

Chief Justice Directive 05-01
Amended July 26, 2011
Amended May 20, 2013
Amended September 4, 2014
Amended April 1, 2016
[Amended September ?, 2016](#)

SUPREME COURT OF COLORADO
Office of the Chief Justice

Directive Concerning Access to Court Records

This directive sets forth the Judicial Department's policy governing public access to court records and other information. It seeks to grant the public reasonable access to court records while simultaneously protecting privacy interests of the people whose information may be subject to disclosure. In addition, this directive provides guidance to Judicial Department personnel and promotes the accuracy and validity of the information in court records. All requests to inspect or obtain copies of court records shall be made pursuant to the policy. The policy shall also govern the completion of electronic court record requests. The policy shall be entitled "Public Access to Court Records," and shall be available to Judicial Department personnel and to the public.

The Public Access Committee ("PAC") shall periodically recommend amendments to the policy to the Colorado Supreme Court. The Chief Justice will appoint a Judge to chair the PAC and a Justice to serve as the PAC's liaison to the Court. For purposes of this directive, the PAC will focus on two categories of recommendations: (1) policies and procedures to facilitate the release of accurate court records while protecting the privacy interests of people whose information may be released; and (2) policies and procedures for recovering costs associated with making court records available to the public.

This policy replaces previous Public Access Policies and is effective April 1, 2016.

Done at Denver, Colorado this _____ day of September, 2016

Nancy E. Rice, Chief Justice

Chief Justice Directive 05-01
Amended July 26, 2011
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Amended April 1, 2016
[Amended September 7, 2016](#)



COLORADO JUDICIAL DEPARTMENT
Policy Amended ~~September~~ [April 1](#), 2016
By the Supreme Court
Attachment to CJD 05-01

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Amended July 26, 2011
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COLORADO JUDICIAL DEPARTMENT PUBLIC ACCESS TO COURT RECORDS

PURPOSE

Section 1.00 - PURPOSE OF THE POLICY

- (a) The purpose of this policy is to provide the Colorado Judicial Department (hereinafter referred to as “Department”) with a comprehensive framework for public access to court records. The policy provides for access in a manner that:
- (1) maximizes accessibility to court records;
 - (2) supports the role of the judiciary;
 - (3) promotes governmental accountability;
 - (4) contributes to public safety;
 - (5) minimizes risk of injury to individuals;
 - (6) protects individual privacy rights and interests;
 - (7) protects proprietary business information;
 - (8) minimizes reluctance to use the court to resolve disputes;
 - (9) makes effective use of court and clerk of court staff;
 - (10) provides excellent customer service;
 - (11) does not unduly burden the ongoing business of the judiciary;
 - (12) protects individuals from the use of outdated or inaccurate information; and
 - (13) contributes to the body of knowledge of effective practices of courts and criminal or juvenile justice agencies.
- (b) This policy is intended to provide guidance to:
- (1) litigants;
 - (2) those seeking access to court records; and
 - (3) judges and other Judicial Department personnel responding to requests for access.

ACCESS BY WHOM

Section 2.00 - WHO HAS ACCESS UNDER THIS POLICY

Every member of the public will have access to court records as provided in this policy.

- (a) “Public” includes:
- (1) any person, business, non-profit entity, organization, or association;

- (2) a government agency or commission or a private or non-profit entity that meets the criteria of Section 4.40(f) or any government agency for which there is no existing federal or state statute, court rule, or court order defining the agency's access to court records;
 - (3) media organizations; and
 - (4) entities that gather and disseminate information for whatever reason, regardless of any intent to make a profit, and without distinction as to the nature or extent of access.
- (b) "Public" does not include:
- (1) Department staff, including: court employees, State Court Administrator's Office employees, probation employees, and judicial officers;
 - (2) persons, vendors, or entities, private or governmental, that assist the court in performing court or probation functions;
 - (3) persons or government agencies whose access to court records is governed by another federal or state statute, court rule, or court order, or by a policy set by the State Court Administrator;
 - (4) the primary parties to a case as defined by the custodian, their lawyers [in that specific case, or](#) other authorized representative, ~~or~~ persons appointed by the court regarding access to the court record in ~~that~~ [their](#) specific case; ~~and~~
 - (5) persons who are authorized by law to access court records.

Comment [mt1]: This clarifies the original intent of the language. Based on comments, there appears to be some confusion.

GENERAL PROVISIONS AND DEFINITIONS

Section 3.00 - GENERAL PROVISIONS

- (a) A Public Access Committee ("PAC") was established by this ~~D~~[D](#)irective to recommend policy regarding the court records to be released to the public from the courts, probation, or the State Court Administrator's Office, regardless of the format in which they are maintained.
- (b) No Department personnel shall permit a member of the public to use a computer, server, or any other computing device for access to electronic court records unless authorized by the State Court Administrator or his/her designee.
- (c) Department personnel will use the standardized coding and input procedures for electronic court records established by the State Court Administrator's Office. Any court record, either in electronic or paper form, released in error to the public shall not be authenticated as an official court or probation record.
- (d) If a Department employee believes a program or application associated with electronic court records produces incorrect or erroneous results, the State Court Administrator's Office shall immediately be informed.

- (e) Public court records shall be available for inspection by any person at reasonable times, except as provided in this Chief Justice Directive or as otherwise provided by federal or state statute, court rule, or court order.
- (f) The custodian of any court records may make policies governing the inspection of court records that are reasonably necessary to protect the records and prevent unnecessary interference with the regular discharge of the duties of the custodian or the custodian's office.

