

Rules governing police records and background checks dangerously murky

Governments and police forces need to establish universal regulations governing what information on individuals should or should not be released.



DREAMSTIME

While some police forces vet records carefully before releasing information on individuals, others transfer them indiscriminately, writes Anthony Moustacalis.

By: Anthony Moustacalis Published on Tue May 27 2014

Call 911 and report having been threatened by an ex-spouse, hated neighbour or jealous co-worker. Now, sit back and watch the ruination of a potential career or volunteer service. It's as easy as that.

Or, for those of a less malevolent bent, mistakenly identifying someone in a police report is enough to put a permanent blot on his name and reputation.

Welcome to the [murky world of police records](#) and background checks, where baseless allegations stick forever and the presumption of innocence is an empty vessel.

The problem is not new — civil libertarians have been railing against it for years — but the ramifications grow steadily more destructive. With personal information proliferating in official files and requests for background checks billowing, a probing look into the insidious havoc being wreaked on personal reputations and career aspirations is long overdue.

As with many institutional excesses, the misuse of records arises from positive impulses — protecting institutions from troublemakers and vulnerable individuals from being preyed upon by crooks or sex offenders.

Not content with merely scanning criminal convictions, however, over-cautious bureaucrats and employment recruiters now pore over records of unproven allegations; incidental contacts with police officers; charges that were withdrawn by the Crown; and incidents relating to mental health.

While some police forces vet these records carefully before releasing those that are most pertinent, others transfer them indiscriminately. In the absence of centralized guidelines or firm regulations, these decisions are up to individual forces.

Thus, an upstanding citizen who was briefly investigated for marijuana possession in his teens may be unwittingly branded for life. A loving parent who had false accusations filed by a bitter ex-spouse may well be precluded from adopting should she remarry.

Worse, there is rarely any recourse for those caught up in the informational drag net. To be denied a job or a volunteer placement on the basis of a police check is to face the end of the road.

The numbers of those affected are shocking. Estimates by the Canadian Civil Liberties Association found that one in three citizens has some form of potentially damning record in police files that does not involve a criminal conviction. A [recent story](#) in the Star by Robert Cribb and Jim Rankin revealed similarly disturbing numbers. In Calgary and Edmonton alone, 140,000 background checks were carried out in 2010.

The horrendous state of affairs fits into a larger picture. Once upon a time, the criminal justice system aspired to fairness above all else. Legal aid programs were adequately funded, based on the notion that those charged with an offence were innocent until proven guilty; that citizens of moderate means should not face bankruptcy or be overpowered by the resources of the state.

At the “back end” of the justice system, pardons were readily available to those who had probably reformed. Bail was tantamount to a right, not a privilege. Incarceration was — at least in theory — reserved for the incorrigible or the seriously violent.

Like icebergs shearing off into the ocean, however, civil liberties erode gradually and irrevocably. As with environmentalists who warned of global warming, civil libertarians who warned of police check abuses were largely ignored.

The baseline principles that once guided policy have been torqued and distorted — particularly, by a federal government that stockpiles and misuses records every bit as assiduously as it suppresses information about its own activities.

Scrutiny and regulations have not kept up with rapid developments in electronic surveillance, Internet snooping and the caching of massive amounts of confidential information. Consolidating these failures, landmark court decisions have naively curtailed the right to access information regardless of the overall public good.

And by killing off the much-lamented Law Reform Commission of Canada and gutting federal research branches, the federal government silenced those most likely to raise questions and propose solutions to informational abuse.

The situation is not, however, hopeless. If pushed sufficiently, governments and police forces could rectify the problem by creating a central registry of information and setting up universal regulations governing what should or should not be released.

To safeguard the vulnerable, police records involving violent crimes such as sexual assault, murder, or assault causing bodily harm, could be subject to disclosure even after a pardon has been granted. Conditional or absolute discharges could potentially be disclosed for a finite period.

Checks and balances lie at the heart of the justice system. Until there is serious reform when it comes to police

security checks, the balance could scarcely be more out of whack.

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