

## **SAN JUAN COUNTY POLICY IMPLEMENTING COLORADO OPEN RECORDS ACT (CORA)**

SAN JUAN COUNTY (the “County”) is committed to transparency and open government. The following Policy has been developed in order to implement the Colorado Open Records Act (§ 24-72-201 to 206, C.R.S.) in a uniform manner. This Policy will help the County balance the demands of CORA requests and the County’s statutory obligations. It is the policy of the County that a requesting party should, as much as statutorily allowed, bear the financial burden of CORA requests.

### **PROCEDURE FOR HANDLING RECORDS REQUESTS**

The County will accept only CORA requests made in writing via U.S. Mail, hand delivery, or e-mail. CORA requests made via social media shall not be accepted. Requests shall be made directly to the appropriate records custodian, or to the County Administrator for proper routing. Contact information may be found on the County Website. The written request shall contain at least the following information:

- Mailing address or email address;
- Telephone number;
- A concise detailed description of the records requested and whether inspection of records or copies are requested; and
- The timeframe and format sought for production or inspection.

The County reserves the right to require the submittal of CORA requests through an approved request form. A CORA request that seeks recurring records on an ongoing basis will not be fulfilled. Requests for records already available on the County Website will not be fulfilled.

All CORA requests submitted to any County office or personnel shall be immediately provided to the County Administrator and the County Attorney to ensure a timely response. The request will then be directed to the correct custodian of records. The County Attorney or the County Administrator will relay CORA responses except when agreed otherwise.

### **TIMING FOR INSPECTION/PRODUCTION**

When responding to a CORA request, the County shall make every effort to respond within three working days as required by § 24-72-203(3)(b), C.R.S. The County may add up to seven working days if extenuating circumstances apply, as described in § 24-72-203(3)(b), C.R.S. A CORA request shall be considered received the day an e-mail or letter containing a clear CORA request is opened by the appropriate records custodian. The response time begins the first working day following receipt of the request. A CORA request received after noon, or on any day the County is officially closed, will be considered received as of the following working day.

In the event that clarification is sought by the County due to unclear, vague or over-broad language, the response time shall be reset as clarification is sought. In the event that the County determines that the CORA request will result in fees as set forth below, the

requesting party shall be provided an estimate of said fees prior to processing the request. The County may require confirmation by the requesting party that the fees will be paid and/or a deposit of all or a portion of the estimated fees prior to proceeding. The County may make suggestions to the requesting party on narrowing the request in order to lessen fees. If a deposit is required, the request shall not be processed until the deposit is received. In the event that the deposit is not consumed by the actual fees incurred, the balance shall be returned. All amounts owed in excess of the deposit shall be paid in full prior to release of the records sought.

When feasible, the County will endeavor to provide electronic copies of records. When responsive records cannot be easily or cost-effectively provided electronically to a requestor, the County will work with the requestor to schedule a time to inspect the records in person during normal working hours, or arrange for hard copies. In the event that a large number of electronic copies are required, the requesting party shall pay for a jump drive suitable for the download.

## **FEE AMOUNTS**

When a substantial CORA request is made, requiring more than one hour of staff and/or attorney time to process, the County will charge the requestor any copying charges, as well as for staff and attorney time in accordance with § 24-72-205(5)(a), C.R.S., and consistent herewith. When an unsubstantial request is made, requiring less than one hour of staff or attorney time, the requestor shall be charged copying costs only. Multiple CORA requests in the same 12-month period regarding the same or similar subject matter shall be treated as one request for purposes of calculating fees. Any requests for Fee Waivers shall be addressed by the County Administrator.

### ***Copy Charges***

The County will charge \$0.25 per standard page for all documents copied or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a public record in a format other than a standard page.

### ***Document Retrieval and Production of Records – Hourly Rate***

When processing and completing a CORA response consumes more than one hour of staff and/or attorney time, the County shall charge \$41.37 for all such time in excess of the first hour. “Processing and completing” shall include time related to: searching for, locating and retrieving records, supervising inspections when deemed necessary, arranging for copies, researching and reviewing legal issues related to the request, redacting appropriate information, communicating with the requesting party regarding records sought and formats, or otherwise processing the CORA request. In extraordinary circumstances, the use of a third-party contractor may be necessary, and cost will be discussed with the requestor in advance.

