

HIRING TOOLKIT

Hiring Individuals with Criminal Records

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This toolkit is intended to help employers navigate the challenges, and clarify the misconceptions, surrounding criminal convictions in the hiring process.



Why Hire People with Criminal Convictions?

HIRING SOMEONE WITH A CRIMINAL RECORD MEANS:

Not missing out on qualified individuals that can add immense value and insight to your organization.

Advancing your pool of experienced candidates, which can mean less training and hiring.

Gaining dedicated and loyal employees that have faced barriers in seeking employment and greatly appreciate the opportunity, and as a result perform at a higher level.

Benefiting society, as employees with criminal backgrounds who are viably employed will be less likely to return to crime or become dependent on social benefits

Promoting inclusivity in your organization through the attainment of candidates with diverse backgrounds and life experiences.

Employers can make a difference in hiring individuals with criminal records who have stopped offending and are working towards their successful reintegration into their communities.

“Somebody has the ability to contribute to our economy...To take care of themselves and their family...As a hiring person, I have the tools to be able to give that person that opportunity, that’s one of the reasons I love it so much. Not to improve my life by any means, but for them to get the opportunity to improve theirs.”¹



Crime and Perception

Having a criminal conviction carries an immense stigma in society. It tends to illicit automatic associations with being a “bad,” “dangerous,” or “untrustworthy” person. Associations that have many employers opting to immediately disqualify criminal record holders without finding out if these labels actually hold true.

Acknowledging the complexities and realities of crime in our society can help us to address these fears and biases surrounding criminal records. Ensuring these perceptions do not stand in the way of companies gaining their ideal candidates.

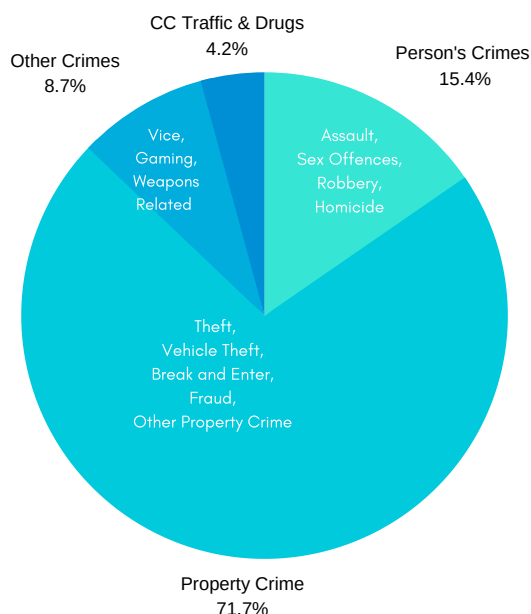
Contextualizing Crime

Difficult circumstances such as poverty, abuse, and familial addiction greatly contribute to the likelihood an individual will come into contact with the law. A Statistics Canada study on offenders in Saskatchewan found that 42% of the individuals that were charged by Saskatchewan police in 2010 were among the poorest people in the province.² Understanding these underlying factors means considering that a criminal record may be a reflection of a desperate attempt to provide for one’s self or one’s family, and not an indicator of bad character.



4 out of 10 offenders were among the poorest people in the province.

Often when we think of crime our minds narrow in solely on violent crimes such as assault. However, the vast the majority of crime isn't actually violent.



This pie graph shows the types of crimes that were reported in Calgary in the last five years. 85% of reported incidents in Calgary were non-violent. The most common crime was theft.³

THE JOHN HOWARD SOCIETY IDENTIFIED THAT

83%

OF FORMERLY INCARCERATED MEN WHO WERE EMPLOYED HAD NOT REOFFENDED AFTER ONE YEAR.⁴



9 out of 10 employees charged with work-related fraud did not have a prior criminal record.⁵

A criminal record should not be considered a predictor of future behavior. Studies show there is no correlation between employees having a criminal record and committing an offence at work. Employees hired without criminal records are shown to be just as likely to commit a work related offence.⁶

Police Information Checks

What is a Police Information Check (PIC)?

A PIC is a criminal history check of an individual conducted by the police. Police search local, provincial, and national police and court databases for convictions and pending charges a person may have incurred. The results of a PIC are provided to the individual in the form of a certificate letter.



HOW DOES AN EMPLOYER OBTAIN A PIC?

