



# Canadian Association of Chiefs of Police

Supporting police professionals through innovative and inclusive police leadership  
to advance the safety and security of all Canadians.

Position statement during the Public Safety Canada  
virtual engagement session

## Proposed automated sequestering of criminal records system

Remarks by:

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and

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Representing:

**Canadian Association of Chiefs of Police**

June 29, 2022

Through this targeted consultation process, the Government of Canada is seeking input on several key questions to help develop a comprehensive and inclusive proposal for an automated sequestering of criminal records (ASCR) system. The following questions are intended to stimulate discussion and explore how an ASCR system could be implemented in the Canadian context, as well as the resulting benefits to those who qualify.

## **General Questions**

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### **1. Given what we know about criminal records, what do you see as the main benefits of a sequestering criminal records?**

The CACP supports this measure and its objectives. The benefits include avoiding stigmatization while promoting greater equity in our society. Knowing that Indigenous people and visible minorities are over-represented, particularly in the justice system, this measure will certainly allow for a better reintegration into society.

### **2. What do you see as the barriers to sequestering criminal records?**

In our view, the main issue is to ensure that this measure will not put certain categories of people at risk, especially vulnerable people (youth, abused women, seniors, people with intellectual disabilities).

Automation should not be used for all types of offences. Beyond terrorism and certain crimes of a sexual nature committed against young people, we believe that any violent crime committed against vulnerable people, such as violence against women, should not be included in the ASCR system. This information is crucial to avoid tragedies and police services must be aware of the criminal history of these people. Public safety is at stake.

### **3. What do you see as the benefits and pitfalls of an automated sequestering of criminal records system?**

With respect to the benefits, some were mentioned in the previous responses. In addition to those, there is the elimination of administrative processes within police organizations (processing of pardons, etc.) and improved access for all.

With respect to the pitfalls, as long as the protection of vulnerable people is addressed, there is only one other barrier worth noting. People who legally change their name could lead to their name not being matched the existing records when, in fact, it is the offender in question. This could pose a significant problem.

**4. Do you believe that an automated system would affect the integrity of the criminal records sequestering program?**

No, not if, as mentioned above, it is not automated for violent crimes involving vulnerable persons. In this particular case, people should proceed as they do now and a more rigorous assessment will determine whether or not that person can benefit from the sequestering program.

## **Eligibility Criteria for the ASCR**

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**5. What should the threshold be for activating the ASCR (e.g., sentence served, end of waiting period, seriousness of offense, no new convictions)?**

The CACP recommends a time period between the end of the sentence (sentence served) and the record suspension. Under Bill C-31, a 5-year period is identified for indictable offences and a 3-year period for summary conviction offences. In our view, similar timeframes would be very reasonable. Thus, it would be up to each person not to reoffend within a 3 or 5 year period to be eligible.

In addition to this, the nature of the offence must be taken into account. We believe that crimes against the person committed against children, seniors, women and people with intellectual disabilities should not be part of the ASCR system.

**6. Should there be criteria for ineligibility other than those set out in the legislation (e.g., length of sentence, time served, pending charges, re-engagement with the criminal justice system)?**

Yes, as stated above, crimes against the person committed against children, seniors, women, or persons with intellectual disabilities should not be part of the ASCR system. In addition, the person would be required not to have re-offended within 3 or 5 years to be eligible.

**7. Should the automated sequestering of a criminal record only apply to less serious offences?**

It should not apply to crimes against the person committed against children, seniors, women, persons with developmental disabilities, etc. and should not be part of the ASCR system.

**8. Should people with more than one conviction be eligible?**

Yes, as long as they have demonstrated that they have not had any further dealings with the law for five (5) years, much like the current pardon applications, excluding the crimes mentioned above of course.

**9. Should the ASCR system trigger a signal for review by the Parole Board of Canada? If so, when or under what circumstances?**

In cases where a person has committed multiple offences, the idea of a signal for review may be appropriate. Also, if the current pardon option is not preferred for people who have committed crimes against the person involving children, seniors, women, or people with intellectual disabilities, then a signal for review might be an interesting option for these types of offences. It is imperative that we ensure that vulnerable people are protected.

**Retention and disclosure of the sequestering of a criminal record**

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The Minister of Public Safety will retain the right to disclose the sequestering of a criminal record for purposes consistent with the administration of justice (e.g., legal cases); related to the safety and security of Canada (e.g., pre-employment by police); and for individuals applying to work or volunteer with vulnerable populations who have been convicted of certain offences (e.g., indecent or sexual offences).

**10. Would maintaining certain ineligibility and disclosure rights help keep communities safe?**

To some extent yes, but with these limitations. We are thinking here primarily of violence against women.

**11. Do individuals need to be informed about whether or not their criminal record has been sequestered?**

If this is done automatically, no, as long as the population has been informed of this change through a national awareness campaign. For others, yes.

**12. Do you foresee any issues, considerations or challenges with the ASCR system?**

In our opinion, the main issue is to make sure that this measure will not put certain categories of people at risk, notably vulnerable people (young people, abused women, seniors, individuals with intellectual disabilities).

Automation should not be done for all types of crimes. Beyond terrorism and certain crimes of a sexual nature committed against young people, the CACP is of the opinion that any violent crime committed against vulnerable people, such as violence against women, should not be included in the ASCR system. This information is crucial to prevent tragedies and police services must be aware of the criminal history of these people. Public safety is at stake.

Furthermore, in our opinion, there are grey areas that must be clarified. First, the limit to benefit from this system must be clearly established. Currently, people are allowed one pardon application in their lifetime. How are we going to apply this philosophy in an automated sequestering system?

In addition, this legislation is currently silent on its retroactive application. We have concerns in this regard as it will require a great deal of work to adequately comply with the law.

Another concern raised pertained to the automatic sequestering of criminal records related to certain offences, because of the known escalation of certain types of crimes. For example, a person may start with harassment, then move on to stalking, assault, etc.

From a local records management perspective, if a "pardon" is granted after three years, should we expect to purge local records of the offence as well? This is problematic because provincial legislation sets retention periods, and for most offences, these periods are five years in some regions. If local files are expected to be purged as well, some provincial legislation will have to be amended.

We also wish to express concerns about sequestering criminal records without consulting the local agency. It is possible that no information exists in the Canadian Police Information Centre (CPIC), but what if an offender is about to be charged again and therefore about to become ineligible? We would like to confirm that it is CPIC in Ottawa that clears the charges, not the jurisdiction. If it is the local agency, it could be problematic from a resource perspective.

In terms of data collection, there is generally a "consistent" collection of crime categories, but the problem between jurisdictions will be in the retention and purging of records. Does the program anticipate that all documents will be purged, or just the criminal record? This needs to be clearly addressed in the legislation.