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Major Reform of Police Record Check Practices Necessary, Report Argues

May 17, 2014 - Toronto - Canadians are being needlessly excluded from educational, volunteer and work opportunities based on irrelevant information disclosed on police record checks, a new report from the Canadian Civil Liberties Association argues. The report, *False promises, hidden costs: the case for reframing employment and volunteer police record check practices in Canada*, questions the value of widespread police record checks and shines a light on the damaging individual and societal consequences of current practices. New audio recordings documenting numerous individuals' personal experiences of discrimination and exclusion, released under the title *Presumption of guilt: the human cost*, are also being published today.

An increasing number of Canadian organizations - employers, volunteer managers, educational institutions, licensing bodies and governments - are incorporating police record checks into their hiring and management practices. These record checks frequently disclose information well beyond criminal convictions; depending on the police service, mental health apprehensions, police records of suicide attempts, complaints where charges were never laid, withdrawn charges, acquittals, and even victim and witness information can be disclosed on record checks.

"Releasing this information carries significant societal and individual costs," says Abby Deshman, Director of the Canadian Civil Liberties Association's Public Safety Program. "We have documented cases where old, baseless allegations, dismissed charges, 911 calls and police mental health apprehensions have caused people to drop out of higher education programs, abandon professional career paths, or withdraw from volunteer and community engagement opportunities. For those who do have formal criminal convictions, getting a job or volunteer experience can be a key component to successful rehabilitation and reintegration. But instead of supporting individuals to find employment, we are creating unnecessary barriers, increasing economic and social instability, and ultimately undermining public safety."

Researchers conducted dozens of interviews with employers, volunteer agencies and record check companies. The conversations suggested that organizations were generally risk averse, frequently erring on the side of requesting more detailed police record information, and excluding individuals based on the results. Most were generally unaware of their human rights and privacy obligations toward volunteer and job applicants.

According to the report, organizations frequently explained that they were asking for police checks as a way to enhance workplace safety or protect vulnerable clients and assets. "We have found no evidence that criminal records of conviction are useful workplace screening tools for employers or volunteer organizations," said Ms. Deshman. "The available research suggests that a prior criminal conviction is not correlated with an increased likelihood to commit a subsequent work-related offence. With respect

to police records of unproven allegations, the large variety of circumstances that can give rise to these and other non-conviction records make their utility even more questionable."

The report also surveys the legal regulation of police record checks in Canada and concludes that there are critical gaps in the legislative framework. "There are fundamental gaps in the legal regulation of police record checks," says Ms. Deshman. "Across the country, our human rights and privacy statutes give inconsistent and incomplete protection for employees and job and volunteer applicants. Federal legislation clearly sets out how to seal records of conviction - but there is no comparable protection for non-conviction records like mental health contacts and police records of unproven allegations. Depending on where you live, having a charge that is withdrawn can be more personally and professionally damaging than a formal finding of guilt."

The report outlines a series of short- and long-term recommendations aimed at reintroducing perspective and balance to the societal use of police record checks. Key recommendations include the following:

Governments should:

- Introduce legislative and policy measures to prohibit the disclosure of non-conviction records;
- Establish a centralized, evidence-based vulnerable sector screening process that incorporates human rights and privacy safeguards;
- Recognize that it is in the public interest to support individuals with criminal records to find employment, and eliminate unjustifiable record check requirements mandated by legislation, government contracts, government policies, funding agreements, etc.; and
- Amend legislation to ensure all Canadians enjoy the same levels of privacy and human rights protection in the workplace.

Employers and volunteer agencies should critically examine whether current record check practices are necessary, and if applicable develop written organizational policies that clearly limit the use of this information.

A second report released today from the John Howard Society of Ontario, entitled *Help Wanted*: Reducing Barriers for Ontario's Youth with Police Records*, exposes the systemic exclusion of youth (15-29) with police records from the Ontario labour market and echoes many of CCLA's recommendations. That report can be accessed at www.johnhoward.on.ca.

To listen to CCLA's audio recordings, read the full report, *False promises, hidden costs: the case for reframing employment and volunteer police record check practices in Canada*, and review all of the recommendations please go to www.ccla.org/recordchecks.

On Tuesday, May 20, at 12 p.m., CCLA will host a discussion of *False promises, hidden costs*, at CCLA offices (215 Spadina Ave., Suite 210, Toronto, ON), featuring Abby Deshman and CCLA General Counsel Sukanya Pillay. Media and the public are invited to attend. Also speaking at the event will be John Howard Society of Ontario Centre of Research, Policy & Program Development Director Michelle Keast.

CCLA is a national, non-profit, independent, non-governmental organization that was constituted to promote respect for and observance of fundamental human rights and civil liberties, and to defend and foster the recognition of those rights and liberties. The CCLA has been at the forefront of protecting fundamental freedoms and democratic life in Canada since 1964. *False promises, hidden costs: the case*

for reframing employment and volunteer police record check practices in Canada and associated research was funded in part through a grant from the Office of the Privacy Commissioner.

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