



Criminal Record Review Board

Annual Report

July 1, 2017 – June 30, 2018

Commonwealth of Massachusetts
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Background

The Criminal Record Review Board was formed in August 2010 as a result of Chapter 256 of the Acts of 2010. More commonly known as the CORI Reform Law, the statute required the formation of an eighteen member Criminal Record Review Board (CRRB), which was to replace the Criminal History Systems Board (see Appendix A for the full text of M.G.L. c.6, § 168). The mission of the CRRB is to review and investigate complaints alleging violation of the CORI law and/or regulations and to issue appropriate findings. The CRRB is authorized to issue civil and administrative sanctions including but not limited to, civil fines of up to \$5,000.00 for each offense and/or revocation or suspension of CORI access.

The Massachusetts Department of Criminal Justice Information Services (DCJIS) provides legal and administrative support to the CRRB. All complaints are initially reviewed by the DCJIS' Office of the General Counsel (OGC). Complaints that meet the filing requirements are then assigned to a DCJIS staff attorney for investigation. Separate processes are followed for incorrect CORI complaints versus complaints alleging improper access to, and/or dissemination of, Criminal Justice Information System (CJIS) data and/or violations of laws or regulations pertaining to CORI.

Incorrect CORI complaints are reviewed by the DCJIS OGC. The DCJIS accepts complaints for review that allege inaccurate CORI data. It should be noted that only the Court or the Office of the Commissioner of Probation have the authority to change or update information on the CORI record. Therefore, the DCJIS' ability to fully resolve complaints related to incorrect CORI issues is limited. The DCJIS actively assists individuals that file incorrect CORI complaints by researching the discrepancy and requesting court docket sheets and/or other police records that may assist the individual with correcting the CORI. If the DCJIS finds these documents show that the CORI may include inaccurate information, the DCJIS will contact the Office of the Commissioner of Probation on the complainant's behalf to request that the record be updated. The DCJIS then informs the applicant of the outcome of this inquiry. In some cases, an individual may need to appear in person at the court or may need to be fingerprinted to distinguish him or herself from the information in the record. These types of cases are referred to below as "unresolved" because the individual will need to take further steps to resolve the alleged inaccuracy on the CORI.

Complaints alleging CORI, CJIS, or Regulatory violations are reviewed by the OGC. Complaints that meet the filing requirements are assigned for investigation to a staff attorney. When an investigation pertaining to an allegation of a CORI law or regulation violation is completed, an investigative report is prepared and presented to the CRRB for review. The CRRB reviews the report, the complaint, and all supporting documentation and determines whether a show cause order should issue against any parties that allegedly have violated the laws or regulations. If a show cause order is issued, the complaint is also assigned to either a Hearing Officer or Subcommittee for hearing. The party is notified of the show cause order and provided an opportunity to respond to the allegations. A hearing is then scheduled to consider the complaint. In some cases, upon agreement of the parties, a complaint may be resolved through a consent agreement in lieu of a hearing, whereby the parties agree to certain findings or sanctions. All consent agreements are reviewed by the CRRB and a vote is taken on whether to approve the agreement. When a complaint proceeds to a hearing, findings are prepared and a formal order and decision of the Hearing Officer or Subcommittee is presented to the CRRB. A vote is then

taken to determine whether to approve the order and decision.

Complaint Activity for State Fiscal Year 2018

The table below shows the complaint activity for State Fiscal Year (SFY) 2018. In total, the DCJIS/CRRB processed 61 complaints. Of this number 85% were closed. The other complaints were still under review at the start of SFY-19.

Activity Type	Count
Violation Complaints Received *	16
Violation Complaints Closed	15
a. Violations found but no fines issued	3
b. Violations found and fines issued	1
c. No violations found - dismissed	5
d. Closed upon satisfaction of conditions	6
Complaints Received Alleging Incorrect CORI Data*	45
Incorrect CORI Complaints Closed	37
a. Complaints resolved	17
b. Complaint which were unable to be resolved**	20
c. Pending	8

*Total complaints may not correspond with numbers shown in individual categories as a complaint disposition could be pending investigation or could fall within more than one category.

**Unresolved complaints are usually the result of the lack of available information with which to prove or disprove that CORI belongs to the complainant.

APPENDIX A

Full text of M.G.L. c.6, s.168

(a) There shall be a criminal record review board within the department of criminal justice information services consisting of the following persons: the secretary of public safety and security, who shall serve as chair, the attorney general, the secretary of labor and workforce development, the chair of the Massachusetts sentencing commission, the chief counsel for the committee for public counsel services, the chair of the parole board, the commissioner of correction, the commissioner of probation, the commissioner of youth services, the colonel of state police and the presidents of the Massachusetts District Attorneys Association, the Massachusetts Sheriffs' Association and the Massachusetts Chiefs of Police Association, or their designees, all of whom shall serve ex officio, and 5 persons to be appointed by the governor, 1 of whom shall represent private users of criminal offender record information, 1 of whom shall be a victim of crime, 1 of whom shall have experience in the areas of workforce development or ex-offender rehabilitation and 2 of whom shall be persons who have experience in issues relating to personal privacy. Upon the expiration of the term of any appointive member, his successor shall be appointed in a like manner for a term of 3 years.

The chair shall hold regular meetings, 1 of which shall be an annual meeting, and shall notify all board members of the time and place of all meetings. Special meetings may be called at any time by a majority of the board members and shall be called by the chair upon written application of 9 or more members. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties.

(b) The board may hear complaints and investigate any incidents alleging that a person that has requested or received criminal offender record information has failed to provide the subject with the criminal offender record information in his possession prior to questioning the subject about his criminal history in connection with a decision regarding employment, volunteer opportunities, housing or professional licensing or in connection with an adverse decision on such an application on the basis of the criminal offender record information. The board may hear complaints and investigate any incidents alleging any other violation of sections 168 to 178A, inclusive, or violation of board rules and regulations. The board may charge and collect a fee, established by the secretary, as a condition for filing a complaint, which fee may be waived upon a finding of indigency. Any complaint filed with the board shall be supported by a written declaration by the complainant that it is made under the penalties of perjury. An answer filed by a responding party shall be signed under the penalties of perjury by an individual with personal knowledge of its contents. In conducting investigations and hearings, the board, or department staff designated by the board, shall have the power to summons witnesses, compel their attendance and testimony, require the production of books, records and documents, administer oaths and have access to all criminal offender record information. The chair of the board may appoint a member, panel of 3 board members or a hearing officer to conduct hearings, according to the standard rules of adjudicatory procedure or other rules which the department may adopt, in consultation with the board. Following review of a complaint by a member, panel or hearing officer, the board, by a vote of two-thirds of the members present and voting, shall issue a ruling as to the findings of the board. In accordance with its findings, the board may issue orders and sanctions enforcing this section and the board's rules and regulations, including, but not limited to, a remand for additional fact finding, the imposition of civil fines payable to the commonwealth not to exceed \$5,000 for each knowing violation and conditions on continued access to criminal offender record information or revocation of access; provided, however, that the board shall not issue any orders, sanctions or fines against a law enforcement officer who, in good faith, obtains or seeks to obtain, or communicates or seeks to communicate criminal offender record information in the furtherance of the officer's official duties. The board may at any time refer a complaint for criminal prosecution under section 178 of this chapter.

The board shall make an annual report of the volume and disposition of complaints without identifying data on any complainant or other information that would include criminal offender record information relative to any person reviewed by the board to the governor and file a copy thereof with the state secretary, the attorney general, the clerk of the house of representatives and the clerk of the senate. The annual report shall also be available to the public upon request.