

806 CMR: SECURITY AND PRIVACY COUNCIL

806 CMR 4.00: CERTIFICATION FOR ACCESS TO CRIMINAL OFFENDER RECORD INFORMATION (CORI)

Section

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4.01: Authority and Scope.

(1) 806 CMR 4.00 is promulgated pursuant to M.G.L. c. 6, §§ 168 and 171 for the purpose of implementing M.G.L. c. 6, §§ 172(c).

(2) 806 CMR 4.00 shall govern the procedures under which the Board and Council shall determine pursuant to M.G.L. c. 6, §§ 172(c):

- (a) whether agencies and/or individuals shall be certified for access to CORI;
- (b) the extent to which any agencies and/or individuals shall have access to CORI, if certification under 806 CMR 4.01(2)(a) is granted.

(3) The procedures set forth in 806 CMR 4.00 shall apply only to agencies and individuals for purposes of determining whether the public interest in disseminating CORI to any of these parties clearly outweighs the interest in security and privacy.

4.02: Initiation of Certification Determination Procedures Under M.G.L. c. 6, § 172(c) and 806 CMR 4.00

Procedures for determining whether an individual or agency, or a category thereof may have access to CORI under M.G.L. c. 6, §§ 172(c) and 806 CMR 4.00 shall be initiated by either or both of the following:

(1) Request for access by a particular agency or individual, or groups thereof.

- (a) Any agency or individual, or groups thereof may be considered for access to CORI under M.G.L. c. 6, §§ 172(c) if it submits a written request for such access to the Board or Council.
- (b) Such a written request for access shall include a complete explanation of why the public interest in disseminating CORI to the requesting party clearly outweighs any applicable interest in security and privacy. The requesting party shall also specify in writing the extent of access it seeks.
- (c) The Board and Council may expand or narrow any request for access by mutual agreement.

(2) General Grants of access initiated by the Board or the Council.

- (a) The Board, the Council or the Joint Subcommittee established by 806 CMR 4.03 may initiate a determination of whether to give access to CORI under M.G.L. c. 6, §§ 172(c) by consent of the majority of a quorum of either agency. Such an initiation shall include a written explanation of why the public interest in disseminating CORI to certain agencies or individuals or groups thereof, clearly outweighs the interest in security and privacy, and to what extent CORI access is necessary in order to meet the public interest.
- (b) The Board and Council may narrow or expand proposed general grants of access by mutual agreement.

4.03: Joint Subcommittee of the Board and Council to Screen all Applications for CORI Access under M.G.L. c. 6, § 172(c)

(1) There shall be a sub-committee of the Board and Council. The sub-committee shall be composed of at least two members of each agency appointed by their respective chairs. The members or their designees may participate in the actions of the sub-committee.

4.03: continued

(2) This Joint Subcommittee shall meet for the purpose of discussing and making recommendations on all pending applications for access to CORI under M.G.L. c. 6, §§ 172(c).

(a) The Joint Subcommittee shall submit a written recommendation, or recommendations if there are differing opinions among the committee members, to the Board and Council at least seven calendar days prior to the earliest meeting of either agency and no later than one month after a proposal for access has been submitted to it.

(b) All recommendations from the Subcommittee or its members shall be in writing and specify:

1. The individuals or agencies which should or should not receive CORI and a statement or list of reasons supporting this recommendation;
2. The extent of access to CORI which should be given to any individuals or agencies specified to receive CORI in 806 CMR 4.03(2)(a) and a statement of reasons supporting this recommendation;
3. Reasons supporting any recommendation should address the statutory balancing standard and specify why or why not the public interest in a proposed dissemination clearly outweighs the interest in security and privacy.

(3) The failure of the Subcommittee to make timely recommendations after the matter has been referred to it shall not preclude the Board or Council from acting on any request for access, or from initiating any application for access.

4.04: Procedure for Final Certification at Meetings of the Board and Council

(1) The Council shall meet prior to the Board for the purpose of considering each M.G.L. c. 6, §§ 172(c) certification application.

(a) The Council shall resolve which agencies or individuals should or should not receive access to CORI, and state the reasons for its inclusion or exclusion of any party.

(b) The Council shall also recommend the extent to which access to CORI should be granted to any parties it resolves should have access.

(c) All Council actions on these matters should be transmitted to the Board as soon as practicable, but no later than one month after it has received the written recommendation of the Subcommittee.

(2) The Board and members of the Council shall meet jointly to consider M.G.L. c. 6, §§ 172(c) access applications not sooner than three days after the Council has met pursuant to 806 CMR 4.04(1), but not later than one month after the Council has submitted its recommendation to the Board pursuant to 806 CMR 4.04(1)(c). In no event shall the Board fail to consider a request for such access later than three months after it was submitted to the Subcommittee.

(a) The Board shall resolve which agencies and/or individuals should or should not receive access to CORI and state the reasons for its inclusion or exclusion of any party.

(b) The Board shall also recommend the extent to which access to CORI should be granted to any parties it resolves should have access.

(c) The Board and members of the Council present shall determine by a majority vote the extent to which CORI access shall be given to any agencies or individuals that have been resolved by both the Board and Council to receive CORI access.

4.05: Emergency Suspension of 806 CMR 4.00

(1) Notwithstanding 806 CMR 4.00, the Board or the Council may certify any individual or agency for access to CORI if an emergency is found to exist by two thirds of the Board or Council present and voting. For the purpose of 806 CMR 4.00 "emergency" means a situation in which failure to act would create:

(a) a substantial possibility of danger to life, health or safety; or

(b) a clear likelihood of an irreparable injury to a legitimate interest protected by law.

REGULATORY AUTHORITY

806 CMR 4.00: M.G.L. c. 6, § 170.