

21 February 2014

Reply to: Douglas King
Direct Line: (604) 255 9700 ext. 112
E-mail: doug@pivotlegal.org

Elizabeth Denham
Information and Privacy Commissioner

Re: OIPC Call for Submissions on Police Information Checks

Dear Ms. Denham,

Thank you for examining the immensely important issue of police record checks in British Columbia.

Pivot Legal Society is a non-profit legal organization operating out of Vancouver's Downtown Eastside. Over the last ten years, we have worked predominately with people living in the Downtown Eastside, but our work on police accountability has increasingly taken on a provincial scope. We are in daily conversation with people who have been affected by police policy or actions, we have engaged in systematic affidavit gathering campaigns related to their experiences, and started lawsuits and Service and Policy Complaints. Pivot's mandate and role is to increase police accountability and strive for positive social change. From the perspective of our organization, and that of our clients, this review is sorely needed and examines one of the most pressing issues relating to policing and data collection that we have seen in the history of our organization.

Please take this letter to be our response to your request for input on the issue of police record checks. In addition to answers to the questions posed, which you will find below, we also highlight the profound personal impact the current police record check system has on individuals. Attached to this letter are five factual accounts of individuals who have experienced barriers to employment and volunteer opportunities as a result of the current system. In each case their identity has been concealed to protect their privacy. If your office would like to verify their accuracy, and speak to them about their experiences, I would be more than happy to facilitate that conversation.

In response to the questions posed by your office:

Questions

1) Do you believe that employers and non-profit agencies require the amount of personal information about potential employees and volunteers that is included as part of a police information check?

Absolutely not. Police record checks currently reveal information that no standard employer would have to access if they were required to access that information directly from police departments instead of having the applicant provide the

information to them. Even employers hiring individuals to work in sectors serving vulnerable sectors would not have access to this information, as the provincial system does not include the release of information pertaining to police contacts without charge or conviction and (or) mental health status.

It is important to recognize that when the provincial government created the *Criminal Records Review Act* it was a significant expansion of the type of information that could be released to an employer, including pardoned sexual offences. Expansion of the type of information released on criminal record checks should be carefully thought out and responsive to a specific need.

Releasing an individual's mental health status, interactions with the police relating to mental health or service, and other types of behaviour which fall short of criminal charges, not only expands the types of information an employer can collect, it turns the entire criminal record check system (and the presumption of innocence in our judicial system) on its head. The police record check system is not only overbroad in the type of information it releases, but the information often has no relationship or correlation to the needs of an employer.

We know that severe stigma and prejudice exists for individuals who have been diagnosed with a mental illness. The police record check system not only enables this stigma and potential discrimination based upon it, but it practically encourages it, by suggesting that mental health status is relevant to whether or not someone generally can be employed.

i) If your answer depends on the type of position, please break down the types of jobs and volunteer positions for which you believe collecting this amount of personal information is reasonable.

We do not believe the type of position matters because positions dealing with the vulnerable sector are already covered under the provincial legislation.

ii) If yes (or for the positions that you believe require a police information check), please explain why you believe employers need this amount of personal information.

iii) If no (or for the positions that you do not believe require a police information check), please explain why you do not believe employers need this amount of personal information and what elements of personal information you believe are not required.

We believe the type of position does not matter because the information being released (mental health contacts, alleged criminal behaviour without conviction, requests for service to the suicide hotline) is not reliable. Criminal convictions are releasable under statute (through the *Criminal Records Act*) in part because they require the scrutiny of the court system, and a conviction on the standard of guilt beyond a reasonable doubt. Not only are the types of information being released under a police record check not scrutinized by the judicial system, but in most cases

they are not scrutinized by anyone other than the police. The police are not qualified to diagnose an individual's health, to assign guilt, or to evaluate moral character for employment purposes.

If the veracity and accuracy of the information being released cannot be assured, then it should have little relevance and value to an employer. The only information which can be deemed reliable, and should be released under a police record check, are criminal convictions.

2) In some instances, employers and non-profit agencies require re-checks of an individual's criminal record every five years. Would your answer to question #1 change if instead of potential employees we were considering police information checks on individuals who were already employed or volunteering? If yes, how would it change?

Our answer would not change

3) What type of guidance is needed for employers, non-profit agencies and citizens to inform them about when it is appropriate to do an employment- related record check and the appropriate type of check to choose in any particular circumstance (*i.e.*, policy, legislation, etc.)?

