

KNOW YOUR CORI RIGHTS

SEALING AND EXPUNGEMENT OF CRIMINAL OFFENDER RECORD INFORMATION (CORI)

2018 Update after Criminal Justice Reform



Photo courtesy of the Boston Workers Alliance

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IMPORTANT. This information is provided as a public service by Greater Boston Legal Services and does not constitute legal advice which can only be given to you after a consultation with your own attorney. This information relates only to Massachusetts state court criminal and juvenile records and Massachusetts laws in effect as of October 13, 2018 when these materials were last updated. You may photocopy and distribute this document.

WHAT IS CORI AND HOW TO GET YOUR CORI REPORT

1. What is Criminal Offender Record Information (CORI)?

Criminal offender record information (CORI) is a person's criminal record history. Your CORI report is a summary of all your criminal cases in the Massachusetts state courts. CORI does not include restraining order cases or non-criminal matters such as Department of Children and Families "51A" reports of child abuse or neglect. However, a criminal case may be filed if a restraining order is violated or a child is abused.

Criminal records make it hard to find a job, get housing or to get ahead. It is important to find out what is on your CORI report and whether the cases may be sealed.

2. Do I have a criminal record if I was found "not guilty" or my case was dismissed?

Yes. Criminal cases that end in your favor still leave you with a criminal record.

3. Where can I get a copy of my CORI report?

Getting a copy of your CORI report is an important first step in the process of learning about your rights. You can get copy of your CORI report from the Department of Criminal Justice Information (DCJIS), the state agency charged with responding to requests from employers and others who want to check a person's criminal record history. If you have a Massachusetts driver's license or a Massachusetts ID card, you can request your CORI report online from DCJIS at: <http://www.mass.gov/eopss/agencies/dcjis/>

You also may request a CORI report by mailing a notarized CORI request form to DCJIS with a money order for \$25. If you are indigent, the fee can be waived if you also send in an Affidavit of Indigency. These forms appear at the end of these materials and are available online with self-help instructions under CORI at: https://www.gbls.org/cori_record_sealing_booklets.

SEALING RECORDS

4. How do I seal my criminal records?

Most criminal records can be sealed eventually through an administrative process by mail after a waiting period, or by a judge without waiting.

Administrative Sealing Process by Mail

The administrative process involves filling in a form and mailing or delivering it to the Office of the Commissioner of Probation after a waiting period. In 2018, the Governor signed legislation which reduced the waiting period to seal a misdemeanor to 3 years and for a felony to 7 years. Cases where you were found guilty can only be sealed through this administrative process, except for a first time drug possession conviction. Cases that ended in a "not guilty" finding, a dismissal or a nolle prosequi (a

prosecutor dropped the case) also can be sealed by mail after the same waiting periods, OR by a court after a hearing without a waiting period.

Sealing by a Court

A judge has the power to seal cases that ended in a “not guilty” finding, a dismissal or a nolle Prosequi (meaning the prosecutor dropped the case) without any waiting period. Judges also have the power to seal a first time drug possession conviction as long as the person did not violate the terms of probation or other requirements ordered by the court.

5. How does the administrative process work to seal my cases by mail?

The process to seal records by mail is free and simple. You fill in, sign and mail a form after a waiting period. You can get the form from the Commissioner of Probation, One Ashburton Place, Boston, MA 02108 or on the internet at: <http://www.mass.gov/courts/probation/sealingpetition.pdf>

The form is included at the end of the materials and is available online with self-help instructions under CORI at: https://www.gbls.org/cori_record_sealing_booklets or <http://www.Masslegalhelp.org>

Important. It is very important to get certified copies of the complaint and docket sheets in each case **BEFORE** you seal your records because you may need copies in the future, especially if you are not a citizen or may apply for jobs that require a high security clearance. Questions 13, 17 and 27 discuss special concerns related to FBI checks, federal government jobs and immigration matters.

6. When do the waiting periods start if I want to seal my criminal cases by mail?

You can seal most misdemeanor cases after a 3 year waiting period and most felony cases after a 7 year waiting period. The starting time for waiting periods vary and how the process works is explained below.

Starting the CORI clock. Past probation or parole no longer add extra time to the waiting period for most cases. For any conviction, the waiting period starts from the date you were found guilty OR released from incarceration-- **whichever is later**. For example:

Joe was found guilty of a misdemeanor on May 4, 2017, was on probation for a year, and his case closed on May 15, 2018. He can seal the case by mail on May 4, 2020, 3 years after he was found guilty.

Re-starting the CORI clock. Every time you are convicted or incarcerated, the clock re-starts to add another 3 years for a misdemeanor, and 7 years for a felony. For example:

Mac was found guilty of a felony on May 17, 2011 and again on May 17, 2012, but did not serve a jail sentence. He cannot seal either case until May 17, 2019— 7 years after the last felony conviction.

Jack was found guilty of a misdemeanor and given a 1 year jail sentence on May 4, 2016. He got out of jail on May 4, 2017. He can seal his records on May 4, 2020— 3 years from his release from jail.

Non-conviction clock. If you were found “not guilty” or your case was dismissed, or ended in a “nolle prosequi” (a dropped case), the waiting period runs from the date of this “disposition.” For example:

Mae’s felony case was dismissed on October 14, 2011. A 7 year waiting year applies and she can seal it by mail on October 14, 2018. If she does not want to wait that long, she can ask a judge to seal it. Courts can seal dismissed cases or cases that ended in a nolle prosequi (a prosecutor dropped the case) or a not guilty finding without a waiting period. See Question 8.

Exception for a CWOFF (Continuance without a finding). If your case was dismissed after a CWOFF, the waiting period is shorter and starts on the CWOFF date, not the later date of dismissal. For example:

A judge entered a CWOFF in Tom’s felony case on May 1, 2012 and his case was dismissed on May 1, 2013. He can seal the case by mail on May 15, 2019— 7 years after the CWOFF. If he does not want to wait that long, he can ask a judge to seal it because courts can seal a dismissed case. See Question 8.

Convictions with Longer Waiting Periods. Certain convictions have extended waiting periods.

- Abuse prevention order and harassment order **conviction** exception. **Convictions** for violations of abuse prevention or harassment prevention orders are treated as felonies for purposes of sealing records and have a 7 year waiting period. (Dismissed cases can be sealed after 3 years).
- Sex offense conviction exception. Any **conviction** for a sex offense that required registering with the Sex Offender Registry is not eligible for sealing until 15 years *after* the very last event in the case, *including* the end of supervision, probation, parole, or release from incarceration.

Important. The felony larceny threshold has increased from \$250 to \$1200 which means larceny cases involving amounts up to \$1200 now should be sealable after only a 3 year waiting period instead of a longer 7 year felony waiting period. G.L. c. 276, §100A. Probation, however, reads the new law to not apply to sealing of larceny cases that ended before the new law took effect on April 13, 2018. If your petition to seal a larceny case involving an amount that was up to \$1200 gets denied and was treated as a felony for purposes of sealing, you can call Greater Boston Legal Services (GBLS) for assistance.

7. Are there convictions that can NEVER be sealed or limits on sealing records related to sex offenses?

Yes. There are a number of exceptions for certain types of offenses.

- **Public Justice Crime Conviction exceptions.** A **conviction** for a crime against public justice can NEVER be sealed. Resisting arrest **convictions** used to be never sealable, but the law changed on

October 13, 2018 to permit sealing of these convictions. Examples of never sealable public justice crimes include **convictions** for witness intimidation, perjury, or escape from jail.

- **Certain firearms, state ethics, conflicts of interest law exceptions.** For example, a **conviction** for bribery of an elected official can NEVER be sealed.

The public justice crimes and state ethics and conflicts of interest offenses are found in Chapters 268 and 268A of the Mass. General Laws. The never sealable firearms convictions are found in Sections 121-131H of Chapter 140 of the Mass. General Laws.

Important. Even if you have a never sealable **conviction**, you can still seal other types of cases that are eligible for sealing. Also, if your case for one of these never sealable crimes was dismissed or there was a “not guilty” finding or a nolle prosequi (dropping of the case), the case can be sealed. Only **convictions** for these charges can never be sealed.

- **Sex offense registry exception.**
A person who is presently registered as a sex offender is NOT permitted to seal cases by mail through the administrative process **if** the cases involve sex offenses. However, the person can seal other cases that are not sex offenses if these other cases meet all the requirements for sealing.
- **Level 2 and 3 sex offender status exceptions.**
Chapter 276 section 100A of the Mass. General Laws provides that any person, who is or was ever registered as a Level 2 or Level 3 sex offender, can NEVER seal convictions for certain sex offenses (*i.e.* rape, assault with intent to rape, and other offenses as defined by section 178C of Chapter 6 of the Mass. General Laws). In 2017, the Supreme Judicial Court found this exclusion unconstitutional **as applied** to a person who was no longer required to register as a sex offender. *Koe v. Comm'r of Probation*, 478 Mass. 12 (2017). This means that if the 15 year waiting period has passed, a person who is no longer in the sex offender registry can try to seal the sex offense conviction through the Office of the Commissioner of Probation at One Ashburton Place in Boston. There is currently no special form for such a request. At a minimum, a person should submit documents that show he or she is no longer in the sex offender registry, and a letter explaining why sealing poses no danger to the public.

