

803 CMR 5.00: CRIMINAL OFFENDER RECORD INFORMATION (CORI) - HOUSING

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5.01: Scope and Purpose

- (1) 803 CMR 5.00 is issued in accordance with M.G.L. c. 6, §§ 167A and 172; and M.G.L. c. 30A.
- (2) 803 CMR 5.00 sets forth procedures the purpose of evaluating applicants for rental or lease housing. 803 CMR 5.00 further sets forth procedures for storing and disseminating CORI received during the evaluation of applicants for rental or lease housing.
- (3) 803 CMR 5.00 applies to landlords, real estate agents, public housing authorities, and property management companies that request CORI for the purpose of screening applicants for the rental or lease of housing.
- (4) Nothing contained in 803 CMR 5.00 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.

5.02: Definitions

As used in 803 CMR 5.00, the following words and phrases shall have the following meanings:

Consumer Reporting Agency (CRA). Any person or organization which, for monetary fees, dues, or on a cooperative, nonprofit basis, regularly engages in whole, or in part, in the practice of assembling or evaluating consumer, 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 Offender Record Information (CORI). Information as defined in 803 CMR 2.03: *Criminal Offender Record Information Inclusions and Exclusions.*

5.02: continued

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 governing CORI, M.G.L. c. 6, §§ 167A and 172; and 803 CMR 2.00: *Criminal Justice Information Services*.

Department of Criminal Justice Information Services (DCJIS or the Department). 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 community; to oversee the authorized provision of Criminal Offender Record Information to the non-criminal justice community; to provide support to the Criminal Record Review Board; to operate the Firearms Records Bureau; and to provide and technically support the Victim Notification Registry for the victims of crime.

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.

Landlord. An individual that owns and rents or leases housing to another individual or business entity.

Market Rate Housing. Housing that is privately owned and not subsidized by any federal or state housing program. Market rate housing shall include housing for which the landlord or property management company receives a subsidized housing voucher.

Public Housing Authority. A federal, state, or local governmental entity charged with administering any federal or state-funded subsidized housing program.

Property Management Company. A business entity that owns housing property to rent or lease or acts on behalf of an owner of housing to rent or lease housing property.

Real Estate Agent. An individual or business entity that acts as an agent on behalf of a landlord or property management company to rent or lease housing.

Subsidized Housing. Any program of rental assistance for low or moderate income persons funded by the state or federal government. However, subsidized housing shall not include market rate housing for which the landlord or property management company receives a subsidized housing voucher.

5.03: iCORI Registration

- (1) iCORI access requires iCORI registration.
- (2) iCORI account registration requires access to a computer and the internet.
- (3) iCORI registrants shall provide:
 - (a) the iCORI registrant's identifying information as required by DCJIS; and
 - (b) identification of the purpose for which the iCORI registrant requests access to CORI including any statutory, regulatory, or accreditation requirements that mandate CORI or criminal history screening.
- (4) iCORI registrants shall complete iCORI training.
- (5) iCORI registrants shall agree to all iCORI terms and conditions.
- (6) An iCORI registration fee may be required.
- (7) iCORI registration shall expire after one calendar year.

5.03: continued

- (8) After expiration, the iCORI registrant shall renew its registration before accessing additional CORI.
- (9) To renew a registration, the iCORI registrant shall:
 - (a) complete iCORI training again; and
 - (b) agree to all iCORI terms and conditions again.
- (10) An iCORI registration renewal fee may be required.
- (11) A CRA shall keep its registration information updated.

5.04: Access to Criminal Offender Record Information (CORI) by Landlords, Property Management Companies, and Real Estate Agents to Evaluate Housing Applicants for Market Rate Housing

- (1) A landlord, property management company, or real estate agent may request CORI regarding a housing applicant who is applying for market rate housing owned or controlled by the landlord, property management company or real estate agent for the purpose of evaluating the housing applicant for housing.
- (2) No landlord, property management company, or real estate agent shall use CORI accessed pursuant to 803 CMR 2.05(4): *Levels of Access to Criminal Offender Record Information* to evaluate an individual seeking to buy or sell real property.
- (3) No landlord, property management company, or real estate agent may request CORI regarding household members other than the housing applicant.

