

Table of Contents

	<u>Page</u>
803 CMR 2.00: CRIMINAL OFFENDER RECORD INFORMATION (CORI)	5
Section 2.01: Purpose and Scope	5
Section 2.02: Definitions	6
Section 2.03: Criminal Offender Record Information (CORI) Inclusions and Exclusions	8
Section 2.04: iCORI Registration	9
Section 2.05: Levels of Access to Criminal Offender Record Information (CORI)	11
Section 2.06: Access to an Individual's Own Criminal Offender Record Information (CORI)	15
Section 2.07: Special Categories for Criminal Offender Record Information (CORI) Access	16
Section 2.08: Prohibition Against Requiring a Subject to Provide Own Criminal Offender Record Information (CORI)	17
Section 2.09: Requirements for Employers and Governmental Licensing Agencies to Request Criminal Offender Record Information (CORI)	17
Section 2.10: Delivery of Criminal Offender Record Information (CORI) Results	19
Section 2.11: Storage and Retention of Criminal Offender Record Information (CORI)	19
Section 2.12: Destruction of Criminal Offender Record Information (CORI)	20
Section 2.13: Required Dissemination of Criminal Offender Record Information (CORI) by an Employer or Governmental Licensing Agency	20
Section 2.14: Permissive Dissemination of Criminal Offender Record Information (CORI) by an Employer or Governmental Licensing Agency	21
Section 2.15: Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors	21
Section 2.16: Requirement to Maintain a Secondary Dissemination Log	21
Section 2.17: Adverse Employment Decision Based on Criminal Offender Record Information (CORI)	22
Section 2.18: Adverse Employment Decision Based on Criminal History Information Received from a Source Other than Department of Criminal Justice Information Services (DCJIS)	22
Section 2.19: Adverse Licensing Decision Based on Criminal Offender Record Information (CORI)	23
Section 2.20: Adverse Licensing Decision Based on Criminal History Information Received From a Source Other than Department of Criminal Justice Information Services (DCJIS)	23
Section 2.21: Use of a Consumer Reporting Agency (CRA) to Make Employment Decisions	24
Section 2.22: Audits by Department of Criminal Justice Information Services (DCJIS)	26
Section 2.23: Confidentiality and Privacy of Criminal Offender Record Information (CORI)	27
Section 2.24: Criminal Offender Record Information (CORI) Self-Audit	28
Section 2.25: Inaccurate Criminal Offender Record Information (CORI)	28
Section 2.26: Criminal Offender Record Information (CORI) Complaints	28
Section 2.27: The Criminal Record Review Board	31
Section 2.28: Severability	33

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

(803 CMR 3.00 AND 4.00: RESERVED)	35
803 CMR 5.00: CRIMINAL OFFENDER RECORD INFORMATION (CORI) - HOUSING	37
Section 5.01: Scope and Purpose	37
Section 5.02: Definitions	38
Section 5.03: iCORI Registration	39
Section 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	40
Section 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	40
Section 5.06: Procedures for Requesting Criminal Offender Record Information (CORI) to Evaluate a Housing Applicant	41
Section 5.07: Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors	43
Section 5.08: Delivery of Criminal Offender Record Information (CORI) Results	43
Section 5.09: Storage and Retention of Criminal Offender Record Information (CORI)	44
Section 5.10: Destruction of Criminal Offender Record Information (CORI)	44
Section 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	45
Section 5.12: Permissive Dissemination of Criminal Offender Record Information (CORI) by a Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority	45
Section 5.13: Requirement to Maintain a Secondary Dissemination Log	46
Section 5.14: Limitation on Dissemination and Use of Criminal Offender Record Information (CORI)	46
Section 5.15: Adverse Housing Decision Based on Criminal Offender Record Information (CORI)	47
Section 5.16: Use of a Consumer Reporting Agency (CRA) to Make Housing Decisions	48
Section 5.17: Audits by Department of Criminal Justice Information Services (DCJIS)	51
Section 5.18: Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority Access to Criminal Offender Record Information (CORI) for Purposes Other than the Evaluation of a Housing Applicant	52
Section 5.19: Severability	52
(803 CMR 6.00: RESERVED)	54
803 CMR 7.00: CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS)	56
Section 7.01: Purpose and Scope	56
Section 7.02: Definitions	57

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

803 CMR 7.00:	CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS) (continued)	
Section 7.03:	Criminal Justice Agency (CJA) Access to Criminal Justice Information System (CJIS)	59
Section 7.04:	Background Check Requirements	59
Section 7.05:	Maintenance of Municipal and Regional Systems	60
Section 7.06:	Global Public Safety Information Agreement	60
Section 7.07:	Roles and Responsibilities	60
Section 7.08:	Fingerprinting	62
Section 7.09:	Prohibited Access to Criminal Justice Information Services (CJIS)	63
Section 7.10:	Dissemination of Criminal Offender Record Information (CORI) to a Criminal Justice Agency (CJA)	63
Section 7.11:	Logging Requirements for Information Dissemination	64
Section 7.12:	Complaints Alleging Improper Access or Dissemination of Criminal Justice Information Services (CJIS) Information	65
Section 7.13:	Penalties for Improper Access or Dissemination	65
Section 7.14:	Severability	66
803 CMR 8.00:	OBTAINING CRIMINAL OFFENDER RECORD INFORMATION (CORI) FOR RESEARCH PURPOSES	68
Section 8.01:	Purpose and Scope	68
Section 8.02:	Definitions	68
Section 8.03:	Obtaining CORI for Academic Research	69
Section 8.04:	Precautions for CORI Utilization for Research Purposes	70
Section 8.05:	Oversight, Audit, and Complaint Process Regarding Research Use	71
Section 8.06:	Severability	71
803 CMR 9.00:	VICTIM NOTIFICATION REGISTRY (VNR)	73
Section 9.01:	Purpose and Scope	73
Section 9.02:	Definitions	74
Section 9.03:	Availability of Information Contained in the VNR	75
Section 9.04:	Eligibility for Notice Registration	76
Section 9.05:	Eligibility for 178A CORI Access	76
Section 9.06:	Information Available from 178A CORI Access	76
Section 9.07:	Application for Notice Registration or 178A CORI Access	77
Section 9.08:	Responsibilities of Registered Individuals	77
Section 9.09:	Duration and Cancellation of Registrations	77
Section 9.10:	Responsibilities of Authenticated User Agencies	78
Section 9.11:	Responsibilities of Custodial and Supervisory Agencies Relevant to Registered Individuals	79
Section 9.12:	Responsibilities of the Department of Criminal Justice Information Services (DCJIS)	80
Section 9.13:	Responsibilities of Users of the VNR Public Internet Site	80
Section 9.14:	Severability	81

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

803 CMR 11.00:	CONSUMER REPORTING AGENCY (CRA)	82
Section 11.01:	Scope and Purpose	82
Section 11.02:	Definitions	83
Section 11.03:	iCORI Registration	84
Section 11.04:	Access to Criminal Offender Record Information (CORI) by a Consumer Reporting Agency (CRA) to Evaluate a Subject	85
Section 11.05:	Procedures for Requesting Criminal Offender Record Information (CORI)	85
Section 11.06:	Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors	87
Section 11.07:	Delivery of Criminal Offender Record Information (CORI) Results	87
Section 11.08:	Storage of Criminal Offender Record Information (CORI)	87
Section 11.09:	Destruction of Criminal Offender Record Information (CORI)	88
Section 11.10:	Requesting Criminal Offender Record Information (CORI) on Behalf of an iCORI Registered Client	88
Section 11.11:	Dissemination of Criminal Offender Record Information (CORI) by a Consumer Reporting Agency (CRA)	89
Section 11.12:	Designation of a Consumer Reporting Agency as (CRA) Decision Maker	92
Section 11.13:	Adverse Decisions by the Consumer Reporting Agency (CRA) as Decision Maker	92
Section 11.14:	Audits by Department of Criminal Justice Information Services (DCJIS)	94
Section 11.15:	Consumer Reporting Agency (CRA) Access to Criminal Offender Record Information (CORI) for Purposes Other than on Behalf of a Client	95
Section 11.16:	Severability	95

803 CMR 2.00: CRIMINAL OFFENDER RECORD INFORMATION (CORI)

Section

- 2.01: Purpose and Scope
- 2.02: Definitions
- 2.03: Criminal Offender Record Information (CORI) Inclusions and Exclusions
- 2.04: iCORI Registration
- 2.05: Levels of Access to Criminal Offender Record Information (CORI)
- 2.06: Access to an Individual's Own Criminal Offender Record Information (CORI)
- 2.07: Special Categories for Criminal Offender Record Information (CORI) Access
- 2.08: Prohibition Against Requiring a Subject to Provide Own Criminal Offender Record Information (CORI)
- 2.09: Requirements for Employers and Governmental Licensing Agencies to Request Criminal Offender Record Information (CORI)
- 2.10: Delivery of Criminal Offender Record Information (CORI) Results
- 2.11: Storage and Retention of Criminal Offender Record Information (CORI)
- 2.12: Destruction of Criminal Offender Record Information (CORI)
- 2.13: Required Dissemination of Criminal Offender Record Information (CORI) by an Employer or Governmental Licensing Agency
- 2.14: Permissive Dissemination of Criminal Offender Record Information (CORI) by an Employer or Governmental Licensing Agency
- 2.15: Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors
- 2.16: Requirement to Maintain a Secondary Dissemination Log
- 2.17: Adverse Employment Decision Based on Criminal Offender Record Information (CORI)
- 2.18: Adverse Employment Decision Based on Criminal History Information Received from a Source Other than Department of Criminal Justice Information Services (DCJIS)
- 2.19: Adverse Licensing Decision Based on Criminal Offender Record Information (CORI)
- 2.20: Adverse Licensing Decision Based on Criminal History Information Received From a Source Other than Department of Criminal Justice Information Services (DCJIS)
- 2.21: Use of a Consumer Reporting Agency (CRA) to Make Employment Decisions
- 2.22: Audits by Department of Criminal Justice Information Services (DCJIS)
- 2.23: Confidentiality and Privacy of Criminal Offender Record Information (CORI)
- 2.24: Criminal Offender Record Information (CORI) Self-audit
- 2.25: Inaccurate Criminal Offender Record Information (CORI)
- 2.26: Criminal Offender Record Information (CORI) Complaints
- 2.27: The Criminal Record Review Board
- 2.28: Severability

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

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

access Criminal Offender Record Information (CORI). 803 CMR 2.00 further sets forth procedures for accessing CORI for the purpose of evaluating applicants for employment or professional licensing, as well as CORI complaint procedures.

2.01: continued

- (3) 803 CMR 2.00 applies to all users of the iCORI system including employers, governmental licensing authorities, and individuals with criminal history.
- (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

As used in 803 CMR 2.00, the following words and phrases shall have the following meanings:

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 DCJIS.

Apostille. A form of authentication issued 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, 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 Justice Agency (CJA). A Massachusetts agency which performs as its principal function activities relating to crime prevention, including 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 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.

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 community; to oversee the authorized provision of Criminal Offender Record Information (CORI) 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.

2.02: continued

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 over.

Employment Applicant. An individual who has applied for employment, who meets the requirements for the position for which the individual is being screened for criminal history by an employer. Employment applicant as referenced in 803 CMR 2.00 shall also include volunteer applicants.

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.

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, or 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. For purposes of 803 CMR 2.00, "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. For purposes of 803 CMR 2.00, "legally designated representative" shall be synonymous with "legally authorized designee."

Licensing Applicant. An otherwise qualified individual who meets all other requirements for the license for which the individual is being screened for criminal history by a governmental licensing agency.

2.02: continued

Open Access to CORI. The level of Criminal Offender Record Information (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 Criminal Offender Record Information (CORI) to the Department of Criminal Justice Information Services (DCJIS).

