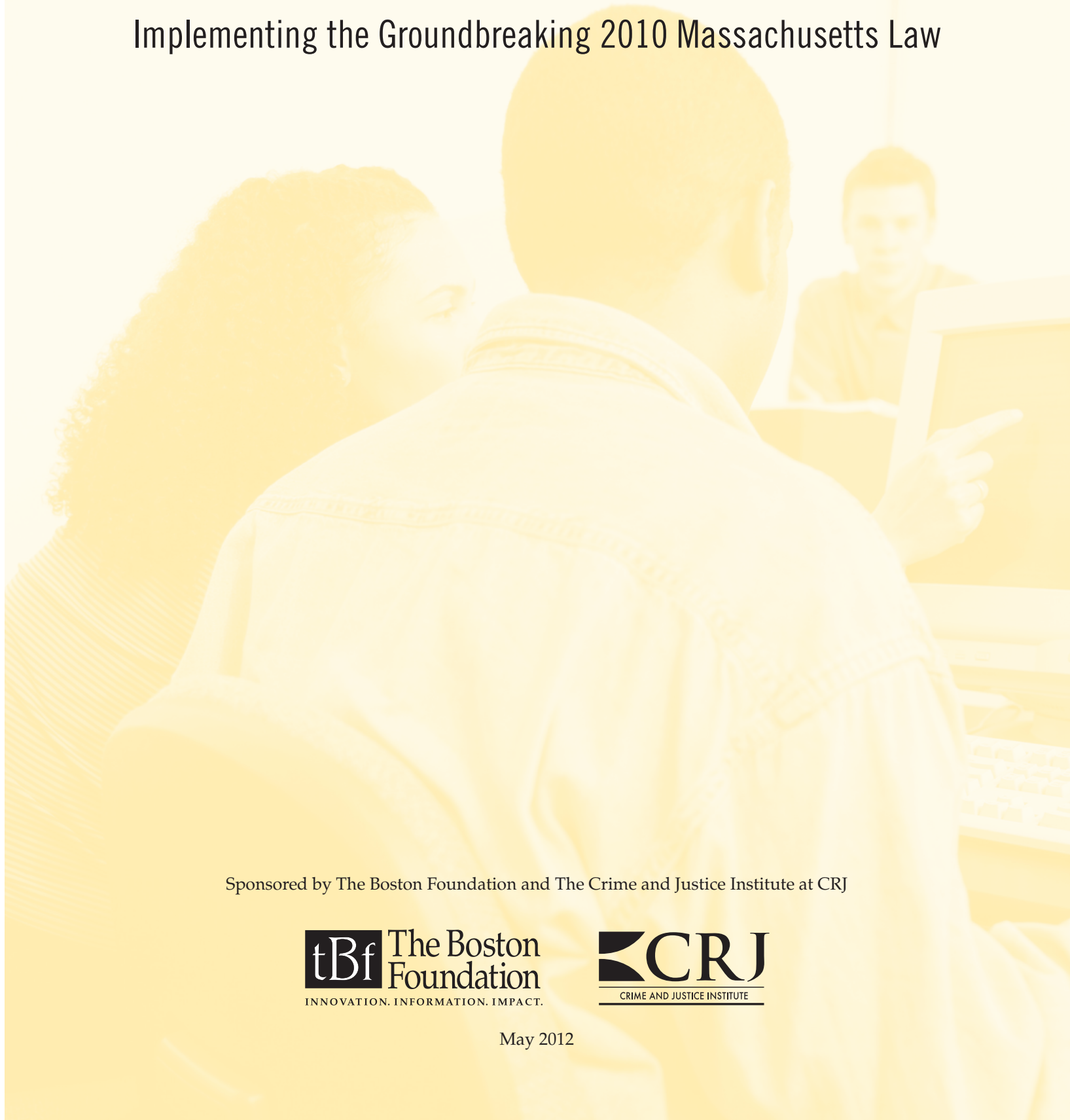
The Continuing Challenge of CORI Reform

Implementing the Groundbreaking 2010 Massachusetts Law



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May 2012

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Special thanks to the following agencies and individuals, as this report would not have been possible without their assistance: St. Francis House, The Work Place, JobNet, Project Place, Boston Workers Alliance, SPAN, CASPAR, Metropolitan Boston Housing Partnership, HomeStart, Department of Criminal Justice Information Services (DCJIS), Massachusetts Commission Against Discrimination (MCAD), Greater Boston Legal Services (GBLS), Boston Medical Center, City Fresh Foods, Community Resources for Justice, Suffolk University, City of Boston, MassHousing, Boston Housing Authority (BHA), Department of Housing and Community Development (DHCD), Senator Jamie Eldridge, Senator Cynthia Creem's Office, and Senator Sonia Chang-Diaz.

Design by Kate Canfield, Canfield Design.

