

CORI: Balancing Individual Rights and Public Access

Challenges of the Criminal Offender Record Information System
and Opportunities for Reform



The Boston
Foundation
INNOVATION. INFORMATION. IMPACT.



About the Boston Foundation

The Boston Foundation, one of the nation's oldest and largest community foundations, has an endowment of almost \$675 million, made grants of \$51 million to nonprofit organizations, and received gifts of \$41 million last year. The Boston Foundation is made up of 750 separate charitable funds, which have been established by donors either for the general benefit of the community or for special purposes. The Boston Foundation also serves as a civic leader, convener, and sponsor of special initiatives designed to build community. For more information about the Boston Foundation and its grant making, visit www.tbf.org, or call 617-338-1700.

The Boston Foundation is sponsoring a series of **Community Safety Forums** to engage the community, law enforcement, public agencies, and others in an informed dialogue about a range of community safety issues, providing an opportunity to develop new learning, spark public debate, and influence current public safety practices and public policy.

About the Crime and Justice Institute

The Crime and Justice Institute (CJI) operates as a division of Community Resources for Justice (CRJ). CRJ was formed in 1999 when Massachusetts Half-Way Houses (founded in 1964) and the Crime and Justice Foundation (founded in 1878) merged. As innovators in service delivery and social policy, CJI is deeply committed to the search for effective and cost-efficient ways to enhance the quality of life in our communities. CJI promotes rational public policy and practical strategies for addressing criminal and social justice issues through research, advocacy, and capacity building technical assistance. Additionally, CJI fosters awareness and energizes efforts focused on community development, quality of life and violence prevention.

UNDERSTANDING BOSTON is a series of forums, educational events, and research sponsored by the Boston Foundation to provide information and insight into issues affecting Boston, its neighborhoods, and the region. By working in collaboration with a wide range of partners, the Boston Foundation provides opportunities for people to come together to explore challenges facing our constantly changing community and to develop an informed civic agenda.

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Challenges of the Criminal Offender Record Information System and Opportunities for Reform

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Dear Members of the Boston Community:

The issue of community safety has taken a front row seat in the last few years, as individuals, families and entire neighborhoods seek ways to navigate an increasingly challenging world. On a local level, we should all be proud of Boston's national reputation for its collaborative approach to public safety. We at the Boston Foundation believe that it is crucial to continue and build upon the successful partnerships that have been established over the years.

In 2002, the Boston Foundation made a major commitment to the area of community safety by announcing a new initiative that would provide \$1.5 million over three years to address issues related to community safety in Boston. The Community Safety Initiative promotes public discussion and provides grants to community-based nonprofit organizations, faith-based programs, and the Boston Police Department to conduct prevention, outreach, and interventions, all with the goal of keeping our streets and our homes safe.

Working in close partnership with the Crime and Justice Institute, we have also hosted a series of compelling forums designed to engage civic leaders, corrections officials, policymakers, and community members of all ages and backgrounds in an open and frank dialogue.

These Community Safety Forums have examined a range of issues—including prisoner re-entry, juvenile crime prevention, and the special needs of girls who become involved in the Department of Youth Services and the criminal justice system. One very special forum, which was held in the Grove Hall neighborhood of Boston, directly addressed the quality of life in that community and drew dozens of people to a local school to engage in a fascinating dialogue.

Over the course of these various forums, troubling issues related to CORI—the Criminal Offender Record Information system—were raised by a number of participants. As a result, it was determined that we should convene a special group of stakeholders to examine the issues that were raised and make a series of recommendations for moving forward. This report is the result of those initial stakeholder meetings.

The Boston Foundation is grateful to our Program Officer Richard Ward, who has directed this initiative, and to all of the people who have participated in the forums and the sessions focusing on CORI. We will continue to do everything in our power to encourage a dialogue about this issue and other important matters related to the safety and well-being of all of the residents of Greater Boston.

Sincerely,



Paul S. Grogan
President and CEO
The Boston Foundation

INTRODUCTION:

The Need for Public Discussion About CORI

As our society becomes increasingly focused on security as a key national and civic issue, we inevitably face the recurring dilemma of balancing the desire for public safety with the need to preserve individual rights. The conflict between public safety and individual rights is at the essence of the current debate around Criminal Offender Recorder Information, or CORI. CORI is the computerized system that tracks information about anyone in Massachusetts who has been arraigned on a criminal charge. The system generates reports that are used by a wide variety of agents, including law enforcement officials, judges, employers, public housing authorities, and human service agencies to gain information about any prior encounters an individual may have had with the criminal justice system.

When CORI was developed in the early 1970s, access to the system was relatively limited. However, over the past decade requests for criminal information have swelled, as has the number of parties that have access to CORI records. In 2004, the Criminal History Systems Board, the agency that manages CORI, received nearly 1.5 million requests for information, more than triple the number it received in 1998. This growth has brought with it significant challenges for the system. The high volume of requests and the wide number of system users has contributed to inaccuracies in reporting and misunderstandings about information contained in records.

CORI clearly serves a critical public safety function, as it allows officials throughout the criminal justice system to view information about an individual's prior criminal history. This information is vital for evaluating suspects, establishing patterns of behavior, prosecuting cases, and deciding on sentences. It also allows employers to screen out individuals who may

pose a threat to their business, to customers or to other employees. However, while CORI may play an important role in ensuring our public safety, many argue that the growing access to CORI for non-law enforcement purposes has created tremendous barriers for individuals with criminal records as they struggle to secure jobs, housing and other services. As a result, CORI has become a housing, workforce development and economic opportunity issue as well. Although some individuals in the CORI system have histories of violence, a number of the individuals in the system were convicted of minor offenses or were never in fact convicted because charges were dropped or they were found not guilty. While criminal background checks may screen out potentially dangerous ex-offenders from work with vulnerable populations, CORI, as it is currently used, can also prevent individuals who may have strong skills and pose no serious threat to society from obtaining work, housing, education, loans, or other services necessary to function as productive citizens.

