

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

803 CMR 2.00: CRIMINAL OFFENDER RECORD INFORMATION (CORI)

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2.01: Purpose and Scope

- (1) 803 CMR 2.00 is issued in accordance with M.G.L. c. 6, §§ 167A and 172, and M.G.L. c. 30A.
- (2) 803 CMR 2.00 sets forth the establishment and use of the iCORI system to access CORI. 803 CMR 2.00 further sets forth procedures for accessing CORI for the purpose of evaluating applicants for employment, volunteer opportunities, or professional licensing, as well as CORI complaint procedures.
- (3) 803 CMR 2.00 applies to all users of the iCORI system, including employers, governmental licensing authorities, and individuals seeking to obtain criminal history information.
- (4) Nothing contained in 803 CMR 2.00 shall be interpreted to limit the authority granted to the Criminal Record Review Board (CRRB) or to the Department of Criminal Justice Information Services (DCJIS) by the Massachusetts General Laws.

2.02: Definitions

All definitions set forth in 803 CMR 5.00: *Criminal Offender Record Information (CORI) - Housing*, 7.00: *Criminal Justice Information System (CJIS)* 8.00: *Obtaining Criminal Offender Record Information (CORI) for Research Purposes*, 9.00: *Victim Notification Registry (VNR)*, 10.00: *Gun Transaction Recording* and 11.00: *Consumer Reporting Agency (CRA)* are incorporated in 803 CMR 2.02 by reference. The following additional words and phrases as used in 803 CMR 2.00 shall have the following meanings:

Adjudicated as an Adult. For purposes of CORI dissemination under 803 CMR 2.00, an offense may be considered as adjudicated as adult if the individual was adjudicated as a youthful offender pursuant to the provisions of M.G.L. c. 119, § 58 and an adult sentence or combination thereof, has been imposed.

2.02: continued

Advocate. An individual authorized to act on a subject's behalf to obtain the subject's CORI for the purpose of assisting the subject with employment, housing or other purposes authorized by the DCJIS.

Apostille. A form of authentication applied by the Secretary of the Commonwealth to documents for use in countries that participate in the Hague Convention of 1961.

Consumer Reporting Agency (CRA). Any person or organization which, for monetary fees, dues, or on a cooperative, not-for-profit basis, regularly engages in whole, or in part, in the practice of assembling or evaluating criminal history, credit, or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Criminal Justice Agency (CJA). A Massachusetts agency which performs, as its principal function, activities relating to crime prevention, including the following: research or the sponsorship of research; the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or the collection, storage, dissemination, or usage of criminal offender record information.

Criminal Offender Record Information (CORI). Records and data in any communicable form compiled by a Massachusetts criminal justice agency which concern an identifiable individual and relate to the nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other judicial proceedings, previous hearings conducted pursuant to M.G.L. c. 276, § 58A where the defendant was detained prior to trial or released with conditions under M.G.L. c. 276, § 58A(2), sentencing, incarceration, rehabilitation, or release. Such information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any consequent proceedings related thereto. Criminal offender record information shall not include evaluative information, statistical and analytical reports and files in which individuals are not directly or indirectly identifiable, or intelligence information. Criminal offender record information shall be limited to information concerning persons who have attained 18 years of age and shall not include any information concerning criminal offenses or acts of delinquency committed by any person before he or she attained 18 years of age; provided, however, that if a person younger than 18 years old is adjudicated as an adult, information relating to such criminal offense shall be criminal offender record information. Criminal offender record information shall not include information concerning any offenses which are not punishable by incarceration.

Criminal Record Review Board (CRRB). A statutorily-created board within the Department of Criminal Justice Information Services (DCJIS) that reviews complaints and investigates incidents involving allegations of violations of the laws and regulations governing CORI.

Department of Criminal Justice Information Services (DCJIS). The Commonwealth agency statutorily designated to provide a public safety information system and network to support data collection, information sharing, and interoperability for the Commonwealth's criminal justice and law enforcement communities; to oversee the authorized provision of CORI to then on-criminal justice community; to provide support to the Criminal Record Review Board (CRRB); to operate the Firearms Records Bureau (FRB); and to operate and technically support the Victim Notification Registry (VNR).

Disabled Person. An individual with an intellectual disability, as defined by M.G.L. c. 123B, § 1, or who is otherwise mentally or physically disabled and, as a result of such mental or physical disability, is wholly or partially dependent on others to meet daily living needs.

Elderly Person. An individual who is 60 years of age or older.

Employment Applicant. An individual who has applied for employment or a volunteer opportunity and who meets the requirements for the position for which the individual is being screened for criminal history by an employer or volunteer organization. An employment applicant, as referenced in 803 CMR 2.00, shall also include volunteers, subcontractors, contractors or vendor applicants, and individuals applying for a special state, municipal, or county employee position as those terms are defined in M.G.L. c. 268, § 1.

2.02: continued

Employee. Refers to individuals currently employed by the requestor. As referenced in 803 CMR 2.00, employee also includes volunteers, subcontractors, contractors, vendors and special state, municipal, or county employees as those terms are defined in M.G.L. c. 268, § 1.

Evaluative Information. Records, data, or reports regarding individuals charged with a crime and compiled by criminal justice agencies which appraise mental condition, physical condition, extent of social adjustment, rehabilitative progress, and the like, and which are primarily used in connection with bail, pre-trial or post-trial release proceedings, sentencing, correctional and rehabilitative planning, probation, or parole.

