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**Criminal Background
Checks**

January 1, 2019

Province of Ontario (“Province”) and City of Toronto (“City”) Governments

It seems inevitable, that every time we look into the goings on surrounding what the City of Toronto’s (“City”) Municipal Licensing & Standards (“ML&S”) gets involved with that will have implications in one way or another on the City’s taxicab industry, we find the end results usually do not reflect a fair and level playing field, shows a lack of common sense, poor if any thought process is put into their initiatives, and the end results always make it difficult for our membership.

In my dealings with the ML&S over my career in the Toronto taxicab industry, which is now 45+ years and has been extensive, almost without exception when you begin to roll back the layers of the issue you are investigating, you find the original answers you were seeking are only the tip of the iceberg and that certainly was the case regarding this issue.

A couple of weeks ago, I received a phone call from Mr. Mike Tranquada, a long-time taxicab owner in the City asking me if I knew of any changes to the ML&S requirement for criminal background checks? I told him that I personally do not know of any changes, and asked why he wanted to know? He informed me that a TTL owner called him relating he had gone to the ML&S at 850 Coxwell Ave and presented his criminal background check letter that he had obtained from the York Regional Police, and he was told that since he lives in Toronto, the ML&S no longer accepts police background checks from police services in an area, where you do not reside.

At that time, the only suggestion I had was to tell Mike, he was to have the TTL owner call the ML&S and I provided him with a contact name that I had used in the past and found her to be most helpful in resolving an issue I had brought to her attention. Her name is Ms. Alice Xu, Manager of Business Licensing and Regulatory Services and I provided the phone and email contact information, but as a courtesy, I said I would try to get some answers for the TTL driver and Mike regarding this issue.

I sent out some emails of enquiry, one being to Ms. Fiona Chapman, the Director of Business Licensing and Regulatory Services, who emailed me back that the ML&S “does” accept police background checks from any Canadian Police Services, so, whoever advised the TTL operator that he required a Toronto Police Services (“TPS”) background check because he lives in Toronto is in error. Perhaps an information session for the ML&S staff at 850 Coxwell Ave is in order?

In addition, Ms. Chapman was kind enough to inform me to advise our members to contact the outlying police services prior to going there, as some of them are refusing to do the police background checks unless you reside in their area, due to a lack of manpower and resources. Problem number one is hopefully resolved and now onto problem number two.

The Police Record Checks Reform Act, 2015, has three levels of checks available:

1. Criminal Record Check. – “This is the one we used to have to obtain.”
2. Criminal Record and Judicial Matters Check. – “This is the one the ML&S now requires.”
3. Vulnerable Sector Check.

The ML&S has decided, effective November 1, 2018, that they are now changing the type of Criminal Background Check that they require, from option #1 to option #2. An information notice headed “Notice Regarding Criminal Background Checks” came out on November 5, 2018, four days after the mandated change, which is curious in itself as this information should have been made available weeks before the change, not four days after the change, because it created a larger problem.

The information sheet was never sent out to our membership and was only available at the ML&S offices at 850 Coxwell Ave. so when you showed up with the old criminal background check, that you will have already paid for and believed was the correct one, you will be informed, this is no longer acceptable and here is what you now require, which will again cost you money and time to obtain. Now, let’s look at problem number three.

With the old check requirement, you could apply on-line if you wanted the TPS to do the check and then you would pick the certificate up at certain designated police divisions, picking the police division, that is the closest to you, in 10 to 15 business days.

With the new check, the on-line capability is, for the time being, unavailable so you now have to appear in person at a Canadian Police Service office and if it is the TPS doing the check, it has to be done only at their headquarters at 40 College Street and after you have applied, it will be sent to the mailing address of the applicant in 7 to 10 business days.

If the ML&S staff had taken the time to contact the TPS Records Release Office as I did, they would have been informed that the Criminal Record and Judicial Matters check they are now requiring, will be available on-line in the first quarter of 2019, and they are hopeful it will be available by the end of January, 2019. Now onto problem number four.

