

KNOW YOUR CORI RIGHTS

Applying for
Jobs, Housing or Other Opportunities
After Sealing Criminal Records



Greater Boston Legal Services (GBLS)
197 Friend Street
Boston, MA 02114
617-371-1234
www.gbls.org

**APPLYING FOR JOBS, HOUSING AND OTHER OPPORTUNITIES
AND AFTER SEALING CRIMINAL RECORDS**

Greater Boston Legal Services, 197 Friend St., Boston MA 02114

TABLE OF CONTENTS

	Page
WHAT IS CORI?	
1. What is Criminal Offender Record Information?.....	5
AFTER YOUR RECORDS ARE SEALED	
2. Once I seal all of my criminal cases, can I tell an employer I have no record?.....	5
3. Can someone who goes to the courthouse look at my sealed record?.....	5
4. Will employers or others know that I have a sealed record?.....	5
5. Who can find out about my sealed records?.....	6
USE OF SEALED RECORDS IN LATER COURT CASES	
6. Can my sealed record be used against me in a later <u>criminal</u> case?.....	6
7. Can my sealed record be used against me in a later <u>civil</u> court case?.....	6
8. Can my sealed record be used against me if I go to court to seal other records?.....	7
EMPLOYMENT DISCRIMINATION	
9. Can an employer refuse to hire all job applicants with criminal records?.....	7
10. How does the law protect me from discrimination based on CORI?.....	7
11. What may employers ask about at job interviews?.....	9
FEDERAL JOBS AND THE FBI	
12. What if I apply for a job with the federal government?.....	9
PRIVATE BACKGROUND CHECKS	
13. Should I worry about private background checking companies or agencies?.....	10

FIXING CORI MISTAKES

14. What can I do if my CORI report has errors or cases that do not belong to me?10

BOSTON CORI ORDINANCE AND OTHER CITY ORDINANCES

15. What does the Boston CORI ordinance or similar ordinances do to protect me from discrimination based on my CORI when I apply for a job working for the city or its vendors?.....11

TAX CREDITS

16. Are tax credits available to employers who hire people with criminal records?12

IMPORTANT. This booklet is provided to you as a public service and does not constitute legal advice which can only be given to you by your own attorney. This booklet includes information only about Massachusetts laws and sealing of cases in Massachusetts. If you have cases in other states or other locations, you need to consult the law in the applicable jurisdiction that handled your other criminal case to learn about your rights. This booklet was last updated on November22, 2019. You may photocopy and share this booklet.

WHAT IS CORI?

1. What is Criminal Offender Record Information (CORI)?

Criminal offender record information (CORI) is a person's criminal record history. Every time you go to court for a criminal case in Massachusetts, CORI information about the case is entered into the Commonwealth's CORI database. Your CORI report is a summary of all your criminal cases in the Massachusetts state courts which includes, but is not limited to criminal cases that ended favorably in dismissals or ended in a "not guilty" finding.

CORI does not include civil cases such as abuse prevention restraining order cases (often referred to as "209A" cases") or criminal harassment prevention restraining order cases. CORI does not include other non-criminal matters such as "51A" reports of child abuse or neglect made to the Department of Children and Families. However, a criminal case may be filed if a restraining order is violated or a child is abused.

Criminal records can make it hard to get job, housing or move ahead in life. If you need information about how to sealing your records, see our other booklets on record sealing and related issues at: <https://www.gbls.org/self-help/cori> or <http://www.masslegalhelp.org/cori>

AFTER YOUR CRIMINAL RECORD IS SEALED

2. Once I seal all of my criminal cases, can I tell an employer or landlord I have no record?

Yes. If employers, landlords or housing authorities or occupational licensors ask for information that would involve your sealed charges, Massachusetts law permits you to answer that you have "no record" with regard to those sealed cases. (G.L. c. 276, § 100A).

3. Can someone who goes to the courthouse look at my sealed record?

In general, most people cannot look at your sealed court file. The law requires employees of the clerks' offices of the courts and the Commissioner of Probation to report "no record exists" to all who inquire, **except** for "any law enforcement agency," "any court" or "appointing authority" -- meaning those given access to sealed records because a special law applies to them.

4. Will employers, landlords or housing authorities know that I have a sealed record?

CORI reports provided to landlords and housing authorities will not include sealed cases once your records are sealed. MOST employers and CORI requesters will **NOT** find out about your sealed records. **There is a myth that the CORI given to employers or others will say whether a person has a sealed record. This is untrue.** In most cases, the CORI report they receive from the Department of Criminal Justice Information Services (DCJIS) will indicate you have no record if cases are sealed.

