

DISTRICT COURT, WELD COUNTY, STATE OF COLORADO Court Address: 901 9th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley CO 80632-2038	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
AMENDED ADMINISTRATIVE ORDER NO. 2016-04 <i>Amended October 3, 2016</i>	
ORDER RE: PUBLIC ACCESS TO INFORMATION AND ORDER RE: EXHIBITS AND ATTACHMENTS TO PLEADINGS FILED IN CRIMINAL, TRAFFIC, AND JUVENILE DELINQUENCY CASES IN THE DISTRICT AND COUNTY COURTS	

This Amended Administrative Order shall apply to all criminal, traffic, and juvenile delinquency cases filed in the district and county courts in the 19th Judicial District.

I. PUBLIC ACCESS TO INFORMATION

The Colorado Judicial Branch uses Judicial Paper on Demand (jPOD), as its electronic case management, filing, and data storage system for criminal, traffic, juvenile delinquency, civil, domestic relations, probate, and water cases. Attorneys are required to file pleadings, exhibits and attachments to pleadings electronically directly with the court through the Colorado Courts E-filing system (CCE), which is the external companion system to jPOD. Five document security levels exist in CCE and jPOD:

Public: Document may be viewed by anyone, no exceptions.

Protected: Documents may be viewed only by parties associated with the case. Once redacted, documents are available to the public.

Suppressed: Documents available only to parties in the case.

Sealed: Documents available only to court staff.

Restricted (sex assault cases and cases involving child victims): Until all victim identifying information is removed from a restricted court record, pursuant to C.R.S. §§ 24-72-304(4)-(4.5), such record is accessible only to the filing and served parties, criminal justice agencies, and court staff.

Chief Justice Directive (CJD) 05-01 outlines the Judicial Branch’s policies governing public access to court records, which can be viewed at:

https://www.courts.state.co.us/Courts/Supreme_Court/Directives/05-01_Amended%202016%20Apr1%20Web.pdf.

This Chief Justice Directive balances granting the public reasonable access to court records with the need to protect confidentiality interests of people whose information might be disclosed. There are several case types and categories of information within particular court files that cannot be accessed by the public. *See* CJD 05-01, Section 4.60(b). There are other case types and categories of information that may only be viewed by the public through court order. *See* CJD 05-01, Section 4.60 (b), (c), and (d). The Directive further requires specific information be redacted

from an otherwise public record before it may be released to the public. *See* CJD 05-01, Section 4.60(e).

CJD 05-01, Section 4.20(a) provides a list of information contained in an electronic court file that is remotely accessible by the public, i.e. from locations other than the clerk's office. Information that may be remotely accessed by the public includes: litigant/party indexes to cases filed with the court; listings of case filings, including the names of the primary parties; register of actions showing case number, judge assigned to the case, county in which the case is assigned, schedule, date and location of court proceedings, judgments, orders or decrees, charges, pleas, findings and sentences in criminal cases, and a listing of documents filed in a case. Information in a court file that may be disclosed to the public, beyond that which the public may access remotely, is accessible by the public through the court clerk's office. *See* CJD 05-01, Section 5.0.

The 19th Judicial District receives thousands of pages of exhibits, documents, and attachments to pleadings each month, and often there is information included in these materials that is not subject to public disclosure under the Chief Justice Directive. To ensure the 19th Judicial District is adhering to the requirements of CJD 05-01, all exhibits and documents submitted with pleadings in criminal and non-criminal case types will be accepted or entered by court personnel into jPOD as a suppressed document unless: (1) the filing party submits the exhibit or attachment as a suppressed, restricted, or sealed document through CCE, or (2) the document must be entered as a sealed, restricted, or protected document pursuant to any rule of law or court order. Consistent with 19th Judicial District Administrative Orders [13-02](#) (probate), [13-03](#) (domestic relations), [13-05](#) (civil), and [13-06](#) (county court civil), a party to a criminal, traffic, or juvenile delinquency matter may not file a document as sealed through CCE unless the party first files a motion requesting leave to submit a sealed document and the party obtains permission from the court through a written order.