As the number of individuals with a criminal record grows, this issue becomes a greater and greater concern for our society. According to a Department of Justice study, in 2003 an estimated 59 million Americans, approximately 29% of the U.S. adult population, had a criminal arrest record on file with a state repository¹. This is a twofold increase over the past decade. Locally, the Suffolk County Sheriff's Department releases more than 3,000 inmates per year from their houses of correction², and this does not include the large number of people who obtain a CORI record each year without serving a prison sentence. Advocates argue that CORI creates undue barriers to employment for these individuals, often preventing their successful integration into society and even leading to higher rates of recidivism.

¹ Cited by Petersilia, Joan. (Fall 2003), "Meeting the Challenges of Prisoner Reentry" *Journal of Community Corrections*, Vol. XIII No. 1.

² Suffolk County Sheriff's Department website.

Because our overall health and safety depends both on the flow of accurate information throughout the criminal justice system and on the ability of individuals to obtain the work, housing and education needed to lead productive lives, sorting out and resolving the challenges created by CORI is a pressing community safety concern.

Through its work on the Community Safety Initiative, a three year, \$1.5 million initiative launched in 2002 that includes grantmaking as well as convenings around important topics in public safety, the Boston Foundation (TBF) recognized the need for a more comprehensive understanding of the issues involved in CORI. As TBF sought to address a range of public safety issues, such as the successful re-integration of former offenders into the community after a period of incarceration, the issue of CORI repeatedly surfaced. Because CORI is an extremely complex issue with many stakeholders, TBF realized the need for further dialogue and discussion on the topic. In January of 2005, TBF partnered with the Crime and Justice Institute (CJI), a division of the Community Resources for Justice, a nonprofit organization focused on improving public safety and human service delivery through research, policy change, technical assistance and advocacy, to launch a public discussion about the opportunities and challenges related to improving the CORI system. The Crime and Justice Institute is a national leader in developing results-oriented strategies and in assisting agencies, communities and states to implement successful systemic change. In a recent publication titled *From Incarceration to Community: A Roadmap to Improving Prisoner Reentry and System Accountability in Massachusetts*, CJI discussed the challenges posed by the CORI system to successful offender reentry.

In order to illuminate the issues involved with CORI and to identify potential areas for improvement, TBF and CJI organized a series of meetings with various stakeholders. These groups included: ex-offenders and advocates, CORI system leaders, business leaders, law enforcement officials, and legislators. This white paper summarizes the feedback and ideas gathered through these meetings. The first section reviews the evolution of CORI, examining why it was created, how the system works, why it has grown over the past decade, and why we need it. The next section explores some of the key challenges of the CORI system as identified by the stakeholders participating in the TBF and CJI focus groups. Finally, the last section explores some possible ideas for CORI reform.

The Evolution of CORI

What is CORI and Why Was It Created?

The Massachusetts State Legislature passed the Criminal Offender Record Information Act to create the CORI³ system in 1972. The legislature had two reasons for creating CORI. First, the Act was intended to improve the flow of information within the criminal justice system by computerizing all criminal records. Before its passage, records were maintained through a paper system. At this juncture, the primary users of CORI were police officers, judges, parole and probation officers and the correctional agencies. The advent of new computer technology made the flow of information between these groups far more efficient. The second purpose of the Act was to protect the privacy of anyone with a record in the system. Previously, almost anyone could access information at any time, and methods for tracking who was viewing the information were very limited. In creating the CORI system, the legislature established guidelines around who could access criminal background information and how this information could be disseminated.

The 1972 Criminal Offender Record Information Act also created the Criminal History Systems Board (CHSB) to maintain the Commonwealth's criminal justice information system and manage the dissemination of criminal offender record information. The CHSB is a state agency with an annual budget of nearly \$6 million and about 65 staff members, 20 of whom work in the CORI unit. The CHSB is governed by a Board composed, by statute, of 18 members, including the Secretary of Public Safety, the Attorney General, Chairperson of the Massachusetts Sentencing Commission, Commissioners of the Department of Correction, the Parole Board and the Probation Commission, nine people appointed by the Governor and others with experience in the criminal justice

system. The CHSB manages a system that includes records on approximately 2.8 million individuals. In addition to managing the CORI system, the CHSB runs the Victim Services Unit, maintains firearms licensing and transaction records, and is responsible for quality control of information entered into the National Crime Information Center (NCIC) and providing training and testing in the use of NCIC systems.

A CORI record is created in court when an accused person first comes before a judge on arraignment. At this time, a staff member of the Massachusetts Probation Service sits in the court and enters data about the accused person including: the accused's name, alias/maiden name/previous name, date of birth, mailing address, occupation, social security number, birthplace, father's name, mother's maiden name, name of husband or wife, and information on the charges being brought against this individual. As the case proceeds, the information is updated to also include the final disposition of the case (e.g. guilty, not guilty, dismissed, etc.) and, if guilty, the sentence (e.g. prison, prison and/or probation and any post incarceration supervision.)

After the information is entered into the database it is then accessible to the CHSB. When a request is made by an authorized user of CORI, the CHSB will issue a report that includes, at a minimum, any prior convictions or pending charges. Depending on the status of the end-user, CORI reports may also include information about juvenile convictions, cases that were dismissed, cases that were continued without a finding, cases that resulted in dropped charges and cases where the individual was found not guilty.

³ CORI is often confused with SORI (the sexual offender registry information), a similar system that is used to track and classify sex offenders. However, the two systems are different; they are subject to different guidelines regarding access and they are governed by different boards. This paper focuses only the CORI system.

Who Has Access to CORI?

While not everyone can receive a CORI report, the list of organizations and agencies with access to CORI has grown significantly since the system was created. There are essentially four categories of access to CORI. The first category includes all criminal justice agencies (e.g. police officers, judges, prosecutors, parole and probation officers, and correctional agency personnel.) These agencies have complete and unfettered access to CORI at anytime.

Another category of organizations and agencies are those that have “statutory access,” access that has been granted by state statute. Public housing authorities are an example of organizations with statutory access. These agencies use CORI to screen prospective residents and may deny public housing to anyone with a criminal history. Statutory access is also granted to schools, camps and organizations that work with children, hospitals, long-term care facilities, and agencies serving disabled populations, which use CORI to screen employees who will have unsupervised contact with vulnerable populations.

