

TRURO POLICE DEPARTMENT

CRIMINAL OFFENDER RECORD INFORMATION (C.O.R.I)

Policy Number: ADM-1.12
REFERENCE: TPDM ADM-1.09

Effective Date: January 30, 2002
Revised Date:

Accreditation Standards: 13.1.3; 81.2.9; 82.1.9; 82.3.6
Mass. Gen. Law: See last page
Other:

I. GENERAL INFORMATION AND GUIDELINES

The Massachusetts Criminal History Systems Board (CHSB) provides for and exercises control over the installation, operation and maintenance of the data processing and data communication systems known as the Criminal Offender Record Information (CORI) system.¹ The purpose of this system is to ensure the prompt collection, exchange, dissemination and distribution of CORI as may be necessary for the efficient administration and operation of criminal justice agencies, and to connect such systems directly or indirectly with similar systems in Massachusetts or other states.

The regulations concerning the dissemination of Criminal Offender Record Information change periodically and personnel should make every effort to stay familiar with changes in this very important field.

The Truro Police Department does not make use of mobile data terminals (MDT), however, MDT's are subject to the same guidelines and laws as the station terminals.

II. POLICY

It is the policy of the Truro Police Department to:

- A. Have access to the Criminal Justice Information System and make CORI data gathered by the department available to the System. The Administrative Assistant shall be the assigned CJIS representative for the department.
- B. Make CORI data maintained by the department available, upon request, to those persons authorized by statute to receive it; and
- C. Protect the privacy interests of defendants while balancing the public's right to know with the need for effective law enforcement.

III. DEFINITIONS

- A. *Criminal History Systems Board (CHSB)*: The CHSB consists of seventeen members. The CHSB provides for and exercises control over the installation, operation and maintenance of processing and data communication systems, the Criminal Offender Record Information System and other duties as provided in 803 CMR.²
- B. *Criminal Justice Agency*: A state or federal court with criminal jurisdiction or a juvenile court; state, county or local police; any government agency which incarcerates or rehabilitates juvenile offenders as its principal function; or any government agency which has primary responsibility to perform duties relating to:
 - 1. Crime prevention, including research or the sponsorship of research;
 - 2. The apprehension, prosecution, defense, adjudication, incarceration, or rehabilitation of criminal offenders; or
 - 3. The collection, storage, dissemination or usage of CORI.
- C. *Criminal Justice Information System (CJIS)*: The computer system maintained by the CHSB which contains criminal justice information including: criminal histories; records of wanted persons and stolen property; judicial restraining orders; and missing persons.

D. *Criminal Offender Record Information (CORI)*: Records and data in any communicable form compiled by a criminal justice agency which concern an identifiable individual and relate to the following:

- The nature and disposition of a criminal charge;
- An arrest;
- A pretrial proceeding;
- Other judicial proceedings;
- Sentencing;
- Incarceration;
- Rehabilitation; or
- Release.

Such information shall be restricted to that recorded as a result of the initiation of criminal proceedings or any consequent proceedings related thereto.

CORI shall not include:

- evaluation information;
- statistical and analytical reports;
- files in which individuals are not directly or indirectly identifiable;
- intelligence information;
- criminal offenses or acts of delinquency committed by any person before attaining the age of seventeen, provided, however, that if a person under the age of seventeen is adjudicated as an adult, information relating to such criminal offense shall be CORI; or
- any offenses which are not punishable by incarceration.

E. *Dissemination*: The release of CORI in any communicable form.

F. *Evaluative Information*: Records, data, or reports concerning identifiable individuals charged with a crime and compiled by criminal justice agencies which appraise mental conditions, physical conditions, extent of social adjustment, rehabilitative progress, and the like which are primarily used in connection with bail, pretrial, or post-trial release proceedings, sentencing, correctional, and rehabilitative planning, probation, or parole. Such information is not included in CORI but its dissemination is restricted by 803 CMR and M.G.L. c. 6, s. 172 and s. 178.