8. When can I ask a judge to seal my criminal cases and what is the process?

A judge in the court that handled the criminal case has the power to seal:

- a first time drug **possession** conviction where you did not violate any court orders connected to being on probation or a “CWOFF” (continuance without a finding), such as going to drug treatment or doing community service.
- any case where you were found “not guilty,” and

- any case that was dismissed or ended in a nolle prosequi (meaning it was dropped by the District Attorney).

Burden of Proof

The Supreme Judicial Court (SJC) has made it easier to seal criminal cases through the court process. In *Commonwealth v. Pon*, 469 Mass. 296, 14 N.E.3d 182 (2014), the SJC threw out the old legal standard for sealing of cases that was very strict and based on the public's First Amendment right to see your records. Under the new legal standard, you have to show "good cause" to seal a record. To show there is "good cause" to seal records, there must be "credible" evidence of a "disadvantage" at the present time OR possibly in the future related to your CORI. Things a judge can consider are:

- Your CORI puts you at a disadvantage in applying for jobs or housing;
- You were denied a job or are at risk of job rejections, unemployment or underemployment due to your CORI;
- You have trouble getting housing, or are homeless, or at risk of homelessness due to CORI;
- Employers use CORI in your present occupation or an occupation you'd like to have;
- CORI reduces opportunities for promotion, internships, better or higher paying jobs;
- You and/or your family are on public assistance despite your efforts to get a job;
- You have trouble volunteering or doing community activities due to CORI;
- A lot of time has passed since the case was filed against you;
- You are sober and have made efforts to rehabilitate yourself;
- You have made efforts toward self-improvement (classes, programs, GED, degree, certificate);
- You do volunteer work and/or other work to help out in your community;
- You successfully completed probation in your case(s);
- You have had no further contact with the criminal justice system;
- You have other evidence of rehabilitation from the date of the offense or dismissal;
- Your situation at the time of the offense should be considered (*e.g.* you were a young adult);
- There is stigma or stereotypes related to the case that hurt your chances to get a job, etc., or
- The reason for dismissal or nolle prosequi (dropping of a case) and other information relevant to sealing your case(s). For example, you were found not guilty, were wrongly identified by police, etc.

The Court Process

The process to seal cases in court is free. It involves filing a petition to seal and going to court for hearings. You are allowed to file letters and other documents in support of your petition as well as an affidavit (a sworn statement) that explains the lost opportunities or disadvantages that you suffer or might suffer if your record is not sealed, and tells the judge positive things about yourself.

It is a good idea to get certified copies of the complaint and docket sheets before you seal records in case you need copies later on. See reply to Question 13 if you are not a citizen.

If you have already sealed some cases, and have a court hearing to seal other cases, the judge should not use your sealed records against you. The law (Chapter 276, Section 100A) permits sealed records only to be used for sentencing after a later criminal conviction, or in civil cases such as an abuse prevention case and/or child custody case. See Questions 23 and 24 for more information.

Petition forms are in the appendix at the end of these materials and are online at: https://www.gbls.org/cori_record_sealing_booklets or <http://www.Masslegalhelp.org>

9. What can most employers or landlords see on my CORI if my cases are not sealed?

Most employment, housing and licensing screeners see only convictions and “open” criminal cases, meaning cases that are still going on (*i.e.* you’re still on probation, have court hearings, or are on parole, and your case is not yet closed).

10. Is it true people no longer need to seal their records because of CORI reform?

No. The Department of Criminal Justice Information Services (DCJIS) automatically holds back cases from CORI reports given to housing or licensing screeners and many employers **IF** the cases are eligible for immediate sealing under the mail-in process after a 5 year waiting period for misdemeanors and a 10 year waiting period for felonies.¹ The fact that these cases are held back from CORI given to many employers, housing and occupational licensing screeners does not necessarily mean you should not seal these cases. The employer may use a private background checking company which looks at files at the courthouse instead of DCJIS to check your history. This means cases that are not sealed will not be held back from view.

There also are exceptions in the hold-back provisions that permit access to CORI from DCJIS even if a case is immediately eligible for sealing by mail. Many employers, including but not limited to schools, camps, nursing homes, and assisted living facilities are granted special access to old convictions and cases that ended favorably in dismissals, nolle prosequi or a not guilty finding – that is, **UNLESS** the cases have been sealed. Your cases, including old or dismissed cases, may be included in CORI given to employers or agencies authorized to receive this information **UNLESS** you seal these records.

Manslaughter, murder and sex offense convictions also are treated differently. All employers and housing or licensing screeners always see these convictions on CORI reports unless the cases are sealed. Convictions for violations of Chapter 209A or Chapter 258E restraining are treated as felonies and if the cases are not sealed, they are not held back for 10 years unless they are sealed. A finding of not guilty **by reason of insanity** are not held back until 10 years after the disposition or release from incarceration or custody unless the case is sealed.

¹ When waiting periods to seal cases by mail were reduced from 5 and 10 years to 3 and 7 years, it appears there may have been an oversight because these “hold back” provisions in Chapter 6, § 172 (a)(4) were not changed.

JUVENILE RECORDS

11. Can an employer ask me about my juvenile court records?

A juvenile case is not considered a criminal record. An employer is not permitted to ask about a juvenile court case EXCEPT when the juvenile was tried as an adult in an adult court such as the district court, the superior court, the Boston Municipal Court, or under the older juvenile justice system where a case was transferred from the juvenile session to an adult court and as a result, the case became part of adult CORI.

A form you can use to get a free copy of your juvenile record is included at the end of these materials and is available online at: <http://www.mass.gov/courts/probation/juv-rec-req.pdf>

12. When and how can I seal my juvenile records?

The waiting period to seal juvenile records is shorter than adult waiting periods. (G.L. c. 276, section 100B). You can seal your juvenile records if you are not presently in the sex offender registry AND

(1) at least 3 years have passed since your juvenile case closed; and

(2) at least 3 years have passed since you were last adjudicated in Juvenile Court or last found guilty of a crime in any court, except for a motor vehicle offense with a fine of not more than \$50; and

(3) at least 3 years have passed since you were last imprisoned or committed in or outside of Massachusetts.

You can ask to seal your juvenile records at the same time you seal adult cases if you check off the juvenile sealing box on the same form used to seal adult cases by mail. Anyone eligible to seal adult CORI by mail is eligible to seal juvenile records at the same time because adult waiting periods are longer.

Important. In 2018, the Legislature enacted new laws to permit expungement of some juvenile and adult records. The new law is narrow, but your case might be eligible. Questions 13 to 17 explain expungement.

IMMIGRANTS AND CORI

13. Should immigrants who are not citizens seal or expunge their records?

Your criminal record history is reviewed when you apply for a “green card,” citizenship or try to change your immigration status. A criminal record can be grounds for exclusion from the U.S. or deportation.

SEALING. If you are not a citizen, talk to an immigration lawyer **BEFORE** sealing any records and ask whether you should seal any of your records. At a minimum, get certified copies of the complaint and docket sheets. Otherwise, you may have to go to each court where a record is sealed to ask a judge to unseal the case so you can get papers needed for purposes of immigration, or get help from the

Commissioner of Probation's office to unseal the cases. You might not get the paperwork you need in time for an immigration hearing or to meet another deadline if your cases are sealed.

EXPUNGING. A conviction, a continuance without a finding or other criminal record can be grounds for deportation or exclusion. If you are not a citizen, do **NOT** expunge your records until you get legal advice from an immigration lawyer about whether to expunge your records. If your records are expunged, they are destroyed and no longer exist. You might not get paperwork you need for an immigration hearing or an application if your criminal records are expunged. The FBI often has records of a criminal case even if the state court record was sealed or expunged. FBI records often do not include the final outcome of a case. This means you may not be able to show how your case ended, or prove you were found not guilty, or that the case was dismissed if you expunge your records. You also might need certified copies of your criminal records for other reasons. See Question 14 below.

Beginning October 13, 2018, new Massachusetts law requires that the FBI and Dept. of Justice (DOJ) be notified of sealing and expungement orders and that the state request that they seal or expunge their corresponding records. G.L. c. 276, § 100T. The expungement law is very new and we do not know if the FBI will honor any or all requests to expunge records from their databases.

EXPUNGEMENT

14. What is expungement and when should I get a case expunged?

Sealing of a case only limits who has access to the record of the criminal case. Expungement means records of the case in Massachusetts are destroyed and are no longer available. Massachusetts has new expungement laws as a result of recent criminal justice reform in 2018. There are two categories of expungement:

- **Juvenile and under age 21 expungement of a first and only case.** This includes expungement of (1) a juvenile court case or (2) an adult case where the offense happened before the person was age 21, but only if the juvenile or young adult had no further criminal or juvenile court cases.
- **Section 100K expungement.** This includes expungement of juvenile or adult cases where a person was innocent and misidentified, the offense was decriminalized, the case resulted from mistakes by police or others, or there were other miscarriages of justice as specified in Section 100K.