Contents

Dear Friends,

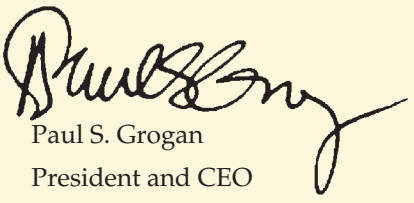
Two years ago, on an August day in Dorchester before a packed crowd of activists, community organizers and public officials, Governor Deval Patrick signed into law *An Act Reforming the Administrative Procedures Relative to Criminal Offender Record Information*. This legislation, which was the result of years of intense education and lobbying, was intended to reform the state's criminal offender records information system (CORI) to improve employment and housing opportunities for ex-offenders—thereby easing their re-integration into society and reducing recidivism. Two years into implementation of the law, we believe it is time to review its effectiveness and ascertain how close the reality is to meeting the high expectations we had when it passed.

The Boston Foundation is pleased to continue to work with the Crime and Justice Institute at CRJ, our partner on previous reports that presented data and recommendations which helped to shape the debate in the legislature. In a report titled *CORI: Opening Doors of Opportunity: A Workforce and Public Safety Imperative*, published in May of 2007, we presented recommendations for changes in the way CORI was used in order to remove unnecessary barriers to employment for men and women with criminal records. At the same time, the report called for keeping the system's ability to maintain the safety of the workplace.

The 2007 report was the work of a broadly inclusive Task Force convened by the Boston Foundation and followed a report published in 2005 by the Foundation, titled *CORI: Balancing Individual Rights and Public Access*, also produced in partnership with the Crime and Justice Institute. Another previous report, *Rethinking Justice in Massachusetts: Public Attitudes Toward Crime and Punishment*, also published in 2005, tracked public opinion about the sharp increase in the incarcerated population in the Commonwealth and current strategies for reintegrating ex-offenders who have been released into the community.

As with any major change in policy, it is not enough to celebrate the signing of a law and declare "mission accomplished." The hard work of government is effectively implementing new laws, and it is crucial that outside organizations monitor that implementation to ascertain whether it is meeting the goals and expectations behind the reforms. While it is early in the implementation process, it is becoming clear that the new CORI system will require resources and a commitment from the state to build and maintain the system that manages the use of criminal history information and educate the public on the reformed system. The economic and social imperative to provide access to employment and housing opportunities for all qualified individuals, including those with a CORI, remains as important now as it did when we started examining the system seven years ago.

Sincerely,



Paul S. Grogan
President and CEO
The Boston Foundation

Introduction

Criminal Offender Record Information (CORI) has a profound impact on many lives, posing challenges to Massachusetts cities, towns, landlords and employers and creating barriers for individuals with a CORI seeking jobs and housing in order to become productive citizens. CORI was established in 1972 to limit access to criminal record information and to create a system with guidelines enabling access to these records in limited circumstances. Over the next 40 years, access to criminal records was greatly expanded. While CORI plays a crucial role in ensuring public safety, the expansion of access had a significant effect on people with criminal records. CORI subjects not only have to deal with their criminal records immediately after the conviction and after release from incarceration, but for several years after the conviction, even when no subsequent criminal activity occurred. Research shows that among other needs, obtaining employment, steady housing and positive social ties are necessary aspects in reducing someone's chances for reoffending, yet a CORI often impedes these positive elements of successful reintegration.

In July 2010, the Massachusetts legislature passed, and the Governor signed, landmark legislation to reform the state's CORI system. When the CORI bill passed, it was met with broad support and relief, and most people and organizations interested in the issue had high hopes for the impact of the reforms. The main goals of the legislation were to improve the process of obtaining housing and employment for people with a criminal history and to ensure that public safety in sensitive areas of public life was maintained.

The 2010 law that rewrote the CORI system changed a number of aspects on how CORI is accessed, who is able to see which portions of criminal history and ways to increase employment opportunities for individuals with CORI. At the same time, the reform did not change all the features for which many people hoped. As with any piece of broad-based legislation, the final law was a compromise between multiple parties.

Since 2002, The Boston Foundation (TBF) and the Crime and Justice Institute (CJI) at CRJ have examined the issues in the CORI system in Massachusetts. In 2005 and in 2007, this collaboration produced two reports that peeled back the layers of the CORI system as well as illuminated the impact of the system on those who use it including employers, ex-offenders, law enforcement and others. This report provides information about reactions to whether the implemented elements of the CORI reform law have had the intended impact, and what the public should expect going forward. While the CORI reform law had several crucial elements and changes, such as the restructuring of the Criminal History Systems Board (CHSB) as the Department of Criminal Justice Information Services (DCJIS), this report focuses on elements of the reform discussed by CORI advocates, employers, housing officials, landlords and legislators.

> **"In enacting CORI reform, we took a big step in smoothing the path to successful re-integration of offenders. While I'm proud of the new law, there remains room for improvement. For example, I supported a timeline of three years for misdemeanors to be dropped from CORI reports, and seven for felonies, because evidence shows an ex-offender who keeps a clean record that long is no more likely to commit a crime than anyone else. But we settled on five and ten years, respectively, as a compromise that could pass."**
>
> *Senator Cynthia Creem*

Methodology

This report examines the parts of the CORI law that have been implemented and are in place up to April 2012, and identifies areas that could potentially be improved moving forward with the implementation of the additional CORI reform law elements starting in May 2012. The Boston Foundation and the Crime and Justice Institute at CRJ organized a series of focus groups and interviews with numerous stakeholders to gauge their reactions to elements of the law that have been implemented so far, and to determine recommendations for the successful execution of all aspects of CORI reform. The groups and individuals interviewed included advocates (which include many community based organizations that lobbied for the passage of the 2010 law and advise clients on compliance with the law), CORI system officials, employers, landlords and housing agencies and legislators.

