



OFFICE OF THE DISTRICT ATTORNEY

JOHN KELLNER, DISTRICT ATTORNEY
SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

CCJRA/CORA Policy v1.0 March 2021

I. Part One – Instructions for Redactions – Internal Use (Media and PDF)

The specific items to redact - all files:

A person's home address

Telephone #

Personal email address

Passwords

Social Security Number

Government issued driver's license or identification number

Passport #

Birth date

Bank account information (card #'s; account numbers)

Tax ID #

Personal signatures

Medical records

NCIC/CCIC – criminal history (dissemination restricted by CJIS)

DMV Dossier records (dissemination restricted by CO-DOR)

On cases involving Sex Assault (includes attempt)(section 24-72-304(4)(a), C.R.S.): In addition to the above –

Victim's name and "any other information that would identify any victim"

On cases involving child victims (includes attempt) (section 24-72-304(4.5)(a), C.R.S.): In addition to the above –

"The name and any information that would identify any child victim"

****NOTE:** we generally do not release graphic material depicting decedents

II. **Part Two – Public Disclosure**

Colorado Open Records Act & Colorado Criminal Justice Records Act

The District Attorney of the 18th Judicial District (the “Agency”) is committed to transparency and open government. The following policy has been developed in order to implement the Colorado Open Records Act (“CORA”) (sections 24-72-201 to 206, C.R.S.) and the Colorado Criminal Justice Records Act (“CCJRA”) (sections 24-72-301 to 309, C.R.S.), in a uniform manner and better serve the people of Colorado. This policy is designed to help the Agency balance the statutory requirements of CORA and CCJRA and the District Attorney’s constitutional and statutory obligations. This policy helps ensure the Agency complies in all respects with CORA and CCJRA and meets all of its constitutional and statutory duties to the People of Colorado in an orderly and expeditious manner.

Office Procedure for Handling Records Requests

The Agency will only accept written records requests, which may be submitted by mail, website portal, email, or fax. Requests should be directed to the Custodian of Records at the e-mail address or fax number listed on the Agency website. The Agency will not accept records requests made over the telephone or via social media. Records requests that cite the federal Freedom of Information Act will be treated as though they were made pursuant to CORA or CCJRA.

When responding to a request for public records under CORA, the Agency will make every effort to respond within three working days, if requested as required by section 24-72-203(3)(a)/(b), C.R.S. The three working-day response time begins the first working day following receipt of the request. A request received after noon or any day the Agency is officially closed will be considered received as of the following working day. The Agency may add up to a seven-working-day extension, if extenuating circumstances apply, as described in section 24-72-203(3)(b), C.R.S. The Agency will provide all findings of extenuating circumstances to the requestor in writing.

Broad, general requests likely will be costlier to the requestor because of the staff time required to fulfill these requests. The Agency may contact the requestor in an attempt to clarify or narrow a request. While not required, requestors may provide e-mail contact information to facilitate communication regarding the request. Requests involving a manual search of paper records may take longer to complete. Providing specific information on the nature of the documents requested, the timeframe the request covers, and other details, can help the Agency fulfill the request in a manner that may provide cost savings to the requestor.

Fees

When a substantial request is made — requiring the production of more than 25 pages of documents or more than one hour of staff time to locate or produce records — the Agency will charge the requestor for all copying expenses and for staff time in accordance with section 24-72-205(5)(a), C.R.S., section 24-72-306, C.R.S., and other applicable law. Before fulfilling a substantial request, the Agency will provide a cost estimate to the requestor. The cost estimate will include the estimated time for staff to search for, retrieve, redact, assemble and transmit the records in accordance with the following table. In extraordinary circumstances, the use of a third-party contractor may be necessary and will be discussed with the requestor in advance.

Service	Fee
Making hard copies of documents	\$0.25 per page
Non-attorney staff time	\$20 per hour
Attorney staff time	\$30 per hour
Specialized document production or specialized skills required to fully comply with request	\$30 per hour

The requestor must approve the cost estimate before the Agency will begin work on fulfilling the records request. The Agency may require an advance deposit up to one-half of the expected cost before it will begin completing the request¹. The timeframe the Agency has to complete the request will be tolled between providing the cost estimate to the requestor and the requestor approving the cost estimate or submitting the advance deposit, whichever is applicable.

Costs associated with a request must be paid in full before the Agency will produce the records. Payment by check must be made payable to the Office of the District Attorney, 18th Judicial District.

Abandoned Requests

If the Agency attempts to contact a requestor to clarify a request or discuss the scope of a request and the requestor does not respond within ten business days, the Agency will close the request and require the requestor to submit a new records request.

The Agency will hold records assembled in response to a CORA or CCJRA request for no more than ten business days after the requestor has been notified that the

¹ See *Mountain-Plains Inv. v. Parker Jordan Metro Dist.*, 312 P.3d 260, 268 (Colo. App. 2013) (A custodian “could require payment of a deposit before producing (CCJRA) documents”).

records are available for inspection or pick-up. The holding period may be shorter for records which are needed for any use. Failure to inspect or pick-up the records within this timeframe will be considered an abandoned request, and the request will be automatically closed.

Criminal Justice Records Requests

CORA requests for criminal justice records will be treated as requests made under CCJRA. The legislative policy regarding access to criminal justice records under CCJRA is more limited than access to public records under CORA. The courts have also construed CCJRA to favor less broad disclosure. CCJRA creates two categories of records:

1. Records of official action. CCJRA defines an official action as “an arrest; indictment; charging by information; disposition; pretrial or post-trial release from custody; judicial determination of mental or physical condition; decision to grant, order, or terminate probation, parole, or participation in correctional or rehabilitative programs; and any decision to formally discipline, reclassify, or relocate any person under criminal sentence.” Section 24-72-302(7), C.R.S. The records of official action must be open for inspection.
2. Except for records of official actions, which must be available for inspection, all other criminal justice records may be open for inspection subject to the discretion of the official custodian. Section 24-72-304(1), C.R.S.

The Agency will not release records under CCJRA, unless the requestor signs a statement affirming that the records will not be used for the direct solicitation of business for pecuniary gain. Section 24-72-305.5, C.R.S. The Agency may allow or deny inspection of CCJRA records. Section 24-72-305, C.R.S.

Additional Information

The Agency does not provide legal advice to the general public, nor does it have the authority to determine if another agency or office has improperly denied a CORA or CCJRA request, or to require another agency to turn over records.

Adopted March 1, 2021



John Kellner, District Attorney