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## Transitioning from Chronic Homelessness to Employment: Impact of a Positive CORI Report

### A Story...

*"I had only been on the job for 2 weeks when I was told Human Resources wanted to see me. I knew what it was...I had just gotten this job in the hospital and I figured they had pulled a CORI on me. I was dead meat, they would let me go. I liked the job, though, and I figured "What do I have to lose." Sure enough, the HR person told me they had to let me go 'cause of the CORI. Great. But I sucked it up and I guess I convinced them, 'cause they let me stay. My buddies couldn't believe it, 'cause they all had lost their jobs from having a CORI..."*

### Our Story....

When *Project Independence* started at Community Work Services in 1997, it rapidly became clear that having a past history with the law presented a formidable barrier when seeking housing or employment for people who were chronically homeless. We found that:

- Of the more than 786 clients served since its inception, approximately 70% have had a positive CORI record.
- Almost without exception, the criminal record was established while the individual was actively abusing substances. This situation is understandable because the need of the addict to use mood-altering substances leads into many forms of criminal and anti-social behavior.
- The convictions generally ranged from possession and distribution of classified substances, to assault and battery, breaking and entering, shoplifting, forgery, and loitering, to name the most common.
- The converse was also true. During the period of sobriety and recovery, there were typically no further instances of felony or misdemeanor charges reported. *Project Independence* clients came to the program with and without histories of incarceration, and with cases that were closed or open.
- The periods of incarceration ranged from up to 20 years to only a few months. Some individuals seeking employment and training were still under the supervision of Probation or Parole officers when they were referred for employment and housing services.

CORI has become a major issue for CWS staff and people who are homeless and attempting to transition from chronic homelessness to competitive work and productivity.

The expansion of the number of employers across all industries who are able to gain access to an individual's CORI record is a serious roadblock to individuals who are newly attempting to become tax-paying and productive members of society after many years of being a burden on it. Employers rarely have the time or knowledge to interpret CORI reports accurately and, as a result, come away with negative impressions. The Criminal History Systems Board (CHSB) also maintains a Web site - <http://www.state.ma.us/chsb> - where, for the payment of a fee, individuals are all too easily able to obtain information and download forms requesting access to CORI.

*An example of what is seen every day is the case of a 25-year old young man who applied to work in a hotel as a cook and whose experience and references were of such quality that he was offered immediate employment. When it came time to interview, he was honest about a drug charge within the previous 2 years and an assault charge 8 years previously. The hiring manager immediately changed his mind about his offer to hire, saying that he did not meet their profile.*

## **The CORI Story...**

But how did the CORI process start and what was the intention of the program?

The Criminal Offender Record Information, more popularly known by its acronym "CORI," was enacted during a period of sweeping criminal justice reform in Massachusetts during the early 1970s.<sup>1</sup> The term CORI refers to a body of Massachusetts "criminal records" information, which is kept by the state in a computer at the headquarters of the state Criminal History Systems Board (CHSB) that presides over the system and hears requests for access to CORI from interested parties. Specifically, CORI consists of information that is generated by the criminal justice system as it relates to one or more criminal charges that are crimes punishable by incarceration.

CORI came about in the early 1970s because of the availability of federal money and, as enacted, had two purposes: (1) to make the criminal justice system more efficient by putting criminal records "on-line," so that they would instantly be available to police, prosecutors, probation officers, judges, and other functionaries; and, (2) to safeguard the privacy of CORI subjects, so that potentially embarrassing and damaging information about them would only get into the hands of people *with a clear need to know the information*. In the last 30 years, however, the use of CORI has expanded and changed dramatically. In the words of Dr. Daniel P. LeClair, former DOC Director of Research and member of the state Security and Privacy Council: "CORI has been turned inside out . . . it was originally designed to protect the privacy rights of ex-offenders but is now often used against them when they apply for employment or housing."<sup>2</sup>

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<sup>1</sup> The CORI Act was legislatively passed in July 1972 and implemented in 1973. See General Laws, Chapter 6, Section 167 of the Statutes of 1972. Other relevant sections are found in 168-167 of the Statutes from 1972.

<sup>2</sup> Telephone interview conducted by Michael W. Forcier with Dr. Daniel P. LeClair, Chairperson of the Criminal Justice Program at Boston University's Metropolitan College.

Ernest Winsor, Director of the Massachusetts Law Reform Institute, agrees when he says: “. . . the law enforcement efficiency purpose has persisted and been morphed, it sometimes seems, into unthinking tough-on-crime-ism; but the privacy purpose has been increasingly restricted, by statutory changes, regulations, actions, and policies of the executive branch and discretionary decision-making of the CHSB.”<sup>3</sup>

## **CORI Expansion...**

There is no doubt that the number of requests for access to CORI, and the number of requesters being certified, has skyrocketed over the years. Whereas certification was once reluctantly granted by the CHSB, it is now more the norm with over 9,000 organizations and individuals certified for access to CORI. While we can probably all agree that we do not want sex offenders driving school buses or operating day care centers, other areas are less clear. Clearly, there are vulnerable populations who need to be protected. For example, should a nuclear power plant be able to obtain CORI on contract employees who stock vending machines in its cafeteria? One CHSB staff person noted that, when he started working there in 1993, there were about 12,000 CORI requests per month. Today, they average about 80,000 to 90,000 requests per month, over a million a year. It would indeed appear that CORI has been turned “inside out” as the privacy rights of offenders have taken a lower priority than the public’s “need-to-know.”

Organizations that are required or mandated to see CORI include a broad class of governmental and private social service agencies. They are not only given access to CORI, but must also do a CORI check before hiring, or taking on a volunteer, anyone who “will have any direct or indirect contact” with a client who is elderly (60 or older), a child, or a person who is disabled so as to be wholly or partially dependent on others to meet daily living needs.