The major elements of the CORI reform law[1] discussed in this report are listed in the box on the opposite page.

Common Misperceptions about CORI Reform

When reforming an area as large and complex as the CORI system, there are often misunderstandings about the extent of the reform. The following three topics were reported as areas where there has been some confusion.

The use of CORI in employment decision-making: In interviews and focus groups, advocates stated that many CORI subjects mistakenly believe that the new law prohibits employers from rejecting them because of their criminal record. MCAD received many phone calls from people wanting to file complaints against employers who did not hire them because of their criminal record. MCAD and those who work with CORI subjects inform them that this is not illegal under the CORI reform law and that employers may still reject an applicant due to a CORI.

Incentives for employers: Advocates reported that some CORI subjects erroneously believe that the reform would provide incentives for employers to hire people with CORIs. The new law did not increase the incentives for employers to hire people with CORI. Existing law includes various incentives for employers to hire people with CORI, such as the Work Opportunity Tax Credit (WOTC), and advocates often direct applicants accordingly.

Applying ban the box: The law requires that employment applications not include any questions regarding criminal history. Advocates reported many complaints and questions about the presence of the criminal history question on a job application. The prohibition in the new law is not universal, as some jobs are statutorily prohibited from hiring people with certain criminal histories and are therefore mandated to review the criminal histories of all job applicants. These employers are allowed to ask about criminal history on the job application. Additionally, the ban the box provision only applies to employment applications and advocates reported that some CORI subjects thought it applied to housing applications as well. Advocates continue to educate people with CORI about the limitations of the criminal history question on job applications and expect this will be a continuing process.

Ban the box	Initial written job applications cannot ask for criminal record information, with some statutory exceptions.
Self-audit	Every 90 days, an individual with a CORI can submit a request and obtain a free list of people who have accessed their CORI.
Sealing timelines	Misdemeanors are eligible to be sealed at five years and felonies are eligible to be sealed at 10 years based on the date of release from incarceration or custody or the date of disposition if the sentence did not include incarceration. Each subsequent offense will restart the timeline.
Dissemination	Records eligible to be sealed and non-convictions will not be provided for users of the state iCORI system with standard access, some exceptions (users who have required access).
Adverse decisions	Employers and landlords are required to provide a copy of the CORI to an applicant when it is used for an adverse decision.
Access	DCJIS will maintain an electronic CORI system (iCORI)
Safe Harbor	Users of the state's iCORI system are not liable for decisions made within 90 days of obtaining CORI based on incorrect information included in an individual's CORI.

What Is the Impact of 'Ban the Box?'

In November of 2010, the "ban the box" element of the CORI reform law went into effect. This required the removal of all questions about criminal history on an initial employment application, except for employers who have statutory limitations on who they can hire based on certain criminal offenses. The anticipated impact of the "ban the box" provision was to increase the likelihood that people with a CORI receive an interview with employers prior to the introduction of the criminal history. To a significant degree this has been achieved. More people appear to be getting a chance to explain their CORI to employers, and to not be screened out prior to an interview simply because of their record. Many advocates agree that it has been effective because more people are being interviewed. However, this does not correlate to more people with CORI getting jobs.

Several advocates and agencies stated that questions about criminal history are still included on some employers' applications. This has been more noticeable with larger, national corporations, as well as small businesses who have not updated their applications since the law went into effect. An informal scan of online job applications revealed that a number of applications still contain a criminal history check box, including departments within the Massachusetts government. The applications reviewed do not appear to fall within any exceptions that would allow the inclusion of a question related to criminal history.

For national employers, changing the application is complicated because the same application is used in several states, including those which allow the criminal history question to be asked. Some national employers offer an opt-out provision for those seeking employment in MA and include a "Choose NA if MA resident" option on the application. Applicants must be aware that choosing NA does not equate to an admission of a criminal record. Some applicants reported receiving a phone call after submitting an application but before the interview, asking about their criminal record. While advocates stated that this is not widespread, it is reported to be occurring. This, advocates believe, undermines the intent and anticipated impact of the law.

Who Enforces CORI Reform?

The Massachusetts Commission Against Discrimination (MCAD) is the state agency tasked with investigating complaints and tips regarding employers that ask about criminal history on their job applications. MCAD disseminated a Fact Sheet[2] regarding CORI reform in November of 2010 to clarify their role in enforcing the "ban the box" element of CORI reform. MCAD receives and investigates both official and unofficial tips and complaints.

In 2007, unrelated to CORI reform, MCAD developed its Discrimination Testing Program. This program deploys testers in response to complaints related to discriminatory practices in housing or employment. While this program was not created to enforce CORI law, much of the information related to CORI has been inadvertently discovered through this testing program. Testers are sent to different job sites following a complaint of discrimination. Testers often fill out applications as part of the program, and are therefore able to see if the question regarding criminal history is still on the application.