II. ELECTRONIC SUBMISSION OF EXHIBITS THROUGH CCE

All exhibits, uploaded in their original format (i.e. color or black and white), must be submitted by attorneys through CCE and made part of the court record, either prior to or within twenty-one days after the conclusion of a hearing or trial. Exhibits tendered by self-represented parties will be scanned and uploaded into the jPOD system by the court.

The following procedures apply when exhibits are offered by attorneys in criminal, traffic, and juvenile delinquency cases:

- A. Exhibits. Exhibits shall be filed as one filing submission, when possible. Exhibits shall be titled according to the party's designation in the case, such as People's or Defendant's Proposed Exhibits. Each exhibit shall be a separate file (for example, PDF file, Excel spreadsheet) within the filing submission. The exhibit designation shall be legible when electronically filed.
- B. Documentary Exhibits that Exceed E-Filing Size Restrictions. A party intending to submit any documentary exhibit that exceeds the megabyte file size limit of CCE, shall separate the exhibit into electronic files as provided in [CJD 11-01](#). If the document cannot be separated, then the party shall place it on a CD or DVD for filing with the court and file a motion indicating an exhibit in the case exceeds the size restrictions and has been filed.

- C. Exhibits of Large Physical Size and Non-Documentary Exhibits. If a party intends to submit an exhibit or document, or use a demonstrative aid, during a hearing or trial that cannot be submitted through the e-filing system because of its physical size or because it is non-documentary in nature (e.g. an item of clothing or a weapon), a digital image (photograph) of the exhibit or document shall be electronically filed for purposes of the record.
- D. Audio and Video Exhibits. Audio or video exhibits cannot be submitted through the e-filing system at this time. Those exhibits shall be placed on a CD or DVD and submitted to the court. Exhibits exceeding the megabyte limits of jPOD that cannot be filed electronically shall be filed on a disc, as set forth in Section II (B) above.
- E. All physical evidence introduced by the People shall be returned to the law enforcement custodian of the police agency investigating the case for storage after the hearing or trial in which the items were introduced in evidence. "Physical evidence" includes such items as clothing, weapons, controlled substances, and the originals of all documents, such as a check, handwritten note, etc., and any other item of evidence the district attorney determines should be returned to the law enforcement agency directly to maintain a chain of custody. The court, with the assistance of the district attorney, shall determine the appropriate law enforcement custodian to take custody of the physical evidence. The appropriate law enforcement custodian shall sign a receipt for those exhibits specifically identified by exhibit number or letter, and shall include a brief description of the exhibit. The appropriate law enforcement custodian or the district attorney shall photograph the returned exhibits and a digital copy of the photographs shall be submitted to the court through CCE to preserve the record as to the released exhibits. The receipt of the returned exhibits and any digital photographs shall also be retained by the district attorney. The appropriate law enforcement custodian shall be responsible for retaining these exhibits until notified by the district attorney that retention is no longer necessary.
- F. After the hearing or trial, all exhibits not meeting the criteria of "physical evidence" set forth in the paragraph II (E) above shall be returned to the attorney submitting the item for uploading into the electronic file through CCE, unless the attorney filed the exhibit electronically before the hearing or trial. The attorney shall file a written motion for the release of the original exhibit(s), which shall include the exhibit number or letter and a brief description of each exhibit being released. The court will issue an order releasing the original exhibit(s) directly to the attorney for uploading through the attorney's office. The responsible attorney's office shall upload the released exhibit(s) within twenty-one days of the date it was released to the attorney, and the attorney shall immediately thereafter file a notice with the court verifying that each of the released exhibits has been uploaded into the electronic court file. The court will create best business practices to establish uniform protocol and procedures to be used by court personnel when evidence is released to an attorney for uploading.
- G. Audio and video recordings presently cannot be uploaded electronically into CCE and jPOD. Therefore, a DVD or CD containing an audio or video recording that was received into evidence will be retained by the court after the hearing or trial.

