

Massachusetts Trial Court
Office of the Commissioner of Probation
One Ashburton Place
Boston, MA 02108-1612


JOHN J. O'BRIEN
COMMISSIONER

TEL: (617) 727-5300
FAX: (617) 727-8483

**STANDARDS FOR CERTAIN OFFICE POLICIES AND PROCEDURES
FOR THE PROBATION OFFICES OF THE
SUPERIOR COURT DEPARTMENT,
PROBATE AND FAMILY COURT DEPARTMENT,
DISTRICT COURT DEPARTMENT,
BOSTON MUNICIPAL COURT DEPARTMENT
AND THE
JUVENILE COURT DEPARTMENT**

Pursuant to Massachusetts General Laws, Chapter 276, Section 99, as amended, the following standards and procedures, approved by the Chief Justice for Administration and Management of the Trial Court, are hereby established by the Commissioner of Probation, effective November 17, 2005.

11/2/05
Date


John J. O'Brien
Commissioner of Probation

FOREWARD

Recognition and appreciation are given to the members of the Chief Probation Officer Association Education Committee who diligently worked with the Commissioner of Probation and his staff to provide proposed standards for procedures to be used in local offices.

CPO Association Education Committee

H. James Kazeniac, Ayer District Court (Past President), *David A. Parke*, Barnstable District Court (President), *Joseph Hassett, Jr.*, Barnstable Superior Court, *Jean-Ellen Ouellette-Kenney*, Brockton District Court, *Rita F. McCarthy*, Dedham District Court, *Sophia C. O'Brien*, Middlesex Probate & Family Court, *Patricia Kane*, Newburyport District Court, *Ellen G. Slaney*, Office of the Commissioner of Probation, *Michael A. Walsh*, Quincy District Court, *Robert D. Trostel*, Stoughton District Court, and *James W. Minton*, former Chief Probation Officer, Brookline Division of the District Court Department.



Statement of Purpose

The purpose of these standards*, rules procedures and forms is to effect certain uniform practices in and efficient administration of all probation offices.

1:00 Statement of Roles

The Chief Probation Officer** is responsible for implementing, monitoring and establishing written local policies which govern probation office procedures established by the Commissioner of Probation and such rules and directives of other authority as they pertain to probation officer procedures.

The First Assistant Chief Probation Officer is responsible for performing those functions, with respect to these standards, that are delegated to him/her by the Chief Probation Officer.

The Assistant Chief Probation Officer under the direction of the Chief Probation Officer is responsible for training and supervising the Probation Officers, Associate Probation Officers and support staff in the implementation of these standards governing probation office procedures.

All probation office personnel are responsible for carrying out probation office procedures as set forth in these standards and in the local policy and procedures, and as assigned by the Chief Probation Officer.

* For the purpose of these standards, "standards" shall hereinafter refer to standards, rules, procedures and forms.

**The responsibility set forth in these standards as applicable to the Chief Probation Officer shall be applicable to the Probation Officer In Charge in the Winchendon, Edgartown, and Nantucket Divisions.

2:00 Task Assignment

2:01 The Chief Probation Officer shall schedule and assign probation office tasks unless otherwise directed by the Office of the Commissioner of Probation. These tasks may include, but not be limited to:

- | | |
|-----------------------------------|------------------------------------|
| 1. Personnel Supervision | 2. Investigation |
| 3. Case Supervision | 4. Dispute Intervention |
| 5. Collections | 6. Community Supervision |
| 7. Drug Screening Offenders | 8. Community Service |
| 9. Courtroom Coverage | 10. Office Coverage |
| 11. Record Keeping | 12. Security |
| 13. Collection of Statistics | 14. Program Development |
| 15. Warrant Apprehension | 16. Electronic Monitoring |
| 17. Intake/Indigency Verification | 18. Staff Training and Development |

19. Any other tasks deemed appropriate to meet the operational needs of the court and that are consistent with the collective bargaining agreement [s].