SPECIAL CONSIDERATIONS

1. If you are not a citizen, do not expunge any records and talk to an immigration lawyer about your criminal cases and record expungement. There also may be other situations, where destruction of your records will interfere with exercise of your other legal rights.
2. If you decide to expunge any records, do not expunge any records before you get multiple certified copies of your records.

Be Aware of FBI Records and their Flaws

The FBI usually has records related to your cases even if you sealed or expunged your Massachusetts records. FBI records are often incomplete and frequently do not include the final outcome of a case. Once your records in Massachusetts are expunged, it is unlikely that you will be able to obtain copies of the court, police or other records that were destroyed. If there are no records, you may be unable to prove how your case ended, or that you were found not guilty or that the case ended favorably.

When You Should Hold Off or Not Expunge

Even if you are a citizen, there are situations where you should not expunge records or at least, should postpone expunging your records.

Important. You may need access to the whole court file or other document in and outside the courthouse, or in law enforcement and criminal justice agency databases that also get destroyed after the court orders expungement. Therefore, expunging any records can interfere with your ability to exercise other legal rights.

If you are not able to show a case your case ended favorably, you may not be able to get the security clearance that you need for a job or appointed position, or some other opportunity.

If you do decide to expunge any records, do not expunge the records until you get multiple certified copies of your records and as many other certified copies that you might need in the future.

Drug Lab Scandal Cases or Other Lawsuits

There are lawsuits pending about whether people whose cases were dismissed because of drug lab scandals involving chemists Annie Dookhan or Sonia Farak can be reimbursed for fees, fines and expenses they paid in their cases. If you want to get reimbursed for money you paid in a drug related case that was dismissed because a drug lab scandal, it is best to NOT expunge your case until the lawsuits are resolved so that you know what to do if you can get money back, and how long you need to hold off on expunging your case. Records of payments and other paperwork that you may need will likely be destroyed if you expunge your records. Having only certified copies of docket sheets and a complaint may not be enough.

There may be other situations or lawsuits where records of a criminal case may be helpful and should not be destroyed until you no longer need them. For example, if you file a lawsuit alleging civil rights violations or police brutality related to your arrest after your criminal case ends in a not guilty finding, the records of the criminal case pertaining to the same incident will likely be relevant and important to your lawsuit.

15. Who is eligible to expunge a case where the person has a juvenile record or was under age 21 at the time of the alleged offense?

Juvenile and under 21 expungement eligibility is very complicated. There is only “one bite at the apple” and the kinds of cases that can be expunged under this first type of expungement are limited. To be eligible to request this first type of expungement:

- the juvenile court case or adult criminal case involving an incident before age 21 that you are trying to expunge must be your first and only case;
- you cannot have any later juvenile or criminal cases other than the charges contained in your first case, except for motor vehicle charges where the penalty did not exceed a fine of \$50;
- you cannot be the subject of an active criminal investigation;
- if the charge is a felony, it cannot be expunged until 7 years after the disposition (guilty or not guilty finding, dismissal, etc.) or release from incarceration –whichever happened later;
- if the charge is a misdemeanor, it cannot be expunged until 3 years after the disposition (guilty or not guilty finding, dismissal, etc.) or release from incarceration--whichever happened later;
- The charge cannot be one of over 20 categories of excluded offenses such as assault and battery with a dangerous weapon, robbery, offenses that caused or intended to cause death or serious bodily injury, any offense against an elderly or disabled person or while armed with a dangerous weapon, sex offenses involving children, violence or exploitation, restraining order convictions, assault and battery against a family or household member, firearms offenses, and many other offenses. G.L. c. 276 § 100J.² For a detailed list of excluded offenses and more information, see Booklet 9 on expungement on the Greater Boston Legal Services website.
- Examples of some charges that might be expunged are larceny, disorderly conduct, tagging, drug possession or distribution, trespass, prostitution, indecent exposure (e.g. public urination by homeless person), or misdemeanor assault and battery (excluding assault or assault and battery against a family or household member pursuant to Chapter 265, section 13M).

² The categories include (1) any offense resulting in death or serious bodily injury; (2) any offense committed with the intent to cause death or serious bodily injury; (3) any offense committed while armed with a dangerous weapon; (4) any offense against an elderly person; (5) any offense against a disabled person; (6) any sex offense as defined in section 178C of chapter 6; (7) any sex offense involving a child as defined in section 178C of chapter 6; (8) any sexually violent offense as defined in section 178C of chapter 6; (9) any offense in violation of section 24 of chapter 90 (OUI, reckless driving, leaving scene after collision); (10) any sexual offense as defined in section 1 of chapter 123A; (11) any offense in violation of sections 121 to 131Q of chapter 140 (firearms violations); (12) to (16) any offense in violation of a restraining order issued pursuant to section 18 or 34B of chapter 208; section 32 of chapter 209; chapter 209A; section 15 of chapter 209C; or chapter 258E; (17) any offense in violation of section 13M of chapter 265 (assault or assault and battery on a household or family member); (18) any felony offense in violation of chapter 265 (crimes against the person which includes about 48 felonies); (19) to (20) any violation of paragraph (a), (b), (c) or (d) of section 10 of chapter 269; or in violation of section 10E of chapter 269 (firearms, weapons).

16. How does the process work to expunge a juvenile court case or an adult case where the person was under age 21 at the time of the alleged offense?

You must fill out, sign and mail (or deliver) a petition to expunge to the Commissioner of Probation's office at One Ashburton Place, Boston, MA 02118. The process is free.

After you file the petition to expunge your records, it is processed as follows:

- The Commissioner has 60 days to review your petition and it appears you may be eligible to seal your records, a copy of the petition is sent to the District Attorney (D.A.) who has 60 days to object.
- Within 65 days of the objection or no response from the D.A., the petition is sent to the court that handled your case.
- If there is an objection from the D.A, the court holds a hearing within 21 days. If there is no objection, the court can allow your petition on the papers.
- A judge can allow or deny your petition based on the "best interests of justice" and has to make written findings of fact.

The new law does not define when it is in "the best interest of justice" to expunge records. However, it is likely that the judge will consider the Commonwealth's need to retain the records because unlike sealing, expungement destroys the records and local law enforcement no longer have access to the records.

As with sealing, the judge may consider time that has elapsed between the arrest and the petition, disadvantages you may suffer if the record is not expunged, your age at the time of the offense, seriousness of the offense, stigma of the offense, treatment or rehabilitation efforts, and community contributions. See *Commonwealth v. Pon*, 469 Mass. 296 (2014) and Reply to Question 8 above.

If your petition is allowed, the court sends its order to the court clerk and the commissioners of both Probation and DCJIS. The records of the court and criminal justice agencies (police, probation, DYS, etc.) related to the case are then destroyed. The expungement order is also sent to the FBI and the Department of Justice (DOJ) with a request that they expunge their records related to the same case. G.L. c. 276, §§ 100 F-L, T. It is not yet known how the FBI or DOJ will respond to these requests.

Important. If your juvenile or under age 21 adult petition to expunge records is denied, you may still be eligible for a 2nd type of expungement under Section 100K of Chapter 276 discussed below. You also can consider sealing your case as discussed above which limits who can find out about your case.

17. What other rights of expungement are available if a case is not from the juvenile court or the person was age 21 or older at the time of the offense?

Section 100K expungement. A second type of expungement is available for both adult and juvenile cases under section 100K of Chapter 267 if a person was innocent and misidentified, the offense was decriminalized, the complaint issued due to mistakes by police or others, or there was some other miscarriage of justice as specified in section 100K. The process is free and a petition form must be filed in the court that handled the case. The law provides that a hearing is held if a petitioner or the District Attorney request a hearing.

