



Criminal Offender Record
Information
CORI ACCESS and REFORM

CORI Outline

- o What is a CORI?
- o Who can pull a CORI?
- o Obtaining your own CORI
- o Sealing records
- o Correcting inaccurate records
- o Employment and CORI
- o Housing and CORI
- o Reading a CORI report
- o Resources

What is a CORI?

- o Summary of Criminal Arraignment in Massachusetts from an individual's 17th birthday
- o Includes records and data compiled by a criminal justice agency about an individual's history or disposition of a
 - o criminal charge
 - o Arrest
 - o pre-trial/judicial proceedings
 - o Sentencing
 - o Incarceration
 - o rehabilitation
 - o release
- o Does not include Juvenile records, unless juvenile is tried as an adult

What is the Department of Criminal Justice Information System (DCJIS)?

- o DCJIS oversees the day-to-day operation of CORI including the storage, dissemination, collections, and use of CORI
- o Commissioner of Probation (OCP) is the only agency that can change information that appears in the iCORI database and only can seal criminal convictions
- o The Criminal Record Review Board (CRRB) will become the name of the entity that investigates and hears complaints regarding violations of the CORI statute and regulations.

What is the Department of Criminal Justice Information System (DCJIS)? (Continued)

- o DCJIS falls under the Executive Office of Public Safety and Security
- o The Department of Criminal Justice Information System (DCJIS) has a responsibility to balance the public's need to know with the privacy interests of those with criminal records
 - Considerations: protection of children, elderly, disabled, and other vulnerable populations
 - Need for individuals to re-enter the workforce or landlords to screen applicants for housing
 - Public Safety

What is “iCORI”?

- o “iCORI” is a web based fee service, which will replace the existing CORI System. In most cases, responses will be returned instantaneously.
- o CORI access will require all users and organization including landlords and employers to register annually.
- o Individuals will be able to request their own personal CORI’S from DCJIS
- o *Paper application for iCORI will still be accepted by DCJIS
- o The public will be able to use ICORI to request open CORI from DCJIS
- o Personal, standard & required access = \$25; open access = \$50

CORI Access

Three categories of access:

o Open

- General public
- Will have limited access upon approval of request

o Standard

- Employers, landlords, and professional licensing authorities
- Will have access to CORI subject to time limits

o Required

- Expanded access for 4 levels required by statute or regulation
- Will have varying access depending on level of class

Additionally, private background checking companies have access to all public records

Open CORI Access

May be requested by any member of the public

- o Any member of the general public upon written request to DCJIS may obtain a CORI-access information about a particular conviction for a limited time
- o The information they can access in a CORI includes:
 - Felony convictions punishable by imprisonment of 5 years or more (available for 10 years following disposition of release from incarceration or custody.)
 - Felony convictions, until 2 years after release from incarceration or custody
 - For any conviction resulting in prison sentence, throughout the period of incarceration, probation or parole.
 - Misdemeanor convictions up to one year following disposition or release from incarceration or custody
 - Murder, manslaughter and sex offense convictions
- o The iCORI will not return non-convictions, pending offenses, sealed cases, or juvenile records

Standard CORI Access

Requested by employers, landlords, and professional licensing authorities

- o Will have access to CORI (subject to time limits) on the internet
- o They can access an individual's CORI to:
 - Evaluate current or prospective employees or volunteers
 - Evaluate applicants for rental or lease of housing
 - Evaluate applicants for a professional license issued by the state
- o The information they can access in a CORI includes:
 - Felony convictions for 10 years after disposition or incarceration
 - Misdemeanor convictions for 5 years following disposition, including termination of incarceration or custody
 - Pending cases, including cases that are continued without a finding

Standard CORI Access (Continued)

- o To obtain a CORI report, requestors will have to certify that they received signed authorization from the CORI subject
- o Non-convictions will not be disseminated to most requestors
- o Sealed records will not appear on a CORI
- o If the offense is a murder, manslaughter or sex offense and the person has been convicted and punished by incarceration, the system must return the offense no matter how old the conviction unless the conviction is sealed

