

# Disclosure Video Series

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# Disclosure Video Series

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CHRI & Criminal Documents

November 29, 2022

# Agenda

- 01 | CHRI Overview
- 02 | Frequently Seen CHRI Charges
- 03 | Criminal Document Overview
- 04 | Reminders, Tips & Best Practices
- 05 | Questions & Answers

# Criminal History Record Information (CHRI)

Q: Who must be fingerprinted?

A: Pursuant to Section 17(f)(2) of the Securities Exchange Act of 1934 and Rule 17f-2 thereunder, as amended, the SEC requires firms to submit fingerprints for all partners, directors, officers and employees, unless they are exempt under those same provisions.

Q: How are personnel to be fingerprinted?

A: Individuals may be fingerprinted at FINRA-certified Electronic Fingerprint Submission (EFS) vendor's collection site or fingerprinting equipment may be purchased or leased from a FINRA Certified EFS vendor. Hardcopy fingerprint submissions may be taken by a trained fingerprint technician (e.g. a sheriff's office or police station).

See <https://www.finra.org/registration-exams-ce/classic-crd/fingerprints> for additional information.

# Criminal History Record Information (CHRI)

## Common Fingerprint Card Statuses

- CLER
- RAPP → COMP
- ILEG
- CLRX
- RAPX → CMPX



# CHRI Terms and Conditions

## CHRI Terms And Conditions

NOTICE: You have requested access to FBI-maintained Criminal History Record Information (CHRI), which includes information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges (and any disposition arising therefrom) sentencing, correctional supervision, and release.

Under provisions set forth in 28 C.F.R. § 50.12, both governmental and nongovernmental entities authorized to submit fingerprints and receive FBI identification records must notify the individuals fingerprinted that the fingerprints will be used to check the criminal history records of the FBI. Identification records obtained from the FBI may be used solely for the purpose requested and may not be disseminated outside the receiving department or related agency. Only current CHRI may be used to deny a license or registration. If the information on the record is used to disqualify an applicant, the official making the determination of suitability for licensing or employment must provide the applicant the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. The deciding official should not deny the license or employment based on the information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so. An individual should be presumed not guilty of any charge/arrest for which there is no final disposition stated on the record or otherwise determined. If the applicant wishes to correct the record as it appears in the FBI's Criminal Justice Information Services Division records system, the applicant should be advised that the procedures to change, correct or update the record are set forth in 28 CFR § 16.34.

FINRA uses and disseminates CHRI pursuant to U.S. Federal Bureau of Investigation (FBI) authority (28 U.S.C. § 534) and U.S. Securities and Exchange Commission (SEC) authority (Section 17(f)(2) of the Securities Exchange Act of 1934). Use of this information is governed by federal and state regulations and is subject to the following conditions:

- (1) only statutorily (federal and/or state) authorized recipients may view CHRI;
- (2) authorized recipients may view CHRI only for appropriate regulatory purposes;
- (3) authorized recipients may not deny a license or employment based on the information in the record until the subject has been afforded a reasonable time to correct or complete the information, or has declined to do so;
- (4) authorized recipients may not redisseminate CHRI absent appropriate statutory authority, and
- (5) any person or entity violating federal or state regulations governing access to or use of CHRI may be subject to criminal and/or civil penalties.

Violation of federal or state regulations governing access to or use of CHRI may result in termination of an organization's Web CRD access to CHRI.

By clicking the button below and proceeding to view this individual's CHRI, I certify that I have read and understand all of the terms set forth above and that I am, or my employer is, an authorized recipient of CHRI pursuant to federal and, if applicable, state statutory authority and I am viewing this information for an appropriate regulatory purpose. I understand that I may use only current CHRI to deny a license or registration. I agree to abide by all of the terms and conditions stated above and acknowledge that unauthorized use or dissemination of CHRI may result in the imposition of criminal and/or civil penalties and/or the termination of my organization's Web CRD access to CHRI.

Accept

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## Elements of CHRI Review

1. Is the individual a registered representative (RR) or a non-registered fingerprint individual (NRF)?
2. Might an event on the CHRI report subject the individual to statutory disqualification?
3. For each event on the CHRI report, is it clearly reportable or non-reportable?



FINRA CRED's Review of CHRI includes research on relevant statutes and review of available public court records.

Firms may receive a Disclosure Review "letter" for:

1. Events that were initiated or completed within the past 10 years.
2. Events that appear reportable, regardless of age, that were not reported on Form U4/U5.
3. Events where reportability is unclear or unknown based on CHRI, regardless of age, that were not reported on Form U4/U5.

Firms should provide complete documents and/or disclosure in response to Disclosure Letters.

1. For RRs, documents should make it clear that an event is non-reportable or reportable and show the disposition.
2. For NREs, documents should at least clearly show the disposition of an event for SD determination.
3. All documents should relate to the event in the letter.
4. All documents should be legible!

