

# Public Access Committee Meeting Minutes

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January 21, 2022, at 1:30 pm  
Virtual via WebEx

The meeting was called to order at 1:35

## Attendees:

**Voting Members Present:** Judge Jerry Jones, Colorado Court of Appeals, committee chair; Chief Judge Michael Martinez, 2nd Judicial District; Marci Hoffman, Court Executive, 19th Judicial District; Jason Bergbower, Manager of Data Analytics, SCAO; Timothy Lane, Colorado District Attorneys' Council; Anne Deyell, Clerk of Court, 22nd Judicial District; April McMurrey, Office of Attorney Regulation Counsel; Darren Cantor, Office of Alternate Defense Counsel; James O'Conner, Office of Public Defender; Polly Brock, Clerk of Court and Court Executive, Court of Appeals; Rob McCallum, Public Information Officer, SCAO; Peggy Gentles, Court Executive, 14th Judicial District

**Non-Voting Members Present:** Justice William W. Hood, III, Colorado Supreme Court; Terri Morrison, Legal Counsel, Colorado Judicial Branch; Sherri Hufford, Probation Services, SCAO; Jeremy Ford, Court Services, SCAO

**Guests:** Shana Kloek, Clerk of Court, 18th Judicial District; Kayla Cooley, Court Services, SCAO; Lee Codding, representing LexisNexis CoCourts; Chase Collins, representing LexisNexis CoCourts; Jeff Roberts, representing Colorado Freedom of Information Coalition

## Approval of Minutes from September 17, 2021, meeting

Marci Hoffman moves to amend verbiage to Terri Morrison's comment on page three under discussion of issues pertaining to current practice re: suppressed cases from *Suppressed means the parties can't get the document* to *Suppressed means the parties can get the document*. Amendment is accepted. Polly Brock moves to approve minutes from September 17. Rob McCallum seconds the motion to approve meeting minutes. All in favor. None opposed. Motion to approve minutes passes unanimously.

## Old Business

## New Business

Proposed amendments to PAIRR 2 regarding access to records of investigations.

**Terri Morrison** addressed the proposed amendments to Section 3(c)(21). She discussed the need to determine how this works, particularly with respect to personnel investigations, and what civil and administrative investigations include. How does each agency within judicial handle investigations? She clarified that sexual harassment is covered under Section 3(c)(3) and nothing in Section (3)(c)(21) changes anything about sexual harassment complaints.

**Judge Jones** read this to be a general rule providing that while an investigation is ongoing, inspection must be denied. Once the investigation is no longer ongoing, meaning it is closed, regardless of the reason, an inspection must be allowed unless there is a specific statute or rule

that says otherwise. This is different from a sexual harassment investigation because those are not going to be public. We need to discuss whether, as a policy matter, that is a good idea.

**Justice Hood** clarified that as an agency we are trying to be transparent and allow for disclosure of records. However, allowing for disclosure of an accuser's identity and/or the facts underlying the allegation may discourage victims from coming forward.

**James O'Connor** is concerned more about colleagues within the agencies having access to complaints and investigations of their coworkers.

**Terri Morrison** clarified that the 2022 amendments to this section allow for the release of information relating to complaints after the effective date of the amendments; the amendments do not apply to previous investigations where people were told that the investigation would be confidential.

**Judge Jones** sums up the two main questions that need addressed.

1. Is there something about how any judicial agency investigates that, as a matter of principle, justifies a departure from CORA? If so, it needs to be discussed.
2. If there is not, should the branch adopt a CORA-like provision? (which should be decided by the Supreme Court)

**Terri Morrison** is going to reach out to the heads of each agency within judicial to obtain their feedback regarding access to records of personnel investigations and what civil and administrative investigations include. A follow-up meeting to address the feedback will be scheduled accordingly.

## Next Meeting Date

The next meeting will be set in March 2022. At this time, there is no determination whether the next meeting will be held in person or virtually. Regardless, a video option will be provided. Please send any prospective agenda items to Judge Jones.

Meeting was adjourned at 2:40