G. *Intelligence Information*: Records and data compiled by a criminal justice agency for the purposes of criminal investigations, including reports of informants, investigators, or other persons or any type of surveillance associated with an identifiable individual. Such information is not included in the definition of CORI.³

IV. PROCEDURES

A. Administrative Procedures

1. The Truro Police Department shall maintain direct terminal access to the Criminal Justice Information System (CJIS). [81.2.9]
 - a. In order to obtain direct terminal access to the CJIS terminal for entering data into and accessing the system (which includes CORI data), the department must submit a New User Agreement to the Criminal History Systems Board (CHSB).⁴
 - b. Following receipt of “Terminal Agency” status from the CHSB, the department shall submit a New User Agreement biennially.
 - c. When a new CJIS representative, backup or a new agency head is appointed, the department shall submit a New User Agreement to the CHSB within ten days of the appointment.
2. Only those officers and employees of the department as determined by the Police Chief to require CORI for the actual performance of their criminal justice duties shall have access to CORI. The Chief shall maintain a list of authorized employees by position, title, or name, for inspection by the CHSB.⁵ *For security purposes, only police employees shall be allowed in the communications center, where the CORI Terminal is located.*
3. The Truro Police Department shall enter and maintain CORI for which it is responsible into the Criminal Justice Information System. Quality assurance procedures established by the CHSB policy must be followed.
4. The Truro Police Department shall maintain a list of CORI disseminated and the individuals and agencies to whom it has released or communicated CORI information.⁶ These listings shall be maintained for at least one year after the date of dissemination and shall be made available for inspection by the CHSB.⁷
5. Each CJIS operator shall take care to insure no damage is done to the CJIS terminal. Truro Police Personnel may not alter or re-configure the CJIS terminal.
6. Each CJIS operator shall report any damage/problems with the CJIS terminal to the Shift Commander and the Administrative Assistant acting as CJIS representative. The Telecommunicator shall, notify the Field Service Unit of the problem as soon as possible. An incident shall be made indicating notification and repair information.

B. CJIS Access by Truro Police Department Personnel

1. All operators of CJIS terminals must be trained, tested and certified under CHSB before using a terminal. Said users shall be re-certified biennially thereafter. The Administrative Assistant shall facilitate these events.
2. Each terminal operator shall use their assigned password when accessing the CJIS network. Users will not give these passwords out. No one is permitted to use another's password. Breaches will be reported to the Administrative Assistant.
3. All operators shall log on at the beginning of their workday, and log off at the end of their work day.

C. CORI Inclusions and Exclusions

1. **STATISTICAL RECORDS AND REPORTS:** CORI shall not include statistical data in which individuals are not identified and from which identities are not ascertainable.⁸
2. **JUVENILE DATA:** No information concerning a person under seventeen years of age is CORI unless that person is adjudicated a youthful offender under G.L. c. 119, s. 58.⁹
3. **EVALUATIVE INFORMATION:** CORI excludes evaluative information. The access to and utilization of evaluative information is governed by 803 CMR 204.¹⁰
4. **INTELLIGENCE INFORMATION:** CORI excludes intelligence information.¹¹
5. **MINOR OFFENSES:** CORI excludes minor offenses (offenses not punishable by incarceration).¹²
6. **PHOTOGRAPHS AND FINGERPRINTS:** CORI includes fingerprints, photographs, and other identification data which is recorded as the result of criminal proceedings, however, CORI shall not include the above information used for investigative purposes if the individual is not identified.¹³

D. Access to Information – Members of the Public

1. **DAILY LOGS:** Department daily logs are not classified as CORI. Department daily logs, listing in chronological order all responses to all valid complaints received, crimes reported, the names, addresses, and charges against persons arrested are available to the public during regular business hours, provided that no alphabetical arrestee, suspect or similar index is provided.¹⁴ Entries protected by law, such as reports of rape,¹⁵ shall not be made available.
2. **DECEASED PERSONS:** An individual's privacy rights pursuant to the CORI statute end when the person dies. The department may disseminate CORI on a deceased person upon proof of death (e.g., death certificate, appointment of estate administrator, executor, executrix, etc.).¹⁶

NOTE: At the time this policy was published, the Massachusetts Appeals Court had just struck down the regulation (803 CMR 2.04(5)(a)) permitting a police department's with official responsibility for a pending criminal investigation to release to any person CORI specifically related and contemporaneous with the investigation.¹⁷ The court determined that the regulation exceeded the legislative grant of authority to the CHSB and therefore was invalid.¹⁸

The court did not address the remainder of the regulation which permits department's to release to any person, CORI specifically related and contemporaneous with the search for or apprehension of any person or with a disturbance at a penal institution.¹⁹ However, based on the Appeals Court's reasoning, it appears likely that this regulation may also be invalid. Therefore, it is recommended that departments refer all such requests to the CHSB.