5.05: Access to Criminal Offender Record Information (CORI) by Public Housing Authorities and Certain Property Management Companies to Evaluate Housing Applicants for Subsidized Housing

- (1) Prior to accessing CORI to evaluate a housing applicant for subsidized housing, each public housing authority and property management company that administers a subsidized housing program for qualifying subsidized housing units shall register for an iCORI account pursuant to 803 CMR 5.03.
- (2) A public housing authority or property management company that administers a subsidized housing program for qualifying subsidized housing units may request CORI regarding a housing applicant who is applying for subsidized housing owned or controlled by the public housing authority or property management company that administers a subsidized housing program for qualifying subsidized housing units for the purpose of evaluating the housing applicant for housing.
- (3) Public housing authorities and property management companies that administer a subsidized housing program for qualifying subsidized housing units shall screen housing applicants for subsidized housing only as provided by state and federal law.
- (4) A property management company that administers a subsidized housing program for qualifying subsidized housing units that also manages or owns market rate housing shall not use access to CORI pursuant to 803 CMR 2.05(3): *Levels of Access to Criminal Offender Record Information* to evaluate housing applicants for market rate housing. Such property management companies may access CORI pursuant to 803 CMR 2.05(4): *Levels of Access to Criminal Offender Record Information* to evaluate housing applicants for market rate housing.
- (5) A public housing authority may qualify to receive national criminal history information from the Federal Bureau of Investigation by executing a memorandum of understanding with the local police department and DCJIS.
 - (a) National criminal history information received under this provision shall be used only as permitted by federal and state laws for the purpose of determining suitability for subsidized housing programs.
 - (b) Improper access or dissemination of national criminal history information may result in both criminal and civil sanctions.

5.06: Procedures for Requesting Criminal Offender Record Information (CORI) to Evaluate a Housing Applicant

- (1) Prior to submitting a CORI request to evaluate a housing applicant, a landlord, property management company, real estate agent, or public housing authority shall:
 - (a) complete and maintain a CORI Acknowledgement Form for each housing applicant to be screened;
 - (b) verify the identity of the housing applicant;
 - (c) obtain the housing applicant's signature on the CORI Acknowledgement Form; and
 - (d) sign and date the CORI Acknowledgement Form certifying that the housing applicant was properly identified.
- (2) To complete the CORI Acknowledgement Form, the housing applicant shall provide:
 - (a) all names that have been used by the housing applicant or by which the housing applicant has been known; and
 - (b) any different name or date of birth for the housing applicant that the housing applicant is aware appears in the CORI database.
- (3) A landlord, property management company, real estate agent, or public housing authority shall verify a housing applicant's identity by examining a government-issued identification. 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; and
 - (d) a military identification.
- (4) If a housing applicant does not have an acceptable government-issued identification, a landlord, property management company, real estate agent, or public housing authority shall verify the housing applicant's identity by other forms of documentation as determined by DCJIS.
- (5) If a landlord, property management company, real estate agent, or public housing authority is unable to verify a housing applicant's identity and signature in person, the housing applicant may submit a completed CORI Acknowledgement Form acknowledged by the housing applicant before a notary public.
- (6) A landlord, property management company, real estate agent, or public housing authority shall submit the housing applicant's name, date of birth, and, if available, the last six digits of the housing applicant's social security number.
- (7) To retrieve CORI from the iCORI system, a housing applicant's name, date of birth, and partial social security number as submitted by the landlord, property management company, real estate agent, or public housing authority must match the information in the iCORI database exactly.
- (8) If a housing applicant has additional names or dates of birth, the landlord, property management company, real estate agent, or public housing authority may submit additional requests.
- (9) A landlord, property management company, real estate agent, or public housing authority may be required to pay a fee for each separate CORI request.
- (10) Nothing in 803 CMR 5.00 shall be construed to prohibit a landlord, property management company, real estate agent, or public housing authority from making an adverse housing decision on the basis of a housing applicant's objection to a request for CORI.
- (11) CORI Acknowledgement forms must be retained by the landlord, property management company, real estate agent, or public housing authority for a minimum of one year from the date of the housing applicant's signature.

5.07: Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors

- (1) Any landlord, property management company, real estate agent, or public housing authority that annually conducts five or more criminal background investigations, whether CORI is obtained from DCJIS or any other source, shall maintain a written CORI policy, which must meet the minimum standards of the DCJIS model CORI policy.
- (2) DCJIS shall maintain a model CORI policy on a DCJIS website.
- (3) A CORI policy may be developed and maintained regardless of the number of CORI requests conducted.