Required Access to CORI. The level of Criminal Offender Record Information (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 Department of Criminal Justice Information Services (DCJIS) by any individual or entity for the subject's Criminal Offender Record Information (CORI), but excluding any information relative to any query conducted by a law enforcement or criminal justice agency official.

Standard Access to CORI. The level of Criminal Offender Record Information (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 Criminal Offender Record Information (CORI) is submitted to the Department of Criminal Justice Information Services (DCJIS).

2.03: Criminal Offender Record Information (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 having attained the age of 17.
- (2) If a person younger than 17 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.

2.03: continued

- (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 before the individual attained the age of 17 unless the individual was adjudicated as an adult;
 - (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) A member of the general public may register for an iCORI account to request the user's own CORI, to request Open Access to CORI, or to request a self-audit.
- (a) To register for an iCORI account, a user must provide identifying

information as required by DCJIS.

2.04: continued

(b) To complete registration for an iCORI account a user must agree to all iCORI terms and conditions.

(c) A registration fee may be required.

(2) An employer may register for an iCORI account to screen current employees or employment applicants, including paid, intern, or volunteer positions.

(a) To register for an iCORI account, an employer must provide:

1. identifying information regarding the individual user and the business required by DCJIS; and
2. information regarding the purpose for requesting CORI, including any statutory, regulatory, or accreditation requirements that mandate CORI or criminal history screening.

(b) To complete registration for an iCORI account as an employer, the individual user must also complete training and agree to all iCORI terms and conditions.

(c) A registration fee may be required.

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

(a) To register for an iCORI account, a licensing agency must provide:

1. identifying information regarding the individual user and the agency required by DCJIS; and
2. information regarding the purpose for requesting CORI, including any statutory, regulatory, or accreditation requirements that mandate CORI or criminal history screening.

(b) To complete registration for an iCORI account as an agency, the individual user must also complete training and agree to all iCORI terms and conditions.

(c) A registration fee may be required.

(4) A CRA may register for an iCORI account to access CORI for a client who

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

would meet the requirements of registration for an iCORI account. Regulation applicable to CRA registration is pursuant to 803 CMR 11.00: *Consumer Reporting Agency*.

2.04: continued

(5) 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. Regulation applicable to landlord, property management company, real estate agency, and public housing authority registration is pursuant to 803 CMR 5.00: *Criminal Offender Record Information (CORI) - Housing*.

(6) All iCORI registrations shall expire after one calendar year. After expiration, the iCORI registrant shall renew its registration before accessing additional CORI.

(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) A registration fee may be required.

(7) 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 Criminal Offender Record Information (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 different levels of access to CORI shall be:

(a) Required Access to CORI;

(b) Standard Access to CORI; and

(c) Open Access to CORI.

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

screen employees, interns, volunteers, or professional licensing applicants.

2.05: continued

(a) Required Access to CORI may also be available to those requestors screening applicants for the rental or leasing of housing and are required by a statutory, regulatory, or accreditation provision to obtain CORI.

(b) Required Access to CORI shall include four different levels of access depending on the language of the statutory, regulatory, or accreditation requirement that mandates obtaining CORI.

1. Required 1 Access to CORI shall include 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 17th birthday;
- c. information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old; and
- d. all convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses, as defined by M.G.L. c. 6, § 178, punishable by a term of incarceration in state prison, unless sealed.

2. Required 2 Access to CORI shall include 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 17th birthday;
- c. information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old;
- d. information regarding charged criminal offenses that did not result in a conviction, such as cases that were dismissed, cases in which a *nolle prosequi* was entered by the Commonwealth, cases in which the subject was found not guilty, and cases in which a continuation without a finding of guilt has been dismissed; and
- e. all convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses, as defined by M.G.L. c. 6, § 178, punishable by a term of incarceration in state prison, unless sealed.

2.05: continued

3. Required 3 Access to CORI shall include 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 17th birthday;
 - c. information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old;
 - d. information regarding charged criminal offenses that did not result in a conviction, such as cases that were dismissed, cases in which a *nolle prosequi* was entered by the Commonwealth, cases in which the subject was found not guilty, and cases in which a continuation without a finding of guilt has been dismissed;
 - e. all information regarding 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, § 178, punishable by a term of incarceration in state prison, unless sealed.
4. Required 4 Access to CORI shall include 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 17th birthday;
 - c. information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old;
 - d. information regarding charged criminal offenses that did not result in a conviction, such as cases that were dismissed, cases in which a *nolle prosequi* was entered by the Commonwealth, cases in which the subject was found not guilty, and cases in which a continuation without a finding of guilt has been dismissed;
 - e. all information regarding juvenile offenses, including pending charges;

- f. information regarding criminal offenses that have been sealed; and

2.05: continued

- g. all convictions for murder, voluntary manslaughter, involuntary manslaughter and sex offenses, as defined in M.G.L. c. 6, § 178, punishable by a term of incarceration in state prison, unless sealed.

(4) Standard Access to CORI is available to employers, landlords, property management companies, real estate agents, public housing authorities, and governmental licensing agencies to screen current and prospective employees, including full-time, part-time, contract, and internship employees or volunteers; volunteers for services; tenants; or licensing applicants for a professional or occupational license issued by a state or municipal entity.

(a) Standard Access to CORI shall include 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, whichever is later;
3. all felony convictions for ten years following the date of disposition or date of release from incarceration, whichever is later; and
4. all convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses, as defined in M.G.L. c. 6, § 178, 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 17 years old.

(b) If a subject has been convicted of a misdemeanor, or has been released from custody for a misdemeanor conviction, within five years of the date of a Standard Access to CORI request, then the CORI that is provided to the requestor will include all adult convictions dating from the subject's 17th birthday and, if the subject was adjudicated as an adult while younger than 17 years old, information relating to those offenses.

(c) If a subject has a felony conviction, or has been released from custody for a felony conviction, within ten years of the date of a Standard Access to CORI request, then the CORI that is provided to the requestor will include all adult convictions dating from the subject's 17th birthday and, if the subject was adjudicated as an adult while younger than 17 years old, information relating to those offenses.

2.05: continued

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

(a) Open Access to CORI shall include access to:

1. misdemeanor convictions for which the disposition date or incarceration release date, whichever is later, has occurred within one year of the date of the CORI request;
2. felony convictions for which the disposition date or incarceration release date, whichever is later, has occurred within two years of the date of the CORI request;
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, whichever is later; and
4. all convictions for murder, voluntary manslaughter, involuntary manslaughter and sex offenses, as defined in M.G.L. c. 6, § 178, 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 17 years old.

(b) Any member of the general public may obtain Open Access to CORI by registering for an iCORI account, or by requesting a paper CORI form from DCJIS.

(c) In order to use Open Access to CORI to obtain the CORI of another individual, a requestor shall submit the individual's name and date of birth.

1. Open Access to CORI search results shall be based only on the exact name and date of birth.
2. DCJIS shall return a "no available CORI" result if the information submitted does not exactly match information contained in the CORI database.
3. If the subject has used additional names or dates of birth, a requestor may submit additional Open Access to CORI requests with that information.

2.06: Access to an Individual's Own Criminal Offender Record Information (CORI)

(1) An individual may request a copy of the individual's own CORI by registering for an iCORI account.

2.06: continued

- (2) If an individual does not have access to the internet, the individual may request a copy of the individual's own CORI from 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 Criminal Offender Record Information (CORI) Access

- (1) An elderly person or disabled person seeking to screen employment applicants who may provide assistance within the home of the elderly or disabled person shall be permitted to obtain CORI to screen these employment applicants 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 person or disabled person.
 - (b) A requestor using the Elderly/Disabled Assistant CORI Form shall receive Required 2 Access to CORI which includes:
 1. all pending criminal charges, including cases continued without a finding of guilt, until they are dismissed;
 2. all misdemeanor convictions and felony convictions dating from the subject's 17th birthday;
 3. information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old;
 4. information regarding charged criminal offenses that did not result in a conviction, such as cases that were dismissed, cases in which a *nolle prosequi* was entered by the Commonwealth, cases in which the subject was found not guilty, and cases in which a continuation without a finding of guilt has been dismissed; and
 5. all convictions for murder, voluntary manslaughter, involuntary manslaughter and sex offenses, as defined in M.G.L. c. 6, § 178, punishable by a term of incarceration in state prison, unless sealed.
 - (c) A requestor using the Elderly/Disabled Assistant CORI Form shall not be subject to the same rules as other employers regarding steps to take before making an adverse decision based on CORI, set forth in 803 CMR 2.17.

2.07: continued

- (2) A requestor who wishes to obtain CORI beyond what is available via Open Access to CORI may contact DCJIS to request such access. Pursuant to M.G.L. c. 6, § 172(a)(6), the DCJIS commissioner may provide access to CORI to persons other than those entitled to obtain access, if the commissioner finds that such dissemination to such requestor serves the public interest. Upon such a finding, the commissioner shall also determine the extent of access to CORI necessary to sustain the public interest.
- (3) An attorney seeking to obtain a client's CORI may register for an iCORI account and submit a CORI request.
 - (a) The attorney shall provide required identifying information, as well as identifying information regarding the client.
 - (b) 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 DCJIS.
- (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.
 - (b) The advocate shall provide identifying information required by DCJIS, as well as identifying information regarding the client.
 - (c) The advocate shall affirm, under the penalties of perjury, that the advocate has the client's authorization to obtain the CORI.

2.08: Prohibition Against Requiring a Subject to Provide Own Criminal Offender Record Information (CORI)

Pursuant to M.G.L. c. 6, § 178, an individual or organization screening an employment applicant, licensing applicant, or housing applicant is prohibited from requiring an applicant to produce a copy of the applicant's own CORI.

2.09: Requirements for Employers and Governmental Licensing Agencies to Request Criminal Offender Record Information (CORI)

- (1) Prior to submitting a CORI request, an employer or governmental licensing agency shall:
 - (a) submit a CORI Acknowledgement Form for each subject to be checked;

2.09: continued

- (b) verify the identity of the subject;
 - (c) obtain the subject's signature on the CORI Acknowledgement Form; and
 - (d) sign and date the CORI Acknowledgement Form certifying that the subject was properly identified.
- (2) To complete the CORI Acknowledgement 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.
- (3) An employer or governmental licensing agency shall verify a subject'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 subject does not have an acceptable government-issued identification, an employer or governmental licensing authority shall verify the subject's identity by other forms of documentation as determined by DCJIS.
- (5) If an employer or governmental licensing agency 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.
- (6) An employer or governmental licensing agency shall submit the subject's name, date of birth, and, if available, the last six digits of the subject's social security number.
- (7) To retrieve CORI from the iCORI system, a subject's name, date of birth, and partial social security number as submitted by the employer or governmental licensing agency must match the information in the iCORI database exactly.
- (8) If a subject has additional names or dates of birth, the employer or governmental

licensing agency may submit additional requests.

2.09: continued

- (9) For employers 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, whichever comes first.
- (a) A requestor 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 provides written notice to the subject at least 72 hours before submitting the request.
- (b) Failure to provide such written notice to the subject of an otherwise authorized CORI request shall be considered a violation of 803 CMR 2.00.
- (c) If a subject objects to the new request for CORI, the CORI Acknowledgment Form, that was executed for such a purpose, shall become invalid.
- (10) Nothing in 803 CMR 2.00 shall be construed to prohibit an employer or governmental licensing agency from making an adverse employment 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: Delivery of Criminal Offender Record Information (CORI) Results

- (1) Where fully automated, criminal history records will be returned to the requestor electronically. Otherwise, a manual search of the criminal history record 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 requestor's iCORI account.
- (3) CORI requested by paper submission shall be sent to the requestor by first-class mail.

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

- (1) Hard copies of CORI shall be stored in a separate locked and secure location, such as a file cabinet. Employers and governmental licensing agencies shall limit access to the locked and secure location to employees who have been approved by them to access CORI.

2.11: continued

- (2) Electronically-stored CORI shall be password protected and encrypted. Employers and governmental licensing agencies 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 employer or governmental licensing agency shall not retain CORI for longer than seven years from the date of employment or volunteer service, or from the date of the final employment or licensing decision of the requestor regarding the subject, whichever occurs later.

