



Canadian Association of Chiefs of Police
Association canadienne des chefs de police

Oral Submission to the Standing Senate Committee on
Legal and Constitutional Affairs

**Bill S-212 – An Act to amend the *Criminal Records Act*,
to make consequential amendments to other Acts and
to repeal a regulation**

Remarks by:

Chief Francis Lanouette

(Co-chair of the CACP Crime Prevention, Community Safety
and Well-being Committee)

and

Ms. Katrina Swan, K.C.

(Member of the CACP Law Amendments Committee)

Representing:

Canadian Association of Chiefs of Police

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Good morning.

In general, the CACP is supportive of Bill S-212 as it seeks to avoid stigmatization, reduce the over-representation of visible minorities in the criminal justice system, and promote the reintegration of offenders into our community.

That being said, the bill needs to give more weight to public safety and the rights and safety of victims of these crimes. We need to ensure that we do not put certain categories of individuals at risk, particularly vulnerable persons.

In addition, the definition of vulnerable persons must be expanded. As drafted, the bill is particularly focused on children. The definition should also include abused women, seniors, and people with physical or intellectual disabilities.

For public safety reasons, the CACP strongly encourages the exclusion of certain categories of offences from automatic expiry. In addition to the offences found in Schedule 1 and Schedule 2 of *The Criminal Records Act*, the list should be expanded to include exemptions for offences against vulnerable people, offences involving violence, or an offence involving a firearm. Such offences should remain on the offender's record and not be eligible for suspension, expiry, or pardon.

To prevent tragedies, police services must be able to know an individual's criminal history to identify trends or escalating behaviour, and to engage in proactive efforts, where appropriate, to ensure public safety.

That is why we appreciate the inclusion of the section regarding police access to criminal records. However, we call for broader access beyond the Canadian Police Information Centre (CPIC).

In our view, there are a number of grey areas in the Bill that need to be clarified. To address these topics, I invite my colleague Katrina Swan to address the committee.

Thank you Directeur. I am appearing before you today from Regina, Saskatchewan, located on Treaty 4 territory, which is the home of the Nehayiwak, Anishnapek, Dakota, Nakota, Lakota, and the homeland of the Métis Nation.

The CACP would like to encourage the preservation of section 4(2) of *The Criminal Records Act*. Currently, section 4 expressly prohibits eligibility for a pardon for a person convicted of a Schedule 1 offence, for someone convicted of three indictable offences, or for an offence that is subject to the maximum punishment of imprisonment for life, and for which the person was sentenced to imprisonment of two years or more. Schedule 1 offences are primarily sexual offences and offences against minors. In the current Act, there are limited exceptions for this prohibition. In Bill S-212, section 4(2) has been replaced entirely and there is no limit on the types of offences eligible for expiry. This causes significant concern for the CACP.

In 2022, Public Safety Canada engaged in consultations on an automated system for the sequestering of criminal records. The final report included an acknowledgement that serious offences, particularly those involving vulnerable people, would not be appropriate for automatic expiry. It also noted that in countries where automated systems exist, serious offences are excluded from automatic expiry.

The CACP also raises questions about the Disclosure to Police provisions found in sections 6.2 and 6.3, as proposed. In the current system, police services rely upon their own records management systems to provide up-to-date and historical investigations involving offenders. Would the automatic expiry of a criminal record, include a prohibition on police services from relying upon, accessing, or sharing information with other police services about offenders with expired records? Would it require the automatic purging of police investigative records? Through the debate of this Bill before the Honourable Members, it appears as though the answer to this question remains unclear.

As previously mentioned, access to, and sharing of, this information is crucial for public and officer safety, for preventing tragedies, for identifying trends or escalating behaviour, and to engaging in proactive efforts where appropriate. I note that advocates who are generally in favour of the proposed bill, including those who appeared before this committee last month (specifically Ms. Latimer from the John Howard Society of Canada and Ms. Berger from the Canadian Civil Liberties Association) acknowledged the importance of ensuring police have access to information for investigative reasons or justice system reasons.

In addition, the Bill is silent on its retroactive application.

One final question is related to the impact of the proposed amendments upon the disclosure of interpersonal violence protocol, also known as “Clare’s Law”. This law authorizes a police service to disclose certain risk-related information to a current or former intimate partner in cases where such information can assist them in making informed decisions about their safety, within their relationship. The rights and safety of victims and potential victims must be given greater weight.

In conclusion, while the CACP is generally supportive of Bill S-212, we do believe there are some limits that should be considered and some areas that require clarification.

Thank you.