- 2:02 The Chief Probation Officer shall be responsible for insuring that scheduled operating hours of the probation office are maintained. The Chief Probation Officer shall have a written local office policy defining the operating hours of the local probation office in compliance with the Trial Court Policies and Procedures Manual, the Trial Court Internal Controls and Guidelines, applicable Union Contracts, and Policies of the Office of the Commissioner of Probation.
- 2:03 The Chief Probation Officer shall assign overall responsibility for office operations during his/her absence, unless otherwise directed by the Office of the Commissioner of Probation.
- 2:04 The Chief Probation Officer shall develop and be responsible for written local policy insuring that probation personnel are conducting approved probation business while working off site.
- 2:05 The Chief Probation Officer shall establish and maintain a Master Assignment System for all cases assigned to probation officers.
- 2:06 The Assistant Chief Probation Officer* under the direction of the Chief Probation Officer, shall be responsible for monitoring a case tracking system for all cases assigned to each probation officer under his/her supervision.

* In offices where there is no Assistant Chief Probation Officer, the Chief Probation Officer shall be responsible for the respective task.

Commentary:

As Department Head, the Chief Probation Officer exercises case flow control within the office. The intent of the master assignment and case tracking systems is to provide management instruments for the CPO or his/her designee to insure the following:

- 1. The timely assignment of all probation officer supervision cases;
- 2. The development of management information regarding case flow;
- 3. Maintenance of a reliable database and submission of monthly statistics as required;
- 4. Tracking all due dates for the review of cases assigned to probation officers.

3:00 Court Activity Record Information (CARI) and Probation Case Files

General Responsibility:

- 3:01 The Chief Probation Officer shall be responsible for the maintenance of all probation court activity record information and probation case files as required by the Commissioner of Probation.

Probation Court Activity Record Information "CARI"

- 3:02 A probation court activity record shall be maintained for all persons/corporations appearing before the court for criminal, youthful offenders or delinquent matters. Other data entries shall be made for CHINS, Care & Protection, Restraining Orders, complaints or petitions both civil and criminal as well as special CARI markers as directed by the Commissioner of Probation. (see CARI manual)
- 3:03 The Chief Probation Officer shall develop a written office policy regarding the protocol and dissemination of the subsequent offender activity reports (SOARS) and police department queries. (PDQ). Such policy shall comply with the directives issued by the Office of the Commissioner of Probation.
- 3:04 Upon request, the Chief Probation Officer or his/her designee, shall determine under which statute a record may be sealed including MGL 276 sections 100A, 100B, 100C, MGL c.94C, ss 34 and 44 and Globe Newspaper v. Pokaski, 868 F. 2nd 497, 1989.
- 3:05 After a conviction, when the court orders an unsealing of a record, the Chief Probation Officer shall notify the Office Commissioner of Probation, CARI Unit. [MGL chapter 276 section 100A]
- 3:06 When an expungement of a record is ordered, all pertinent information and supporting documents must be forwarded to the Legal Division of the Office of the Commissioner of Probation. Motions to expunge records received by or which come to the attention of the Chief Probation Officer shall be forwarded immediately to the Legal Division of the Office of the Commissioner of Probation.
- 3:07 A probation case file shall be maintained for each person assigned to probation supervision. Contents of the file shall be in compliance with the Office of the Commissioner of Probation supervision standards. Once the case has been terminated the case file shall be maintained in accordance with record retention standards.

Commentary:

The probation case folder is required to preserve the history and record of the offender's court appearances, response to court orders and probation supervision outcomes. As such, the probation case folder information excluding sex offenders and OUI offenders may be destroyed after ten years, only under such terms set forth by the Commissioner of Probation; at the direction of the Chief Administrative Justice, as described in the Destruction of Case Folder Information Memorandum dated January 12, 1981. Administrative Bulletin 81-1. OUI and sex offender case files shall be retained by the supervising court for the purpose of responding to inquiries concerning the look back period for OUI in proving a subsequent offense, and, responding to the Sex Offender Registry Board for sex offenders in accordance with the statutory obligation in sharing information. Once the required 10-year retention has been met, sex offender and OUI case folders may be stored offsite.

