

803 CMR CRIMINAL JUSTICE INFORMATION SYSTEM REGULATIONS
803 CMR 2.00: CRIMINAL OFFENDER RECORD INFORMATION

803 CMR 2.00

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

2.01: Statutory Authority, Purpose, and Scope

- (1) 803 CMR 2.00: Criminal Offender Record Information (CORI) is issued in accordance with M.G.L. c. 6, §167A; c. 6, § 172; and c. 30A.

- (2) 803 CMR 2.00: Criminal Offender Record Information sets forth the establishment and use of the iCORI system to access Criminal Offender Record Information (CORI). 803 CMR 2.00: Criminal Offender Record Information further sets forth procedures for accessing CORI for the purpose of evaluating applicants for employment or professional licensing, as well as CORI complaint procedures.
- (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 this regulation shall be interpreted to limit the authority granted to the Criminal Records 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: Criminal Offender Record Information, 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 Commonwealth Secretary of State 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 Records 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; c. 6, § 172; and the applicable regulations, 803 CMR 2.00 et. seq.

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 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.

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.

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 this regulation, “*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 this regulation, “*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.

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)*.

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.

2.03: Criminal Offender Record Information 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.
- (4) For purposes of this regulation, 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 and for which the individual was not charged as a *youthful offender*;
 - (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*.
 - (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 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.
- (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 – 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.
 - (a) 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 MGL c. 258B, §1, or by any local, state or federal government entity.

2.05 Levels of Access to Criminal Offender Record Information

- (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*.
- (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; and
 - c. information relating to those offenses for which the *subject* was adjudicated as an adult while younger than 17 years old.
 - 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; and
 - 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.

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; and
 - e. all information regarding juvenile offenses, including pending charges.

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

- (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; and
 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.
- (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

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

- (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 Secretary of State's office, an additional fee may be required.

2.07 Special Categories for Criminal Offender Record Information Access

- (1) An *elderly person* or *disabled person* seeking to screen *employment applicants* who may provide assistance within the home 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; and
 - 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.
 - (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) 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

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

- (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;
 - (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.
- (9) For employers and governmental licensing agencies, CORI Acknowledgement 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 Acknowledgement Form as long as the *requestor* provides written notice to the *subject* at least 24 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 these regulations.
 - (c) If a *subject* objects to the new request for CORI, the CORI Acknowledgement Form, that was executed for such a purpose, shall become invalid.
- (10) Nothing in these regulations 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 Acknowledgement Form shall become invalid.
 - (12) CORI Acknowledgement 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 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

- (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) 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) 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 decision of the *requestor* regarding the *subject*.
- (4) CORI shall not be stored using public cloud storage methods.

2.12 Destruction of Criminal Offender Record Information

- (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 by an Employer or Governmental Licensing Agency

- (1) Each employer and governmental licensing agency shall provide a copy of the CORI 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 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.
- (4) 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 Policy Requirement for Certain Requestors

- (1) Any employer or governmental licensing agency 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.

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.
- (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

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 these requirements.

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

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;
- (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

- (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

- (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:
 - (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 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*.

2.21 Use of a Consumer Reporting Agency 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 3.00: Credit 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 et seq.
 2. The employer shall not misuse any information in the report in violation of federal or state laws or regulations.
 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 *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* of the potential adverse decision;
 - (c) provide a copy of the employer's *CORI* Policy, if applicable, to the *employment applicant*;
 - (d) identify the information in the *employment applicant's* *CORI* that is the basis for the potential adverse decision;
 - (e) provide a copy of the *CORI* to the *employment applicant*;
 - (f) provide the *employment applicant* with a copy of the *DCJIS* information regarding the process for correcting a criminal record;
 - (g) provide the *employment applicant* with an opportunity to dispute the accuracy of the information contained in the *CORI*; and
 - (h) document all steps taken to comply with this section.
- (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;
 - (b) provide a copy of the criminal history to the *employment applicant*;
 - (c) provide the *employment applicant* with an opportunity to dispute the accuracy of the criminal history information;
 - (d) provide a copy of the employer's *CORI* Policy to the *employment applicant*, if applicable;
 - (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 this section.

