



KNOWING THE LAW

Police Record Checks



HILARY FINDLAY



RACHEL CORBETT

Hilary Findlay, a lawyer, and Rachel Corbett, a risk management consultant, are founders and directors of the Centre for Sport and Law. They are regular contributors to *Coaches Report*.

Some years ago in this column we wrote about volunteer screening and police records checks, on the heels of **Sheldon Kennedy's** 1997 disclosure about sexual abuse by his minor hockey coach. The topic was fairly new at that time. Now that screening of volunteers through police checks has become truly mainstream, we think it's a good idea to revisit the topic.

Most youth-focused sport organizations now screen volunteer coaches through police checks. We have helped many organizations prepare policy tools for this purpose and have also advised coaches who are subject to screening. It is our observation that policies for police checks are somewhat effective because they create a powerful incentive for self-screening: in other words, individuals who know they cannot pass a police check decide to not even try and quietly leave the organization.

When self-screening does not work, however, sport organizations can find themselves in a major dilemma. Suddenly, an administrator or a volunteer receives a police check that comes back positive for an offence, and the organization doesn't have a clue what to do next. This gap is usually because the organization has not done its homework in crafting a policy to guide it through the process. Rather, they have taken a general policy template and have

adopted it without thinking through how it might work, or not work, in their particular situation.

We stress that police checks are but one component of volunteer screening. Volunteer Canada's Safe Steps Screening Program identifies 10 steps for screening, of which only one is a police clearance. We do not imply that screening should be equated with police checks; however, the police check is one component of screening that has a legal element.

Based on our experiences, we have found that policies encounter problems in five areas:

DECIDING WHO SHOULD BE SCREENED

The first step in an effective screening program is to understand that not everyone needs to be screened. Not every position within an organization poses the same degree of risk of harm to vulnerable members. Only those positions of trust and authority that involve unsupervised contact with minors require screening. The organization's policies should identify these positions and thus succinctly state who is subject to screening and who is not. It may very well be that after completing the analysis of that risk, only a handful of positions truly require screening.

DECIDING WHAT SORT OF POLICE RECORD TO OBTAIN

There is no such thing as a standard police check. Although the process usually starts from the same basic database (CPIC, the Canadian Police Information Centre), each police jurisdiction does it differently. A cursory check reveals only criminal

convictions, while a detailed check can reveal any police contact as well as complaints, charges, and civil proceedings. Typically, the organization requiring police records checks from their volunteers has to negotiate specific agreements with each police jurisdiction in their geographic area. In other words, there is much homework to be done before the policy is even put into effect.

DECIDING WHAT THE POLICY IS SCREENING FOR

This step is almost never addressed in screening policies, yet it must be. The organization must explicitly decide what criminal offences are incompatible with positions of trust and authority within their programs. If the policy is not specific on this point, then one must assume that any criminal offence is incompatible, and this is an absurd position.

Determining which offences are incompatible requires a discussion of the purposes of the screening policy. If it is to protect minors from harm, then certain offences would clearly be incompatible such as the possession, distribution or sale of child pornography, or any sexual offences involving minors. Less directly relevant but still problematic offences would include trafficking under the Controlled Drugs and Substances Act and more serious forms of assault such as assault with a weapon, assault causing bodily harm, or sexual assault. Unrelated offences that may not be incompatible could include motor vehicle offences such as speeding or impaired driving, level 1 or common assault, or possession of drugs for personal use.

In all cases, an organization that wants to screen volunteers has to think about what's acceptable and what's not. Such decisions must relate to the overall purpose of the screening policy and should not be motivated by issues of morality or lifestyle. There also has to be a connection between the offence and the position: If driving a motor vehicle is not part of the position, then why should we be concerned about motor vehicle offences?

As well, the policy should address mitigating factors such as the age of the offender at the time of the offence and the passage of time. Does a crime committed as a youth carry the same stigma

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PASSINGS

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Her citation read, "She is an example of integrity, selflessness and devotion. For over 30 years, she has promoted ringette as a medium for girls and women to benefit from the physical activity and personal growth derived from team sports. ... She has become a goodwill ambassador, imparting the importance of perseverance, good conduct and fair play to tens of thousands of young athletes."

Douglas Gunter, 1921–2005

Douglas Gunter died in Ottawa on March 4. A graduate of the University of New Brunswick, a veteran of Second World War operations in Europe and in Korea, and a peacekeeper in Cyprus, he became executive director of the Canadian Figure Skating Association upon military retirement in 1974. He served in various capacities for 17 years and was an honorary member of the association.

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as a crime committed as an adult? Does a criminal offence committed 15 years ago have the same weight as one committed five years ago? In both cases, likely not.

DECIDING WHO REVIEWS THE RESULTS OF SCREENING AND HOW

Although lay people might have a good sense of organizational culture and expectations, they don't necessarily have the skill set to read and interpret the information contained in a police check. Police checks should be reviewed by a committee that operates independently of the organization's board, executive, and staff and includes people from law enforcement, police, or justice backgrounds who can make sense of the contents of the check. The checks should also be reviewed on a "blind" basis, meaning that the individual's name is blocked out.

MANAGING CONFIDENTIALITY AND PRIVACY

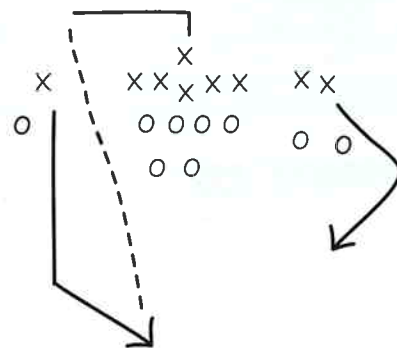
In an age of PIPEDA and privacy concerns, administering a volunteer screening process through police records checks is a responsible undertaking. There is no reason for an organization to retain

any original copies of police records checks once they have been reviewed. In fact, we recommend that all documents be returned to the individual who supplied them and that no copies be kept. As well, any records, correspondence, or minutes documenting the meetings of the review committee should be stored in a secure location outside the organization's office. Last, the policy should identify a schedule for destruction of the records.

In conclusion, although there is widespread acceptance that volunteer coaches in sport should undergo police screening, there is very little uniformity or quality in how it's done across Canada. We encourage all coaches to learn more about the screening process that they are subject to. Ask for a copy of your organization's policy and review it in light of the shortcomings described above. Then initiate an informed discussion about the objectives of the policy, about positions that ought to be subject to screening, and about offences that are incompatible with these positions. This will improve the policy for your organization and for coaches such as yourself. 🌟

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sign on...
info@cpca-acep.ca

359 Bank Street, Suite 201
Ottawa, Ontario, K2P1X9
Tel: (613) 569-6600 Fax: (613) 569-6601
info@cpca-acep.ca
www.cPCA-acep.ca



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