4:00 Management Information Systems

- 4:01 The Chief Probation Officer shall maintain and distribute to staff all administrative directives and standards promulgated by the Commissioner of Probation.
- 4:02 The Chief Probation Officer shall maintain and distribute to staff administrative directives and standards promulgated by other authorities.
- 4:03 The Chief Probation Officer shall disseminate the directives and procedures that he/she develops to appropriate probation personnel.
- 4:04 The Chief Probation Officer shall insure that a current and updated copy of the Official Manual of the Massachusetts Probation Service is made available.
- 4:05 The Chief Probation Officer shall attend meetings as scheduled by the Commissioner of Probation or his designee.

Requests for Transmittal of Information

- 4:06 The Chief Probation Officer shall provide such information as requested from the Office of the Commissioner of Probation.

Office Supplies

- 4:07 The Chief Probation Officer or designee shall maintain a current inventory of all office supplies, forms and equipment. A needs assessment of probation office forms and supplies shall be conducted annually. As needed he/she shall requisition such forms and supplies from the Office of the Commissioner of Probation.

Personnel

- 4:08 The Chief Probation Officer shall provide written notice to the Director of Personnel, Office of the Commissioner of Probation on any changes of probation department personnel such as resignations, retirements, leaves of absence with or without pay, name changes, change of address, death of an employee, and military status.
- 4:09 Any requests for information contained in the official personnel file shall be directed to the Personnel Director of the Office of the Commissioner of Probation.

Notice of Litigation

- 4:10 The Chief Probation Officer shall ensure that allegations of criminal conduct by probation personnel or notice of litigation involving probation personnel shall be directed to the Office of the Commissioner of Probation, Legal Division. [Personnel Policies and Procedures Manual of the Trial Court section 20.000 and 20.100 and Memo/Cochran dated July 13, 1988.]

Identification Cards

- 4:11 All probation department personnel shall have an identification card issued by the Administrative Office of the Trial Court. In addition, the Chief Probation Officer shall insure that each Probation Officer shall have Massachusetts Probation Officer Identification Credentials. The Chief Probation Officer shall insure that such identification is retrieved and returned to the Office of the Commissioner of Probation from probation department personnel when their employment has terminated.
- 4:12 The Chief Probation Officer shall report all lost or stolen identification credentials to the appropriate issuing authority.

Time and Attendance

- 4:13 The Chief Probation Officer or his/her designee shall maintain accurate attendance, daily time logs, weekly time and attendance sheets, and reconcile biweekly with the HRCMS time log with the Office of the Commissioner of Probation. The Chief Probation Officer or his/her designee shall ensure that staff complete daily time and field logs.

Commentary:

As to standard 4:00, best professional practice recommends that probation personnel be required to sign for all directives, standards, policies and procedures.

5:00 Release of Information

Release of Offender Record Information (Adult and Juvenile)

