

Statement in Response to the OACP's LEARN Subcommittee 2014 Consultation Report and Recommended Amendments to the *Guideline for Police Record Checks*

The John Howard Society of Ontario is an incorporated charity which operates under a mandate of advancing and supporting effective, just and humane responses to crime and its causes. The 19 local John Howard Society Affiliates throughout the province of Ontario provide a variety of vital services to Ontarians and their families who have become, or are at risk of becoming, involved with the criminal justice system. The John Howard Society of Ontario, our provincial office, established a Centre of Research, Policy & Program Development (2003) to contribute to the evidence-based literature in the criminal and social justice fields, to inform policy discourse and to engage in rigorous program evaluation.

The Disclosure of Non-Conviction Information on Police Record Checks in Ontario

The retention and disclosure of non-conviction information is an issue that affects the equality, opportunities, human rights and civil liberties of all Ontarians. The John Howard Society of Ontario frequently hears from Ontarians who face ongoing discrimination and stigmatization as a result of non-conviction information that is revealed on police record checks. The use of background checks is ubiquitous in Canadian society. Non-conviction records can be, and often are, disclosed in record checks used to screen candidates for employment, volunteering and housing application purposes, among other many things. There are no human rights protections for people in this situation. It also means that people who have not been convicted of any criminal offences may be put in situations where they lose their existing employment, housing and even the custody of their children because of the current practices to disclose such information. Indeed, we have heard from numerous legally innocent individuals who have lost employment opportunities or been terminated from existing employment, been denied the ability to travel to the U.S., and been rejected from academic programs/placements. This should not be happening.

The disclosure of non-conviction information is highly prejudicial, and not a sound approach to ensuring community safety. In fact, likely quite the opposite. The research is clear that stable employment, as well as the income, housing and social networks that employment can foster, are significant protective factors against future criminal offending. There is a pressing need for mechanisms and policies to protect Ontarians from the disclosure of non-conviction information on police records checks. Accordingly, the John Howard Society of Ontario (JHSO) lauds the OACP's LEARN Subcommittee for revisiting its *Guideline For Police Record Checks* to consider excluding non-conviction information from being disclosed on all levels of record checks.

The John Howard Society of Ontario's Position Statement on the Issue:

To prevent against the discrimination, stigmatization and prejudicial impacts that are associated with having a police record, JHSO calls for the systematic restriction of the type of information disclosed on all levels of police record checks to only criminal charges that resulted in criminal convictions. That is, the policy default should prescribe that non-conviction dispositions and information not be disclosed on any level of police record check.

Response to the 2014 OACP Consultation Report and Recommendations:

We applaud the OACP LEARN Subcommittee for being proactive on this issue, and making recommendations that are rights-respecting and evidence-based and that clearly address community concerns. We strongly encourage all policing organizations across Ontario to support the LEARN Subcommittee's recommendations.

JHSO commends members of the LEARN Subcommittee for recommending the removal of police contact information from all levels of police checks. This represents a significant improvement in and of itself from the status quo. We would further support the proposal that all non-conviction information and dispositions, including absolute and conditional discharges, acquittals, peace bonds, and stayed and withdrawn charges, **presumptively not be released at any level of police record check**. We recognize that there may be exceptional cases, however, that give rise to legitimate and imminent safety concerns for vulnerable persons during a Vulnerable Sector Check and that eliminating all police discretion may not be desirable nor appropriate. We see room for very circumscribed and exceptional disclosure of non-conviction information at the Vulnerable Sector Check level, that meets restricted criteria, as proposed in the 2014 Consultation Report.

In closing, we are encouraged by the LEARN Subcommittee's stated commitment to balancing safety considerations with respect for human rights and privacy rights, and strongly support the LEARN Subcommittee's proposed recommendations to ensure that the negative and prejudicial impacts of non-conviction information disclosure are minimized.

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