

Guidelines for Evaluating Criminal Offender Record Information (CORI)

Introduction and Purpose

Criminal Offender Record Information (CORI) reports are obtained through the Department of Criminal Justice Information Services (DCJIS) (formerly the Criminal History Systems Board (CHSB)). Specifically, DCJIS operates a service for obtaining CORI, known as the iCORI service.

Certain individuals acting in capacities where they are likely to come into contact with children and vulnerable parties are required to submit to a CORI report prior to their licensure and/or employment. Yet, generating a CORI is only the first step in a multistep process that must occur prior to a licensing or hiring decision being made. After receiving a CORI report, individuals responsible for licensing or hiring decisions must analyze the report, taking into consideration several factors. A component of any decision to hire shall be a finding that the applicant has been found to be a satisfactory candidate for licensure or employment based upon the CORI report.

The purpose of this document is to assist individuals responsible for making hiring decisions (“hiring authority”) in evaluating a CORI report through the application of the following criteria.

This document also serves as notice as to how the Department of Public Safety (“Department”) makes licensing decisions where a CORI is required. The Department follows the same procedures, and utilizes the same criteria, as those responsible for hiring decisions.

The criteria set forth below require the Department and hiring authorities to carefully consider all aspects of an applicant’s CORI report because the intent of the review is to determine whether an applicant presents an unacceptable risk of harm to children or other vulnerable parties. Ultimately, each applicant should be assessed on a case-by-case basis with these criteria acting as guidelines.

Additional information to assist licensing and hiring authorities is available at the DCJIS website: www.mass.gov/dcjis. Specific questions and assistance regarding the assessment of individual applicants should be addressed to the CORI Unit of the DCJIS at (617) 660-4640.

Categories of Employment Qualification Based on CORI Reports

The Department has adopted, and those responsible for hiring decisions shall follow, three major categories of employment qualification based on the information which appears on a CORI report:

- 1) no record,
- 2) discretionary disqualification, and
- 3) presumptive disqualification.

The categories are based on offenses listed in *CORI Evaluation Criteria – Tables A to C*, as

appended to this document. Offenses considered the most egregious are listed in Table A.

For the purposes of evaluating CORI, the following terms and definitions shall apply:

No Record. A finding of “no record” indicates that the applicant has no record of offenses processed through the Massachusetts court system, therefore the applicant is suitable for licensure or employment, barring other reasons for an adverse decision.

Discretionary Disqualification. An applicant shall be initially ineligible for licensure or employment based upon a conviction or pending charge for any of the crimes listed in Tables B or C unless the Department or hiring authority is convinced after consideration of mitigating factors that the applicant should be licensed or hired. Factors that may mitigate an initial decision of ineligibility include:

- 1) time since the conviction;
- 2) the age of the candidate at the time of the offense;
- 3) the seriousness and specific circumstances of the offense;
- 4) the nature of the work to be performed;
- 5) the number of offenses;
- 6) any relevant evidence of rehabilitation or lack thereof; and
- 7) any other relevant information, including information submitted by the candidate or requested by the hiring authority or Department including, but not limited to, letters of reference from the applicant’s probation officer; the prosecuting district attorney; the judge hearing the charge on which a conviction of guilt was determined; or the applicant’s treating mental health provider.

Presumptive Disqualification. An applicant shall be ineligible for licensure or employment based upon a conviction, guilty plea or pending charge for **any of the crimes listed in Table A in the appendix**. The individual applicant shall remain presumptively and permanently disqualified for licensure or employment except where the applicant is able to rebut the presumption of ineligibility. Ineligibility based upon a Table A offense may be challenged *only* by submitting clear and convincing evidence that the applicant is not likely to pose a risk of harm to children or vulnerable parties. Clear and convincing evidence of the applicant’s appropriateness is an unequivocal statement(s) that the applicant poses no risk of harm, submitted by the applicant’s probation officer, the prosecuting district attorney, or the judge that heard the Table A offense charge.

1. What does a decision maker do with a CORI report generated on an applicant?

Upon receiving a CORI report on an applicant, the Department or hiring authority shall review the information to determine whether an applicant is suitable for employment. A report that indicates “no record” means that the applicant is suitable for employment barring other reasons for an adverse employment decision. If a report is returned which indicates convictions or pending charges, the licensing or hiring authority shall refer to Tables A-C, which appears as an appendix to this document and is available from the Department’s website.

Additional details and resources about reading CORI can be obtained at <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/cori.html#ReadingaCORI>.

If the record or other important information is still unclear, contact the CORI Unit of DCJIS at (617) 660-4640.

2. Are there required steps to ensure that the CORI received belongs to the applicant?

Yes. When an applicant's CORI is received, the information shall be closely compared with the information on his or her CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant. If a hiring authority is still having difficulty attributing CORI results to an applicant, he or she should contact a DCJIS CORI Unit Analyst at 617-660-4640.