We believe this is a legislative issue. The core problem with police record checks is that the current system was more or less created to circumvent the protection citizens enjoy under the *Freedom of Information and Protection of Privacy Act*, and the *Personal Information Protection Act*. By forcing an individual to make the application themselves, and signing a consent to release the information, police forces are claiming that they exempt from the provisions of FIPPA. We believe this claim is false.

Pursuant to sections 33.1 (1) and 33.1(7) of FIPPA, the police may only release information to an individual, if the individual "has identified the information and consented", or "the public body discloses information only in respect of the matter". We believe that the consent being provided in a police record check is often invalid, as the applicants truly have no ability to dictate the information they want released, set any type of parameter, and have no choice but to allow the police to decide what to release. Without choice there can be no consent.

The current police record check system has no limitations, as it is not contained by legislative limits. In a request for a criminal record check under the *Criminal Records Act*, the applicant knows exactly what the government is going to release, and can therefore consent, because the Act itself states that the release is only for criminal convictions.

Unlike a freedom of information request, where an individual can set the parameters, a police record check does not provide an option for an applicant to say they wish

only convictions to be released, or something similar. In fact, as the individual accounts attached to this letter show, attempts to receive a police record check without mental health information, or other information not related to criminal convictions, have been expressly denied by police forces.

Because it is our position that the current police record check system violates the privacy of individuals, as it does not genuinely allow for the applicant's consent, it cannot be solved with better guidance or education. A legislated solution is ideal, as it will likely be necessary to ensure compliance of police forces (given the fact that the OIPC has already made recommendations on this issue which were rejected by the B.C. Association of Police Chiefs and Vancouver Police Board). Policies restricting employees from requesting types of information are duplicitous as those entitled to information beyond criminal convictions (positions with the vulnerable sector) are already covered under provincial legislation.

A legislated solution could come in the form of an expansion of the *Criminal Record Review Act* to cover all criminal record applications, not just those in the vulnerable sector, or through *Police Act Regulations*, which have proven effective at setting provincial police policy.

i) Who do you believe should provide this guidance? The police? The provincial government? The Privacy Commissioner?

While we do not believe guidance will be enough to solve this problem, as stated in our response to question 3, in the event that the OIPC decides to recommend better guidance and information we believe it must come from the organization which is responsible for distributing police record check applications. A unified application form must be created, at a bare minimum, as the current system allows each police department to create their own form. The request form should be controlled by the OIPC and not police agencies. Employers could request such a form, or download it from the OIPC website, and in doing so they should be given the appropriate guidance and education on what types of information they have the right to collect. If the employer then decides to over-collect they expose themselves to both a privacy complaint and the possibility of human rights action if it can be proven that employment was denied due to the over-collection.

However, we must emphasize that we cannot think of an employment or volunteer opportunity which would require information other than criminal convictions that isn't already covered by the provincial CRRA system, and we do not believe that extra guidance or information would correct the fact that police agencies are deciding which the information to release in a manner which violates the right of the individual to set the parameters of disclosure through FIPPA.

We also believe that this would again wrongly place the burden of enforcement with the individual, who would be responsible for taking action if an employer tries to over-collect, or the police department over-discloses. It is much more logical to

simply prevent the possibility of over-collection and over-disclosure by legislating appropriate parameters for release.

4) Do you have any other thoughts on police information checks that we should consider as part of our investigation?

We believe there are two additional reasons why police record checks need to be regulated through legislation, and why such legislation should restrict the release of information solely to criminal convictions.

Firstly, police forces have stated that they believe they have a responsibility to release any information that could be interpreted as being even remotely relevant to an individual's character, because they fear they would be liable if that individual is employed and then causes harm to another individual as a result of that employment. While this does not excuse the current over-disclosure of information by some police forces, it does indicate a legitimate concern about the potential liability a police department holds in this situation, and explains in part why the current system was created. If the boundaries of the police record check system were legislated then that fear of liability would effectively be dealt with. Police departments following legislated rules about disclosure would no longer have to worry about liability for under-disclosure, as they would have the decision making process removed from their hands entirely.