A third group of organizations have “discretionary access,” or a general grant of access that has been made at the discretion of the Board of the CHSB. To obtain a CORI report, the applicant organizations must submit an application to the CHSB arguing that the public interest in obtaining the report clearly outweighs the record holder’s right to privacy. The Board has the authority to make this determination. A wide variety of organizations may obtain “discretionary access” including security companies, insurance companies, hotels, restaurants, and commercial ground carriers.

Finally, any member of the general public may request CORI on any individual who has been convicted of a crime punishable by a sentence of five years or more, or has been convicted of any crime and:

- Is serving probation, incarceration, or under custody of the Parole Board; or
- Is within one year of release for conviction of a misdemeanor; or
- Is within two years of release for conviction of a felony; or
- Was denied release on parole or returned to penal custody for violating parole.

The Growth of CORI

Access to CORI has grown dramatically over the past decade as has the number of CORI requests. Currently, over 10,000 organizations are certified for access to CORI compared to only 2,000 in 1993. Between 1998 and 2005 the number of requests to the CHSB for CORI more than tripled. (See Figure 1)

This growth is the direct result of various legislation filed between 1998 and 2005 that increased the number of organizations that could access CORI. (See timeline) In 1990, for example, in an attempt to reduce crime in public housing projects, the legislature granted public housing authorities statutory access to CORI. An even more pronounced increase in access to CORI came in 2002 when the legislature mandated that all organizations serving vulnerable populations (e.g. children, the elderly, and the mentally or physically disabled) conduct criminal background checks on all employees and volunteers. The law applied to both new and existing employees and volunteers. This change prompted an influx of requests for CORI from camps, schools, school committees, youth organizations, social service agencies, nursing homes, long-term care facilities, residential homes, and other organizations, as these organizations worked to comply with the new legislation. Not only did a whole new group of organizations have statutory access to CORI; they were actually mandated to use the system.

Figure 1
Total Processed CORI requests

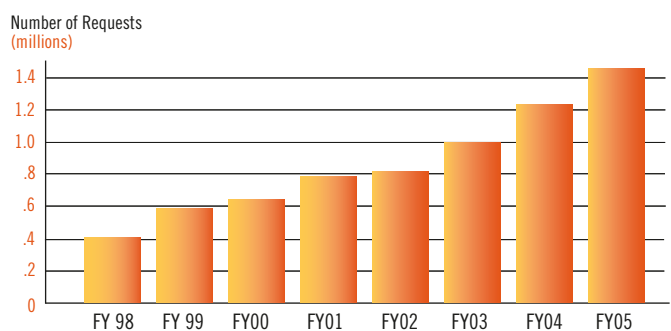
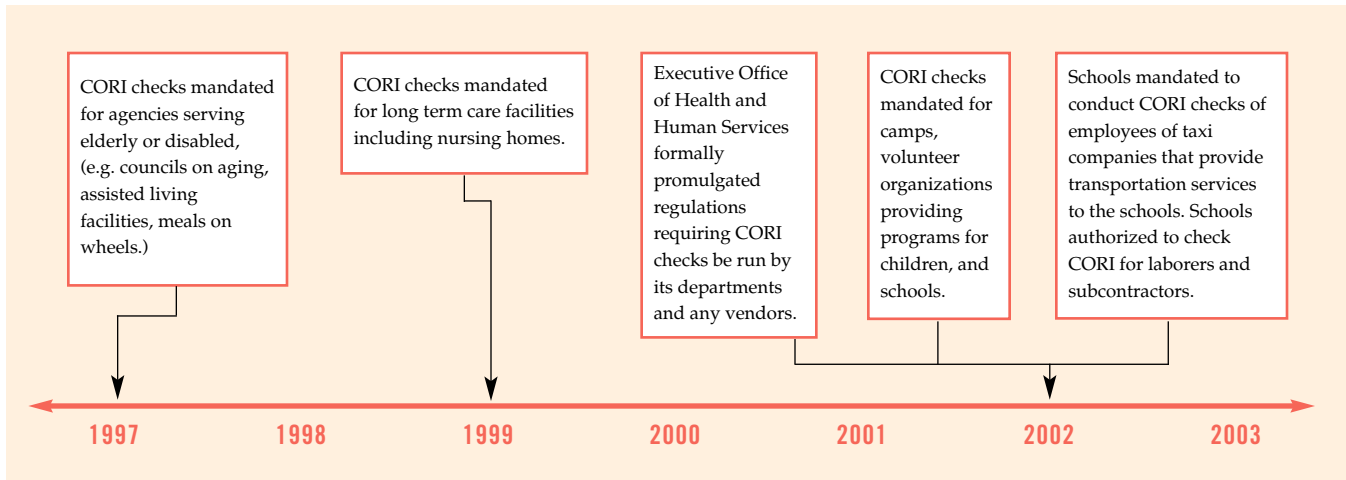


Figure 2

Timeline of CORI related legislation



Why We Need CORI

Most groups agree that CORI plays an important role in preserving our public safety. In particular, CORI has tremendous value for the criminal justice system, which relies on CORI everyday throughout its overall operations. Police officers use CORI to check the criminal background of suspects, establish patterns of behavior, and evaluate a suspect's propensity to violence. Attorneys in the District Attorney's office use CORI in order to be as informed as possible about the criminal background of the individual they are prosecuting. For example, they may use the information to propose appropriate bail. Judges use the information to determine bail and to make sentencing decisions. Correctional agencies may use the information to determine if an individual is in need of special treatment or special supervision due to past violent behavior.

Many employers also rely on CORI to protect their clients and customers from exposure to potentially dangerous criminals. Most people agree that organizations serving vulnerable populations such as summer camps, schools, youth organizations, nursing homes, etc. should have information about prospective employees or volunteers who may have a serious criminal history and pose a significant

threat to the populations they serve. Some crimes, such as certain sexual offenses, can be strong predictors of future behavior. Employers have a responsibility to carefully screen out individuals with histories of such offenses. Of course, not all individuals with CORI pose a threat, but protecting vulnerable groups from any true risks to their health and safety is one of CORI's chief functions.