- 5:01 The Chief Probation Officer shall insure that all probation office personnel receive a copy of MGL chapter 6, sections 177 and 178 and sign the Statement of Non-Disclosure. The Chief Probation Officer shall retain a signed copy of the statement and forward a copy to the Office of the Commissioner of Probation (Director of Personnel).
- 5:02 Volunteers, students, federally funded workers, vendors, and/or consultants who have or may have access to offender record information shall be subject to the requirements of Standard 5:01. The Chief Probation Officer shall retain these signed non-disclosure forms.
- 5:03 The Chief Probation Officer or his/her designee upon notification by the Office of the Clerk Magistrate of the application, continuance or review of a 209A petition, and as requested by the court shall provide a copy of the CARI. All copies shall be retrieved from the Clerk Magistrate's office upon completion of review process.
- 5:04 The release of CARI information and Domestic Violence Registry information to the Clerk Magistrate at the show cause hearing shall be for the sole purpose of determining if imminent threat of bodily injury exists and shall be in accordance with statutory authority under MGL Chapter 218 section 35 A.
- 5:05 The Chief Probation Officer shall provide the Clerk Magistrate or his/her designee the opportunity to consider the Criminal Activity Record Information (CARI) for the purpose of issuing warrants for the apprehension of an individual.
- 5:06 The CPO shall ensure that all requests for CARI pursuant to the Rules of Criminal Procedure, Rule 14 Pre-Trial Discovery shall be processed. [Memo/O'Brien, September 15, 2004]
- 5:07 Upon receipt of a subpoena for a probation officer, the Chief Probation Officer or his/her designee shall notify the General Counsel of the Trial Court and the Legal Division of the Office of the Commissioner of Probation. [Trial Court/ Uniform Rules on Subpoenas to Court Officials. Rule IX]
- 5:08 The Chief Probation Officer shall establish written procedures for probation officers to obtain the signed consent of an offender to release his/her case folder information. Said information shall be released to a specified person or agency and the purpose for the release of information shall be noted on the consent form.

- 5:09 The Chief Probation Officer or his/her designee, shall process all requests by the offender for release of probation case folder information and shall review such case folder. If, in the opinion of the Chief Probation Officer or his/her designee, the release of this information or any part thereof may result in harm or injury to any person, the Chief Probation Officer shall recommend that the information be withheld. All such requests and actions may be referred to the court for further review.
- 5:10 The Chief Probation Officer or his/her designee shall release all case folder information to the Sex Offender Registry Board including chronological notes. [Memo/ O'Brien, June 21, 2000]

Commentary:

As to standard 5:02, consent to criminal record check, Form 23 shall be completed and forwarded to the CARI Unit for record query.

The Chief Probation Officer may request a CARI password for probation personnel by contacting the CARI Division within the Office of the Commissioner of Probation and may designate the appropriate level of clearance. Upon termination of an employee who has been designated a password, the CPO or his/her designee shall inform the CARI Division of such termination. All probation personnel shall execute a non-disclosure form and shall receive a copy of MGL chapter 6 sections 177 and 178. The signed original non-disclosure form shall be forwarded to the Director of Personnel at the Office of the Commissioner of Probation.

Standard 5:08 refers to the dissemination of a probationer's case folder information to a person/agency being asked to provide services for the probationer. The probationer shall be required to sign a consent form for the dissemination. This insures that the probationer is aware that certain information is being released, the purpose for the release, and the person/agency receiving the information. Whether the information is given verbally or in written form, the person/agency should be cautioned that the information is not to be further disclosed to any other party. Information will be released consistent with the MGL chapter 258B and the Media Information Guidelines of the Office of the Commissioner of Probation.

If the offender is a juvenile, the parent/guardian should also sign the consent form.

Where the offender, adult or juvenile, or the parent/guardian refuse to sign the consent form, such refusal should be documented in the case folder and the case returned to court for additional direction by the court.

A consent for the Release of Information Form is included in the Appendix and may be used to meet the minimum requirements of Standard 5:08.

In Standard 5:09, the Chief Probation Officer in consultation with the [First] Justice shall establish the procedure by which the court indicates his/her review of the action taken by the Chief Probation Officer prior to the release of case folder information. Any release of case file information shall be noted in the probation case file.

As to standard 5:10, and as this standard relates to the case files of juvenile offender dissemination to the Sex Offender Registry Board, the Memorandum of Understanding between the Chief Justice for Administration and Management and the Sex Offender Registry Board serves as the guiding principle. [{Memorandum of Understanding} December 05, 2002]

The sex offender statute established a process whereby a sex offender scheduled to be released from incarceration may be civilly committed to a treatment center if the offender is determined to be "sexually dangerous". Pursuant to MGL chapter 74, the court may make probation files, among other information available to the appointed medical examiners. [Memo/O'Brien, November 15, 1999, Civil Commitment of the Sexually Dangerous]

With respect to the Probate & Family Court Department, the attorney/litigant may request permission of the court to review reports from specified consultants/agencies. The release of such information must be authorized by the court. Such authorization must be noted in the probation case folder.

