

Chapter 16

Getting (and Preventing) Access to Information

Legal Tactics: Tenants' Rights in Massachusetts
Seventh Edition, July 2008

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Getting (and Preventing) Access to Information

by Ernest Winsor

Italicized words are in the Glossary

As a tenant, you may need to gain access to information about your landlord or your building in order to protect your rights. Similarly, you may find that other people have access to information about you which may affect your ability to find housing or stay in your apartment.

The purpose of this chapter is to tell you what information is public, how you can get access to this information, how you can keep personal information about yourself private, and what special rules exist that relate to criminal records.

Your Right to Information

1. What Information Is Public

In Massachusetts, the public records laws (informally known as the Freedom of Information Act or FOIA, pronounced FOY'-AH) give people the right to see and copy certain state government records.¹ There is also a federal FOIA which gives people access to federal government records.²

Although this chapter does not specifically cover the federal FOIA, most of what is included about the state FOIA also applies to your access to federal government records.

As a member of the public, you have a right to see any document that is considered a "public record." A public record can be a document of any size, a photograph, financial statement, tape recording, or information stored in a

computer—any document held by the government—unless FOIA says that it is not a public record.³ FOIA states that a document is **not a public record** if it is:

- Kept secret by another law;
- Related to a government policy position still being developed;
- Related solely to internal personnel policies and its disclosure would interfere with the performance of the government agency;
- Part of an individual's personnel records, medical files, or anything else where its disclosure "may constitute an unwarranted invasion of personal privacy";
- Part of a government employee's personal notes which are not part of the government's files;
- Part of a secret investigation and its disclosure might compromise the investigation;
- A trade secret or other commercial or financial information which was voluntarily provided to the government;
- A sealed bid for a public contract before it is unsealed;
- An appraisal of land before an agreement for sale has been made or any lawsuit about the land is over;
- Identification of an applicant for a gun license;
- Test questions for state licensing exams; or
- A contract between a government health care facility and a health insurer.

Under the law, the official holding the record has the burden of proving that it is not a public record.⁴

a. Which Government Offices Have Public Records

The government offices covered under FOIA include all state agencies, departments, boards, commissions, and bureaus. For example, the Department of Housing and Community Development (DHCD) must give you documents that are public records. FOIA also covers all city, town, county, and regional government entities, such as housing authorities, tax assessors offices, registries of deeds, and zoning boards.⁵

FOIA does **not** cover two branches of state government: the state legislature and the courts. As a practical matter, however, you can obtain most legislative documents, such as bills, relatively easily from the State House in Boston. Court documents, although not covered by FOIA, are in many cases available to the public, unless covered by special privacy protections, such as laws which protect certain juvenile and criminal records.

FOIA also does not cover private individuals or corporations. Suppose, for example, that you rent an apartment from a private landlord. You have heard that the landlord has a policy, or at least a practice, of keeping records about "suspicious activities" of tenants. If you ask the landlord for a copy of the policy, does she have to give it to you? Even if there is a written policy—probably not. Under FOIA, because a private landlord is not the government, FOIA does not apply, even if your landlord might be getting some government subsidies.

On the other hand, if your landlord is a local housing authority and there is a document in the housing authority's files describing a policy concerning keeping records about suspicious activities, the housing authority must, under FOIA, give you a copy of this policy.

2. How to Get Public Records

Generally, getting access to public records is simple. As a member of the public, you walk into the office of the government agency that has the document you want and ask for it. In many cases, you will be given access to the document you want. If a person refuses to let you see a document or is unsure about whether a particular document is public, there are a number of steps you can take to get the information you need.

1. Write a letter to the person who has responsibility for keeping the document you want. If you do not know who that is, you can just address your letter to the "Custodian of Records." The letter should describe, as clearly as possible, the document or documents you want to see. You need to give the person just enough information so that she can locate the document. You do not have to identify the specific document. For a sample, see **Form 22: Public Records Request Letter**. Be sure to keep a photocopy of your letter, and make a note of when you mailed or delivered it. You may want to send it by *registered* or *certified mail*, but that is not necessary.