When MCAD receives information that an employer has a criminal history question on their written job application, they notify the employer about the law and the need to remove the question in order to comply with the law. Almost all employers have immediately complied with the removal, and at least one national corporation has changed its national application by removing the criminal history question from all applications even though it may not be against the law in all states. If employers do not comply with the Massachusetts law they could be fined $1,000 for a first knowing violation, $2,500 for a second knowing violation and $5,000 for a third and subsequent knowing violation[3].

MCAD did not receive an increase in their budget as a result of the CORI reform law, and does not have staff devoted specifically to investigate employers that ask about criminal history on their applications. Therefore, MCAD only investigates if they receive a tip or complaint about an application asking for criminal history. Additional problems ensue with online applications, mostly through national companies, requiring an investigator to go through an online registration process in order to access the application.

Reported Issues with Enforcement

- Advocates conveyed that some of their clients are not aware that an employer cannot ask about CORI on their application.
- Advocates reported that CORI subjects are generally not aware of their right to submit a complaint to MCAD. When informed, advocates stated that CORI subjects often do not want to file a complaint as the impact of a complaint will not likely result in an immediate reversal of the employment decision for that person.
- It was unclear to some advocates what the process was if an employer is not following the law, and what the follow-up is from MCAD to ensure compliance.

CORI Access: Who Sees What and For How Long?

The CORI reforms that take effect in May of 2012 will modify who can see a CORI and the content different types of users will be able to access.

CORI Access Levels

ACCESS TYPE	APPLIES TO	WHAT THEY CAN SEE
Standard CORI Access	The majority of employers and landlords that use the state CORI system	■ Pending cases ■ Misdemeanor convictions for up to 5 years ■ Felony convictions for up to 10 years following date of disposition or date of release from incarceration (whichever is later, and only if they aren't sealed) ■ Information for convictions that aren't eligible for sealing, such as murder, voluntary manslaughter, involuntary manslaughter and sex offenses
Required CORI Access	Required CORI access has four different levels of access for those who are required by a statutory, regulatory or accreditation provision (such as housing authorities and employers who work with vulnerable populations)	**All Levels:** ■ Pending cases ■ All adult misdemeanor and felony convictions (that aren't sealed) and any offenses that aren't eligible for sealing **Levels 2 & 3 Access receive all of the above and:** ■ Information on non-convictions, such as dismissals and not guilty findings **Level 4 Access receives all of the above and:** ■ Information regarding juvenile offenses
Access from private Consumer Reporting Agencies	Employers and landlords who are not using the state system and are using private Consumer Reporting Agencies (CRAs)	■ Able to see a CORI subject's whole record unless sealed
Open CORI Access	Available to the general public	■ Misdemeanor convictions up to one year ■ Felony convictions up to two years following date of disposition or date of release from incarceration (whichever is later) ■ Felony convictions punishable by five or more years in prison, up to 10 years following date of disposition or date of release from incarceration (whichever is later)

Dissemination and Access

Due to different access levels, advocates reported that CORI subjects often do not know what a specific employer has access to, and it is complicated to advise individuals about which information to divulge during an interview. Advocates want to make sure that CORI subjects are informed on how to correctly speak about their CORI without providing information to which an employer or landlord would not otherwise have access. Consumer Reporting Agencies (CRA) are not held to state law and are still able to disseminate information past the state timelines as well as non-convictions. According to the Commonwealth CORI Coalition, with membership of more than 100 Massachusetts organizations, this may "undermine the very essence of CORI reform."[4]

Sealing

The best way for a CORI subject to ensure that their old records and non-convictions will not be disseminated or accessed by any means is to seal their record when it is eligible for sealing. See Appendix A for an illustration of the difference between a record that is sealed and the same record which is not sealed. Before CORI reform, misdemeanors were eligible to be sealed after 10 years and felonies were eligible after 15 years. The clock for sealing started at the end of all supervision related to the conviction. For example, if a person was on probation and/or parole for a felony, that individual would not be eligible to seal the record until 15 years after the term of probation or parole was complete. If a CORI subject did not seal the record after those time frames, all of the CORI would continue to be disseminated during any criminal history check by employers and landlords. The law changed the time frames from 10 to five years for misdemeanors and from 15 to 10 years for felonies, and started the clock after conviction or at release from incarceration (whichever is later) rather than after all supervision ended. The law also changed dissemination procedures, so that employers and landlords with standard access to CORI would automatically not receive information on convictions eligible for sealing.

The majority of advocates felt that the new time frame for the sealing process will help people who have aged criminal histories. Many CORI subjects with old criminal histories are aware of the new time frames, and are eagerly anticipating the change. Advocates think the five and 10 year time frames are significant steps in the right direction, and the fact that they will not be disseminated to certain employers or housing officials, regardless if they are sealed or not, is very useful. There was also agreement among advocates that starting the clock after the conviction or release from incarceration will be beneficial, as many CORI subjects previously reported frustration that their successful time in the community counted against them.

There are two different ways to have a record sealed, which causes some confusion among both advocates and clients who want to seal their CORI.