A distinction is also made between those *allowed* to see CORI versus those organizations that are *required* to see CORI. Those allowed to seek CORI access include: criminal justice agencies. Other agencies & individuals required to have access by other statutes (e.g., liquor control commissions); anyone (organization or person) upon a showing that the public interest in disclosure outweighs the CORI subject’s privacy interest in non-disclosure (done by the CHSB on an individualized basis and typically only in cases ending in convictions or which are still pending); specialized legislatively authorized entities (mostly government agencies) such as public housing authorities, long-term care facilities, Massachusetts Department of Social Services and Youth Services, Office of Child Care Services, Massachusetts Department of Revenue’s Child Support Enforcement Division; schools, camps, and other child serving organizations; crime victims, victims’ family members or witnesses to a crime; the CORI subject himself or herself; and, any member of the general public, when the “CORI curtain is up.”<sup>4</sup>

Other types of employers may ask an applicant about CORI, although they may not ask certain questions. For example, they are forbidden from asking about:

- (1) an arrest or proceeding where no conviction resulted;
- (2) a first conviction for certain types of misdemeanors such as disturbing the peace; and,
- (3) conviction of a misdemeanor where the date of conviction, or the end of incarceration, whichever is later, occurred 5 or more years (without intervening convictions) before the request.

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<sup>3</sup> Source: *The CORI Reader*. Boston: Massachusetts Law Reform Institute, May 1, 2003. We are grateful to Mr. Ernest “Tony” Winsor, Esq., Executive Director of MLRI, for his permission to draw upon *The CORI Reader* in the preparation of this *Research Brief*.

<sup>4</sup> The curtain is up where the CORI subject has either been: (a) convicted of a crime for which the maximum imprisonment is 5 years or more, whatever the sentence he or she actually gets (even if just a fine or probation) or (b) is convicted of any crime and sentenced to incarceration.

If an employer asks about a sealed criminal record, the job applicant may respond “no record.” Employers are also forbidden (like any power holder with respect to the applicant) from “requesting or requiring” the CORI subject to obtain and give his CORI to the power holder. Of course, these provisions are difficult to enforce and some CORI subjects may not be aware of their rights. The Massachusetts Law Reform Institute suggests that the job applicant ask the employer to share the CORI report the employer gets with the CORI subject in order to compare to the CORI report the applicant may have gotten on him or herself. This provides for an accuracy check and some level of due process for the applicant.

There are serious problems, however, in this area of disclosure on the part of a job applicant. Claiming one’s “rights” in discussion about CORI or presenting a “sealed record” generally creates such a poor impression that a decision to hire is avoided on the part of the company concerned. The apparent ease with which an employer is able to gain access to an applicant’s CORI record, moreover, also turns an individual’s privacy protection under the CORI reporting law into a mockery.

## **Housing Stories...**

The Project Independence clients who have a positive CORI also have extraordinary difficulties in securing public housing and housing subsidies. For example, in the public housing arena, Public Housing Authorities have implemented “one strike and you’re out regulations,” which may prohibit the admission of a household if any member “has engaged in during a reasonable time before the admissions decision” drug-related or violent criminal activity or criminal activity which would threaten health, safety or peace of other residents, the Public Housing Authority or its employees or contractors.<sup>5</sup>

In the employment area, there are special CORI-related rules for subjects seeking a state-funded health and human services job in programs operated or funded by Massachusetts state agencies under the Executive Office of Health and Human Services (EOHHS). Known as “Procedure 001”, this 1996 EOHHS directive required all agencies and some 1,200 providers of health and human services, which had contracts with those agencies, to do a CORI check on an applicant (or volunteer) who might interact with clients. A positive CORI bars, for varying lengths of time, certain subjects from ever obtaining a human services position in the public sector. Separate categories of crimes were developed including a lifetime ban for those individuals who had been convicted of serious (i.e., violent, person) offenses.

This broad directive had the impact of disqualifying individuals from working in human services even when based on the presumption that they were dangerous for certain arbitrary waiting periods (i.e., 5 years, 10 years or forever).

Ernest Winsor, Director of the Massachusetts Law Reform Institute, has characterized CORI as easy access information on the history of and whatever is applicable on each criminal charge from the point of arrest, through court proceedings, probation, incarceration, discharge, and parole. It should be noted that any CORI report that the CHSB provides to a CORI-approved requester, be it an organization or person, contains only court-generated information. In short, there is nothing in the database about arrests or when the person was released from jail or prison or discharged from parole. Individuals wanting that type of information must separately contact the criminal justice agency which created it, such as the police, corrections, or parole. For example, individuals wanting access to the disciplinary history of a formerly incarcerated individual must contact the Department of Corrections with such a request. There are no laws, however, which require that those agencies supply such information to the requester.

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<sup>5</sup> A private landlord may do a CORI check but is not required to do so.

## **Recommendations...**

In conclusion, the CORI process has become a **means of actually increasing chronic homelessness** through an unexamined attitude towards persons with a positive CORI who are making a sincere effort to rehabilitate themselves and take their place once more in society through employment and securing permanent housing.

A second *Research Brief* in this project will examine needed reforms to make CORI reporting more equitable and realistic to serve the purpose for which it was designed: protecting vulnerable populations from those whose past actions may, but not necessarily, indicate the possibility of a potential for abuse. This second *Brief* will also make recommendations as to how concerned and educated citizens might assist these individuals to secure the employment and housing that they so earnestly desire after a life of incarceration, living on the streets and in the emergency shelter system of large cities and towns.

## ***Part II***

*The next **Research Brief** in this study will make recommendations for the future and outline Case Management strategies for assisting individuals who are chronically homeless and have a positive CORI to secure employment and housing.*

Comments on this Research Brief are encouraged.

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