2.12: Destruction of Criminal Offender Record Information (CORI)

- (1) Each employer or governmental licensing agency shall destroy hard copies of CORI by shredding or otherwise before disposing of CORI.
- (2) Each employer or governmental licensing agency 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 employer or governmental licensing agency shall appropriately clean all information by electronic or mechanical means before disposing of or repurposing a computer used to store CORI.

2.13: Required Dissemination of Criminal Offender Record Information (CORI) by an Employer or Governmental Licensing Agency

- (1) Each employer and governmental licensing agency shall provide a copy of the CORI information or other criminal history information and the source of other criminal history information regarding a subject to the subject:
 - (a) before asking the subject any questions regarding the subject's criminal history; and
 - (b) before making an adverse employment or licensing decision based on the subject's CORI.
- (2) Each employer or governmental licensing agency that is overseen, regulated, or supervised by a governmental entity shall, upon request, disseminate CORI to that governmental entity's staff.

2.14: Permissive Dissemination of Criminal Offender Record Information (CORI) by an Employer or Governmental Licensing Agency

- (1) An employer or governmental licensing agency may disseminate CORI to the subject.
- (2) If an employer 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 or governmental licensing agency may disseminate CORI to its staff who the employer or governmental licensing agency has authorized to request, receive, or review CORI for the purposes of evaluating the subject's application for employment or licensing.

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

- (1) Any employer or governmental licensing agency 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 DCJS website.
- (3) A CORI policy may be developed and maintained regardless of the number of CORI requests conducted.

2.16: Requirement to Maintain a Secondary Dissemination Log

- (1) Following dissemination of any CORI outside of the employer or governmental licensing agency's organization, the employer or governmental licensing agency shall record such dissemination in a secondary dissemination log.
- (2) 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.

2.16: continued

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

2.17: Adverse Employment Decision Based on Criminal Offender Record Information (CORI)

Before taking adverse action on an employment applicant's application for employment based on the employment applicant's CORI, an employer shall:

- (1) comply with applicable federal and state laws and regulations;
- (2) notify the employment applicant in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse employment action;
- (3) provide a copy of the employment applicant's CORI to the employment applicant;
- (4) provide a copy of the employer's CORI Policy, if applicable;
- (5) identify the information in the employment applicant's CORI that is the basis for the potential adverse action;
- (6) provide the employment applicant with the opportunity to dispute the accuracy of the information contained in the CORI;
- (7) provide the employment applicant with a copy of DCJIS information regarding the process for correcting CORI; and
- (8) document all steps taken to comply with 803 CMR 2.17.

2.18: Adverse Employment Decision Based on Criminal History Information Received from a Source Other than Department of Criminal Justice Information Services (DCJIS)

Before taking adverse action on an employment applicant's application for employment based on the employment applicant's criminal history information that was received from a source other than DCJIS, an employer shall:

- (1) comply with applicable federal and state laws and regulations;
- (2) notify the employment applicant in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse employment action;

2.18: continued

- (3) provide a copy of the employment applicant's criminal history information to the employment applicant including the source of the other criminal history information;
- (4) provide a copy of the employer's CORI Policy, if applicable;
- (5) provide the employment applicant with the opportunity to dispute the accuracy of the criminal history information;
- (6) provide the employment applicant with a copy of DCJIS information regarding the process for correcting criminal records; and
- (7) document all steps taken to comply with these requirements.

2.19: Adverse Licensing Decision Based on Criminal Offender Record Information (CORI)

- (1) Before taking adverse action on a licensing applicant's application for licensing based on the licensing applicant's CORI, 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 action;
 - (c) provide a copy of the licensing applicant's CORI to the licensing applicant;
 - (d) identify the information in the licensing applicant's CORI that is the basis for the potential adverse action;
 - (e) provide the licensing applicant with a copy of DCJIS information regarding the process for correcting CORI; and
 - (f) document all steps taken to comply with these requirements.
- (2) The governmental licensing agency must provide the licensing applicant with information regarding an appeal process, including the opportunity to dispute the accuracy of the information contained in the CORI.

2.20: Adverse Licensing Decision Based on Criminal History Information Received From a Source Other than Department of Criminal Justice Information Services (DCJIS)

- (1) Before taking adverse action on a licensing applicant's application for licensing based on the licensing applicant's criminal history information received from a source other than DCJIS, a governmental licensing agency shall:

2.20: continued

- (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 action;
 - (c) provide a copy of the licensing applicant's criminal history information received from a source other than DCJIS to the licensing applicant including the source of the other criminal history information;
 - (d) provide the licensing applicant with a copy of DCJIS information regarding the process for correcting CORI; and
 - (e) document all steps taken to comply with 803 CMR 2.20.
- (2) The governmental licensing agency must provide the licensing applicant with information regarding an appeal process, including the opportunity to dispute the accuracy of the information contained in the CORI.

2.21: Use of a Consumer Reporting Agency (CRA) to Make Employment Decisions

- (1) An employer may use the services of a Consumer Reporting Agency (CRA) to request CORI regarding an employment applicant. *See also 803 CMR 11.00: Consumer Reporting Agency.*
- (a) Before a CRA can request CORI from DCJIS on an employer's behalf, the employer shall:
 - 1. notify the employment applicant, in writing and in a separate document consisting solely of such notice, that a consumer report may be used in the employment decision making process; and
 - 2. obtain the employment applicant's separate written authorization to conduct background screening before asking a CRA for the report regarding the subject. An employer shall not substitute the CORI Acknowledgement Form for this written authorization.
 - (b) An employer shall also provide required information to the CRA before requesting CORI through a CRA.
 - 1. The employer shall certify to the CRA that the employer is in compliance with the Federal Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681.
 - 2. The employer shall not misuse any information in the report in violation of federal or state laws or regulations.

2.21: continued

3. The employer shall provide accurate identifying information for the employment applicant to the CRA and the purpose for which the subject's CORI is being requested.
- (2) Before taking adverse action on an employment applicant's application based on the employment applicant's CORI received from a CRA who obtained it from the DCJIS the employer shall:
 - (a) provide the employment applicant with a pre-adverse action disclosure that includes a copy of the employment 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 employment applicant in person, or by telephone, by electronic communication, by fax, or by hard copy correspondence;
 - (b) notify the employment applicant in person, by telephone, fax or electronic or hard copy, correspondence of the potential adverse employment action;
 - (c) provide a copy of the CORI to the employment applicant;
 - (d) provide a copy of the employer's CORI Policy, if applicable, to the employment applicant;
 - (e) identify the information in the employment applicant's CORI that is the basis for the potential adverse decision;
 - (f) provide the employment applicant with an opportunity to dispute the accuracy of the information contained in the CORI; and
 - (g) provide the employment applicant with a copy of the DCJIS information regarding the process for correcting a criminal record;
 - (h) document all steps taken to comply with 803 CMR 2.21(2).
 - (3) If an employer obtains criminal history from a CRA that obtained it from a source other than DCJIS and the employer is inclined to make an adverse employment decision based on that criminal history, the employer shall:
 - (a) provide the employment applicant with a pre-adverse action disclosure that includes a copy of the employment 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 employment applicant in person, by telephone, by electronic communication, by fax, or by hard copy correspondence;

2.21: continued

- (b) provide a copy of the criminal history to the employment applicant;
- (c) provide a copy of the employer's CORI Policy to the employment applicant, if applicable;
- (d) provide the employment applicant with an opportunity to dispute the accuracy of the criminal history information;
- (e) provide the employment applicant with a copy of the DCJIS information regarding the process for correcting a criminal record; and
- (f) document all steps taken to comply with 803 CMR 2.21(3).

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

- (1) Requests for CORI are subject to audit by DCJIS.
- (2) Each employer and governmental licensing agency 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) If CORI access is revoked for failure to cooperate with, or to respond to, a DCJIS audit, the employer or governmental licensing agency shall not obtain CORI through a CRA.
 - (c) DCJIS may restore CORI access upon completion of its audit.
 - (d) DCJIS may also initiate a complaint with the CRRB against any employer or governmental licensing agency for failure to respond to, or to participate in, an audit.
- (3) During a DCJIS audit, the employer or governmental licensing agency 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 employment or licensing decisions based on

CORI.

2.22: continued

- (4) During an audit, DCJIS audit staff shall assess the employer or governmental licensing agency's compliance with statutory and regulatory requirements, including, but not limited to:
 - (a) if the employer or governmental licensing agency properly registered for the appropriate level of CORI access and provided correct registration information;
 - (b) if the employer or governmental licensing agency is properly completing and retaining CORI Acknowledgement Forms;
 - (c) if the employer or governmental licensing agency is requesting CORI in compliance with 803 CMR 2.00;
 - (d) if the employer or governmental licensing agency is properly storing and safeguarding CORI;
 - (e) if the employer or governmental licensing agency is properly maintaining a secondary dissemination log;
 - (f) if the employer or governmental licensing agency is screening only those individuals permitted by law; and
 - (g) if the employer or governmental licensing agency has a CORI policy that complies with DCJIS requirements.
- (5) Audit results may be published.
- (6) If DCJIS auditors determine that the employer or governmental licensing agency 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.

2.23: Confidentiality and Privacy of Criminal Offender Record Information (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 DCJIS, criminal justice agencies shall be permitted to release CORI regarding a deceased individual.

2.24: Criminal Offender Record Information (CORI) Self-audit

- (1) A self-audit is not a public record.
- (2) To obtain a self-audit, an individual may register for an iCORI account or may request a self-audit from DCJIS via mail, using a request form developed by DCJIS.
- (3) An individual shall have a hard copy request form for a self-audit notarized.
- (4) An individual may request one free self-audit request every 90 days.
- (5) To request a self-audit, an individual shall provide required identifying information.

2.25: Inaccurate Criminal Offender Record Information (CORI)

- (1) DCJIS shall provide a process for investigating and correcting inaccurate CORI.
- (2) DCJIS shall provide details on current policies and procedures for correcting inaccurate CORI upon request.

2.26: Criminal Offender Record Information (CORI) Complaints

- (1) DCJIS shall provide a process for individuals to file complaints including, but not limited to:
 - (a) improper access to or dissemination of CORI;
 - (b) failure of an organization 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 Agencies*.
 - (c) identity theft resulting in inaccurate CORI.
- (2) DCJIS shall screen all complaints to determine whether there is sufficient information to initiate a complaint investigation.
- (3) After investigation, if DCJIS determines that there is sufficient information, DCJIS will 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 a hearing shall depend upon the complexity of the complaint.
 - (a) All parties shall receive at least 30 days notice of the scheduled date, time, and place of the hearing or conference from DCJIS by electronic

communication or first class
mail.

2.26: continued

(b) Both the complainant and the respondent shall also receive a complaint packet that contains the complaint, response, and any other additional relevant information obtained by DCJIS.

(c) Before the conference or hearing, DCJIS shall issue notices and summonses to compel attendance of both the complainant and respondent. DCJIS may issue additional notices and summonses to compel the attendance of witnesses and to require the production of books, records, or documents.

(d) 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. The party requesting a summons shall provide, in writing, the reasons 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.

3. The party requesting a summons must also provide the name and address of the witness at least 21 days before the conference or hearing.

(e) Prior to a conference or hearing, the respondent may admit to the alleged violation and agree to pay a civil penalty and agree to any other sanctions as issued by the CRRB.

(4) The complaint conference shall be an adjudicatory hearing that takes place before a complaint hearing officer who conducts the conference and determines its course, including in what order and the manner in which the parties may offer information. Depending on the subject matter, CORI complaint conferences may be open to the public.

(a) The hearing officer shall administer oaths to the parties, ensure all relevant issues are considered, and request, receive, and make part of the conference record all evidence determined necessary to decide the issues raised in the complaint and the response.