Required CORI Access

Required CORI access has four different levels of access for those who are required by a statutory, regulatory or accreditation provision (such as housing authorities and employers who work with vulnerable populations):

- o **Level 1 – Banks, Hospitals, Insurance Companies, Private Investigators, Public Housing Authorities, etc.**
 - Can access all pending cases, adult misdemeanor and felony convictions that are not sealed, and any offenses that are not eligible for sealing
- o **Level 2 – Nursing Homes, Public and Private Schools, Religious organizations, Assisted Living Facilities, Day Care Centers, In-Home care, etc.**
 - Can access all pending cases, adult misdemeanor and felony convictions that are not sealed, any offenses that are not eligible for sealing, and information on non-convictions, such as dismissals and not guilty findings

Required CORI Access (Continued)

o Level 3 – Camps

- Can access all pending cases, adult misdemeanor and felony convictions that are not sealed, any offenses that are not eligible for sealing, information on non-convictions, such as dismissals and not guilty findings, and information regarding juvenile offenses

o Level 4 – Criminal Justice Agencies

- Can access all pending cases, adult misdemeanor and felony convictions that are not sealed, any offenses that are not eligible for sealing, information on non-convictions, such as dismissals and not guilty findings, information regarding juvenile offenses, and all sealed conviction information

Private Access

Private background checking companies will have access to all public information

- o Employers relying on this information will not be protected under new CORI laws by safe harbor provision
- o Mistakes are often seen when private background checks are done
- o If relied on in making a decision, report **MUST** be presented to applicant

Obtaining your own CORI

- o You have a right to:
 - get a copy of your own CORI
 - try to fix mistakes on your CORI
 - try to get one or more records sealed (Sealing does not happen automatically)
- o You should never give a copy of your CORI to anyone.
- o It is illegal for employers to ask you to give them a copy of your own CORI or arrest records at any stage of the hiring process
- o It is illegal for housing providers to ask you to give them a copy of your own CORI or arrest records

Obtaining your own CORI (Continued)

- o There are two ways to get a copy of your own CORI
 - Mail a form to the Department of Criminal Justice Information Services (DCJIS) and ask them to send you a copy in the mail
 - Get a copy of your CORI on line
- o There is a \$25 fee to get a copy of your CORI
- o You must send a check or money order payable to the Commonwealth of Massachusetts
- o If you cannot pay the \$25 fee, fill out an Affidavit of Indigency to ask for a free CORI report
- o You can get a free CORI report if:
 - you are on Mass Health, SSI, T-AFDC, EAEDC
 - have no income and/or income at or below 125 percent of the poverty level

** Handout of CORI application available **

Sealing

- o You are eligible to apply to get a record sealed:
 - After 10 years for felonies
 - After 5 years for misdemeanors
- o Sealing waiting periods begins at release of incarceration or custody
- o Each subsequent offense will restart the timeline
- o The waiting period for sealing starts at the beginning of probation or parole
- o If no incarceration, clock begins at the conclusion of court proceedings

Sealing (Continued)

- o When a record becomes eligible to seal, you can apply to have the record sealed by completing a form available through the Office of the Commissioner of Probation (OCP)
- o Sealing non-convictions requires the subject to petition the court on his or her own or through their defense attorney.
- o A conviction for any person for a crime against public justice, including resisting arrest, witness intimidation or escape from jail can NEVER be sealed.
- o Convictions for abuse prevention and harassment prevention are misdemeanors but are treated as felonies for purposes of sealing.

** Form is available **

Sealing Examples

(Taken from Greater Boston Legal Services “Know Your CORI Rights”)

An example:

- o Joe was found guilty of a misdemeanor on May 4, 2007, was on probation for a year, and his case was closed on May 15, 2008. He can seal the case by mail on May 4, 2012, 5 years after he was found guilty.

Re-starting the CORI clock. Every time you are convicted or incarcerated, the clock re-starts to add another 5 years for a misdemeanor, and 10 years for a felony.