2.22 Audits by Department of Criminal Justice Information Services

- (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 adverse employment or licensing decisions based on *CORI*.
- (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 et seq.;
 - (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

- (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 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 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 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 3.00:Consumer Reporting Agencies and 803 CMR 5.00: Housing; and
 - (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.
 - (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) At the complaint conference, the complainant and the respondent may present testimony and evidence on their own behalf.
 - (c) All CORI complaint conferences shall be subject to the provisions of M.G.L. c. 30A, which governs adjudicatory hearing procedures.
 - (d) All CORI complaint conferences shall be subject to the informal rules of adjudicatory procedure under 801 CMR 1.02: Standard Adjudicatory Rules of Practice and Procedure – Informal/Fair Hearing Rules.
 - (f) All complaint conferences shall be electronically recorded.
 - (g) 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.
 - (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) At the conclusion of 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.
 - (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 these regulations, *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 Records Review Board

- (1) The *Criminal Records 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;
 - (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;
 - (g) remand a complaint presented to it for additional fact finding;
 - (h) review complaints and investigate any incidents alleging violations of M.G.L. c. 6, §168 to 178A, inclusive;
 - (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.

803 CMR 3.00 *RESERVED*

803 CMR 4.00

RESERVED

803 CMR CRIMINAL JUSTICE INFORMATION SERVICES REGULATIONS
803 CMR 5.00: Criminal Offender Record Information—Housing

Section:

- 5.01 Statutory Authority, Scope, and Purpose
 - 5.02 Definitions
 - 5.03 iCORI Registration
 - 5.04 Access to Criminal Offender Record Information 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 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 to Evaluate a Housing Applicant
 - 5.07 Criminal Offender Record Information Policy Requirement for Certain Requestors
 - 5.08 Delivery of Criminal Offender Record Information Results
 - 5.09 Storage and Retention of Criminal Offender Record Information
 - 5.10 Destruction of Criminal Offender Record Information
 - 5.11 Required Dissemination of Criminal Offender Record Information 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 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
 - 5.15 Adverse Housing Decision Based on Criminal Offender Record Information
 - 5.16 Use of a Consumer Reporting Agency to Make Housing Decisions
 - 5.17 Audits by Department of Criminal Justice Information Services
 - 5.18 Landlord, Property Management Company, Real Estate Agent, or Public Housing Authority Access to Criminal Offender Record Information for Purposes Other than the Evaluation of a Housing Applicant
 - 5.19 Severability
- 5.01 Statutory Authority, Scope, and Purpose
- (1) 803 CMR 5.00 is issued in accordance with M.G.L. c. 6, § 167A; c. 6, § 172; and c. 30A.
 - (2) 803 CMR 5.00 sets forth procedures for accessing Criminal Offender Record Information (CORI) for the purpose of evaluating applicants for rental or lease housing. 803 CMR 5.00 further sets forth procedures for storing and disseminating CORI received during the evaluation of applicants for rental or lease housing.

- (3) 803 CMR 5.00 applies to landlords, real estate agents, public housing authorities, and property management companies that request CORI for the purpose of screening applicants for the rental or lease of housing.
- (4) Nothing contained in this regulation shall be interpreted to limit the authority granted to the Criminal Records 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: Criminal Offender Record Information—Housing, 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 Records 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; c. 6, § 172; and the applicable regulations, 803 CMR 2.00 et. seq.: 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 Records Review Board*; to operate the Firearms Records Bureau; and to provide and technically support the Victim Notification Registry for the victims of crime.

Housing applicant. An individual who applies to rent or lease housing, including *market rate* and *subsidized housing*.

iCORI. The internet-based system used in the Commonwealth to access CORI and to obtain *self-audits*.