(b) All CORI complaint conferences shall be subject to the provisions of M.G.L. c. 30A, which governs adjudicatory hearing procedures.

(c) All CORI complaint conferences shall be subject to the informal rules of adjudicatory procedure under 801 CMR 1.02: *Informal/Fair Hearing Rules*.

(d) All complaint conferences shall be electronically recorded.

2.26: continued

(e) At the complaint conference, the complainant and the respondent may present testimony and evidence on their own behalf.

(f) Following the complaint conference, the complaint hearing officer shall issue a recommendation on which the CRRB shall vote at its next formal meeting. Board findings and orders may be publicly posted. However, all identifying information of the complainant will be redacted prior to such posting.

(5) A CORI complaint hearing shall be an adjudicatory hearing that takes place before a CRRB subcommittee presided over by a subcommittee chairperson who conducts the hearing and determines its course, including in what order and the manner in which the parties may offer information. Complaint hearings shall not be open to the public.

(a) The subcommittee chairperson shall administer oaths to the parties, ensure all relevant issues are considered, and request, receive, and make part of the hearing record all evidence determined necessary to decide the issues raised in the complaint and the response.

(b) All CORI complaint hearings shall be subject to the provision of M.G.L. c. 30A, which governs adjudicatory hearing procedures.

(c) All CORI complaint hearings shall be subject to the informal rules of adjudicatory procedure under 801 CMR 1.02: *Informal/Fair Hearing Rules*.

(d) All CORI complaint hearings shall be electronically recorded.

(e) At the complaint hearing, the complainant and the respondent may present testimony and evidence on their own behalf.

(f) Following a complaint hearing, the subcommittee shall issue a written "Decision and Order" stating whether there was a violation of the CORI law or these regulations and what civil penalty, if any, will be assessed. Board findings and orders may be publicly posted. All identifying information of the complainant shall be redacted prior to such posting.

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

(a) In order to obtain the services of a translator, the person shall notify DCJIS upon the filing of a complaint or upon providing a complaint response.

2.26: continued

- (b) A person may also provide a translator. If a person chooses to provide a translator, the person shall notify 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 satisfaction of DCJIS. DCJIS must approve the translator prior to the conference or hearing.
- (c) If a person requests a translator pursuant to 803 CMR 2.00, 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.

2.27: The Criminal Record Review Board

- (1) The Criminal Record Review Board (CRRB) shall be 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, § 168A, and the collection, storage, access, dissemination, content, organization and use of criminal offender record information by requestors.
- (3) The following 13 members of the CRRB are statutorily designated and shall serve *ex officio*:
 - (a) the Secretary of Public Safety and Security or designee, who serves as the CRRB chair;
 - (b) the Attorney General or designee;
 - (c) the Secretary of Labor and Workforce Development or designee;
 - (d) the Chair of the Massachusetts Sentencing Commission or designee;
 - (e) the Chief Counsel for the Committee for Public Counsel Services or designee;
 - (f) the Chair of the Parole Board or designee;
 - (g) the Commissioner of Correction or designee;

2.27: continued

- (h) the Commissioner of Probation or designee;
 - (i) the Commissioner of Youth Services or designee;
 - (j) the Colonel of State Police or designee;
 - (k) the president of the Massachusetts District Attorneys Association or designee;
 - (l) the president of the Massachusetts Sheriffs' Association or designee; and
 - (m) the president of the Massachusetts Chiefs of Police Association or designee.
- (4) The remaining five CRRB members shall be appointed by the governor for three year terms to fulfill certain statutory designations:
- (a) one shall represent private users of CORI;
 - (b) one shall be a victim of crime;
 - (c) one shall have experience in the areas of workforce development or ex-offender rehabilitation; and
 - (d) two shall be persons with experience in issues relating to personal privacy.
- (5) 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;

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

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

2.27: continued

(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) revoke access to CORI;

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

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

2.28: 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 803 CMR 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 M.G.L. c. 30A.

NON-TEXT PAGE

(803 CMR 3.00 AND 4.00: RESERVED)

(PAGES 25 THROUGH 34 ARE RESERVED FOR FUTURE USE.)

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

Section

- 5.01: Scope and Purpose
- 5.02: Definitions
- 5.03: iCORI Registration
- 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
- 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
- 5.06: Procedures for Requesting Criminal Offender Record Information (CORI) to Evaluate a Housing Applicant
- 5.07: Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors
- 5.08: Delivery of Criminal Offender Record Information (CORI) Results
- 5.09: Storage and Retention of Criminal Offender Record Information (CORI)
- 5.10: Destruction of Criminal Offender Record Information (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
- 5.12: Permissive Dissemination of Criminal Offender Record Information (CORI) by a Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority
- 5.13: Requirement to Maintain a Secondary Dissemination Log
- 5.14: Limitation on Dissemination and Use of Criminal Offender Record Information (CORI)
- 5.15: Adverse Housing Decision Based on Criminal Offender Record Information (CORI)
- 5.16: Use of a Consumer Reporting Agency (CRA) to Make Housing Decisions
- 5.17: Audits by Department of Criminal Justice Information Services (DCJIS)
- 5.18: Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority Access to Criminal Offender Record Information (CORI) for Purposes Other than the Evaluation of a Housing Applicant
- 5.19: Severability

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.

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

5.01: continued

- (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*.

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.

5.02: continued

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.

5.05: continued

- (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.

5.06: continued

- (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.

5.06: continued

- (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.

5.12: continued

- (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

5.15: continued

- (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

5.16: continued

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;

5.16: continued

- (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;
 - (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;

5.17: continued

- (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.

803 CMR: DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

REGULATORY AUTHORITY

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

(803 CMR 6.00: RESERVED)

(PAGES 34.13 THROUGH 34.20 ARE RESERVED FOR FUTURE USE.)

803 CMR 7.00: CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS)

Section

- 7.01: Purpose and Scope
- 7.02: Definitions
- 7.03: Criminal Justice Agency (CJA) Access to Criminal Justice Information System (CJIS)
- 7.04: Background Check Requirements
- 7.05: Maintenance of Municipal and Regional Systems
- 7.06: Global Public Safety Information Agreement
- 7.07: Roles and Responsibilities
- 7.08: Fingerprinting
- 7.09: Prohibited Access to Criminal Justice Information Services (CJIS)
- 7.10: Dissemination of Criminal Offender Record Information (CORI) to a Criminal Justice Agency (CJA)
- 7.11: Logging Requirements for Information Dissemination
- 7.12: Complaints Alleging Improper Access or Dissemination of Criminal Justice Information Services (CJIS) Information
- 7.13: Penalties for Improper Access or Dissemination
- 7.14: Severability

7.01: Purpose and Scope

- (1) 803 CMR 7.00 is issued in accordance with M.G.L. c. 6, §§ 167A and 172; and 28 CFR 20: *Criminal Justice Information System* as it relates to criminal justice information systems maintained by the FBI.
- (2) 803 CMR 7.00 sets forth the roles, responsibilities, and policies that apply to all agencies and individuals either directly accessing the Criminal Justice Information System (CJIS) or using the data obtained from CJIS.
- (3) 803 CMR 7.00 applies to all criminal justice agencies, as defined by both M.G.L. c. 6, § 167, and 28 CFR 20: *Criminal Justice Information Systems*, and to all individuals accessing, using, collecting, storing, or disseminating criminal justice information, including criminal history record information, obtained from CJIS or any other system or source to which Department of Criminal Justice Information Services (DCJIS) provides access.
- (4) Nothing contained in 803 CMR 7.00 shall be interpreted to limit the authority granted to the Criminal Record Review Board (CRRB) or to the (DCJIS) by the Massachusetts General Laws.

7.02: Definitions

As used in 803 CMR 7.00, the following words and phrases shall have the following meanings:

Agency Head. The chief law enforcement or criminal justice official (*e.g.*, Chief of Police, Colonel, Commissioner, Executive Director, *etc.*) at an agency with access to the CJIS or the information contained therein.

Backup CJIS Representative. An employee of a criminal justice agency designated by the agency head to be the agency's secondary point of contact with the Department of Criminal Justice Information Services (DCJIS).

CJIS Authorized User. An employee within a criminal justice agency that is authorized to use CJIS in performance of the employee's official duties.

Criminal Justice Agency (CJA). Pursuant to M.G.L. c. 6, § 167 criminal justice agencies are defined in Massachusetts as, "those agencies at all levels of government which perform as their principal function, activities relating to:

- (a) crime prevention, including research or the sponsorship of research;
- (b) the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or
- (c) the collection, storage, dissemination or usage of criminal offender record information." DCJIS is also required to adhere to the federal definition of criminal justice agency found in 28 CFR 20: *Criminal Justice Information Systems* when granting access to data existing in systems and sources outside of the Commonwealth. 28 CFR 20: *Criminal Justice Information Systems* defines a criminal justice agency as courts and those governmental agencies or any sub-unit thereof that perform the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice, including state and federal Inspector General Offices.

Criminal Justice Information System (CJIS). Local, state, regional, interstate and federal information systems, including databases, computer applications and data networks used by criminal justice and public safety agencies to enhance public safety, improve interagency communications, promote officer safety, and support quality justice and law enforcement decision making.

CJIS Representative. An employee of a criminal justice agency designated by the agency head to be the agency's primary point of contact with DCJIS.

7.02: continued

CJIS Systems Agency (CSA). The agency designated by the FBI to provide management control of FBI CJIS systems within a state. DCJIS is the Massachusetts designee.

CJIS Systems Officer (CSO). The individual designated by the CSA within a state who maintains management oversight of FBI CJIS systems on behalf of the FBI. This is an employee of DCJIS.

CJIS Technical Representative. An agency employee designated by the agency head to serve as the technical liaison with DCJIS.

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 Offender Record Information*.

Department of Criminal Justice Information Services (DCJIS). The Massachusetts public safety agency statutorily responsible for the administration and management of the CJIS.

FBI CJIS Security Policy. The FBI CJIS Division document that describes the security requirements to which all CJIS user agencies must adhere.

Global Public Safety Information Sharing Agreement. An agreement executed between DCJIS and an authorized criminal justice agency that sets forth the rules and responsibilities for accessing and using information maintained within CJIS or shared via the CJIS network.

Initiation of Criminal Proceedings. The point at which a criminal investigation is sufficiently complete that the investigating officer(s) takes action toward bringing a specific suspect to court.

Offense-based Tracking Number (OBTN). A unique identifying number associated with a fingerprint-supported arrest event.

Originating Agency Identifier (ORI). A unique identifier assigned by the FBI CJIS Division to each agency authorized to access or submit data to FBI CJIS information systems.

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

7.02: continued

Public Safety Information System(s). All databases, applications, systems, or network services managed or provided by DCJIS and used by law enforcement and justice officials for authorized criminal justice purposes.

7.03: Criminal Justice Agency (CJA) Access to Criminal Justice Information Systems (CJIS)

- (1) A CJA shall request CJIS access through DCJIS.
- (2) An CJA seeking to gain access to local or Commonwealth criminal justice information systems shall meet the definition of a criminal justice agency as defined in M.G.L. c. 6, §§ 167 and 172(1)(a); and 803 CMR 7.02.
- (3) CJAs seeking access to national criminal justice information systems shall also qualify under the federal definition found at 28 CFR 20: *Criminal Justice Information Systems*. Only those agencies that meet the FBI requirements shall be provided with an ORI.