An example:

- o Mary was found guilty of a misdemeanor on March 17, 2011 and again on March 17, 2012, but did not serve a jail sentence. She cannot seal either case until March 17, 2017, which is 5 years after the last conviction

Sex Offenses and Sealing

- o Sex offense convictions can be petitioned to be sealed 15 years after the conviction or any period of incarceration, or after the obligation to register as a sex offender ceases, whichever is later
- o Sex Offenders classified as level 2 or level 3 will not be eligible to have their convictions sealed
- o Currently registered sex offenders are NOT permitted to seal any cases
- o If a person is or was ever registered as a Level 2 or Level 3 sex offender, he or she can NEVER seal convictions for certain sex offenses (i.e. rape of a child, assault with intent to rape, drugging a person for sex and other offenses as defined by M.G.L. c. 6 s. 178C

Self Audit

- o The DCJIS shall maintain a log of all queries that shall indicate the name of the requester, the name of the subject, the date of the query, and the certified purpose, excluding police, probation, court, or other criminal justice agencies.
- o Every 90 days, an individual with a CORI can submit a request and obtain a free list of people who have accessed their CORI
- o Individuals will be able to see what non-law enforcement entities have requested their CORI
- o Individuals will be able to determine if their CORIs were run prior to an interview or job rejection
- o This service is provided at no charge
- o This form is available at www.mass.gov/eopss/agencies/dcjis

Procedure to Correct Inaccurate Records

- o CORI subjects can file complaints with the Criminal Record Review Board (CRRB), which can hear violations, including failure to provide a copy of a record before questioning or after an adverse decision
- o If you believe a case is opened on your record that should be marked closed, you may contact the Commissioner of Probation (OCP)
- o If you believe that a disposition is incorrect, you may contact the Chief Probation Officer at the court where the charges were brought to report the error
- o Identity theft v. Inaccurate Records
 - Identity Theft Index
 - protects individuals who are victims of identity theft and have a CORI by giving them an Identity Index Number for protection
 - Need to disclose to prospective employers and/or landlords

Unauthorized Access is a Criminal Offense

- o Unauthorized access of a CORI is punishable by not more than 1-year imprisonment in jail or house of correction or by a fine of not more than \$5,000 for adult records and not more than \$7,500 for juvenile records or both.
- o Unauthorized access of CORI involves:
 - An individual or entity that knowingly requests, obtains or attempts to obtain CORI under false pretenses
 - An individual that knowingly communicates or attempts to communicate to any individual or entity except in accordance with provisions
 - An individual that knowingly falsifies a CORI

Employment

- o **Ban the Box:** The law requires that initial written employment applications not include any questions regarding Criminal History, unless conviction information is required for a particular job by federal/state law.
- o Employers may only inquire about CORI after obtaining a written signature from an applicant authorizing a CORI check, and providing a copy of the record before questioning the employee.
- o Safe Harbor Protection:
 - Employers that make decisions within 90 days of obtaining CORI from the state will not be held liable for negligent/discriminatory hiring practices by reason of reliance on the CORI
- o No protection for employers using info from private companies
- o An employer must have a copy of any criminal record information before questioning an applicant about his/her record.
- o Employers are required to provide a copy of the CORI to an applicant when it is used for an adverse decision.

Employment & Discrimination

- o Employers are not allowed to ask about
 - juvenile records, unless tried as an adult, or
 - sealed records.
- o After initial application, employer can ask about convictions that are not sealed
- o If an employer refuses to hire all job applicants with criminal records, the Equal Employment Opportunities Commission (EEOC) has held this policy to be discriminatory as it has a disparate impact on racial minority groups
- o Hiring or firing policies rejecting all applicants with criminal histories have been held to violate Title VII of the 1964 Civil Rights Act, unless a legitimate business necessity can be shown

Housing

- o Any housing provider or landlord can get your CORI to evaluate applicants for rental or lease of housing. They can only get:
 - Felony convictions for 10 years following disposition or incarceration
 - Misdemeanor convictions for 5 years following disposition/incarceration
 - Pending criminal charges, included cases continued without a finding
- o Housing provider must have signed authorization from applicant to pull CORI
- o CORIs can be checked for any household member who is 17+
- o A housing provider may not ask an applicant to get his or her own CORI
- o An applicant should never provide a copy of their CORI to a housing provider