IMPORTANT. If your record is sealed, you usually do not have to give information about

the case at ANY stage of the hiring or job application process.

5. Who can find out about my sealed records?

The law requires employers to inform job applicants on applications for employment, housing or trade licenses that: “An applicant for employment or for housing or an occupational or professional license with a sealed record on file with the commissioner of probation may answer ‘no record’ to an inquiry herein relative to prior arrests or criminal court appearances.” G.L. c. 276, § 100A. However, certain employers and state agencies are exceptions and may obtain information about sealed records:

- All criminal justice agencies (police, probation, District Attorney’s offices, firearms licensing authorities, courts, and other law enforcement) get access to sealed record information.
- The Department of Early Education and Care, which has oversight over childcare workers and similar employees who work with very young children, has access to sealed record information during the hiring process.
- The Department of Children and Families (DCF) and the Department of Youth Services (DYS) get access to sealed cases related to people trying to adopt a child or become foster parents.

Sealed records are usually not a barrier to most state government jobs. The law states that “sealed records shall not operate to disqualify a person in any examination, appointment or application for public service in the service of the commonwealth or of any political subdivision” —meaning your sealed records cannot be used as basis to find that you are not qualified for a job or some other opportunity. (G.L. c. 276, § 100A). You should note, however, that a few employers do get access to sealed record information which means they will know about your sealed case when they consider you for a position.

USE OF SEALED RECORDS IN LATER COURT CASES

6. Can my sealed record be used against me in a later criminal case?

Yes and no. Juvenile records and most sealed adult criminal records may be considered at the time of sentencing if you are found guilty in a later criminal case. However, a sealed record for a case that ended in a finding of “not guilty,” a “no bill” from a Grand Jury, or a “no probable cause” finding cannot be used against you in a later criminal case.

7. Can my sealed record be used against me in a later civil court case?

Yes and no. Most of the time, sealed criminal records cannot be used in civil cases. However, there are exceptions for certain family law related civil cases which include: abuse prevention cases, divorce, paternity, separate support, guardianship, termination of parental rights, and care and protection cases when the records are relevant to the issues of abuse, safety of a person or custody

or visitation of a child. In these types of cases, the records may be obtained and put in evidence in the civil case if the judge decides the records are relevant. (G.L. c. 276, § 100A).

8. Can my sealed record be used against me if I go to court to seal other records?

If you have already sealed some cases, and are going to court to try to seal other cases, the judge should not consider the content of the sealed records. The law permits sealed records only to be used for sentencing after a later criminal conviction, or in certain specified civil cases pertaining child custody, abuse prevention, and domestic relations involving safety of a person. (G.L. c. 276, § 100A).

Important. Remember that if you tell the judge about the contents of your sealed cases, the judge will know about the cases based on what you said. Your statements may affect the judge’s decision.

EMPLOYMENT DISCRIMINATION

9. Can an employer refuse to hire all job applicants with criminal records?

This kind of hiring policy usually is illegal. The U.S. Equal Employment Opportunity Commission (EEOC) has said that blanket hiring policies that automatically reject any job applicant with a criminal record are discriminatory. Hiring or firing policies that reject all workers with criminal records violate Title VII of the Civil Rights Act of 1964 unless the employer can show it is necessary for the business to do so or a particular law makes the person ineligible for the job. This is because using criminal records as a reason not to hire workers has a “disparate impact” (a greater effect) on racial minority groups.

Guidance from the EEOC cautions employers that they should conduct an individualized assessment. Factors to consider include how old is the offense, the nature and seriousness of the offense, the age of the person at the time of the offense and completion of the sentence, rehabilitation efforts, success in a same job without incident after the offense, and the relationship between the type of offense and the job. The EEOC issued guidance in 2012 which explains this topic in more detail on its web site: https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

10. How does the law protect me from employment discrimination based on CORI?

The law provides some protections, but keep in mind that a few employers do get access to sealed records, and some employers get access to information about criminal records that did not end in a conviction if your record is not yet sealed. All employers, housing authorities, and other screeners also obtain any CORI information about pending cases that are still open if you authorize them to get a copy of your CORI report.

The following actions by an employer summarized below are illegal.