7.04: Background Check Requirements

- (1) Background checks shall be required for all personnel with access to CJIS. A fingerprint-based criminal history check shall be submitted to the Massachusetts State Police State Identification Section (SIS) and to the FBI for all employees, contractors or vendors with direct terminal or physical access to criminal justice information or criminal justice information systems. This shall include agency personnel or volunteers, state, city or town information technology personnel, and vendors or contractors. These fingerprint-based background checks shall be performed at least once every two years, except for vendor or contractor personnel, who shall be checked annually.
- (2) Individuals with convictions for felony offenses shall not be permitted access to CJIS or any other system or source to which CJIS provides access. If it is found that an individual with access has a conviction for a felony offense, the agency shall notify the CSO at DCJIS. In addition, access privileges shall be immediately terminated. Failure to comply with 803 CMR 7.04 may result in loss of agency access to CJIS or other sanctions by the CSA or FBI.
- (3) Individuals with convictions for misdemeanor offenses may be permitted access to CJIS or any other system or source to which DCJIS provides access, but only upon the approval of the CSO. An agency seeking a waiver shall submit a written request to the CSO at DCJIS.
- (4) Only those users that are authorized by the agency head and have been trained, tested, and certified regarding CJIS policy and compliance may have access to CJIS or to information obtained from CJIS or any other system or source to which DCJIS provides access.

7.05: Maintenance of Municipal and Regional Systems

Municipal and regional information systems and networks used to access CJIS shall comply with the standards identified within the latest version of the FBI CJIS Security Policy.

7.06: Global Public Safety Information Sharing Agreement

The Global Public Safety Information Agreement shall be executed annually. In addition, an agency shall execute a new Global Public Safety Information Sharing Agreement with DCJIS whenever there are changes to the agency head, the CJIS representative, the backup CJIS representative, or the CJIS technical representative.

7.07: Roles and Responsibilities

- (1) DCJIS shall serve as the FBI CSA for Massachusetts. In this capacity, DCJIS shall be responsible for the administration and management of the FBI CJIS on behalf of the FBI, and shall be responsible for overseeing access to all FBI systems and information by Massachusetts agencies, ensuring system security, training, policy compliance, and auditing.
- (2) The agency head shall be responsible for:
 - (a) designating a CJIS representative, a backup CJIS representative, and a technical representative; the CJIS representative or CJIS backup representative may also serve as the technical representative if necessary;
 - (b) ensuring that all agency users of CJIS, or the information obtained from it, have been trained, tested, and certified within six months of hire and biennially thereafter;
 - (c) responding to audit questionnaires, complaints, and any other inquiries from DCJIS or from the FBI within the time period allowed;
 - (d) providing the results of any investigation into the misuse of the CJIS or any other system or source to which the DCJIS provides access;
 - (e) reporting any misuse of CJIS, including improper access or improper dissemination of information, as soon as possible to DCJIS;
 - (f) executing the Global Public Safety Information Sharing Agreement as required;
 - (g) ensuring that the agency adheres to all CJIS and FBI policies and procedures including the FBI CJIS Security Policy;

7.07: continued

- (h) notifying DCJIS as soon as practicable of any changes in contact information for the agency, the agency head, the CJIS representative, the backup CJIS representative, and the technical representative; and
 - (i) ensuring compliance with all state and federal laws, regulations, and policies related to CJIS and any other system or source to which DCJIS provides access.
- (3) The CJIS representative and the backup CJIS representative shall be responsible for:
- (a) training, testing, and certifying users within six months of hire and biennially thereafter;
 - (b) responding to audit questionnaires, complaints, and/or any other inquiries from the DCJIS or from the FBI within the time period allowed, as well as for providing the results of any investigation into the misuse of the CJIS and any other system or source to which DCJIS provides access;
 - (c) reporting any misuse of the CJIS, including improper access or improper dissemination of information, as soon as possible to DCJIS;
 - (d) executing the Global Public Safety Information Sharing Agreement as required;
 - (e) ensuring that the agency adhere to all CJIS and FBI policies and procedures;
 - (f) notifying DCJIS as soon as practicable of any changes in contact information for the agency, the agency head, the CJIS Representative, the backup CJIS Representative, and the technical representative; and
 - (g) ensuring compliance with all state and federal laws, regulations, and policies related to CJIS and any other system or source to which DCJIS provides access.
- (4) The CJIS technical representative shall be responsible for:
- (a) maintaining and coordinating the agency's technical access to public safety information systems;
 - (b) maintaining CJIS system security requirements;
 - (c) reporting any misuse of the CJIS, including improper access or improper dissemination of information, as soon as possible to a supervisor or commanding officer; and

7.07: continued

- (d) complying with all state and federal laws, regulations and policies related to the CJIS.
- (5) The CJIS authorized user shall be responsible for:
 - (a) use of CJIS for authorized and official criminal justice purposes;
 - (b) successfully completing all required training;
 - (c) reporting any misuse of CJIS, including improper access or improper dissemination of information, as soon as possible to a supervisor or commanding officer; and
 - (d) complying with all state and federal laws, regulations, and policies related to CJIS and to the use of computers.
- (6) CJIS certification training shall be completed every two years. In addition, authorized users may be required to complete additional training for specific applications and information systems. This requirement shall apply to any individual who either uses the CJIS directly or who uses information obtained from CJIS or any other system or source to which DCJIS provides access.
- (7) CJIS shall be accessed only by trained and certified, criminal justice officials for authorized criminal justice and law enforcement purposes.

7.08: Fingerprinting

- (1) Fingerprints shall be submitted to the Massachusetts State Police SIS in the following instances:
 - (a) criminal justice employment background checks;
 - (b) criminal arrests by law enforcement agencies;
 - (c) detentions and incarcerations by the Department of Correction and Sheriffs' Departments (Jail and Houses of Correction); and
 - (d) licensee screening, specific categories are approved by statute.
- (2) Agencies shall submit fingerprints to the FBI via the Massachusetts State Police
 - (a) to conduct checks of public housing applicants in accordance with 42 U.S.C. 1437d; and
 - (b) to conduct checks of municipal license applicants in accordance with M.G.L. c. 6, § 172B½.

7.08: continued

- (3) CJAs submitting fingerprints shall comply with DCJIS, the Massachusetts State Police, and FBI policies and requirements for the specific type of check.
- (4) Fingerprints must be submitted for the following:
 - (a) all felony arrests pursuant to M.G.L. c. 263, § 1; and
 - (b) all arrests for felony violations of M.G.L. c. 94C pursuant to M.G.L. c. 94C, § 45.
 - (c) Misdemeanor arrests may be submitted to the SIS where possible.
- (5) All fingerprint submissions shall include an agency-assigned OBTN formatted in the manner prescribed by the SIS.

7.09: Prohibited Access to Criminal Justice Information Services (CJIS)

- (1) CJIS shall not be accessed for any non-criminal justice purpose. The only non-criminal justice purpose for which a user may access CJIS is training. When using CJIS for training purposes, users shall use the test records provided by DCJIS. Users shall not run test records or train with their own personal information or with the personal information of another real individual.
- (2) CJIS shall only be accessed for authorized criminal justice purposes, including:
 - (a) criminal investigations, including motor vehicle and driver's checks;
 - (b) criminal justice employment;
 - (c) arrests or custodial purposes; and
 - (d) research conducted by the CJA.

7.10: Dissemination of Criminal Offender Record Information (CORI) to a Criminal Justice Agency (CJA)

- (1) CORI may be provided to another criminal justice agency for official criminal justice purposes.
- (2) A CJA with official responsibility for a pending criminal investigation or prosecution may disseminate CORI that is specifically related to, and contemporaneous with, an investigation or prosecution.
- (3) A CJA may disseminate CORI that is specifically related to, and contemporaneous with, the search for, or apprehension of, any person, or with a disturbance at a penal institution;

7.10: continued

- (4) A CJA may disseminate CORI to principals or headmasters relating to a student aged 17 or older charged with or convicted of a felony offense, provided that information provided to school officials is limited to the felony offense(s) that may subject the student to suspension or expulsion pursuant to the provisions of M.G.L. c.71, § 37H½; for the purpose of publishing information in the department's daily log as required by M.G.L. c. 41, § 98F;
- (5) A CJA may disseminate CORI as otherwise authorized by law in the interest of public safety.
- (6) Pursuant to M.G.L. c. 6, § 175, a CJA may disseminate CORI to the individual to whom it pertains, or to the individual's attorney, with a signed release from the individual. The CORI provided shall be limited to information compiled by the CJA, such as a police report prepared by the CJA. A CJA may not provide an individual with any CORI obtained through CJIS.
- (7) If an individual seeks to access the individual's national criminal history, the individual shall contact the FBI. Likewise, requests for driver history information shall be submitted to the Massachusetts Registry of Motor Vehicles. All other information contained in CJIS shall only be disseminated to other criminal justice agencies for official criminal justice purposes.
- (8) All requests for an individual's CORI shall be directed to DCJIS.

7.11: Logging Requirements for Information Dissemination

- (1) A CJA that provides information to another authorized CJA, or to an individual employed by an authorized CJA other than the inquiring CJA, shall maintain a secondary dissemination log. The log shall contain the following:
 - (a) subject name;
 - (b) subject date of birth;
 - (c) date and time of the dissemination;
 - (d) name of the individual to whom the information was provided;
 - (e) name of the agency for which the requestor works; and
 - (f) specific reason for the dissemination.
- (2) Motor vehicle owner name and address of a motor vehicle owner may be provided to by the CJA to a tow company only if the tow company has a contract directly with the CJA; the contract cannot be with the city or town.

7.11: continued

- (a) A CJA shall make an entry into a secondary dissemination log each time it releases information to a tow company.
- (b) In addition to the information identified above, the CJA shall record the registration number and registration state or the vehicle identification number of the towed vehicle in the secondary dissemination log.

7.12: Complaints Alleging Improper Access or Dissemination of Criminal Justice Information Services (CJIS) Information

An individual may file a complaint with DCJIS upon the belief that an agency improperly obtained information, or attempted to obtain CJIS information regarding the individual.

- (a) DCJIS shall review the complaint. If it contains a sufficient statement describing the allegation, DCJIS staff shall conduct an audit of the CJIS system to determine if a specific CJA or CJIS authorized user accessed the individual's information through CJIS during the time period in question. If the audit confirms such access then DCJIS staff may contact the agency head to request an internal investigation
- (b) If requested by the DCJIS, the agency head shall conduct an investigation into the alleged misuse according to the rules, regulations, and policies in place at the agency. At the conclusion of the investigation, the agency head shall provide DCJIS with a written summary of the investigation's findings. In addition, if the agency head substantiates the allegation(s), the written summary shall provide details of the specific actions taken to correct the misuse as well as details of the sanctions imposed on the subject(s) of the investigation, if any.
- (c) DCJIS may impose additional penalties as outlined in 803 CMR 7.00.

7.13: Penalties for Improperly Access or Dissemination

(1) A CJIS user may be subject to federal and state civil and criminal penalties for improper access or dissemination of information obtained from or through CJIS pursuant to M.G.L. c. 6, §§ 167A(d), 168 and 178 and 28 CFR 20: *Criminal Justice Information Systems*.

7.14: Severability

If any provision of 803 CMR 7.00 or the application thereof is held to be invalid, such invalidity shall not affect other provisions or the application of any other part of 803 CMR 7.00 not specifically held invalid and, to this end, the provisions of 803 CMR7.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 7.00: M.G.L. c. 6, § 167A, c. 6, § 172, and 28 CFR 20: *Criminal Justice Information Systems*.

NON-TEXT PAGE

803 CMR 8.00: OBTAINING CRIMINAL OFFENDER RECORD INFORMATION (CORI)
FOR RESEARCH PURPOSES

Section

8.01: Purpose and Scope

8.02: Definitions

8.03: Obtaining CORI for Academic Research

8.04: Precautions for CORI Utilization for Research Purposes

8.05: Oversight, Audit, and Complaint Process Regarding Research Use

8.06: Severability

8.01: Purpose, and Scope

- (1) 803 CMR 8.00 is issued in accordance with M.G.L. c. 6, §§ 167A, 172 and 173; and M.G.L. c. 30A.
- (2) 803 CMR 8.00 sets forth procedures for accessing CORI for academic research purposes.
- (3) 803 CMR 8.00 applies to any individual or organization seeking CORI for the purpose of conducting an academic research project and to all research project members.
- (4) Nothing contained in 803 CMR 8.00 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.

