



# Commonwealth of Massachusetts

## EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus Jr., Secretary

### **Criminal Offender Record Information Policy for the Emergency Assistance Family Shelter Program**

The purpose of this policy is to establish a standardized policy and procedure (“CORI Policy”), pursuant to 803 CMR 2.18, for the Executive Office of Housing and Livable Communities’ (“EOHLC”) Emergency Assistance (“EA”) Family Shelter Program regarding the review of criminal records for all applicants and their household members 18 years of age and older pursuant to 760 CMR 67.02(12)-(16); 760 CMR 67.06(6)(a)9. EOHLC is granted access to Criminal Offender Record Information (“CORI”) by the Department of Criminal Justice Information Services (“DCJIS”) to screen applicants and participants of the EA Family Shelter Program. M.G.L. ch. 6, § 172(a)(6); 803 CMR 2.09(2). The following practices and procedures will be followed with respect to CORI and placement in the EA Family Shelter Program, including Bridge and Rapid Shelter Tracks, and Clinical and Safety Risk (“CSR”) sites, and Temporary Respite Center (“TRC”) sites overseen by the Executive Office of Health and Human Services. All personnel authorized to conduct criminal history background checks by EOHLC and/or to review CORI information will be expected to review, and be thoroughly familiar with, the CORI Policy.

#### **I. Conducting CORI Screening**

CORI checks will be conducted on all family members applying to the EA Family Shelter Program 18 years of age and older consistent with 760 CMR 67.02. As authorized by the DCJIS and M.G.L. ch. 6, § 172, and only after a CORI Acknowledgement Form has been completed, EOHLC employees or other persons so authorized by EOHLC will conduct DCJIS Commissioner-approved level CORI screens. EOHLC will notify all applicants and their families that their CORI may be requested at any time within the one year that their CORI Acknowledgement Form is valid or until their exit from the EA Family Shelter Program, whichever occurs first.

#### **II. CORI Training**

All personnel authorized to review or access CORI will be expected to have reviewed, and be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS. M.G.L. ch. 6, § 172; 801 CMR 2.00; see also, [iCORI training materials](#).

#### **III. Access to CORI and EOHLC “Need to Know” List**

All CORI obtained from the DCJIS is confidential, and access to the information will be limited to individuals who have been designated as having a “need to know” and who are otherwise authorized pursuant to 801 CMR 2.00 to conduct the CORI screening. Individuals designated may include, for example, staff of EOHLC field offices processing applications, staff conducting the CORI review, EOHLC Division of Housing Stabilization (“DHS”) managers administering the EA Family Shelter Program, and legal advisors. Furthermore, EOHLC may share CORI information with EA Family Shelter Program providers. 760 CMR 67.02(13)(b); 803 CMR 2.18. EOHLC will maintain a current list of each individual authorized to view CORI. This list is updated at least once every six (6) months or as-needed and is subject to inspection upon request by the DCJIS at any time. 803 CMR 2.18.

A secondary dissemination log must be maintained if CORI is shared with any individual outside of the EOHLC CORI-registered program.

#### **IV. CORI Acknowledgement Form, Verification of Identity, and Refusal/Inability to Sign**

##### **a. CORI Acknowledgment Form**

Except in the instance of a public-access or open access CORI search,<sup>1</sup> all EA Family Shelter Program applicants and family members 18 years of age and older must sign a CORI Acknowledgement Form. 803 CMR 2.11; 760 CMR 67. 06(6)(a)9. Prior to submitting a CORI request for any individual, EOHLC must: (1) obtain a signed CORI Acknowledgement Form; (2) verify their identify for CORI purposes pursuant to 803 CMR 2.11(5) (addressed in Section IV.b, below); and (3) sign and date the CORI Acknowledgement Form certifying that the person's identity was verified.

All family members 18 years of age and older must complete and sign their own CORI Acknowledgment form and produce verification of identity. To complete the CORI Acknowledgement Form, the individuals must provide: (1) name, including all names that have been used by the individual or are known by the individual to appear in the CORI database; (2) date of birth, including any dates of birth for the individual that they are aware of appear in the CORI database; and (3) if available, the last six digits of the individual's social security number.

The CORI Acknowledgement Form will be valid for one year from the date of signature or until the exit from the EA Family Shelter Program, whichever occurs first.

##### **b. Verification of Identity**

In order to verify the identity of an individual for CORI purposes pursuant to 803 CMR 2.11(1)(b) and 803 CMR 2.11(5), one of the following methods shall be used.

###### *i. Verification in Person*

An EOHLC employee, or someone authorized by EOHLC, must review a suitable form of government-issued identification in person. The following suitable forms of identification containing a photograph are acceptable by DCJIS:

1. A passport issued by the United States or any foreign country;
2. A government-issued identification card with a photograph, such as a driver's license;
3. A permanent residency card issued by the United States government;
4. A military identification card issued by the United States government;
5. Native American Tribal documents; and
6. Other forms of documentation as determined by DCJIS.

If an individual does not have an acceptable form of identification listed above, EOHLC may verify identity by examining in person either the person's birth certificate or social security card.

If the individual only has an expired form of identification and no birth certificate or social security card, EOHLC will review on a case-by-case basis to determine if they may be accepted.

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<sup>1</sup> Publicly accessible CORI is available to any member of the general public upon production of a subject's correct name and date of birth.

ii. *Notary Public*

If identity is unable to be verified in person by an EOHLC employee or someone authorized by EOHLC, the person may submit a notarized CORI Acknowledgement Form.