- It is illegal to ask most job applicants for any criminal record information on an initial job application. The only exceptions are for employers or jobs that fall within special exceptions

in the law. G.L. c. 151B, § 4(9½). The “Ban the Box” law prohibits questions about CORI on most job applications and applies to employers with at least 6 employees. You can report violations to the Massachusetts Commission against Discrimination which enforces the law. For more information, go to: <http://www.mass.gov/mcad/resources/employers-businesses/criminal-records-fact-sheet.pdf>

- It is illegal to ask applicants for jobs, housing, licensing, or volunteer opportunities to provide a copy of their own CORI record for the employer or other requestor. G.L. c. 6, § 172. All cases appear on a CORI that you get for yourself, but not all cases will necessarily appear in the CORI report that the employer or other requestor sends for with your permission. You can file a complaint with the Department of Criminal Justice Information Services (DCJIS) if the employer or other requestor asks you to bring your CORI report to them. The form is on the internet at: <http://www.mass.gov/eopss/agencies/dcjis/i-want-to-file-a-cori-complaint.html>
- It is illegal to ask an applicant for a job, housing, licensing, or volunteer opportunities, questions about a CORI report unless the interviewer gives the applicant a copy of the report BEFORE asking the questions. G.L. c. 6, § 172(31) (c).
- It is illegal for employers, housing, licensing, or volunteer opportunity screeners to not provide applicants with a copy of the CORI or other background report they obtained if they rejected the applicants due to a criminal record. G.L. c. 6, § 172(31) (c). You can file a complaint with the Department of Criminal Justice Information Services (DCJIS) if the employer rejected you based on CORI and failed to provide you the report. The complaint form to file a complaint is on the internet at: <http://www.mass.gov/eopss/agencies/dcjis/i-want-to-file-a-cori-complaint.html>

Important. You should review any CORI report provided by the employer or other screener to see if it contains error. If there are errors, point out any mistakes. You also might try to explain why the CORI is not related to the job duties. If you think an employer has discriminated against you based on your criminal record, see the reply to Question 7 above. It is illegal for most employers to ask questions at any stage of the hiring about:

- (1) an arrest or criminal detention (*e.g.* being held at a police station) that did NOT end in a conviction; or
- (2) any criminal case filed against you in court that did NOT end in a conviction;
- (3) a first-time conviction for drunkenness, simple assault, speeding, minor traffic violations, affray, disturbance of the peace; or
- (4) a conviction for a misdemeanor where the date of the conviction OR your release from incarceration was 3 or more years ago; or

(5) a juvenile record, except for cases where the juvenile is tried and convicted as an adult in an adult court rather than in the juvenile court); or

(6) a sealed or expunged criminal record.

G.L. c. 151B, § 4(9); G.L. c. 276, § 100A.

Important. Some employers have a level of CORI access that provides them with CORI reports that include more than convictions or pending cases. If you apply for a job at a school, nursing home, assisted living facility, or a similar job working with certain vulnerable populations, your CORI will likely include dismissed and other favorably ending cases UNLESS these cases are sealed. A law passed in 2013 requires fingerprinting of teachers and school employees who have unsupervised contact with children. This may link employees to past criminal cases if they were fingerprinted in connection with these cases. Daycare and preschool employers also get CORI or background reports that includes sealed record information.

11. What May Employers Ask About CORI at Job Interviews?

At a job interview after the initial job application, all employers can ask about certain convictions. The employer has a give you a copy of your CORI or criminal background report before asking about particular cases on the CORI report or other criminal background report.

At the interview stage, the employer can ask you if :

(1) you have ever had a felony conviction at any time **that it is not sealed**;

AND

(2) any misdemeanor conviction **IF:** (a) you were convicted OR released from incarceration for the misdemeanor conviction during the last 3 years **AND** (b) the case is not sealed, **AND** (c) the conviction was not a first time conviction for drunkenness, simple assault, speeding, a minor traffic violation, affray, or disturbing the peace.

If your convictions are sealed, you do NOT have to say anything about them. The law permits you to say “I have no record” with regard to any conviction or any case that you have sealed.

FEDERAL JOBS AND THE FBI

12. What if I apply for a job with the federal government?

If a person with a sealed record applies for a job with the federal government or its subcontractor, the agency may get information from the FBI’s criminal record database. The FBI record may include cases from a state court, including sealed cases. It is not unusual for the FBI record to have information that a case was filed, but no information about the outcome of the case such as a “not guilty” finding or dismissal. The FBI can add information about the outcome of a case and/or sealing of the case if you give them proper documentation such as copies of a complaint, docket sheet or sealing order.