E. Access to CORI – CORI Relating to the Requester

1. Upon request, the department shall provide CORI relating to the individual making the request. The individual must:
 - a. Complete the Commonwealth of Massachusetts REQUEST FOR CRIMINAL RECORDS form and;
 - b. Show positive identification to the police official accepting the form.

2. Such person has the right to inspect and copy CORI relating to him or her.²⁰
 - a. (S)he shall receive, if practicable, a computer print-out or a photocopy of CORI, including personal identifiers, referring to him or her and/or make and retain a written summary or notes of the CORI.
 - b. The Administrative Assistant as records keeper, and/or the Chief of Police, shall review all information prior to release.
 - c. If no CORI referring to the requesting individual can be found in the department's files, this fact shall be disclosed to the individual, in writing if requested.
 - d. The department may impose a reasonable charge for copying services, not to exceed its usual charges to the public for such services, or the actual cost of such copying, whichever is less.²¹
 - e. When the CORI records sought to be inspected and copied are in manual systems, the department may prescribe reasonable hours and places of inspection, and may impose such additional restrictions (subject to approval by the CHSB), including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them.²²
 - f. All requests shall be responded to as soon as practicable but no later than 10 days after receipt of the request.
3. CORI maintained in CJIS shall be available for inspection by the individual to whom it refers. Such requests shall be made in writing to the offices of the CHSB in Boston.
4. Any individual who is denied the right to inspect or copy CORI relating to him or her may, within 30 days of such denial, petition the CHSB for an order requiring the release of such CORI. The CHSB shall act on such petition within 60 days of receipt.
5. Any person who believes that his/her CORI is inaccurate, incomplete or misleading may submit in writing a request to the department having custody or control of the record(s) containing the CORI. The written request must describe with reasonable specificity the inaccurate, incomplete, or misleading CORI, and shall describe the modification necessary to correct the inaccurate, incomplete or misleading CORI.

- a. The Administrative Assistant of the Truro Police Department shall evaluate the request.
 - i. If the department determines that the CORI is inaccurate, incomplete, or misleading, the department shall make the necessary corrections to the record and notify the individual of the actions taken.
 - ii. If the department determines that the CORI is not inaccurate, incomplete, or misleading, the individual shall be notified of the department determination and the record shall not be modified.
 - b. When the department declines to modify the record(s) complained of in accordance with the request of the individual, [s]he may file a written complaint with the CHSB.²³
 - c. Where the record in question is determined by the CHSB to contain inaccurate, incomplete or misleading CORI, the department shall make the necessary corrections upon order of the CHSB.²⁴
6. Lawyers may obtain their client's CORI upon presentation of a notarized third party access form signed by the record subject. Forms are available from CHSB. Family members of the record subject may also use this form to obtain CORI for the record subject.
- a. Lawyers must get a court order to obtain the CORI records for someone other than their client(s).

F. Access to CORI – Certified Agencies and Individuals

1. General
 - a. CORI and evaluative information shall be provided to agencies and individuals certified by the CHSB. Such agencies (other than criminal justice agencies) and individuals shall be required to show a letter of certification from the CHSB before CORI is released.
 - b. The CHSB maintains a list of all agencies certified under M.G.L. c. 6, s. 172(a)(b)(c) and s. 173 to receive CORI.
2. OTHER POLICE DEPARTMENTS: The department may disseminate CORI to any other criminal justice agency appearing on the CORI list in CJIS.²⁵

