



Ontario Association  
of Patient Councils

**CLASP**

**Mental Health Police Records Check Coalition**

April 7, 2008

Ms. Barbara Hall  
Chief Commissioner  
Ontario Human Rights Commission  
Draft Policy Consultation: Mental Health Discrimination  
and Police Records Checks  
180 Dundas Street West, 7th Floor  
Toronto, ON M7A 2R9

Dear Ms. Hall:

**RE: Draft Policy on Mental Health Discrimination and Police Record Checks**

The Mental Health Police Records Check Coalition welcomes the opportunity to make a submission to the Ontario Human Right Commission regarding its request for consultation on “Mental Health Discrimination and Police Records Checks.”

Our membership is comprised of more than thirty-nine groups (see attached), organizations and interested parties that believe the current practice of disclosing information regarding non-criminal contact with police, especially as it relates to contact pursuant to the *Mental Health Act*, is discriminatory. We believe that this information constitutes personal health information and as such should not be released as part of a police records check. As a Coalition, we have been actively working to address this violation of the Ontario *Human Rights Code (Code)* and to bring about systemic change for the benefit of all Ontarians.

We are pleased that the Commission has recognized the seriousness of this issue, its negative impact on individuals and the ensuing significant violation of human rights. However, we believe that a more substantive change is needed in order to ensure that all Ontarians’ rights are protected when disclosing information concerning non-criminal contact with the police. The Coalition believes that this information should not be disclosed under any circumstances and we recommend that only criminal convictions for which a pardon has not been granted be released.

The policy recommends that the police services conduct a risk assessment when disclosing information on file. This would result in undue hardship to many police services across the province and as a result continue to permit the release of non-criminal information. Furthermore, we are concerned with the training and qualifications of police services to conduct risk assessments with regard to the release of information, as there are no standards in place by which these assessments would be conducted.

We believe such disclosures should be an exception and not the norm. Ideally, we do not believe that this information should be disclosed under any circumstances and we recommend that only criminal convictions for which a pardon has not been granted and records from the pardoned sex offender database be released.

Furthermore, the Coalition believes that the current draft policy offers a wide amount of latitude to police services and the police will be afforded too much discretion to make decisions about the release of information. The policy therefore, appears to perpetuate the myth that persons with a perceived or actual mental illness are dangerous or unable to work with certain segments of the population. The policy does not limit the number of circumstances in which the information may be released. This is problematic as police services will likely argue that if they have the information on file then it should be shared. Police practices must change if the rights of individuals who have contact with police pursuant to the *Mental Health Act* are to be safeguarded and protected.

We are concerned that the policy does not alleviate the fears and concerns of individuals who have, or who may find themselves with records in the future. Such individuals remain faced with the reality that if they apply for a position which requires a vulnerable screening check that their record *may* be disclosed. The recommended appeal process is unrealistic given how quickly employment decisions are often made. More importantly, the prospect of having to either disclose a record or appeal to the police services to rescind the decision to disclose, is daunting and will act as a barrier to full participation in society. Finally, the spectre of a potential record may impact a person in crisis' decision to get help, thus putting their health and safety in jeopardy.

The Coalition is not concerned about the collection or retention of this information by police services as we recognize that this information may be necessary for legitimate reasons.

To ensure a fair and non-discriminatory process, the Coalition recommends that the draft policy be amended to:

- state that only criminal convictions for which a pardon has not been granted and records from the pardoned sex offender database be released;
- encourage employers, schools and organizations to determine an individual's suitability for a position based on an interview and/or references, as opposed to a police records check;
- define the term "consent" to ensure that it is understood to mean voluntary, informed and not coerced. Currently, many individuals feel that the consent is anything but informed and they have little choice but to consent to the records check.
- reflect clear guidelines respecting the retention and expungement of records related to non-criminal contact with police;
- be sensitive to the usage of value laden language such as "information of concern" as this denotes criminality when it is being conveyed as part of a police records check – more neutral language is required;

- require that every police service provide education and training to its staff on the discriminatory impact of reporting such information and the adoption of an anti-discrimination policy; and
- recommend a standardized process for police records checks across Ontario to ensure equity and consistency.

If the Coalition can be of any assistance, please contact David Simpson, Program Manager, Psychiatric Patient Advocate Office, at (416) 327-7004. Again, thank you for the opportunity to participate in the consultation process.

Sincerely,

On behalf of the Coalition:



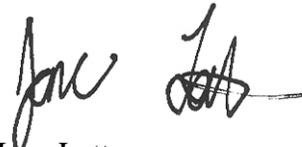
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## Mental Health Police Records Check Coalition

### Who are some of the members of the Coalition?

- A-Way Courier
- Across Boundaries
- ARCH Disability Law Centre
- Brockville Client Empowerment Council
- Canadian Mental Health Association (CMHA), Ontario
- Canadian Mental Health Association (CMHA), York Region
- Central Toronto Community Health Centre – Queen Street West Site
- Choices for Living – YWCA Toronto
- Community and Legal Aid Services Programme (CLASP)
- Community Resource Connections of Toronto
- COTA Health
- Gerstein Crisis Centre
- Haldimand Norfolk Resource Centre
- Houselink
- John Howard Society of Toronto
- Justice for Children and Youth
- Krasman Centre
- Margaret Frazer House
- Mental Health Court Support
- Mental Health Legal Committee
- Mental Health Rights Coalition of Hamilton
- Mental Health Support Program
- Ontario Association of Patient Councils (OAPC)
- Mississauga Community Legal Services
- Ontario Peer Development Initiative (OPDI)
- Patients' Council, Regional Mental Health Care – London/St. Thomas
- Peel Family Workers Network
- Peer Support Council, St. Joseph's Healthcare, Hamilton
- Psychiatric Patient Advocate Office
- Schizophrenia Society of Ontario
- Sound Times Support Services
- South Western Alliance Network (SWAN)
- St. Stephen's Community House
- Swadron Associates
- Anita Szigeti
- The Jean Tweed Centre
- Toronto Police Accountability Coalition
- Yellow Brick House – Outreach
- YWCA Toronto

### Where can I obtain more information about Police Record Checks or the Coalition?

- If you have any questions, please feel free to contact:  
David Simpson  
Program Manager  
Psychiatric Patient Advocate Office  
519.631.8510, x.49619 or 1.800.578.2343  
[David.Simpson@ontario.ca](mailto:David.Simpson@ontario.ca)
- More information about the Coalition, including its views and activities, can be found at [www.ppao.gov.on.ca/sys-pol.html](http://www.ppao.gov.on.ca/sys-pol.html).