The contact for FBI records in Massachusetts is the Massachusetts State Police, 59 Horse Pond Road, Sudbury, MA 01776. The telephone number is 508-358-3170.

More information about FBI records and how to obtain or correct FBI records is available on the FBI website at:

<https://www.fbi.gov/services/cjis/identity-history-summary-checks>

<https://www.fbi.gov/file-repository/challenge-brochure.pdf/view>

PRIVATE BACKGROUND CHECKS

13. Should I worry about private background checking companies or agencies?

Yes. People should be aware that employers and others are able to get information not only from the state CORI system (Dept. of Criminal Justice Information Systems), but from private data mining companies that make money selling this information. These private companies and consumer reporting agencies (CRA's) look at criminal records in clerk's offices and gather information from public sources. Their background reports are known to contain mistakes. They do not always update their records after a case is dismissed or ends in your favor.

IMPORTANT. If employers, housing authorities, and landlords want to reject you based on your CORI (or other criminal background report) or ask questions about it, they must give you a copy of the report. They must let you dispute errors in the report.

Some employers also may use credit reporting agencies whose reports contain mistakes. You have a right to: (1) a free copy of the report; and (2) a right to dispute and fix mistakes on it.

The Federal Trade Commission enforces the Fair Credit Reporting Act and has a website with information about how to correct errors on these reports:

<https://www.consumer.ftc.gov/articles/0157-background-checks>

In 2010, the law was changed as part of CORI reform to give incentives to employers to obtain records through the state CORI system. Use of the state CORI system for criminal background checking protects employers in certain circumstances from liability for negligent hiring decisions made within ninety days of receipt of CORI.

FIXING CORI MISTAKES

14. What can I do if my CORI report has errors or cases that do not belong to me?

If a case appears on your record that has nothing to do with you because of a clerical error or similar mistake, you can contact Probation at the court connected to the case and ask them to remove the case from your record. You also can ask Probation or the Department of Criminal Justice Information Services (DCJIS) to help you fix other errors. A Complaint form to request help

from DCJIS to correct CORI mistakes is included at the end of these materials and is available on the DCJIS website at:

<https://www.mass.gov/media/4791/download>

<http://www.mass.gov/eopss/agencies/dcjis/i-want-to-file-a-cori-complaint.html>

BOSTON CORI ORDINANCE AND OTHER CITY ORDINANCES

15. What does the Boston CORI ordinance or similar ordinances do to protect me from discrimination based on my CORI when I apply for a job working for the city or its vendors?

The City of Boston is a large employer and has contracts with thousands of vendors for city services. The City of Boston has a CORI ordinance and regulations aimed at providing job opportunities to people in Boston who may have criminal histories.

Non-sensitive jobs. Section 4.7 of the City of Boston Municipal Code provides that vendors are not allowed to check the CORI of a job applicant unless the employer determines “in good faith” that the nature of the job is “sensitive.” Regulations define sensitive jobs as positions involving unsupervised contact with children under age 18 or people who are elderly or disabled, or where a “good faith determination is made that the position is of such sensitivity that a CORI report is warranted.”

Sensitive jobs. If a job is sensitive, the employer is allowed to check CORI, but cannot do so until AFTER the job applicant is found to be qualified for the job. In reviewing the CORI, the employer must consider the seriousness of the offense, the relevance of the offense (whether the offense bears any connection to the job duties), how old the offense is, and “occurrences in the life of the applicant” since the time of the offense. “Occurrences in the life of the applicant” is not defined in the ordinance, but likely includes, but is not limited to evidence of rehabilitation, sobriety, educational achievements, self-improvement efforts, church and/or civic activities and/or volunteer work, and/or youth at the time of arrest. This is similar to the criteria set forth in EEOC guidance discussed above in response to Question 21.

If you are denied a job, the employer must tell you the reason for the denial and give you a copy of the CORI they received and a chance to correct any mistakes on it and to dispute the relevancy of the offense to the job. Section 4-7.3, City of Boston Municipal Code. If you believe the employer violated the ordinance, you can file a complaint with the City of Boston Office of Fair Housing and Equity. The City can require employers who fail to comply with the ordinance to attend trainings and the employers can lose their contracts for up to two years. The city website has information at: <https://www.boston.gov/departments/fair-housing-and-equity/finding-work-residents-criminal-past>

Cambridge and Worcester CORI Hiring Protections. The City of Cambridge and the City of Worcester have similar CORI ordinances that offer similar protections such as no CORI checks for non-sensitive jobs and review of CORI only after a person is found qualified for a sensitive job.