The request for Probation Case Folder information, in the Appendix, may be used to implement Standard 5:09.

6:00 Security

Security Administration

- 6:01 The Chief Probation Officer shall insure that all probation records and case folders are properly secured in accordance with the Administrative Office of the Trial Court Information Technology Department and the Office of the Commissioner of Probation Security Protocols. [CARI Manual]
- 6:02 The Chief Probation Officer shall insure that probation record information and probation case folder information are accessible within the court house for the use of the court or other authorized personnel.

- 6:03 The Chief Probation Officer shall insure that any sealed record information will be maintained in a secured area.
- 6:04 The Chief Probation Officer shall maintain and insure that local probation personnel files are secure and stored in a locked enclosure under the direct control of the Chief Probation Officer or his/her designee.
- 6:05 The Chief Probation Officer shall insure that all monies (cash, checks, money orders, etc.) received and on hand, bookkeeping ledgers, and check writing systems are maintained in a secure area and stored in an enclosure. Such enclosure shall be locked at the conclusion of the business day or when unattended by authorized personnel. [Fiscal Policies and Procedures Manual/ Administrative Office of the Trial Court]

Commentary:

For the purpose of Standards 6:01 through 6:05, a "secure area" is defined as an area with both access and control limited to authorized personnel, such area having the capability of being locked when unattended.

For the purpose of Standards 6:01 through 6:05, an "enclosure" is defined as a structure such as a file cabinet, vault, safe or the like, which is capable of being locked, and which is maintained in a secure area.

The intent of Standard 6:02 is to insure both confidentiality and accessibility. The removal of probation record information and/or the contents of probation case folders from the court house or from the building where they are maintained should be only with the authorization of the Chief Probation Officer, with specific provisions for the timely return of those materials. Such removal must not interfere with accessibility to those materials by the court or other authorized personnel.

The provisions of Standard 6:03 are intended to be interpreted in conjunction with, and in no way contradictory to, current applicable statutory provisions, administrative regulations and /or bulletins of any administrative justice of the Trial Court relating to the sealing of probation record information and/or probation case folders.

The provisions of Standards 6:04 and 6:05 are intended to be interpreted in conjunction with, and in no way contradictory to applicable provisions of the current Personnel Policies and Procedures Manual of the Massachusetts Trial Court, and the applicable provision of any current controlling collective bargaining agreement.

7:00 Staff Development

- 7:01 The Chief Probation Officer shall be responsible for the development and the timely implementation of a training program for local office orientation of probation personnel.
- 7:02 The local probation personnel orientation training shall include at minimum the following:
- 1) Introduction of court personnel
 - 2) Description of duties
 - 3) Probation standards and guidelines
 - 4) Written local office policies
 - 5) Probation Case Law Digest
 - 6) AOTC Policy and Procedures Manual
 - 7) CARI Manual
 - 8) Fiscal Policies and Procedures
- 7:03 Prior to the expiration of the probationary period, (6 months for probation officers /associate probation officers/ 90 days for clerical) the CPO shall submit to OCP a statement that the newly hired probation personnel have been instructed in the standards promulgated by the Office of the Commissioner of Probation and in the functions to be performed. Within the probationary period, the Chief Probation Officer will make recommendations to the Office of the Commissioner of Probation regarding the performance of the newly hired probation personnel as to their appropriateness for permanent appointment consistent with the Personnel Policies and Procedures Manual of the Trial Court and the provisions of the union contracts.
- 7:04 The Chief Probation Officer or designee as he/she is trained in new or revised standards shall be responsible for providing training to appropriate probation personnel.
- 7:05 The Chief Probation Officer or designee shall annually identify, the local training needs of the probation personnel by conducting a training needs survey approved by the Office of the Commissioner of Probation. A copy of the completed survey shall be forwarded to the Director of Training at the Office of the Commissioner of Probation. As a result, Chief Probation Officer or designee shall ensure that these needs are addressed through training.
- 7:06 The Chief Probation Officer or designee shall post and circulate the Office of the Commissioner of Probation sponsored training memoranda to probation personnel. The Chief Probation Officer based on the training and staffing needs of the office shall approve attendance.

