



YARMOUTH POLICE DEPARTMENT POLICY AND PROCEDURE

CRIMINAL OFFENDER RECORDS INFORMATION 2014-10

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Revised:

Issuing Authority:

A handwritten signature in black ink, appearing to read 'Frank G. Frederickson'.

Chief Frank G. Frederickson

Certification Standards: 82.1.1 c; 82.1.7

Accreditation Standards: 81.2.9

Optional Accreditation Standards:

Background

The Massachusetts Department of Criminal Justice Information Services (DCJIS) 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.ⁱ 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 Officers should make every effort to stay familiar with changes in this very important field.

Policy

The Yarmouth Police Department will have access to the Department Criminal Justice Information System and make CORI data gathered by the department available to the System. CORI data maintained by the department will be available, upon request, to those persons authorized by statute to receive it. The department will protect the privacy interests of defendants while balancing the public's right to know with the need for effective law enforcement. Review policy: **Records Management and Requests**

Administrative Procedures 81.2.9

The department shall maintain direct terminal access to the Department Criminal Justice Information System (DCJIS). The department will conform to all agreements set forth by the Department of Criminal Justice Information Services (DCJIS) in order to obtain

direct terminal access to the CJIS terminal for entering data into and accessing the system, which includes CORI data. [81.2.9]

Each CJIS terminal and the information obtained from it are to be handled in conformity to the policy and guidelines set forth by the Massachusetts General Laws, the Code of Massachusetts Regulations, and the state's DCJIS. The DCJIS's policies and guidelines may be set forth through its manuals, its training, its CJIS Administrative Messages, the information it issues in its News file, and its statements at Regional Working Groups meetings.

Only those officers and employees of the department that require CORI for the actual performance of their criminal justice duties shall have access to CORI. The Chief of Police will determine those officers and employees. The Support Services Commander will maintain a list of authorized officers and dispatchers by position, title, or name, for inspection by the DCJIS.ⁱⁱ By virtue of their duties all officers will be authorized.

All operators of CJIS terminals shall be trained, tested, and certified under procedures set forth by the DCJIS before using a terminal and shall be certified biannually thereafter. Each terminal operator shall use one's assigned password when accessing the CJIS network and shall not give this password to anyone under any circumstances. No one shall use the network under another individual's password.

Each operator shall take care to ensure that no damage is done to a CJIS terminal. Each operator shall immediately report any damage to a CJIS terminal to his/her supervisor. It is the agency's responsibility to report an inoperable CJIS terminal to the Field Services Unit of the DCJIS as soon as possible. Terminal operators maybe held responsible for damage done to a CJIS terminal.

No CJIS terminal shall be modified or altered in any way from its set up configuration, unless it is done by the DCJIS or the device's contract vendor, and then only with notification to, and concurrence of, the DCJIS.

The department shall enter and maintain CORI for which it is responsible into the Criminal Justice Information System. Quality assurance procedures established by the DCJIS must be followed. The department shall maintain a list of CORI disseminated and the individuals and agencies to whom it has released or communicated CORI information.ⁱⁱⁱ These listings shall be maintained for at least one year after the date of dissemination and shall be made available for inspection by the DCJIS.^{iv}

CORI Inclusions and Exclusions Statistical records and reports- CORI shall not include statistical data in which individuals are not identified and from which identities are not ascertainable.^v

Juvenile Data-No information concerning a person less than seventeen years of age is CORI unless that person is adjudicated a youthful offender under G.L. c. 119, s. 58.^{vi}

Evaluative Information- CORI excludes evaluative information. The access to and utilization of evaluative information is governed by 803 CMR 204.^{vii}

Intelligence Information- CORI excludes intelligence information.^{viii}

Minor Offenses-CORI excludes minor offenses (offenses not punishable by incarceration).^{ix}

Photographs and Fingerprints- CORI includes fingerprints, photographs, and other identification data that 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.^x

Public Access to Information Daily Logs-Department daily logs are not classified as CORI. Department daily logs, listing in chronological order all responses to all valid complaints received and 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.^{xi} Entries protected by law, such as reports of rape,^{xii} shall not be made available.

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.).^{xiii}

Requestors Access to CORI 82.1.7 The department shall provide CORI relating to the individual making the request. Prior to releasing such information the individual must show positive identification to the Officer accepting the form.

Such person has the right to inspect and copy CORI relating to him or her.^{xiv} The person shall receive, if practicable, a computer printout 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.

The keeper of records shall review all information prior to release. 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.

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.^{xv} All requests shall be responded to as soon as practicable but no later than 10 days after receipt of the request.