## ***IMPORTANT NOTICE:***

***The following examples are for  
ILLUSTRATIVE PURPOSES ONLY and  
do not constitute specific guidance.***

# Frequently Seen CHRI Charges

Events that are reportable  
(for registered persons or those seeking registration) -

1. Any felony charge(s)
2. Misdemeanors that involve elements enumerated in Form U4 Question 14B(1)(a), such as:
  - a. Wrongful taking of property (e.g., shoplifting)
  - b. False statements or omissions
  - c. Fraud

# Frequently Seen CHRI Charges

Events that are non-reportable -

1. Misdemeanor DUI
2. Misdemeanors Assault/Battery Offenses
3. Misdemeanor Drug Charges
4. Charges that are less than misdemeanors, such as:
  - a. Infractions or Violations
  - b. New Jersey “Disorderly Persons” Offenses

# Frequently Seen CHRI Charges

Events that may be reportable based on specific elements -

1. “Wobbler” charges (could be felony or misdemeanor)
2. Graded charges, such as:
  - a. Felony/misdemeanor based on value or volume
  - b. Felony/misdemeanor based on specified details
3. Charges that may or may not include elements enumerated in 14B(1)(a), such as “obstruction” offenses (which may include false statements or omissions)

# Frequently Seen CHRI Charges

Ambiguous events that may require additional information -

1. Contempt of Court
2. Failure to Appear / Failure to Comply
3. Unstated or Unknown Charges
4. Immigration Events



## ***IMPORTANT NOTICE:***

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# Criminal Documents Review

When submitting criminal documents, please ensure:

1. All documents and all pages are legible!
2. All documents are “official” documents, such as:
  - a. Police or Prosecutor documents or correspondence on appropriate letterhead
  - b. Court documents with a seal, signature, or stamp
  - c. Online case information with the website and date

Documents from other sources such as letters from the NRF/RR, the individual’s attorney, or uninvolved third parties may be accepted in limited circumstances.

# Criminal Documents Review

Specific document types that address Disclosure Letters:

1. Arrest Report/Narrative, Incident Report/Narrative, or Police Report/Narrative

The description of the alleged activity that led to a charge is used to determine if a charge is reportable, and/or if a conviction subjects an individual to statutory disqualification.

# Criminal Documents Review

Specific document types that address Disclosure Letters:

## 2. Charging Document(s) – Citation, Complaint, Indictment, Information, or Grand Jury Bill

The original charging documents (and any amended charging documents, if applicable) are used to determine the formal charges filed in a matter – compared to the arrest charges – and the charge level (felony or misdemeanor) for each formal charge.

# Criminal Documents Review

Specific document types that address Disclosure Letters:

## 3. Plea, Plea Agreement, Pre-trial Intervention, or Diversion

These documents can make clear the charge level of a particular charge, the disposition of specific charge(s), and any pre-determined or expected time period for a case resolution or change to case disposition.

# Criminal Documents Review

Specific document types that address Disclosure Letters:

## 4. Judgment, Sentence, or Disposition Report (and post-disposition documents, if applicable)

The disposition documentation is useful in determining the final charge(s) and charge level(s) involved in an event, and any plea, sentencing information, and change in disposition after initial judgment and/or sentence.

# Criminal Documents Review

Specific document types that address Disclosure Letters:

## 5. Expungement, Seal, or No Formal Charge Filed

Completed expungement or seal orders are reviewed by a dedicated team to determine if a matter should not be disclosed, or if it may be removed from an individual's record. Official correspondence that specifically states that no formal charges were filed as a result of an arrest may be accepted as well to determine that an event is not reportable.



# Criminal Documents Review

A “complete” document submission includes ...

Defendant's Name

Docket/Case Number

Arrest Date/Charge Date

Charge(s) & Charging Statute(s)

Plea

Disposition/Judgment

... and should be from an official source.

# Disclosure Analyst's Review of Documents

## Reportability Review

1. Determine or confirm that an event is reportable.
2. Confirm that event details are captured accurately and completely on a Disclosure Reporting Page (DRP).

## Statutory Disqualification (SD) Review

1. Determine or confirm if an event involves a conviction for any felony or certain misdemeanors.
2. Update the individual's SD Status in CRD and, if SD, send notification to the firm of the individual's status.

# “Correspondence in Lieu”

FINRA may accept a letter from a member firm in lieu of requested court documents (aka “Correspondence in Lieu”) if it determines that a firm has made a good faith effort to obtain the information and was unsuccessful.

If submitting Correspondence in Lieu, please affirmatively state that:

1. The firm has made a good faith effort to obtain documents and the steps taken to obtain such documents.
2. The firm has made a good faith determination that the event is not reportable and its rationale for that determination.

The correspondence should be on firm letterhead and be signed by an appropriate signatory of the firm.

# Reminders, Tips & Best Practices

1. Fingerprinting is required by federal statute, not FINRA rules.
2. Access and use of CHRI is subject to special Terms and Conditions. Firms should ensure that any users entitled to access CHRI are aware of and comply with those Terms and Conditions.
3. A record in CRD of a firm's submission of fingerprints for an NRF-individual does not necessarily mean that individual is associated with the firm.
4. NRF reviews primarily focus on SD; RR reviews concern reportability and SD.
5. Disclosure Letters regarding CHRI typically do not contain detailed information about an event because of the sensitivity of the information.
6. Documents may be submitted via email for reportable events if there is no active disclosure letter.
7. Documents submitted in response to Disclosure Letters do not require comments in FINRA Gateway.
8. Please ensure all documents are legible!



For questions regarding specific disclosure reporting issues,  
Call **301-869-6699**, **Option 4** for Disclosure Review