Chief Justice Charles R. Johnson of the Boston Municipal Courts (BMC) issued a standing order[5] in 2009 and has since extended it twice to address the issues faced by individuals seeking to seal their records. This order enables the courts within BMC to centralize the court appearances of individuals and allows that individual to begin the sealing process by visiting one of the BMC courts, rather than requiring multiple appearances at different courts. This has helped to streamline the court process and judges' time, and preserve court resources. The district courts across the state have not yet adopted a similar order, and therefore individuals with cases in multiple courts outside of Boston still have to go to each court to seal their records.

Sealing process for convictions

A person with CORI must submit a request to seal his or her record. Simply because the sealing period requirement has been satisfied does not mean that the record will automatically be sealed. When everything on a person's CORI has

elapsed the time frames (other than non-convictions), a *Petition to Seal* should be submitted to the Office of the Commissioner of Probation (OCP). The offenses that are eligible to be sealed (offenses such as murder, manslaughter and certain sex offenses may never be sealed) will automatically be sealed, and the applicant will receive a letter back from the OCP confirming this.

Sealing non-convictions

Advocates reported that the process is more complicated for sealing non-conviction records (dismissals, not guilty findings) in cases where the time frames have not elapsed. Non-conviction information is not disclosed via the state system to those with standard access to CORI—but with this information being part of a criminal record, unless it is sealed it may be disclosed through a CRA and is provided to those with higher level access. Non-conviction information may be sealed but requires the subject to petition the court either on their own or through their defense attorney.

Many CORI subjects have cases in multiple courts, which requires the individual to visit each court of offense, and causes the sealing process to become more time-consuming, arduous and arbitrary. It requires both internal resources, such as the ability to stand up in court and advocate for themselves and engage in dialogue with a judge regarding the compelling interest to seal their case, as well as external resources, such as transportation and childcare so that they are able to attend multiple hearings.

Advocates stated that on some occasions, courts require two hearings for sealing to occur: a preliminary hearing and a final hearing. Other courts require only one hearing, and some courts were reported to deny the petition for sealing without holding a hearing. Some courts require an individual petition for each case, while other courts allow for multiple cases to be listed on one petition. The sealing process is inconsistent, disjointed and is an inefficient use of court resources at a time when resources are scarce. Defense attorneys are also able to petition for sealing at the actual time that a case is dismissed, but this is reportedly underutilized and is subject to objections from the district attorneys. The BMC standing order has helped to address some of the sealing issues. Advocates suggested that a permanent order for BMC centralizing court appearances, a standing order similar to the BMC order applied in other district courts, and a streamlined hearing process requiring a single hearing, would go a long way in addressing the barriers to sealing non-convictions.

In January of 2009, a new law went into effect decriminalizing the possession of less than an ounce of marijuana. It is now a civil offense punishable by civil penalties and should not be included on a criminal record. Some advocates reported that they have gone before a judge to seal this type of record and were denied. However, this type of offense is eligible for the mail-in petition to seal, as an offense that is no longer a crime under Chapter 276 Section 100A and does not need to go in front of a judge[6]. Corroborating information, such as the docket sheet and the police report which states the amount of marijuana as being less than an ounce, should be provided along with the mail-in petition to seal.

Potential Obstacles to Sealing & Dissemination Reforms

Many advocates were "hopeful but not optimistic" that criminal history will actually be removed from records as required by law, because of the reported history of sealed records still being available through CRAs. The presence of sealed records being available through CRAs is an example of the implementation problems of the law. The National Consumer Law Center recently reported that a routine mistake of private background companies is the dissemination of sealed records due to "obtaining information through purchase of bulk records, but then failing to routinely update the database."[7] While this area is not one that can be regulated by the state as it falls under federal regulations, many advocates and some legislators are concerned about this practice continuing and undermining the CORI reform effort.

Has the Hiring Process Changed?

Advocate Perspective

Advocates generally agreed that the new law has resulted in more job interviews for people with CORI. However, while interviews have increased, most interviews do not result in a job and the interviewee's criminal record continues to be an obstacle according to advocates. Advocates felt that this only delays the process of rejection and leaves people with a CORI feeling more hopeless. The barrier to employment has simply shifted from the application to the interview. Advocates are focusing on preparing them for the interview and how to best present the client to the employer. They work with CORI subjects to develop strategies that will help them overcome the obstacles created by their criminal record. If an employer does not ask about criminal history, advocates still encourage the client to discuss it during the interview in case the employer subsequently obtains the CORI. Advocates stated that the idea is to focus the interview on the person's qualifications for the job while not ignoring the weakness that a criminal record presents.

Employer Perspective

Results from interviews conducted with employers tend to support advocates' feedback. The most significant findings from employer interviews revealed that the majority do not feel CORI reform has had any major impact on their hiring practices, with the exception of the removal of the criminal history check box on job applications. A common theme heard throughout these interviews was less concern with the reform's impact on hiring, but rather a desire for enhanced educational outreach and training on CORI reform and what it means for them in their role as employers. With one exception, none of those interviewed had received detailed information about the iCORI system and have not been alerted to any required trainings from the state. Many of the employers voiced the need for additional training, especially when faced with multiple agencies with different regulations regarding the employment of a person with CORI.