8.02: Definitions

As used in 803 CMR 8.00, the following words and phrases shall have the following meanings:

Criminal Justice Information System (CJIS). Local, state, regional, interstate and federal information systems, including databases, computer applications, and data networks used by criminal justice and public safety agencies to enhance public safety, improve interagency communications, promote officer safety, and support quality justice and law enforcement decision making.

Criminal Offender Record Information (CORI). Information as defined in 803 CMR 2.03: *Criminal Offender Record Information Inclusions and Exclusions*.

8.02: 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 Offender Record Information*.

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 Records Review Board; to operate the Firearms Records Bureau; and to provide and technically support the Victim Notification Registry for the victims of crime.

Evaluative Information. Records, data, or reports concerning 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.

Youthful Offender. An individual who is subject to an adult or youthful offender sentence for having committed, while between the ages of 14 and 17, an offense that, if the individual were an adult, would be punishable by imprisonment in the state prison, as set forth in M.G.L. c. 119, §§ 52 and 58.

8.03: Obtaining CORI for Academic Research

- (1) A criminal justice agency that accesses CORI via the CJIS may utilize CORI for research purposes without seeking further approval from the DCJIS.
- (2) Criminal justice agencies that use CORI for research purposes shall comply with the subject anonymity requirements set forth in 803 CMR 8.03(3).

8.03: continued

- (3) All others requesting use of CORI for research purposes shall complete a CORI Research Application and obtain approval from DCJIS. CORI Research Applications shall be available from DCJIS. The applicant shall:
 - (a) provide a detailed description of the research project, including the type of CORI sought and the reason(s) it is relevant to the project; and
 - (b) demonstrate that the research project is being conducted for a valid educational, scientific, or other public purpose.

8.04: Precautions for CORI Utilization for Research Purposes

- (1) All agencies and individuals who use CORI for research shall preserve the anonymity of the individuals whose CORI is sought.
- (2) A non-criminal justice agency seeking CORI for research purposes shall designate and specifically identify in its CORI Research Application the research project member(s) responsible for preserving the anonymity of research subjects.
- (3) The research project director and each project member shall complete an agreement of non-disclosure, agreeing not to disclose CORI to any unauthorized persons.
- (4) The original agreements of non-disclosure shall be retained by the research project director for a minimum of three years following project completion or termination.
- (5) The project researchers shall segregate identifying data from the rest of the CORI by assigning an arbitrary, non-duplicating code which shall be maintained in a secure place under the control of the project director.
- (6) Access to the code shall be limited to the project director and to those project members specifically identified as responsible for preserving the anonymity of the research.
- (7) Upon completion or termination of the research project, the project director shall destroy the code and attest to DCJIS, in writing, that such destruction has been effected.

8.05: Oversight, Audit, and Complaint Process Regarding Research Use

- (1) DJCIS shall have the right to inspect any research project and to conduct an audit of the researcher's use of CORI.
- (2) DCJIS may require periodic compliance reports.
- (3) Upon a finding of CORI misuse, DCJIS may revoke approval for current access, demand and secure the return of CORI, and deny future access to CORI.
- (4) A researcher approved for CORI access is subject to the authority of the CRRB, pursuant to 803 CMR 2.00: *Criminal Offender Record Information*.

8.06: Severability

If any provision of 803 CMR 8.00 or the application thereof is held to be invalid, such invalidity shall not affect other provisions or the application of any other part of 803 CMR 8.00 not specifically held invalid and, to this end, the provisions of 803 CMR 8.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 8.00: M.G.L. c. 6; §§ 167A, 172 and 173; and M.G.L. c. 30A.

NON-TEXT PAGE

803 CMR 9.00: VICTIM NOTIFICATION REGISTRY (VNR)

Section

- 9.01: Purpose and Scope
- 9.02: Definitions
- 9.03: Availability of Information Contained in the VNR
- 9.04: Eligibility for Notice Registration
- 9.05: Eligibility for 178A CORI Access
- 9.06: Information Available from 178A CORI Access
- 9.07: Application for Notice Registration or 178A CORI Access
- 9.08: Responsibilities of Registered Individuals
- 9.09: Duration and Cancellation of Registrations
- 9.10: Responsibilities of Authenticated User Agencies
- 9.11: Responsibilities of Custodial and Supervisory Agencies Relevant to Registered
Individuals
- 9.12: Responsibilities of the Department of Criminal Justice Information Services (DCJIS)
- 9.13: Responsibilities of Users of the VNR Public Internet Site
- 9.14: Severability

9.01: Purpose and Scope

- (1) 803 CMR 9.00 is promulgated in accordance with M.G.L. c. 6, § 172(n) and carries out the purposes described in M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(9), 172(k), and 178A.
- (2) 803 CMR 9.00 establishes procedures regarding the registration of individuals for advance notification of an offender's change in custody status and the registration of individuals for access to Criminal Offender Record Information (CORI). 803 CMR 9.00 further identifies user responsibilities regarding submission of applications, as well as access to and use of the information contained in the Victim Notification Registry (VNR).
- (3) 803 CMR 9.00 applies to any authorized state, county, or municipal agency that uses the VNR in the course of its criminal justice duties. Further, 803 CMR 9.00 applies to any individual who uses the VNR or obtains information from it under notice registration or 178A CORI access registration. Every authorized state, county, or municipal agency that uses the VNR shall be responsible for implementing, enforcing, and monitoring 803 CMR 9.00 within their respective jurisdictions.
- (4) Nothing contained in 803 CMR 9.00 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.

9.02: Definitions

As used in 803 CMR 9.00, the following words and phrases shall have the following meanings:

178A CORI Access. Pursuant to M.G.L. c. 6, § 178A, a registration via the Department of Criminal Justice Information Services (DCJIS) for a victim of crime, witness, family member of a homicide victim, parent/guardian of a minor victim, or parent/guardian of a minor witness as defined by M.G.L. c. 258B, § 1, that allows access to all available criminal record information of the person arraigned or convicted of said crime.

Applicant Information. Identifying information and contact information supplied by the applicant including name, date of birth, last four digits of social security number, address, phone number, applicant category, and e-mail address (if applicable).

Authenticated User. An individual authorized to access the VNR.

Authenticated User Agency. An agency authorized by DCJIS to access the VNR. The authenticated user agencies are DCJIS, the District Attorney's Office in each county, the Department of Correction (DOC), the Massachusetts Parole Board, the Attorney General's Office, the Sex Offender Registry Board (SORB), the Department of Youth Services (DYS), and the Sheriff's Department in each county.

Custodial Agency. The agency to which the offender is sentenced by the court to serve incarceration.

Criminal Offender Record Information (CORI). Information as defined in 803 CMR 2.03: *Criminal Offender Record Information Inclusions and Exclusions*.

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.

Evaluative Information. Records, data, or reports concerning 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.

9.02: continued

Notice Registration. A registration recorded by DCJIS for certain eligible individuals to be notified of certain changes to an offender's change in custody status pursuant to M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19) and (k).

Registration Misuse. The use of information obtained pursuant to notice registration or 178A CORI access, for other than its intended purpose.

Supervisory Agency. The agency responsible for the custody or supervision of an offender, such as the Massachusetts Parole Board, the Department of Correction (DOC), or a Sheriff's Department.

Victim Notification Registry (VNR). The internet-based application maintained by DCJIS and used in the Commonwealth to register eligible individuals affected by crime, family members of homicide victims, and family members of deceased or incompetent victims for notice of an offender's change in custody status or for access to Criminal Offender Record Information.

Youthful Offender. An individual who is subject to an adult or youthful offender sentence for having committed, while between the ages of 14 and 17, an offense that, if the individual were an adult, would be punishable by imprisonment in the state prison, as set forth in M.G.L. c. 119, §§ 52 and 58.

9.03: Availability of Information Contained in the VNR

- (1) The information contained in the VNR is not subject to public disclosure under the Massachusetts public records laws, M.G.L. c. 66, § 10 and 950 CMR 32.00: *Public Records Access*. Information contained in the VNR is presumptively withheld from public disclosure, as it contains confidential victim and witness information.
- (2) Information contained in the VNR will be treated as confidential unless expressly designated otherwise by the user.
- (3) The VNR also contains confidential CORI that is withheld from public disclosure under M.G.L. c. 6, § 172.
- (4) Certain information may cease to be confidential upon a finding of registration misuse.

9.04: Eligibility for Notice Registration

- (1) Pursuant to M.G.L. c. 258B, § 3(t), victims, upon request, have the right to be informed in advance by the appropriate custodial agency whenever the specified offender receives a temporary, provisional, or final release from custody; whenever a defendant is moved from a secure facility to a less-secure facility; and whenever a defendant escapes from custody. In order to receive such notification of an offender's change in custody status, a victim must register with the appropriate authenticated user agency.
- (2) Pursuant to M.G.L. c. 6, § 172(k), an authenticated user may, upon request, register an individual who articulates a fear of a specific named offender, in order to receive advance notification of the offender's change in custody status from the appropriate custodial or supervisory agency.

9.05: Eligibility for 178A CORI Access

Pursuant to M.G.L. c. 6, § 178A, a victim of crime, witness or family member of a homicide victim, all as defined in M.G.L. c. 258B, may obtain, upon registration approval, all available Criminal Offender Record Information of the person accused of or convicted of said crime. All information received pursuant to 803 CMR 9.05 is confidential and shall not be shared by the victim, witness, or family member with any other individual or entity, except as provided by law.

9.06: Information Available from 178A CORI Access

- (1) An individual registered for 178A CORI access shall receive:
 - (a) all pending criminal charges, including cases continued without a finding of guilt, as well as misdemeanor convictions and felony convictions dating from the subject's 17th birthday and, if the subject was adjudicated as an adult while younger than 17 years old, information relating to those offenses;
 - (b) information regarding charged criminal offenses that did not result in a conviction; and
 - (c) all criminal convictions and information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old.
- (2) Criminal justice agencies may also disclose to individuals registered for 178A CORI access such additional information, including but not limited to evaluative information, as such agencies determine in their discretion is reasonably necessary for the security and well being of such persons.

9.07: Application for Notice Registration or 178A CORI Access

- (1) An applicant may apply for registration through one of the authenticated user agencies. An applicant also may, if technology allows, apply electronically through the VNR. If an applicant does not have access to the internet, the applicant may also contact DCJIS to request a registration application.
- (2) An individual cannot be registered without the individual's consent.

9.08: Responsibilities of Registered Individuals

- (1) A registered individual is responsible for providing any changes to the individual's registration information, including means of contact, name changes, address changes, phone number changes, and email address changes.
 - (a) In order to change or update this information, the individual must contact DCJIS or any authenticated user agency.
 - (b) A registered individual shall only use the information received pursuant to the registration for its intended purpose.

9.09: Duration and Cancellation of Registrations

- (1) Registration for both 178A CORI access and notice registration shall remain effective for the natural life of the registered individual or offender, unless cancelled by a custodial or supervising agency, by DCJIS, or by the registered individual.
- (2) A notice registration or a 178A CORI access registration may be cancelled by a custodial or supervising agency, or by DCJIS, in the following circumstances:
 - (a) the death of a registered individual;
 - (b) the death of the offender;
 - (c) a finding of registration misuse;
 - (d) a finding that a registered individual has made explicit threats or articulated plans to harm an offender upon release from custody; and
 - (e) a finding that the purpose of the registration no longer exists.

9.09: continued

- (3) A registered user may also voluntarily cancel a registration by contacting DCJIS, the appropriate custodial or supervisory agency, or a District Attorney's victim/witness advocate office.

If, after voluntarily cancelling a registration, an individual would like to re-register, the individual must submit a new application for registration.