5.08: Delivery of Criminal Offender Record Information (CORI) Results

- (1) Where fully automated, criminal history records will be returned to the landlord, property management company, real estate agent, or public housing authority electronically. Otherwise, a manual search shall be conducted and a response will be delivered upon completion of the search.
- (2) CORI requested electronically through iCORI may be viewed through the requesting landlord, property management company, real estate agent, or public housing authority's account.
- (3) CORI requested by paper submission shall be sent to the requesting landlord, property management company, real estate agent, or public housing authority by first-class mail.

5.09: Storage and Retention of Criminal Offender Record Information (CORI)

- (1) Landlords, property management companies, real estate agents, and public housing authorities shall store hard copies of CORI in a locked and secure location, such as a file cabinet. Landlords, property management companies, real estate agents, and public housing authorities shall limit access to the locked and secure location to employees who have been approved by them to access CORI.
- (2) Landlords, property management companies, real estate agents, and public housing authorities shall password protect and encrypt electronically-stored CORI. Landlords, property management companies, real estate agents, and public housing authorities shall limit password access to only those employees who have been approved by them to access CORI.
- (3) CORI shall not be stored using public cloud storage methods.
- (4) Each landlord, property management company, real estate agent, or public housing authority shall not retain CORI for longer than seven years from the last date of residency of the housing applicant in the housing unit owned or managed by the requesting landlord, property management company, real estate agent, or public housing authority or the date of a housing decision regarding the housing applicant whichever is later.

5.10: Destruction of Criminal Offender Record Information (CORI)

- (1) Each landlord, property management company, real estate agent, or public housing authority shall destroy hard copies of CORI by shredding or otherwise before disposing of CORI.
- (2) Each landlord, property management company, real estate agent, or public housing authority shall destroy electronic copies of CORI by deleting them from the hard drive on which they are stored and from any system used to back up the information before disposing of CORI.
- (3) Each landlord, property management company, real estate agent, or public housing authority shall appropriately clean all information by electronic or mechanical means before disposing of or repurposing a computer used to store CORI.

5.11: Required Dissemination of Criminal Offender Record Information (CORI) or other Criminal History Information by a Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority

- (1) Each landlord, property management company, real estate agent, or public housing authority shall provide a copy of the CORI or other criminal history information and the source of other criminal history information regarding a housing applicant to the housing applicant:
 - (a) before asking the housing applicant any questions regarding the housing applicant's criminal history; and
 - (b) before making an adverse housing decision based on the housing applicant's CORI or other criminal history.
- (2) Each property management company or public housing authority that is overseen, regulated, or supervised by a governmental entity shall, upon request, disseminate CORI to that governmental entity's staff.
- (3) Each public housing authority shall disseminate a housing applicant's CORI to the housing applicant or the housing applicant's advocate. However, before receiving the housing applicant's CORI, a housing applicant's advocate shall provide a release signed by the housing applicant authorizing the advocate to receive or review the CORI.

5.12: Permissive Dissemination of Criminal Offender Review Information (CORI) by a Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority

- (1) A landlord, property management company, or real estate agent may disseminate CORI to the housing applicant.
- (2) If a landlord, property management company, real estate agent or public housing authority is a party to a complaint or legal action as a result of any decision based on CORI, the landlord, property management company, real estate agent or public housing authority may disseminate CORI in the tenant appeals process or to an administrative agency or court for the purpose of defending its decision.
- (3) A property management company or real estate agent may disseminate CORI to the owner of the housing unit for which the housing applicant is applying. A public housing authority may disseminate CORI to the owner of the housing unit for which the housing applicant is applying unless the public housing authority, in *lieu* of the owner of the housing unit, is responsible for determining compliance with CORI requirements for renting or leasing such housing.
- (4) A property management company or public housing authority may disseminate CORI to its staff who the property management company or public housing authority have authorized to request, receive, or review CORI for the purposes of determining whether to rent or lease housing.

5.13: Requirement to Maintain a Secondary Dissemination Log

- (1) Following dissemination of a housing applicant's CORI outside of the landlord, property management company, real estate agent, or public housing authority's organization, the landlord, property management company, real estate agent, or public housing authority shall record such dissemination in a secondary dissemination log.
- (2) The secondary dissemination log must include:
 - (a) the housing applicant's name;
 - (b) the housing applicant'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.
- (3) The secondary dissemination log may be maintained electronically or in a hard copy.
- (4) Secondary dissemination log entries shall be maintained for at least one year.
- (5) A secondary dissemination log shall be subject to audit by DCJIS.