Section 3.01 - CASE MANAGEMENT SYSTEM DEFINED

"Case Management System" ("CMS") means all Department information systems designed to capture, monitor, and track court and probation content including filings, events, calendar events, and documents, and to account for all financial information in the case.

Section 3.02 - CUSTODIAN DEFINED

"Custodian" means the administrative authority designated by federal or state statute, court rule, or court order as responsible for the control, management, and release of the official record. The custodian or custodian's designee must adhere to all federal or state statutes, court rules, or court orders related to court records.

- (a) State Court Administrator
 - (1) The State Court Administrator ("SCA") is the official custodian of electronic data and is charged with the safe keeping of the content that resides in the Department's CMS. The SCA or his/her designee, except as provided in Section 4.40(a)(2)(ii), is responsible for completing all requests for information to be extracted from the Department's CMS consistent with the policies and procedures developed by the Supreme Court.
 - (2) The SCA is not responsible for modifying the electronic court record unless that task is delegated to the SCA by the Clerks of Court, the Chief Probation Officers, or their designee.
- (b) Clerks of Court
 - (1) The Clerks of Court are the official custodians of all case-related documents or information filed and maintained in the official court records in their individual jurisdictions.
 - (2) The Clerks of Court are responsible for assigning document or case security levels, and for processing all requests they receive for documents filed in their specific locations pursuant to this policy, federal or state statute, court rule, or court order.

(c) Chief Probation Officers

The Chief Probation Officers are the official custodians of all probationer, supervision, and pre-sentence investigation related documents or information maintained in their individual jurisdictions.

Section 3.03 - COURT RECORD DEFINED

For purposes of this policy

(a) "Court record," regardless of the format, includes:

- (1) any document, information, audio or video recording, or other item that is collected, received, and maintained by a court or Clerk of Court that is related to a judicial proceeding;
- (2) any document, information, audio or video recording, or other item that is created, collected, received, and/or maintained by a probation department that is related to a defendant or probationer;
- (3) any item including index, calendar, docket, register of actions, certified transcript, order, decree, judgment, or minute order, that is related to a judicial proceeding; and
- (4) any electronic record related to a judicial proceeding that is maintained in the Department's CMS.

(b) "Court record," regardless of the format, does not include:

- (1) records maintained for the purpose of managing the administrative business of the Judicial Department of the State of Colorado pursuant to Rule 2 of Chapter 38 of the Colorado Court Rules (P.A.I.R.R. 2);
- (2) judges' notes and judicial work product related to the deliberative process, draft opinions or orders, or internal memos;
- (3) information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not part of the court record as defined in Section 3.03(a);
- (4) court reporter notes; and
- (5) all other records maintained by the Department not expressly defined as court records in Section 3.03(a).

Comment [mt2]: This added language was moved from section 4.60(d)(8) to clarify that no one, including the attorneys or parties may access these documents.

Section 3.04 - PUBLIC ACCESS DEFINED

"Public access" means that the public may inspect and obtain a copy of publicly accessible information in a court record.

Section 3.05 - REMOTE ACCESS DEFINED

“Remote access” means the ability to electronically search, inspect, or copy information in a publicly accessible court record without the need to physically visit a Department facility or location.

Means of remote access include electronic systems maintained by both the Department and external entities for the purpose of providing access to public information.

Section 3.06 - “IN ELECTRONIC FORM” DEFINED

Information in a court record “in electronic form” includes information that exists as:

- (a) representations of text or graphic documents;
- (b) images, videos, audio, or other digital content;
- (c) data stored in a database or any other storage device or technology; or
- (d) audio or digital recordings of an event or notes in an electronic file from which a transcript of an event can be prepared.

Section 3.07 - SEALED COURT RECORD DEFINED

“Sealed court record” means any court record that is accessible only to judges, court staff, and other authorized Department staff. Anyone seeking access to a sealed court record must obtain a court order. ~~with the exception of persons or agencies that have been granted read-only access to the electronic register of actions. This provision is not intended to prevent a person or agency from viewing the name index or electronic register of actions in a sealed case if the person or entity has been granted read-only access pursuant to statute.~~

In criminal cases, the release of a court record sealed pursuant to Colorado Revised Statutes, Part 7 of Article 72 of Title 24, is governed by those statutory provisions rather than by this policy. Judges and court staff should respond to requests for a statutorily-sealed court record by stating that no such court record exists.

Section 3.08 - SUPPRESSED COURT RECORD DEFINED

“Suppressed court record” means any court record that is accessible only to judges, court staff, parties to the case (and, if represented, their attorneys), or other authorized Department staff. Any member of the public seeking access to a suppressed court record must obtain a court order.

Section 3.09 - PROTECTED COURT RECORD DEFINED

“Protected court record” means any court record that is accessible to the public only after redaction in accordance with applicable federal or state statute, court rule, or court order, and with Section 4.60(e) of this policy. Before redaction, a protected court record is accessible only to judges, court staff, parties to the case (and, if represented, their attorneys), or other authorized Department staff.

Section 3.10 - RESTRICTED COURT RECORD DEFINED

“Restricted court record” means a court record in a criminal case that includes a charge of “sexual assault” as defined by section 24-72-304(4), C.R.S., or a charge involving a “child victim” as defined by section 24-72-304(4.5), C.R.S. Before any victim identifying information has been redacted from a restricted court record, such record is accessible only to judges, court staff, ~~the filing party, any party served with the court record,~~ parties to the case (and, if represented, their attorneys), and all criminal justice agencies.

