

**TEXT OF PROPOSED REGULATIONS  
FOR PROPOSED AMENDMENTS TO THE SECURING OF CRIMINAL OFFENDER  
RECORD INFORMATION REGULATIONS**

**TEXT OF PROPOSED REGULATIONS**

Note: Amendments proposed with the 45-day notice are shown in single underline to indicate additions and ~~single-strikeout~~ to indicate deletions from the existing text. Amendments proposed in the 15-day notice are shown in double underline and ~~double-strikeout~~.

**CCR, Title 11, Division 1, Chapter 7, Article 1, Section 700.**

**Title and Scope.**

(a) This article shall be known as the “Mandatory Securing of Criminal Offender Record Information (CORI) Regulations” and be referred to herein as “these regulations.”

(b) The Department of Justice is statutorily mandated to maintain and furnish CORI to the following: any law enforcement agency or criminal justice agency to assist in the performance of official duties; any research entity concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders; and any regulatory entity, state or local government agency, public utility, or other authorized entity to assist in fulfilling employment, licensing, certification, or adoption duties. These regulations make specific the processes and procedures for securing, storing, disseminating, and destroying CORI furnished by the Department of Justice to any entity or agency.

(c) If any part of these regulations is held to be unconstitutional, contrary to statute, exceeding the authority of the Attorney General, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these regulations.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.

**CCR, Title 11, Division 1, Chapter 7, Article 1, Section 701.**

**Definitions of Key Terms.**

For the purposes of this article, the following definitions shall apply whenever the terms are used.

(a) “Criminal Justice Agency” means a public agency or component thereof which performs a criminal justice activity as its principal function.

(b) “Authorized Person or Agency” means any person or agency authorized by court order, statute, or decisional law to receive criminal offender record information.

~~(c) (Reserved)~~

~~(d) (Reserved)~~

~~(e) (Reserved)~~

~~(f) “Record Check” means obtaining the most recent rap sheet from the California Department of Justice.~~

(a) “DOJ” is the California Department of Justice or any employee, volunteer, or contractor of the Department of Justice acting under the authority of the Department of Justice.

(b) “Criminal offender record information” or “CORI” is the California master record of information compiled and maintained by the DOJ pertaining to the identification and criminal history of any person which may include name(s), state identification number or criminal identification and index number, date of birth, physical description, biometric data, photographs, date(s) of arrest(s), arresting agency or agencies, booking number(s), charge(s), disposition(s), and similar data.

(c) “Entity” is any person or authorized agency within California authorized by court order, statute, regulation, or decisional law to receive CORI, or if located in another state, authorized by California state or federal statute.

(d) “Law enforcement agency” is any public official, agency, or subunit thereof that performs law enforcement functions pursuant to a statute, regulation, or ordinance.

(e) “Criminal justice agency” is any public official, agency, or subunit thereof that performs law enforcement or criminal justice functions pursuant to a statute, regulation, or ordinance.

(f) “Custodian of Records” is the person designated by an entity that receives CORI who is responsible for securing, storing, disseminating, and destroying CORI, and who serves as the entity’s primary contact with the DOJ.

(g) “Background check” is the process of obtaining from the DOJ the most recent state and, if applicable, federal level CORI of a person for law enforcement or criminal justice official duties or to determine a person’s suitability for employment, licensing, certification, or adoption purposes.

(h) “System misuse” is an unauthorized query or access into a DOJ, federal, or national database or system or via a DOJ telecommunication connection.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.

**CCR, Title 11, Division 1, Chapter 7, Article 1, Section 702.**

**Compliance with State Regulations Accessing Criminal Offender Record Information.**

~~(a) (Reserved)~~

~~(b) (Reserved)~~

~~(c) The California Department of Justice shall conduct audits of authorized persons or agencies using criminal offender record information to insure compliance with the State regulations.~~

~~(d) (Reserved)~~

~~(e) Authorized persons or agencies violating these regulations may lose direct access to criminal offender record information maintained by the California Department of Justice.~~

(a) Every law enforcement or criminal justice agency or entity that receives CORI from the DOJ shall have a written policy that adheres to these regulations for securing, storing, disseminating, and destroying CORI. This policy shall include measures in place to prevent unauthorized access to CORI and to train persons authorized to access CORI.

(b) Law Enforcement and Criminal Justice Agencies

(1) Personnel who have access to CORI from the DOJ must have undergone and passed a state and federal criminal record background check prior to being permitted to access CORI.

(2) Every agency that receives CORI from the DOJ shall submit to the DOJ, on the ~~Annual~~ Custodian of Records Notification (Form BCIA 8375, ~~June 2013~~ November 2014, incorporated by reference herein), the name of an agency employee who has undergone a state and federal criminal record background check, to be the agency's Custodian of Records.

(c) Non-Law Enforcement or Criminal Justice Agency Entities

(1) The Custodian of Records policy for entities that are not a law enforcement or criminal justice agency is delineated in section 11102.2, Penal Code.

