




<p><b>Title: Colorado Open Records Act</b>  <b>Main Section: Department</b>  <b>Sub Section: Planning and Communication</b></p>	<p><b>Policy Number: 1.07.004</b>   <b>Version: 1.0</b>  <b>Supersedes: CDPS 3-1-6, Colorado Open Records Act, March 5, 2015</b></p>
<p><b>Related Mandates, Statutes, Standards, or Executive Orders:</b>          Colorado Open Records Act (§ 24-72-201 et seq., C.R.S.)          Colorado Criminal Justice Records Act (§ 24-72-301 et seq., C.R.S.)          Colorado Children’s Code Records and Information Act (§ 19-1-301 et seq., C.R.S.)          Pecuniary Gain Statute (§ 24-72-305.5 et seq., C.R.S.)</p>	
<p>APPROVED BY: <u></u>          EXECUTIVE DIRECTOR</p>	<p><u>2/2/2018</u>          EFFECTIVE DATE</p>

**I. BACKGROUND AND PURPOSE**

The Colorado Department of Public Safety (the "Department" or "CDPS") is committed to transparency and open government. This policy has been developed in order to implement the Colorado Open Records Act (§ 24-72-201, et seq., C.R.S.), usually referred to as "CORA," the Colorado Criminal Justice Records Act (§ 24-72-301, et seq., C.R.S.) ("CCJRA"), and the Colorado Children’s Code Records and Information Act (§ 19-1-301 et seq., C.R.S.) ("CCCRIA") in a uniform manner. This policy will help ensure the Department complies in all respects with these acts and meets its constitutional and statutory duties regarding records in an orderly and expeditious manner. This policy is not intended to be duplicative of CORA, CCJRA, or CCCRIA, or to supersede state law.

**II. SCOPE**

This policy applies to all CDPS employees, including part-time and temporary employees.

### III. DEFINITIONS

Unless otherwise specified, all terms in this policy are defined in statutes. For definitions, please refer to: Colorado Open Records Act (§ 24-72-201 et seq., C.R.S.) Colorado Criminal Justice Records Act (§ 24-72-301 et seq., C.R.S.) Colorado Children's Code Records and Information Act (§ 19-1-301 et seq., C.R.S.)

- A. Received: A records request is considered received the day an e-mail, fax, or letter containing a request is opened by the custodian of record. Any request received after 5 p.m. or on any day the Department is officially closed will be considered received as of the following business day.

### IV. POLICY

- A. This policy applies solely to requests for records of which the Department is the custodian, pursuant to CORA/CJRA/CCCRIA.
- B. Division Directors, after thorough review, documentation, and approval from the Executive Director, may set division-level policies or standard operating procedures for handling open records requests that allow the division to meet its statutory duties under CORA/CJRA/CCCRIA in an expeditious manner. Such policies or procedures may set fees for specific records for which the division is the custodian and for which requests are common, or for which documented actual costs are different than the fees and costs set forth in this policy. Division policies or procedures may not conflict with this departmental policy, and shall be in compliance with all requirements of CORA/CJRA/CCCRIA.
- C. The Department will only accept records requests submitted in writing via postal or hand delivery, fax, or electronically via email. Records requests or requestors that cite the federal Freedom of Information Act (FOIA) will be treated as though they were made pursuant to the CORA/CJRA/CCCRIA.
- D. When responding to a records request under CORA, the Department will make every effort to respond within three working days as required by § 24-72-203(3)(b), C.R.S. The Department can add up to a seven-working-day extension if extenuating circumstances apply, as defined in § 24-72-203(3)(b), C.R.S. The three-day response time starts when a records request has been received by the Department custodian of record.

