

## **Criminal Reference Check Policy**

- **Approval Dates:** December 2012
- **Approved by:** Board of Directors
- **Jurisdiction:** Chair, Governance Committee

### **Introduction**

The Foundation exercises due diligence when placing individuals into positions that provide direct care or service to vulnerable children and/or adults.

This policy sets out the requirements and procedures that apply when an individual will, as a result of their position or potential position, be required by the Foundation to undergo a criminal reference check.

### **Application and Scope**

This policy applies to students, volunteers, employees and candidates for employment whom the Foundation deems, as a result of their position or potential position, to require a criminal reference check. Candidates for employment or volunteer positions may include students, potential employees, volunteers or individuals from outside the Foundation and will be required for either full or part-time positions. Students who may require a criminal reference check in order to comply with work placement requirements, will come under the jurisdiction of the *Criminal Reference Check Policy for Students*.

### **Definitions:**

For the purposes of this policy the following definitions apply.

**Position:** Refers to paid employment (full or part-time) or volunteer/student assignment.

**Children:** Persons who are less than 18 years of age.

**Vulnerable Adults:** Normally refers to persons who, because of their age, a disability or other circumstances, whether temporary or permanent, are in a position of dependence on others, or, deemed by the Foundation, to be at greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.

**Direct Care:** Direct care normally refers to positions that provide support and supervision of individuals in a variety of areas of their lives, including vocational, educational, medical, social and/or recreational.

**Criminal Reference Check:** Consists of a check by the Toronto Police Service, or the police centre that has jurisdiction over the area where the individual resides. The check includes disclosure of:

- Criminal record (adult);
- Criminal record (young offenders);
- Records of not guilty by reason of mental incompetence;
- Pending charges and previous or ongoing investigations under federal and provincial statutes;
- Pending charges under the *Child and Family Services Act*;
- Convictions for provincial offences;
- Probation orders;
- Prohibition and other judicial orders which are in effect;
- Records of conviction for offences under the *Child and Family Services Act*.

Criminal Code convictions will not be reported as part of the criminal reference check if a pardon has been granted. Summary information details any type of police contact for which the individual has not been charged or convicted.

## **Policy**

A current criminal reference check is required for identified positions, before an individual can be confirmed in that position. If a student, volunteer or candidate for a position refuses to consent to, or cooperate with, the criminal reference check he/she will no longer be eligible for the position.

Offers of employment and student/volunteer assignments for identified positions are conditional upon a satisfactory criminal reference check.

The results of criminal reference checks will be reviewed by the Executive Director or designate. The presence of a criminal record does not automatically disqualify an individual from a position. The Executive or designate, will assess each situation to decide to what extent the individual would pose a risk to children and/or vulnerable adults. Consideration will be given to the following factors:

1. The nature of the offence and the number of convictions;
2. Sentence(s) received;
3. The length of time since the most recent conviction;
4. Any rehabilitative efforts made by the candidate;
5. Any submissions made by the candidate;
6. The specific duties and responsibilities associated with the position and the relevance of the particular criminal conviction to the position;
7. Any other factors deemed relevant by the Executive Director.

Candidates applying for positions subject to this policy will be advised of the requirement for a criminal reference check should they be the successful candidate. Volunteers who will be affected by this policy will be informed of the requirement for a criminal reference check and will have completed a criminal reference check before they begin their volunteer activities.

The Foundation will establish and maintain a list of positions that would be reasonably expected to be subject to this policy.

### **Cost**

If requested, the cost of criminal reference checks will be charged to a Foundation cost centre and be administered by Human Resources for employment and volunteer related positions.

### **Confidentiality of Information**

Personal information cannot be collected, used or disclosed without the prior written consent of the individual in question. The Toronto Police Service, or other police centre, will release to the individual, information regarding their own criminal record and/or summary information.

