal Record and Judicial Matters Check
3. Vulnerable Sector Check

### **Criminal Record Check**

This check is intended for applicants who are involved as a volunteer, employee or in any situation where a basic Police Criminal Record Check is requested. This check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.

### **The Criminal Record Check will include the following information:**

- (a) Criminal convictions from CPIC and/or local databases.
- (b) Summary convictions, for five years, when identified.

- (c) Findings of Guilt under the *Youth Criminal Justice Act* within the applicable disclosure period, **only if requested in accordance with YCJA 119(1)(o).**

**The Police Criminal Record Check WILL NOT include:**

- (a) Outstanding entries, such as charges and warrants.
- (b) Absolute and conditional discharges.
- (c) Current judicial orders, including Peace Bonds, Probation and Prohibition orders under the *Criminal Code* of Canada.
- (d) Convictions where a record suspension has been granted.
- (e) Convictions under provincial statutes.
- (f) Local police contact.
- (g) Ministry of Transportation information (PARIS).
- (h) Special Interest Police (SIP) category of CPIC.
- (i) Family Court Restraining Orders.
- (j) Foreign information.
- (k) A Vulnerable Sector (VS) Query of sex offenders with a record suspension to ascertain if the applicant has been convicted of and granted a record suspension for any of the sexual offences that are listed in the schedule to the *Criminal Records Act (CRA)*.
- (l) Any reference to incidents involving mental health contact.
- (m) Diversions will not be released as police contact and no reference to the occurrence is permitted (*CC S. 717.4*).
- (n) *Youth Criminal Justice Act (YCJA)* information **unless requested in accordance with YCJA 119(1)(o).**
- (o) Any reference to contagious diseases.
- (p) Dispositions including, but not limited to, Withdrawn, Dismissed, and cases of Not Criminally Responsible by Reason of Mental Disorder.

**Criminal Record and Judicial Matters Check**

This check is intended for applicants who are seeking volunteer and/or employment with agencies who require a Criminal Record Check along with outstanding charges and outstanding warrants. The agency has determined that a search of sex offenders with a record suspension is NOT required (e.g., border crossing or visa) therefore this check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.

**The Criminal Record and Judicial Matters Check will include the following information;**

- (a) Criminal convictions from CPIC and/or local databases.
- (b) Summary convictions, for five years, when identified.
- (c) Findings of Guilt under the *Youth Criminal Justice Act* within the applicable disclosure period, **only if requested in accordance with YCJA 119(1)(o).**

- (d) Outstanding entries, such as charges and warrants, judicial orders, Peace Bonds, Probation and Prohibition Orders. As per CPIC policy, information obtained from the Investigative Databank must be confirmed and authorized for release by the contributing agency.
- (e) Absolute and conditional discharges for 1 or 3 years respectively. However, they may only be released from a CR2 (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy*)

**The Criminal Record and Judicial Matters Check WILL NOT include:**

- (a) Convictions where a record suspension has been granted.
- (b) Convictions under provincial statutes.
- (c) Local police contact.
- (d) Ministry of Transportation information (PARIS).
- (e) Special Interest Police (SIP) category of CPIC.
- (f) Family Court restraining orders.
- (g) Foreign information.
- (h) A Vulnerable Sector (VS) Query of sex offenders with a record suspension to ascertain if the applicant has been convicted of and granted a record suspension for any of the sexual offences that are listed in the schedule to the *Criminal Records Act (CRA)*.
- (i) Any reference to incidents involving mental health contact.
- (j) Diversions will not be released as police contact and no reference to the occurrence is permitted (*CC S. 717.4*).
- (k) *Youth Criminal Justice Act (YCJA)* information unless requested in accordance with *YCJA 119(1)(o)*.
- (l) Any reference to contagious diseases.
- (m) Dispositions including, but not limited to, Withdrawn, Dismissed, and cases of Not Criminally Responsible by Reason of Mental Disorder.

**Vulnerable Sector Check**

This check is restricted to applicants seeking employment and/or volunteering in a position of authority or trust relative to vulnerable persons in Canada only. It is a collection of offence information, including convictions, outstanding warrants, charges, judicial orders and sexual offence convictions for which the individual has received a record suspension where authorized by the Minister of Public Safety and Emergency Preparedness. Non-conviction information shall be released only when it meets the criteria for Exceptional Disclosure.