In 2006, the City of Boston enacted a City Ordinance which removed the question regarding criminal history from their employment application. The City determined specific sensitive positions where a CORI is relevant, only runs the CORI once it is determined that an offer will be made, and decides whether or not to hire someone with a CORI for those positions on a case-by-case basis. The City does not run a CORI for positions where a CORI is deemed not relevant. Feedback indicates that this has been a successful initiative for both the city and people with a CORI.[8]

Of the employers interviewed, none reported significant changes in the application or interview process (with the exception of the check box). The employers' CORI policies tend to be conducted on a case-by-case basis, except for those positions governed by statutory regulations prohibiting the employment of individuals with certain types of criminal offense history. Half indicated that they do not run a CORI on all applicants, only applicants for specific positions, such as those that are affected by statutory regulations and/or positions that may come in contact with vulnerable populations.

While employers also have issues creating operating policies and procedures related to CORI, such as the cost and liability burden, those interviewed were very thoughtful in their approaches to creating policy and procedures for applicants with CORI. However, none of these policies seem to have been initiated because of CORI reform. Many employers developed standard CORI policies as soon as they began to run criminal history checks. In fact, the City of Boston had implemented many of the aspects contained in the CORI Reform prior to 2010.

Has Reform Impacted Housing?

CORI reform did not address changes to housing applications, therefore the elements of the law that affect housing all went into effect in May of 2012. As described by advocates, many of their clients with CORIs are eligible for rental assistance or subsidized housing, and therefore the sealing process directly affects them because housing authorities are able to see all records that aren't sealed regardless of time elapsed. Several private landlords use CRAs, and therefore would also be able to see past the five and 10 year time frames unless records have been sealed.

While nothing has changed prior to May of 2012 regarding housing and CORIs, many advocates spoke about the positive affect of mitigating facts and character witnesses who can speak to changes in a person's life. When someone with a CORI is denied public housing, they receive notice of their right to appeal. Should they choose to appeal, they are able to present witnesses or submit letters from people such as advocates, counselors and probation or parole officers to comment on the changes in their life since their criminal charges. Applicants also may be able to make "reasonable accommodations" requests if they are in recovery from substance abuse or are mentally ill and on medication[9]. If they are able to make the case that their charge was related to their disability and circumstances have since changed, their disability can override their CORI. Boston Housing Authority (BHA) has considered mitigating circumstances for more than 25 years, and reasonable accommodations for the past 10 years.

Some states require the applicant obtain their own criminal records, and therefore BHA asks applicants who have lived in those states to obtain their out of state criminal record. Applicants pay to do so and are then reimbursed by BHA after proof of payment is shown. Advocates said this process is problematic, as many applicants do not have the money up front to obtain their record and cannot wait to be reimbursed.

Housing and employment are closely linked to a person's stability. Job applications often require the applicant to provide a permanent address, and advocates state that a shelter or a temporary housing address could be a deterrent when applying for jobs. For applicants whose CORI has made permanent housing unobtainable, many advocates encourage transitional housing to start, and provided Project SOAR (Stability, Opportunity, Achievement, and Recovery) as one example. SOAR is a drug- and alcohol-free housing program, requiring either employment or enrollment in employment or educational training. When clients make use of programs like this, they are able to build their housing history and references by living there. Additionally, clients pay rent for this housing, but it is put into an escrow account to assist them in saving money that can be used to obtain permanent housing.

Education and Training

As with any law and policy change, implementation of the CORI reform law is crucial to ensuring that the intended effects of the law are achieved. In order for the goals of the reform to be accomplished, significant educational outreach and training efforts are needed to inform all involved with the process on how to navigate the changes. Advocates felt that they are informed on some issues because they independently seek out the information, but in general, people are not well informed on the details of CORI reform. Advocates are sometimes unsure of the specifics and struggle to find the resources to not only educate themselves but also their clients

Greater Boston Legal Services (GBLS) and Massachusetts Law Reform Institute (MLRI) were named by several advocates as two agencies that have provided extremely useful training resources. GBLS, in association with Massachusetts Continuing Legal Education (MCLE), provides an annual CORI training for advocates. GBLS also hosts "CORI help tables," which are walk-in hours at Dorchester and Roxbury courthouses for people to get answers about CORI and the CORI reform. The Boston Workers Alliance has a CORI Clinic which provides free services to CORI subjects.

Users of the state online system, iCORI, are required to participate in an online training on an annual basis. DCJIS also conducts systematic trainings, and attempts to accommodate individual requests for training but receives more requests than they can attend to due to staffing limitations. The Boston Bar Association (BBA) has hosted trainings and panel discussions, which DCJIS has been involved with. MCAD incorporated the "ban the box" provisions into their anti-discrimination training program and published a Fact Sheet in November of 2010 for educational purposes.

Several advocates said they requested training after November of 2010 from the state and from nonprofits such as GBLS and were told that it was not available based on time and fiscal constraints. They stressed that training should be available on a consistent basis from both the state and nonprofits.

"CORI reform is a significant step toward providing opportunity and creating prosperity in our neighborhoods by breaking down unjust barriers to employment and housing. In order for the CORI reform law to be effective, CORI subjects, housing providers, employers, and community advocates need to know what all parties' rights and responsibilities are under the new law."