Challenges with the Current System

Despite these benefits CORI has many critics, particularly among those who work most closely with ex-offenders and see first hand the barriers CORI can create for anyone with a criminal record. Participants in the stakeholder meetings agreed that the rapid growth in CORI requests and CORI users over the past decade has placed enormous pressure on the system and has prompted widespread concern about CORI's use and misuse. While stakeholders identified a number of specific concerns about the current system, there was strong agreement in particular on the following five challenges: a complicated report format that many employers do not understand; the occasional reporting of inaccurate information and the difficulty in correcting inaccuracies; the lack of clear guidelines for using CORI; the length of time required to seal old offenses; and the unregulated sale of criminal records by private companies.

One System, Two Very Different Users

When CORI was created, the intended end-users were law enforcement officials who, it was presumed, would have sufficient knowledge of the criminal justice system to read and interpret the technical language and legal terminology in the reports. As CORI has evolved, today, employers and other individuals outside the criminal justice system are some of the most common CORI users. Although these individuals may have no special training or experience in reading CORI, they still receive the same, or very similar, reports as law enforcement officials and must struggle to make sense of the information they receive.

Anyone reviewing a CORI report for the first time will admit that it is complicated to interpret. The reports use a complex system of abbreviations to record interactions with the criminal justice system, and many employers do not know how to decipher these codes. Even members of the law enforcement community report that it typically takes young professionals many months to master the language contained in a CORI record. Special training and experience are required to

A Case Example: CORI Reports are Difficult to Read and Interpret

A local One Stop Career Center that provides job placement services described its experience providing training for professionals in the health and human services field. In a training session for over 100 people, the presenter showed an example of a CORI report. She explained that the subject in the report also had a master's degree. The report showed three charges related to Assault and Battery on a person over 60, two of which were separate charges for the same crime. She then asked the group of employers if they would hire this individual. All but four said no.

Through the training, she then helped the participants interpret the codes on the report so they could better understand the information. A more thorough review of the details revealed that the person was found not guilty by jury trial. The second and related charge was dropped and the third charge was also dismissed.

After this explanation many of the participants present changed their minds and said they would consider hiring her. CORI reports are difficult to read and interpret without training, and too many uninformed individuals use the reports on a regular basis.

fully understand the report's content. While the CHSB does offer training on reading and interpreting CORI to anyone who requests it and the information is available on its website, employers rarely take advantage of this training, and it is not required.

One example of a report that can be particularly confusing for an employer is a CORI report for an individual who was charged but not convicted of a crime. The charges for the crime may have been dismissed or there may have been a not-guilty finding.

The prosecutor may also have decided not to prosecute the case, perhaps for lack of sufficient evidence. The CORI report in this circumstance may be long and have many different entries of information. Employers without experience interpreting CORI reports may view the record, feel confused by the length of the report and assume the candidate has a significant criminal history. He may then reject the applicant who may well be a strong candidate for the job.

As the number of organizations with access to CORI rises, a smaller and smaller percentage of the individuals reviewing CORI reports have the training

and experience needed to make fully informed decisions about the information contained in the reports. As one law enforcement official stated at a stakeholder meeting, “It is irresponsible to put information in the hands of individuals in a format they cannot read and understand. It does everyone involved a disservice.”

The Problem of Inaccurate Records

One of the most common criticisms of CORI is that too often the system includes inaccurate information. Inaccuracies can result in any of the following ways:

- An individual provides a false name and social security number upon arraignment, and the criminal record is then falsely assigned to another person who then appears to have a criminal record.
- Person X is charged with a crime. To enter the charge into the system, a clerk from the Probation Department searches to see if person X is already in the system. The clerk finds another person in the system, person Y, with the same name and date of birth, and enters the data in person Y’s record by accident. Person Y then ends up with inaccurate data on his/her record.
- Data is entered into the right individual’s record, however the clerk entering the data makes a mistake and enters the wrong information about the charge or disposition of the case.
- When a request for CORI comes in to the CHSB, the name and date of birth on the request match a record in the system. While the record is actually for another individual with the same name and date of birth, it is sent out to the requesting agency. An individual who may have no record now appears to have a CORI.

While it is not clear how common these errors are, there is consensus among all the stakeholder groups that they do occur at a sufficient rate to cause concern. To avoid many of these issues, most states use a fingerprint-based system as part of their criminal background checks. Massachusetts is one of the only states that does not use fingerprints to verify the identity of individuals within the CORI system. Massachusetts uses only name and date of birth and sometimes the social security number in its record verification efforts.

Examples of CORI Codes (reports show codes only, not the definitions)

Status Codes

(indicate status of the charge)

- C** Case Closed
- O** Open or Pending Case
- W** Outstanding Warrant
- VPH** Violation of Probation Hearing

Disposition Codes

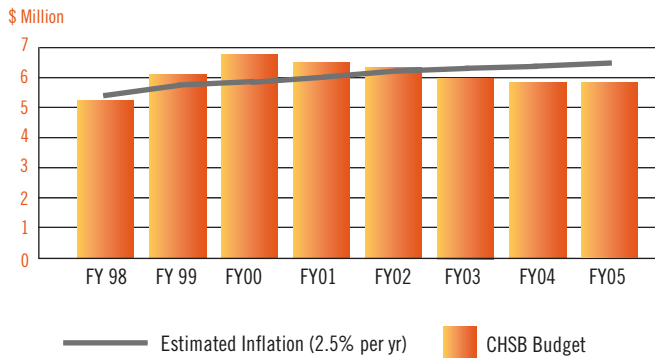
(indicate what happened at each stage of a case)

- CWOF** Continued without a finding (not considered a conviction)
- G** Guilty
- JT** Jury Trial
- MT** Mistrial
- NF** No finding
- NG** Not guilty
- NOLO** Nolo contendere (the defendant does not contend the charges but does not admit guilt)
- NP** Nolle prosequi (not prosecuted, motion to dismiss charges as if they were never brought in the first place because of insufficient evidence)
- NPC** No probable cause

Source: CHSB website, www.mass.gov/chsb/cori/cori_bop.html.