**The Vulnerable Sector Check will include the following information:**

- (a) Criminal convictions from CPIC and/or local databases.
- (b) Summary convictions, for five years, when identified.
- (c) Findings of Guilt under the *Youth Criminal Justice Act* within the applicable disclosure period, only if requested in accordance with YCJA 119(1)(o).
- (d) Outstanding entries, such as charges and warrants, judicial orders, Peace Bonds, Probation and Prohibition Orders. As per CPIC policy, information obtained from

the Investigative Databank must be confirmed and authorized for release by the contributing agency.

- (e) Absolute and conditional discharges for 1 or 3 years respectively. However, they may only be released from a CR2 (another police service's record) if adult criminal convictions are released. (*RCMP Dissemination of a Criminal Record Information Policy*)
- (f) In very exceptional cases, where it meets the Exceptional Disclosure, non-conviction dispositions including, but not limited to, Withdrawn and Dismissed.
- (g) Not Criminally Responsible by Reason of Mental Disorder.
- (h) All record suspensions as authorized for release by the Minister of Public Safety.

### **The Vulnerable Sector Check WILL NOT include:**

- (a) Convictions under provincial statutes.
- (b) Local police contact.
- (c) Ministry of Transportation information (PARIS).
- (d) Special Interest Police (SIP) category of CPIC.
- (e) Family Court Restraining Orders.
- (f) Foreign information.
- (g) Any reference to incidents involving mental health contact.
- (h) Diversions will not be released as police contact and no reference to the occurrence is permitted (*CC S. 717.4*).
- (i) *Youth Criminal Justice Act (YCJA)* information unless requested in accordance with *YCJA 119(1)(o)*.
- (j) Any reference to contagious diseases.

### **Verification of Criminal Record**

There are two methods for verification of a Criminal Record; either through the submission of fingerprints or by (self) declaration.

Verification of a Criminal Record is a process where you may declare your adult criminal record convictions to the police service.

### **Do NOT declare:**

- A conviction for which you have received a record suspension.
- A conviction where you were a "young person".
- Absolute or Conditional Discharges.
- Any offences where you were not convicted.
- Provincial or municipal offences.
- Any charges dealt with outside of Canada.



The Service will confirm if the information matches a criminal record contained within the RCMP National Repository of Criminal Records. If the Service is not satisfied that your declared criminal record information is a match to a Criminal Record held at the repository, fingerprints are required.

### **Requirement for Fingerprints**

**Criminal Record:** If the police service requires fingerprints or is not satisfied that your (self) declaration is a match to a criminal record held at the RCMP National Repository of Criminal Records, your fingerprints must be submitted to the RCMP.

**Vulnerable Sector:** If you are seeking employment and/or volunteering in a position of authority or trust relative to vulnerable persons you may be required to submit fingerprints to verify whether you have been convicted of and received a record suspension for a sexual offence contained within the RCMP National Repository of Criminal Records.

### **Release of Completed Police Record Check**

#### **Criminal Record Check and Criminal Record and Judicial Matters Check**

The Service will provide the results of a completed Criminal Record Check and Criminal Record and Judicial Matters Check only to you, the applicant.

It is your decision to share the results of a Police Record Check with the agency where you want to work or volunteer. The role of the Service is to provide you with the results of the Police Record Check. The agency is responsible to determine your suitability for the position.

### **Vulnerable Sector Check**

The Service will complete a Vulnerable Sector Check based on your name and date of birth, as well as, gender and date of birth. If no record is found, a completed Police Vulnerable Sector Check will be provided to you, the applicant.

If the Vulnerable Sector Search is inconclusive a fingerprint based search will be required. If the RCMP confirms that you have a sex offence with a record suspension, the information will be forwarded to the Minister of Public Safety to authorize disclosure of all or part of the information contained in your file. When the information is authorized for disclosure by the Minister, the criminal record associated with your fingerprints will be returned to the Service and will include the sexual offence with record suspension information. At this point the Service will be required to obtain your consent in writing for disclosure of the record(s). When you have signed the form giving consent to release the record(s) the Service must forward the information to the requesting agency (employer or volunteer agency).

If you, the applicant, choose not to disclose your record(s) the Service will contact the requesting agency in writing indicating that the Service was unable to complete the Vulnerable Sector Check.

### **Youth Records**

PRC's will only be conducted for paid or unpaid positions with the federal, provincial or municipal government. This is because non-government agencies are not authorized to receive any results.

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To require applicants to apply and pay for a PRC when no results will be released is not in the best interest of applicants, the police service and the community.