9.10: Responsibilities of Authenticated User Agencies

- (1) Each authenticated user agency shall draft and enforce a VNR policy that shall include, at a minimum, provisions for the following:
 - (a) guidelines for agency employees who may have authorized access to VNR data;
 - (b) procedures regarding registration of VNR applicants;
 - (c) procedures regarding notification of registered individuals;
 - (d) procedures to ensure the confidentiality of information contained in the VNR; and
 - (e) procedures regarding the cancellation of individual accounts.
- (2) Authenticated user agencies shall determine which agency employees are granted access to the VNR.
- (3) Authenticated user agencies shall require training in the use of the VNR for all agency employees authorized for VNR access. In addition, all VNR authenticated users must take the CJIS Certification examination.
- (4) Authenticated user agencies shall require that each agency employee approved for VNR access provide a signed acknowledgment that the employee has received a copy of, and understands, the agency's VNR policy and 803 CMR 9.00.

Authenticated user agencies shall retain all signed acknowledgment forms for at least one year following the conclusion of the employment of each authorized VNR user.

- (5) Authenticated user agencies shall not disclose, in any manner, the existence or status of a registration without the express, written authorization of the registered individual.

9.10: continued

- (6) Authenticated user agencies shall update the applicant registration information in the VNR at the request of the applicant.
- (7) Authenticated user agencies shall report registration misuse by any individual to DCJIS as soon as practicable.
- (8) Prior to requesting the cancellation of a registration, the authenticated user agency shall attempt to contact the applicant by using, at a minimum, all applicant contact information provided by the individual.
- (9) If an individual registering for notification, or a person already registered, requests that only one particular type of notification be used for contact, the authenticated user agency will comply with that request.

9.11: Responsibilities of Custodial and Supervisory Agencies Relevant to Registered Individuals

- (1) Each custodial or supervisory agency shall check the VNR daily to ascertain if there are any new or pending registration applications to act on.
 - (a) Pending registration applications must be verified or returned to DCJIS as unverifiable.
 - (b) Notifications must be made, when applicable, on all approved registrations.
- (2) Each custodial or supervisory agency shall provide no less than 14 days advance notification for the offender's:
 - (a) temporary, provisional and final release from custody;
 - (b) parole, pardon, or commutation eligibility and hearing, and decision;
 - (c) move from a secure to less secure facility; and
 - (d) parole discharge or termination from supervision.
- (3) As soon as practicable, the custodial or supervising agency shall provide notification whenever an offender:
 - (a) dies; or
 - (b) receives a parole rescission or revocation.
 - (c) is transferred to a county facility from another county facility;
 - (d) is transferred to a state facility from a county facility; or

9.11: continued

- (e) is transferred to an out-of-state facility, including federal facilities.
- (4) The custodial or supervising agency shall provide emergency notification by both telephone and mail, whenever an offender:
 - (a) escapes from custody or absconds from supervision;
 - (b) receives a court ordered release from custody;
 - (c) receives an emergency temporary release under escort; or
 - (d) receives a short sentence that prohibits 14 days advance notice.
- (5) The custodial or supervising agency shall consider the location of the registered person's residence and workplace, if known, for safety reasons when making offender transfer or temporary and provisional release decisions.
- (6) The custodial or supervisory agency shall provide registered individuals with a description of any temporary or pre-release program activity when an offender is placed into the community.
- (7) The custodial or supervising agency shall provide registered individuals with the name and location of any agency having jurisdiction of an offender upon release from custody.
- (8) Nothing contained in 803 CMR 9.00 shall be interpreted as limiting additional or expanded notification to registered individuals as deemed appropriate by any custodial or supervisory agency.

9.12: Responsibilities of the Department of Criminal Justice Information Services (DCJIS)

- (1) Upon approving or denying an application for registration, DCJIS shall inform the applicant of the status of the request.
- (2) Upon cancellation of a notice registration or a 178A CORI access, DCJIS shall notify the registered individual.
- (3) Pursuant to M.G.L. c. 6, § 168 and 803 CMR 2.00: *Criminal Offender Record Information*, DCJIS shall investigate complaints of improper access to and dissemination of CORI.

9.13: Responsibilities of Users of the VNR Public Internet Site

- (1) An individual utilizing the VNR public internet site must use the VNR solely for its intended purposes.

9.13: continued

- (2) An applicant registering via the VNR public internet site shall submit all required supporting documentation to DCJIS within a reasonable amount of time of submitting the application.

9.14: Severability

If any provision of 803 CMR 9.00, 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 9.00 not specifically held invalid and, to this end, the provisions of 803 CMR 9.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 9.00: M.G.L. c. 6, § 172(n) and carries out the purposes described in M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19), 172(k), and 178A.

803 CMR 11.00: CONSUMER REPORTING AGENCY (CRA)

Section

- 11.01: Scope and Purpose
- 11.02: Definitions
- 11.03: iCORI Registration
- 11.04: Access to Criminal Offender Record Information (CORI) by a Consumer Reporting Agency (CRA) to Evaluate a Subject
- 11.05: Procedures for Requesting Criminal Offender Record Information (CORI)
- 11.06: Criminal Offender Record Information (CORI) Policy Requirement for Certain Requestors
- 11.07: Delivery of Criminal Offender Record Information (CORI) Results
- 11.08: Storage of Criminal Offender Record Information (CORI)
- 11.09: Destruction of Criminal Offender Record Information (CORI)
- 11.10: Requesting Criminal Offender Record Information (CORI) on Behalf of an iCORI Registered Client
- 11.11: Dissemination of Criminal Offender Record Information (CORI) by a Consumer Reporting Agency (CRA)
- 11.12: Designation of a Consumer Reporting Agency as (CRA) Decision Maker
- 11.13: Adverse Decisions by the Consumer Reporting Agency (CRA) as Decision Maker
- 11.14: Audits by Department of Criminal Justice Information Services (DCJIS)
- 11.15: Consumer Reporting Agency (CRA) Access to Criminal Offender Record Information (CORI) for Purposes Other than on Behalf of a Client
- 11.16: Severability

11.01: Scope and Purpose

- (1) 803 CMR 11.00 is issued in accordance with M.G.L. c. 6, §§ 167A and 172; and M.G.L. c. 30A.
- (2) 803 CMR 11.00 sets forth procedures for Consumer Reporting Agencies (CRA) that request Criminal Offender Record Information (CORI) from the Department of Criminal Justice Information Services (DCJIS) to screen their own prospective or current employees, that request CORI from DCJIS on behalf of iCORI registered clients or that request Open CORI from DCJIS.
- (3) 803 CMR 11.00 applies to CRAs that request CORI from DCJIS to screen their own prospective or current employees, that request CORI from DCJIS on behalf of iCORI registered clients or that request Open Access to CORI from DCJIS.
- (4) Nothing contained in 803 CMR 11.00 shall be interpreted to limit the authority granted to the Criminal Record Review Board (CRRB) or to DCJIS by the Massachusetts General Laws.

11.02: Definitions

As used in 803 CMR 11.00 the following words and phrases shall have the following meanings:

Consumer Reporting Agency (CRA). Any person 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 information, 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*.

Criminal Justice Information System (CJIS). Local, state, regional, interstate and federal information systems, including databases, computer applications and data networks used by criminal justice and public safety agencies to enhance public safety, improve interagency communications, promote officer safety, and support quality justice and law enforcement decision making.

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 Offender Record Information*.

Decision Maker. An entity that requests, receives, or reviews CORI results and is authorized by its client to decide whether to hire or accept an individual based on the CORI received from the DCJIS.

Department of Criminal Justice Information Services (DCJIS). The Massachusetts public safety agency statutorily responsible for the administration and management of the CJIS.

Employment Applicant. An otherwise qualified individual who meets all other requirements for the position for which the individual is being screened by an employer.

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 Registered Client. An entity registered to access CORI from DCJIS that delegates this responsibility to a consumer reporting agency.

11.02: continued

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

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

11.03: iCORI Registration

- (1) iCORI access requires registration from an iCORI account. iCORI account registration requires access to a computer and access to the internet.
- (2) 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.
- (3) iCORI registrants shall complete iCORI training.
- (4) iCORI registrants shall agree to all iCORI terms and conditions.
- (5) An iCORI registration fee may be required.
- (6) iCORI registration shall expire after one calendar year.
- (7) After expiration, the iCORI registrant shall renew its registration before accessing additional CORI.
- (8) To renew a registration, the iCORI registrant shall:
 - (a) complete iCORI training again; and
 - (b) agree to all iCORI terms and conditions again.
- (9) An iCORI registration renewal fee may be required.
- (10) A CRA shall keep its registration information updated.
- (11) iCORI registration renewal fees may be required.

11.04: Access to Criminal Offender Record Information (CORI) by a Consumer Reporting Agency (CRA) to Evaluate a Subject

- (1) A CRA may receive the following levels of CORI access:
 - (a) Standard access for screening its current employees and employment applicants;
 - (b) iCORI registered client access, the CRA obtains the same level of CORI access as is provided to the iCORI registered client on whose behalf the CRA will be performing CORI checks. Any CRA that requests CORI beyond the level of access to which its iCORI registered client is entitled shall be in violation of 803 CMR 11.00; and
 - (c) Open Access to CORI for any lawful purpose.
- (2) For each CORI request, the iCORI registered client shall provide accurate identifying information for the subject to the CRA and the purpose for which the subject's CORI is being requested.
- (3) For each CORI request, the CRA shall submit to DCJIS the accurate identifying information for the subject and purpose for the CORI request as provided by its iCORI registered client.

11.05: Procedures for Requesting Criminal Offender Record Information (CORI)

- (1) Prior to submitting a CORI request to screen its own current or prospective employees a CRA shall:
 - (a) complete and maintain a CORI Acknowledgment Form for each subject to be screened;
 - (b) verify the identity of the subject;
 - (c) obtain the subject's signature on the CORI Acknowledgment Form; and
 - (d) sign and date the CORI Acknowledgment Form certifying that the subject was properly identified.
- (2) 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.

11.05: continued

- (3) A CRA shall verify a subject'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 subject does not have an acceptable government-issued identification, an employer or governmental licensing authority shall verify the subject's identity by other forms of documentation as determined by DCJIS.
- (5) If a CRA 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.
- (6) A CRA shall submit the subject's name, date of birth, and, if available, the last six digits of the subject's social security number.
- (7) To retrieve CORI from the iCORI system, a subject's name, date of birth, and partial social security number as submitted by the employer or governmental licensing authority must match the information in the iCORI database exactly.
- (8) If a subject has additional names or dates of birth, the CRA may submit additional requests.
- (9) A fee may be required for each separate CORI request.
- (10) CORI Acknowledgment Forms shall be valid for one year from the subject's having signed the form or, if an employee, until the conclusion of a subject's employment, whichever comes first.
 - (a) A CRA 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 CRA provides written notice to the subject at least 72 hours before submitting the request.
 - (b) Failure to provide such written notice to the subject of an otherwise authorized CORI request shall be a violation of 803 CMR 11.00.

11.05: continued

- (c) If a subject objects to the new request for CORI, the CORI Acknowledgment Form that was executed for such a purpose, shall become invalid.
- (11) Nothing in 803 CMR 11.00 shall be construed to prohibit a CRA or an iCORI registered client from making an adverse licensing, employment or housing decision on the basis of a subject's objection to a request for CORI.
- (12) CORI Acknowledgment Forms must be retained by the CRA for a minimum of one year from the date of the subject's signature.

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

- (1) Any CRA that submits five or more CORI requests annually shall maintain a CORI policy.
- (2) DCJIS shall maintain a model CORI policy on a DCJS website.
- (3) A CORI policy may be developed and maintained regardless of the number of CORI requests conducted.

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

- (1) Where fully automated, criminal history records will be returned to the CRA electronically. Otherwise a manual search of the criminal history record 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 organization's iCORI account.
- (3) CORI requested by paper submission shall be sent to the requesting CRA by first-class mail.

11.08: Storage of Criminal Offender Record Information (CORI)

- (1) A CRA shall not electronically or physically store CORI results unless the CRA has been authorized by its iCORI registered client to act as the decision maker.
- (2) CRA decision makers and iCORI registered clients shall store hard copies of CORI in a separate locked and secure location, such as a file cabinet. Access to the locked and secured location shall be limited to employees who have been approved to access CORI. CRAs shall not otherwise store CORI in any form.