(2) Only the designated Custodian of Records of an entity that is not a law enforcement or criminal justice agency shall have access to CORI. The Custodian of Records must be confirmed by the DOJ, through the Custodian of Records Application for Confirmation (Form BCIA 8374, ~~January 2014~~ November 2014, incorporated by reference herein), prior to being permitted to access CORI.

(d) Measures shall be taken to place terminals and equipment that transmit or receive CORI in an area with physical security to provide protection from theft, damage, vandalism, or sabotage, and to preclude access to CORI by unauthorized personnel. This includes protection from unauthorized viewing of CORI displayed on the actual terminals/devices or manually stored/printed data at all times.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11102.2, 11105, and 13202, Penal Code.

**CCR, Title 11, Division 1, Chapter 7, Article 1, Section 703.**

**ReleaseHandling of Criminal Offender Record Information.**

~~(a) (Reserved)~~

~~(b) Criminal offender record information may be released, on a need to know basis, only to persons or agencies authorized by court order, statute, or decisional law to receive criminal offender record information.~~

~~(c) (Reserved)~~

~~(d) Record checks shall be conducted on all personnel hired after July 1, 1975, who have access to criminal offender record information.~~

(a) Any entity or law enforcement or criminal justice agency authorized to receive CORI provided by the DOJ shall acknowledge compliance with the requirements of these regulations for maintaining the security of CORI and criminal penalties for failing to comply with these regulations by signing and submitting to the DOJ the California Law Enforcement Telecommunications System Subscriber Agreement (Form HDC 0001 Revised 03/20/2010, incorporated by reference herein).

Note: Authority cited: Section 11077, Penal Code. Reference: Section 15165, Government Code. Sections 11075-11081, 11102.2, 11105, and 13202, Penal Code.

**CCR, Title 11, Division 1, Chapter 7, Article 1, Section 704.**

**Juvenile RecordsDissemination of Criminal Offender Record Information.**

(a) CORI received by a law enforcement or criminal justice agency for law enforcement purposes shall be used by the agency solely for the purpose for which it was requested, and not for any other purpose including employment, licensing, certification, or adoption purposes or to respond to inquiries by the subject of the CORI.

(b) Inquiries regarding the CORI, made by the subject of the CORI, should be referred to the DOJ.

(c) Any background check performed by an entity or law enforcement or criminal justice agency for employment, licensing, certification, or adoption purposes that incorporates CORI shall not be reproduced for secondary dissemination to any other law enforcement or criminal justice agency or entity.

(d) No law enforcement or criminal justice agency or entity shall solicit or receive CORI from another law enforcement or criminal justice agency or entity in response to a background check requested by the other law enforcement or criminal justice agency or entity.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.

#### **CCR, Title 11, Division 1, Chapter 7, Article 1, Section 705.**

##### **ReviewStorage of Criminal Offender Record Information.**

(a) CORI received by an entity or law enforcement or criminal justice agency for employment, licensing, certification, or adoption purposes shall not be retained by the agency or entity beyond the time necessary to satisfy the purpose for which it was requested unless otherwise provided by law.

(b) CORI received by an entity or law enforcement or criminal justice agency for employment, licensing, certification, or adoption purposes shall be maintained in a secure area with adequate physical security to preclude access by any unauthorized agency or entity personnel. CORI obtained for employment, licensing, certification, or adoption purposes must be stored separately from an applicant or employee personnel file.

(c) Any entity or law enforcement or criminal justice agency authorized to receive CORI shall keep a record identifying persons who may access CORI and each date that the CORI is accessed by an authorized person. The record shall be retained and available for inspection by the DOJ for a period of not less than three years from the date the CORI is received by the agency or entity.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.

#### **CCR, Title 11, Division 1, Chapter 7, Article 1, Section 706.**

##### **~~Protection of Criminal Offender Record Information~~Regulatory Entity Compliance.**

(a) The DOJ may conduct unannounced site inspections and/or scheduled audits of any entity that maintains or receives CORI and is not a law enforcement or criminal justice agency to ensure compliance with these regulations.

(b) The DOJ shall have full access to the terminals, equipment, statistical data, reports, lists of agencies, files, and record(s) related to the access, handling, dissemination, storage, or

destruction of CORI of any entity that maintains or receives CORI and is not a law enforcement or criminal justice agency during a site inspection and/or scheduled audit.

(c) The DOJ may investigate any violation of these regulations by any entity that is not a law enforcement or criminal justice agency including investigation of system misuse of CORI. The DOJ shall provide the results of any investigation in writing to the entity authorized to receive CORI. The entity shall return a written assessment of the investigation and a statement of corrective action to the DOJ. If the written assessment and statement of corrective action is compliant with regulations established by the DOJ as authorized by Section 11077, Penal Code, no further action shall be taken by the DOJ. If the written assessment and statement of corrective action is non-compliant with regulations established by the DOJ as authorized by Section 11077, Penal Code, the DOJ may take appropriate action as set forth in subdivision (d). The DOJ shall notify the entity of its action in writing.