Secondly, there is an arbitrariness to the current police record check system which makes it manifestly unfair, particularly when it comes to the release of mental health information and contacts. As the individual examples attached to this letter show, it is often by pure chance or circumstance that an individual will receive assistance from the police instead of from medical personnel, the B.C. Ambulance Service, or directly from the hospital. If the individual received care without the presence of police, that care would not be subject to disclosure. It is only when the police get involved that disclosure becomes a reality. This presents two real and serious problems:

1. People who live in certain areas or are born into a lower socio-economic situation, have a higher chance of police contact. Therefore, they will have a greater chance of having parts of their medical history disclosed in a police record check. Ironically it is often the most vulnerable in our society, and those in need of greater care, who could benefit the most from work and volunteer opportunities.

2. Once the current police record check system becomes well known and entrenched, people will be motivated to avoid contact with police, even when that contact is for the purposes of receiving medical help or care. The fact that the potential is there for an individual to request help from a service such as the suicide hotline and then find that request for service disclosed on a police record check, means they will be less inclined to seek that service in the future. In this sense, the disclosure of mental

health information is not only effecting the prospective employment and volunteer opportunities of an individual, but is potentially having an impact on the actual provision of health care services. The last thing we want is for someone to decide against reaching out for help in the fear that they will be labeled mentally ill, and that the label will follow them in any future attempts to find gainful employment or volunteer opportunities.

For all of the above reasons, and because of the individual stories attached to this letter, we believe that drastic changes must be made to the current police record check system in order to protect the privacy and health care rights of citizens in British Columbia. We hope you will agree, and make the strong recommendation for reform that is needed.

Sincerely,

PIVOT LEGAL SOCIETY



Douglas King
Barrister & Solicitor

The following stories are meant to illustrate the impact on the current police record check system on individuals who have received mental health services or care in British Columbia. While the names of the individuals have been changed to protect their identity, each story is a true account of their experience and circumstance, as told by the individual. All have given authorization for Pivot to submit their stories to the OIPC.

Story #1 – Colin

Colin is a father and husband who lives in the suburbs of Vancouver. In the Spring of 2013, he was experiencing some of the hardest times of his life, as his family struggled with various issues. Colin was having marital problems, and his wife had recently undergone surgery in a cancer scare. He was afraid their marriage was falling apart, and says that started feeling immense guilt for causing some of the difficulty in their relationship.

Colin started having trouble sleeping, and says he went 3-4 weeks where he was constantly getting little to no sleep, sometimes only an hour a night. He had convinced himself that he could not talk to his partner about his problems, and started feeling suicidal. One day, while riding on a BC Ferry, Colin called the suicide hotline, telling them that he was having thoughts of jumping from the ferry and ending his life. He stayed on the phone with the hotline, and as he came off the ferry he parked under a nearby bridge in West Vancouver. It was here that he was approached by members of the West Vancouver Police Department, who had been sent by the staff of the suicide hotline to come and help him.

Colin was taken to the Lion's Gate Hospital, where he received care. He says the police did nothing other than transport him to the hospital. He was later transferred to the mental health section of the hospital in the suburb where he lives, and continued to receive medical help and assistance. He completed an 11-week class to help him with anxiety, and also entered into counseling with his wife. Colin says their relationship has drastically improved, and he feels like they have turned over a new leaf. He started doing more exercise, and received medication to help with his insomnia. After a brief time off he was able to return to work full-time, and continues to do so.

Colin has a seven-year old daughter, who is very active in sports and clubs at school. Before the incident that lead to the call to the suicide hotline occurred, Colin had coached his daughter's baseball team, which required a police record check. That record check had come back clean, and Colin had taken the position.

About six months after the incident, in the fall of 2013, Colin was approached to also be the coach of his daughter's soccer team. The soccer association which runs the league she plays in asked for a police record check, and Colin made an application at the local RCMP station. The results of the check, which are attached in the following pages, disclosed the contact he had with police in the Spring of 2013 after calling the suicide

hotline. Under the heading “all information related to non convictions and all charges regardless of disposition”, the box “may or may not exist” was checked. Attached to the record check, in a letter which was provided “as a courtesy” for Colin, the RCMP explained the process, and gave the following details:

WEST VANCOUVER FILE: 2013-5442 – 2013 MAY 22 @ OR NEAR WEST VANCOUVER, BRITISH COLUMBIA – HARM TO SELF

The documents given to Colin also say “the agency you want to work or volunteer for may be able to find out from the RCMP if you are telling the truth about your criminal history/record. Please remember that when you answer the agency’s questions about the results of the check”

Colin was afraid to provide the results of the check to the soccer association, and did not know how he would explain the most personal details of his life to the soccer association if they asked. He elected to not provide the results of the check to the association. He began volunteering for his daughter’s team, but remains afraid that at any time the association will approach him and ask him for the results of the record check.