If you receive a copy of a PRC provided to a government agency, dispositions from the *Youth Criminal Justice Act* will be noted on a page separate from the remainder of your police record check, regardless of what level of search you have applied for. The page will provide instruction advising you that the *Youth Criminal Justice Act* restricts you from sharing the information contained on the page and that no one may require you to provide it.

PRC's with disclosable youth records will be mailed directly to the government by the police service. It will be important for you to obtain contact and mailing information prior to filling out your consent form.

Applications for paid or unpaid positions with the federal, provincial or municipal government will receive your police record check directly, with all youth records that are permitted to be disclosed under the *Youth Criminal Justice Act*.

### **Reconsideration Request Process**

If you wish to request reconsideration on any non-conviction information disclosed on the Vulnerable Sector Check you may apply in writing to (Name & address of Service).

You may also refer to the (name of Police Service) website at (website address) for further information regarding the Police Record Check process.

# Appendix C: POLICE RECORD CHECK AGENCY FACT SHEET

## POLICE RECORD CHECKS FOR EMPLOYMENT OR VOLUNTEER OPPORTUNITIES

Police Record Checks are performed only upon the written consent of the applicant.

The agency plays an integral role in the initial stages of the hiring process. Even before an individual applies for a Police Record Check the agency should:

- (a) Complete an initial review for suitability and be considering the individual for an employment or volunteer opportunity.
- (b) Understand its obligation under the *Human Rights Code* with respect to evaluation, hiring and training volunteers or employees and what constitutes a bona fide reason for refusing to hire any individual or volunteer.
- (c) Determine that if a Vulnerable Sector Check is required, it is done so only for the purpose of assisting the Agency to determine the suitability of potential candidates for employment and/or volunteer duties responsible for the well-being of persons who, because of their age, disability or other circumstances are at a greater risk than the general population.

For further information on selecting employees or volunteers refer to Volunteer Canada 2012 Edition of The Screening Handbook at:

[https://volunteer.ca/vdemo/researchandresources\\_docs/2012%20Edition%20of%20the%20Screening%20Handbook.pdf](https://volunteer.ca/vdemo/researchandresources_docs/2012%20Edition%20of%20the%20Screening%20Handbook.pdf)

By performing a Police Record Check, “insert name” Police Service (the Service) is in no way making a recommendation on the suitability of the applicant for the position nor should the agency consider the existence of information to mean a compulsory disqualification of the individual. It is important to note that information contained within a Police Record Check is based upon information provided by the applicant and the Service cannot guarantee it will identify all information pertaining to the individual.

### **The “insert name” Police Service provides three levels of Police Record Checks:**

1. Criminal Record Check
2. Criminal Record and Judicial Matters Check
3. Vulnerable Sector Check

### **Criminal Record Check**

This check is intended for applicants who are involved as a volunteer, employee or in any situation where a basic Criminal Record Check is requested. This check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons.

**The Criminal Record Check will include the following information:**

- (a) Criminal convictions from CPIC and/or local databases.
- (b) Summary convictions, for five years, when identified.
- (c) Findings of Guilt under the *Youth Criminal Justice Act* within the applicable disclosure period **only if requested in accordance with YCJA 119(1)(o).**

**The Criminal Record Check WILL NOT include:**

- (a) Outstanding entries, such as charges and warrants.
- (b) Absolute and conditional discharges.
- (c) Current judicial orders, including Peace Bonds, Probation and Prohibition orders under the *Criminal Code* of Canada.
- (d) Convictions where a record suspension has been granted.
- (e) Convictions under provincial statutes.
- (f) Local police contact.
- (g) Ministry of Transportation information (PARIS).
- (h) Special Interest Police (SIP) category of CPIC.
- (i) Family Court Restraining Orders.
- (j) Foreign information.
- (k) A Vulnerable Sector (VS) Query of sex offenders with a record suspension to ascertain if the applicant has been convicted of and granted a record suspension for any of the sexual offences that are listed in the schedule to the *Criminal Records Act (CRA)*.
- (l) Any reference to incidents involving mental health contact.
- (m) Diversions will not be released as police contact and no reference to the occurrence is permitted (*CC S. 717.4*).
- (n) *Youth Criminal Justice Act (YCJA)* information **unless requested in accordance with YCJA 119(1)(o).**
- (o) Any reference to contagious diseases.
- (p) Dispositions including, but not limited to, Withdrawn, Dismissed, and cases of Not Criminally Responsible by Reason of Mental Disorder.