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

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

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

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

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

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

5.03 iCORI Registration

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

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

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

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

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

- (1) Prior to accessing *CORI* to evaluate a *housing applicant* for *subsidized housing*, each *public housing authority* and *property management company* that administers a *subsidized housing* program for qualifying *subsidized housing* units shall register for an *iCORI* account pursuant to 803 CMR 5.03.
- (2) A *public housing authority* or *property management company* that administers a *subsidized housing* program for qualifying *subsidized housing* units may request *CORI* regarding a *housing applicant* who is applying for *subsidized housing* owned or controlled by the *public housing authority or property management company* that administers a *subsidized housing* program for qualifying *subsidized housing* units for the purpose of evaluating the *housing applicant* for housing.
- (3) *Public housing authorities* and *property management companies* that administer a *subsidized housing* program for qualifying *subsidized housing* units shall screen *housing applicants* for *subsidized housing* only as provided by state and federal law.

- (4) A *property management company* that administers a *subsidized housing* program for qualifying *subsidized housing* units that also manages or owns *market rate housing* shall not use access to *CORI* pursuant to 803 CMR 2.05(3): Levels of Access to Criminal Offender Record Information to evaluate *housing applicants* for *market rate housing*. Such *property management companies* may access *CORI* pursuant to 803 CMR 2.05(4): Levels of Access to Criminal Offender Record Information to evaluate *housing applicants* for *market rate housing*.
- (5) A *public housing authority* may qualify to receive national criminal history information from the Federal Bureau of Investigation by executing a memorandum of understanding with the local police department and *DCJIS*.
 - (a) National criminal history information received under this provision shall be used only as permitted by federal and state laws for the purpose of determining suitability for *subsidized housing* programs.
 - (b) Improper access or dissemination of national criminal history information may result in both criminal and civil sanctions.

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

- (1) Prior to submitting a *CORI* request to evaluate a *housing applicant*, a *landlord*, *property management company*, *real estate agent*, or *public housing authority* shall:
 - (a) complete and maintain a *CORI* Acknowledgement Form for each *housing applicant* to be screened;
 - (b) verify the identity of the *housing applicant*;
 - (c) obtain the *housing applicant's* signature on the *CORI* Acknowledgement Form; and
 - (d) sign and date the *CORI* Acknowledgement Form certifying that the *housing applicant* was properly identified.
- (2) To complete the *CORI* Acknowledgement Form, the *housing applicant* shall provide:
 - (a) all names that have been used by the *housing applicant* or by which the *housing applicant* has been known; and
 - (b) any different name or date of birth for the *housing applicant* that the *housing applicant* is aware appears in the *CORI* database.

- (3) *A landlord, property management company, real estate agent, or public housing authority shall verify a housing applicant's identity by examining a government-issued identification. Acceptable types of government-issued identification are:*
 - (a) a state-issued driver's license;
 - (b) a state-issued identification card with a photograph;
 - (c) a passport; and
 - (d) a military identification.
- (4) *If a housing applicant does not have an acceptable government-issued identification, a landlord, property management company, real estate agent, or public housing authority shall verify the housing applicant's identity by other forms of documentation as determined by DCJIS.*
- (5) *If a landlord, property management company, real estate agent, or public housing authority is unable to verify a housing applicant's identity and signature in person, the housing applicant may submit a completed CORI Acknowledgement Form acknowledged by the housing applicant before a notary public.*
- (6) *A landlord, property management company, real estate agent, or public housing authority shall submit the housing applicant's name, date of birth, and, if available, the last six digits of the housing applicant's social security number.*
- (7) *To retrieve CORI from the iCORI system, a housing applicant's name, date of birth, and partial social security number as submitted by the landlord, property management company, real estate agent, or public housing authority must match the information in the iCORI database exactly.*
- (8) *If a housing applicant has additional names or dates of birth, the landlord, property management company, real estate agent, or public housing authority may submit additional requests.*
- (9) *A landlord, property management company, real estate agent, or public housing authority may be required to pay a fee for each separate CORI request.*
- (10) *Nothing in these regulations 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 submits five or more *CORI* requests annually shall maintain a *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, real estate agent, or public housing authority* may disseminate *CORI* to the owner of the housing unit for which the *housing applicant* is applying.
- (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 these requirements.
- (2) A *public housing authority* or *property management company* that administers a *subsidized housing* program for qualifying *subsidized housing* units that takes an adverse housing action based on *CORI* shall:
- (a) comply with applicable federal and state laws and regulations pertaining to suitability for *subsidized housing*;
 - (b) notify the *housing applicant* in person, by telephone, fax, or electronic or hard copy correspondence of the adverse housing action;
 - (c) provide a copy of the *housing applicant's CORI*;
 - (d) provide information regarding the process to appeal the adverse decision; and
 - (e) provide *DCJIS* information concerning the process for correcting a criminal record.
- (3) Before taking adverse action on a *housing applicant's* application for housing because of the *housing applicant's* criminal history information that was received from a source other than *DCJIS*, a *landlord*, *property management company*, or *real estate agent* shall:
- (a) comply with applicable federal and state laws and regulations, if any;
 - (b) notify the *housing applicant* in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse housing action;
 - (c) provide a copy of the *housing applicant's* criminal history information to the *housing applicant* including the source of the other criminal history information;
 - (d) provide a copy of the *landlord*, *property management company*, or *real estate agent's CORI* Policy, if applicable;
 - (e) provide the *housing applicant* with the opportunity to dispute the accuracy of the criminal history information;
 - (f) provide the *housing applicant* with a copy of *DCJIS* information concerning the process for correcting criminal records; and