Copies of the Boston, Cambridge and Worcester CORI ordinances and the Boston CORI regs. These can be found on the masslegalservices website: <http://www.masslegalservices.org/library-directory/cori>

TAX CREDITS

16. Are tax credits available to employers who hire people with criminal records?

Yes. There is a federal Work Opportunity Tax Credit (WOTC) for employers who hire people convicted of a felony within a year of the conviction or the date of release from prison, and people who receive various types of public assistance. The tax credit can reduce an employer's tax liability in varying amounts, even up to \$9000 or more per new employee. More information is available on the Massachusetts WOTC website at:

<http://www.mass.gov/lwd/employment-services/one-stop-career-centers/special-programs/wotc-program.html>

It is important to check for changes in the law periodically to tax credits. The Department of Labor also has a website on tax credits website listed at:

<https://www.dol.gov/odep/topics/TaxIncentivesForEmployers.htm>
<http://www.doleta.gov/business/incentives/opptax/eligible.cfm>

LEGAL RESOURCES FOR LOW INCOME PEOPLE

Booklets and forms. Get forms to send for your CORI or seal cases, self-help booklets, and easy-to-read information about your legal rights related to CORI: <https://www.gbls.org/self-help/cori> or at www.masslegalhelp.org

Massachusetts Department of Criminal Justice Information Services (DCJIS). To get a copy of your CORI online or by mail or to find help to fix mistakes on your CORI, contact DCJIS at 617-660-4640 or go to their web site: <http://www.mass.gov/eopss/agencies/dcjis/>

Find legal aid. To find a legal services program that covers the region where you live, go to the Massachusetts legal services web site on the internet: www.masslegalhelp.org

CORI help for Boston residents. Greater Boston Legal Services has a CORI information table for Boston residents from 9 a.m. to noon for walk-ins at the Roxbury Court, 85 Warren St., Roxbury on the 3rd Thursday of the month and at Dorchester Court, 510 Washington St., Dorchester on the 2nd and 4th Wednesdays of the month from 9 a.m. to noon.

New. There is also walk-in help on the 1st Wednesday of the month at the Boston Municipal Court, Edward Brooke Courthouse, 24 New Chardon St, on the 2nd floor from 9am to noon.

Massachusetts Bar Association Dial-a-Lawyer: First Wednesday of the month from 5:30 p.m. – 7:30 p.m. MBA attorneys answer criminal or civil law matter questions **for free** if you call 617-338-0610 or 877-686-0711 (toll-free). Calls only. No walk-ins.

LEGAL RESOURCES FOR DISCRIMINATION CLAIMS

Massachusetts Commission against Discrimination (MCAD)

One Ashburton Place, Room 601, Boston, MA 02108
617-994-6000 (Hours are M-F: 9 a.m. to 4 p.m.)
Web site: <http://www.mass.gov/mcad/offices.html>

U.S. Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
475 Government Center, Boston, MA 02203
1-800-669-4000 TTY: 1-800-669-6820
Web site: <http://www.eeoc.gov/field/boston/index.cfm>
Service Hours are M-F: 8:30 a.m. to 3:00 p.m. The EEOC suggest you call them before visiting.

Fair Employment Project, Inc.

122 Boylston St., Jamaica Plain, MA 02130
617-390-2593
<http://www.fairemploymentproject.org>

REDUCED FEE LAWYERS AND LEGAL REFERRALS

BOSTON BAR ASSOCIATION LAWYER REFERRAL SERVICE

16 Beacon Street, Boston, MA 02108
617-742-0625
Website: <http://www.bostonlarlawyer.org>
BBA service hours: M - F 9 a.m.-5 p.m. Call or apply online. No walk-ins.

MASSACHUSETTS BAR ASSOCIATION LAWYER REFERRAL SERVICE

20 West Street, Boston, MA 02111-1214
617-654-0400 or 1-866-627-7577 or 617-338-0585 (TTY)
Web site: <http://www.masslawhelp.com>
MBA service hours: M – F: 9 a.m. – 4:45 p.m. Calls only. No walk-ins