



MEMORANDUM

TO: Ministry of the Solicitor General, Government of Ontario

FROM: Renze Nauta, Work and Economics Director
Andreae Sennyah, Director of Policy

DATE: December 6, 2023

SUBJECT: PRCRA Legislative Review – Humanizing Criminal Records

WHO WE ARE

Cardus is a non-partisan think tank dedicated to clarifying and strengthening, through research and dialogue, the ways in which society's institutions can work together for the common good.

ISSUE

This memorandum is an additional submission to the legislative review of the *Police Record Checks Reform Act* (PRCRA). In light of recent Cardus research, this submission responds to questions 1 and 19 of the consultation paper. The policies proposed herein are outlined in detail in two Cardus reports: [Humanizing Criminal Records: Toward a View of the Whole Human Person](#) and a forthcoming Cardus report for Ontario 360.

POSITION AND RECOMMENDATIONS

Criminal records—and how employers interpret them—have long been identified as a barrier to employment for the one million Ontarians who have them. A criminal record can act as a stigmatic label that discourages an employer from hiring an individual who has one. Yet employment is an important part of curbing recidivism.

In the context of amendments to the PRCRA, we propose that the Government of Ontario:

- Mandate that the results of police record checks include positive, general information about the employability of persons with criminal records.
- Give people with criminal records the option of including positive, individual-specific information directly on the results of their police record checks. This information would highlight positive aspects of an individual's relationship with the criminal justice system, including skills training that they would have received during their sentence.

BACKGROUND

Employment is a key factor in helping people with criminal records to turn their lives around. Yet the stigma of a criminal record makes it very difficult for these individuals to obtain employment. Importantly, several studies demonstrate that employers tend to overemphasize the effect of having a criminal record on an individual's suitability for employment.

In order to break this vicious circle, some jurisdictions, especially in the US, have “banned the box” to prevent employers from asking job applicants about their criminal record early in the application process. The “box” refers to the checkbox on application forms asking the applicant to indicate whether they have a criminal record. The problem is that ban-the-box policies can have negative and unintended consequences: studies have shown that they can lead to lower employment rates for Black and Hispanic people, whether they have criminal records or not. Researchers hypothesize that when employers lack information about individuals' criminal records, some employers may default to assumptions about racial communities whose members are statistically more likely to have criminal records.



Our proposal takes a different approach. Instead of *reducing* information available to employers, it suggests *increasing* it. The first policy proposal above seeks to change employers' perspectives with general counterbalancing information about the employability of people with criminal records. This could include, for example:

- factual information from reputable studies demonstrating that people with criminal records can be good employees,
- best practices for interpreting the relevance of information contained in a criminal record and for using them in job application processes, and
- a list of resources (such as those provided by the John Howard Society) for employers who are hiring people with criminal records, such as advice on integrating this population into the workplace.

The second policy goes further in addressing a fundamental problem with criminal records: that they fail to capture the totality of a person's relationship with the criminal justice system. In reality, a person's experience in the justice system incorporates much more than an enumeration of arrests, convictions, and sentences. It may include, for example:

- skills training or other educational programming undertaken through the justice system,
- psychological and spiritual counsel or treatment for alcohol and substance abuse,
- an individual's record of behaviour while in prison, and
- how readily the formerly incarcerated person cooperates with parole officers.

Therefore, the second proposal is that the Government of Ontario reform its criminal-record systems by giving people with criminal records the option of having this favourable information included directly in the results of their criminal record checks. In this way, governments can offer employers a more complete picture of the person and help them to make a fairer assessment.

DETAILS

Our report, [*Humanizing Criminal Records: Toward a View of the Whole Human Person*](#), includes a framework for considering the policy details necessary for implementation of the second policy.

CONTACT

We would welcome the opportunity to meet with you and assist with future considerations on this issue. Please do not hesitate to contact us at rnauta@cardus.ca and asennyah@cardus.ca.