### **Criminal Record and Judicial Matters Check**

This check is intended for applicants who are seeking volunteer and/or employment with agencies who require a Criminal Record Check along with outstanding charges and outstanding warrants. This check is NOT intended for applicants who are seeking volunteer or employment in a position of authority and trust relative to vulnerable persons.

**The Criminal Record and Judicial Matters Check will include the following information;**

- (a) Criminal convictions from CPIC and/or local databases.
- (b) Summary convictions, for five years, when identified.
- (c) Findings of Guilt under the *Youth Criminal Justice Act* within the applicable disclosure period **only if requested in accordance with YCJA 119(1)(o)**.
- (d) Outstanding entries, such as charges and warrants, judicial orders, Peace Bonds, Probation and Prohibition Orders. As per CPIC policy, information obtained from the Investigative Databank must be confirmed and authorized for release by the contributing agency.
- (e) Absolute and conditional discharges for 1 or 3 years respectively. **However, they may only be released from a CR2 (another police service's record) if adult criminal convictions are released. (RCMP Dissemination of a Criminal Record Information Policy)**

**The Criminal Record and Judicial Matters Check WILL NOT include:**

- (a) Convictions where a record suspension has been granted.
- (b) Convictions under provincial statutes.
- (c) Local police contact.
- (d) Ministry of Transportation information (PARIS).
- (e) Special Interest Police (SIP) category of CPIC.
- (f) Family Court restraining orders.
- (g) Foreign information.
- (h) A Vulnerable Sector (VS) Query of sex offenders with a record suspension to ascertain if the applicant has been convicted of and granted a record suspension for any of the sexual offences that are listed in the schedule to the *Criminal Records Act (CRA)*.
- (i) Any reference to incidents involving mental health contact.
- (j) Diversions will not be released as police contact and no reference to the occurrence is permitted (*CC S. 717.4*).
- (k) *Youth Criminal Justice Act (YCJA)* information **unless requested in accordance with YCJA 119(1)(o)**.
- (l) Any reference to contagious diseases.
- (m) Dispositions including, but not limited to, Withdrawn, Dismissed, and cases of Not Criminally Responsible by Reason of Mental Disorder.

This check is intended for applicants who are involved as a volunteer, employee or in any situation where a basic Criminal Record Check is requested. This check is NOT intended for applicants who are seeking volunteer and/or employment with vulnerable persons

**Vulnerable Sector Check**

This check is restricted to applicants seeking employment and/or volunteering in a position of authority or trust relative to vulnerable persons in Canada only. It is a collection of offence information, including convictions, outstanding warrants, charges, judicial orders and sexual offence convictions for which the individual has received a record suspension where authorized by the Minister of Public Safety and Emergency Preparedness. Non-conviction information shall be released only when it meets the Exceptional Disclosure. This check can only be completed by police in the jurisdiction where the applicant resides.

**The Vulnerable Sector Check will include the following information:**

- (a) Criminal convictions from CPIC and/or local databases.
- (b) Summary convictions, for five years, when identified.
- (c) Findings of Guilt under the *Youth Criminal Justice Act* within the applicable disclosure period, **only if requested in accordance with YCJA 119(1)(o)**.
- (d) Outstanding entries, such as charges and warrants, judicial orders, Peace Bonds, Probation and Prohibition Orders. As per CPIC policy, information obtained from the Investigative Databank must be confirmed and authorized for release by the contributing agency.
- (e) Absolute and conditional discharges for 1 or 3 years respectively. **However, they may only be released from a CR2 (another police service's record) if adult criminal convictions are released. (RCMP Dissemination of a Criminal Record Information Policy)**
- (f) In very exceptional cases, where it meets the Exceptional Disclosure, non-conviction dispositions including, but not limited to, Withdrawn and Dismissed.
- (g) Not Criminally Responsible by Reason of Mental Disorder.
- (h) All record suspensions as authorized for release by the Minister of Public Safety.

**The Vulnerable Sector Check WILL NOT include:**

- (a) Convictions under provincial statutes.
- (b) Local police contact.
- (c) Ministry of Transportation information (PARIS).
- (d) Special Interest Police (SIP) category of CPIC.
- (e) Family Court Restraining Orders.
- (f) Foreign information.
- (g) Any reference to incidents involving mental health contact.
- (h) Diversions will not be released as police contact and no reference to the occurrence is permitted (*CC S. 717.4*).
- (i) *Youth Criminal Justice Act (YCJA)* information **unless requested in accordance with YCJA 119(1)(o)**.
- (j) Any reference to contagious diseases.