- (g) document all steps taken to comply with these requirements.

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

- (1) *A landlord, property management company, real estate agent, or public housing authority may use a CRA to request CORI regarding a housing applicant.*
 - (a) *Before a CRA can request CORI from DCJIS on behalf of a landlord, property management company, real estate agent, or public housing authority, the landlord, property management company, real estate agent, or public housing authority shall:*
 - 1. *notify the housing applicant, in writing and in a separate document consisting solely of this notice, that a consumer report may be used in the housing decision making process; and*
 - 2. *obtain the housing applicant's separate written authorization to conduct background screening before asking a CRA for the report about the subject. A landlord, property management company, real estate agent, or public housing authority shall not substitute the CORI Acknowledgement Form for this written authorization.*
 - (b) *A landlord, property management company, real estate agent, or public housing authority shall also provide certain information to the CRA before requesting CORI through a CRA.*
 - 1. *The landlord, property management company, real estate agent, or public housing authority shall certify to the CRA that the landlord, property management company, real estate agent, or public housing authority is in compliance with the Federal Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq.*
 - 2. *The landlord, property management company, real estate agent, or public housing authority shall certify to the CRA that the landlord, property management company, real estate agent, or public housing authority will not misuse any information in the report in violation of federal or state laws or regulations.*
 - 3. *The landlord, property management company, real estate agent, or public housing authority shall provide accurate identifying information for the housing applicant to the CRA and the purpose for which the subject's CORI is being requested.*
- (2) *Before taking adverse action on a housing applicant's application for housing based on the housing applicant's CORI received from a CRA, the landlord,*

property management company, real estate agent, or public housing authority shall:

- (a) provide the *housing applicant* with a pre-adverse action disclosure that includes a copy of the *housing applicant's* consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," published by the Federal Trade Commission and obtained from the *CRA* by meeting the *housing applicant* in person, by telephone, by electronic communication, by fax, or by hard copy correspondence.
 - (b) notify the *housing applicant* of the potential adverse decision;
 - (c) provide a copy of the *landlord, property management company, real estate agent, or public housing authority's* *CORI* Policy, if applicable, to the *housing applicant*;
 - (d) identify the information in the *CORI* that provides the basis for the inclination to make an adverse decision;
 - (e) provide a copy of the *CORI* to the *housing applicant*;
 - (f) provide the *housing applicant* with a copy of the *DCJIS* information concerning the process for correcting a criminal record;
 - (g) provide the *housing applicant* with an opportunity to dispute the accuracy of the information contained in the *CORI*; and
 - (h) document all steps taken to comply with this section.
- (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 this section.

