

## ***CHRONOLOGY OF EVENTS: How the Ministry of the Attorney General (MAG) responded to Juror Vetting over the years***

March 8, 1993	Justice David Humphrey issues decision in <i>R. v. Fagan</i> , wherein he questions the appropriateness of conducting jury background checks.
March 26, 1993	Regional Director of Crown Operations for Toronto requests a report from the local Crown attorney's office regarding the practice of "marked juror lists."
March 31, 1993	The Regional Director of Crown Operations (Toronto) sends a memorandum to MAG's Divisional Management Committee recommending that the practice of obtaining background information on prospective jurors should stop, and stating, " <i>if the defence can't have it, we shouldn't be getting it either.</i> "

**No further action was taken by MAG for nearly seven years.**

December 21, 1999	MAG's Divisional Management Committee approves the development of a Practice Memorandum covering the juror vetting issue.
January 4, 2000	First draft of MAG Practice Memorandum – Crown attorneys should not request any investigation (other than criminal record checks) into the background of jurors. <b>No action taken to finalize this draft.</b>
October 16, 2000	Ten months later, second draft of MAG Practice Memorandum appears. Same language as first draft – no substantive changes. <b>But no action taken to finalize or issue this draft.</b>

**No further action was taken by MAG for nearly five years.**

April 26, 2005	The second draft of the 2000 Practice Memorandum is finalized as <b>MAG Practice Memorandum No. 17</b> , which is distributed to Crown attorneys, but not put into effect.
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**Another year passes before the Practice Memorandum is put into effect.**



March 31, 2006	<p><b>MAG Practice Memorandum No. 17</b> finally takes effect. MAG explained that the delay was for the purpose of including the memorandum in “the official rollout of the Crown Policy Manual.” However, no specific attention was drawn to it, nor was any specific training provided. Why? A 2009 letter from MAG advised: “The issuance of Practice Memoranda is educative in itself.”</p> <p>The language of the Practice Memorandum proves to be unclear and leads to a patchwork of practices among Crown attorneys across the province.</p>
May 26, 2009	MAG issues Direction and Reminder to clarify that if a criminal record check is requested, it should only be for indictable matters. But once again, the language of the Direction is unclear (not restricted to convictions alone).
October 5, 2009	The Information and Privacy Commissioner’s Investigation reveals that juror vetting practices across Ontario vary significantly and that, since <b>Practice Memorandum No. 17</b> came into effect on March 31, 2006, <b>one-third (18) of the Crown attorney offices in Ontario</b> have gathered personal information that exceeded the criminal conviction eligibility criteria in the <i>Juries Act</i> and <i>Criminal Code</i> . Of the 18, 8 offices never shared background information with defence counsel, 8 routinely shared it, while 2 shared it occasionally.

Please refer to the Investigation Report for additional details:

**Excessive Background Checks  
Conducted on Prospective Jurors:**

**A Special Investigation Report**

Order PO-2826

October 5, 2009

**Ann Cavoukian, Ph.D.**  
Commissioner