- E. When responding to a records request pursuant to CJRA or CCCRIA, § 24-72-304, C.R.S. does not set a specific response time. However, the Department will make a good faith effort to respond within three working days.
- F. When responding to requests for law enforcement records for juvenile information as described under CCCRIA, the records are, in general, closed to public disclosure. Specific individual, governmental, institutional and statutory exemptions may apply to the release of these records.
- G. No member of the Department will modify, destroy, or omit any records he or she is required to provide in response to a request, with the exception of making redactions as required or allowed under CORA/CJRA/CCCRIA. Redactions and decisions about whether a record falls under an exemption to the CORA/CJRA/CCCRIA will be made by the Executive Director's Office, the appropriate Division Director, or other authorized custodian of records. If appropriate, the decision will be made in consultation with the assigned CDPS Assistant Attorney General. CDPS members should never assume a document is exempt and should always consult supervisors and, if deemed appropriate, a member of the Executive Director's Office before making a final determination.
- H. In the case of Criminal Justice Agency Records, a signed acknowledgement of the pecuniary gain statute § 24-72-305.5, C.R.S. must be received prior to the release of the requested records. Otherwise, the queried records must be denied to the requester.

## V. PROCEDURE

### A. Review of Requested Documents

1. When feasible, the Department should endeavor to provide electronic copies or files to requestors if such alternative is less burdensome to provide than paper records.
2. When responsive records cannot be easily or cost-effectively provided electronically to a requestor, the Department will work with the requestor to schedule a time to inspect the records in person, allowing for business hours and staffing considerations. If necessary, the Executive Director's Office or authorized custodians of records may provide special accommodations as needed by requestors.

3. At all times when records are being inspected, a member of the Department must be present to maintain custody and integrity of the records. No requestor will be allowed to modify, mar, or destroy any records that are provided for inspection.

#### B. Fees for Document Retrieval, Copies, and Manipulation of Records

1. When a substantial request is made—requiring the production of more than 10 pages of documents or the use of more than one hour of staff time to locate or produce records—the Department will charge the requestor for all copying expenses and reasonable, actual costs associated with staff time pursuant to § 24-72-205(5)(a), C.R.S.
  - a. When the number of pages produced pursuant to CORA exceeds 10 pages, the Department will charge \$0.25 per page (one side of a sheet of paper) for all documents copied.
  - b. When producing records (including compiling, reviewing, and redacting) consumes more than one hour of staff time, the Department will charge an hourly rate no greater than \$30 per hour for all staff time associated with locating and producing records for a requestor.
  - c. The Department may also charge an hourly rate greater than \$30 per hour when specialized document production or specialized skills are required to locate, compile, or produce records pursuant to a records request, including the use of third-party contractors.
  - d. Any costs charged to a requestor will not exceed the actual cost of producing the records, per § 24-72-205(5)(a), C.R.S.
2. For requests where the Department anticipates more than 10 pages will be produced and/or more than one hour of staff time will be consumed, the Department will provide the requestor with advance notice and an estimate of the cost to comply with the request, if so requested. Such costs will be paid by the requestor in full before the production of records unless alternate arrangements have been made and approved by the custodian of records, Division Director or Executive Director's Office.

#### C. Format of Records Produced

1. CDPS records custodians will provide records in a format that is in accordance with § 24-72-203 (3.5)(a) and (b), C.R.S. When the production or review of records in a specific format would interfere with the regular discharge of duties of Department employees (§ 24-72-203(l)(a), C.R.S.) or levy an undue burden upon the Department, the Executive Director's Office, Division Director, or custodian of records will determine the appropriate format for the records to be produced.

2. The Department may require that members of the public or media only be allowed to review copies of documents when the custodian of records determines that allowing access to originals could interfere with the regular discharge of duties of the Department or its members, or that production of original records could jeopardize the condition of the records, or that original records contain information that must be redacted or denied inspection as specified in CORA/CJRA/CCCRIA.

## VI. REFERENCES

- A. Colorado Open Records Act (§ 24-72-201 et seq., C.R.S.)
- B. Colorado Criminal Justice Records Act (§ 24-72-301 et seq., C.R.S.)
- C. Colorado Children’s Code Records and Information Act (§ 19-1-301 et seq., C.R.S.)
- D. Pecuniary Gain Statute (§ 24-72-305.5 et seq., C.R.S.)

## VII. REVISION HISTORY

- A. CDPS Policy 3-1-6, Colorado Open Records Act (CORA), adopted March 5, 2015
- B. Colorado Open Records Act, Version 1.0, adopted January 2018