Comment [mt3]: The addition of “child victim” is in compliance with SB 16-110.

Comment [mt4]: This change is necessary because there are documents that are in the court file in these cases that are not served on the parties or their attorneys but must be accessed. Example, an Order for a Warrant. This was not known when this language was originally drafted.

Section 3.11 - COMPILED DATA DEFINED

“Compiled Data” means data that is derived from the selection or reformulation of specific database fields within the Department’s CMS. It is a listing of individual court records that may contain data elements as defined in Section 4.40(b). Except as otherwise provided in this policy, Compiled Data shall not contain any names of parties associated with a case. Compiled Data reports include all compilations of electronic court records that are public and reside in the Department’s CMS.

Section 3.12 - AGGREGATE DATA DEFINED

“Aggregate Data” means summary information extracted from Compiled Data that eliminates any case or party identifying information such as case numbers, case sequence fields, names, addresses, or entity identification (“EID”) numbers.

ACCESS TO COURT RECORDS

Section 4.00 - APPLICABILITY OF POLICY

This policy applies to all court records, regardless of the format or the method of storage. This policy also applies to Department data that is transferred electronically to other government or private entities.

Additionally, this policy applies to all electronically filed (e-filed) or served (e-service) documents in accordance with the rules of the Supreme Court (C.R.C.P. Rule 121 Section 1 – 26, C.R.C.P. Rule 305.5, Crim.P. 49.5, and C.A.R. Rule 30); to e-filed documents maintained at the respective courts; and to documents available through the public access terminals located at a Department facility or location.

Section 4.10 - GENERAL ACCESS POLICY

Information in the court record is accessible to the public except as prohibited by Section 4.60.

Court records that are not publicly accessible pursuant to this policy, or federal or state statute, court rule, or court order shall not be released by any government or private entities with which the Department shares or transfers electronic court records.

Section 4.20 - COURT RECORDS SUBJECT TO REMOTE ACCESS

- (a) Remote access to publicly accessible court records in electronic form as defined in Section 3.06(c):
 - (1) Remote access to the following information in electronic court records is **permissible** unless public access is restricted pursuant to Section 4.60:
 - (i) Litigant/party names of cases filed with the court;
 - (ii) Listings of case filings, including the names of the primary parties; and
 - (iii) Case information showing case number; judge assigned to the case; county in which the case is assigned; scheduled date, time and location of court proceedings; judgments, orders or decrees; charges, pleas, findings, and sentences in criminal types of cases; and a listing of documents filed in a case.
 - (2) Remote access to the following information in electronic court records is **not permissible** due in part to the inability to protect confidential information. It may be available in paper form at local courthouses:
 - (i) Financial data (everything except the financial summary screen);
 - (ii) Free text fields;
 - (iii) Addresses, phone numbers, and other contact information for parties in cases;
 - (iv) Information related to victims of crime;
 - (v) Information related to witnesses in cases; and
 - (vi) Information related to impartial parties in cases.
- (b) Remote access to publicly accessible court records in electronic form as defined in Section 3.06(a) is only permissible:

- (1) through the Department's e-filing system, and contractual agreements; and
 - (2) as displayed on the Department's website in compliance with this policy.
- (c) Remote access to publicly accessible court records in electronic form as defined in Sections 3.06(b) and 3.06(d) is not permissible.

Section 4.30 - REQUESTS FOR BULK DISTRIBUTION OF COURT RECORDS

Bulk data, for purposes of this statement of policy, is defined as the Department's entire CMS. It is defined also to include that subset of the entire CMS that remains after the extraction of all data that is confidential pursuant to this policy, or federal or state statute, court rule, or court order. It is the policy of the Judicial Department that bulk data not be released to individuals, government agencies, or private entities.

Section 4.40 - ACCESS TO AGGREGATE AND COMPILED DATA FROM COURT RECORDS

- (a) Requests may be made for publicly accessible Compiled Data and Aggregate Data that is derived from the Department's CMS and that is not already available pursuant to Section 4.20 or in an existing report. Requests may be submitted using *Addendum A*.
- (1) The data request shall:
 - (i) identify what Compiled or Aggregate Data is sought;
 - (ii) describe the purpose for requesting the Compiled or Aggregate Data; and
 - (iii) explain measures for the secure protection of any Compiled or Aggregate Data requested.
 - (2) Compiled Data and Aggregate Data shall only be released by the State Court Administrator's Office or its designated agent.
 - (i) Requests for Compiled Data and Aggregate Data received from the media, General Assembly, state agencies, or that pertain to multiple judicial districts must be submitted to and prepared by the State Court Administrator's Office.
 - (ii) Requests for Compiled Data and Aggregate Data specific to one judicial district may be submitted to, prepared by, and released from that judicial district or the State Court Administrator's Office. If data is requested from and released by a judicial district, then that judicial district is deemed to be acting as a designated agent of the State Court Administrator's Office in regard to that data request. In that instance, the data request must be approved by the Chief Judge

or Administrative Authority of that judicial district, or his/her designee, prior to the release of any data.

