

Best Practice for Background Screening & Criminal Record Verifications

Recommended best practice for Background Screening and Criminal Record Verification is to develop an HR Policy and establish defined roles and responsibilities for individuals joining an organization either for the position of Contractor, Employment or Volunteer. When individuals change roles, they should undergo new assessments based on the established policy.

Background Screening could comprise Education, Employment, Driver License Verification, Professional or Personal references, Social Media Research, as well as Criminal Record Checks.

The nature of the position, role and description of duties determine the type of Criminal Record Check that should be considered, not the individual.

In Canada, criminal records have been stored in a protected secure database (CPIC) created, operated, and governed by the Royal Canadian Mounted Police (RCMP) since 1972. The Canadian Police Information Centre (CPIC) database includes all convictions for which a pardon has **not** been granted, all charges regardless of disposition, outstanding warrants and charges, all judicial orders and other information for law enforcement.

All Criminal Record Checks require Informed Consent, Self-Disclosure of Convictions, and Identity Verification to be processed.

An Enhanced Criminal Record Check, also known as a Criminal Record and Judicial Matters Check, is recommended unless the assessment dictates searching the database for a record suspension or pardoned conviction related to sexual offenses involving a vulnerable person.

The Enhanced Criminal Record Check is a query, based on legal name(s) and date-of-birth, of active criminal files in the RCMP National Repository of Criminal Records.

- This search includes any Canadian criminal convictions that have **not** been pardoned, discharged, or sealed by record suspension.
- The Enhanced Criminal Record will discover **all Criminal convictions including sex offences no matter the age of the victim.**
- The candidate is provided an opportunity to self-declare previous convictions, which will be verified.
- The Enhanced check provides a comprehensive search, including additional details such as pending charges in local databases.
- Summary convictions, for five years, when identified.
- Findings of Guilt under the Youth Criminal Justice Act within the applicable disclosure period.
- Outstanding entries, such as charges and warrants, judicial orders, Peace Bonds, Probation and Prohibition Orders. As per CPIC policy, information obtained from the Investigative Databank must be confirmed and authorized for release by the contributing police agency.

- Absolute and conditional discharges for 1 or 3 years, respectively.
- The Enhanced check creates a **FLAG** for non-conviction information, and certain types of police contacts that may not result in a conviction. **Non-conviction information shall be released only when it meets the criteria for Exceptional Disclosure.**

Accessibility and efficiency make the Enhanced Criminal Record Check a practical and reliable choice for organizations seeking thorough background screening on candidates, enabling them to make informed decisions while prioritizing safety and compliance.

The Results

Negative: No record/findings (CLEAR).

Incomplete: Possible match to a criminal record or does not match the criminal record information declared by the candidate.

Confirmed: Matches the criminal record information declared by the candidate.

Additional Check Recommended: It is recommended that the candidate obtain a detailed criminal record check, such as a “Criminal Record and Judicial Matters Check” (CRJMC) from their local police service. Details are not authorized to be released via a Third-Party screening company.

Guidelines for Vulnerable Sector Checks and Positions of Trust

When internal policy recommends a Vulnerable Sector Check (VSC) for a role, it is essential to conduct a thorough assessment of the candidate. This is reinforced by the **Police Record Checks Reform Act (PRCRA)** and the Safe Streets and Communities Act (CRA), passed by the Canadian Parliament on March 13, 2012 (Bill C-23B). Part 3 of the act replaced the term "Pardon" with "Record Suspension" and barred sex offenders in Canada from receiving pardons for indictable convictions related to sexual crimes against children (Schedule 1 Offence under CRA).

The hiring organization is responsible to have an HR Policy for Employment or Volunteer roles. If a role is defined as a “**Position of Trust or Authority**” over children (under 18) or other vulnerable persons, then a candidate may be requested to obtain a Vulnerable Sector Check.

IMPORTANT: Being in a position of trust or authority is more than having casual or incidental contact with children or vulnerable persons. Many people may have access to children or vulnerable people in an organization, but they do not qualify for the Vulnerable Sector Check (VSC). Examples could include janitors, cleaners, contractors, board members, administrative staff, etc.

Candidate Assessment

- If a Candidate is born before February 28, 1986, and does not have a prior negative/clear VSC result, obtained after March 13, 2012, they should be directed to their local police detachment to obtain a VSC if the position meets the criteria. Only residents of Canada should apply for a VSC. **A VSC only needs to be completed ONCE as the results will not change.**