5.14: Limitation on Dissemination and Use of Criminal Offender Record Information (CORI)

- (1) CORI accessed pursuant to 803 CMR 5.04 by a landlord, property management company, or real estate agent shall be used solely for determining whether to rent or lease real property to the housing applicant.
- (2) CORI accessed pursuant to 803 CMR 5.05 by a property management company or public housing authority shall be used solely to determine whether the housing applicant qualifies for a subsidized housing program.
- (3) Except as provided in 803 CMR 5.11 and 803 CMR 5.12, a landlord, property management company, real estate agent or public housing authority shall not disseminate CORI received pursuant to 803 CMR 5.04 or 803 CMR 5.05.

5.15: Adverse Housing Decision Based on Criminal Offender Record Information (CORI)

- (1) Before taking adverse action on a housing applicant's application for housing based on the housing applicant's CORI, a landlord, property management company, or real estate agent shall:
 - (a) comply with applicable federal and state laws and regulations;
 - (b) notify the housing applicant in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse housing action;
 - (c) provide a copy of the housing applicant's CORI or other criminal history to the housing applicant including the source of other criminal history information;
 - (d) provide a copy of the landlord, property management company, or real estate agent's CORI Policy, if applicable;
 - (e) identify the information in the housing applicant's CORI that forms the basis for the potential adverse action;
 - (f) provide the housing applicant with the opportunity to dispute the accuracy of the information contained in the CORI;
 - (g) provide the housing applicant with a copy of DCJIS information regarding the process for correcting CORI; and
 - (h) document all steps taken to comply with 803 CMR 5.15(1)(a) through (g).
- (2) A public housing authority or property management company that administers a subsidized housing program for qualifying subsidized housing units that takes an adverse housing action based on CORI shall:
 - (a) comply with applicable federal and state laws and regulations pertaining to suitability for subsidized housing;
 - (b) notify the housing applicant in person, by telephone, fax, or electronic or hard copy correspondence of the adverse housing action;
 - (c) provide a copy of the housing applicant's CORI;
 - (d) provide information regarding the process to appeal the adverse decision; and
 - (e) provide DCJIS information concerning the process for correcting a criminal record.
- (3) Before taking adverse action on a housing applicant's application for housing because of the housing applicant's criminal history information that was received from a source other than DCJIS, a landlord, property management company, or real estate agent shall:
 - (a) comply with applicable federal and state laws and regulations, if any;
 - (b) notify the housing applicant in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse housing action;
 - (c) provide a copy of the housing applicant's criminal history information to the housing applicant including the source of the other criminal history information;
 - (d) provide a copy of the landlord, property management company, or real estate agent's CORI Policy, if applicable;
 - (e) provide the housing applicant with the opportunity to dispute the accuracy of the criminal history information;
 - (f) provide the housing applicant with a copy of DCJIS information concerning the process for correcting criminal records; and
 - (g) document all steps taken to comply with 803 CMR 5.15(3)(a) through (f).

5.16: Use of a Consumer Reporting Agency (CRA) to Make Housing Decisions

(1) A landlord, property management company, real estate agent, or public housing authority may use a CRA to request CORI regarding a housing applicant.

(a) Before a CRA can request CORI from DCJIS on behalf of a landlord, property management company, real estate agent, or public housing authority, the landlord, property management company, real estate agent, or public housing authority shall:

1. notify the housing applicant, in writing and in a separate document consisting solely of this notice, that a consumer report may be used in the housing decision making process; and
2. obtain the housing applicant's separate written authorization to conduct background screening before asking a CRA for the report about the subject. A landlord, property management company, real estate agent, or public housing authority shall not substitute the CORI Acknowledgement Form for this written authorization.

(b) A landlord, property management company, real estate agent, or public housing authority shall also provide certain information to the CRA before requesting CORI through a CRA.

1. The landlord, property management company, real estate agent, or public housing authority shall certify to the CRA that the landlord, property management company, real estate agent, or public housing authority is in compliance with the Federal Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681.
2. The landlord, property management company, real estate agent, or public housing authority shall certify to the CRA that the landlord, property management company, real estate agent, or public housing authority will not misuse any information in the report in violation of federal or state laws or regulations.
3. The landlord, property management company, real estate agent, or public housing authority shall provide accurate identifying information for the housing applicant to the CRA and the purpose for which the subject's CORI is being requested.

