MEMO re: policy change for police records check requirements

The following proposal was passed by the General Council Sub-executive April 11, 2011. These changes are effective immediately, and will be reflected in the Manual following the 41st General Council.

Proposal:

That the Sub Executive of the General Council immediately establish the policy that a Vulnerable Sector Verification (Level 2) is required for ministry personnel and candidates when:

a) the applicant is over the age of 25 and a Vulnerable Sector Verification (Level 2) has never been provided,

OR

b) the applicant is over the age of 25 and 3 years or more has elapsed since either a Vulnerable Sector Verification (Level 2) or a Criminal Records Check (Level 1) has been provided;

Otherwise a Criminal Records Check (Level 1) satisfies the requirement for Police Record Checks for ministry personnel and candidates.

Background

The 39th General Council (2006) approved a change in the policy requiring police records checks for ministry personnel. Rather than requiring a basic police records search at prescribed intervals, the General Council strengthened the policy to require a "current vulnerable sector (level 2) police records check." A Vulnerable Sector Verification through the Canadian Police Information Centre (CPIC) system includes a search of pardoned sexual offences in addition to all offences which have not received a pardon.

The following table summarizes the difference between a basic Criminal Records Check (CRC) and a Vulnerable Sector Verification (VSV).

Vulnerable Sector Verification	Criminal Records Check
Data bases checked must include: • pardoned sex offences • active criminal records • local police records • investigative information on CPIC Data bases checked may include: • other data banks that police services can access	Databases checked may include: • active criminal records • local police records • investigative information on CPIC • other data banks that police services can access Does NOT include pardoned sex offences

The new policy adopted by the 39th General Council was very stringent for the following reasons:

1) All offences of any kind, including sexual offences that have not received a pardon, normally will be indicated by a basic Criminal Records Check. The Vulnerable Sector Verification adds an extra precaution that identifies if a United Church minister is one of the approximately 15,000 individuals

who have a pardoned sexual offence (only .05% of the Canadian population).

2) No one under the age of 25 has a pardoned sexual offence. The Ontario Education Services Corporation (OESC), a non-profit agency established in 2002 by all school boards in Ontario to provide Police Record Check services, has confirmed through the freedom of information act that the youngest person with a pardoned sexual offence was born in 1986.

3) A pardon requires a minimum of six (6) years after a conviction, making the Vulnerable Sector Verification redundant if a basic Criminal Records Check is provided at least every 6 years. For example, if a 19 year old is charged, the time frame between the conviction and time served will normally be a minimum of 2 years. A further 3 years with no charges must follow, and the process of applying for and being granted a pardon takes at least another year. Therefore, based on this time-line, the 19 year-old would be 25 years old before receiving a pardon. (This is, in fact, why the youngest person with a pardoned sexual offence is now 25. In order to have received the pardon by 25, he would have committed the offence at the age of 19.)

Although the policy adopted by the 39th General Council was rigorous, it was applied to all occasions when a police records check was required. The level of stringency was deemed reasonable, since a Vulnerable Sector Verification was neither more costly, nor did it require more time to acquire than a basic Criminal Records Check.

The Current Issue

Since the adoption of the United Church policy in 2006, the RCMP has made changes to its policy regarding Criminal Record Checks and Vulnerable Sector Verifications. Effective August 4, 2010, The Minister of Public Safety's new *Ministerial Directive Concerning the Release of Criminal Record Information by the Royal Canadian Mounted Police (RCMP)* governs the use and disclosure of criminal record information maintained by the RCMP. This new directive replaces the previous ministerial directive, which was in effect since 1987.

The new directive requires a more rigorous process for confirming the identity of the applicant. Rather than a name based search, supported by other proofs of identity, now fingerprinting is required whenever the birth date and gender of an applicant matches someone with a pardoned sexual offence. The vast majority of pardoned sexual offenders are male. In real numbers, this means that 40% of all men (including male ministry personnel) are required to be fingerprinted in order to obtain a Vulnerable Sector Verification.

This CPIC policy change has created very pragmatic obstacles to compliance with the current United Church Policy. First, the cost has significantly increased, often by 300% or more. Secondly, due to the increased volume, the time required to obtain a Vulnerable Sector Verification has increased from 24 hours or less to 6 months or more – well beyond the time frame available for ministry personnel seeking a call or appointment. The General Council Office receives regular complaints about the burden that these changes have placed on ministry personnel (particularly men), pastoral charges and presbyteries. In many cases, appointments and settlements are being made

without a police records check. Otherwise, the start of a pastoral relationship is postponed until the police records check can be obtained.

Other organizations and agencies have responded in various ways to the new policy. Scouts Canada continues to require a Vulnerable Sector Verification search for every new adult volunteer. They have issued bulletins advising of the increased likelihood of fingerprinting being required, and the long turn-around times. The Presbyterian Church in Canada requires police records checks periodically, but the requirement does not include a vulnerable sector search. The Anglican Church of Canada does require a vulnerable sector search, and has not modified the requirements in light of the recent changes.

The Ontario Education Services Corporation mentioned above has taken a more pragmatic approach. They have determined, based on the reasons described in the background above, that it is impossible for an individual to have a pardoned sexual offence if he or she a) is under that age of 25 or b) has provided a Vulnerable Sector Verification within the past 3 years. Therefore, for these individuals, a basic Criminal Records Search provides the assurance that there is no pardoned sexual offence. The Ontario Education and Services Corporation provides a Criminal Records Search through BackCheck (the same third party service provider used by the General Council Office). Adopting a similar course of action would allow the General Council to maintain the original intention of the police records check policy, while reducing both the cost and delays to ensuring due diligence.

Recommendation:
The changes in the process for obtaining a Vulnerable Sector Verification through the Canadian Police Information Centre have created an unwarranted burden for Ministry Personnel, Pastoral Charges, and Presbyteries. The Executive or Sub-executive of the General Council have the authority “to do any act or thing of a routine or emergency nature that the General Council has power to do.” In this case, changing the police records check policy is a routine matter responding to changes in the Canadian Police Information Centre policies without changing the intent or end results of the original United Church policy.