- (3) All Compiled Data and Aggregate Data released outside of the Department must comply with this policy. This includes the requirement that *Addendum A* must be completed by the data requestor.
 - (4) All management reports generated from the Department's CMS, and reports created from any other applications that interface with the Department's CMS constitute Compiled or Aggregate Data. If a request is made to release these reports outside of the Department, all provisions of this policy must be met.
 - (5) The SCA or his/her designee or designated agent under Section 4.40(a)(2)(ii) may:
 - (i) grant the request and provide the data if he/she determines, in his/her discretion, that providing the data is consistent with the purpose of this policy, that the resources are available to prepare the request, and that providing the data is an appropriate use of public resources; and
 - (ii) make the initial determination as to whether to provide Compiled Data or Aggregate Data.
 - (6) If the request is granted, the requestor must sign a declaration (see *Addendum A* for application) that:
 - (i) the Compiled or Aggregate Data will not be sold or otherwise distributed, directly or indirectly, to third parties;
 - (ii) the Compiled or Aggregate Data will not be used, directly or indirectly, to sell a product or service to an individual or the general public;
 - (iii) there will be no copying or duplication of Compiled or Aggregate Data provided;
 - (iv) the Compiled Data will not be made available on the Internet;
 - (v) the data received are current as of the date and time that the data is gathered and are subject to change; and
 - (vi) recipients of Compiled or Aggregate Data are prohibited from tampering with or modifying reported data.
 - (7) The SCA or his/her designee will prioritize data requests in the following manner: requests from within the Judicial Department; requests from other agencies that are essential to complying with their statutory mandates; requests from agencies doing business with the Department; and all other requests, including those from the media, businesses, and private entities.
- (b) Compiled Data and Aggregate Data may be released as follows:

- (1) Data may be released only in **Aggregate form** in case classes/types:

Juvenile Delinquency (JD)
Juvenile – Non Delinquency (JV)
Probate (PR) protected proceeding case types:
Conservatorship-Adult or Minor;
Conservatorship/Guardianship-Adult or Minor;
Foreign Protected Proceeding;
Guardianship-Adult or Minor;
Other;
Registration of Foreign Order;
Single Transaction; and
Uniform Veterans' Guardianship Act

- (2) Data may be released in **Compiled or Aggregate form** in case classes/types:

Civil (C)
Civil (CV)
Civil Water (CW)
Criminal (CR)
Criminal Felony (F)
Criminal Misdemeanor (M)
Domestic Relations (DR)
Probate (PR) Trust and Estate case types
Small Claims (S)
Traffic (T)
Traffic Infractions (R)

- (3) ~~The following Probation data may only be released in **Aggregate form** (except as provided in Section 4.40(f)):~~ Except as provided in Section 4.40(f), only the following types of Probation data may be released in **Aggregate form**:

Type of termination
Reason(s) for technical violations
Supervision/risk levels
Assessment scores (subtotal and total)
Sentences

- (4) Unless otherwise provided for in Section 4.40(f) of this policy, **Compiled Data requests** may include the following information:

Arrest or offense date and arresting agency
Attorney assigned to a case

Case number (which may include court type, court location, case year, case class, case sequence)
Case filing date
Case status
Date of birth
Events
Filed charges
Financial summary
Findings/Sentence information
Gender
Judge and division assigned to the case
Judgment amount ordered
Plea
Race
Scheduled events and scheduled event status

- (c) Compiled Data reports will be provided no more frequently than on a quarterly basis, unless exceptional circumstances exist and a mutual agreement exists to provide data at other intervals, by the SCA, his/her designee or designated agent.
- (d) Notwithstanding the provisions of this policy, a civil judgment report will be created on a monthly basis no later than the fifth day of every calendar month. It will be available for release from the State Court Administrator's Office upon request and with the payment of any applicable fees. The report will be compiled listing all civil judgments entered in the previous calendar month and all civil judgments satisfied within the previous calendar month. The report will display the following information related to each judgment: case number, name of creditor(s), address of creditor (if entered in the Department's case management system), name of debtor(s), address of debtor (if entered in the Department's case management system), date of judgment, total amount of judgment, and date satisfied (if applicable).
- (e) Non-publicly accessible data, including data with personal identifying information, will not be provided to satisfy academic requirements for students.
- (f) A government agency or commission, interagency group related to a judicial program or practice, or other entity (requestor) may request Compiled or Aggregate Data or data matches that contain specific identifying information for adults and/or juveniles. The SCA may delegate to his/her staff the authority to make the initial determination as to whether to provide the requested Compiled or Aggregate Data.
 - (1) Before approving the release of this additional information, one or more of the following conditions must be met:
 - (i) The requestor has an agreement with the Department to complete an internal review of a project or program.

- (ii) The requestor has identified the statutory mandate that requires access to the data or the statutory authority that exists requiring a program evaluation, and the requestor certifies that specific identifying information is necessary to complete the evaluation.
 - (iii) The requestor is evaluating programs that are relevant to services provided to court or probation clients.
 - (iv) The requestor is supporting the operation of a judicial program or practice.
- (2) If at least one of the above conditions is met, the request may also be subject to one or more of the following:
- (i) If the project is human subject research, the State Court Administrator's Office will determine whether the project should have the approval or waiver of an Institutional Review Board ("IRB"). The request will not be granted until such time as an IRB has provided the approval or waiver of the research project.
 - (ii) Consent forms may be required from the subjects of the research project.
 - (iii) The requestor may be required to describe the purpose for requesting the Compiled or Aggregate Data.
 - (iv) The requestor may be required to explain provisions for the secure protection of any Compiled or Aggregate Data requested, to which public access is restricted or prohibited.
- (3) Requestors approved to receive the data pursuant to this section [\(f\)](#) will be required to submit *Addendum C* concerning the protection and release of electronic data. Requestors will also be required to enter into a Memorandum of Understanding if issues unique to the request are not adequately covered by *Addendum C*.
- (4) This policy recognizes [that](#) some Department programs and practices are supported by interagency groups that include both Department and non-Department members. When such a group, in the capacity of supporting the Department program or practice, has an ongoing and legitimate business need to access and review Compiled Data that contains specific identifying information for adults and/or juveniles, all members of the interagency group must enter into a Memorandum of Understanding ("MOU") regarding the protection and use of data. MOUs will be utilized with these groups in lieu of *Addendum C*. MOUs will be executed with the SCA and submitted to the Administrative Authority of the judicial district operating the judicial program or practice.