FOIA says that a government official who holds a public record must give you access to the document you requested within 10 days of receiving your letter.⁶

2. After you send a request letter, follow up with a phone call or perhaps a visit to the place where you have requested the record. If the document custodian invites you to take a look at the document, go take a look. You have a right to purchase one copy of the entire document, or just the pages you want, at no more than 20¢ per page. You cannot be charged for just looking at a document. You may also ask the document holder to give you the document at no cost because you think the disclosure to you "would benefit the public interest" and be

of interest to other people.⁷ For example, if you are a representative from a tenant group and you want to get copies of your housing authority's budget, you can ask the housing authority to give you the document at no cost because it will be of benefit to other tenants. In this type of situation a document holder can *waive* a fee, which means that she can decide not to charge you.

If the person holding the record denies you access to the information you have requested, she must tell you her reasons in writing.⁸ FOIA says that "there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove" that it is not.⁹ In many respects, this is the most important part of FOIA. Public records are for the public to have access to; any document custodian who withholds access must have a good reason, based on the specific wording of the law, that a document is not public.

3. If the document custodian refuses you access, does not give you what you requested, or, more likely, does not respond to you within 10 days, you may complain to the Supervisor of Public Records in the office of the Secretary of State.¹⁰ You must do this in writing within 90 days of being denied the information you requested. You must send this letter to:

Supervisor of Public Records
Office of the Secretary of State
One Ashburton Place, Room 1701
Boston, MA 02108

The phone number is 617-727-2832.

When you send a complaint to the Supervisor of Public Records, attach a copy of your original request letter and the letter denying you access, if there is one. It is very important to save copies of all of these documents for yourself in case you run into problems later.

The Supervisor of Public Records will have a staff person try to resolve the problem

informally. If this does not work, the Supervisor will determine whether the records are public. If your case is complicated, or if there is some question as to whether what you've asked for is a public record, or whether, for instance, its disclosure might violate the personal privacy of another person, the Supervisor may take several months to make a decision. If, however, the issue is a simple one, you may wish to call the Supervisor's office and ask that the case be handled quickly.¹¹ This may take a few weeks. If the Supervisor decides the records are public, she will direct the holder of the record to give you access to the document. If the holder disobeys this order, the Supervisor may refer the matter to the state Attorney General, who can go to a court and get an *order* requiring the holder to give you the information you are seeking.¹²

4. If a government agency refuses to give you access to public records, you have the right to sue that agency in court. Suing, however, is complicated and is best done with the help of a lawyer.¹³

Your Right to Privacy

Under the law you have a right to keep personal information private. The Massachusetts Fair Information Practices Act (FIPA, pronounced FEE'-PAH) tells government officials how they must handle personal information about people.¹⁴ FIPA defines:

- What "personal data" the government may collect;
- How and by whom this information can be used;
- What rights you have to see and copy information about yourself;
- What you can do if someone violates this law.

1. What Information Is Private

The information which FIPA covers is called "personal data." Personal data is any information about you which can easily be associated with you. For example, housing authorities collect personal data on applications for public and subsidized housing when they ask you your income and the names, relationships, and ages of people in your family.

2. Who Holds Personal Information

All agencies, boards, departments, divisions, commissions, and committees of the executive branch of state government may be holding personal data which is protected by FIPA. **Housing authorities and other organizations or people that receive government funds to perform a government function are also required to follow FIPA regarding personal data in their possession.**¹⁵ Such organizations or people include subsidized landlords, drug and alcohol programs, day care programs, and hundreds of other private agencies that receive government money to do a government-sponsored job.