V. **Review of CORI**

a. **Findings from CORI Review**

A CORI review will commence should any criminal record be returned during the course of an iCORI search pursuant to 760 CMR 67.02(12)-(16).

Pursuant to 760 CMR 67.02(14), an adult individual 18 years of age or older is not eligible for the EA Family Shelter Program if the individual has been convicted of, or has a pending charge in any jurisdiction for, the following crimes or their equivalents, including attempts or conspiracy to commit such offenses:

- i. First or second degree murder;
- ii. Voluntary manslaughter;
- iii. Felonies involving child pornography, sex offenses, human trafficking, or failure to register by a sex offender;
- iv. Felonies involving rape or sexual assault;
- v. Arson;
- vi. Kidnapping;
- vii. Felonies or misdemeanors involving firearms within the previous six years;
- viii. Felony drug trafficking within the previous three years.

Pursuant to 760 CMR 67.02(15), an adult individual 18 years of age or older is not eligible for the EA Family Shelter Program if the individual has been convicted within the previous three years of, or has a pending charge in any jurisdiction for, the following crimes or their equivalents, including attempts or conspiracy to commit such offenses, without a determination of mitigating circumstances by the Department:

- i. Involuntary manslaughter;
- ii. Felonies involving spousal or elder abuse;
- iii. Felony assault and battery with a dangerous weapon causing serious bodily injury;
- iv. Felonies involving violence against children;
- v. Armed or unarmed robbery; or
- vi. Felony burglary or breaking and entering.

For these offenses, EOHLC may determine mitigating circumstances exist thereby deeming someone eligible. 760 CMR 67.02(15). Pursuant to 760 CMR 67.02(15), the below guidance provides clarification on the acceptable forms of mitigating circumstances that may be accepted by EOHLC:

- i. An assessment by a qualified mental health professional obtained and provided by the individual, indicating that the individual does not pose an unacceptable risk of harm to others in the EA Family Shelter Program; or
- ii. An assessment from a criminal justice official, such as a probation or parole officer, indicating that the individual does not pose an unacceptable risk of harm to others in the EA Family Shelter Program; or

- iii. An assessment indicating that the individual does not post an unacceptable risk of harm to others in the EA Family Shelter Program from a third-party providing direct services or representation to the individual, including:
  - 1. A medical professional;
  - 2. A case worker from the Department of Children and Families;
  - 3. A licensed social worker;
  - 4. A teacher; or
  - 5. An employer; and
- iv. If the charge was continued without a finding.

All mitigating circumstances should be received within 5 business days, though extensions may be granted upon approval by EOHLC. Requests for extensions and time and submission of mitigating circumstances documentation must be received at the following EOHLC-monitored inbox: [EOHLC-EADocReview@mass.gov](mailto:EOHLC-EADocReview@mass.gov). EOHLC will review the submitted information and review on a case-by-case basis to determine if it satisfies the requirement that the assessor indicates that the individual does not pose an unacceptable risk of harm to others in the EA Family Shelter Program. EA Family Shelter Program participants will be notified if no further action will be taken to separate or terminate them following the review.

A criminal conviction within the previous ten years or a pending charge that does not result in ineligibility pursuant to 760 CMR 67.02(14) or (15) may be considered by the Department in placement or oversight decisions. The individual shall be notified of any such action by the Department in accordance with 760 CMR 67.02(13)(a).

#### **b. Findings from CORI Review – Outstanding Warrant**

In accordance with M.G.L. ch. 23B, § 30, and applicable EOHLC policies and procedures, if the CORI review reveals an outstanding warrant for any offense in any court of the Commonwealth, the EA Family Shelter Program applicant or family member is not eligible for benefits if they do not resolve the warrant within 5 days of notification by EOHLC. 760 CMR 67.02(11).

#### **c. CORI Decisions, Questioning of an Individual, and CORI Dispute of Accuracy Process**

If EOHLC follows the above protocols based on the results of a criminal history background check and takes any adverse placement action, the individual will be notified in accordance with DCJIS regulations, 803 CMR 2.16. Additionally, should EOHLC wish to question an individual about their CORI results, EOHLC must provide them with a copy of their CORI.

The individual will be provided with the following, in either secure electronic format or notified via telephone that paperwork concerning their case must be picked up from an EOHLC field office:

- 1. A copy of this CORI policy;
- 2. A copy of their CORI (unless a copy was provided previously); and
- 3. Information concerning the process for correcting a criminal record according to the DCJIS.

The individual will be provided with an opportunity to dispute the accuracy of the CORI record through the DCJIS.

### **VI. Data Storage and Retention**

Storage, retention, and destructions of all CORI reports, including those with a finding of “no record”, will be in accordance with DCJIS regulations at 803 CMR 2.14, including:

- Hard or paper copies of CORI shall be stored in a separate locked and secure location, such as a file cabinet. Access shall be limited to only those employees approved to access CORI.
- Electronically-stored CORI shall be password protected and encrypted. Password access shall be limited only to those employees who have been approved to access CORI.

CORI Acknowledgment Forms will be retained by the requestor for a minimum of one year and maximum of seven years from the date of the subject's signature, or until their exit from the EA Family Shelter Program, whichever occurs first. 803 CMR 2.14.

## **VII. Secondary Dissemination**

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log must be used to record any dissemination of CORI outside EOHLC, including dissemination at the request of the applicant.