Section 4.50 - DATA MATCH REQUEST

Data Matches may be performed only by the SCA's designees. Requests must be submitted as an electronic list of data capable of being matched against criminal (felony, misdemeanor, and traffic) electronic court records that are public and reside in the Department's CMS, except as defined in Section 4.60. Requests must be submitted using *Addendum B*.

- (a) Pursuant to §24-33.5-412(6) C.R.S., the Colorado Bureau of Investigation is designated as the official repository for criminal history information. Therefore, data match requests will not be processed for specific individual background checks. Any attempt to compile a separate database (i.e., requesting a match of all or a substantial number of criminal records) will be denied.
- (b) All requests are subject to approval by the SCA or his/her designee. The SCA or his/her designee may grant the request and compile the data if he/she determines that doing so is consistent with the purposes of this policy, the resources are available to compile the data, and ~~that doing so is~~ is an appropriate use of public resources.
- (c) Data Match requests will be submitted to the State Court Administrator's Office. Upon receipt, the request will be logged, reviewed for approval, and forwarded to appropriate personnel for processing. The following information will be chronicled in a register: person and/or organization submitting the request, contact person including name and telephone number, what data was provided for matching, and for what purpose the data was requested. The log also will be updated when the request is completed with the name of the Department personnel ~~that who~~ compiled the data, how long it took, and how much the requestor was charged.
- (d) Requests will be processed matching the submitted data to the Department's CMS. Only records with positive matches (name and date of birth) will be returned, and an electronic list of matches will be provided to the requesting person or organization. Only publicly accessible electronic court records in the criminal (felony, misdemeanor, and traffic) libraries will be provided in the matched data.
- (e) The requestor will sign an agreement regarding the limits for the use of the matched data. See *Addendum B*.

Section 4.60 - COURT RECORDS EXCLUDED FROM PUBLIC ACCESS

- (a) Information in court records is not accessible to the public if federal or state statute, court rule, court order, or this policy prohibits disclosure of the information.

(b) Court records in the following case classes and case types are not accessible to the public, unless the court orders otherwise, or if permitted under Section 4.40(f) of this policy:

- (1) Adoption
- (2) Dependency & Neglect
- (3) Judicial Bypass
- (4) Juvenile Delinquency
- (5) Mental Health
- (6) Paternity
- (7) Probate Protected Proceedings:
 - Conservatorship-Adult or Minor;
 - Conservatorship/Guardianship-Adult or Minor;
 - Foreign Protected Proceeding;
 - Guardianship-Adult or Minor;
 - Other;
 - Registration of Foreign Order;
 - Single Transaction; and
 - Uniform Veterans' Guardianship Act
- (8) Relinquishment
- (9) Truancy

(c) If the relevant court record has been expunged, sealed, suppressed, restricted, or protected, the record is not accessible to the public, unless the court orders otherwise, or until the Clerk of Court has reviewed the record for release in compliance with this policy.

(d) The following items are examples of commonly filed court records that are not accessible to the public, unless the court orders otherwise. However, if a pleading or filing refers to an item listed below, that pleading or filing shall be accessible to the public, unless the court orders otherwise.

- (1) Audio or video recordings collected, received, and maintained by the Court (this does not include audio or video recordings of court proceedings)
- (2) Birth Certificates
- (3) Child abuse investigation reports that the court finds contain personal or confidential information
- (4) Credit Reports
- (5) Death Certificates
- (6) Deposited Wills
- (7) Domestic Relations:
 - Financial Statements/Financial Affidavits/and Financial Supporting Documents;
 - Memoranda of Understanding;
 - Parenting Plans;

Comment [mt5]: This section needs to be divided into what is not accessible to the public or the parties and what is still accessible to the parties. Causing confusion. Needs discussion.

Qualified Domestic Relations Orders; and
Separation Agreements

- (8) Moved existing (8) to “Not a court record” section 3.03(b)(2) (need to renumber subsections if this proposal is adopted)
Draft opinions or orders, notes, or internal memos
- ~~(9)~~ Driver history reports provided from the Department of Revenue
- (10) Drug/alcohol treatment documents, evaluations and reports
- (11) Evaluations and reports filed by Child and Family Investigator (§14-10-116.5 C.R.S.); Child’s Legal Representative (§14-10-116 C.R.S.); or relating to the Allocation of Parental Responsibilities (§14-10-127 C.R.S.)
- (12) Files/fields/codes concerning the deliberative process
- (13) Genetic testing information
- (14) HIV/AIDS testing information
- (15) Items that are illegal to possess
- (16) Juror questionnaires
- (17) Materials or exhibits that are dangerous or contraband
- (18) Medical and mental health documents prepared by a medical or mental health provider
- (19) Medical marijuana registry application or card
- (20) Motion to Proceed Informa Pauperis/Motion to File without Payment of Filing Fees or Application for Public Defender, Court-Appointed Counsel or Guardian Ad Litem and supporting documents
- (21) National Crime Information Center (“NCIC”) or Colorado Crime Information Center (“CCIC”) printed reports
- (22) Paternity tests
- (23) Presentence reports, including attachments, and updated reports
- (24) Probation chronological records (narratives)
- (25) Probation records obtained through a release of information signed by the probationer
- (26) Psychological and intelligence test documents
- (27) Scholastic achievement data on individuals