3. What must happen if the decision maker is inclined to make an adverse hiring or licensing decision based on the applicant's CORI?

When the decision maker is inclined to make an adverse decision based on the results of a criminal history background check, the applicant shall be notified immediately. The applicant shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The applicant will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' *Information Concerning the Process for Correcting a Criminal Record* (available at <http://www.mass.gov/eopss/docs/chsb/cori-process-correcting-criminal-record-2012.pdf>).

4. What if a Table A offense is indicated?

If *any* offense listed on the CORI report falls within Table A, the applicant is presumptively disqualified from employment. The licensing or hiring authority shall notify the applicant immediately and share the findings with the applicant. The applicant then has the opportunity to rebut the presumption that they are ineligible to work in an environment with children or other vulnerable parties. Only upon the written submission of unequivocal, clear and convincing statements made by the applicant's probation officer, the prosecuting district attorney, or judge, stating that the applicant is unlikely to pose a risk of harm to a child or other vulnerable party, may ineligibility be overturned.

Any decision to license or hire an individual presumptively disqualified which is made after the submission of clear and convincing evidence shall be documented and maintained by the licensing or hiring authority. Documentation of a decision to hire despite a presumptive disqualification should include a statement of the rationale for the decision.

5. What if a Table B offense is indicated?

If any offense listed on the CORI report falls within Table B, the applicant is discretionarily disqualified from employment. The licensing or hiring authority shall notify the applicant immediately and share the findings with him or her. The applicant then has the

opportunity to rebut the finding of ineligibility by providing additional information to the licensing or hiring authority. Additional information considered to rebut a Table B offense should include a letter of reference stating that the applicant is unlikely to pose a risk of harm to children or other vulnerable parties, submitted by the applicant's probation officer, the prosecuting district attorney, judge, or a treating mental health professional. Additionally, the applicant may submit other information for additional review. Licensing and hiring authorities should weigh specific factors in making a decision, including:

- 1) the time since the conviction, including whether the conviction was in the distant or recent past, and what has occurred in the time since the conviction;
- 2) the age of the applicant at the time of the offense, including whether the applicant was considered a young adult or mature adult;
- 3) the seriousness and specific circumstances of the offense, including whether the act leading to the conviction was particularly egregious in nature;
- 4) the nature of the work to be performed, including whether it will place the applicant in an environment in which they may be likely to re-offend;
- 5) the number of offenses, including whether the applicant appears to be a habitual offender; and
- 6) any relevant evidence of rehabilitation or lack thereof, including what the applicant has been doing since their release or probationary period expired.

All additional information should be weighed on a case-by-case basis and is specific to the circumstances of the individual applicant. The CORI Unit of the DCJIS is available to provide additional assistance and may be reached at (617) 660-4640.

Any decision to license or hire an individual otherwise discretionarily disqualified made after the submission of letters of reference and consideration of other factors should be documented and maintained by the licensing or hiring authority. Documentation of a decision to hire should include a statement of the rationale for the decision.

6. What if a Table C offense is indicated?

If any offense listed on the CORI report falls within Table C, the applicant is discretionarily disqualified from employment. The licensing or hiring authority shall notify the applicant immediately and share the findings with him or her. The applicant may then rebut the finding of ineligibility by providing additional information to the licensing or hiring authority. Additional information which the licensing or hiring authority may consider on additional review may include:

- 1) the time since the conviction, including whether the conviction was in the distant or recent past, and what has occurred in the time since the conviction;
- 2) the age of the applicant at the time of the offense, including whether the applicant was considered a young adult or mature adult;
- 3) the seriousness and specific circumstances of the offense, including whether the act leading to the conviction was particularly egregious in nature;
- 4) the nature of the work to be performed, including whether it will place the applicant in an environment in which they may be likely to re-offend;
- 5) the number of offenses, including whether the applicant appears to be a habitual

offender;

- 6) any relevant evidence of rehabilitation or lack thereof, including what the applicant has been doing since their release or probationary period expired; and
- 7) any other relevant information, including information submitted by the applicant or requested by the licensing or hiring authority, such as letters of reference from the applicant's probation officer or a treating mental health professional.

While Table C offenses do not necessitate letters of reference to overturn an initial finding discretionary disqualification as Table B offenses do, letters may be helpful. While offenses listed in Table C are serious offenses, they are considered to be the least egregious category of offense and should be considered on a case-by-case basis. The CORI Unit of the DCJIS may provide additional assistance and may be reached at (617) 660-4640.

As with any offense, a decision to license or hire an individual otherwise discretionarily disqualified should be documented and maintained by the licensing or hiring authority. Documentation of a decision to hire should include a statement of the rationale for the decision.