Landlords are required to provide a copy of the CORI to an applicant when it is used for an adverse decision

Federal Public Housing & CORI

- o Housing Authorities have Level 1 Required Access of CORIs
- o If you are applying for federal public Housing, your application **MUST** be denied if:
 - A household member is currently engaged in illegal use of a drug
 - The Housing Authority has reasonable cause to believe a household member's abuse of alcohol may threaten the health and safety of other residents. (**Important:** before denying a person based on illegal drug use or alcohol abuse, a housing authority may consider evidence of rehabilitation).
 - Any member of your household is subject to a lifetime registration requirement under a state sex offender registration program.
 - Any household member has been convicted of the manufacture or production of methamphetamine in federally assisted housing.
 - Any household member that was evicted from federally assisted housing for *drug-related criminal activity* within the past three years (**Important:** may be admitted if individual successfully completed a supervised, approved rehabilitation program).
- o A housing authority **may** deny applicants “whose habits and practices reasonably may be expected to have a detrimental effect on the residents of the project environment.”

State Public Housing & CORI

- o Housing Authorities have Level 1 Required Access of CORIs, meaning they can access all pending cases, adult misdemeanor and felony convictions that are not sealed, and any offenses that are not eligible for sealing
- o Your application for state public housing **may** be denied for various reasons
- o State Aided programs must screen out all those whose past behavior, if repeated would violate the lease:
 - Interfering with or threatening others
 - Criminal activity affecting housing
 - Illegal drug use

Disabled Individuals and Reasonable Accommodations

- o A person is disabled if they have a physical or mental impairment that substantially limits one or more major life activities, has a history of such impairment, or is regarded as having such impairment.
- o Reasonable Accommodations (RA):
 - A change in rules, policies, practices, or services to afford equal opportunity to use and enjoy housing
 - Can request a RA to disregard past disability-caused criminal convictions with proof of treatment or rehabilitation
 - (Example - Former substance abuse and alcohol addiction, can request RA since these are disabilities)
 - Need documentation from a medical professional to show a connection between the disability and the need for the accommodation

Changed Person File

- o Many people have criminal records that they have to live with for a long period of time. If you are in this situation you should create a changed person file. This file allows an individual should they choose to appeal a decision or make a request for “reasonable accommodations”(recovery from substance abuse, mentally ill and on medication) to demonstrate and show evidence that they have changed. If they are able to make the case that their charge was related to their disability and circumstances have since changed, an appeal can overturn a decision. It can also assist during job interviews to obtain employment.

- o The file should contain the following, but not limited to:
 - Letters from advocates, counselors, probation or parole officers, clergy, treatment professionals, employers, etc.
 - Personal letter
 - Completed Certificates demonstrating recovery from substance abuse treatment

*Please note if an appeal is granted character witnesses who can speak to changes in a person’s life is truly powerful.

** Handout of Changed Person Sample available **

For More Information

Applications and requests

Massachusetts Department of Criminal Justice Information Services
200 Arlington Street, Suite 220
Chelsea, MA 02150
1-671-660-4600
Fax 1-617-660-4613
TTY: 1-617-660-4606

Web Access - www.mass.gov/cjis

If you have do not have an account, you can register by going to <http://icori.chs.state.ma.us> and clicking either the “Register as an Individual” or “Register as an Organization” link.

Information and forms to be used to Seal a CORI

Office of the Commissioner of Probation
1-617-727-5300
1 Ashburton Place, Boston MA

Presented by:

Hampden County Sheriff's
Dept.

736 State Street

Springfield, MA 01109

(413) 781-2050

<http://www.hcsdmass.org/>

Massachusetts Fair Housing Center

57 Suffolk Street, 4th floor

Holyoke, MA 01040

(413) 539-9796

info@massfairhousing.org

www.massfairhousing.org