You are eligible for section 100K expungement of “a record created as a result of a criminal court appearance, juvenile court appearance or dispositions” if the judge decides there is “**clear and convincing evidence**” that the record was created as the result of:

- false identification or the unauthorized use or theft of your identity (e.g., someone impersonated you or gave your name when they were arrested)
- an offense that is no longer a crime assuming the elements of the original criminal offense are not a crime under a different designation (e.g. decriminalized marijuana possession of 2 ounces or less, being in the presence of heroin, or fathering a child outside marriage);
- demonstrable errors by law enforcement (e.g., a complaint filed without probable cause, naming the wrong person, wrongly filed by mistake or due to racial bias, racial profiling or misconduct);
- demonstrable errors by **civilian** or **expert** witnesses (e.g., a guilty finding vacated due to Annie Dookhan drug lab scandal, lack of an accepted scientific basis for expert opinion, witness mistakes or errors due to failed memory, other impairment, and arguably errors of judgment, racial bias, racial profiling, or other misconduct);
- demonstrable errors by court employees (e.g. complaints issued or docket entry made in error that carries a stigma or has negative consequences); or
- demonstrable fraud perpetrated upon the court (e.g., bribery of a judge, court officer or court official, or similar fraud involving the court system itself).³

³ The examples we provide are not exhaustive and represent best guesses as to conduct that might support expungement based on “demonstrable error.” There is no case law interpreting the phrase “demonstrable errors” by witnesses or others as a basis for expungement. The phrase “fraud on the court” has been narrowly construed by the courts and involves more than misstatements or omissions. *Paternity of Cheryl*, 434 Mass. 23, 35 (2001). See e.g., *B.C. v. F.C.*, 90 Mass. App. Ct. 345, 350, (2016), *review denied*, 476 Mass. 1108 (2017)(no fraud on the court where party did not perjure herself “throughout the proceedings as a ‘larger pattern of harassment’ or an ‘unconscionable scheme calculated to interfere with the judicial system’s ability impartially to adjudicate a matter”); *Com. v. Moe*, 463 Mass. 370, 376 (2012) (false statement to police was not fraud on the court); *Comm. of Probation v. Adams*, 65 Mass. App. Ct., 725 (2006)(false statements under oath to retaliate against abuse victim seeking an abuse prevention order and using the court as a mechanism to perpetrate the fraud, were fraud on the court).

As with the first type of expungement, the court must make findings of fact as to why expungement is “in interests of justice” when it enters an order on the petition. If the court denies your petition, you should seek legal advice. You can also consider sealing the case.

If expungement is ordered, the court sends the expungement order to the clerk of the court where the record was created, to both commissioners of probation and criminal justice information services, and the clerk’s office and criminal justice agencies (police, probation, DYS, etc.) are instructed to expunge records related to the case. G.L. c. 276, § 100L.

After Expungement

After a record is expunged, the law provides that no person whose record was expunged shall be held guilty of perjury or giving a false statement by reason of the person's failure to acknowledge such record, or portion thereof, in response to any inquiry made of him or her for any purpose. You can say you have “no record” after expungement. G. L. c. 276, § 100M-N.

CORI SELF-AUDITS

18. How can I use the new “self-audit” process to find out who looked at my CORI?

You can request a FREE CORI self-audit from the Department of Criminal Justice Information Services. (DCJIS) every 90 days which tells you who viewed your CORI. The self-audit will NOT tell you whether police, probation, courts or other criminal justice agencies have looked at your CORI. You also can get a copy of the self-audit from online at <http://www.mass.gov/eopss/agencies/dcjis/>

AFTER YOUR RECORDS ARE SEALED OR EXPUNGED

19. Once I seal or expunge all of my criminal cases, can I tell an employer or landlord or an occupational licenser I have no record?

Yes. If present or future employers, housing screeners, or occupational licensing agencies ask for information that would involve your sealed or expunged cases, you may answer that you have “no record” with regard to those sealed or expunged cases.

20. Can someone who goes to the courthouse look at my sealed or expunged record?

In general, most people cannot review your sealed court file. The law requires clerks and employees of the clerks’ offices of the courts and the Commissioner of Probation to report “no record exists” to all who ask about a record if a case is sealed, except for “any law enforcement agency,” “any court” or “appointing authority”--meaning those given special access to sealed records under the law.

If the case was expunged, there should be no record of it at the courthouse.

21. Will employers or others know that I have a sealed or expunged record?

MOST employers and CORI requesters will **NOT** find out about your sealed records. A myth persists that the CORI given to employers says whether a person has a sealed record. This is untrue. In most cases, the CORI report they receive from the Department of Criminal Justice Information Services (DCJIS) will indicate you have no record if all of your cases are sealed.

If the case was expunged, there should be no record of it in the state database or at the courthouse. However, your case may remain in the FBI database and be revealed in situations where an FBI check is conducted in addition to a Massachusetts CORI background check. See Question 27.

22. Who can find out about my sealed or expunged records?

Massachusetts law permits certain employers and state agencies to get information about sealed records.

- All criminal justice agencies (police, probation, firearms licensors, courts, etc.) get access to sealed record information.
- The Department of Early Education and Care screens childcare workers and has access to sealed record information in the hiring process.
- The Department of Children and Families (DCF) and the Department of Youth Services (DYS) get access to sealed cases when people try to adopt a child or become foster parents.

If the case was expunged, there should be no record of it in the state database or at the courthouse. However, your case may remain in the FBI database and be revealed, for example, when the FBI does a background check for a federal government job. See Questions 13, 14, 27.

USE OF RECORDS IN LATER COURT CASES

23. Can my sealed record be used against me in a later criminal case?

Yes and no. Juvenile records and most sealed adult criminal records may be considered at the time you are sentenced after you are found guilty in a later criminal case. However, a sealed record for a case that ended in a finding of “not guilty,” a “no bill” from a Grand Jury, or a “no probable cause” finding cannot be used against you in a later criminal case.

If the case was expunged, there should be no record of it in the state database or at the courthouse.

Important. If you have already sealed some cases, and are going to court to try to seal other cases, the judge should not consider the sealed records. The law permits sealed records only to be used for sentencing after a later criminal conviction, or in limited civil cases-- child custody, abuse prevention cases and domestic relations cases involving safety of a person. (Chapter 276, Section 100A).

24. Can my sealed record be used against me in a later civil court case?

Yes and no. Most of the time, sealed criminal records cannot be used in civil cases. As a result of CORI reform in 2010, there are exceptions for certain civil cases which include: abuse prevention cases, divorce, paternity, separate support, guardianship, termination of parental rights, and care and protection cases when the records are relevant to the issues of abuse, safety of a person or custody or visitation of a child. In these types of cases, the records may be used in a closed private hearing if the judge decides they are relevant and could be put in evidence in the case. If the case was expunged, there should be no record of it in the state database or at the courthouse.

EMPLOYMENT DISCRIMINATION

25. Can an employer refuse to hire all job applicants with criminal records?

This kind of hiring policy usually is illegal. The U.S. Equal Employment Opportunity Commission (EEOC) says that blanket hiring policies that automatically reject any job applicant with a criminal record are discriminatory and violate civil rights laws. This is because using criminal records as a reason not to hire workers has a “disparate impact” (a greater effect) on racial minority groups.

Hiring or firing policies that reject all workers with criminal records violate Title VII of the Civil Rights Act of 1964 unless the employer can show it is necessary for the business to do so or a particular law makes the person ineligible for the job.

Guidance from the EEOC cautions employers that they should conduct an individualized assessment. Factors to consider include the age of the offense, the nature and seriousness of the offense, the age of the person at the time of the offense and completion of the sentence, rehabilitation efforts, success in the same type of job without incident after the offense, and the relationship between the type of offense and the job. The EEOC guidance issued in 2012 explains this topic in more detail on the EEOC website: http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

26. How does the law protect me from discrimination based on CORI?

Ban the Box. The “Ban the Box” law went into effect on November 10, 2010 and makes it illegal for most employers to ask about any criminal record on the initial job application. There is an EXCEPTION, however, when a state or federal law creates a legal presumption that a person is disqualified for a job based on certain convictions, or allows a particular type of employer to ask about this information. G. L. c. 151B, § 4, subsection 9 1/2.

Getting copies of your own CORI. It is illegal for employers to ask you to give them a copy of your own CORI or arrest records at any stage of the hiring process. A CORI report sent to you may include cases that certain employers have no right to see. All cases appear on a CORI that you get for yourself, but not all cases will necessarily appear in the CORI that the employer sends for with your permission.

Employment and housing rejections. Employers, landlords, housing authorities, or professional licensing agencies that use CORI or a criminal history report and reject a person based on the report, must provide the person with a copy of the report. You should review the report carefully to see if there are errors that should be corrected. You also can try to use this opportunity to explain why your CORI is not related to the job. If you think the employer has discriminated against you based on your criminal record, see the reply to Question 25.

State government jobs. The law provides that sealed and expunged records shall not operate to disqualify a person in any examination, appointment or application for public employment in the service of the commonwealth or of any political subdivision --meaning your sealed records cannot be used as basis to find that you are not qualified for a job. G. L. c. 276, §100A; G. L. c. 276, §100N.

IMPORTANT. If any of your records are sealed or expunged, you do not have to give information about any sealed or expunged charge or case at any stage of the hiring process. You may answer that you have “no record” as to any sealed or expunged criminal charge or case when interviewing for a job.

Questions employers are not allowed to ask at any stage of hiring. Whether or not criminal records are sealed, the anti-discrimination law (G. L. c. 151B, § 4, subsection 9) and the record sealing laws prohibit most employers at any stage of the hiring process from inquiring about an offense that is:

- (1) a criminal case that did NOT end in a conviction; or
- (2) an arrest or criminal detention (*e.g.* being held at a police station) that did NOT end in a conviction; or
- (3) a first conviction for drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace; or
- (4) a conviction for a misdemeanor where the date of the conviction OR your release from incarceration was 3 or more years ago; or
- (5) a juvenile record, except for juvenile cases that transferred from the Juvenile Court to an adult court and where the juvenile is tried and convicted as an adult; or
- (6) a sealed or expunged criminal record.