Figure 3

CHSB Appropriated Budget FY 98 to FY 05



Stakeholders are clear that fault may not lie with any one agency for these inaccuracies. The mistakes occur in the data entry phase, and the CHSB does not input data. The CHSB simply manages the storage and dissemination of information. It does not have the authority to correct or alter the data. In addition, stakeholders acknowledge that the fingerprinting system required to improve accuracy would be costly, and the CHSB's budget has remained flat or declined over the past decade. Compare for instance the chart in Figure 1 to the chart in Figure 3 which tracks the annual budget of the CHSB during the same time period. When accounting for inflation, the CHSB budget is actually lower today than it was seven years ago when there were one-third the number of requests to process.

The need for rapid processing is also a key issue affecting accuracy. Employees at the CHSB are under enormous time pressure to handle requests quickly so as not to create delays or backlogs. The CHSB staff of twenty processes approximately 5,000 requests per day and often turns over requests in a matter of one to two business days. Despite this pressure, many advocates feel strongly that the CHSB ought to have policies in place to ensure greater accuracy, particularly related to guaranteeing that the records they send out are for the appropriate individual.

Compounding the concerns over accuracy is the fact that once information has been entered into the system it can be difficult to modify or correct. It can take years for individuals with inaccurate information on their CORI to have that information removed or corrected,

and it can involve a cumbersome legal process that can be particularly difficult to navigate for individuals with limited education and resources.

Legislation was passed in 2004 requiring the CHSB to improve the accuracy of the Criminal Offender Record Information system by: 1) ensuring that any report distributed relates to the individual for whom the request was made; 2) providing greater assistance to individuals claiming the report distributed was not in fact theirs; and 3) requiring that non-criminal justice users of CORI who make an adverse decision about an individual based on CORI offer that individual an opportunity to dispute the accuracy and relevance of the information. The legislation has not been implemented and therefore has not had its intended impact on the system. Some argue that absent additional resources directed toward the system and without a system-wide approach to information input and sharing, the legislative requirements will have very little effect on improving the accuracy of CORI reports.

Lack of Guidelines for Interpreting CORI

Despite a mandate to conduct background checks on potential employees, many agencies that receive CORI do not have agency-specific guidelines to help them use and interpret the data. With the absence of carefully considered guidelines that sort through how particular criminal history information should be handled (i.e. when the information is or is not relevant), many employers are left to make their own interpretations. More often than not, employers choose to err on the side of caution and reject candidates with any criminal background information.

The Executive Office of Health and Human Services (EOHHS) does issue guidelines for its vendors about how to use CORI. In the absence of individualized guidelines, many organizations in the health and human services field, public and private, simply adopt the EOHHS guidelines. However, EOHHS guidelines are renowned for being particularly stringent. One large private health care provider in the Boston area who follows the EOHHS guidelines explains that they turn away about one-third of the applicants for a training program for entry level jobs in the health care field due to the information on their CORI.

Case Example: How Some Guidelines Thwart Individuals' Attempts to Turn their Lives Around

Renee Jackson*, a former welfare recipient was working hard to turn her life around. Enthusiastic about the possibility of entering the health care field she applied to a training program operated by a large Boston hospital. While she was a strong candidate she was denied a place in the program because of information on her CORI report. The report reflected a charge of "Larceny over \$250" that was three years old. "Larceny over \$250" is a felony charge in Massachusetts.

She explained to the program's administrator that this charge had appeared on her CORI when she was charged with failing to report income she earned while on welfare. The amount of income she had not reported was only slightly over \$250. It took several payments but Renee paid the fine.

"Larceny over \$250" carries a 10-year disqualification under regulations imposed by the Executive Office of Health and Human Services (EOHHS). Though the program's administrator was eager to admit Ms. Jackson, her hands were tied by the EOHHS policy.

* Name has been changed to protect the individual's privacy.

While the EOHHS guidelines might be appropriate for some agencies, they are not always well suited for all the organizations that use them. Many of these agencies believe they are required to use the EOHHS guidelines when they are not in fact required to do so. Others, erring on the side of caution, adopt the EOHHS guidelines to ensure that they are not later faulted for endorsing a lenient hiring policy. Greater clarity is needed among human service providers regarding the rules and regulations they must adhere to when reviewing CORI and where they are allowed discretion.

The Length of Time Required Before Old Offenses Can Be Sealed

Another criticism of the current CORI regulations is the length of time before information within a person's criminal record can be sealed. Massachusetts state law holds that records regarding felony convictions must stay on a CORI report for a minimum of 15 years, after which point the individual may petition to have these records sealed. Misdemeanors must remain in the system for a period of 10 years before they can be sealed. Some advocates believe that for employment purposes these time limits are too long and that individuals are often judged on offenses they committed long ago that have no bearing on their current ability to perform on the job. Advocates point to other states,

Case Example: The Difficulty of Making a True Fresh Start

Derrick Tyler* is an ex-offender who was released on parole 12 years ago after serving a long sentence. For the past 10 years he has been working as the supervisor at a homeless shelter that is operated by a local human service agency. He also has a Master's Degree from Boston University.

Changes in CORI regulations required his agency to request and review his CORI report recently, even though he had been employed there for many years. Based on the information in his CORI, he was placed on probation for 90 days. He successfully completed the 90 day probation period and continues to work for this agency. Mr. Tyler, interested in furthering his career, has considered other positions that might be available to him in the human services field. However, he cannot leave his job because he was "grandfathered" in based on the number of years he had been working with the agency. In a new position in the human services field, under current regulations, his CORI would be reviewed by a prospective employer and he would most likely be rejected for the job.

* Name has been changed to protect the individual's privacy.

Rules for Sealing CORI

- After 10 years for misdemeanors and 15 years for felonies, ex-offenders can petition to have their records sealed.
- Records including firearms charges, crimes against public justice (e.g. perjury, suborning perjury, resisting arrest, escape from custody, etc.), charges resulting in a finding of not guilty by reason of insanity, and certain sexual offenses can never be sealed. If the offender has one of these never-to-be-sealed offenses, then their entire record cannot be sealed, including other lesser charges.
- Sealed records can be accessed by the courts.

such as Rhode Island, where the time limit for sealing misdemeanors is five years and the time limit for sealing felonies is 10 years.