(2) Before taking adverse action on a housing applicant's application for housing based on the housing applicant's CORI received from a CRA, the landlord, property management company, real estate agent, or public housing authority shall:

- (a) provide the housing applicant with a pre-adverse action disclosure that includes a copy of the housing applicant'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 housing applicant in person, by telephone, by electronic communication, by fax, or by hard copy correspondence.
- (b) notify the housing applicant of the potential adverse decision;
- (c) provide a copy of the landlord, property management company, real estate agent, or public housing authority's CORI Policy, if applicable, to the housing applicant;
- (d) identify the information in the CORI that provides the basis for the inclination to make an adverse decision;
- (e) provide a copy of the CORI to the housing applicant;
- (f) provide the housing applicant with a copy of the DCJIS information concerning the process for correcting a criminal record;
- (g) provide the housing applicant with an opportunity to dispute the accuracy of the information contained in the CORI; and
- (h) document all steps taken to comply with 803 CMR 5.16(2).

(3) Before taking adverse action on a housing applicant's application for housing because of the housing applicant's criminal history information that was received by a CRA from a source other than DCJIS, a landlord, property management company, or real estate agent shall:

- (a) provide the housing applicant with a pre-adverse action disclosure that includes a copy of the housing applicant'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 housing applicant in person, by telephone, by electronic communication, by fax, or by hard copy correspondence;
- (b) provide a copy of the criminal history to the housing applicant;
- (c) provide the housing applicant with an opportunity to dispute the accuracy of the criminal history information;
- (d) provide a copy of the landlord, property management company, real estate agent, or public housing authority's CORI Policy, if applicable, to the housing applicant;

5.16: continued

- (e) provide the housing applicant with a copy of the DCJIS information concerning the process for correcting a criminal record; and
- (f) document all steps taken to comply with 803 CMR 5.16(3).

5.17: Audits by Department of Criminal Justice Information Services (DCJIS)

- (1) Any landlord, property management company, real estate agent, or public housing authority that obtains CORI from DCJIS shall be subject to an audit conducted by DCJIS.
- (2) Each landlord, property management company, real estate agent, or public housing authority who requests CORI shall respond to, and participate in, audits conducted by DCJIS.
 - (a) Failure to cooperate with, or to respond to, an audit may result in immediate revocation of CORI access.
 - (b) DCJIS may restore CORI access upon completion of its audit.
 - (c) DCJIS may also initiate a complaint with the CRRB against any landlord, property management company, real estate agent, or public housing authority for failure to respond to, or to participate in, an audit.
- (3) During a DCJIS audit, the landlord, property management company, real estate agent, or public housing authority 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; and
 - (d) documentation of any adverse housing decisions based on CORI.
- (4) During an audit, DCJIS audit staff shall assess the landlord, property management company, real estate agent, or public housing authority's compliance with statutory and regulatory requirements, including, but not limited to:
 - (a) if the landlord, property management company, real estate agent, or public housing authority properly registered for the appropriate level of CORI access and provided correct registration information;
 - (b) if the landlord, property management company, real estate agent, or public housing authority is properly completing and retaining CORI Acknowledgement Forms;
 - (c) if the landlord, property management company, real estate agent, or public housing authority is requesting CORI in compliance with 803 CMR 2.00: *Criminal Offender Record Information*;
 - (d) if the landlord, property management company, real estate agent, or public housing authority is properly storing and safeguarding CORI;
 - (e) if the landlord, property management company, real estate agent, or public housing authority is properly maintaining a secondary dissemination log;
 - (f) if the landlord, property management company, real estate agent, or public housing authority is screening only those individuals permitted by law; and
 - (g) if the landlord, property management company, real estate agent, or public housing authority has a CORI policy that complies with DCJIS requirements.
- (5) Audit Results May be Published.
- (6) If the DCJIS auditors determine that the landlord, property management company, real estate agent, or public housing authority is not in compliance with statutory or regulatory CORI requirements, DCJIS may initiate a complaint against the organization with the CRRB.
- (7) DCJIS may also refer the audit results to state or federal law enforcement agencies for criminal investigation.

5.18: Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority Access to CORI for Purposes Other than the Evaluation of a Housing Applicant

Nothing in 803 CMR 5.00 shall limit the ability of a landlord, property management company, real estate agent, or public housing authority to access CORI pursuant to any other chapter of 803 CMR (Department of Criminal Justice Information Services) including, but not limited to access as an employer or member of the general public pursuant to 803 CMR 2.00: *Criminal Offender Record Information*.

5.19: Severability

If any provision of 803 CMR 5.00 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 5.00 not specifically held invalid, and to this end the provisions of 803 CMR 5.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 5.00: M.G.L. c. 6, §§ 167A and 172; and M.G.L. c. 30A.