- 7:07 The Chief Probation Officer shall review each employee's training attendance at least once per year to ensure that staff is in compliance with statutory and contractual training requirements.
- 7:08 The Chief Probation Officer shall schedule and conduct, at a minimum, monthly staff meetings to disseminate information and discuss matters relevant to probation office operations. A written agenda shall be developed and circulated prior to each meeting. A summary of the meeting shall be maintained and distributed to all staff. A copy of the agenda shall be forwarded to the Regional Supervisor monthly.
- 7:09 The Chief Probation Officer shall conduct, at a minimum, monthly supervisory [First/Assistant Chief Probation Officer and Clerical] staff meetings to disseminate information and discuss matters relevant to probation office operations.

Commentary:

The Office of the Commissioner of Probation will continue to provide statewide orientation for newly hired Probation Officers within the first six months of their employment in accordance with MGL chapter 276 sections 85 and 99. The statewide orientation provides a broad overview of many probation matters and is not a substitute for local orientation, which should give detailed attention to local operations and duties.

A model format for local office orientation can be obtained by contacting the Director of Training at the Office of the Commissioner of Probation.

The Chief Probation Officer may direct training assignments for staff as deemed necessary and appropriate. Such training assignments may include local training provided by the Chief Probation Officer, (First/Assistant Chief Probation Officer), regional training arranged by the Regional Supervisor who may submit a training voucher per semester to the Director of Training, statewide training provided by the Office of the Commissioner of Probation and relevant training approved by the Chief Probation Officer.

Training attendance is available by contacting the Director of Training at the Office of the Commissioner of Probation. M.G.L. chapter 276 section 85 requires that all probation officers attend one in service training course every three years. In addition, the current union contract requires that PO II staff participate, each year, in a specifically designed and or approved training program by the Office of the Commissioner of Probation. Probation Officers who are promoted to management or supervisory positions are required to attend management training provided by the Office of the Commissioner of Probation.

MASSACHUSETTS PROBATION SERVICE

_____ Division of the _____ Court Department

CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I, _____ authorize the _____
(Name)

(person/agency)

(address)

to release the following information: _____

to: _____
(person/agency)

(address)

for the purpose of: _____

I understand that by law I need not consent to the release of this information. However, I choose to do so voluntarily for the purpose specified above.

Probation Officer [Witness]

Signature of Releasee

Date

Relation to Signatory

MASSACHUSETTS PROBATION SERVICE

_____ Division of the _____ Court Department

REQUEST FOR PROBATION CASE FOLDER INFORMATION

Date: _____

I, _____ request access to the information contained in my
(Name)

probation case folder this _____ day of _____, 20____.
(month)

(address)

Signature)

Do Not Write Below This Line - Probation Office Use Only

Do Not Detach

Action Taken by the Chief Probation Officer:

_____ Request Approved

_____ Request Denied

_____ Request approved with the following exceptions:

Date: _____ Signed _____
Chief Probation Officer

Above Action reviewed and approved:

Date: _____ Signed _____
Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
CONSENT TO CRIMINAL RECORD CHECK

Section I To be completed by final candidate

I understand that in order to be employed in the Massachusetts Trial Court, I must submit to a criminal record check. Therefore, the information below is willingly supplied by me, and my signature indicates my permission for this record check to be completed.

PLEASE PRINT

Name _____

Date of birth _____

Maiden Name (If Applicable) _____

Social Security Number _____

Mother's Maiden Name _____

Father's Name _____

Signature

Date

Section II To be completed by the Office of the Commissioner of Probation

Record check does comply with *Personnel Policies and Procedures Manual*.