- (e) Requests for access to pleadings or documents that contain the following information will be provided after appropriate redaction of the information. Requests for these protected court records shall be handled administratively and shall not require a court order unless otherwise required by Section 4.60(b), (c), or (d).
- (1) Data or information restricted by court order in specific cases
- (2) Driver license numbers
- (3) Financial account numbers (This provision does not require redaction when only the last four digits of an account number have been provided to identify an account if it does not reveal the entire account number.)
- (4) Personal identification numbers (e.g., passport, student ID, state ID, etc.)
- (5) Pleadings or documents that contain victim identifying information in cases with sex offenses

Comment [mt6]: As written, it would appear the parties but not the public could access. For example, the NCIC/CCIC reports can only be accessed by a criminal justice agency and not the defense.

- (6) Social Security Numbers (“SSN”), including partial SSNs
- (7) Tax Identification Numbers

TIMELINESS OF ACCESS

Section 5.00 - ACCESSING COURT RECORDS

- (a) Court records in electronic form to which remote access is allowed shall be available, subject to unexpected technical difficulties or normal system maintenance announced in advance. Electronic court records may be available during extended hours.
- (b) Court records will be available for public access in the courthouse during hours established by the court. Requests to access or copy publicly accessible materials at the courthouse shall be made at the clerk’s office.
- (c) Upon receiving a request for access to court records, the custodian will provide the court records. Such a request shall be handled administratively and shall not require a court order, except as required by Section 4.60. The custodian may require the requesting person to complete a written request for the court record. If a request does not provide information sufficient to identify the record sought, the custodian may deny the request.
- (d) If the court records cannot be provided upon request, the custodian will provide the records within three business days. If extenuating circumstances prevent the custodian from providing the requested records in three business days, the custodian may have an additional seven business days to respond.

A finding that extenuating circumstances exist must be communicated by the custodian to the requestor. Extenuating circumstances exist only when:

- (1) the record requested is in active use, in storage, or otherwise not readily available; or
- (2) the custodian or the person best situated to respond to the record request is temporarily unavailable; or
- (3) a broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the custodian reasonably to prepare or gather the records within the three-day period; or
- (4) a broadly stated request is made that encompasses all or substantially all of a large category of records and the custodian is unable to prepare or gather the records within the three-day period because all or substantially all of the resources necessary to respond to the request are dedicated to meeting an impending deadline or to a period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
- (5) the request involves such a large volume of records that the custodian cannot reasonably prepare or gather the records within the three-day period

without substantially interfering with the custodian's obligation to perform other responsibilities.

FEES

Section 6.00 - FEES FOR ACCESS

Clerks of Court ~~and, Probation Departments, and~~ the State Court Administrator's Office may charge a fee for access to court records consistent with Chief Justice Directive 06-01. The costs shall include: administrative personnel costs associated with providing the court records; direct personnel costs associated with programming or writing queries to supply data; the personnel costs associated with testing the data for validity and accuracy; maintenance costs associated with hardware and software that are necessary to provide data as expressed in Computer Processing Units ("CPU"); storage costs; network costs; and operating costs of any reproduction mediums (i.e., photocopies, CDs, flash or thumb drives, etc.). To the extent that public access to electronic court records is provided exclusively through a vendor, the State Court Administrator's Office will ensure that any fee imposed by the vendor for the cost of providing access is reasonable. The authorization to charge fees does not imply the service is currently available. See *Addendum D* for details on hourly fees.

OBLIGATION OF VENDORS

Section 7.00 - OBLIGATIONS OF VENDORS PROVIDING INFORMATION TECHNOLOGY SUPPORT TO A COURT TO MAINTAIN COURT RECORDS

- (a) If the State Court Administrator's Office contracts with a vendor to provide information technology support to gather, store, or make accessible court records, the contract will require the vendor to comply with the intent and provisions of this access policy. For purposes of this section, "vendor" includes a state, county, or local governmental agency that provides information technology services to a court or the State Court Administrator's Office.
- (b) By contract, the vendor and any successive contractors with the vendor will be required to comply with the requirement of Sections 8.00, 8.10, and 8.20 to educate litigants, the public, and its employees and subcontractors about the provisions of this access policy.
- (c) By contract, the vendor will be required to notify the court of any requests for Compiled or Aggregate Data, or bulk distribution of data, including the vendor's requests for such data for its own use. Release of data in this manner is prohibited unless each request is individually approved by the SCA or his/her designee.

OBLIGATION OF THE COURT TO INFORM AND EDUCATE

Section 8.00 - INFORMATION ABOUT ACCESS TO COURT RECORDS

Information in the court record is accessible to the public unless prohibited by this policy, or by federal or state statute, court rule, or court order.