Information collected with respect to criminal reference checks will be maintained in accordance with the Memorandum of Understanding between the Toronto Police Service and Broad Reach Foundation. Broad Reach will maintain the information in a secure manner for the duration of the individual's employment or assignment. Once an individual's employment/assignment is terminated, all information obtained through the criminal reference check will be destroyed. The information is confidential and will be maintained in a

separate file from the individual's official personnel file (if applicable). The information will be used solely for the purpose that the release of the information was required. Information provided by the Toronto Police Service will not be altered in any manner.

Information about offences under the *Young Offenders Act* will not be retained. A notation will be made in the individual's file indicating that information was disclosed through a criminal reference check, however, details with respect to the nature of the offence are protected under the *Young Offenders Act*.

### **Positions Requiring A Criminal Reference Check**

All employees or individuals who are associated with:

1. On water program and activities;
2. Ashore program and activities;
3. And any other position, which might be expected to come into contact with vulnerable individuals as defined in "Definitions".

### **Jurisdiction**

This policy falls under the jurisdiction of the Chair, Governance Committee. The application and interpretation of the policy, and its associated procedure, is the responsibility of the Executive Director with respect to employment and volunteer situations.

### **Procedure**

This procedure conforms to the requirements of the Toronto Police Service. Where the procedures of the police centre that has jurisdiction over the area in which an individual resides conflict with the procedures of the Toronto Police Service, the procedures of the relevant police centre shall apply. It is a requirement of the procedure established by the Toronto Police Service that up to three employees be designated as contact persons, to ensure consistent and accurate exchange of information and documentation. The contacts at the Foundation are:

- Executive Director
- Chair, Governance Committee
- President, Board of Directors

1. The Executive Director is responsible for engaging the volunteer or candidate in a position that is subject to the criminal reference check and s/he will:
  - a. Provide the individual with a *Consent to Disclosure of Personal Information* form;
  - b. Inform him/her of the criminal reference check process, including the type of information that will be disclosed (see definition);
  - c. Inform him/her that the presence of a criminal record does not automatically disqualify him/her from the position; and,
  - d. Request two pieces of identification to verify the identity of the individual, including one piece of photo identification.
2. Individuals requiring a criminal reference check are responsible for personally meeting this obligation prior to commencing employment or placement. If the individual is not a resident of Toronto, he/she will be informed that he/she will have to follow the procedures established by the police centre that has jurisdiction in his/her area. This may include personally attending the police centre, signing any required forms and disclosing the results of the criminal reference check to Ryerson.
3. Any individual being considered for a position for which there is a criminal reference check requirement and who refuses to comply with the requirement will be deemed to have withdrawn from the volunteer/employment competition and is no longer eligible for the position.
4. If the criminal reference check does not disclose any prior criminal record or summary information, the Toronto Police Service will send a copy of the original consent form, stamped "No Information On File," in the upper right corner. Upon receipt of the stamped form, the Foundation may confirm the individual in the position.
5. If the criminal reference check reveals a record of offense or summary information, the Toronto Police Service will send a letter to the individual advising him/her:
  - a. Of the information that has been gathered through the criminal reference check procedure;
  - b. That a letter has been sent to the Foundation indicating that information has been sent to the individual and to contact the individual for further details;
  - c. To contact the police department to arrange for a meeting to review the information revealed in the search.
6. Upon receipt of the letter, the Executive Director will contact the individual to discuss the situation. He/she will have the option of providing the written validation from the police

centre outlining the nature of the police record. Failure to disclose the information will, however, mean that he/she is no longer eligible for the position and that the proposed offer of employment or assignment will be terminated. In addition to providing the written validation, the individual will have the opportunity to make submission to the manager, which will be reviewed with the Executive Director.

7. The Executive Director will review the information obtained from the individual and determine the relevance of the information to the position requirements. A decision on the employment/assignment will be made in two (2) weeks.

8. Reimbursement for employment or volunteer related criminal reference checks will be made to the individual upon submission of a receipt of payment from the Toronto Police Service to Human if requested.

### **Jurisdiction**

This procedure falls under the jurisdiction of the Chair, Governance Committee. The application and interpretation of the procedure, and its associated policy, is the responsibility of the Executive Director.