The 10 and 15 year time limits prior to sealing are a particular concern for individuals with prior drug offenses who have made significant life changes within this time period. These individuals may have served a required sentence, received treatment for an underlying addiction, stayed drug- and crime-free for many years, and even pursued additional training or education. Regardless, their record limits their ability to obtain many jobs for which they would otherwise be highly qualified. In some cases, an employer may take into account the life changes made since the offense and give the individual a second chance, but often employers are reluctant to do so out of concern for liability. Recognizing this challenge, the Federal Bonding Program has made available a free bonding service for employers that would help limit their liability. While the bonding program has proved effective in many states, it is highly underutilized in Massachusetts.

The issue of sealing criminal records again raises the issue that the CORI system sends the same reports to two very different users: law enforcement officials and employers. Many law enforcement officials express concern about shortening the time limits for sealing criminal records because they believe they need unfettered access to information in order to protect public

safety. Those outside the criminal justice system may not have the same needs and could work with information covering a shorter time period. Establishing different rules around access for the two different groups may be an effective solution.

Unregulated Sale of Criminal Records by Private Companies

In recent years, as security concerns have led various industries to seek out background information on a wide variety of individuals, private companies have emerged to meet and profit from this demand. These private companies gather information during the time frame it is available to the public and then enter it into their own databases. They also hire people to search publicly accessible databases at police departments, court houses and the department of motor vehicles, buy information from other companies, and may even acquire other companies that have information. Organizations that may not have access to CORI can request criminal history information from one of these private companies for a fee. The report they receive is not a CORI report but the company's own report compiled from a variety of sources.

Case Example: Do You Know What Your CORI Says?

Marcus Roberts* applied for a job with a local nonprofit organization. When the organization ran a routine CORI for this individual it came back with a Compulsory Insurance Violation. Mr. Roberts had no idea that this incident, occurring almost 20 years earlier, gave him a criminal record. His driver's license had been revoked when he was found driving without insurance so he had two entries on his CORI. While his license had subsequently been restored so he was able to drive, the charges not only gave him a criminal record but remained on his record several years after the incident.

* Name has been changed to protect the individual's privacy.

One of the concerns about this new private system of background checks is that there is no system of regulations or controls governing the flow of information. The laws and regulations that constrain state agencies from disclosure and dissemination do not apply to these private companies. For example, criminal records may still be available to the public through the private vendor even if one of the following circumstances has occurred:

- The record has been sealed by the court because the 10-15 year time period has passed;
- The record has been modified or corrected since the time it was acquired by the private vendor, but the vendor's record does not show these changes because the information was accessed before the changes were made;
- The information was obtained during the time period when it was accessible to the general public, but the information is no longer publicly accessible because this time period has passed.

As these private companies become larger and more common, the ethics of allowing this type of private dissemination of information where individual privacy is involved must be examined.

Recent Ideas for CORI Reform

Recently, several strategies have been proposed and are under consideration for improving the CORI system and addressing some of the key challenges outlined in this section. For example, last year the Massachusetts court system formally accepted and adopted the Offense-Based Tracking Number (OBTN) system. This system, which has yet to be implemented, generates a number or OBTN at booking when fingerprints are taken. As a particular criminal event moves through the system, from the police to the courts, each subsequent agency records the number and adds information. The OBTN system therefore ensures that all information entered into a criminal record is connected to the original event and the individual's fingerprints. Adopting this new system will be a significant undertaking, but if implemented may help address many of the issues raised around mistaken identity and inaccurate report information.

Case Example: Sometimes a CORI is Even a Barrier to Receiving a Job Interview

Jose Vasquez* recently completed a sentence of seven years for a drug-related offense. It was his first arrest and conviction. Since the arrest he has completed substance abuse treatment and is trying to make a fresh start. He has been searching for work since he was released from prison three months ago and is still unemployed. Over the past several months, he and his job developer were told twice by different employers that he could have an immediate interview. He filled out the applications and the prospective employers checked his CORI. In both instances the employers changed their mind and he was never called for his interview. He has been unemployed for three months post-release and is concerned that he will never find work.

* Name has been changed to protect the individual's privacy.

The CHSB is also in the process of adopting regulations designed to better instruct recipients on how to use CORI. One of these proposed changes includes a stipulation that any user who makes an adverse decision based on a CORI report is required to give the subject of the decision an opportunity to challenge the accuracy or relevance of the CORI. Under another proposed change, agencies authorized to receive CORI will also be required to have a written CORI policy that, among other items, includes providing the subject with a copy of his or her CORI, a copy of the CORI policy and a copy of the CHSB information on how to correct a criminal record.

These proposed changes could help resolve some of the key challenges of the CORI system, but may not go far enough in addressing the core underlying problems. Further reform, possibly on a system wide basis, supported by a wide variety of stakeholders, should still be considered.

Potential Solutions

Participants in the stakeholder meetings the Boston Foundation and the Crime and Justice Institute held between February and April 2005 identified a number of ideas for addressing the concerns described in the previous section. Participants recognized that the challenge for CORI reform is to consider changes that address some of the underlying problems without detracting from the system's ability to preserve public safety. Any potential reform of the CORI system must balance the ongoing need for public access to criminal information with attempts to preserve the rights of individuals and address the barriers CORI creates for those seeking employment, housing and other services.

The following section outlines some of the suggestions for CORI reform that emerged through the stakeholder meetings. The items presented here are only a fraction of the suggestions that were made at the stakeholder meetings, but they represent ideas for reform that all stakeholders generally agreed upon. They are presented as ideas rather than recommendations, as each one still requires further discussion and debate. The Boston Foundation and the Crime and Justice Institute's goal in presenting these ideas is to stimulate the dialogue needed to identify the most effective solutions to the concerns that have been raised around CORI.

Improve the accuracy of the reports

One area where diverse stakeholders agree there is need for reform is in ensuring the accuracy of CORI reports. The idea that information disseminated about an individual's criminal history should be accurate is not a controversial one. No one should have to struggle to obtain employment or necessary services on the basis of false information. How to improve the accuracy of the system is more controversial.