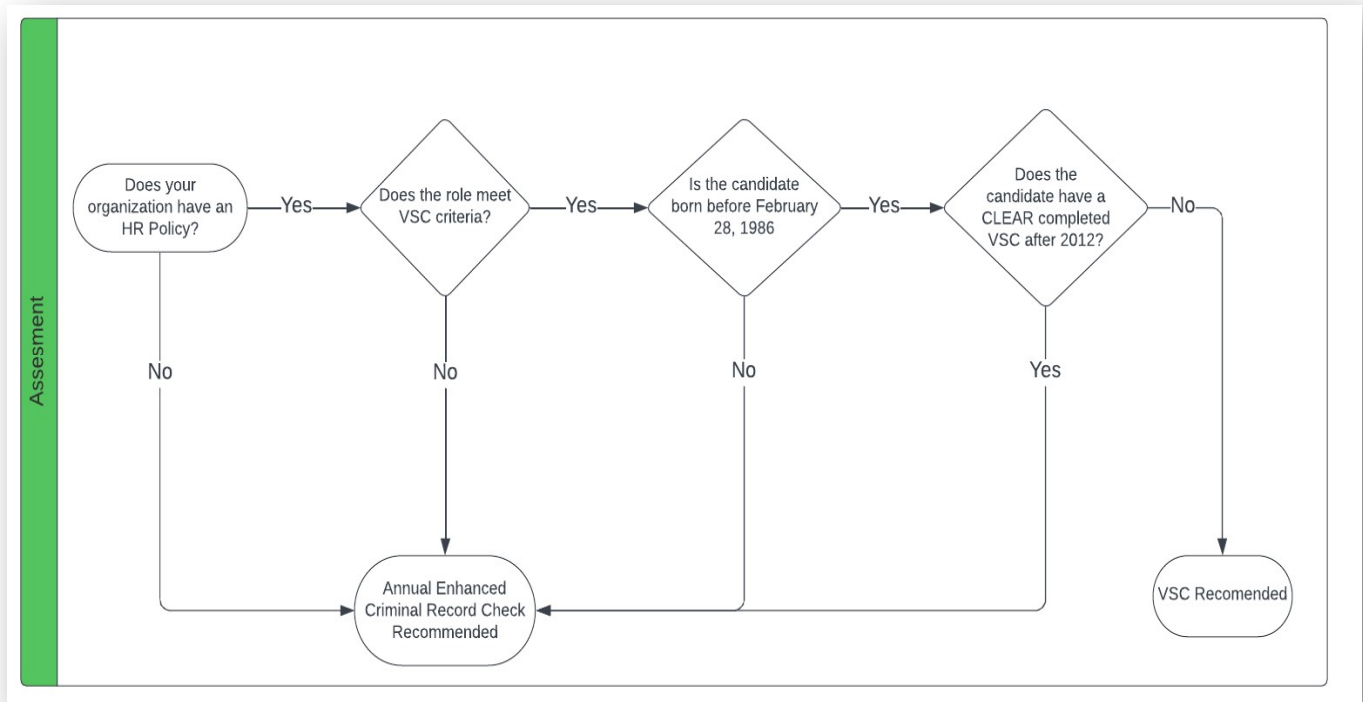
- Employers and organizations bear a significant responsibility in ensuring the safety and well-being of vulnerable people under their care. However, a VSC is not mandatory in Canada, it is only allowed as an option in specific circumstances related to roles “in a position of trust.” ***It is an offence to conduct a VSC if a role or position does not meet the Criminal Records Act requirements, with enforceable fines of \$5,000.***
- Ultimately, the decision to request a VSC is made by the hiring or volunteer organization, if they determine that the **position is one of trust** or authority over children or vulnerable people. **Currently, there is no Federal legal requirement for an organization to conduct vulnerable Sector Checks.**

Who does not require a Vulnerable Sector Check?

- Candidates born after February 28, 1986, will always produce a negative/clear result in a VSC since record suspensions are no longer granted as of March 13th, 2012.
- Candidates who do not hold positions of trust or authority over vulnerable people, such as administrative staff in non-directive roles.
- Roles or positions that primarily involve tasks or responsibilities that do not have direct interaction with vulnerable people, such as maintenance workers or landscapers.
- Candidates who work in industries or sectors where VSCs are not recommended by municipal legislation or organizational policies. E.g., Retail, manufacturing, hospitality, etc.
- Candidates who have produced a negative/clear VSC completed after March 13th, 2012.

The Vulnerable Sector Check can only be processed directly by Police Services in Canada. The candidate must attend in person where they reside, with an instruction letter provided by the organization, to have this search performed.

Assessment Chart



Additional Considerations

To establish comprehensive risk mitigation, it's crucial for organizations to adopt an annual screening protocol as a best practice. This ensures ongoing diligence in monitoring any changes in individuals' backgrounds, such as new criminal activity, ensuring that the organization's standards for trust and integrity are consistently upheld over time.

If the organization has additional roles of responsibilities or executive oversight, then you may want to consider further due diligence. For example:

- Driver Licence Verification
- Education Verifications
- Reference Checks
- Social Media Check
- Employment Verification
- SIN Validation

Organizations should not solely rely on a Criminal Record Check when selecting individuals for a role. A good example: is a greater percentage of individuals embellish their education credentials than there is Canadians with a Criminal record.

Partnership Info

PAOC has partnered with Canpro Technologies to provide its members with a Secure Online Screening platform that provides a full suite of Background Screening Service.

Features include:

- Mobile Friendly platform
- Accessible 24 hours a day
- Microsoft Cloud Secure
- Real Time status Update
- Bilingual (French/English) platform
- Canadian owned & operated

For further inquiries or to explore how our Secure Online Screening platform can enhance your organization's operations, we invite you to contact us at hello@canprotech.ca. Our team is readily available to address any questions and dive into the potential benefits our services can offer your organization.

Disclaimer: The information provided in this document is intended for general informational purposes only and should not be construed as legal or HR advice. It is not a substitute for professional legal advice tailored to your specific circumstances. The laws and regulations regarding background screening practices may vary by jurisdiction and are subject to change. For legal advice pertaining to background screening practices in Canada, please consult with a qualified legal professional.