Section 8.10 - DISSEMINATION OF INFORMATION TO THE PUBLIC ABOUT ACCESSING COURT RECORDS

The Department will develop and make available to the public information about how to obtain access to court records pursuant to this policy.

Section 8.20 - EDUCATION OF JUDGES AND COURT PERSONNEL ABOUT AN ACCESS POLICY

The Courts, SCA, District Administrators, Chief Probation Officers, and Clerks of Court will ensure that all staff within their [office or](#) district are educated and trained to comply with this access policy so that their respective offices [or districts](#) respond to requests for access to information in the court record in a manner consistent with this policy.

The Chief Judges in each district shall ensure that all judges and magistrates in their district are informed about this access policy.

PROCESS TO CORRECT INACCURATE INFORMATION

Section 9.00 - PROCESS TO CORRECT INACCURATE INFORMATION IN A COURT RECORD

- (a) To request court records to be corrected in the Department's CMS, the following steps must be taken:
 - (1) An individual with a complaint or concern about the accuracy of a court record shall lodge the complaint with the State Court Administrator's Office or the Clerk of Court in the appropriate county, who may require the complaint to be submitted in writing.
 - (2) The State Court Administrator's Office or the Clerk of Court or his/her designee will investigate the issue, determine where in the Department's CMS the correction should be made, and correct the electronic court record(s) when appropriate.
 - (3) Once corrected, the Clerk of Court or his/her designee will note the correction made in the register of actions if appropriate.

- (4) The State Court Administrator's Office or the Clerk of Court or his/her designee will notify the individual either of any actions that are taken to correct the situation or that the request was denied.
 - (5) There are no other administrative appeals in these situations.
- (b) If, in the course of managing a case, the court identifies a clerical or data entry error in the court record, the court may make appropriate corrections to the court record. It is recommended that an entry be added in the Department's CMS identifying the change to the court record.

Comments regarding this policy may be submitted in writing to:

Public Access Committee

State Court Administrator's Office

1300 Broadway, Suite 1200

Denver, CO 80203

Or by e-mail to: public.access@judicial.state.co.us

Addendum A

**COMPILED or AGGREGATE DATA REQUEST
CONCERNING THE RELEASE OF ELECTRONIC DATA**

Pursuant to CJD 05-01 Section 4.40: Colorado Judicial Department Public Access Policy

Requested By: _____ Date: _____

Agency/Organization: _____

Mailing Address: _____

Telephone Number: _____ e-mail: _____

Data Requested: _____

Intended use of data: _____

I have read the Colorado Judicial Department's Public Access Policy and understand the limitations of this data and the uses of the data.

I understand and agree to the following:

- (i) The Compiled or Aggregate Data will not be sold or otherwise distributed, directly or indirectly, to third parties;
- (ii) The Compiled or Aggregate Data will not be used, directly or indirectly, to sell a product or service to an individual or the general public;
- (iii) There will be no copying or duplication of Compiled or Aggregate Data provided;
- (iv) Compiled Data will not be made available on the Internet;
- (v) The data received are current as of the date and time that the data ~~is~~ are gathered and are subject to change; and
- (vi) Recipients of Compiled or Aggregate Data are prohibited from tampering with or modifying reported data.

I understand the limitations of this data as it relates to data entry. Though every effort is made to enter data in an accurate and standard form, records may not appear on this release due to clerical coding issues. I understand there is a cost recovery fee that will be assessed for the compilation of data.

I hereby disclaim any liability to the Judicial Department and its employees and agents for any claimed loss of privilege or other claimed injury due to disclosure of allegedly confidential or privileged information.

Date:

Signature ~~ed by:~~

Print Name

Title

for Agency/Organization (if any)

Addendum B

**DATA MATCH REQUEST
CONCERNING THE RELEASE OF ELECTRONIC DATA**

Pursuant to CJD 05-01 Section 4.50: Colorado Judicial Department Public Access Policy

Requested By: _____ Date: _____

Agency/Organization: _____

Mailing Address: _____

Telephone Number: _____ e-mail: _____

Data Requested: _____

Intended use of data: _____

I have read the Colorado Judicial Department's Public Access Policy and understand the limitations of this data and the uses of the data.

I understand and agree to the following:

- (i) The data will not be sold or otherwise distributed, directly or indirectly, to third parties;
- (ii) The data will not be used, directly or indirectly, to sell a product or service to an individual or the general public;
- (iii) There will be no copying or duplication of the data provided;
- (iv) The data will not be made available on the Internet;
- (v) The data received are current as of the date and time that the data ~~is~~ are gathered and are subject to change; and
- (vi) Recipients of matched data are prohibited from tampering with or modifying reported data.

I understand the limitations of this data as it relates to data entry. Though every effort is made to enter data in an accurate and standard form, records may not appear on this release due to clerical coding issues. I understand there is a cost recovery fee that will be assessed for the compilation of data.

I hereby disclaim any liability to the Judicial Department and its employees and agents for any claimed loss of privilege or other claimed injury due to disclosure of allegedly confidential or privileged information.

Date:

Signature ~~ed~~ by:

Print Name

Title

for Agency/Organization (if any)

Addendum C

**DATA REQUEST ~~for PURPOSES OF RESEARCH~~
CONCERNING THE RELEASE OF ELECTRONIC DATA**

Pursuant to CJD 05-01 Section 4.40(f): Colorado Judicial Department Public Access Policy

Comment [mt7]: Use of the term "research" limits the utility of this form for the variety of requests made pursuant to Section 4.40(f) as all requests do not involve research.