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 adverse housing decisions based on *CORI*.
- (4) During an audit, *DCJIS* audit staff shall assess the *landlord, property management company, real estate agent, or public housing authority's* compliance with statutory and regulatory requirements, including, but not limited to:

- (a) if the *landlord, property management company, real estate agent, or public housing authority* properly registered for the appropriate level of *CORI* access and provided correct registration information;
 - (b) if the *landlord, property management company, real estate agent, or public housing authority* is properly completing and retaining *CORI* Acknowledgement Forms;
 - (c) if the *landlord, property management company, real estate agent, or public housing authority* is requesting *CORI* in compliance with 803 CMR 2.00 et seq.;
 - (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: Criminal Offender Record Information—Housing shall limit the ability of a *landlord, property management company, real estate agent, or public housing authority* to access *CORI* pursuant to any other section of 803 CMR Criminal Justice Information Services Regulations 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 6.00

RESERVED

803 CMR CRIMINAL JUSTICE INFORMATION SERVICES REGULATIONS
803 CMR 7.00: CRIMINAL JUSTICE INFORMATION SYSTEM

Section

- 7.01: Statutory Authorization, Purpose, and Scope
- 7.02: Definitions
- 7.03: Criminal Justice Agency Access to Criminal Justice Information Systems
- 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 Systems
- 7.10: Dissemination of Criminal Offender Record Information to a Criminal Justice Agency
- 7.11: Logging Requirements for Information Dissemination
- 7.12: Complaints Alleging Improper Access or Dissemination of Criminal Justice Information Systems Information
- 7.13: Penalties for Improper Access or Dissemination
- 7.14: Severability

7.01: Statutory Authorization, Purpose and Scope

- (1) 803 CMR 7.00 is issued in accordance with M.G.L. c. 6, §167A, c. 6, § 172, and 28 C.F.R. 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 by 28 C.F.R. 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 these regulations shall be interpreted to limit the authority granted to the Criminal Records 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 C.F.R. 20 Criminal Justice Information Systems when granting access to data existing in systems and sources outside of the Commonwealth. 28 C.F.R. 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*.

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 Records 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, c. 6, § 172, and the applicable regulations, Criminal Offender Record Information, 803 CMR 2.00 et. seq.

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.

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 M.G.L. c. 6, § 172(1)(a), and 803 CMR 7.02 Criminal Justice Information Services Definitions.
- (3) CJAs seeking access to national criminal justice information systems shall also qualify under the federal definition found at 28 C.F.R. 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 this section 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*.
 - (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
 - (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, § 172B ½.
- (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;
- (4) A *CJA* may disseminate *CORI* to principals or headmasters relating to a student aged seventeen 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, § 37H1/2; 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.
 - (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 *CJIS* Information

- (1) 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 these regulations.

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 C.F.R. 20 Judicial Administration, Sanction for Noncompliance

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.

803 CMR CRIMINAL JUSTICE INFORMATION SYSTEM REGULATIONS
803 CMR 8.00: OBTAINING CRIMINAL OFFENDER RECORD INFORMATION FOR
RESEARCH PURPOSES

Section

- 8.01: Statutory Authorization, Purpose, and Scope
- 8.02: Definitions
- 8.03: Obtaining Criminal Offender Record Information (*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: Statutory Authority, Purpose, and Scope

- (1) 803 CMR 8.00 is issued in accordance with M.G.L. c. 6; §167A, c. 6, § 172, c. 6, § 173; and 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 these regulations shall be interpreted to limit the authority granted to the *Criminal Records 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.

Criminal Records 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; c. 6, § 172; and the applicable regulations, Criminal Offender Record Information, 803 CMR 2.00 et. seq.

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 below.
- (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 that 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) *DCJIS* 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 et. seq.

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.

803 CMR CRIMINAL JUSTICE INFORMATION SYSTEM REGULATIONS
803 CMR 9.00: VICTIM NOTIFICATION REGISTRY

Section

- 9.01: Statutory Authority, 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
- 9.13: Responsibilities of Users of the VNR Public Internet Site
- 9.14: Severability

9.01: Statutory Authority, 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)(19), 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 this regulation shall be interpreted to limit the authority granted to the Criminal Records 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 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.

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.

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 until they are dismissed, 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.
 - (c) The registered individual shall keep all information provided pursuant to registration confidential.

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.

- (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.
 - (a) If, after voluntarily cancelling a registration, an individual would like to re-register, the individual must submit a new petition 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 acknowledgement that the employee has received a copy of, and understands, the agency's *VNR* policy and 803 CMR 9.00.
 - (a) *Authenticated user agencies* shall retain all signed acknowledgement 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.