As mentioned earlier, Massachusetts is one of the only states that does not use fingerprints to verify record information. Establishing a fingerprint-based system would go a long way in improving the accuracy of CORI reports. Using the offender's name and date of birth allows criminal charges to be entered into the system for the wrong person, either unintentionally

as an error of data entry or intentionally when the offender gives a false name and birth date. Because fingerprints are unique, they are one of the only ways of ensuring accuracy. Developing a fingerprint-based system with a centralized database for fingerprint records could be a significant undertaking and may require some changes in intake procedures. The new Offense Based Tracking System, while not yet implemented, could address this issue since fingerprints would be attached to offender records.

Diverse stakeholders also agree that there should be greater accountability throughout the data entry process. In the current system, there is no way of knowing where and when certain mistakes were entered. One reform, therefore, might be to establish a password system or other identifier to track when and by whom specific entries to the system were made. This would make it easier to pinpoint where errors have occurred and hold individuals and departments accountable for accurate data entry. Performance standards could also be established for agencies contributing information to CORI. Audit provisions could be established to monitor performance of agencies against these standards.

Another suggestion for CORI reform involves improving and simplifying the process for correcting inaccurate, incomplete or dated CORI. Placing responsibility for ensuring accuracy within a single agency would help in this regard. Establishing an ombudsman position at the CHSB to respond to claims of inaccurate, incomplete or dated information would also help. Such a position would create a clear contact or point person for anyone with concerns about their report accuracy and would help simplify what currently seems like a daunting process to those who are affected.

Another suggestion for helping to address CORI mistakes is to give offenders a free and unfiltered copy of their CORI several weeks prior to discharge so that a case manager can help an individual interpret and understand his/her own record, problems can be identified, and any inaccuracies can be cleared up while the offender is still in custody. At this juncture it will

be much easier for the offender to obtain the support and guidance needed to address problems with their report than it would be after they are released and discover the problem while trying to find work or housing. This step would also educate offenders about the CORI system and help them understand how information about their criminal history may affect them after their release. Because this solution could substantially increase the workload involved in preparing offenders for discharge, it may require the Department of Corrections to reallocate resources to add case managers or partner with other agencies that could provide this assistance.

Before any of these solutions are acted upon, stakeholders agree that more information is needed on the issue of CORI accuracy. While many who are familiar with the system and work closely with the affected population have voiced strong complaints about CORI's accuracy, there is no clear data on the subject. So far, critics refer to compelling individual anecdotes, but anecdotes alone may not be sufficient to gain the support needed for true reform. A first step in addressing the issue of accuracy would be to commission a comprehensive study of CORI that could present clear, unbiased data on the scope and magnitude of the accuracy problem.

Rethink the form and content of information presented to individuals outside the criminal justice system

As discussed earlier, CORI was not originally designed for use by employers, educational programs, housing authorities and others outside the criminal justice system. CORI was designed to meet the needs of law enforcement professionals who are generally familiar with the system's legal terminology. As the system has evolved to the point where non-law-enforcement users are accessing information at close to the same rate as law enforcement officials, we may need to rethink whether this single system works for these two very different types of end-users.

One suggestion that several stakeholders advanced was the idea of modifying the format of CORI reports, particularly those sent to private employers and others outside the criminal justice system, so that they are easier to read and interpret. The charges disclosed on the report and the disposition of those charges could

be explained in simple language, rather than codes, abbreviations and legal terms. While it would be costly to maintain two entirely different systems of information, it could be possible with more advanced computer technology to generate two different report formats using the same information system. Investment in technology and upgrades to the current system would of course be required.

Another suggestion several stakeholders proposed was to modify what information gets disclosed to recipients outside the criminal justice system. In this scenario, the content as well as the format of the CORI reports might be different for the different types of CORI users. There is general agreement that law enforcement officials and anyone inside the criminal justice system need complete and unfettered access to criminal history information. The goal of any reform therefore would be to allow law enforcement officials to maintain this type of access, while more tightly controlling what information is disclosed to those outside the criminal justice system.

For example, some stakeholders argue that those outside the criminal justice system do not need to see information about "favorably ended cases." These are cases where individuals were found not guilty, charges were dismissed or prosecutors had insufficient evidence to prosecute the case. In these cases, where no actual conviction has taken place, advocates argue that individuals should be treated the same as anyone without a criminal history. In the current system, these individuals may frequently be rejected for certain jobs because employers misinterpret the lengthy information on their CORI reports as evidence of prior criminal activity.

Similarly, the legislature could opt to change the rules around disclosing older criminal history information for certain types of offenses. There are many recidivism studies that provide ample evidence of the type of offender and the types of crimes most likely to recidivate within specific timeframes. Regulations around CORI disclosure could be more evidence-based in order to ensure that information is available on the people the public needs to know about and those posing minimal risk are not treated like violent offenders. While law enforcement officials are reluctant to reduce the time period before which particular criminal records can be

sealed, they do agree that 10 to 15 year-old information may not be relevant for some individuals in some employment situations. Without changing the regulations around sealing criminal records, the legislature could limit access to information on some crimes that are over five to 10 years old for individuals outside the criminal justice system. To implement this change, significant consideration would need to go into identifying the appropriate time limits for accessing information on particular types of offenses.

Provide education on CORI to all authorized recipients

Almost all stakeholders agree that resolving many of the issues with CORI cannot be accomplished without stronger efforts to educate those who read and interpret CORI reports. In their current form, the reports are complicated to read and interpret. Requiring anyone who receives CORI to undergo training in how to read a report, how to use it and how to protect the information could limit misinterpretations and decrease discrimination against those with a criminal record. While the CHSB and some other organizations do provide training, the training is optional and only occurs upon request by the CORI recipient. To ensure responsible use of CORI, some form of training or certification would need to be mandatory. However, a mandatory training program would require some investment of resources, as the training that is currently available is not of a scale that could accommodate the wide number of CORI users.