If, in response to a specific request, the County has agreed to perform a manipulation of data to generate a record in a form not used by the County, a reasonable fee may be charged

to the requestor. Such fee shall not exceed the actual cost of manipulating the said data and generating the said record in accordance with the request.

If the public record is a result of computer output other than word processing, the fee for a copy, printout, or photograph thereof may be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system.

## **THE FORMAT OF RECORDS PRODUCED**

CORA 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). CORA does not guarantee access to 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 the staff or personnel of the County (§ 24-72-203(1)(a), C.R.S.) or levy an undue burden upon the County, the County Administrator or the County Attorney will determine the appropriate format for the records to be produced. The County may require that members of the public 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 County personnel, or its staff or production of original records could jeopardize the condition of the records.

## **DENIAL OF RECORDS**

In accordance with CORA, certain public records are either prohibited from disclosure or may be withheld from public inspection. Reasons for denial may include that disclosure is contrary to statute, court order or the public interest. Any denial of inspection or copies of records will be specific and the justification for such denial, as authorized under CORA, will be provided in writing upon request. Where practicable, the County will redact portions of responsive documents rather than withholding the entire document.

Inspection and copies of the following records shall be denied or have limited release, unless otherwise provided by law or unless requested by the person in interest (this is not intended as a complete list. See specific CORA provisions of § 24-72-204, et seq. C.R.S.):

- Medical, mental health, sociological, or scholastic achievement data on individuals;
- Personnel files, except that such files are available to the person in interest and to the elected and appointed officials who supervise that person’s work;
- Letters of reference (not available to the person in interest if they concern employment, licensing or the issuance of permits);
- Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data, including a social security number, furnished by or obtained from any person;
- Addresses and telephone numbers of students in any public elementary or secondary school;
- Library records identifying users;
- Records concerning sexual harassment complaints and investigations;
- Any records of the investigations conducted by any sheriff, prosecuting

attorney, or police department, any records of the intelligence information or security procedures of any sheriff, prosecuting attorney, or police department, or any investigatory files compiled for any other law enforcement purpose;

- Electronic mail addresses, telephone numbers, or home addresses provided by a person to an elected official, agency, institution, or political subdivision of the state for the purposes of future electronic communications to the person from the elected official, agency, institution, or political subdivision;
- Records of applicants for an executive position; and
- Records protected by common law privileges such as the governmental or “deliberative privilege”, the deliberative process privilege, work product privilege, or attorney-client privilege. If a record is withheld pursuant to the deliberative process privilege, the custodian shall provide the requestor with a sworn statement specifically describing each document withheld, explaining why each document is privileged and why disclosure would cause substantial injury to the public interest.

## **CLOSED REQUESTS**

A CORA request will be considered closed and a new request must be submitted under any of the following circumstances:

- The records have been made available for inspection, the records have been inspected and no copies of the records were requested;
- After the records have been made available for inspection, have been inspected by the requestor, and/or copies of the records have been provided consistent with this Policy;
- If the requestor fails to provide clarification as requested by the County within ten business days;
- If the requestor fails to appear for the scheduled review of the records; or
- If the requestor fails within ten business days to a) make arrangements for review of the records after request; b) pre-pay a deposit required; or c) does not pay the total of actual costs.

## **RECORDS SUBJECT TO THE COLORADO CRIMINAL JUSTICE RECORDS ACT**

The inspection and/or production of certain public records, including certain records maintained by the San Juan County Sheriff’s Office or Coroner, may be governed by the Colorado Criminal Justice Records Act (“CCJRA”) rather than by CORA. Production of criminal justice records pursuant to CCJRA is handled directly by the Sheriff’s Office under separate policy. All CCJRA requests shall be made either in writing by delivering a request to the Sheriff’s Office or by email.

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For additional information concerning this policy, including any accessibility issues or requests for accessibility accommodations, please contact the County Administrator. This Policy supersedes all prior County CORA policies.