Housing Applicant. An individual who applies to rent or lease housing, including market rate and subsidized housing.

iCORI. The internet-based system used in the Commonwealth to access CORI and to obtain self-audits.

iCORI Agency Agreement. An agreement signed by an individual with signatory authority for an iCORI requestor whereby the requestor agrees to comply with the CORI laws, regulations, policies and procedures associated with CORI access and dissemination.

Intelligence Information. Records and data compiled by a criminal justice agency for the purpose of criminal investigation, including reports of informants, investigators, or other persons, and information obtained from any type of surveillance associated with an identifiable individual. Intelligence information shall also include records and data compiled by a criminal justice agency for the purpose of investigating a substantial threat of harm to an individual, or to the order or security of a correctional facility.

Legally Authorized Designee. Any person authorized to submit and receive CORI on behalf of a requestor. Legally Authorized Designee shall be synonymous with Legally Designated Representative.

Legally Designated Representative. Any person authorized to submit and receive CORI on behalf of a requestor. Legally Designated Representative shall be synonymous with Legally Authorized Designee.

Licensing Applicant. An otherwise qualified individual who is being screened for criminal history by a governmental licensing agency. Licensing applicant, as referenced in 803 CMR 2.00, includes new and renewal license applicants, as well as current licensees. Licensing for purposes of 803 CMR 2.00 also includes licenses, permits or certificates issued by government agencies.

Open Access to CORI. The level of CORI access available to any member of the general public upon production of a subject's correct name and date of birth.

Person. A natural person, corporation, association, partnership, or other legal entity.

Requestor. A person, other than a law enforcement or criminal justice agency official, submitting a request for CORI or criminal history information.

Required Access to CORI. The level of CORI access available to requestors who are authorized or required by statute, regulation, or accreditation requirement to obtain CORI.

Self-audit. An inquiry made by a subject or a legally authorized designee to obtain a log of all queries to the DCJIS iCORI system by any individual or entity for the subject's CORI, but excluding any information relative to any query conducted by a law enforcement or criminal justice agency official.

2.02: continued

Standard Access to CORI. The level of CORI access available to any requestor, or any requestor's legally designated representative, to evaluate: current and prospective employees, including full-time, part-time, contract, or internship employees or volunteers; applicants for rental or lease of housing; volunteers for services; and licensing applicants for a professional or occupational license issued by a state or municipal entity.

Subject. An individual for whom a request for CORI is submitted to the DCJIS.

2.03: CORI Inclusions and Exclusions

(1) CORI shall be limited to the information recorded as the result of the initiation of criminal proceedings or any consequent related proceedings regarding individuals 18 years of age or older for offenses after September 18, 2013. For offenses prior to September 18, 2013, CORI includes offenses for individuals 17 years of age or older.

(2) If a person younger than 18 years old is adjudicated as an adult, CORI shall include information relating to that adjudication.

(3) CORI shall include fingerprints, photographs, and other identifying data that is recorded as the result of the initiation of a criminal proceeding.

(4) For purposes of 803 CMR 2.00, the initiation of criminal proceedings is the point when a criminal investigation is sufficiently complete that the investigating officer takes actions toward bringing a specific suspect to court.

(5) CORI shall not include:

- (a) information regarding criminal offenses or acts of delinquency committed by any individual younger than 18 years old unless the individual was adjudicated as an adult and except as otherwise noted in 803 CMR 2.03(1);
- (b) photographs, fingerprints, or other identifying data of an individual used for investigative purposes, provided the individual is not identified;
- (c) evaluative information;
- (d) statistical and analytical reports and files in which individuals are not directly or indirectly identifiable;
- (e) intelligence information;
- (f) information regarding any offenses which are not punishable by incarceration;
- (g) public records as defined in M.G.L. c. 4, § 7(26);
- (h) daily police logs;
- (i) decisions of the Parole Board;
- (j) published records of public court or administrative proceedings;
- (k) published records of public judicial, administrative, or legislative proceedings;
- (l) federal criminal record information; and
- (m) anything otherwise excluded by law.

2.04: iCORI Registration

(1) To access the iCORI system, an entity must first register for an iCORI account as outlined in 803 CMR 2.04(2) through (9).

(2) A member of the general public may register for an iCORI account to request his or her own CORI, to request Open Access to CORI, or to request a self-audit.

(3) An employer or volunteer organization may register for an iCORI account to screen current employees or employment applicants.

(4) A governmental licensing agency may register for an iCORI account to screen current license holders or licensing applicants for professional or occupational licenses.

(5) A CRA may register for an iCORI account to access CORI for a client who would meet the requirements of registration for an iCORI account. Regulations applicable to CRA registration can be found in 803 CMR 11.00: *Consumer Reporting Agency (CRA)*.

2.04: continued

(6) A landlord, property management company, real estate agent, or public housing authority may register for an iCORI account to access CORI to evaluate housing applicants. Regulations applicable to landlord, property management company, real estate agency, and public housing authority registration can be found in 803 CMR 5.00: *Criminal Offender Record Information (CORI) - Housing*.

(7) All iCORI registrations shall expire after one calendar year. Registrations must be renewed prior to the registration expiration date in order for the registrant to continue to have iCORI access.

(a) For a user re-registering as an entity other than an individual member of the general public, the user must again complete the iCORI training and agree to all iCORI terms and conditions.

(b) To renew and/or ensure continued access to CORI, all requestors must also execute the iCORI Agency Agreement.

(c) The iCORI Agency Agreement shall be executed upon renewal of the iCORI registration and must be signed by an individual with signatory authority for the requestor. Requestors registering for access after February 24, 2017 shall also be required to complete the iCORI Agency Agreement upon registration.