3. What Obligations Do Holders Have

Any agency or entity covered by FIPA that collects personal data is called a "holder."¹⁶ There are specific do's and don'ts that every holder must follow. The most significant are briefly described below.

a. Restrictions on Release of Information

There are four ways a holder of personal data about you can legally give information out to others:¹⁷

- When the transfer of information is allowed or required by some other statute;
 - When the transfer is allowed or required by a regulation that is consistent with the purposes of FIPA (which is to protect privacy);
 - When there is a medical emergency and the information will aid in your treatment; or
 - When **YOU** have given written permission for the transfer of information.
- The last way—your giving permission—is the most common. It is generally done by use of a "consent-to-release" form. Sometimes such forms are referred to simply as "consent" forms or "release" forms, or even *wavier* forms. The term doesn't matter. Whatever it is called, it is a form where you give permission to have personal information about you given out to others. Before signing such a form—especially a housing authority's standard form¹⁸—you should keep the following points in mind:
- Know exactly what information is being released, for what purpose, to whom, and when.
 - Know what the consequences are, both good and bad, of agreeing to give or refusing to give out certain information about yourself.
 - Do not give a "blanket consent" for the agency to release all of your personal information to anyone.
 - Give permission for the use of information until the occurrence of some specific event, such as your acceptance into public housing, or only for a limited period of time (no more than one year).
 - Keep the right to revoke, or take back, your consent at any time. Make sure you put this in writing.
 - Try not to sign the release form until very shortly before it is expected that the information will actually be released.
 - Get a copy of your written consent, showing its date and your signature. Do not sign any form unless you know you are going to get a copy of it.¹⁹

b. Cannot Collect Unnecessary Information

A holder is allowed to collect only the amount of personal information that is "reasonably necessary" to perform its job.²⁰ For example, if you are applying for government-funded housing, a housing authority can ask you only for personal information that is necessary to determine whether you meet the requirements of a particular housing program. It cannot ask you for information such as personal medical information. If you live in public or subsidized housing and the housing authority or landlord is collecting information about who comes to visit you, this is an unnecessary intrusion into your privacy.

If you suspect that a holder is collecting more information than is "reasonably necessary," you can review your personal file and ask that unnecessary information be removed. The section in this chapter called **How to Correct Errors** tells you how to do this.

c. Must Properly Maintain

A holder must make sure that any personal data it has is accurate.²¹ A holder must also make sure that personal data is kept in a secure place.²² For example, it could be kept in a locked file cabinet with access limited only to those who need to know the information.

A holder must, to the extent feasible, keep a complete record (sometimes called an "audit trail") of every time it gives any outside person or organization access to your personal information. This record must include the name of the person or organization and a description of the purpose for which the person or organization is going to use your personal information.²³ A holder must also let you see the audit trail.²⁴

4. Getting Access to Your Own File

You have a right to see all personal information an agency holds about you.²⁵ To do this, write a letter to the individual in charge of records at the agency holding the information. Ask for all documents held by the holder that relate to you.

You should receive a reply from the holder within 30 days.²⁶ The agency must also give you the information you have requested in a form that you can understand. If you cannot understand it, take the document back and ask someone to sit down and explain it to you. It is a violation of FIPA for the holder to refuse to explain it to you.

a. When Can Access Be Denied

There are some circumstances when an agency can refuse to give you access to information about yourself. A holder may refuse you access if allowing you access to your own file is prohibited by another law. However, there are very few laws that prohibit such access rather than merely regulate it.²⁷

Another exception to the right to see your file is when disclosure to you "would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." This provision applies when you are the subject of an investigation and your knowledge about the details of the investigation would unreasonably hinder it. But there is a limit to how long the file may be withheld from you. It must be released either when the investigating agency starts an administrative proceeding or a court case or one year from the start of the investigation, whichever is first.²⁸

5. How to Correct Errors

If you think your file or your personal information contains an error or is incomplete, you have a right to have the holder correct the error. To do this, you should write a letter describing the problem to the person in charge of the record. If she does not make the correction, you should then ask for a meeting with that person so that together you can go over what information needs to be removed or corrected. If the record holder still refuses to change the record, the holder must put a note in your file that you claim that the record is not accurate. You have a right to submit your version of the truth.²⁹ You may also challenge the accuracy of information by filing a *complaint* or *grievance*, as described in the next section.

