

POLICY AND
PROCEDURES
MANUAL

Chapter	Section	Title
3	1	6
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TITLE: Colorado Open Records Act (CORA)

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PURPOSE:

The Department of Public Safety (the "Department") 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," and the Colorado Criminal Justice Records Act (§ 24-72-301, *et seq.*, C.R.S.) or "CJRA", in a uniform manner. It will help ensure the Department complies in all respects with the Colorado Open Records Act 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 or CJRA, or to supersede state law.

POLICY:

This policy applies solely to requests for records of which the Department is the custodian, pursuant to CORA and CJRA. *CDPS Policy 3.1.4. Media Relations* shall also apply to requests for records, as applicable.

Division directors, after thorough review, documentation, and approval from the Executive Director, may set division-level policies for handling open records requests that allow the division to meet its statutory duties under CORA/CJRA in an expeditious manner. Such policies 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 may not conflict with this departmental policy, and shall be in compliance with all requirements of CORA/CJRA.

The Department shall accept only records requests made in writing or electronically via e-mail or fax. Records requests or requestors that cite the federal Freedom of Information Act (FOIA) shall be treated as though they were made pursuant to the CORA/CJRA.

When responding to a records request, the Department shall 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 is in the Department's possession. A request is received the day an e-mail, fax, or letter containing a request is opened. 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.

No member of the Department shall modify, redact, destroy, or omit any records he or she is required to provide in response to a request. Redactions and decisions about whether a record falls under an exemption to the CORA/CJRA will be made by the Executive Director's Office (meaning the Executive Director, the Deputy Executive Director, the CDPS Official Custodian of Records, the

CDPS Human Resources Director, and/or the CDPS Public Information Officer), 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. Staff should never assume a document is exempt and should always consult supervisors and, if deemed appropriate, a member of the Executive Director's Office (as listed above), before making a final determination.

ORGANIZATIONAL REFERENCES:

- Executive Director's Office (EDO)
- EDO, CDPS Human Resources Director
- EDO, CDPS Official Custodian of Record
- EDO, CDPS Public Information Officer (CDPS PIO)
- Chief Information Officer, Colorado Integrated Criminal Justice Information System (CICJIS)
- Director, Colorado School Safety Resource Center
- Chief's Office, Colorado State Patrol
- Director's Office, Colorado Bureau of Investigation
- Director's Office, Division of Criminal Justice
- Director's Office, Division of Fire Prevention and Control
- Director's Office, Division of Homeland Security and Emergency Management
- CDPS Policy 3.1.4. *Media Relations*

REFERENCES:

- 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.)
- Office of the Attorney General, Colorado Department of Law
- Governor's Office

PROCEDURES:

- I. When feasible, the Department should endeavor to provide electronic copies or files to requestors if such alternative is significantly less burdensome to provide than paper records. When responsive records cannot be easily or cost-effectively provided electronically to a requestor, the Department shall work with the requestor to schedule a time to inspect the records in person, allowing for business hours and staffing considerations. The Executive Director's Office or authorized custodians of records may grant exceptions where the Department, requestors, or the records produced require special accommodations. At all times when records are inspected, a member of the Department must be present to maintain custody and integrity of the records. No requestor shall be allowed to photograph, modify, or mar or destroy any records that are provided for inspection.

II. Fees for document retrieval, copies and manipulation of records

When a substantial request is made—requiring the production of more than 25 pages of documents or the use of more than two hours of staff time to locate or produce records—the Department shall 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.

When the number of pages produced pursuant to the Colorado Open Records Act exceeds 25 pages, the Department shall charge \$0.25 per page (one side of a sheet of paper) for all documents copied. When producing records (including compiling, reviewing, and redacting) consumes more than two hours of staff time, the Department shall charge \$20 per hour for all staff time associated with locating and producing records for a requestor. The Department may also charge an hourly rate greater than \$20 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. Any costs charged to a requestor shall not exceed the actual cost of producing the records, per § 24-72-205(5)(a), C.R.S.

For requests where the Department anticipates more than 25 pages will be produced and/or more than two hours of staff time will be consumed, the Department shall provide the requestor with advance notice and an estimate of the cost to comply with the request. Such costs shall be paid by the requestor in full before the production of records unless alternate arrangements have been made and approved by the division director or Executive Director's Office.

III. The format of records produced

The Colorado Open Records Act guarantees that, "...all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law" (§ 24-72-201, C.R.S.). The CORA/CJRA Act does not guarantee access to the public records in a specific format. 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(1)(a), C.R.S.) or levy an undue burden upon the Department, the Executive Director's Office or division director shall determine the appropriate format for the records to be produced. Records maintained electronically may be produced electronically at the Department's discretion.

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.