What employers may ask at later stages. At later stages in the hiring process after the initial job application, employers can ask about convictions. At this stage, they can ask you about:

(1) any felony conviction that happened at any time **if it is not sealed or expunged**; AND

(2) any misdemeanor conviction that was not a first time conviction for drunkenness, simple assault, speeding, a minor traffic violation, affray, or disturbing the peace IF: (a) you were convicted OR released from incarceration for the misdemeanor conviction during the last 3 years **AND** (b) the case is not sealed or expunged.

If your convictions are sealed or expunged, you do NOT have to say anything about them. The law permits you to say "I have no record" with regard to any conviction or case that you have sealed or expunged. For more information about discrimination and questions employers can ask, go to the Massachusetts Commission Against Discrimination website: <http://www.mass.gov/mcad/>

The employer has to give you a copy of your CORI or criminal background report before asking you about cases on the report.

Important. Be aware that some employers get CORI reports that include more than convictions or pending cases. If you apply for a job at a school, nursing home, or similar job working with vulnerable people, your CORI will include dismissed and other favorably ending cases UNLESS these cases are sealed. The law requires fingerprinting of teachers and school employees who have unsupervised contact with children. This may link these employees to past criminal cases if they were fingerprinted in connection with their cases. Daycare and preschool employers also get CORI that includes sealed record information.

Governor's Executive Order 495 and Human Services Regulations. State agencies, such as human services agencies, are under an Executive Order and regulations that require them to wait until the final stage of the hiring process (after they find you qualified for a job) to ask questions about criminal records. A copy of the Executive Order is on the Governor's office web site at: <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-source/exec/eo450-499.html>

FEDERAL JOBS AND THE FBI

27. What if I apply for a job with the federal government or the FBI does a record check?

If a person with a sealed record applies for a job with the federal government, the agency has access to FBI criminal record reports. The FBI record may include cases from a state court, including sealed cases. It is not unusual for the FBI record to have information that a case was filed, but no information about the outcome of the case such as a "not guilty" finding or dismissal. The FBI can add information about the outcome of a case and/or sealing of the case if you give them proper documentation such as copies of a complaint, docket sheet or sealing order.

The contact for FBI records in Massachusetts is the Massachusetts State Police, 59 Horse Pond Road, Sudbury, MA 01776. The telephone number is 508-358-3170.

Important. Criminal justice reform enacted in 2018 has new requirements that may begin to address some of the gaps in FBI records.

- Beginning July 1, 2019, DCJIS is required to transmit juvenile and adult criminal history information as well as orders to expunge and/or seal records to the FBI **AND** if an order to seal and/or expunge is included, an order and request to similarly seal or expunge such information within the bureau if it transmitted juvenile or adult fingerprints to the FBI. G.L. c. 23C, § 36.
- Beginning October 13, 2018, the new law also requires that the commissioner of DCJIS “shall notify” the FBI and Dept. of Justice (DOJ) of sealing and expungement orders and request that they seal or expunge the record. G.L. c. 276, § 100T.

It is not yet known how the FBI will implement or respond to requests by the Commonwealth to expunge and seal corresponding cases in the FBI database. The FBI is not required to comply with these requests.

More information about FBI records and how to obtain or correct FBI records is available on the FBI website at: <http://www.fbi.gov/about-us/cjis/background-checks/faqs>

PRIVATE BACKGROUND CHECKS

28. Should I worry about private background checking companies or agencies?

Yes. People should be aware that employers and others are able to get information not only from the state CORI system, but from private data mining companies that make money selling this information. These private companies and consumer reporting agencies (CRA’s) look at criminal records in clerk’s offices and gather information from public sources. Their background reports are known to contain mistakes. They do not always update their records after a case is dismissed or ends in your favor.

Important. If employers, housing authorities, and landlords want to reject you based on your CORI (or other criminal background report) or ask questions about it, they must give you a copy of the report. They also must let you dispute errors in the report.

The Legislature has enacted laws that give incentives to employers to obtain records through the state CORI system instead of other background checkers. Use of the state CORI system for criminal background checking protects employers in certain circumstances from liability for negligent hiring decisions made within ninety days of receipt of CORI. G.L. c. 6, § 172 (e).

In 2018, the Legislature expanded these protections to add that in any claim for negligence, an employer **or landlord** shall be presumed to have no notice or ability to know of a record that: (i) was sealed or expunged; (ii) or where the employer was prohibited from inquiring these records under subsection 9 of section 4 of chapter 151B; or (iii) the crimes were offenses that the

department of criminal justice information services cannot lawfully disclose to an employer or landlord. G.L. c. 276, §100S.

Some employers, nevertheless, may use credit reporting agencies whose reports contain mistakes. You have a right to: (1) a free copy of the report; and (2) a right to dispute and fix mistakes on it.

The Federal Trade Commission enforces the Fair Credit Reporting Act and has a website with information about how to correct errors on these reports:

<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre36.shtm>

FIXING CORI MISTAKES

29. What can I do if my CORI report has errors or cases that do not belong to me?

If a case appears on your record that has nothing to do with you because of a mistake or clerical error, you can contact Probation at the court connected to the case and ask them to remove it from your record. You also can ask Probation or the Department of Criminal Justice Information Services (DCJIS) to help you fix other errors.

A complaint form to request help from DCJIS to correct CORI mistakes is included at the end of these materials and is available on the DCJIS website at: <http://www.mass.gov/eopss/agencies/dcjis/>

SEALING CASES IN FEDERAL COURT OR OTHER STATES

30. Can Massachusetts state courts seal cases from federal court or other states?

No. The Massachusetts state courts have no power to seal cases in other states. Whether you can seal cases in another state's court depends on the law of that state. Massachusetts state courts also have no power to seal federal court cases. Your ability to seal other cases in federal court will depend on whether the particular federal court or "circuit" (region) takes the position that the federal court has the power to seal other criminal cases.

Important. There is no federal law similar to our Massachusetts law which permits sealing of most cases eventually. However, if you were under the age of 21 at the time of a first-time conviction under the Controlled Substances Act (18 U.S.C. § 3607), you may request that the federal court that heard the case expunge the record.

TAX CREDITS

31. Are tax credits available to employers who hire people with criminal records?

Yes. There is a federal Work Opportunity Tax Credit (WOTC) for employers who hire people convicted of a felony within a year of the conviction or the date of release from prison. The tax credit

often is \$2400, but can be much more. More information is available on the Department of Labor web site: <http://www.doleta.gov/business/incentives/opptax/eligible.cfm>

BOSTON CORI ORDINANCE AND OTHER CITY ORDINANCES

32. What does the Boston CORI ordinance or similar ordinances do to protect me from discrimination based on my CORI when I apply for a job working for the city or its vendors?

The City of Boston is a large employer and has contracts with thousands of vendors for city services.

The City of Boston has a CORI ordinance and regulations aimed at providing job opportunities to people in Boston who may have criminal histories.

Non-sensitive jobs. Section 4.7 of the City of Boston Municipal Code provides that vendors are not allowed to check the CORI of a job applicant unless the employer determines “in good faith” that the nature of the job is “sensitive.” Regulations define sensitive jobs as positions involving unsupervised contact with children under age 18 or people who are elderly or disabled, or where a “good faith determination is made that the position is of such sensitivity that a CORI report is warranted.”

Sensitive jobs. If a job is sensitive, the employer is allowed to check CORI, but cannot do so until AFTER the job applicant is found to be qualified for the job. In reviewing the CORI, the employer must consider the seriousness of the offense, the relevance of the offense (whether the offense bears any connection to the job duties), how old the offense is, and “occurrences in the life of the applicant” since the time of the offense. “Occurrences in the life of the applicant” is not defined in the ordinance, but likely includes, but is not limited to evidence of rehabilitation, sobriety, educational achievements, self-improvement efforts, church and/or civic activities and/or volunteer work, and/or youth at the time of arrest. This is similar to the criteria set forth in EEOC guidance discussed above in response to Question 21.

If you are denied a job, the employer must tell you the reason for the denial and give you a copy of the CORI they received and a chance to correct any mistakes on it and to dispute the relevancy of the offense to the job. Section 4-7.3, City of Boston Municipal Code. If you believe the employer violated the ordinance, you can file a complaint with the City of Boston Office of Fair Housing and Equity. The City can require employers who fail to comply with the ordinance to attend trainings and the employers can lose their contracts for up to two years. The city website has information at: <http://www.cityofboston.gov/fairhousing/cori.asp>

Cambridge and Worcester CORI Hiring Protections. The City of Cambridge and the City of Worcester have similar CORI ordinances that offer similar protections such as no CORI checks for non-sensitive jobs and review of CORI only after a person is found qualified for a sensitive job.