Royal Canadian
Mounted Police

Gendarmerie royale
du Canada

**CONSENT FOR DISCLOSURE
OF CRIMINAL RECORD INFORMATION**

PART 5

Following is information contained in the records of the RCMP or records from other police forces accessible through computer queries and is based on a name and date of birth check only. ****A record may or may not exist** for the subject of this inquiry, positive identification and a certified criminal records check can only be obtained through a fingerprint check. This can be made with the submission of a complete set of fingerprints to:

INFORMATION AND IDENTIFICATION SERVICES
CANADIAN CRIMINAL RECORD INFORMATION SERVICES
1200 Vanier Parkway
OTTAWA, ONTARIO K1A 0R2

**THIS CHECK DOES NOT INCLUDE
OFFENCES UNDER THE MOTOR
VEHICLE ACT. CONTACT ICBC FOR
A CERTIFIED DRIVING EXTRACT**

YOUNG OFFENDER INFORMATION - The Youth Criminal Justice Act/Young Offenders Act make it an offence to disclose young offender information. In cases where an adult's record contains young offender information or a young offender requests a copy of his/her criminal record, the criminal record information **MUST** be given to the requester. Individuals can disclose their own information, but even with consent the RCMP are not legally permitted to disclose young offender information.

INSTRUCTION TO REQUESTERS: The following section contains varying degrees of police information.

- Confirm with the party identified in PART 2, the exact information they require.
- Choose the category which best symbolizes the information you are providing consent for the RCMP to disclose, and place your initials in the appropriate INITIALS box.
- The party identified in PART 2 will be advised accordingly of negative checks.
- Checks resulting in possible "hits" for information identified in categories 1, 2 or 3 will require confirmation by the subject of the information.
- You will be required to confirm that information located through the checks stipulated in category 4, is your personal information.
- You may withdraw this consent prior to disclosure.

**A VULNERABLE SECTOR CHECK
FOR RECORD SUSPENSIONS OF
SEXUAL OFFENCES
HAS BEEN CONDUCTED
WITH NEGATIVE RESULTS**

| No. | Initials | Category of Information for Disclosure | FOR POLICE USE ONLY |
|-----|----------|---|---|
| 1. | LV | Records of criminal convictions found in the Identification Data Bank attainable through the Canadian Police Information Centre (CPIC) for which a pardon has not been granted. RCMP: Make CPIC Criminal Record "LEVEL 1" Query ONLY. | <input checked="" type="checkbox"/> None located <input type="checkbox"/> ** May or may not exist |
| 2. | LV | Records of criminal convictions attainable through CPIC for which a pardon has not been granted plus records of outstanding criminal charges which the RCMP are aware of or indicated within the Investigative Data Bank of CPIC. RCMP: Make CPIC Criminal Record "LEVEL 1" Query AND a Persons CPIC Query. | <input checked="" type="checkbox"/> None located <input type="checkbox"/> ** May or may not exist |
| 3. | LV | Records of criminal convictions and summary of police information (including records of outstanding criminal charges which the RCMP are aware of or indicated within the Investigative Data Bank of CPIC) attainable through CPIC for which a pardon has not been granted plus records of discharges which have not been removed from the Identification Data Bank in accordance with the Criminal Records Act. This will include all charges regardless of disposition. RCMP: Make CPIC Criminal Record "LEVEL 2" Query AND a Persons CPIC Query. | <input checked="" type="checkbox"/> None located <input type="checkbox"/> ** May or may not exist |
| 4. | LV | Police information located on computer systems (e.g. Police Information Retrieval System (PIRS), CPIC, PROS, PRIME, LEIP) and information located through local police indices checks. This will include all information related to non convictions and all charges regardless of disposition. RCMP: Make Persons Queries on PIRS, CPIC, PROS, PRIME and LEIP. In view of the general nature of this information, confirm with requester this is in fact information pertaining to him/her. Requesters MUST confirm information which pertains to them prior to disclosure. If a discrepancy exists, do not disclose this information. | <input type="checkbox"/> None located <input checked="" type="checkbox"/> ** May or may not exist |

COMPLETED BY T.D. Milne

Member (signature)

(T.D. MILNE)

R.C.M. Police Unit

Ridge-Meadows Detachment

11990 Haney Place

Maple Ridge, B.C. V2X 9B8

Phone: 604-463-6251

Date

13 Oct 10



Royal Canadian Mounted Police
Gendarmerie royale du Canada

Security Classification/Designation
Classification/désignation sécuritaire

Unclassified

OIC RCMPOLICE
Ridge-Meadows Detachment
11990 Haney Place
Maple Ridge, British Columbia
V2X 9B8

Your File Votre référence

3584e = English

3584f = French

TO WHOM IT MAY CONCERN

Our File Notre référence

This letter is provided to the Applicant as a courtesy and is for use at their discretion.