6. What to Do If Your Rights Are Violated

Under FIPA, you may challenge the accuracy, completeness, relevance, or release of personal information by filing a *complaint* or *grievance* with the holder or by bringing a lawsuit in court.

a. Agency Complaint or Grievance

Every agency or holder of personal information must have written procedures that allow an individual to challenge the accuracy or improper handling of personal information.³⁰ Because each agency has its own procedures, you should start by asking for and contacting the person responsible for the agency's "personal data system."³¹ For example, if a housing authority has violated your rights under FIPA, you can file a complaint with the housing authority's "personal data officer." If you are not satisfied with her resolution of your complaint, you may appeal the decision through the housing authority's *grievance* procedures,³² or you may even take legal action in court.

b. Lawsuit

You have a right to sue a holder (an organization, not an individual within an

organization) in order to correct your record and to collect money *damages* for violations of the law.³³ You must file a lawsuit in state superior court within three years of the date of the last FIPA violation. You will probably need a lawyer to help you.

When you go to court, you may ask the judge for a court *order* forcing the holder to stop doing something or to do something. For example, you may ask a judge to order the landlord to correct certain information in your tenant file. If you win your case and a court awards you money damages, you are entitled to at least \$100 for each violation of FIPA. You may also be awarded court costs and attorney's fees.

Note: Attorney's fees awards have been made in FIPA cases both when the plaintiff is represented by a private lawyer and even when representation is by a free legal services attorney.³⁴ This is an important part of FIPA because, if you have a good case, it may be easier to find a private lawyer to take your case, even if you can't pay any money "up front." For more information about filing a lawsuit, see **Chapter 14: Taking Your Landlord to Court.**

Criminal Records and Your Right to Privacy

In 1972, the state passed a law relating to criminal records. Criminal records, which come from court cases, are referred to in the law as "Criminal Offender Record Information" (CORI, pronounced COR'-EE).³⁵ Under the law, only certain people and certain types of agencies are allowed to have access to criminal records. The law is enforced by a government agency called the Criminal History Systems Board (CHSB).

One of the original purposes of the CORI law was to protect the privacy of people with criminal records so that they would have a chance to turn over a new leaf. Over the last 30 years, however, the law itself and the way it is administered have gone through dramatic

changes that have had a generally bad impact on the privacy of former offenders, including those who apply for rental housing.

1. Who Can Get Access to Criminal Records

a. Getting Your Own Records

Under the CORI law, if you are *indigent*, you may get a copy of your own CORI for free, but you must fill out and send in with your CORI request form a completed **Affidavit of Indigency** (see **Booklet 9**).³⁶ See a copy of the personal **CORI Request Form** to the CHSB, the administering agency, at **Form 23**.

You may also give written permission for someone else, such as an attorney, other advocate, or family member, to get a copy of your CORI.

Important: Sometimes a landlord will ask a person applying for housing to get a copy of his or her own CORI and bring it to the landlord. **This is illegal.**³⁷ If a landlord asks you to get your own CORI, you should tell her that such a request is illegal, and that, if she wants access to your criminal record, she should request it from the CHSB—if she has been certified for access. See **Private Landlords' Access to CORI** in this chapter.

b. Public Housing Authority Access to CORI

Public housing authorities have access to CORI for screening applicants for public housing³⁸ and for Section 8 rental assistance.³⁹ They can request a CORI report for each member of a household who is 17 or older.

State Public Housing

A public housing authority, when screening you for public housing funded by the state Department of Housing and Community Development (DHCD), must follow the state law and DHCD regulations as to how it makes its screening decision. The housing authority may, for instance, disqualify you if, in prior

housing, you disturbed a neighbor, caused damage or destruction to property, or engaged in criminal activity, or if you are a current illegal user of drugs.⁴⁰ This information may be indicated on a CORI report.

The state law does, however, provide you with some due process rights and a chance to prevent, or reverse, a denial of housing assistance based on your CORI. Prior to disqualifying you, the housing authority must permit you to show that there are **mitigating circumstances** as to why the behavior in question will not likely recur in the future.

Mitigating circumstances may include any rehabilitation efforts, such as current attendance at or completion of a substance abuse treatment program. The housing authority must also consider:

- The severity of the behavior;
- The amount of time which has passed since the behavior occurred;
- The degree of danger, if any, to others if the conduct recurred;
- The inconvenience that recurrence would cause the housing authority; and
- The likelihood that the behavior will substantially improve in the future.⁴¹

If the housing authority decides, nevertheless, to disqualify you because of information in your CORI, it must give you notice explaining the decision and a chance to have a "private conference" with representatives of the housing authority. This amounts to an informal hearing, where you can be represented by a lawyer or other advocate. If, after an informal hearing with the housing authority, the housing authority continues to deny you admission into state public housing, you may have this adverse decision reviewed by DHCD.⁴²

Federal Public Housing

If the housing authority is making a screening decision about admission to a public housing unit which is funded by the **federal** Department

of Housing and Urban Development (HUD) or about the award of a federal Section 8 voucher, it must follow the applicable HUD regulations.

Under HUD's regulations (referred to as the "one-strike-you're-out" regulations), the housing authority may prohibit the admission of a household if, for instance, any member "has engaged in during a reasonable time before the admissions decision," drug-related or violent criminal activity or criminal activity that would threaten the health, safety, or peace of other residents, the housing authority, or its employees or contractors.⁴³

One good requirement in HUD's regulations is that if the housing authority has obtained CORI "showing that a household member has been convicted of a crime" that is relevant to the screening, the housing authority must, **before making a final decision to deny you admission** to federal public housing:

1. Notify you that it plans to deny you admission,
2. Provide you with a copy of the information it used to make the decision, and
3. Give you an opportunity to dispute the accuracy and relevance of this information.⁴⁴

While there is no explicit provision that the housing authority must consider "mitigating circumstances" (as they must do for admission into state-funded housing), you can still try to persuade them that there are mitigating circumstances that they should consider which make the conviction information less relevant than recent good behavior.

c. Private Landlords' Access to CORI

Private landlords (whether individuals or organizations) may get access to CORI under the Criminal History Systems Board's certification process, whereby the Board grants access if it determines that the landlord's need for the CORI outweighs the privacy interest of the

CORI subject.⁴⁵ (This is called the "Section 172(c) certification process.")

If a private landlord gets a CORI report from the CHSB, that landlord is subject to the same due process requirements that all organizations and people getting access to CORI must follow. This means that if the landlord is inclined to reject a person because of something in the CORI report, the applicant must be invited in for a private meeting with the landlord who must share a copy of the CORI report with the applicant and give that applicant an opportunity to dispute the accuracy and relevance of what is in the CORI.⁴⁶

If you know the landlord will do a criminal background check with the CHSB or a commercial background-checking organization and are asked to supply certain personal information and to sign an acknowledgment, ask the landlord to review the CORI or background information with you so that you can discuss its accuracy and relevance. If you get a meeting with the landlord and the CORI report accurately lists convictions of serious crimes, try to show how your recent activity indicates that the former criminal behavior will not recur.

d. The General Public's Access to CORI

As a result of extensive changes made in the CORI law in and after 1990, members of the general public may, for any reason, for a fee (generally \$30),⁴⁷ get access to the CORI of a particular person if that person was convicted of a crime punishable by imprisonment for five or more years or is presently or was recently in prison, incarcerated under a sentence, or under probation or on parole.⁴⁸

2. What You Can Do to Protect Your Rights

Because inaccurate and misleading information can be recorded in a CORI report, you should personally request your own CORI before applying for housing that requires a criminal history background check. See the section in this chapter called **Getting Your Own Records**.

Sometimes CORI information is incorrect because someone else used your Social Security Number or has a name that is the same or similar to yours. If this happens to you, you can contact the CORI Project at the Legal Advocacy and Resource Center at 617-603-1700 and ask to talk with a CORI Project staff person. Advocates there may be able to help you correct your CORI.

If a housing authority or any other organization or person gives out your CORI records without your permission and thereby violates the law, you may file a complaint with the Criminal History Systems Board, the government agency

responsible for enforcing CORI,⁴⁹ by writing a letter addressed to:

General Counsel
Criminal History Systems Board
200 Arlington Street
Chelsea, MA 02150

or calling:

617-660-4640.

You have a right to request that information in your CORI that is inaccurate, incomplete, or misleading be corrected if the court which created the information will not make the change.⁵⁰

Note: If your CORI relates only to illegal drug possession (not illegal drug distribution), see the section called **Discrimination Based on Disability** in **Chapter 7: Discrimination**.

Endnotes

1. The state FOIA is contained in two different parts of the Mass. General Laws. One part is the definition of "public record," at G.L. c. 4, §7, clause twenty-sixth (hereinafter "26"). The other part is G.L. c. 66, §10, which tells how to get public records. See also the Public Records Access regulations of the Secretary of State, 950 C.M.R. §32.00.
2. 5 U.S.C. §552.
3. G.L. c. 4, §7, clause 26.
4. G.L. c. 66, §10(c).
5. G.L. c. 4, §7, clause 26.
6. G.L. c. 66, §10(b).
7. 950 C.M.R. §32.06(5). There may be other charges, too, for searching for and retrieving the documents, or parts of them, that are public records. See 950 C.M.R. §32.06.
8. Several reasons that document custodians often improperly deny people access to public records include that the otherwise public document: (1) contains information which FOIA says is not public; (2) contains a policy that has not been approved by some agency or higher-up; or (3) is protected because it contains personal information. If a document contains some information that is protected, the custodian must delete this information and provide you with the information that remains. See *Reinstein v. Police Commissioner of Boston*, 378 Mass. 281 (1979). If, for example, a policy has been approved by the board of a housing authority, it is a public record even if it has not yet been approved by DHCD or HUD. This is because the Open Meeting Law, G.L. c. 39, §23A, applies to "the governing board of a local housing . . . authority"; and another section specifically provides that the records of open meetings "shall become a public record and be available to the public. . . ." §23B, 7th (unnumbered) paragraph.
9. G.L. c. 66, §10(c).
10. 950 C.M.R. §32.08.
11. In July 2002, a lawyer in the Supervisor's office confirmed that the office will sometimes accelerate action on a case where there is *good cause*.
12. G.L. c. 66, §10(b), 4th and 6th sentences. Attorneys General (AGs) vary as to how willing they are to pursue these cases. But if the AG does pursue the case, she will probably be more effective in getting results than you would be by bringing your own lawsuit.
13. If you file a FOIA suit, you must file in superior court.
14. G.L. c. 66A, §§1, 2 and 3.
15. G.L. c. 66A, §3, provides that "the department of housing and community development (shall promulgate rules and regulations to carry out the purposes of this chapter which shall be applicable to local housing and redevelopment authorities of the cities and towns." See also 760 C.M.R. §8.
16. G.L. c. 66A, §1 (definition of "Holder").
17. G.L. c. 66A, §2(c). There is also an unacknowledged exception where courts will order a disclosure of personal data under a protective order that generally protects privacy, but which also allows parties to have access to information that is crucial to a case.
18. If a tenant applies for or lives in housing funded by the federal government, the housing authority must use a consent-to-release form that meets the requirements of 42 U.S.C. §3544.
19. The DHCD regulations contain some specific requirements for an informed consent procedure, 760 C.M.R. §8.02.
20. G.L. c. 66A, §2(l).

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21. G.L. c. 66A, §2(h).
 22. G.L. c. 66A, §2(d).
 23. G.L. c. 66A, §2(f).
 24. G.L. c. 66A, §2(g).
 25. G.L. c. 66A, §2(i), 1st sentence.
 26. The length of time within which each agency must reply to a request is set forth in its own regulations. Most regulations allow between 20 and 30 days for a response.
 27. Advocates may wish to challenge an agency refusing a client access to her own file if the agency is relying on another statute which does not expressly prohibit access but merely regulates it.
 28. G.L. c. 66A, §2(i), 2nd and 3rd sentences.
 29. G.L. c. 66A, §2(j)(2).
 30. G.L. c. 66A, §2(j)(1).
 31. G.L. c. 66A, §2(a); 950 C.M.R. §32.05.
 32. 760 C.M.R. §6.08, starting with subsection (4)(a) and especially the 2nd (unnumbered) paragraph thereafter, starting with the words: "A grievance regarding some other matter ... "; and G.L. c. 214, §3B.
 33. G.L. c. 214, §3B.
 34. See *Torres v. Attorney General*, 391 Mass. 1, 14-16 (1984).
 35. Generally, G.L. c. 6, §§167-178, as inserted by c. 805 of the Acts of 1972, and subsequent enactments.
 36. G.L. c. 6, §175, 1st sentence; and G.L. c. 6, §172A.
 37. G.L. c. 6, §172, 5th ¶, 3rd sentence.
 38. G.L. c. 6, §168, 3rd ¶, 3rd sentence.
 39. By Board certifications in 1992 and 1997 under G.L. c. 6, §172, clause (c). See also CHSB regulations, 803 C.M.R. §5.
 40. G.L. c. 121B, §32, 11th (unnumbered) paragraph, subparagraphs (a), (b) & (d); and 760 C.M.R. §§5.08(1)(a), (b) & (k).
 41. 760 C.M.R. §5.08(2). Prior to disqualifying an applicant, a housing authority " . . . shall permit the applicant to show **mitigating circumstances**, which may include rehabilitation or rehabilitating efforts, sufficient so that when the potentially disqualifying behavior is weighed against the mitigating circumstances, the [housing authority] is reasonably certain that the applicant or household member will not engage in any similar conduct in the future." (Emphasis added.) The housing authority is to consider the severity of the conduct and the danger it caused, how much time has elapsed, the inconvenience to the housing authority, and the likelihood of its recurring. See also G.L. c. 121B, §32, 12th (unnumbered) paragraph.
 42. 760 C.M.R. §5.13. Though this provision for DHCD "review" is vaguely worded, the Massachusetts Supreme Judicial Court held, in *Madera v. Secretary of EOCD*, 418 Mass. 452 (1994), that the person seeking review is entitled to a full-blown adjudicatory hearing before a hearing officer or panel of what is now the DHCD (with the possibility of a further appeal, under G.L. c. 30A, §14, to the Superior Court).
 43. 24 C.F.R. §5.855(a).
 44. 24 C.F.R. §5.903(f). " . . . [T]he PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant . . . a copy of such information and an opportunity to dispute the

accuracy and relevance of the information . . . before the denial of admission. . . ." This regulation, in Part 5 of 24 C.M.R., and related provisions in 9 other parts, were published in final form in the Federal Register of 5/24/01. There is also, in another part of the regulations, an absolute, lifetime ban from federal public housing of anyone who was previously convicted of manufacturing methamphetamine while a tenant of federal public housing.

45. Although there is a special §172(c) certification process for individuals or organizations to get access to CORI, the Criminal History Systems Board had a practice of denying private landlords' requests for §172(c) certification. To find out whether a landlord has received certified access to CORI, you can call the CHSB legal office (617-660-4654) or make a public records request (see **How to Get Public Records** section in this chapter).
46. 803 C.M.R. §6.11(2).
47. G.L. c. 6, §172A. Government agencies and housing authorities do not have to pay the fee.
48. G.L. c. 6, §172, 7th (unnumbered) paragraph.
49. G.L. c. 6, §178 makes it a crime to give out CORI, except as provided by the law; and G.L. c. 6, §177 provides a civil remedy for violating the CORI law.
50. G.L. c. 6, §175, 1st ¶, 2nd and subsequent sentences.