Boston, Cambridge and Worcester CORI ordinances and the Boston CORI regs. These can be found on the masslegalservices website: <http://www.masslegalservices.org/library-directory/cori>

APPENDIX 1: LEGAL HELP FOR LOW INCOME PEOPLE

Masslegalhelp.org. To get forms or send for your CORI or view easy-to-read information about CORI, go to the Massachusetts legal services website on the internet: www.masslegalhelp.org

Massachusetts Department of Criminal Justice Information Services (DCJIS). To get a copy of your CORI online or by mail, or fix mistakes on your CORI, contact DCJIS at 617-660-4640 or go to their web site: <http://www.mass.gov/eopss/agencies/dcjis/>

Find Legal Help Outside of Boston. Find a legal services program in your area at: www.masslegalhelp.org

Eastern Regional Legal Intake (ERLI). ERLI is a free legal helpline for low income people in the Boston area. For help call: 617-603-1700 and toll-free at 1-800-342-LAWS.

CORI help for Boston residents. GBLS has a CORI information table for Boston residents 9 a.m. to noon for walk-ins at the Roxbury Court, 85 Warren St., Roxbury on the 3rd Thursday of the month and at Dorchester Court, 510 Washington St., Dorchester on the 2nd and 4th Wednesdays from 9 a.m. to noon.

Massachusetts Bar Association Dial-a-Lawyer: First Wednesday of the month from 5:30 p.m. – 7:30 p.m. MBA attorneys answer criminal or civil law questions for free if you call 617-338-0610 or 877-686-0711 (toll-free). Calls only. No walk-ins.

Trial Court Law Librarians website: <https://www.mass.gov/guides/massachusetts-law-about>

Read our other self-help booklets at https://www.gbls.org/cori_record_sealing_booklets

Booklet 1: How to Get a Copy of your Criminal Record (CORI)

Booklet 2: How to Seal Old Criminal Convictions

Booklet 3: Sealing Cases that Ended Without a Conviction or First Time Drug Offenses

Booklet 4: Representing Yourself in Court after Filing a Petition to Seal Criminal Cases

Booklet 5: One Stop CORI Sealing in Boston Municipal Court

Booklet 6: What You Should Know about Drivers' Licenses and Drug Convictions

Booklet 7: How to Seal or Expunge Decriminalized Marijuana Cases (update to be added)

Booklet 8: Avoiding Guilty Pleas and Criminal Case Dispositions that Give You Life-Time Criminal Records

Booklet 9: How to Expunge Juvenile and Criminal Records (to be added)

LEGAL HELP FOR DISCRIMINATION CLAIMS

Fair Employment Project Inc.

122 Boylston St., Jamaica Plain, MA 02130

617-390-2593

<http://www.fairemploymentproject.org>

Massachusetts Commission against Discrimination (MCAD)

One Ashburton Place, Room 601, Boston, MA 02108
617-994-6000 (Hours are M-F: 9 a.m. to 4 p.m.)
Website: <http://www.mass.gov/mcad/offices.html>

U.S. Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203
1-800-669-4000 TTY:1-800-669-6820
Website: <http://www.eeoc.gov/field/boston/index.cfm>
Service Hours are M-F: 8:30 a.m. to 3:00 p.m.

REDUCED FEE LAWYERS

Massachusetts Bar Association Lawyer Referral Service

20 West Street, Boston, MA 02111-1214
617-654-0400 or 1-866-627-7577 or 617-338-0585 (TTY)
Website: <http://www.masslawhelp.com>
MBA service hours: M – F: 9 a.m. – 4:45 p.m. Calls only. No walk-ins.

Boston Bar Association Lawyer Referral Service

16 Beacon Street, Boston, MA 02108
617-742-0625
Website: <http://www.bostonbarlawyer.org>
BBA service hours: M - F 9 a.m.-5 p.m. Call or apply online. No walk-ins.

APPENDIX 2: FORMS

Information about how to fill out many of these forms is on the GBLS website or masslegalhelp website.

1. CORI Request Form: <http://www.mass.gov/eopss/agencies/dcjis/>
2. Affidavit of Indigency (for waiver of fee): <http://www.mass.gov/eopss/agencies/dcjis/>
3. Petition to Seal (by mail): <http://www.mass.gov/courts/selfhelp/criminal-law/seal-record.html>
4. Petition to Court to Seal (for use in court): <http://www.masslegalhelp.org/cori/forms-and-letters>
5. Juvenile record request form: <http://www.masslegalhelp.org/cori/juvenile-records>
6. CORI Self-Audit form (to find out who checked your CORI):
<http://www.mass.gov/eopss/crime-prev-personal-sfty/bkgd-check/cori/>

7. Complaint form (to correct incorrect CORI):

<http://www.mass.gov/eopss/agencies/dcjis/i-want-to-file-a-cori-complaint.html>

8. DCJIS Complaint for improper use or access to CORI:

<https://www.mass.gov/files/2017-07/improper-access-dissemination-of-cori.pdf>

9. Probation Petition to Expunge (Juvenile and under 21 records): attached, not yet online.

10. Court Petition to Expunge (Juvenile and adult records): attached, not yet online.



**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Department of Criminal Justice Information Services**
200 Arlington Street, Suite 2200, Chelsea, MA 02150
TEL: 617-660-4640 | TTY: 617-660-4606
MASS.GOV/CJIS



Criminal Offender Record Information (CORI) Personal Request Form

If you have a valid Massachusetts I.D. or driver's license and are not submitting an indigency waiver, you may submit your CORI request online at Mass.gov/CJIS. This form is only to be used to request **your own personal CORI information**. In Massachusetts, it is illegal for an employer or any other entity to require someone to provide a copy of his/her personal CORI.

A money order or bank issued Cashier's or Treasurer's check in the amount of **\$25.00 made out to the Commonwealth of Massachusetts** must be submitted with this form. Please note that these are the only acceptable forms of payment. **Do not send cash, personal checks, or business checks.** This form, along with payment or indigency waiver, must be mailed to the address above, **Attn: CORI Unit**.

REQUEST INFORMATION

* Are you submitting an indigency waiver? Yes No

Please note: You will need to submit an indigency waiver if you are indigent. The indigency waiver form can be found at <http://www.mass.gov/eopss/docs/chsb/affidavit-of-indigency.pdf>.

Requestor Details

Please type or print clearly. Items marked with an asterisk (*) MUST be completed.

* First Name: _____ Middle Initial: _____

* Last Name: _____ Suffix (Jr., Sr., etc): _____

* Date of Birth (MM/DD/YYYY): _____ Probation Central File (PCF) Number(s) (if known): _____

* Last **SIX** digits of your Social Security Number: ____ -- ____ I do not have a Social Security Number

Father's First Name: _____ Father's Last Name: _____

Mother's First Name: _____ Mother's Last Name: _____

Please check this box if you would **ALSO** like to request your personal CORI with your former last name(s):

Former Last Name 1: _____

Former Last Name 2: _____

Former Last Name 3: _____

Former Last Name 4: _____

Mailing Address

* Street Address: _____

Apt. # or Suite: _____ *City: _____ *State: _____ *Zip: _____

Personal Phone Number: _____

Email Address: _____

*****PLEASE NOTE: If you are requesting your CORI for immigration purposes, and you have additional paperwork regarding the names requested, please attach a copy of the paperwork to this form.*****



**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Department of Criminal Justice Information Services**
200 Arlington Street, Suite 2200, Chelsea, MA 02150
TEL: 617-660-4640 | TTY: 617-660-4606
MASS.GOV/CJIS



Personal CORI Request Authorization

I hereby swear, under penalties of perjury, that the information I have provided above is true to the best of my knowledge and belief.

Signature of Individual Authorizing CORI Request _____
Date

Authentication of Signature

Please note that ALL fields in this section must be completed by the Notary Public. This section does not need to be completed if you are currently incarcerated; please proceed to the next section.

On this ____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____ (name of CORI requestor) and proved to me through satisfactory evidence of identification, which was _____ (Ex: Driver's license, passport, etc.), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Signature of Notary Public (Notary stamp or seal is also required) _____
Date my Commission expires

Correctional Facility Information

If you are currently incarcerated, a correctional facility official MUST complete the following section.

Name and rank of Correctional Facility Official (Please print.) _____
Phone Number

Address of Correctional Facility

Signature of Correctional Facility Official _____
Date



**Affidavit of Indigency
(To Be Submitted with Personal Request Form)**

You or your client (if you are submitting a personal CORI request on behalf of a client), may be eligible for a waiver of CORI request fee. In order to apply, please complete this affidavit of indigency. Please note, you must select the option below that most closely describes you or your client's financial status.

Requestor Details
Please type or print clearly. Items marked with an asterisk (*) MUST be completed.

