

ACCESS FACT SHEET

Police record checks

In Ontario, the *Police Record Checks Reform Act* sets the rules for police record checks. This fact sheet describes the different types of checks, the information they contain, and your rights under the law.

The *PRCRA* applies to all police record checks in Ontario except where the legislation establishes an exception, such as for screening related to child custody, adoption, and children's residential care.

WHAT IS A POLICE RECORD CHECK?

When you apply for certain jobs, volunteer positions, educational programs or licenses, you may be asked to consent to a police record check. A police record check involves a search of police record-keeping systems such as the Canadian Police Information Centre database. A check may also involve the search of a local police service's records.

Police records contain information about the people police interact with, in both criminal and non-criminal situations. They may describe interactions that range from informal contacts with a police officer to being found guilty and convicted of a criminal offence. A police record check only includes some of the information in police records.

WHAT KINDS OF POLICE RECORD CHECKS ARE PERMITTED?

The *PRCRA* sets out three types of record checks that can be used for screening purposes and the kinds of information those checks can disclose.



It's important to note that police records checks associated with a school or a child care facility (under the ***Education Act*** or the ***Child Care and Early Years Act***) may disclose additional information.

In all other settings, the ***PRCRA*** permits only three types of police record checks.

1) A **criminal record check** reveals:

- all criminal convictions on your adult record *except* summary convictions that are more than five years old and any convictions that were pardoned or suspended
- in limited circumstances, findings of guilt under the federal ***Youth Criminal Justice Act*** (see below)

2) A **criminal record and judicial matters check** includes the same information as a criminal record check and information about:

- any crimes for which you received an absolute or conditional discharge, but only if the check takes place within one year of an absolute discharge and three years of a conditional discharge
- outstanding criminal charges and arrest warrants, and some judicial orders

3) A **vulnerable sector check** may be required if you're applying to work with children, older people or other vulnerable people. It includes the same information as a criminal record check and judicial matters check. It also includes:

- findings of not criminally responsible due to mental disorder made within the past five years, *except* those that led to an absolute discharge
- pardons or suspensions related to sexually-based offences
- non-conviction information — information about criminal charges against you that were dismissed, withdrawn or stayed (temporarily stopped), or for which you were acquitted — in defined exceptional circumstances (see below)

I was charged with a crime but not convicted. Will information about this be disclosed? Can I prevent that information from being shared?

Only a vulnerable sector check can include non-conviction information:

- for certain offences listed in the regulations such as serious crimes including crimes of violence
- if the alleged victim was a child or vulnerable person, and
- if you are reasonably believed to be a risk to a child or vulnerable person (there is a list of factors that determine this in the ***PRCRA***).

If a vulnerable sector check contains non-conviction information that you feel should not be included, you can ask for a reconsideration. You must request the reconsideration in writing to the police record check provider

within 45 days of receiving your check. The provider must reconsider within 30 days and notify you of its decision in writing.

When I was a teenager, I was convicted of a crime. Will my youth record show up on my police record check now?

If your youth record is still open, findings of guilt under the *Youth Criminal Justice Act* will appear on your police record check. The period during which a youth record is open is called the access period. As a general rule, once the **access period** ends, youth records are sealed.

The access period depends on the type of offence, your sentence, and whether you are convicted of any other criminal offences. If you are not convicted of any other offences, the access period for a guilty finding is three to five years, depending on the type of offence.

If a youth record is part of a police record check, you will receive it in a separate document. You will also receive a notice that states:

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.

You should note, however, that if you are an adult with an open youth record and convicted of another crime, your youth record will become part of your adult record.

What information cannot be disclosed in a police record check?

As a general rule, a police record check *cannot* disclose other information such as:

- whether you were a victim or witness of a crime
- if your interaction with the police did not lead to charges, for example, if police detained you under the *Mental Health Act*
- provincial offences, for example under the *Liquor Licence Act* or the *Highway Traffic Act*

THE POLICE RECORD CHECK PROCESS AND YOUR RIGHTS

Can a prospective employer request a police record check on me without my knowledge?

No. You must give your consent before the police can run a record check. Before signing a consent form, be sure to read it carefully to find out what type of record check you are consenting to.

Who receives the results of the record check? Are they sent directly to my prospective employer?

As a general rule, the results of your police record check will be sent to you first. This allows you to confirm that the record check is correct before you decide whether to share results with a third party, such as an employer. The police can only provide the results directly to a third party without first providing them to you in certain circumstances described in the law.

Can I get a copy of my police record check? Will I be charged a fee for the police record check?

You have the right to request and receive a copy of your police record check. You may be charged a fee, which varies depending on the police service.

The information the police have about me is not accurate. What can I do?

You can ask a police service to correct information it has about you.

If you are concerned about the accuracy of your police record check, contact the police service and request a correction under the *PRCRA*.

If your concern is about the accuracy of other information the police have about you, complete a **request form** or write a letter to the freedom of information coordinator at the police service that holds your information, stating that you are requesting the correction of your personal information under *FIPPA* or *MFIPPA*.

Make sure you include details of what information is incorrect and how you would like it corrected. You will have to pay a \$5 fee to request a correction under *FIPPA* or *MFIPPA*.

What if the police won't correct my information?

If the police refuse to correct the information, you can appeal to our office. If you have questions of a general nature about access to government-held information, the appeal process, or about Ontario's access and privacy laws, please contact us or visit our website.

For more information on police record checks in Ontario, and the *Police Record Checks Reform Act*, visit the **Ministry of the Solicitor General**.

For questions or concerns about access, correction of personal information or privacy rights, contact the IPC.

Information and Privacy Commissioner of Ontario

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About the IPC

The role of the Information and Privacy Commissioner is set out in the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. The commissioner is appointed by the Legislative Assembly of Ontario and is independent of the government of the day.