Record check does not comply with *Personnel Policies and Procedures Manual*.

Signature

Date




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Office of the Commissioner of Probation
One Ashburton Place
Boston, MA 02108-1612

JOHN J. O'BRIEN
COMMISSIONER

TEL: (617) 727-5300
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TO: Chief Probation Officers, Probation Officers in Charge, of the Superior,
District, Boston Municipal and Juvenile Court Departments

FROM:  John J. O'Brien, Commissioner

DATE: September 15, 2004

RE: Guidelines Relative to the New Pre Trial Discovery Rule

On March 8, 2004, the Massachusetts Supreme Judicial Court amended Rule 14 of the Massachusetts Rules of Criminal Procedure, regarding pretrial discovery. The amendment to Rule 14 directly affects how this Office will disseminate information during the pretrial discovery stage of a criminal complaint. Please be aware that the amendment took effect on September 7, 2004. The amendment is designed to mirror the federal counterpart regarding full disclosure of discovery materials in criminal cases.

The Amended Rule states that a judge will order the prosecution to present its prospective witness list to the defense and that the Probation Department will provide the CARI records of any such witnesses to the parties. The Commonwealth will provide a list of all of the anticipated witnesses to both the defendant's counsel and the Probation Department. *Upon Order of the Court*, the Probation Department shall provide copies of the Court Activity Record Information records concerning witnesses on the list to defense counsel and the Commonwealth. The probation department has only **five (5) days** after *receiving the order* to provide the information.

Accordingly, the Chief Probation Officer, or designee, shall create and regularly update a log of witnesses whose CARI information was disseminated by probation. The log should include the name of the witness, the PCF number, the case name associated with the witness list and the date of the order. In addition, a copy of each witness list should be retained for your records, then destroyed after disposition of the case.

Thank you for your hard work in complying with the Amended Rule.



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JOHN J. O'BRIEN
COMMISSIONER

TEL: (617) 727-5300
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FIELD SERVICES DIVISION

MEMORANDUM

TO: Chief Probation Officers - All Court Departments
FROM: Elizabeth Tavares, Second Deputy Commissioner
DATE: September 24, 2004
RE: Prosecution on a Rule 14 Pre-Trial Discovery

We have had several inquiries concerning what Court Activity Record Information to release when responding to the pre-trial discovery under Rule 14 of the Rules of Criminal Procedure.

The CARI to be released on *defendants* shall consist of the criminal, youthful offender, juvenile and civil restraining order record. Unless otherwise ordered by the court, the CARI to be released on *witnesses* shall consist of the criminal, youthful offender and juvenile record only.

Should you have any questions please contact the Legal Department at (617) 727-5300.

cc: Deputy Commissioners
Regional Supervisors



COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Trial Court of the Commonwealth
District Court Department
Salem Division
Docket No. _____

Commonwealth

vs.

Order of Records Production
Rule 14, Massachusetts Rules of Criminal Procedure

To the Probation Department:

Pursuant to Rule 14 of the Massachusetts Rules of Criminal Procedure, the Court Activity Record Information (CARI) of the below-listed defendants/witnesses in the above-captioned matter shall be delivered to the District Attorney and Defense Counsel of record. As provided by applicable law, this information shall only be used in the preparation and trial of this matter and shall be so maintained by the parties and shall not be distributed or disclosed to any third parties in violation of applicable law and administrative regulations of the Criminal History Systems Board. A copy of this order duly endorsed by defense counsel and District Attorney shall constitute certification by them that the records sought hereunder are necessary as such and that they shall be so maintained by them in compliance with applicable law.