Police will not provide a PIC to an employer directly. An employer can request that a candidate obtain a PIC if they believe it is necessary for the position they applied for. The candidate will then need to go to a local police or RCMP station to apply and pay the processing fee. After a few weeks the candidate will be sent a letter disclosing any past convictions, which they can then provide to the potential employer.

There are two types of PICs:

1 Standard Criminal Record Check

Lists criminal convictions that a person has not received a record suspension for.

2 Vulnerable Sector Criminal Record Check

A more detailed check that can be requested if the individual will be working with vulnerable people, such as youth or persons with disabilities. The result will include any sex offences that have been pardoned.

Note: A vulnerable sector search should only be required for employment positions where an individual is directly working with vulnerable populations. Requesting a vulnerable sector check when it is not required for the position contravenes the *Criminal Records Act*. 7

WHAT INFORMATION DOES A PIC LETTER PROVIDE?

The letter includes all criminal convictions for which the candidate has not received a record suspension. For each conviction, the letter specifies the date and location of the offence, type of offence, and the sentence they were given. Any pending charges and relevant occurrence reports are also included. **These can include incidents relating to mental health and even times a person was a witness to a crime.** If a Vulnerable Sector Search was required then that letter would additionally include any pardoned sex offences, and may even include charges that were withdrawn. This information is based on a Calgary Police Services PIC, and can vary depending on the province the PIC is conducted.

Considering Convictions: The Three R's

The candidate I am considering has a criminal conviction. What should I do?

If a Police Information Check shows the candidate has a criminal record it doesn't need to be an automatic disqualifier. Instead, use the information about the conviction to consider the three R's: Is the crime relevant, recent, or repeated?

1 Is It Relevant?


Consider if the conviction is actually relevant to the job the candidate applied for. For instance, a past conviction of Driving Under the Influence should not affect a person's ability to be a retail sales associate. Essentially, a criminal record does not need to disqualify a potential candidate if the conviction does not relate to the skills and requirements of the position they are seeking. It is also valuable to inquire on the extent that they were involved in the crime. A person charged as an accessory may have been present during the offence but did not actually participate in the crime.

2 Is It Recent?

Charges on criminal records can be years or decades old. A criminal record may simply be a snapshot of a mistake or difficult period in someone's life that no longer resonates with who they are. We all make mistakes, but not all of us were unlucky enough to have those mistakes caught and documented by law enforcement. Giving an individual the opportunity to explain their conviction allows you to consider their life circumstances at the time of the crime. How old were they? What difficulties were they facing? How has their life changed since the offence? Understanding the situational elements of the crime will help you to better gauge the seriousness of the offence and if there has been sufficient rehabilitation since that time.

3 Is It Repeated?

It is important to note that many candidates with criminal records will have learned from their past mistakes and not repeated the offence. Correctional Services Canada examined the recidivism rates of federal offenders that had been out of prison since 2012. They found that close to **80% of the offenders did not reoffend** in the two years since they were released.⁸



*"I'm not the same person I was when I was 20."*⁹

The charges conveyed on a Police Information Check can exaggerate the reality of an offence. Shoplifting a chocolate bar can be listed as 'theft under \$5000.' Hitting someone with a household item, such as a remote control, can be charged as 'assault with a weapon.' It is so important for employers to talk to their prospective candidates and put the offence into context.

Record Suspensions (Pardons)



What is a Record Suspension?

Previously known as a pardon, a record suspension will “set aside” an individual's past criminal convictions. Meaning the conviction will still be visible to law enforcement agencies, but will not be disclosed in criminal record checks unless police deem it relevant to disclose.

Why Don't Criminal Record Holders Just Get A Record Suspension?

Obtaining a record suspension is a long and expensive process with several barriers:



Eligibility

Once an individual has completed their sentence: including imprisonment, probation, and the payment of any fines the wait times for applying for a record suspension will begin. If an individual has committed an indictable offence then they must **wait ten years** before they can apply for a record suspension. For summary offences, the wait time is **five years**. If an individual gets any new charges during these years then the wait times start over. Even if those charges have been dismissed or they were found to be innocent.

Ineligible: A person cannot apply for a record suspension if they have a Schedule 1 offence. Examples include murder, manslaughter, violent offences, robbery, and sexual assault. They are also ineligible if they have three indictable offences each with prison sentences that are two years or longer.