2013-10-18

Dear Sir / Madam:

Criminal / Police History Check - Form 3584e

No names, or other personal details are noted on this document. This is a security measure in the event it is lost in transit, or otherwise misplaced by the applicant.

EXPLANATION OF PROCESS

The term "criminal history record check" is very misleading. A more appropriate term would be "police history check." This is because an exhaustive search of all available police databases is conducted, not just databases that deal with criminal convictions. If any adverse information is located during the search it will result in a "May or May Not Exist" response in one of the boxes at the bottom portion of form 3584e.

Please note that "adverse information" includes a police file in which the applicant is:

- the subject of a founded, substantiated complaint relating to a provincial or federal offence;
- an emotionally disturbed person - relating to incidents under the Mental Health Act;
- a bona fide suspect;
- charged with a provincial or federal offence;
- acquitted; or
- convicted

This letter is supplied when one of the boxes on form 3584e results in "May or May Not Exist." In the case of this individual "May or May Not Exist" is checked off for the reason(s) as noted on page two:

Note: As of August 27th, 2010 the RCMP no longer include Motor Vehicle Act offences or Municipal offences as part of the Record Check process. This check does not include offences under the Motor Vehicle Act. Contact ICBC for a Certified Driving Extract.

Canada

BOX 4

Queries conducted on the police computer system reveal an adverse record or records that may or may not relate to with the West Vancouver Police Department:

WEST VANCOUVER FILE: 2013-5442 - 2013 MAY 22 @ OR NEAR WEST VANCOUVER,
BRITISH COLUMBIA - HARM TO SELF

See page 3 for frequently asked questions.

Respectfully yours,

Handwritten signature of D.J. Fleugel in black ink.

(D.J. FLEUGEL) Superintendent
Officer in Charge
Ridge-Meadows Detachment
13 OCT 18

IMPORTANT INFORMATION ABOUT YOU CRIMINAL HISTORY/RECORD CHECK REQUEST

A business, government agency or non-profit organization has asked you to get a criminal history/record check from the RCMP. As part of the RCMP's commitment to professionalism, this detachment would like to explain to you what a criminal history/record check with the RCMP is, so that when you fill out the form, you will know exactly what the RCMP is going to do with it.

You will have to show identification that has a photograph and a signature.

Your local RCMP detachment does not have to complete this check for you. They may ask you to get your criminal history/check done formally by the RCMP in Ottawa.

The RCMP will not complete the check unless you initial all 4 boxes at the bottom of the form on the left side.

To complete the check, the RCMP will use all police information available to them, including information from other Canadian and certain foreign police forces.

If the RCMP finds any adverse information about you, it will place a check mark in the appropriate "may or may not exist" box on the form. This means that criminal convictions are not the only adverse information that will show up on the form.

In particular, the RCMP will check "may or may not exist" for box 4 if you have been, in relation to a municipal, provincial or federal offence:

- i. the subject of a complaint**
- ii. a confirmed suspect**
- iii. charged or convicted for an offence and your fingerprints were not or could not be taken**
- iv. acquitted of a charge or had a charge stayed**

The RCMP will also check "may or may not exist" for box 4 if the police have dealt with you under the Mental Health Act.

Pardons (**other than for sexual offences**), certain youth records, and certain conditional and absolute discharges will not show up on this form.

The RCMP will not be able to give this form to someone else, even with your permission, if you are a youth or you have any youth records with adverse information.

The RCMP will discuss box 4 "may or may not exist" check marks with you before they give the information to someone else. The agency you want to work or volunteer for may be able to find out from the RCMP if you are telling them the truth about your criminal history/record. Please remember that when you answer the agency's questions about the results of the check.

If you are going to be working or volunteering with "vulnerable persons" (children, handicapped people, medical patients, the elderly, etc), you will also have to fill out forms 3923 and 3924.