Senator Sonia Chang-Diaz

The following were mentioned as groups in need of education and training:

- Advocates
- Court system– judges and clerks
- Corrections staff– jails, prisons, prerelease and halfway houses
- Employers
- Faith-based communities
- Landlords
- Legislators

Issues beyond CORI reform

While a CORI may be one impediment to securing a job, there are other issues that need to be addressed before the CORI even comes into play. The lack of identification cards, birth certificates and social security cards may prevent people from obtaining a job or housing. Most employers and landlords require a valid form of identification. Credit checks for ex-offenders who have not built up a credit history can also be problematic. Further, many people with criminal histories can lack marketable job skills and employment history, have substance abuse problems, mental health disorders and engage in anti-social behaviors and associations.[10]

Concerns with Upcoming Implementation of Reform

While the law requires that an applicant be provided a copy of their CORI before an employer or landlord makes an adverse decision, advocates were unsure of how this would be enforced. The applicant would have to know from their self-audit that the employer checked their CORI, would have to correlate the date the CORI was checked with the date they were denied employment or housing, and then would have to show that their CORI was the sole reason they were denied.

A number of advocates and employers expressed concern about the lack of education and training available for the full implementation of the reform, as noted in previous sections. Suggestions for improving education and training included:

- Central repository: a link on mass.gov with complete information about CORI reform
- Hotline number to call with questions
- Individual onsite trainings so that advocates can ask questions specific to their clients' situations
- Webinars
- Manuals
- FAQ list
- Information on which crimes are classified as misdemeanors and what crimes are felonies
- Press releases about cases related to CORI reform, to educate others on what could happen if you do not comply with the law
- Spotlight on people who have succeeded because of CORI reform

Ideas Expressed for Further Reform

The CORI reform law of 2010 made significant changes to several areas that could help chip away at the barrier that CORI often has on employment and housing. However, several advocates and legislators interviewed felt that there is need for further reform, and suggested the following areas:

1. Reduce five year and 10 year sealing periods; advocates and some legislators felt that three years for misdemeanors and seven years for felonies would be sufficient, as the likelihood of a previous offender committing a crime after seven years is similar to that of someone who has never committed a crime[11]
2. Limit who can access a CORI based on relevance to job and housing
3. Expand the use of the Federal Bonding Program (a free bonding service for employers that limits their liability) and create more incentives such as the Work Opportunity Tax Credit
4. Prohibit employers from discriminating against job applicants based on an irrelevant criminal history
5. Include housing authorities in the category with landlords who automatically only receive records for up to five years for misdemeanors and 10 years for felonies through the state iCORI system (standard access)
6. Clarify that employers statutorily exempted from asking about criminal history (such as banks), should only do so in the relevant positions and not as a blanket policy
7. Allow for self-audits in real time instead of waiting 90 days
8. Do not include "youthful offender" cases on a CORI, unless the case was tried in superior court
9. Streamline the sealing process so that multiple convictions could be sealed by one judge during one hearing

Conclusion

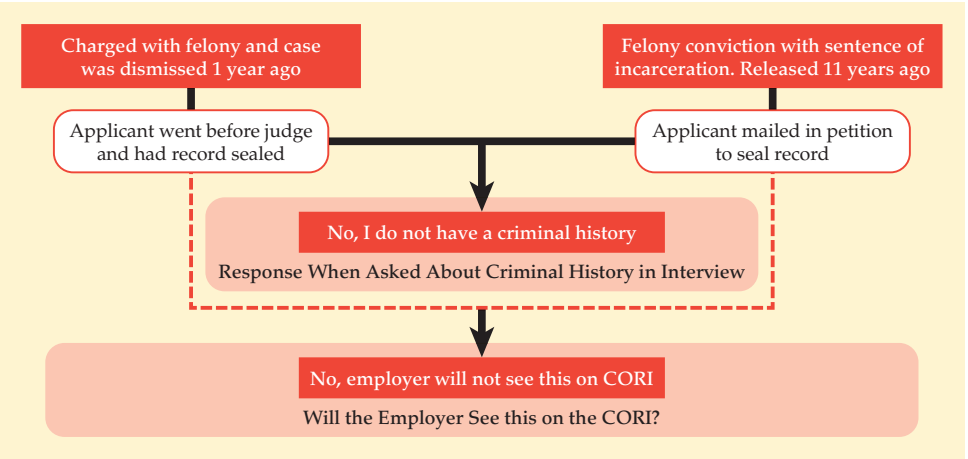
Major legislation takes time to pass and takes even longer to implement effectively. The legislation passed in 2010, known as the CORI law, was the culmination of years of hard work, research and advocacy. But as is often the case with complex and emotional policy issues, especially issues related to crime, punishment and rehabilitation, reform requires leadership to pass and patience to administer effectively. The CORI legislation benefited from timely leadership from various people and organizations. Their leadership will be necessary in order to ensure that the law is implemented effectively.