My question is, does the ML&S know how difficult it is to find a parking spot anywhere near 40 College Street, plus you have to empty all of your pockets before entering police headquarters, and then line up behind many others applying for a criminal background check?

What is so important that the new check, which is now required, could not have waited until it became available on-line, making it easier on everyone involved? Let's now look at problem number five, which is in reality a question.

The difference in the new required check from the old one, is the new one also includes a check on "Judicial Matters." If you check <http://www.ontario.ca/laws/statute/15p30> it will take you to the Police Record Check Reform Act, 2015, S.O. 2015, c.30 and at the end of the Act, you will find "Schedule" Interpretation, "pardon" (2) In the table; Table, Authorized Disclosure, which lists in Column 1, Type of Information and in Column 2, Criminal record check, which is what we used to get and in Column 3, Criminal record and judicial matters check, which is what we require now and spells out what can or cannot be disclosed depending on the type of check you are applying for.

As you will see, the disclosure for a criminal record and judicial matters check is substantially more than a criminal record check. I found point #5 quite interesting as it states under the check we are now required to get, that it discloses "Every criminal offence for which there is an outstanding charge or warrant to arrest in respect to the individual."

Even though point #5 is disclosed, it is really not useful, as we found out recently, in the decision from the Toronto Licensing Tribunal, who allowed a driver to continue to drive even though he is presently under charge for a sexual assault. I understand to a degree, why they ruled in that way, as in our society, you are considered innocent until proven guilty, but there are many individuals and companies who are suspending people charged with serious offences such as sexual assault, pending the disposition at trial, which might have been prudent in this case, as consumer safety is involved here.

On the information sheet put out on the new criminal background check requirement, typed in "red", was the following:

"Please note:

- Originals are required (copies will not be accepted)
- Checks completed by a third party agency will not be accepted. You must obtain directly through a Canadian Police Service."

If you review the "Toronto Municipal Code, Chapter 546, Licensing of Vehicles-for-Hire, Article 10, Private Transportation Companies, 546-112. PTC driver requirements.

E. On behalf of an individual applicant for a PTC driver's licence, the PTC with which the individual applicant is to be affiliated shall provide the following information, which shall be submitted in an electronic format satisfactory to the Executive Director:

(4) A criminal reference check."

It is my understanding that the PTC's in the past, used to get the criminal background checks for their drivers and allegedly electronically submit a copy of the check to the ML&S.

Since that is no longer acceptable as the PTC would be considered a third party, and the PTC driver must get their own criminal background check done, are they still allowed to register the check directly with the PTC or must it be done directly to the ML&S?

If the ML&S still allows the PTC to register the original background check to the ML&S electronically, under the new rules and regulations, it would require a letter of authorization from the PTC driver to forward his/her check to the ML&S on their behalf, as PTC's are a third party. Is the ML&S getting two documents when receiving the new criminal background check from each PTC driver, one being the original background check and the other a letter of authorization?

What a mess. The ML&S staff could have handled this issue in a way that would have been so much easier for all concerned, but when it appears the ML&S has no one on staff that has any investigative training, product management experience and coupled with a lack of common sense, the end results will not be favourable for anyone.

Although I am not certain this can be done, may I suggest the following:

- When the criminal record and judicial matters check becomes available on-line, the application must be done by the person named in the application;
- After processing, the check would be sent back to the person named on the certificate at the email address the application was sent from;
- A disclosure would appear on the application, absolving the TPS of any responsibility or liability, if the applicant or anyone else inadvertently, or on purpose, sent the check to someone that was not supposed to receive it; or
- Each listed TPS division where the criminal record and judicial matters check could be picked up, would have the capability to allow the applicant to submit the application for the certificate

Certainly, the first three options would be preferable and make the process easier for everyone, while keeping the confidentiality of the applicant and the police services intact. If not acceptable, point four is another viable option to relieve some of the stress in obtaining this check, while removing a lot of the pedestrian traffic by those requiring these checks, from the TPS headquarters at 40 College Street.

I remain,



Gerald H. Manley