Story #2 – Margaret

Margaret is a 66 year-old woman and a resident of Vancouver, British Columbia. She worked for many years as a teacher, has a degree from UBC in special education, and is certified to teach in British Columbia schools from Kindergarten to Grade 12. Nearing the end of her career, Margaret has spent some time off of work and now wishes to get back into volunteering, or possibly try finding one last job before she retires.

Margaret has been diagnosed with Schizo-effective disorder, and has received psychiatric care for a good part of her adult life. She has had three incidents where she came into contact with police, all for the purposes of being transported to hospital. Margaret has never been charged with any type of criminal or provincial offence. One of those police contacts occurred in 2004, and another was in 2009.

In the Spring of 2012 Margaret applied to work and was asked to get a police record check. She made an application with the VPD, and the results came back clean. The check made no mention of either incident in 2004 or 2009. She did not however take the job.

Then, in the fall of 2012, Margaret hit a difficult patch with her illness, and while visiting her psychiatrist, it was determined that she should spend some time in the hospital. Needing to be transported from the psychiatrist's office to the hospital, 9-1-1 was called. Police arrived, and took Margaret to the hospital, where she received care.

In 2013, after receiving additional care and feeling capable of working, Margaret began to look for job or volunteer opportunities. She found out that an elementary school in Vancouver was looking for experienced people to help read to children at the school. Margaret contacted the school, which asked her to complete a volunteer application and a police record check. Margaret went back to the VPD and requested another police record check.

The results of this check however came back different. The check not only mentioned the incident in 2012, but also included the incident in 2009, which had been left off the previous check. Margaret was embarrassed, and did not want to provide the check to the elementary school. Margaret contacted the VPD, and asked to speak to a supervisor. She was forwarded on to the director of information services, and told she could appeal the decision to include the mental health contacts. In conversations with the VPD she was told that the first check did not include the 2009 incident in error, and that incidents involving mental health are disclosed for five-years after they occur. She was also told that incidents involving suicide are disclosed for one-year, unless there are multiple incidents, in which case they are kept for three. She was told that the VPD would not be willing to provide her a record check which only contained convictions and did not contain her mental health data.

Margaret went to her psychiatrist, and asked her to provide a letter of support. In that letter, her psychiatrist stated:

“Miss Duncan believes that because she has a mental illness she should not pop up on the criminal background check. I agree with this. Unfortunately this could lead to her being unable to pursue her professional goals.”

Despite the intervention of her psychiatrist, the VPD again refused to remove the mental health contacts from her police record check. They did however state that in 2014, when the five-year period had expired for the first incident, she could apply again and they would only release the incident from 2009. Feeling trapped, Margaret did not provide the record check results to the elementary school, and dropped out of volunteering.

Margaret now feels like she will be completely unable to pursue any work or volunteer opportunity unless she is given a clean record check. Without that she would have to disclose her mental health status, and she believes nobody would hire her. Over the last two years Margaret has spent hundreds of dollars on accreditation and licensing fees to be capable of teaching again, and has now also spent \$140 for the two police record checks.

Feeling that the police record check process is manifestly unfair, Margaret filed a complaint to the Vancouver Police Board. The Board looked at her complaint, and expressed concerns, but ultimately rejected it on the basis that the VPD is following the provincial guidelines which have been established by the B.C. Association of Police Chiefs and the working group which was struck to address this topic. She has stopped looking for employment or volunteer opportunities since she is unwilling to disclose her mental health status to potential employers.

Story #3 – Anika

Anika has a degree in criminology and holds a certificate to be a legal assistant. She also suffers from borderline personality disorder, and a mood disorder.

In 2002 Anika was employed with a credit recovery company, and worked with them for a number of years. In 2006 she went on long-term disability due to her illnesses, and has been out of the workforce for quite some time. Because of her illness Anika has periods where she feels totally fine and normal, but will quickly descend into a deep depression and feelings of self-harm. When she gets these feelings, and she has had them so often that she has learned to know when they are coming and what to do, she seeks help. Because of this she has had 68 contacts with police, who are often the first responder when she calls 9-1-1 and asks for help.

In August of 2013, Anika felt like she wanted to try going back to work part-time. She applied for a position with a residential care facility, which requested a police record check. Anika made the check, and it was returned to her with the box marked indicating she had police contacts which did not result in a criminal charge. She was told by the RCMP, who she applied for the record check with, that when she was speaking to the potential employer about her situation she had to tell them specifically that she had 68 contacts. The RCMP told her that if she did not disclose the accurate number of contacts and the employer called to verify then they would say she was lying.