- (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 inactivation of a registration, the *authenticated user agency* shall attempt to contact the applicant by using, at a minimum, all *applicant information* provided by the individual.
 - (a) *Authenticated user agencies* may require registered individuals to provide methods of contact in addition to those listed in 803 CMR 9.07: Application for Notice Registration or 178A CORI Access.

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;
 - (c) move from a secure to less secure facility; and
 - (d) termination from supervision.
- (3) As soon as practicable, the custodial or supervising agency shall provide notification whenever an offender:
 - (a) dies;
 - (b) has any facility change; or
 - (c) receives a parole rescission or revocation.

- (4) The custodial or supervising agency shall provide emergency notification 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

- (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 et seq, *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.

- (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.

803 CMR 10.00-**NOTE: No changes to content.

803 CMR CRIMINAL JUSTICE INFORMATION SERVICES REGULATIONS
803 CMR 11.00: CONSUMER REPORTING AGENCY

Section:

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

11.01 Statutory Authority, Scope, and Purpose

- (1) 803 CMR 11.00 is issued in accordance with M.G.L. c. 6, §167A; c. 6, § 172; and 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 these regulations shall be interpreted to limit the authority granted to the Criminal Records 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 Records 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; c. 6, § 172; and the applicable regulations, 803 CMR 2.00 et. seq.: 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.

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 Credit 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 these regulations; 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* Acknowledgement Form for each *subject* to be screened;
 - (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) 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* Acknowledgement 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* Acknowledgement Form as long as the *CRA* provides written notice to the *subject* at least 24 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 these regulations.
 - (c) If a *subject* objects to the new request for *CORI*, the *CORI* Acknowledgement Form that was executed for such a purpose, shall become invalid.
- (11) Nothing in these regulations 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* Acknowledgement 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 *DCJIS* 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*. *CRA*s shall not otherwise store *CORI* in any form.
- (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.
- (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 Credit 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 the age of 17.
 - (b) If the *iCORI registered client* is entitled to Standard Access to *CORI* as defined in 8.03 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 the age of 17.
 - (c) If the *iCORI* registered client is entitled to Required 2 Access to Criminal Offender Record Information, as defined in 8.03 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 the age of 17.
- (d) If the *iCORI registered client* is entitled to Required 2 Access to *CORI* as defined in 8.03 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 the age of 17.
- (e) If the *iCORI registered client* is entitled to Required 3 Access or Required 4 Access to *CORI* as defined in 8.03 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 the age of 17.

- (f) If the *iCORI* registered client is entitled to Required 3 or Required 4 *CORI* access as defined in 8.03 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 the age of 17.
- (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 et. seq., and 8.03 CMR 2.00 et. seq. Criminal Justice Information Services shall be in violation.
- (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 8.03 CMR 2.00 et. seq.
- (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 et seq. Criminal Justice Information Services.
- (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 8.03 CMR 2.00 et. seq. Criminal Justice Information Services.

11.12 Designation of a Credit 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 Credit 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;
 - (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 this section.
- (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.
- (3) 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* Acknowledgement 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.

- (4) 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* Acknowledgement Forms;
 - (c) if the *CRA* is requesting *CORI* in compliance with 803 CMR 2.00 et seq.;
 - (d) if the *CRA* is properly storing and safeguarding *CORI*;
 - (e) if the *CRA* is screening only those individuals permitted by law; and
 - (f) if the *CRA* has a *CORI* policy that complies with *DCJIS* requirements.
- (5) Audit results may be published.
- (6) 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*.
- (7) *DCJIS* may also refer the audit results to state or federal law enforcement agencies for criminal investigation.

11.15 Credit 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 Consumer Reporting Agency shall limit the ability of a *CRA* or an *iCORI registered client* to access *CORI* pursuant to any other section of 803 CMR Criminal Justice Information Services Regulations including, but not limited to access as an employer or member of the general public pursuant to 803 CMR 2.00 et. seq. Criminal Justice Information Services.

11.16 Severability

If any provision of 803 CMR 3.00 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.