**Verification of Criminal Record**

There are two methods for verification of a Criminal Record; either through the submission of fingerprints or by (self) declaration.

Verification of a Criminal Record is a process where the applicant may declare their adult criminal record convictions to the police service.

**Applicants are NOT required to declare:**

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- A conviction for which the applicant has received a record suspension.
- A conviction where the applicant was a “young person” under the *YCJA*.
- Absolute or Conditional Discharges.
- Any offences for which the applicant was not convicted.
- Provincial or municipal offences.
- Any charges dealt with outside of Canada.

The Service will confirm if the information matches a criminal record contained within the RCMP National Repository of Criminal Records. If the Service is not satisfied that the applicants declared criminal record information is a match to a Criminal Record held at the repository, fingerprints are required.

### **Requirement for Fingerprints**

#### **Criminal Record:**

If the police service requires fingerprints or is not satisfied that the applicants (self) declaration is a match to a criminal record held at the RCMP National Repository of Criminal Records, fingerprints must be submitted to the RCMP.

#### **Vulnerable Sector:**

If the applicant is being considered to work in a volunteer or employment position where they will be in a position of authority and trust relative to vulnerable persons, they may be required to submit fingerprints to verify whether there is a criminal record including the existence of any sex offences with a record suspension contained within the RCMP National Repository of Criminal Records.

### **Release of Completed Police Record Check**

#### **Criminal Record Check and Criminal Record and Judicial Matters Check**

The Service will provide the results of a completed Criminal Record Check and Criminal Record and Judicial Matters Check to the applicant only.

It is the choice of the applicant to decide whether he/she wants to share the results of the Police Record Check with the requesting agency. The role of the Service is to provide the applicant with the results of the Police Record Check. The agency is responsible for determining the suitability of the applicant for the position. The result of any Police Record Check is just one component of the information available to and evaluated by the agency.

#### **Vulnerable Sector Check**

The Service will complete a Vulnerable Sector Check based on the applicant’s name and date of birth, as well as, gender and date of birth. If no record is found, a completed Police Vulnerable Sector Check will be provided to the applicant.

If the Vulnerable Sector Search is inconclusive a fingerprint based search will be required. If the RCMP confirms that the applicant has a sex offence with a record suspension, the information will be forwarded to the Minister of Public Safety to authorize disclosure of all or part of the information contained in the file. When the information is authorized for disclosure by the

Minister, the criminal record associated with the applicant's fingerprints will be returned to the "Service" and will include the sexual offence with a record suspension information. At this point the Service will be required to obtain the applicant's consent in writing for disclosure of the record(s). When the applicant has signed the form giving consent to release the record(s) the Service must forward the information to the requesting agency (employer or volunteer agency).

If the applicant chooses not to disclose their record(s) the Service will contact the requesting agency in writing indicating that the Service was unable to complete the Vulnerable Sector Check.

You may also refer to the (name of Police Service) website at (website address) for further information regarding the Police Check process.

### **Youth Records**

PRC's will only be conducted for paid or unpaid positions with the federal, provincial or municipal government. This is because non-government agencies are not authorized to receive any results. To require applicants to apply and pay for a PRC when no results will be disclosed is not in the best interest of applicants, the police service and the community.

For government employers:

PRC's with disclosable youth records will be mailed directly to you by the police service. Please be sure to provide the youth with this information prior to having the youth apply for a PRC.



## Appendix D: FORMS

All forms are available on the [OACP web-site](#) in Microsoft Word so police services can edit.

## Appendix E: POLICE RECORD CHECKS REFORM ACT AND REGULATIONS

<b>Legislation</b>	<a href="#"><u>POLICE RECORD CHECKS REFORM ACT (2015)</u></a>
<b>O. Reg. 350/18</b>	<a href="#"><u>SPECIFIED OFFENCES - EXCEPTIONAL DISCLOSURE OF NON-CONVICTION INFORMATION</u></a>
<b>O. Reg. 349/18</b>	<a href="#"><u>DISCLOSURE OF YOUTH RECORDS</u></a>
<b>O. Reg. 348/18</b>	<a href="#"><u>RECONSIDERATION NOTICE AND PROCESS - EXCEPTIONAL DISCLOSURE OF NON-CONVICTION INFORMATION</u></a>
<b>O. Reg. 347/18</b>	<a href="#"><u>EXEMPTIONS</u></a>