11.08: continued

- (3) CRA decision makers and iCORI registered clients shall password protect and encrypt electronically stored CORI. CRA decision makers and iCORI registered clients shall limit password access to only those employees who have been approved by them to access CORI.
- (4) CORI information shall not be stored using public cloud storage methods by the CRA or its client.
- (5) A CRA may transmit CORI results to its iCORI registered client(s) via electronic means, provided any CORI data transmitted electronically shall be encrypted.
- (6) Each CRA who is acting as an authorized decisionmaker may retain CORI for a period of not longer than seven years from the date it was obtained.

11.09: Destruction of Criminal Offender Record Information (CORI)

- (1) Each CRA decision maker who retains CORI shall destroy hard copies of CORI by shredding or otherwise before disposing of CORI.
- (2) Each CRA decision maker who retains CORI 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 CRA decision maker who retains a CORI registered client shall appropriately clean all information by electronic or mechanical means before disposing of or repurposing a computer used to store CORI.

11.10: Requesting Criminal Offender Record Information (CORI) on Behalf of an iCORI Registered Client

- (1) To obtain Standard or Required Access to CORI on behalf of an iCORI registered client, the iCORI registered client must have an active and valid iCORI account number which the CRA shall provide at the time of the CORI request. A CRA may request Open Access to CORI on behalf of iCORI registered clients that do not have valid iCORI accounts.
- (2) Before a CRA may submit a CORI request to DCJIS on behalf of an iCORI registered client, the CRA must be authorized through iCORI by its iCORI registered client to request CORI on its behalf. A CRA is prohibited from submitting CORI requests on behalf of iCORI registered clients that have not authorized it to do so through iCORI. This includes, but is not limited to iCORI registered clients that have chosen to rescind their CRA designation.

11.10: continued

- (3) Before the CRA may submit a CORI request on behalf of an iCORI registered client, the iCORI registered client must provide the CRA with affirmations of the following:
 - (a) that the iCORI registered client notified the subject in writing of, and received permission for, the CRA to obtain the subject's CORI;
 - (b) that the iCORI registered client is in compliance with federal and state credit reporting statutes;
 - (c) that the iCORI registered client will not misuse any information in the report in violation of federal or state equal employment opportunity laws or regulations; and
 - (d) a statement of the annual salary of the position for which the subject is being screened.
- (4) A CRA must provide DCJIS with the purpose for each CORI request submitted and submit the payment for each CORI request.

11.11: Dissemination of Criminal Offender Record Information (CORI) by a Consumer Reporting Agency (CRA)

- (1) The information a CRA may disseminate to its iCORI registered client depends upon the level of access to which the iCORI registered client is entitled for each particular CORI request, and, in the case of employment applicants, whether the position for which the subject is being screened has an annual salary of \$75,000 or more.
 - (a) If the iCORI registered client is entitled to Standard Access to CORI as defined in 803 CMR 2.05: *Levels of Access to Criminal Offender Record Information*, and the position for which the subject is being screened or in which the subject currently works has an annual salary of less than \$75,000,
 - a CRA may disseminate:
 1. all pending cases, except those pending cases that are seven or more years old from the date of the CORI report and that did not result in a warrant;
 2. all misdemeanor and felony convictions; and
 3. juvenile information, but only where the subject was adjudicated as an adult while younger than 17 years old.

11.11: continued

- (b) If the iCORI registered client is entitled to Standard Access to CORI as defined in 803 CMR 2.05: *Levels of Access to Criminal Offender Record Information*, and the position for which the subject is being screened or in which the subject currently works has an annual salary of \$75,000 or greater, a CRA may disseminate:
1. all pending cases;
 2. all misdemeanor and felony convictions; and
 3. juvenile information, but only where the subject was adjudicated as an adult while younger than 17 years old.
- (c) If the iCORI registered client is entitled to Required 2 Access to Criminal Offender Record Information, as defined in 803 CMR 2.05: *Levels of Access to Criminal Offender Record Information*, and the position for which the subject is being screened or in which the subject currently works has an annual salary of less than \$75,000, a CRA may disseminate:
1. all pending cases, except those pending cases that are seven or more years old from the date of the CORI report and that did not result in a warrant;
 2. all misdemeanor and felony convictions;
 3. all non-conviction information, except non-conviction information that is seven or more years old from the date of the CORI report and that did not result in a warrant; and
 4. juvenile information, but only where the subject was adjudicated as an adult while younger than 17 years old.
- (d) If the iCORI registered client is entitled to Required 2 Access to CORI as defined in 803 CMR 2.05: *Levels of Access to CORI*, and the position for which the subject is being screened or in which the subject currently works has an annual salary of \$75,000 or more, a CRA may disseminate:
1. all pending cases;
 2. all misdemeanor and felony convictions;
 3. all non-conviction information; and
 4. juvenile information, but only where the subject was adjudicated as an adult while younger than 17 years old.

11.11: continued

- (e) If the iCORI registered client is entitled to Required 3 Access or Required 4 Access to CORI as defined in 803 CMR 2.05: *Levels of Access to Criminal Offender Record Information*, and the position for which the subject is being screened or in which the subject currently works has an annual salary of less than \$75,000, a CRA may disseminate:
1. all pending cases, except those pending cases that are seven or more years old from the date of the CORI report and that did not result in a warrant;
 2. all misdemeanor and felony convictions;
 3. information regarding charged criminal offenses that did not result in a conviction, except non-conviction information that is seven or more years old from the date of the CORI report and that did not result in a warrant; and
 4. juvenile information, but only where the subject was adjudicated as an adult while younger than 17 years old.
- (f) If the iCORI registered client is entitled to Required 3 or Required 4 CORI access as defined in 803 CMR 2.05: *Levels of Access to Criminal Offender Record Information*, and the position for which the subject is being screened or in which the subject currently works has an annual salary of more than \$75,000, a CRA may disseminate:
1. all pending cases;
 2. all misdemeanor and felony convictions;
 3. information regarding charged criminal offenses that did not result in a conviction; and
 4. juvenile information, but only where the subject was adjudicated as an adult while younger than 17 years old.
- (2) Any CRA that receives CORI from the DCJIS and has reason to believe that the information contained therein has, in whole or in part, been disclosed in error, shall contact DCJIS to request that the CORI be reviewed before disseminating the CORI results to its iCORI registered client.
- (3) Any CRA that knowingly disseminates CORI beyond the scope permitted by the Fair Credit Reporting Act, 15 U.S.C. § 1681, and 803 CMR 2.00: *Criminal Offender Record Information* shall be in violation.

11.11: continued

- (4) Any CRA that knowingly disseminates CORI beyond the level of access to which its iCORI registered client is entitled shall be in violation of 803 CMR 2.00: *Criminal Offender Record Information*.
- (5) Any CRA that knowingly fails to provide a copy of the CORI results to its iCORI registered client shall be in violation of 8.03 CMR 2.00: *Criminal Offender Record Information*.
 - (a) A CRA may provide a summary of the CORI results in a report to the iCORI registered client. The CRA shall also provide the iCORI registered client an exact copy of the CORI results from DCJIS.
 - (b) A CRA may only disseminate CORI results to its iCORI registered client(s).
 - (c) Any CRA that knowingly disseminates CORI results to a party other than its iCORI registered client(s) shall be in violation of 803 CMR 2.00: *Criminal Offender Record Information*.

11.12 Designation of a Consumer Reporting Agency (CRA) as Decision Maker

- (1) A CRA is a decision maker for CORI request purposes if it has been authorized by its iCORI registered client to receive CORI results and, based on those results and on behalf of its client, to decide whether to hire or accept an individual for employment, housing, volunteer, or licensing purposes.
- (2) If authorized as the decision maker and the CRA intends to ask the subject about criminal history information obtained from a source other than the DCJIS, the CRA shall provide the subject with a copy of the criminal history and identify its source.
- (3) If a CRA intends to question the subject about the subject's CORI received from DCJIS, the CRA shall provide the subject with a copy of the CORI report prior to questioning.

11.13: Adverse Decisions by the Consumer Reporting Agency (CRA) as Decision Maker

- (1) If the CRA is authorized as the decision maker, before notifying the iCORI registered client of a potential adverse decision regarding the subject based on the subject's CORI received from DCJIS, the CRA 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 by meeting the subject in person, by telephone, by electronic communication, by fax, or by hard copy correspondence;

11.13: continued

- (b) notify the subject of the potential adverse decision;
 - (c) provide a copy of the CRA decision maker's CORI Policy to the subject , if applicable;
 - (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 subject;
 - (f) provide the subject with a copy of the DCJIS information concerning the process for correcting a criminal record;
 - (g) provide the subject 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 11.13.
- (6) If a subject claims that criminal history information provided by a CRA is incomplete or inaccurate, the CRA shall investigate the subject's claim, unless the CRA has a reasonable basis to deem the subject's claim frivolous. If a CRA receives a claim from a subject that the subject's criminal history information, as provided by the CRA, is inaccurate or incomplete, and if the CRA obtained the criminal history information from the DCJIS, the CRA shall also notify DCJIS, in writing, of the subject's claim. The CRA shall also include a copy of the subject's claim of incomplete or inaccurate criminal history information.
- (7) A CRA obtaining CORI from the DCJIS is subject to the authority of the CRRB.
- (8) Landlords, property management companies, real estate agents, or public housing authorities shall be permitted to evaluate housing applicants by using the services of a CRA pursuant to 803 CMR 5.16: *Using the Services of a Consumer Reporting Agency to Make Housing Decisions.*
- (9) Employers shall be permitted to evaluate employment applicants by using the services of a CRA pursuant to 803 CMR 2.21: *Use of a Consumer Reporting Agency to Make Employment Decisions.*

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

- (1) Requests for CORI are subject to audit by DCJIS.
- (2) Any CRA that obtains CORI from DCJIS shall be subject to an audit conducted by DCJIS.
- (3) Each CRA 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 CRA for failure to respond to, or to participate in, an audit.
- (4) During a DCJIS audit, the CRA shall provide, or allow DCJIS audit staff to inspect, certain CORI-related documents, including, but not limited to:
 - (a) CORI Acknowledgment Forms;
 - (b) secondary dissemination logs;
 - (c) the organization's CORI Policy; and
 - (d) documentation of adverse decisions based on CORI such as employment, licensing, or housing decisions.
- (5) During an audit, DCJIS audit staff shall assess the CRA's compliance with statutory and regulatory requirements, including, but not limited to:
 - (a) if the CRA properly registered for the appropriate level of CORI access and provided correct registration information;
 - (b) if the CRA is properly completing and retaining CORI Acknowledgment Forms;
 - (c) if the CRA is requesting CORI in compliance with 803 CMR 2.00: *Criminal Offender Record Information*;
 - (d) if the CRA is properly storing and safeguarding CORI;
 - (e) if the CRA is screening only those individuals permitted by law; and

11.14: continued

- (f) if the CRA has a CORI policy that complies with DCJIS requirements.
- (6) Audit results may be published.
- (7) If the DCJIS auditors determine that the CRA is not in compliance with statutory or regulatory CORI requirements, DCJIS may initiate a complaint against the organization with the CRRB.
- (8) DCJIS may also refer the audit results to state or federal law enforcement agencies for criminal investigation.

11.15: Consumer Reporting Agency (CRA) Access to Criminal Offender Record Information (CORI) for Purposes Other than on Behalf of a Client

Nothing in 803 CMR 11.00 shall limit the ability of a CRA or an iCORI registered client 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*.

11.16: Severability

If any provision of 803 CMR 11.00 or the application thereof is held to be invalid, such invalidity shall not affect other provisions or the application of any other part of 803 CMR 11.00 not specifically held invalid, and to this end the provisions of 803 CMR 11.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 11.00: M.G.L. c. 6, §§ 167A and 172; and M.G.L. c. 30A.