By The Court: Hon. Robert A. Cornetta, First Justice

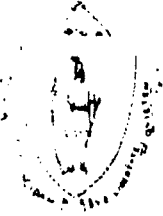
RECORDS SOUGHT:

Name:	Date of Birth:	Address:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Certification:

Defense Counsel of Record

(Assistant District Attorney)



MASSACHUSETTS TRIAL COURT
OFFICE OF COMMISSIONER OF PROBATION
ONE ASHBURTON PLACE
BOSTON, MA 02108

DONALD COCHRAN
COMMISSIONER

(617) 727-5300

93-1

TO: All Chief Probation Officers/Probation Officers-In-Charge of the Superior Court, District Court, Boston Municipal Court, and Juvenile Court Departments

FROM: Commissioner Donald Cochran *DC*

DATE: January 15, 1993

RE: SEALED RECORDS

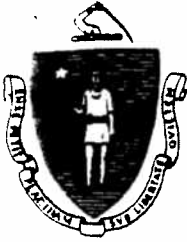
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This memo is to reaffirm the long established policy regarding sealed records.

All court orders for Court Activity Record Information (CARI) as contained in the Massachusetts Probation Central File (PCF) of the Massachusetts Office of the Commissioner of Probation (OCP) are honored in accordance with pertinent Massachusetts laws and regulations.

In response to court request for the record (juvenile and/or criminal) of a defendant before the court, PCF will provide all available court record information except CARI which has been sealed in accordance with Massachusetts General Laws C. 276 Section 100 A, 100B, 100C and C. 94c. Sections 34, and 44. Any record information which has been sealed will be reported to the court as "sealed record" until/unless the court makes a finding of Guilty in the case before it. At that time PCF will "break the seal" and provide the court the record information contained therein and will immediately thereafter cause the record information to be resealed.

All requests under the above shall continue to be honored only when the inquiry comes directly from the Chief Probation Officer or in his/her absence the person who is in charge of the office on the date the inquiry is made to Probation Central File. The inquiry should be made to the sealing section (presently managed by Joe Holmes).



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BOSTON, MA 02108-1612

DONALD COCHRAN
COMMISSIONER

(617) 727-5300

92-3

M E M O R A N D U M

TO: All Chief Probation Officers, Probation Officers-In-Charge in the Superior Court, District Court, Boston Municipal Court, Probate and Family Court, and Juvenile Court Departments

FROM: Donald Cochran, Commissioner *DC*

DATE: May 15, 1992

RE: CRIMINAL OFFENDER RECORD INFORMATION (CORI) LAW CHANGES

As you have been previously informed, St. 1990 Ch. 319 of Massachusetts General Law made significant changes to the Criminal Offender Record Information (CORI) Law. The major changes to the law will take effect July 1, 1992.

At the end of the work day of June 30, 1992, the booth at the Office of the Commissioner of Probation will be permanently closed. Anyone seeking a copy of his/her Criminal Offender Record should thereafter be directed to telephone the Criminal History Systems Board (CHSB) in Boston at (617) 727-0090. Because of the complexity of the law, and also because a person's criminal record at the CHSB will contain police, corrections, jail and parole information, the PCF record cannot be considered as the person's full criminal record.

The information in the Probation Central File (PCF) contains only the person's Court Activity Record Information (CARI) and is intended to be used to and so continue to service the courts of the Commonwealth.

The police departments and the District Attorneys' offices continue to have direct and unqualified access to the computerized criminal offender record information database at the CHSB in Boston.

The PCF record should be used exclusively for the effective and efficient operation of the local court division. Due to the substantial reduction in probation office support staff, which results in difficulty maintaining timely and accurate information at the local probation office, I recommend, unless you receive specific orders to the contrary from the judge in your court division, that the following practices be continued:

- o A police department and/or District Attorney's office may inspect the court activity record of an individual against whom the police or District Attorney's office has brought a criminal complaint. /
- o Inspection access shall be available at a time and location designated by the chief probation officer/probation officer-in-charge.
- o The same inspection access shall be available during the same period to defense counsel.

NOTE 1: In all instances, the inspecting party shall be advised that the PCF record does not necessarily represent the individual's full criminal offender record.

I hope that along with the discussions at the CPO Meetings this memo clarifies your responsibility.