Anika was too afraid to deliver the record check to the employer, and quit after one day on the job. She says that she has since made no efforts to apply for work, and is now “always second-guessing herself”. Anika says she is torn between trying to market herself and re-join the workforce, or just giving up. She feels that the police disclosing this information is stigmatizing to her, and that there should be a separation between self-harm/depression incidents and other types of violence, since she has never hurt anyone.

Anika feels like the police are often not capable of understanding her situation. Once when she called 9-1-1 to be taken to the hospital she says she was mocked by a police officer, who told her that he wanted the provincial government to do something about mental illness and re-open Riverview. At the same time she feels that police should not be the front-line workers who are responsible for dealing with mental illness, and appreciates services such as Car 87. Anika used to call the after-hours mental health line operated by Fraser Health, but this service was recently closed because there were not enough people who called it. But she says that the people who did use it are now being told to call the police instead, and she feels like she doesn't have a choice but to call 9-1-1 when she needs help with her mental health issues. Anika currently sits on the Mental Health and Addictions Committee of one of the suburbs of Vancouver, and says a lot of the members have also experienced problems with police record checks.

Story #4 – Sophia

Sophia is a 44 year-old immigrant to Canada, who lives in the suburb of Surrey. In February, 2013, she wanted to apply for a position in a program through the school she attended, which started in September of the same year. The program helps people obtain positions working in early childhood education, by providing funding assistance to the employer. In order to apply for the program an applicant needs to first take on a volunteer position. Sophia had identified such a position, and went to the Surrey RCMP to apply for a police record check.

The results of the record check disclosed that in 2009, while Sophia was attending to the Surrey Mental Health clinic, she was taken to the hospital by police. Sophia says she herself does not remember a lot of what happened, but agreed to be hospitalized. Again, in Sophia's case, the police did nothing but transport her to the hospital. The criminal record check disclosed that Sophia was hospitalized under section 28 of the Mental Health Act.

Sophia contacted the RCMP, and asked them for an explanation. She says the RCMP told her that because the position she applied for relating to working with children that they had to disclose the mental health contact. Sophia asked for them to remove the contact, but they refused.

Later on in 2013, Sophia looked again at applying for the same program for 2014, and again contacted the RCMP to ask if she could receive a clean criminal record check. This time the RCMP said that because her contact was from 2009, and was close enough to the end of the five-year disclosure period they had assigned to it, that they would give her an exemption and deliver a clean check. Sophia applied for a new record check and it came back clean.

With a clean check Sophia was able to complete her application to the program, and she is very happy about that. However, because of the police record check, and disclosure of her mental health status, Sophia had to wait a full year before entering the program she wanted.

Story #5 – Marlene

In May of 2011 Marlene was apprehended by the Langley RCMP under the Mental Health Act. Marlene had attended to her regular pharmacy because she was in a manic state, and knew she needed medication to treat her mental illness. She thinks she must have been looking like she needed help, because the pharmacy staff called 9-1-1 to get her a ride to the hospital. It was the police that arrived and transported her.

When Marlene applied for a police record check, she was surprised to see this incident disclosed. She contacted the RCMP, and was told that it is the arresting officer which decides how long an incident will be disclosed in a police record check. In this case, she was told that the arresting officer decided it should be disclosed for five years. She asked if there was any way to challenge that decision, and was told there was not.

Marlene first became away of the disclosure when she applied for a volunteer position at the Fleetwood Recreation Centre, in 2012. She had hoped to use her training as an artist to work with children, teaching them art. When she realized that the police record check required her to disclose the incident to her employer she withdrew from the position and cancelled the interview they had scheduled for her.

Marlene does not have any type of criminal conviction, and while she isn't ashamed of her health status, she did not want to speak to someone she didn't know about it. Later, in 2013, Marlene applied for a position with an agency which works with individuals who have mental health conditions. When she applied for this job she decided to show them the record check and disclose the incident, because she figured they would be more understanding. While Marlene is qualified to teach, and has a certificate to do so in B.C., the job she applied for was to work as a support worker.

Marlene was told by the RCMP that the incident in question would not be taken off of her record until 2016. Until then, Marlene feels like she has basically been told that the only place she can work or volunteer is with an organization designed to help people with mental illnesses.