(d) In the event of any violation of these regulations by an entity that is not a law enforcement or criminal justice agency, the DOJ may take any or all of the following actions:

(1) Revocation of the entity's Custodian of Records certification;

(2) Suspension of the entity's access to CORI for a specified period of time and/or for a specified purpose;

(3) Revocation of access to CORI.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.

**CCR, Title 11, Division 1, Chapter 7, Article 1, Section 707.**

**Automated Systems Law Enforcement and Criminal Justice Agency Compliance.**

~~(a) Automated systems handling criminal offender record information and the information derived therefrom shall be secure from unauthorized access, alteration, deletion, or release. The computer system and terminals shall be located in secure premises. Non-criminal justice agencies shall not receive criminal offender record information directly from an automated criminal justice system.~~

~~(b) Record checks shall be conducted on all personnel hired after July 1, 1975, who have access to the computer system, its terminals, or the stored criminal offender record information.~~

~~(c) Each authorized agency shall keep a record of each release of criminal offender record information from the automated system. The record shall be retained and available for inspection for a period of not less than three years from the date of release. This record shall contain the date of release, the requesting terminal identifier, the receiving terminal identifier, and the information given.~~

(a) The DOJ may conduct unannounced site inspections and/or scheduled audits of any law enforcement or criminal justice agency that maintains or receives CORI to ensure compliance with these regulations.

(b) The DOJ shall have full access to the terminals, equipment, statistical data, reports, lists of agencies, files, and record(s) related to the access, handling, dissemination, storage, or destruction of CORI of any law enforcement or criminal justice agency during a site inspection and/or scheduled audit, except that a law enforcement or criminal justice agency shall not be required to produce files or records concerning an active law enforcement or criminal justice investigation.

(c) Any violation of these regulations by a law enforcement or criminal justice agency shall be reported to the DOJ and investigated internally by the law enforcement or criminal justice agency that reported the violation. Any violation involving system misuse shall include a review of the agency's internal processes for securing CORI. The agency shall return a written assessment of the investigation and a statement of corrective action to the DOJ. If the assessment and statement of corrective action is compliant with regulations established by the DOJ as authorized by Section 11077(e), Penal Code, no further action shall be taken by the DOJ. If the assessment and statement of corrective action is non-compliant with regulations established by the DOJ as authorized by Section 11077(e), Penal Code, the DOJ may take appropriate action as set forth in subdivision (d). The DOJ shall notify the law enforcement or criminal justice agency of its action in writing.

(d) In the event of any violation of these regulations by a law enforcement or criminal justice agency, the DOJ may take any or all of the following actions:

(1) Issuance of a Letter of Censure;

(2) Suspension of access to CORI for a specified period of time and/or for a specified purpose;

(3) Revocation of access to CORI.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.

## **CCR, Title 11, Division 1, Chapter 7, Article 1, Section 708.**

### **Destruction of Criminal Offender Record Information.**

~~(a) When criminal offender record information is destroyed, the destruction shall be carried out to the extent that the identity of the subject can no longer reasonably be ascertained. When criminal offender record information is destroyed outside of the authorized agency, a person designated by the agency shall witness the destruction.~~

~~(b) (Reserved)~~

~~(c) Printouts of criminal offender record information obtained through system development, test, or maintenance shall be destroyed at the completion of the function or purpose for which the printout was obtained.~~

(a) When an entity or law enforcement or criminal justice agency determines that there is no need to retain CORI, CORI maintained in hard copy format shall be destroyed pursuant to Civil Code section 1798.81 in a manner compliant with the National Institute of Standards and Technology (NIST) Special Publication 800-88, "Guidelines for Media Sanitization" (publication date, September 2006), which is incorporated by reference herein. When CORI maintained in hard copy format is to be destroyed by an agency or entity other than the agency or entity authorized to receive CORI, a person designated by the agency or entity authorized to receive CORI shall be present to witness destruction of CORI.

(b) When an entity or law enforcement or criminal justice agency determines that there is no need to retain CORI, CORI maintained on digital media shall be destroyed in a manner compliant with the NIST Special Publication 800-88, "Guidelines for Media Sanitization" (publication date, September 2006), such that there is reasonable assurance that the information cannot be retrieved or reconstructed prior to disposal or release for reuse. The agency or entity authorized to receive CORI shall maintain written documentation of the steps taken to destroy digital media. The documentation shall be retained and available for inspection by the DOJ for a period of not less than three years. When CORI maintained in digital media is to be destroyed by an agency or entity other than the agency or entity authorized to receive CORI, a person designated by the agency or entity authorized to receive CORI shall be present to witness destruction of CORI.

Note: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, 11105, and 13202, Penal Code.