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 DCJIS), 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.^{xvi} [82.1.7]

Any person who believes that his/her CORI is inaccurate, incomplete or misleading may submit in writing a request to the department describing with reasonable specificity the inaccurate, incomplete, or misleading CORI, and shall describe the modification necessary to correct the inaccurate, incomplete or misleading CORI.

The department shall evaluate the request. 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. 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.

When the department declines to modify the record(s) complained of in accordance with the request of the individual, he/she may file a written complaint with the DCJIS.^{xvii} Where the record in question is determined by the DCJIS to contain inaccurate, incomplete or misleading CORI, the department shall make the necessary corrections upon order of the DCJIS.^{xviii}

Lawyers may obtain their client's CORI upon presentation of a third party access form signed by the client. Forms are available from DCJIS. Family members may similarly use this form to obtain CORI for a family member. Lawyers must get a court order to obtain the CORI records for someone other than their client(s). Review policy **Records Management and Requests.**

Certified
Agencies and
Individuals
Access to
CORI
82.1.1 c

CORI information shall be provided to agencies and individuals certified by the DCJIS.[82.1.1 c] Such agencies (other than criminal justice agencies) and individuals shall be required to show a letter of certification from the DCJIS before CORI is released. The DCJIS maintains a list of all agencies certified under M.G.L. c. 6, s. 172(a) (b) (c) and s. 173 to receive CORI. The department may disseminate CORI to any other criminal justice agency appearing on the CORI list in CJIS.^{xi} Review policy: **Records Management and Request**

Department of
Children and
Families
Services
Access to
CORI
82.1.1 c

Upon request by the Department of Children and Families (DCF) or the Department of Youth Services (DYS), the department may release certain CORI data for the sole purpose of evaluating foster and adoptive homes.^{xx} CORI which may be released for this purpose is limited to: [82.1.1 c]

- Arrest data;
- Conviction data;
- Sealed record data; and
- Juvenile arrest and conviction data.^{xxi}

CORI data may be accessed and copied by social workers of DCF or any agency under contract to DCF, in order to complete an investigation of child abuse or neglect, pursuant to M.G.L. c. 119, s. 51A.^{xxii} Access is limited under the following conditions:
-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;
-The DCF 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; and
-The CORI data disclosed must be relevant to the specific investigation of child abuse or neglect.^{xxiii}

Employers or
Persons
Caring for the
Elderly or
Disabled
82.1.1 c

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 DCJIS. 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.^{xxiv} [82.1.1 c]

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 DCJIS.
-Military recruiters. NOTE: In-house information may be released with written authorization from the individual in question.
-Insurance companies, however "sanitized" reports may be given to insurance companies if CORI is segregated from other data in the reports.^{xxv}

Release of arrestee photographs to media

803 CMR 7.10 (2) as follows:
"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."

Booking photos/mug shots are considered CORI; however, pursuant to the above provision, it is within the discretion of a department to release the photo as long as it fits into the regulatory parameters.

Access to Non-Guilty Dispositions and Sealed Records
82.1.1 c

All CORI relating to a criminal proceeding which resulted in a non-guilty disposition and all sealed records shall not be released, except in the following circumstances:^{xxvi} [82.1.1 c]

To the Department of Children and Families and the Department of Youth Services for the sole purpose of evaluating foster and adoptive homes;^{xxvii}

To the DCJIS where necessary to discharge its statutory responsibilities;

-To the individual to which the CORI pertains;

-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

-Pursuant to a court order.

ⁱM.G.L. c. 6, ss. 168, et. seq.

ⁱⁱ 803 CMR 3.02 (2)

ⁱⁱⁱ M.G.L. c. 6, s. 172

^{iv} 803 CMR 3.08

^v M.G.L. c. 6, s. 167

^{vi} Id.

^{vii} Id.

^{viii} Id.

^{ix} Id.

^x 803 CMR 2.04

^{xi} M.G.L. c. 41, s. 98F; M.G.L. c. 6, s. 172

^{xii} M.G.L. c. 41, s. 97D

^{xiii} 803 CMR 2.04(11)

^{xiv} M.G.L. c. 6, s. 175

^{xv} 803 CMR 6.05

^{xvi} 803 CMR 6.03

^{xvii} M.G.L. c. 6, s. 175

^{xviii} M.G.L. c. 6, s. 175

^{xix} M.G.L. c. 6, s. 172

^{xx} M.G.L. c. 6, s. 172B

^{xxi} Id.

^{xxii} 803 CMR 4.02

xxiii Id.

xxiv M.G.L. c. 6, s. 172C

xxv M.G.L. c. 6, s. 172

xxvi 803 CMR 7.03

xxvii M.G.L. c. 6, s. 172B