* First Name: _____ Middle Initial: _____
 * Last Name: _____ Suffix (Jr., Sr., etc): _____
 * Street Address: _____
 Apt. # or Suite: _____ *City: _____ *State: _____ *Zip: _____

Indigency Details

*Pursuant to M.G.L. c. 6, §172A, I swear (or affirm) as follows: I AM INDIGENT in that: (select "yes" to at least one option)

1. Do you receive public assistance?
 Yes No
 If yes, select the programs you receive assistance from:
 Massachusetts Transitional Aid to Families with Dependent Children (TAFDC)
 Federal Supplement Security Income (SSI)
 Emergency Aid to Elderly, Disabled and Children (EAEDC)
 Medicaid (MassHealth)
 Massachusetts Veterans' Programs
2. Is your income 125% or less of the current poverty threshold published in the Federal Register by the U.S. Department of Health and Human Services?
 Yes No
3. Can you pay the CORI fee without depriving yourself or your dependents of the necessities of life?
 Yes No
 If yes, you must complete these boxes:
 Gross Monthly Income: _____ Gross Income for the Past Twelve Months: _____
 If employed, please list your occupation and employer's name and address: _____

 If unemployed, please list your source of income: _____
4. Are you currently incarcerated?
 Yes No

I request that the Department of Criminal Justice Information Services waive the fee for a Personal Criminal Record Information (CORI) request under penalty of perjury.

Signature of Individual Making CORI Request

Date

PETITION TO SEAL

To: Commissioner of Probation, One Ashburton Place, Rm. 405, Boston, MA 02108

SELECT appropriate box(es). If 1, 2, or 3 are selected, you must sign the corresponding numbered affidavit below.

- PART A
1 - 4
Section 100B - Chapter 276. Delinquency (juvenile) cases, all sentence elements of which, and of any subsequent court appearances, were completed 3 years prior to this request.
Section 100A - Chapter 276. Misdemeanor cases, all sentence elements of which, and any subsequent court appearances, were completed 5 years prior to this request (or, which was a felony when committed, and is presently a misdemeanor).
Section 100A - Chapter 276. Felony cases, all sentence elements of which, and of any subsequent court appearances, were completed 10 years prior to this request. For eligible sex offenses 15 years prior to this request.
Section 100A - Chapter 276. Recorded offense which is no longer a crime, except where the elements of the offense continue to be a crime under a different designation.

Print
Last name First name Middle name Date of Birth:
Alias/Maiden/Previous name
Mailing Address City State Zip
Occupation Social Security # Place of Birth
Father's Name Mother's Maiden Name Husband/ Wife's Name
Petitioner's Signature

In accord with the provision of Chapter 276, Sections 100A and 100B, as established by Chapter 686 of the Acts of 1971, Chapter 404 of the Acts of 1972, Chapter 322 of the Acts of 1973 and Chapter 256 of the Acts of 2010, respectively, I hereby request that my record of adult criminal and/or juvenile Massachusetts court appearances and dispositions be sealed forthwith.

To the best of my knowledge:

- 1. a) My delinquency court appearances or dispositions including court supervision, probation, commitment or parole, the records for which are to be sealed, terminated not less than three years prior to said request; b) I have not been adjudicated delinquent or found guilty of any criminal offense within the commonwealth in the three years preceeding such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars nor been imprisoned under sentence or committed as a delinquent within the commonwealth within the preceeding three years; and c) I have not been adjudicated delinquent or found guilty of any criminal offenses in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses as aforesaid, and have not been imprisoned under sentence or committed as a delinquent in any other state or county within the preceeding three years.

Signed under penalties of perjury,

Signature of Petitioner

To the best of my knowledge:

- 2. a) All of my court appearance and court disposition records, including any period of incarceration or custody for any misdemeanor occurred not less than five years prior to this request; b) that my court appearance and court disposition records, including any period of incarceration or custody for any felony occurred not less than ten years prior to this request; c) that I have not been found guilty of any criminal offense within the commonwealth in the case of a misdemeanor, five years before such request, and in the case of a felony, ten years before such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars; d) I have not been convicted of any criminal offense in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses as aforesaid, and have not been imprisoned in any other state or county in the case of a misdemeanor within the preceeding five years and in the case of a felony the preceeding ten years; and e) my record does not include convictions of offenses other than those to which the section applies, or convictions for violations of sections 121 to 131 H, inclusive, of chapter 140 or for violations of chapter 268 or chapter 268 A.

Signed under penalties of perjury,

Signature of Petitioner

PETITIONER NOT TO WRITE BELOW THIS LINE

Petition Allowed/Disallowed 01 02 03 04
Allowed (Copy to Clerk and Probation Office)
Reason for Disallowance (Copy to petitioner only)



JUVENILE CARI REQUEST

(for use by offenders only)

If you would like to obtain a copy of your CARI (Court Activity Record Information) of your **Juvenile** cases, you must complete the entire form below and mail it with a self-addressed, stamped envelope to:

**Massachusetts Probation Service
One Ashburton Place, Room 405
Boston, MA. 02108
Attn: Records Unit**

FULL NAME (print) _____

Other names (aliases/maiden) _____

Street address (current) _____

City _____

State _____

Zip Code _____

Date of Birth _____

Place of Birth _____

Social Security Number _____

Mother's name (first, maiden,last) _____

Father's full name _____

By signing below, I authorize the Massachusetts Probation Service to access my juvenile CARI, print it and mail it to the address I have provided above.

I have attached a copy of my current driver's license or other current photo identification to verify I am the person named above and in CARI.

YOUR Signature: _____

Date: _____

To request a copy of your **Adult** CORI, please make your request to the Department of Criminal Justice Information Services (DCJIS). Visit their website at www.mass.gov/cjis or call (617) 660-4640.

Description of Complaint:

1. List all criminal offenses that presently appear on your CORI that you allege are inaccurate. Include the arraignment date, court, docket number, and offense for each charge. Attach additional sheets if necessary.*

2. Provide a detailed explanation of why you believe the identified CORI data is inaccurate.*

3. State the steps you have taken, if any, to correct the inaccurate CORI.*

4. State the correction you believe is necessary to correct the inaccurate CORI.*

By signing below, I attest that the information provided in this complaint, and in support thereof, is true to the best of my knowledge.

Signed under the penalties of perjury.

Name	Signature	Date
------	-----------	------

Attach/Include Files

1. Please attach/include any documentation or correspondence you may have to support your complaint.
2. Please attach/include a legible copy of Government-issued, photo identification.

Submit Complaint

This completed complaint form and all required and available supporting documentation must be mailed to the following:

Massachusetts Department of Criminal Justice Information Services
ATTN: Legal Department
200 Arlington Street, Suite 2200, Chelsea MA 02150



**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Department of Criminal Justice Information Services**
200 Arlington Street, Suite 2200, Chelsea, MA 02150
TEL: 617-660-4600 | TTY: 617-660-4606 | FAX: 617-660-4613
mass.gov/cjis



COMPLAINT FORM

Improper Access To, and/or Dissemination Of, Criminal Offender Record Information

Complaint Type: Improper Access and/or Dissemination of CORI

Agency/Organization: Organization: _____

Name: _____
 Title Last First

 Middle Suffix

Current Address: _____ Apt/Unit: _____ City: _____

State: _____ Country: _____ Zip Code: _____

Former Address: _____ Apt/Unit: _____ City: _____

State: _____ Country: _____ Zip Code: _____

Phone Number 1: _____ Phone Number 2: _____

E-mail: _____ E-mail: _____

Date of Birth: _____ Social Security Number: _____
 Month Day Year

Names Previously Used:

 First Middle Last Suffix

 First Middle Last Suffix

 First Middle Last Suffix

Description of Complaint:

1. Describe the Criminal Offender Record Information (CORI) that was allegedly improperly accessed and/or disseminated.*

2. State when you believe your CORI was improperly accessed and/or disseminated. Please include all relevant dates.*

3. State whom you believe improperly accessed and/or disseminated your CORI. Please provide contact information for this individual, if known.*

4. State to whom you believe your CORI was improperly accessed and/or disseminated. Please provide contact information, if known, for this/these individual(s).*

5. State whether you are, or ever were, a party to any civil or criminal action, or action filed with an administrative agency, related to the allegations contained in your complaint. If so, please list the parties involved, the nature and status of the civil, criminal, or administrative agency action, the court or administrative agency in which this action was filed, and the reference or docket number.*

6. List the name and contact information for any individual(s) that has information that may support this complaint.*

7. In as much detail as possible, describe how your information was allegedly improperly accessed and/or disseminated.* (attach additional sheets if necessary)

By signing below, I attest that the information provided in this complaint, and in support thereof, is true to the best of my knowledge.

Signed under the penalties of perjury.

Name

Signature

Date

Attach/Include Files

1. Please attach/include any documentation or correspondence you may have to support your complaint.
2. Please attach/include a legible copy of Government-issued, photo identification.

Submit Complaint

This completed complaint form and all required and available supporting documentation must be mailed to the following:

Massachusetts Department of Criminal Justice Information Services
ATTN: Legal Department
200 Arlington Street, Suite 2200, Chelsea MA 02150

PETITION TO EXPUNGE

TO: Commissioner of Probation, One Ashburton Place, Room 405, Boston, MA 02108

SELECT appropriate box.