(d) The iCORI Agency Agreement shall include but, not be limited to the following:

1. Requestor agrees to comply with the CORI laws and regulations;
2. Requestor shall maintain an up to date "need to know" list and provide all staff that request, review, or receive CORI with the CORI training materials;
3. Requestor shall only request the level of CORI access authorized under statute or by the DCJIS; and
4. Requestors are liable for any violations of the CORI laws or regulations. Individual users of the requestor's account may also be liable for said violations.

(8) To complete the registration process, users must agree to all iCORI terms and conditions. In addition, users must also complete CORI training.

(9) The DCJIS shall assess a fee for each request for CORI or self-audit according to a fee structure established by the Secretary of Public Safety and Security and shall establish rules for the waiver of a fee or portion thereof for such other persons as it deems appropriate, pursuant to M.G.L. c. 6, § 172A. No fee shall be assessed for a request made by a victim of a crime or a witness or family member of a homicide victim, all as defined in M.G.L. c. 258B, § 1, or by any local, state, or federal government entity.

2.05: Levels of Access to CORI

(1) There shall be three different levels of access to CORI. The level of access to which a requestor is entitled shall depend upon who the requestor is and also upon whether a statute, regulation, or accreditation requirement authorizes or requires the requestor to obtain a certain level of CORI.

(2) The three levels of CORI access are:

- (a) Required Access;
- (b) Standard Access; and
- (c) Open Access.

(3) Required Access to CORI is available only to requestors that are authorized or required by statute, regulation, or accreditation requirement to obtain CORI.

(a) There are four different levels of Required CORI access as defined in 803 CMR 2.05(3)(a)1. through 4. The level of Required access granted to a requestor depends on the language of the statutory, regulatory, or accreditation requirement that mandates obtaining CORI.

1. Required 1 Access to CORI includes access to:
  - a. all pending criminal charges, including cases continued without a finding of guilt until they are dismissed;
  - b. all misdemeanor convictions and felony convictions dating from the subject's 18<sup>th</sup> birthday;

## 2.05: continued

- c. offenses for which the subject was adjudicated as an adult while younger than 18 years old; and
  - d. all convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses (as defined by M.G.L. c. 6, § 178C) punishable by a term of incarceration in state prison, unless sealed.
2. Required 2 Access to CORI includes access to:
    - a. all pending criminal charges, including cases continued without a finding of guilt until they are dismissed;
    - b. all misdemeanor convictions and felony convictions dating from the subject's 18<sup>th</sup> birthday;
    - c. offenses for which the subject was adjudicated as an adult while younger than 18 years old;
    - d. criminal offenses that did not result in a conviction; and
    - e. all convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses (as defined by M.G.L. c. 6, § 178C) punishable by a term of incarceration in state prison, unless sealed.
  3. Required 3 Access to CORI includes access to:
    - a. all pending criminal charges, including cases continued without a finding of guilt until they are dismissed;
    - b. all misdemeanor convictions and felony convictions dating from the subject's 18<sup>th</sup> birthday;
    - c. offenses for which the subject was adjudicated as an adult while younger than 18 years old;
    - d. criminal offenses that did not result in a conviction;
    - e. all juvenile offenses, including pending charges; and
    - f. all convictions for murder, voluntary manslaughter, involuntary manslaughter and sex offenses (as defined in M.G.L. c. 6, § 178C) punishable by a term of incarceration in state prison, unless sealed.
  4. Required 4 Access to CORI includes access to:
    - a. all pending criminal charges, including cases continued without a finding of guilt until they are dismissed;
    - b. all misdemeanor convictions and felony convictions dating from the subject's 18<sup>th</sup> birthday;
    - c. offenses for which the subject was adjudicated as an adult while younger than 18 years old;
    - d. criminal offenses that did not result in a conviction;
    - e. all juvenile offenses, including pending charges;
    - f. criminal offenses that have been sealed; and
    - g. all convictions for murder, voluntary manslaughter, involuntary manslaughter and sex offenses (as defined in M.G.L. c. 6, § 178C) punishable by a term of incarceration in state prison, unless sealed.

(4) Standard Access to CORI is available to employers, volunteer organizations, landlords, property management companies, real estate agents, public housing authorities, and governmental licensing agencies to screen employment applicants, employees, licensing applicants, and housing applicants.

- (a) Standard Access to CORI includes access to:
  1. all pending criminal charges, including cases continued without a finding of guilt until they are dismissed;
  2. all misdemeanor convictions for five years following the date of disposition or date of release from incarceration or custody, whichever is later;
  3. all felony convictions for ten years following the date of disposition or date of release from incarceration or custody, whichever is later; and
  4. all convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses (as defined in M.G.L. c. 6, § 178C) punishable by a term of incarceration in state prison, unless sealed, including information relating to those offenses for which the subject was adjudicated as an adult while younger than 18 years old.

2.05: continued

(b) If a subject has been convicted of a misdemeanor, or has been released from incarceration or custody for a misdemeanor conviction, within five years of the date of a Standard Access request, then the CORI that is provided to the requestor will include all adult convictions dating from the subject's 18<sup>th</sup> birthday and, if the subject was adjudicated as an adult while younger than 18 years old, information relating to those offenses.

(c) If a subject has a felony conviction, or has been released from incarceration or custody for a felony conviction, within ten years of the date of a Standard Access request, then the CORI that is provided to the requestor will include all adult convictions dating from the subject's 18<sup>th</sup> birthday and, if the subject was adjudicated as an adult while younger than 18 years old, information relating to those offenses.

(5) Open Access to CORI is Available to All Members of the General Public.

(a) Open Access to CORI includes access to:

1. misdemeanor convictions for one year following the date of disposition or date of release from incarceration or custody, whichever is later;
2. felony convictions for two years following the date of disposition or date of release from incarceration or custody, whichever is later;
3. felony convictions punishable by five or more years in state prison provided, however, that such convictions shall only be available for ten years following the date of disposition or date of release from incarceration or custody, whichever is later; and
4. all convictions for murder, voluntary manslaughter, involuntary manslaughter and sex offenses (as defined in M.G.L. c. 6, § 178C) punishable by a term of incarceration in state prison, unless sealed, including information relating to those offenses for which the subject was adjudicated as an adult while younger than 18 years old.

2.06: Access to an Individual's Own CORI

(1) An individual may request a copy of his or her own CORI by registering for an iCORI account.

(2) If an individual does not have access to the internet, the individual may request a copy of his or her CORI from the DCJIS.

(3) If an individual requires CORI to obtain apostille authentication from the Office of the Secretary of the Commonwealth, an additional fee may be required.

2.07: Special Categories for CORI Access

(1) An elderly or disabled person seeking to screen employment applicants and employees who may provide assistance within the home of the elderly or disabled person shall be permitted to obtain CORI to screen these employment applicants or employees using the DCJIS Elderly/Disabled Assistant CORI Request Form.

(a) A legally designated representative may also obtain CORI for this purpose on behalf of an elderly or disabled person.

(b) A requestor using the Elderly/Disabled Assistant CORI Form shall receive Required 2 Access as defined in 803 CMR 2.05.

(c) A requestor using the Elderly/Disabled Assistant CORI Form shall not be subject to the provisions of 803 CMR 2.18

(2) A requestor who wishes to obtain CORI beyond what is available *via* Open Access may contact the DCJIS to request such access. Pursuant to M.G.L. c. 6, § 172(a)(6), the DCJIS commissioner may provide expanded access to CORI if he or she finds that expanding access for such request or serves the public interest. Upon such a finding, the commissioner shall also determine the extent of expanded CORI access.

(3) An attorney may access CORI information relating to a client or a non-client in the following manner.

(a) An attorney seeking to obtain a client's CORI may register for an iCORI account and submit a CORI request through the iCORI system. To submit a CORI request the attorney shall:

2.07: continued

1. Obtain a signed CORI Attorney Request Form from the client authorizing the attorney to obtain the client's CORI.
  2. Maintain the completed CORI Attorney Request Form for a period of one year from the submission of the CORI request.
  3. Provide required identifying information, as well as identifying information regarding the client.
- (b) An attorney seeking to obtain a client's CORI may submit a paper CORI Attorney Request Form to the DCJIS.
- (c) CORI accessed by an attorney on behalf of a client may only be disseminated:
1. to the client;
  2. to such other individuals as authorized by the client; or
  3. as otherwise authorized by law.
- (d) An attorney seeking to obtain a non-client's CORI, beyond what is available *via* Open Access to CORI, for litigation purposes shall submit a valid, signed court order directly to the DCJIS.
- (e) CORI accessed by an attorney for a non-client, beyond what is available *via* Open Access to CORI, may only be disseminated:
1. as allowed by the court that issued the order; or
  2. as otherwise authorized by law.
- (4) An advocate helping a client obtain services may obtain the client's CORI on the client's behalf.
- (a) An advocate may obtain a client's CORI by registering for an iCORI account and submitting a CORI request. To submit a CORI request the advocate shall:
1. Provide identifying information required by the DCJIS, as well as identifying information regarding the client.
  2. Obtain a signed CORI Advocate or Designated Representative Request Form authorizing the advocate to obtain the client's CORI.
  3. Maintain the completed CORI Advocate or Designated Representative CORI Request Form for a period of one year from the submission of the CORI request.
- (b) An advocate seeking to obtain a client's CORI may instead submit a paper CORI Advocate or Designated Representative Request Form to the DCJIS.
- (c) CORI accessed by an advocate on behalf of a client may only be disseminated:
1. to the client;
  2. to such other individuals or purpose as authorized by the client; or
  3. as otherwise authorized by law.

2.08: Prohibition Against Requiring an Individual to Provide His or Her Own CORI

An individual or entity is prohibited from requesting or requiring a person to provide a copy of his or her own CORI, except as authorized by M.G.L. c. 6, § 172.

2.09: Requirements for Requestors to Request CORI

- (1) Prior to submitting a CORI request, an employer, volunteer organization, landlord, property management company, real estate agent, public housing authority or governmental licensing agency (referred to as "requestors") shall:
  - (a) obtain a signed CORI Acknowledgement Form for each subject to be checked;
  - (b) verify the identity of the subject; and
  - (c) sign and date the CORI Acknowledgement Form certifying that the subject was properly identified.
- (2) Model CORI Acknowledgment Forms with the required fields of information are available on the DCJIS website. Requestors shall either use the published CORI Acknowledgment Forms or incorporate the language and information provided on the forms into their applications.
- (3) To complete the CORI acknowledgment Form, the subject shall provide:
  - (a) all names that have been used by the subject or by which the subject has been known; and
  - (b) any different name or date of birth for the subject that the subject is aware appears in the CORI database.



2.09: continued

(4) In the course of reviewing a CORI acknowledgment form, if the requestor finds other names or dates of birth used by the subject or by which the subject has been known, the requestor may submit this information to the iCORI system. Requestors shall notify the subject of the source of the identifying information when the CORI results are returned. When the requestor is a CRA, the CRA's client shall notify the subject of the source of the identifying information.

(5) A requestor shall verify a subject's identity by examining a suitable form of government-issued identification containing a photograph of the subject. Acceptable types of government-issued identification are:

- (a) a state-issued driver's license;
- (b) a state-issued identification card with a photograph;
- (c) a passport;
- (d) a military identification card;
- (e) Native American Tribal documents; and
- (f) other forms of documentation as determined by the DCJIS.

(6) If a subject does not have an acceptable form of government-issued identification, a requestor shall verify identity by reviewing either the subject's birth certificate or social security card.

(7) If a requestor is unable to verify a subject's identity and signature in person, the subject may submit a completed CORI Acknowledgement Form acknowledged by the subject before a notary public.

(8) A requestor shall submit the subject's name, date of birth, and, if available, the last six digits of the subject's social security number.

(9) For employers, volunteer organizations, and governmental licensing agencies, CORI Acknowledgment Forms shall be valid for one year from the subject's having signed the form or until the conclusion of a subject's employment or licensing period, whichever comes first.

An employer, volunteer organization and government licensing agency may submit a new request for CORI within one year of the subject's having signed the original CORI Acknowledgment Form as long as the requestor notifies the subject on its CORI Acknowledgment Form that a CORI may be requested at any time within that one year.

(10) Nothing in 803 CMR 2.00 shall be construed to prohibit an employer or governmental licensing agency from making an adverse employment, volunteer, or licensing decision on the basis of a subject's objection to a request for CORI.

(11) If a subject's professional license expires or is revoked, a subject's CORI Acknowledgment Form shall become invalid.

(12) CORI Acknowledgment Forms must be retained by the requestor for a minimum of one year from the date of the subject's signature.

2.10: Electronic Submission of CORI Acknowledgment Forms

(1) A requestor may collect CORI Acknowledgment Forms through electronic means including, but not limited to, the requestor's electronic application. When CORI Acknowledgment Forms are collected electronically, the requestor must comply with all provisions set forth in 803 CMR 2.09.

(2) To satisfy the requirement pertaining to verification of the subject's identity as set forth in 803 CMR 2.09(3), the subject may submit a notarized copy of the CORI Acknowledgment Form as provided in 803 CMR 2.09(5). Such notarized form shall be either uploaded into the requestor's electronic system or transmitted electronically to the requestor prior to the submission of the subject's CORI request.

2.11: Identity Verification Exemption for Subsequent CORI Checks

- (1) A new CORI request may be submitted within one year as provided in 803 CMR 2.09(7).
- (2) For CORI requests submitted for the same subject after one year, requestors shall obtain a new completed CORI Acknowledgment Form.
  - (a) If the information provided on the CORI Acknowledgment Form exactly matches the information on the expired CORI Acknowledgment Form, then the requestor is not required to verify the subject's identity a second time.
  - (b) If the name and/or date of birth provided on the CORI Acknowledgment Form differs from the information on the expired CORI Acknowledgment Form, then all steps, including verification of identity as provided in 803 CMR 2.09, must be followed prior to the submission of a new CORI request.

2.12: Storage and Retention of CORI

- (1) Hard copies of CORI shall be stored in a separate locked and secure location, such as a file cabinet. Access to the locked and secure location shall be limited to employees who have been approved to access CORI.
- (2) Electronically-stored CORI shall be password protected and encrypted. Password access shall be limited to only those employees who have been approved to access CORI.
- (3) CORI may be stored using cloud storage methods. When CORI is stored using cloud storage methods the following shall be followed:
  - (a) The requestor must have a written agreement with the cloud storage provider. The written agreement shall include the minimum security requirements published by the DCJIS concerning cloud storage. Said agreement is subject to inspection by the DCJIS and shall be provided to DCJIS upon request.
  - (b) The cloud storage method must provide for encryption and password protection of all CORI.
- (4) CORI shall not be retained for longer than seven years from the date of employment or volunteer service, or from the date of the final employment, volunteer, or licensing decision of the requestor regarding the subject, whichever occurs later.

2.13: Destruction of CORI and CORI Acknowledgment Forms

- (1) Hard copies of CORI and CORI Acknowledgment Forms shall be destroyed by shredding or burning.
- (2) Electronic copies of CORI and CORI Acknowledgment Forms shall be destroyed by deleting them from the device on which they are stored and from any system used to back up the information and by degaussing the device or overwriting the files with 1s and 0s multiple times.
- (3) CORI and CORI Acknowledgment Forms shall be appropriately destroyed by electronic or mechanical means before disposing of, or repurposing, a computer or other device used to store CORI.

2.14: Required Dissemination of CORI by an Employer, Volunteer Organization, or Governmental Licensing Agency

- (1) Each employer, volunteer organization, and governmental licensing agency shall provide a copy of a subject's CORI or other criminal history information, and shall disclose the source of the information, to him or her:
  - (a) before asking any questions about the subject's criminal history; and
  - (b) before making an adverse employment, volunteer, or licensing decision based on the subject's CORI.

2.14: continued

(2) Each employer, volunteer organization, or governmental licensing agency that is overseen, regulated, or supervised by a governmental entity shall, upon request, disseminate CORI relating solely to the requestor's employees or licensees to that governmental entity's staff in order for the governmental entity to ensure that the requestor is in compliance with the governmental entity's regulations, policies, or procedures.

2.15: Permissive Dissemination of CORI by an Employer or Governmental Licensing Agency

(1) An employer, volunteer organization, or governmental licensing agency may disseminate CORI to the subject.

(2) If an employer, volunteer organization, or governmental licensing agency is a party to a complaint or legal action as a result of any decision based on CORI, the employer or governmental licensing agency may disseminate CORI to an administrative agency or court for the purpose of defending its decision.

(3) An employer, volunteer organization, or governmental licensing agency may disseminate CORI to its staff who have been authorized to request, receive, or review CORI for the purposes of evaluating the subject's application for employment or licensing.

2.16: CORI Policy Requirement for Certain Requestors and the Need to Know Requirements

(1) A person acting as a decision maker on an application or interacting directly with a subject that annually conducts five or more criminal background investigations, whether CORI is obtained from the DCJIS or from another source, shall maintain a written CORI policy which must meet the minimum standards of the DCJIS Model CORI Policy.

(2) A CORI policy may be developed and maintained regardless of the number of CORI requests conducted.

(3) Each requestor shall maintain a "need to know" list of staff that have been authorized to request, receive, or review CORI. This list must be updated periodically, but not less than every six months, and shall be made available to the DCJIS upon request. A requestor may also provide the "need to know" list to a subject or subject's advocate upon request.

2.17: Requirement to Maintain a Secondary Dissemination Log

(1) CORI shall not be disseminated except as otherwise provided in 803 CMR 2.14 and 2.15, or as otherwise authorized by the law, regulation, or accreditation requirement that allows for CORI access.

(2) In the limited circumstances under which CORI may be lawfully disseminated outside of the requestor's organization, the requestor shall record such dissemination in a secondary dissemination log.

(3) The secondary dissemination log must include:

- (a) the subject's name;
- (b) the subject's date of birth;
- (c) the date and time of dissemination;
- (d) the name of the person to whom the CORI was disseminated along with the name of the organization for which the person works, if applicable; and
- (e) the specific reason for dissemination.

(4) The secondary dissemination log may be maintained electronically or on paper.

(5) Each secondary dissemination log entry shall be maintained for at least one year.

(6) A secondary dissemination log shall be subject to audit by the DCJIS.

2.17: continued

(7) Upon request, a requestor may provide a subject a copy of the secondary dissemination log pertaining only to dissemination of the subject's CORI.

2.18: Adverse Employment Decision Based on Cori or Other Types of Criminal History Information Received from a Source Other than the DCJIS

Before taking adverse action against an employment applicant or employee based on the subject's CORI or criminal history information that was received from a source other than the DCJIS, an employer or volunteer organization shall:

- (a) comply with applicable federal and state laws and regulations;
- (b) notify the subject in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse employment action;
- (c) provide a copy of the subject's CORI or criminal history information to the subject;
- (d) identify the source of the criminal history information;
- (e) provide a copy of the requestors CORI Policy, if applicable;
- (f) identify the information in the subject's CORI or criminal history information that is the basis for the potential adverse action;
- (g) provide the subject with the opportunity to dispute the accuracy of the information contained in the CORI or criminal history information;
- (h) when CORI is considered as a part of a potential adverse action, provide the subject with a copy of DCJIS information regarding the process for correcting CORI; and
- (i) document all steps taken to comply with 803 CMR 2.18.

2.19: Adverse Licensing Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS

(1) Before making a final adverse decision on a licensing applicant's application for licensing based on the licensing applicant's CORI or criminal history information received from a source other than the DCJIS, a governmental licensing agency shall:

- (a) comply with applicable federal and state laws and regulations;
- (b) notify the licensing applicant in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse licensing decision;
- (c) provide a copy of the licensing applicant's CORI or criminal history information to the licensing applicant;
- (d) provide the source of the criminal history information;
- (e) provide a copy of the agency's CORI Policy, if applicable;
- (f) identify the information in the licensing applicant's CORI that is the basis for the potential adverse decision;
- (g) when CORI is considered as a part of a potential adverse decision, provide the licensing applicant with a copy of DCJIS information regarding the process for correcting CORI; and
- (h) document all steps taken to comply with 803 CMR 2.19(1).

(2) The governmental licensing agency must provide the licensing applicant with information regarding an appeal process that includes the opportunity to dispute the accuracy of the information contained in the CORI or criminal history information.

2.20: Use of a Consumer Reporting Agency (CRA)

(1) A requestor may utilize the services of a Consumer Reporting Agency (CRA) to request CORI for an employment applicant or employee licensing or volunteer opportunities. *See also 803 CMR11.00: Consumer Reporting Agency (CRA).*

- (a) Before a CRA can request CORI from the DCJIS on a requestor's behalf, the requestor shall:
  1. register for an iCORI account and designate the CRA as an entity authorized to submit iCORI checks on the requestor's behalf;
  2. notify the subject, in writing and in a separate document consisting solely of such notice, that a consumer report may be used in the decision making process; and

2.20: continued

3. obtain the subject's separate written authorization to conduct background screening before asking a CRA for the report regarding the subject. A requestor shall not substitute the CORI Acknowledgement Form for this written authorization.
  4. Obtain a signed CORI Acknowledgement Form and follow all requirements pertaining to verification of identity as set forth in 803 CMR 2.09.
- (b) A requestor shall also provide required information to the CRA before requesting CORI through a CRA.
1. The requestor shall certify to the CRA that the requestor is in compliance with the Federal Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681.
  2. The requestor shall not misuse any information in the report in violation of federal or state laws or regulations.
  3. The requestor shall provide accurate identifying information for the subject to the CRA and the purpose for which the subject's CORI is being requested.
- (2) Before taking adverse action on a subject's application based on the subject's CORI received from a CRA who obtained it from the DCJIS or criminal history information received from a CRA who obtained it from a source other than the DCJIS the requestor shall:
- (a) provide the subject with a pre-adverse action disclosure that includes a copy of the subject's consumer report and a copy of A Summary of Your Rights Under the Fair Credit Reporting Act, published by the Federal Trade Commission and obtained from the CRA, by meeting the subject in person, or by telephone, by electronic communication, by fax, or by hard copy correspondence;
  - (b) provide a copy of the CORI or criminal history information to the subject;
  - (c) identify the source of the criminal history information;
  - (d) provide a copy of the requestor's CORI Policy, if applicable, to the subject;
  - (e) identify the information in the subject's CORI that is the basis for the potential adverse decision;
  - (f) provide the subject with an opportunity to dispute the accuracy of the information contained in the CORI or criminal history information;
  - (g) when CORI is considered as a part of a potential adverse action, provide the subject with a copy of the DCJIS information regarding the process for correcting a criminal record; and
  - (h) document all steps taken to comply with 803 CMR 2.20(2).

2.21: Audits by the DCJIS

- (1) Requests for CORI are subject to audit by the DCJIS.
- (2) Each requestor who requests CORI shall respond to, and participate in, audits conducted by the DCJIS.
  - (a) Failure to cooperate with, or to respond to, an audit may result in immediate revocation of CORI access.
  - (b) If CORI access is revoked for failure to cooperate with, or to respond to, a DCJIS audit, the requestor shall not obtain CORI through a CRA.
  - (c) The DCJIS may restore CORI access upon completion of its audit.
  - (d) The DCJIS may also initiate a complaint with the CRRB against any requestor for failure to respond to, or to participate in, an audit.
- (3) During a DCJIS audit, the requestor shall provide, or allow DCJIS audit staff to inspect, certain CORI-related documents, including, but not limited to:
  - (a) CORI Acknowledgement Forms;
  - (b) secondary dissemination logs;
  - (c) the organization's CORI Policy, if applicable; and
  - (d) documentation of any adverse decisions based on CORI.
- (4) During an audit, DCJIS audit staff shall assess the requestor's compliance with statutory and regulatory requirements, including, but not limited to:
  - (a) if the request or properly registered for the appropriate level of CORI access and provided correct registration information;

2.21: continued

- (b) if the requestor is properly completing and retaining CORI Acknowledgement Forms;
- (c) if the requestor is requesting CORI in compliance with 803 CMR 2.00;
- (d) if the requestor is properly storing and safeguarding CORI;
- (e) if the requestor is properly maintaining a secondary dissemination log;
- (f) if the requestor is screening only those individuals permitted by law; and
- (g) if the requestor has a CORI policy that complies with DCJIS requirements.

(5) Audit Results May Be Published.

(6) If the DCJIS auditors determine that the requestor is not in compliance with statutory or regulatory CORI requirements, the DCJIS may:

- (a) initiate a complaint against the organization with the CRRB.
- (b) refer the audit results to state or federal law enforcement agencies for criminal investigation.
- (c) enter into a consent agreement with the requestor whereby the requestor agrees to certain audit findings and, in *lieu* of further proceedings, agrees to resolve audit findings by agreeing to pay a fine and/or by agreeing to other conditions regarding access to CORI.

2.22: Confidentiality and Privacy of CORI

(1) A non-law enforcement requestor shall not request an individual's CORI without that individual's authorization, except when requesting Open Access to CORI.

(2) Restrictions on access to, and dissemination of, an individual's CORI shall terminate upon the individual's death. Upon request, and with a valid death certificate or reasonable proof of death as determined by the DCJIS, any entity may access a deceased person's entire CORI.

2.23: CORI Self-audit

(1) A self-audit is a report of all non-criminal justice CORI requests made on an individual through the iCORI system. A self-audit may be requested at any time.

(2) A self-audit report may only be requested for oneself. Requesting a self-audit relating to another individual's personal information is a violation of M.G.L. c. 6, § 178.

(3) To obtain a self-audit, an individual may register for an iCORI account. A self-audit may also be requested from the DCJIS *via* mail using a request form developed by the DCJIS.

(4) All self-audit requests submitted by mail shall be notarized.

(5) An individual may request one free self-audit request every 90 days. A fee will be charged for any subsequent self-audit requests made during any 90 day period.

(6) A self-audit is not a public record.

2.24: Inaccurate CORI

An individual may file a complaint with the DCJIS regarding inaccurate information on his or her CORI using the process established by the DCJIS.

2.25: CORI Complaints

(1) A complaint may be filed with the DCJIS for any violation(s) of the CORI laws and regulations including, but not limited to:

- (a) improper access to, or dissemination of, CORI; and
- (b) failure of a person to follow regulations, including 803 CMR 2.00, 803 CMR 5.00: *Criminal Offender Record Information (CORI) - Housing*, and 803 CMR 11.00: *Consumer Reporting Agency (CRA)*.

2.25: continued

- (2) The DCJIS shall screen all complaints to determine whether there is sufficient information to initiate a complaint investigation.
- (3) After investigation, if the DCJIS determines that there is sufficient information to support a complaint, it will present an investigation report to the CRRB to determine next steps, including whether a show cause order should be issued against any party.
  - (a) When the CRRB proceeds by issuing a show cause order, the DCJIS will mail the order to the party(ies) affected and will provide the party(ies) an opportunity to respond to the order.
  - (b) Upon receipt of a response, the DCJIS may schedule either a CORI complaint hearing before a subcommittee of the CRRB or a CORI complaint conference before a complaint hearing officer. Whether a complaint goes to conference or to a hearing shall depend upon the complexity of the complaint.
  - (c) All parties shall receive at least 30 days notice of the scheduled date, time, and place of the hearing or conference from the DCJIS by electronic communication or first class mail.
  - (d) Both the complainant and the respondent shall also receive a complaint packet that contains a copy of the complaint, any response, and any other additional relevant information obtained by the DCJIS.
  - (e) Before the conference or hearing, the DCJIS shall issue notices and summonses to compel attendance of both the complainant and the respondent. The DCJIS may issue additional notices and summonses to compel the attendance of witnesses and to require the production of books, records, or documents.
  - (f) Prior to the conference or hearing, either party may request that a summons be issued to secure the attendance of an in-state witness.
    1. At least 21 days prior to the conference or hearing, the party requesting a summons shall provide, in writing, the name and address of the witness along with an explanation as to why a requested witness' testimony is relevant to the proceeding.
    2. Upon receipt of this information, should the complaint hearing officer or subcommittee chairperson determine testimony of the requested witness is not relevant, the party's request for a witness summons may be denied.
  - (g) Prior to a conference or hearing, the respondent may enter into a consent agreement regarding the alleged violation and agree to pay a civil penalty and/or agree to any other sanctions as issued by the CRRB.
- (4) The complaint conference or hearing shall be an adjudicatory hearing that takes place before a complaint hearing officer or CRRB Subcommittee. The CRRB Subcommittee or hearing officer will conduct the conference or hearing and determine its course, including the order and manner in which the parties may offer information. Depending on the subject matter, complaint conferences/hearings maybe open to the public.
  - (a) Oaths shall be administered to the parties, all relevant issues shall be considered, and all evidence determined necessary to decide the issues raised in the complaint and the response will be requested, received, and made part of the conference or hearing record.
  - (b) All CORI complaint conferences and hearings shall be subject to the provisions of M.G.L. c. 30A, which governs adjudicatory hearing procedures.
  - (c) All CORI complaint conferences and hearings shall be subject to the informal rules of adjudicatory procedure under 801 CMR 1.02: *Informal/Fair Hearing Rules*.
  - (d) All complaint conferences and hearings shall be electronically recorded.
  - (e) At complaint conferences and hearings, the complainant and the respondent may present testimony and evidence on their own behalf.
  - (f) Following a complaint conference, the complaint hearing office shall issue a recommendation on which the CRRB shall vote at its next formal meeting. Board findings and orders may be publicly posted. All identifying information of the complaining witness shall be redacted prior to such posting.
  - (g) Following a complaint hearing, the subcommittee shall issue a written "Decision and Order" stating whether there was a violation of the CORI law or 803 CMR 2.00 and what civil penalty, if any, will be assessed. Board findings and orders may be publicly posted. All identifying information of the complaining witness shall be redacted prior to such posting.

2.25: continued

(5) If any person involved in a conference or hearing is speech impaired, hearing impaired, or cannot speak or understand the English language, that person shall be entitled to have translation services present at the conference or hearing.

(a) In order to obtain the services of a translator, the person shall notify the DCJIS upon the filing of a complaint, upon providing a complaint response, or at least 15 days prior to the hearing or conference.

(b) A person may also provide a translator. If a person chooses to provide a translator, the person shall notify the DCJIS as soon as reasonably possible prior to the conference or hearing. At that time, the person shall provide the qualifications of the translator to the DCJIS, which must approve the translator prior to the conference or hearing.

(c) If a person requests a translator pursuant to 803 CMR 2.00, the DCJIS shall arrange for the services of such a translator and shall notify the complainant and respondent of the identity of the translator within a reasonable amount of time prior to the conference or hearing.

(d) The CRRB may order any person failing to appear after a request for translation services to pay the costs of the translator.

2.26: The Criminal Record Review Board

(1) The Criminal Record Review Board (CRRB) is an 18-member Board, created pursuant to M.G.L. c. 6, § 168(a), that shall meet regularly to review complaints and investigate incidents involving allegations of statutory and regulatory CORI violations.

(2) The Board shall also consult upon the adoption of rules and regulations for the implementation, administration, and enforcement of M.G.L. c. 6, §§ 168 through 178A, and the collection, storage, access, dissemination, content, organization, and use of criminal offender record information by requestors.

(3) The CRRB shall have the authority to:

(a) dismiss a CORI complaint;

(b) appoint a Board member, hearing officer, or three member subcommittee to conduct hearings or conferences of CORI violation complaints;

(c) issue summonses to compel the attendance of witnesses and require their testimony at hearings or conferences;

(d) require the production of books, records, and documents for hearings or conferences;

(e) administer oaths at hearings or conferences;

(f) order any party who fails to appear at a conference or hearing, after a request for translation services, to pay the costs of the translator;

(g) remand a complaint presented to it for additional fact finding;

(h) review complaints and investigate any incidents alleging violations of M.G.L. c. 6, §§ 168 through 178A;

(i) hear complaints and investigate any incidents alleging violations of board rules and regulations;

(j) enter into consent agreements regarding alleged violations of the CORI laws and regulations;

(k) revoke access to CORI;

(l) impose civil fines of up to \$5,000 for each knowing CORI violation; and

(m) refer any complaint to state or federal criminal justice agencies for criminal investigation.



803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

2.27: Severability

If any provision of 803 CMR 2.00, or the application thereof, is held to be invalid, such invalidity shall not affect the other provisions or the application of any other part of 803 CMR 2.00 not specifically held invalid and, to this end, the provisions of 803CMR 2.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 2.00: M.G.L. c. 6, §§ 167A and 172; and c. 30A.