Employers also need education about the positive results others employers have had hiring ex-offenders. For example, Glenn Lloyd of City Fresh Foods, a catering business, explains “I have a gentleman who has been with me for seven years. He came to us in his early 20s with a record. He has learned every aspect of our operation from delivery, to expedition to production – he is now an important part of our production team. I trust this employee as one of my valuable staff members. He has used City Fresh Foods as a vehicle to leave behind a different life and completely jump into a new one.” Employers need more exposure to these types of stories and need help making more accurate assessments of ex-offenders’ capabilities.

Anyone with a CORI also needs training to understand the report: what information is included, how to address questions about it and how to correct or clarify questionable entries in the report. While it would not capture everyone with a CORI, training for incarcerated offenders in anticipation of discharge could help these individuals better navigate through the barriers their CORI will present for them in terms of acquiring employment, housing, training or other services.

Encourage CORI users to develop clearer guidelines for the use and interpretation of information

Stakeholders agree that CORI users should be subject to clearer guidelines regarding how they use and interpret information. For example, as explained earlier, the EOHHS guidelines for the use and interpretation of CORI are particularly rigid in their designation of disqualifying offenses. These and other similar guidelines could be modified so that they are more aligned with recidivism research showing which offenses are more likely to be recommitted within certain periods and that relate more directly to the nature of the work to be performed. With the EOHHS guidelines, agencies also need more clarity regarding when they are actually required to follow these guidelines or when they have more discretion.

Similarly, non-governmental agencies that have access to CORI could be required to develop internal guidelines for the use and management of CORI. Establishing these guidelines would require agencies to distinguish which offenses are or are not of concern. It could also prevent the blanket rejection of individuals with criminal records that often occurs in employment situations.

At a minimum, guidelines for the use of CORI should require recipients to share the original document they receive with the individual in question. By sharing the document, the recipient will give the candidate an opportunity to explain the circumstances of the information revealed in the report and clarify any misunderstandings the recipient might have about the content.

Create incentives that support re-entry of ex-offenders

One suggestion for reducing the barriers ex-offenders face in securing employment, housing, loans, insurance and even entry into college is to create incentives that encourage organizations to employ or provide services to ex-offenders. In a 2002 study, 61% of employers said they would probably not or definitely not hire an ex-offender⁴. The same study explained that employers are more likely to hire ex-offenders in “blue collar” jobs such as construction or manufacturing. However, these jobs are decreasing as a percentage of the US workforce, further straining the already tight job market for ex-offenders.

Tax incentives are one strategy for encouraging employers to consider hiring ex-offenders. The Work Opportunity Tax Credit does provide this type of incentive in Massachusetts, but it is largely underutilized. The tax benefit is \$1,500 and it is limited to instances where an ex-offender is being hired within the first year of release from supervision or custody and will be employed at the job for at least six-months. Many employers do not know about it and it has not been very widely marketed. Many who take advantage of it already have a history of hiring ex-offenders. Others shy away from the program because they perceive that it involves significant paperwork. (The paperwork is in fact relatively minimal involving only about two pages of information.) Similarly, many employers do not take advantage of the Federal Bonding Program that is available to them free of charge. The bonds cover an employer against any losses due to theft or embezzlement by the bonded employee for a period of six months (the term can be extended upon request.) While these bonds are very easy to obtain through the One Stop Career Centers, very few employers or offenders request them.

One opportunity to increase employers’ knowledge of these benefits would be to conduct a coordinated communications campaign that promotes both the tax credits and the Federal Bonding Program. Additionally, communications efforts could focus on encouraging employers and others throughout society to do more to provide a second chance to ex-offenders who are working hard to change their lives.

One modification to CORI that might also encourage more employers to take a risk with ex-offenders is to stipulate that employers can only request CORI on individuals for whom they have already made an offer of employment. Vermont is one state that exercises this practice. The rationale for this change is based on the theory that having already offered the candidate a position, the employer may be more likely to discuss the information with the candidate and give them an opportunity to explain it before making a decision about whether to retract the employment offer. Employers may be less likely to immediately or arbitrarily reject the candidate based on the CORI and would be more likely to thoughtfully consider any risks associated with their employment.

⁴ “Can Employers Play a More Positive Role in Prisoner Reentry?”, Holzer, Raphael and Stoll, 2002.

Conclusion

The goal of the Boston Foundation's and the Crime and Justice Institute's efforts to explore the issues behind CORI was not to develop a road map for CORI reform. Both agencies recognize the need for on-going debate and discussion about all of the ideas raised in this paper. The suggestions presented here as possible solutions emerged repeatedly through discussions with a wide variety of stakeholders. While there were other suggestions made in the meetings and interviews, only the ideas that generated significant agreement are outlined here.

As the criminal justice system, the legislature, systems experts, ex-offenders and advocates come together to debate the issues involved in CORI reform, they can start with some of the areas where consensus already exists. These areas include converting to a fingerprint-based CORI system, similar to that used by other states, in order to limit errors and cases of mistaken identity; modifying the content and format of CORI reports so that they can be read and interpreted by individuals outside the criminal justice system; and requiring additional training for anyone who uses CORI. In addition, stakeholders agree that when mistakes are made in the system there must be an effective and efficient process for fixing those errors. The goal of these suggestions and others outlined in this paper is to balance the need for public access to CORI with the need to create a system that is fair, protects individual rights, and supports rather than discourages offender re-entry.

With more than 2.8 million individuals in the CORI system in Massachusetts and nearly 200 offenders returning to neighborhoods in Boston each month, more must be done to assure appropriate access to housing, jobs and a new way of life. Advocates, employers, housing organizations, public agencies, the legislature and offenders themselves all have an important role to play in ensuring each individual the opportunity to set their life on track. CORI reform is one critical step in this process.

Methodology

This report was created to illuminate the issues involved with Criminal Offender Record Information (CORI) and to identify potential areas for improvement. The Boston Foundation and the Crime and Justice Institute organized a series of meetings with various stakeholders to shed light on the existing CORI system, its history and perceived problems and to help identify potential solutions. These groups included ex-offenders and advocates, CORI system and agency leaders, business leaders, law enforcement officials, and legislators. Individual interviews were also conducted along with a review of existing research and policies around CORI. This white paper summarizes the feedback and ideas gathered through these meetings. While there were many ideas for reform that emerged from these meetings, only areas where there seemed to be general agreement were presented as recommendations.