1. **Delinquency (juvenile) adjudication or youthful offender conviction Section 100F - Chapter 276.** I ask that the Court expunge my delinquency (juvenile) adjudication or youthful offender conviction, a misdemeanor for which I completed all parts of my sentence at least 3 years ago, or a felony for which I completed all parts of my sentence at least 7 years ago.

2. **Adult conviction. Section 100G - Chapter 276.** I ask that the Court expunge my adult conviction, a misdemeanor for which I completed all parts of my sentence at least 3 years ago, or a felony for which I completed all parts of my sentence at least 7 years ago.

3. **Delinquency (juvenile) non-adjudication or any youthful offender or adult non-conviction. Section 100H - Chapter 276.** I ask that the Court expunge my delinquency (juvenile) non-adjudication or youthful offender or adult non-conviction, a misdemeanor for which I completed all parts of my sentence at least 3 years ago, or a felony for which I completed all parts of my sentence at least 7 years ago.

Print: _____ Date of Birth: _____
(Last Name) (First Name) (Middle Name)

Alias/Maiden/Previous Name: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Occupation: _____ Social Security # _____ Phone # _____

Father's Name: _____ Mother's Maiden Name: _____ Spouse's Name: _____

Race: Asian American Indian/Alaskan Native Native Hawaiian/Pacific Islander
 Black/African American White Other/Mixed Race

Ethnicity: Hispanic or Latino Not Hispanic or Latino

Gender: _____

Signature of Petitioner: _____

I understand and acknowledge that signing this petition means all of the statements below are true of the offense I am seeking to have expunged:

- I was under 21 years of age at the time the offense was committed;
- I have no additional offenses (other than minor motor vehicle violations) in Massachusetts or any other jurisdiction;
- I am not currently the subject of an active criminal investigation by any criminal justice agency;
- If the offense is a misdemeanor, all custody (including probation) ended at least 3 years ago;
- If the offense is a felony, all custody (including probation) ended at least 7 years ago;
- The offense did not result in death or serious bodily injury nor was the offense committed with the intent to cause death or serious bodily injury;
- The offense was not committed while armed with or carrying a dangerous weapon;
- The offense was not committed against an elderly or disabled person;
- The offense is not a sex offense, a sex offense involving a child, or sexually violent offense;
- The offense is not Operating Under the Influence (of liquor or drugs);
- The offense is not a firearms violation or a violation for illegal sale of a firearm;
- The offense is not a violation of any restraining or harassment prevention orders;
- The offense is not an assault or assault and battery on a household member; and
- The offense is not a felony violation of General Laws Chapter 265.

Signed under penalties of perjury

Signature of Petitioner

Date

INSTRUCTIONS TO PETITIONER

Reasons for Expunging a Record Under G.L. c. 276, § 100F, § 100G, or § 100H.

Under Chapter 276, § 100F, § 100G, or § 100H, you can ask a judge to permanently destroy, or "expunge", the official court records in question if all of the conditions listed on the attached Petition are met, and that expungement of the offense in question would be in the interests of justice.

Expungement may also be available in circumstances other than those listed above. If you want to seek expungement under one of these other circumstances, you must fill out a different petition and submit it to the Court.

You can find information about these other provisions, including eligibility requirements, at www.mass.gov.

Will the District Attorney's Office be notified of this Petition?

Yes. If upon review of your Petition it is determined that you meet all of the criteria listed on said Petition, this office will then notify the District Attorney's Office in the County where the offense was prosecuted. The District Attorney then has the right to respond, should they choose to.

Will there be a hearing?

If the District Attorney's Office objects to this Petition, then a hearing will be held. If there is no objection, a hearing may be held, at the discretion of the Court, but is not required.

Can I submit material in support of my Petition?

Yes. You do not have to, but you may provide additional information to support your Petition.

Where to file (mail) this Petition?

Office of the Commissioner of Probation, One Ashburton Place, Room 405, Boston, MA 02108.

Records will be Permanently Destroyed

An order of expungement requires the clerk of the court where the record was created to destroy/permanently erase the trial court records within the care, custody or control of the clerk's office, probation, and the Department of Criminal Justice Information, except for information contained in the domestic violence record keeping system. It also requires criminal justice agencies to destroy/permanently erase the record from all publicly available police logs maintained pursuant to G.L. c. 41, § 98F within their care, custody or control. Further, criminal justice agencies are required to respond to inquiries from any party, including criminal justice agencies, a county agency, a municipal agency or state agency that no record exists.

While the clerk will provide you with a copy of the expungement order, if you want copies of the records, any documents that you filed, or the petition, you must make copies *before* the court orders expungement. Once the record is destroyed, you will not be able to get a copy from the court.

PETITION FOR EXPUNGEMENT

G.L. c. 276, § 100K

DOCKET NO.

**Trial Court of
Massachusetts**



YOUR NAME AND ADDRESS

COURT DEPARTMENT

- Boston Municipal Court
- District Court

- Juvenile Court
- Superior Court

COURT DIVISION

I request the assistance of an interpreter for the following language: _____
(There is no charge to you for interpreter or translation services)

I request that this Court order that the records of the following charges be expunged (list charges):

I make this request because the records were created as a result of:

- False use of my identification
- Unauthorized use of my identity
- Theft of my identity
- The offense(s) described above is/are no longer a crime
- Errors by law enforcement
- Errors by civilian or expert witness(es)
- Errors by Court employees
- Fraud perpetrated upon the Court

Specifically (provide as much detail as possible explaining the reasons for your request):

I request that the Court hold a hearing on my petition.

If you need more space to explain, check this box and continue in the space provided on the back of this sheet. You may also attach additional pages if necessary.

If you have documents that support your petition, check this box and attach them to this petition.

I provided this petition and supporting documents to the District Attorney's Office of the county that prosecuted the case

by delivering a copy in hand **OR** by mailing a copy via first class mail to the District Attorney's Office on

_____ date

I swear under the pains and penalty of perjury that all information I provided in this Petition is true to the best of my knowledge and belief.

DATE:

PETITIONER'S SIGNATURE

Please see reverse side for instructions and space for additional information.

INSTRUCTIONS TO PETITIONER:

Reasons for Expunging a Record Under G.L. c. 276, § 100K

Under chapter 276, § 100K, you can directly ask a judge to permanently destroy, or "expunge", the official court records that were created because of one of the following reasons: (i) false use of your identification; (ii) unauthorized use of your identity; (iii) theft of your identity; (iv) an offense that is no longer a crime; (v) demonstrable errors by law enforcement; (vi) demonstrable errors by civilian or expert witnesses; (vii) errors by a court employee; or (viii) demonstrable fraud perpetrated upon the court.

Under this law, the judge can order expungement of the court record only if he or she determines on clear and convincing evidence that the record was created because of one of the reasons above and that expungement of the record would be in the interests of justice.

Expungement may also be available in circumstances other than those listed above. If you want to seek expungement under one of these other circumstances, you must fill out a different petition and submit it to the Office of the Commissioner of Probation. You can find information about these other provisions, including eligibility requirements, at www.mass.gov.

What You Must Show

You must demonstrate to the judge that the court record was created because of one of the reasons above and that expunging the record would be in the interests of justice. When you fill out this petition, you should provide as much detail as possible. You may give the judge copies of documents that support your reasons for asking for expungement. On the petition, there is a box to check for a hearing. At a hearing, you can tell the judge why your petition fits under one of the reasons above, and why granting the petition would be in the interests of justice.

Multiple Charges

On this petition, you should include all of the charges connected to the case that you are asking the judge to expunge. If you would like to ask a judge to expunge records in different cases, you should file separate petitions for each case.

Where to File the Petition

You should file this petition in the clerk's office in the court where the case was heard.

Providing a Copy of the Petition to the District Attorney's Office

You must provide a copy of this petition and any documents that you file with the petition to the District Attorney's Office that prosecuted the case on or before the day that this petition is filed in the court. You can do this by bringing a copy to the District Attorney's Office or by mailing a copy to the District Attorney's Office by first class mail.

Records will be Permanently Destroyed

An order of expungement requires the clerk of the court where the record was created to destroy/permanently erase the trial court records within the care, custody or control of the clerk's office, probation, and the Department of Criminal Justice Information, except for information contained in the domestic violence record keeping system. It also requires criminal justice agencies to destroy/permanently erase the record from all publicly available police logs maintained pursuant to G.L. c. 41, § 98F within their care, custody or control. Further, criminal justice agencies are required to respond to inquiries from any party, including criminal justice agencies, a county agency, a municipal agency or state agency that no record exists.

While the clerk will provide you with a copy of the expungement order, if you want copies of the records, any documents that you filed, or the petition, you must make copies *before* the court orders expungement. Once the record is destroyed, you will not be able to get a copy from the court.

Additional Information:
