



## Rap sheets that refuse to RIP

### Use of background checks haunts past offenders, and ID theft victims

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BOSTON - Christine O'Neill had been working in the cafeteria of the King Philip Middle School in Norfolk for about three weeks when she was called to the superintendent's office. She was told her criminal background check had come back, and she was fired.

O'Neill left the building, sat in her car, and wept. Not because her past had come back to haunt her, but because someone else's had.

O'Neill, 48, of Medway, didn't have a criminal record, but her identity was intertwined with that of a petty criminal who had stolen O'Neill's license in the 1980s. When the woman was arrested, she gave the license to police, making O'Neill one of her aliases.

As a result, the woman's 10-page rap sheet — known in Massachusetts as a Criminal Offender Record Information, or CORI — was kicked back last fall when the school did a background check after O'Neill applied for the job.

#### Common, and sometimes mandatory

It's become more common for employers to check the criminal backgrounds of prospective and current employees, particularly in the Internet age. Some of that growth is from laws enacted to protect the public, but it's also because of private companies checking on job applicants and landlords screening potential tenants. That's particularly troublesome for victims of identity fraud, as well as those with convictions for minor offenses, or charges that were eventually dismissed.

"I didn't do what she did. It shouldn't even matter what she did," O'Neill said of the woman who stole her license. "It's not me, and that's what I don't understand: Why can't they fix it? What's the big deal?"

Massachusetts created CORIs in 1972 so law enforcement — such as police, judges, probation officers and prison wardens — would have quick, easy access to criminal records.

Since then, state law has made criminal background checks mandatory for many jobs, such as those that involve working with the elderly, children, or disabled people. Checks can be made for people applying to get into public housing, and private landlords and employers also use background checks to screen applicants.

In 1993, there were 2,000 entities in Massachusetts certified to ask for CORIs from the state. These days, there are about 10,000.

#### Soaring requests, growing access

The state's Criminal History Systems Board, which oversees the CORI system, received nearly 1.5 million requests for information last year, more than triple the number requested in 1998, according to a recent report from the Crime & Justice Institute and The Boston Foundation.

Thirty-seven states allow employers and licensing agencies to consider an applicant's arrest record,

and 33 states do not permit convictions to be sealed, according to a report last year from the Legal Action Center in New York.

The report, overall, gave Massachusetts' CORI system high marks for, among other things, allowing first-time felony records to be sealed after 15 years and forbidding employers from asking about arrests that never led to conviction. But the state lost points in other areas, such as allowing employers to refuse to hire someone with a criminal record.

Most states also allow local housing authorities to consider convictions when picking tenants, and 27 states allow arrests to be considered, according to the report.

The number of people affected nationally is huge. Some 630,000 people get out of state and federal prisons each year with criminal records, and according to the U.S. Department of Justice, almost 30 percent of adult Americans had a state criminal arrest record in 2003.

Helping to fuel the surge is the growing business of selling personal information. More than 400 companies have cropped up in the past several years selling criminal histories and other information over the Internet, according to Debbie A. Mukamal, director of the Prison Re-entry Institute at the John Jay College of Criminal Justice in New York, and the author of the Legal Action Center report.

### **Ball and chain**

There's little disagreement, even among critics of the current system, that there must be access to criminal backgrounds to protect the innocent and prevent people with criminal histories from hiding their pasts.

But as rap sheets become open books, they can haunt people like O'Neill.

Today, she carries a letter from Wrentham District Court saying her identity had been stolen, but her name is still on the other woman's CORI, according to her attorney, Francisca Fajana, of the Massachusetts Law Reform Institute, a statewide legal services group.

The school superintendent declined to comment.

"That's a huge, huge impact. You can't get a job, you can't pay your rent, can't put food on the table," said Fajana.

### **Baggage from the past**

Another group that runs afoul of CORIs are people trying to get back on their feet after prison, or put a checkered past behind them, said Mukamal.

"It shuts off opportunity to people, in terms of getting housing and employment, that are really critical to someone's ability to return to society and become productive," she said.

Thirty-five-year-old Cheryl Murphy didn't understand why employers were rejecting her job applications until she begged one to tell her. The employer pointed to Murphy's six-page CORI of dismissed charges, dating to 1986, when she was a teenager arrested for sleeping under a tree on Martha's Vineyard.

Nine charges stemmed from when she was arrested for carrying painkillers for her back in a Tylenol bottle. Of the 27 charges on her CORI, only one was not dismissed, and that one was continued without a finding.

Because she can't get regular work, she works five days a week on the overnight shift for a Boston homeless shelter, and double shifts as a weekend waitress at a restaurant.

"I've been given a life sentence, and I've never been convicted of a misdemeanor," she said. "CORIs carry more weight than the best of resumes."

### **Evolving controls**

New state regulations, which went into effect at the end of June, require agencies seeking CORI reports to ensure they have the right person by asking for information like mother's maiden name and physical attributes. Social Security numbers are optional.

The new regulations also give people new rights to dispute the information on a CORI report, and create new safeguards to prevent dissemination of the information. But critics say a bigger fix is needed for what they say is a problem with easy access to criminal records.

Unlike other states, Massachusetts does not use fingerprints to match the names on CORIs with the people who actually have the record. The state's Criminal History Systems Board is working to remedy that by creating new identity fraud protections, said Curtis M. Wood, the board's deputy director.

A bevy of CORI reform bills are pending in the Legislature. For example, one bill would allow records to be purged when a person is charged by mistake. Another would limit CORIs only to convictions. Another would shorten the waiting time before convictions could be sealed.

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