Time

At the completion of these wait times an individual can begin to apply for a record suspension. The process takes approximately **18 months** and requires the individual to obtain a large amount of documentation. Including local, national, and international police checks, court documentation, relevant military and immigration documents, fingerprints from the RCMP, and several application forms. These documents need to be obtained in all locations an individual has lived and must arrive within certain time constraints. If the documentation does not arrive within the time limit the individual must reapply for them before submitting their final application.



Cost

Once all of the documents have been obtained, the applicant mails them alongside a **\$644.88 processing fee** (current fee as of 2020, which is subject to increases). Many of the required documents, such as the police information checks have fees associated with them as well. Meaning an applicant will need a significant amount of expendable income to pay for a record suspension. This is a significant barrier for a person who may be struggling to find stable employment, especially if they have a family to support.

TYPES OF OFFENCES¹⁰

SUMMARY

The least serious crimes under the Criminal Code. Examples include: causing a disturbance, harassing phone calls, driving under the influence, soliciting a prostitute, and most vandalism cases. A summary offence is never tried by jury and is usually punishable by a fine up to \$5000 and/or six months in jail.

INDICTABLE

The most serious crimes under the Criminal Code. Examples include manslaughter, murder, drunk driving causing injury or death, armed robbery, drug trafficking, certain sexual offences, theft of \$5000 or more, and vandalism causing injury.

HYBRID

An offence where the Crown Prosecutor can choose to proceed with either an indictment or summary conviction.

Essentially, with such high costs and wait times it is not feasible or affordable for a person with a criminal record to obtain a record suspension before seeking gainful employment.

Best Practices for Hiring

Is a Criminal Record Check Necessary?

Consider if a Police Information Check (PIC) is actually a necessary screening tool for hiring. A standard interview, reference checks, and a probationary employment period will give you the holistic information you need about the candidate you are considering. Studies show that there is no evidence employees with criminal records are more likely to offend than their clean record coworkers.¹¹ Research also shows that asking for criminal record checks when it is not relevant to the position will deter many qualified candidates from even applying.¹²

Be Specific

Instead of rejecting all criminal record holders, narrow down specifically which types of offences you would not accept for this position. For example, a vandalism charge wouldn't be relevant to a bank position, but a fraud charge could be.

Refusing to hire individuals just because they have a criminal record is discriminatory. The majority of provinces and territories in Canada have laws against this type of discrimination.¹³ Alberta may one day follow suit with these same legal standards. It is in an employer's best interest to already have hiring protocols in place that prevent this form of discrimination.

Be Clear And Upfront

Once you have decided which offences would be a barrier for hiring, make those standards clear to prospective job-seekers. Include that information in the job description and be upfront in hiring information sessions. This level of clear communication helps to prevent both parties from wasting time and facing future disappointment or rejection.

Develop a Protocol

Have a clear set of guidelines for your hiring team outlining:

- When to ask for criminal records checks.
- How to ask for criminal record checks.
- Which charges will be relevant to consider.
- How to handle the sensitive and private information disclosed in a criminal record check.



Best Practices for Hiring : Questions

How should I ask for a criminal record check?

Explain to the candidate what type of check you are requesting, how that information is relevant to the position, and what the next steps are if something comes back on their police check.

It is valuable to also have a written consent form that the candidate can sign which outlines this information and stipulates the steps you will take to maintain this person's privacy with regards to this check. Having a consent form signifies that you are in alignment with the *Privacy Act* by obtaining informed and voluntary consent for this police check.

Who should see the results of the check?

The results of a police check are confidential and should only be seen by those directly involved in hiring that specific applicant.

What should I do with the police check letter?

Once the police check has been received, an organization can make a note that it was reviewed and return the original letter to the applicant. If your organization decides to make a copy of the letter, or keep the original copy, then it should be stored in a locked area that is not accessible to other employees. Have a policy on how you will destroy this information when it is no longer required.¹⁴



My Journey



As an Indigenous woman I have gone through a lot in my life from growing up in an abusive adoptive home as a child from the Sixties Scoop to being in abusive adult relationships. I did have some advantages like a good education, and for a time, a job as a government employee. Most people thought I was really succeeding. It was my struggles with trauma and relationships which cycled me into addiction and eventual survival on the streets. A place I never thought I would end up.