Effective implementation requires ongoing support. As this report makes clear, the CORI reforms in the new law will require resources to ensure people from various interests understand how the new system works and what to expect. The introduction of iCORI will require greater resources and far more support than has been necessary to this point. The legislation provided the state with a structure to build a first-rate system for managing the use and protection of criminal history information. In order for this to be realized, leadership and resources will continue to be needed. The changes to the sealing and dissemination processes are widely misunderstood, and require significant education and training in order to achieve the intended effect. Massachusetts made substantial progress with this law and, as is clear from the interviews conducted for this report, there are many people anxiously awaiting its potential impact.

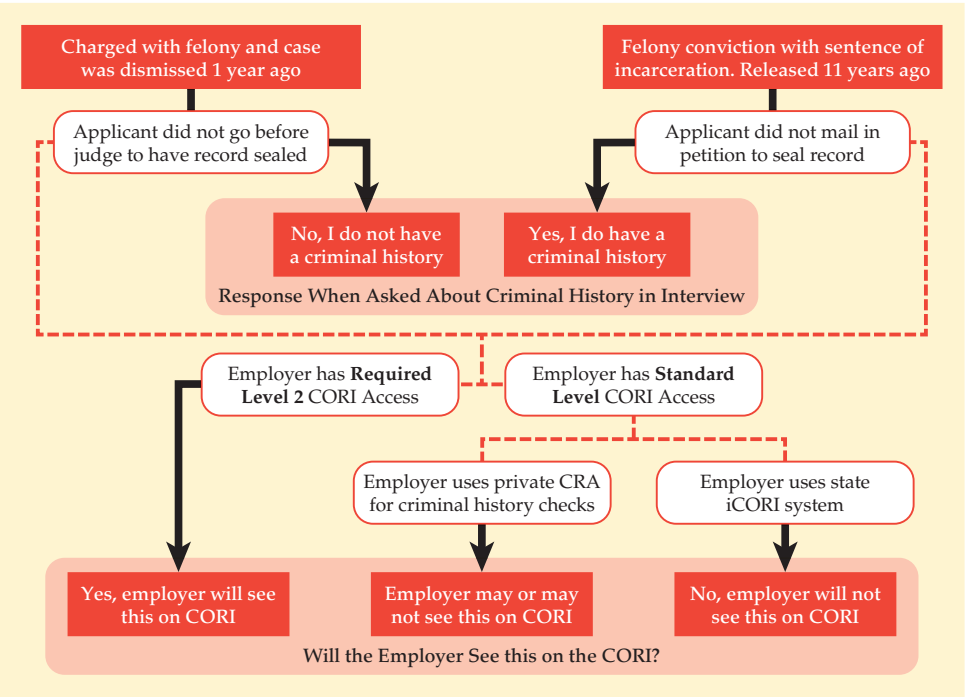
Appendix A:
Theoretical Perspective of an Applicant with CORI

The following chart depicts a hypothetical situation for an individual with a CORI interviewing for a job. The solid lines connect to the appropriate response in an interview when asked whether or not the individual has a criminal history relative to each item on the CORI. The dashed lines connect to what an employer could see on the individual's CORI for these same items. This graphic highlights the complexity an applicant may encounter when navigating the employment process despite CORI reform, and the necessity for sealing a record when it is eligible for sealing.

Job Applicant's CORI: Both Items Sealed



Job Applicant's CORI: Neither Item Sealed



**The graph above summarizes a complex process, is not exhaustive, and should not be construed as legal advice.

Endnotes

[1] Massachusetts Acts 2010, Chapter 256. "An Act Reforming the Administrative Procedures Relative to Criminal Offender Record Information and Pre- and Post-trial Supervised Release". http://www.malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter256

[2] MCAD Fact Sheet. "Criminal Offender Record Information Administrative Procedure Reforms". November 2010. http://www.mass.gov/mcad/documents/Criminal%20Records%20Fact%20Sheet.pdf

[3] M.G.L c. 6 § 168

[4] Commonwealth CORI Alliance. "Written Comments on Proposed CORI Regulations". Submitted to MA Department of Criminal Justice Information Services. March 30, 2012. http://bostonworkersalliance.org/wp-content/uploads/CORI-Regulations-Advocacy-2012.pdf.

[5] Boston Municipal Courts. "Standing Order 1-09. Pillot Initiative for the Sealing of Three or More Dismissals and Non-convictions Criminal Records". April 10, 2009. http://www.mass.gov/courts/courtsandjudges/courts/bostonmunicipalcourt/bmc-standingorder1-09.pdf.

[6] M.G.L. c. 276 § 100A

[7] Yu, Persis S. and Sharon M. Dietrich. "Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses". National Consumer Law Center. April 2012.

[8] City of Boston Municipal Code, Chapter 4, Section 7: CORI Screening by Vendors of the City of Boston (2006).

[9] Benzan, Virginia et. al. "Legal Tactics- Finding Public and Subsidized Housing". Massachusetts Law Reform Institute. Third Edition 2009. http://www.masslegalhelp.org/housing/finding-public-and-subsidized-housing/reasonable-accommodations.pdf

[10] Holzer, H et al. "Employment Barriers Facing Ex-Offenders". Georgetown Public Policy Institution. April 2003.

[11] Kurlychek, M. et al. "Enduring Risk? Old Criminal Records and Short-Term Predictions of Criminal Involvement". University of South Carolina. March 2006.