Requested By: _____ Date: _____

Agency/Organization of Requesting Party, if applicable:

Agency/Organization on behalf of whom data request is being made, if applicable:

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Mailing Address: _____

Telephone Number: _____ e-mail: _____

Data Requested (identify specific data elements):

Timeframe of data being requested (e.g. Fiscal Year 2015; calendar year 2010 through calendar year 2014):

~~If the study is not being produced for your agency, please identify the entity for which the study is being conducted:~~

Comment [mt8]: The request for this information is captured by suggested changes above.

Has an Institutional Review Board (IRB) approval been obtained? ___Yes ___No

If no, has IRB approval been requested? ___Yes ___No

Has IRB approval been waived? ___Yes ___No

If IRB approval has not been requested or waived, is it your intent to request IRB approval or waiver? ___Yes ___No ___Not applicable

Provide the following attachments:

____ Project Overview (approximately 1 page describing the purpose for requesting the Judicial Department data, the intended outcome(s) of the study or use of the data [i.e. what will be learned as a result of the study or use of the data] and the study design being employed, if applicable);

____ Consent forms to be used with study participants, if applicable;

Approval or waiver from an Institutional Review Board (“IRB”), if available.

Comment [mt9]: Previously defined

I understand and agree to the following:

- (i) The data may be used only for ~~research~~ purposes specified above;
- (ii) The data are current as of the date and time that the data are gathered and are subject to change;
- (iii) The data will not be sold or otherwise distributed, directly or indirectly, to third parties;
- (iv) The data will not be used, directly or indirectly, to sell a product or service to an individual or the general public;
- (v) The data will not be copied or duplicated;
- (vi) The data will not be made available on the Internet;
- (vii) The data will not be tampered with or modified other than through analytical processes necessary to accomplish the study design or use of the data as described above;
- (viii) The data will not be provided to anyone without prior authorization from the Judicial Department;
- (ix) The data will be kept confidential by every person working with the data or on the research, including subcontractors;
- (x) Any reports generated utilizing the data will exclude client identifiers and results will be reported in the aggregate;
- (xi) Every person working with the data or on the research, including subcontractors, will undergo and pass a criminal background check that shows no violation of federal, state, or local criminal codes that would adversely affect the person's Division employee's or subcontractor's ability or fitness to access Judicial Department data and view confidential information. Determinations regarding passing the background checks(s) shall be at the sole discretion of the Judicial Department;
- (xii) Each person employee or sub-contractor working with the data or on ~~theis~~ research will provide the Judicial Department with a completed “Colorado Judicial Department Authorization for ~~R~~Release of Information” allowing the Judicial Department to conduct the background check;
- (xiii) The Judicial Department will complete the background check ~~will be completed by the Judicial Department,~~ at no cost to the entity receiving the data; and
- (xiv) The Judicial Department There may assess be a cost recovery fee ~~that will be assessed~~ for the compilation of data.

I hereby disclaim any liability to the Judicial Department and its employees and agents for any claimed loss of privilege or other claimed injury due to disclosure of allegedly confidential or privileged information.

Date:

Signature ~~ed by:~~

Print Name

Title

for Agency/Organization (if any)

For internal use only:

Project overview provided to Judicial Department? Yes No

Consent forms required by Judicial Department? Yes No

Consent forms reviewed and approved? Yes No N/A

IRB or IRB waiver required by Judicial Dept.? Yes No

Copy of IRB or waiver obtained by Judicial Dept.? IRB Waiver N/A

Background checks completed? Yes No

Date requesting entity was notified of results of background check: _____

If any background checks did not clear project staff, specify who is excluded from working with Judicial Department data:

Judicial Department contact person for this ~~research~~ project:

Request is: _____ Approved _____ Denied

If request is approved, date data ~~was~~ provided: _____

Comments:

Addendum D

COST RECOVERY FORMULA CONCERNING THE RELEASE OF ELECTRONIC DATA

Pursuant to CJD 05-01 Section 6.00: Colorado Judicial Department Public Access Policy

This recovery formula is established pursuant to the authority granted to the Public Access Committee by Chief Justice Directive 05-01 and is consistent with that Directive unless otherwise specifically indicated. The formula is intended to provide guidance to the Judicial Department as it responds to requests for information.

Costs shall be consistent with those allowed in CJD 06-01. The following additional costs associated with the release of electronic data ~~will~~ may be recovered:

- (i) Programmer hours will be charged at \$40.00 per hour. Hours will be rounded to the nearest half hour (writing and/or running queries);
- (ii) Analyst hours will be charged at \$30.00 per hour. Hours will be rounded to the nearest half hour (formatting, reviewing query for accuracy and validity);
- (iii) CDs or other medium used for providing the data to the requestor;
- (iv) Postage;
- (v) Envelopes;
- (vi) Administrative time, which includes: court clerk time, secretarial time, billing time (calculating the billing, creating and mailing, and tracking payments received), request tracking, etc.; and
- (vii) Processing fee which would recover the maintenance costs associated with the hardware and software that are necessary to provide the data as expressed in Computer Processing Units (“CPU”) – calculated by the quantity of time the system is in use to run the query and compile the requested data.

Comment [mt10]: Consistent to the reference to guidance in paragraph 1, this was intended to be permissive and not mandatory. This change is also consistent with the “may” in section 6.00