3. *Department of Social Services*

- a. Upon request by the Department of Social Services (DSS) or the Department of Youth Services, the department may release certain CORI data for the sole purpose of evaluating foster and adoptive homes.²⁶ CORI which may be released for this purpose is limited to:
 - i. Arrest data;
 - ii. Conviction data;
 - iii. Sealed record data; and
 - iv. Juvenile arrest and conviction data.²⁷
- b. CORI data may be accessed and copied by social workers of DSS or any agency under contract to DSS, in order to complete an investigation of child abuse or neglect, pursuant to M.G.L. c. 119, s. 51A.²⁸ Access is limited under the following conditions:
 - i. The CORI data must be in the possession of a "mandated reporter" of child abuse as defined in M.G.L. c. 119, s 51A, which includes police officers;
 - ii. The DSS investigator must be conducting an investigation of child abuse or neglect, and is within the ten-day investigation period set by M.G.L. c. 119, s 51B when the CORI data is accessed. This ten day investigation period shall be verified in writing by a DSS supervisor, or supervisor of an agency under contract to DSS on a form provided by the CHSB; and
 - iii. The CORI data disclosed must be relevant to the specific investigation of child abuse or neglect.²⁹
- c. Departments disclosing information to DSS for child abuse investigations are protected from liability relating to this disclosure.³⁰

4. *Employers of Persons Caring for the Elderly or Disabled*
 - a. The department shall release CORI on persons caring for the elderly or disabled upon request by that person's employer. The requester is required to show a letter of certification from the CHSB.
 - b. This includes persons who are accepted as volunteers or referred to a client as someone who will provide care, treatment, education, training, transportation, delivery of meals, instruction, counseling, supervision, recreation or other services in a home or in a community based setting for any elderly or disabled individual or who will have direct or indirect contact with such elderly or disabled persons or access to such persons' files.³¹
5. AGENCIES TO WHICH CORI SHALL NOT BE RELEASED: The department shall not release CORI to the following agencies. They shall be told to submit their request directly to the CHSB.
 - a. Military recruiters.
 - b. Insurance companies, however "sanitized" reports may be given to insurance companies if CORI is segregated from other data in the reports.³²
 - c. School departments.³³

G. Access to Non-guilty Dispositions and Sealed Records

1. All CORI relating to criminal proceeding which resulted in a non guilty disposition and all sealed records shall not be released, except in the following circumstances:³⁴
 - a. To the Department of Social Services and the Department of Youth Services for the sole purpose of evaluating foster and adoptive homes;³⁵
 - b. To the CHSB where necessary to discharge its statutory responsibilities;
 - c. To the individual to which the CORI pertains;

- d. To any criminal justice agency only to the extent necessary to conduct a pending criminal investigation or criminal proceeding or a pre-employment investigation of prospective criminal justice personnel; or
- e. Pursuant to a court order.

¹M.G.L. c. 6, ss. 168, et. seq.

² M.G.L. c. 6, s. 168

³ M.G.L. c. 6, s. 167

⁴ 803 CMR 7.07

⁵ 803 CMR 3.02 (2)

⁶ M.G.L. c. 6, s. 172

⁷ 803 CMR 3.08

⁸ M.G.L. c. 6, s. 167

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ 803 CMR 2.04

¹⁴ M.G.L. c. 41, s. 98F; M.G.L. c. 6, s. 172

¹⁵ M.G.L. c. 41, s. 97D

¹⁶ 803 CMR 2.04(11)

¹⁷ *Bellin v. Kelley*, 48 Mass.App.Ct. 573, 2000 WL 192786 (2000)

¹⁸ Id.

¹⁹ 803 CMR 2.04(5)(b)

²⁰ M.G.L. c. 6, s. 175

²¹ 803 CMR 6.05

²² 803 CMR 6.03

²³ M.G.L. c. 6, s. 175

²⁴ M.G.L. c. 6, s. 175

²⁵ M.G.L. c. 6, s. 172

²⁶ M.G.L. c. 6, s. 172B

²⁷ Id.

²⁸ 803 CMR 4.02

²⁹ Id.

³⁰ M.G.L. c. 119, s 51B

³¹ M.G.L. c. 6, s. 172C

³² M.G.L. c, 6, s. 172

³³ M.G.L. c. 71, s. 38R

³⁴ 803 CMR 7.03

³⁵ M.G.L. c. 6, s. 172B