For ten years I attempted to pull myself up. I tried a lot of things including treatment, counselling and other supports. None of it helped, until something changed in me. A moment of clarity, a moment of understanding that change needed to happen if I wanted to live

I returned to treatment, got reconnected to my culture and strengthened that part of me that was always there, but was hiding. In treatment, I heard about the SAGE program with EFry and was interested to attend the program which had culture and focused on regaining those skills towards success.

Along with SAGE and attending ceremony and relearning my cultural ways I began to reconnect to myself as a Niitsitapi woman. One of the things I realize is the skills I learned on the streets in communication, negotiation and conflict resolution were all valuable skills to incorporate into changing my life to re-enter the workforce.

I returned to EFry to volunteer a year after I completed SAGE and over time, I began to re-establish those skills I had as a government worker and I was eventually hired into the position where I volunteered. I realized my own background was helpful to others and my journey can inspire others to take a chance in themselves and overcome the barriers that affects them from meaningful employment. Even with some of the choices I made including those crimes of survival I am able to achieve great things in my life. This journey has taught me that my past doesn't have to prevent me from succeeding or from recreating my life. Recently I returned to college to take criminal justice studies and continue to embrace the opportunities as I continue towards further success.

There is a tendency for society to blanket everyone that has a criminal record with the negative stigma associated with the very worst offences. The vast majority of people have simply made mistakes owing to difficult periods in their lives. They have learned from these mistakes and are now trying to build better lives for themselves. Lives that are only possible to build if an employer gives them a chance.

ENDNOTES

1. Carolyn Greene et al., *Toward a Working Future: Understanding the Impact of Criminalization on Employment*, (Elizabeth Fry Society of Calgary, 2019), pp. 70.
2. Jillian Boyce et al., *Economic profiles of offenders in Saskatchewan*, (Stats Canada, 2018), pp. 11.
3. Calgary Police, *3rd Quarter 2019 Statistical Report*, (Calgary Police Services, 2019), pp. 1.
4. Megan Eichhorn, "Why Should I Hire Someone With A Criminal Record?" (Calgary John Howard Society, 2019).
5. Abby Deshman, *False Promises, Hidden Costs: The Case for Reframing Employment and Volunteer Police Record Check Practices*, (Canadian Civil Liberties Association, 2014) pp. 59.
6. Abby Deshman, *False Promises, Hidden Costs*, (Canadian Civil Liberties Association, 2014) pp. 59.
7. Abby Deshman, *False Promises, Hidden Costs*, (Canadian Civil Liberties Association, 2014) pp. 42.
8. Lynn Stewart and Geoff Wilton, *A Comprehensive Study of Recidivism Rates among Canadian Federal Offenders*, (Correctional Services Canada, 2019).
9. Carolyn Greene et al., *Toward a Working Future*, (Elizabeth Fry Society of Calgary, 2019), pp. 37.
10. John Howard Society of Manitoba, *Record Suspension Guide: A guide to help those with criminal records apply to get their records suspended*, (John Howard Society of Manitoba, 2016) pp. 8.
11. Canadian Civil Liberties Association, *Police Record Checks and Rights-Respecting Hiring: A Guide for Businesses and Not-For-Profit Organizations*, (Canadian Civil Liberties Association, 2014) pp. 11.
12. Carolyn Greene et al., *Toward a Working Future*, (Elizabeth Fry Society of Calgary, 2019), pp. 29.
13. Carolyn Greene et al., *Toward a Working Future*, (Elizabeth Fry Society of Calgary, 2019), pp. 4.
14. Canadian Civil Liberties Association, *Police Record Checks and Rights-Respecting Hiring*, (Canadian Civil Liberties Association, 2014) pp. 12.

FURTHER RESOURCES

Canadian Civil Liberties Association

Resources on Police Checks

ccla.org/recordchecks/resources/

John Howard Society of Ontario

Research & Policy

<https://johnhoward.on.ca/>

Elizabeth Fry Society of Calgary

Prison Community Outreach

<https://elizabethfrycalgary.ca/>



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By: Dr. Carolyn Greene, Katelyn Lucas, Erin Ramsperger, & Nicole Williams

Toolkit Written and Designed by Calla Savary
on behalf of the Elizabeth Fry Society