H. **Retention, transmission, and viewing of Sensitive Records:**

CJD 16-03 establishes the policies and procedures of the Colorado Judicial Department with regard to Sensitive Records, and may be viewed at:

https://www.courts.state.co.us/Courts/Supreme_Court/Directives/16-03%20Initial%20Web.pdf

1. “Sensitive Record” means any photograph, motion picture, video, recording, computer-generated image, or other record whose release or transmission is restricted by section 16-9-601, C.R.S. (2015), 18 U.S.C. § 2252 (2015), or 18 U.S.C. § 2252A (2015). This includes sexually exploitative material, visual depictions involving the use of a minor engaging in sexually explicit conduct, and child pornography.
2. “Sexually explicit conduct” has the same meaning as defined in 18 U.S.C. § 2256(2).
3. “Sexually exploitative material” has the same meaning as defined in section 18-6-403(2)(j), C.R.S. (2015).
4. “Visual depiction” has the same meaning as defined in 18 U.S.C. § 2256(5).
5. “Child pornography” has the same meaning as defined in 18 U.S.C. § 2256(8) (2015).
6. “Minor” has the same meaning as defined in 18 U.S.C. § 2256(1).
7. Evidence submitted during a hearing or trial that meets the definition of “Sensitive Record” **shall not be electronically uploaded into the file** including by any person, party, an attorney for a party, court personnel or judicial officer. Instead, if any such item is received into evidence, the court or court personnel shall seal the item(s) in an envelope and place the case number, exhibit number(s) or letter(s), the defendant’s name, and “Sensitive Record” on the outside of the envelope. The judge presiding over the case shall forthwith issue an order directing that the sealed envelope may not be opened by anyone absent a court order. The order shall be affixed to the sealed envelope and thereafter secured in the locked evidence room at the courthouse. The court will include an entry in Eclipse and jPOD listing the items by exhibit number or letter without any further description of the contents of the envelope, that the exhibits have been sealed pursuant to the court’s order, and specify that those exhibits are secured in the locked evidence room and may not be viewed by anyone absent a court order.
8. Evidentiary items that are subject to the provisions of this paragraph II (H) **shall not be submitted to the appellate court as a matter of course as part of the record on appeal**, irrespective of any designation of record submitted by an attorney or party requesting that all exhibits offered or received into evidence be certified by the trial court as part of the appellate record. The trial court appeals clerk will include the following statement in the designation of record: **Exhibits containing sexually exploitative material, child pornography, or visual depictions that involve the use of a minor engaging in sexually explicit conduct, or other materials falling within the provisions of CJD 16-03, have not been included as part of the record submitted on appeal and will be retained by the trial court, under seal, unless those items are specifically ordered by the appellate court to be included with the**

appellate record. The sealed envelope containing Sensitive Records will be retained by the trial court and only be transmitted to the appellate court if the appellate court specifically orders the sealed envelope to be submitted as part of the record on appeal. If the appellate court orders the sealed envelope containing Sensitive Records to be submitted on appeal, the appeals clerk shall confer with the judge presiding over the case and the chief judge to seek specific directions as to how the sealed envelope will be submitted to the appellate court; however, under no circumstances may a clerk or any other court personnel personally transport a Sensitive Record from the trial court to the appellate court.

9. Under no circumstances may the court, court personnel, an attorney for a party, or any other person upload a Sensitive Record into an electronic case file, upload a Sensitive Record to an electronic device connected to the Judicial Department's network, download a Sensitive Record onto any electronic device connected to the Judicial Department's network, or transmit a Sensitive Record to or from any electronic device connected to the Judicial Department's network.

This Administrative Order replaces Administrative Order 09-10, entered by the court on September 8, 2009, and Administrative Order 09-10 is hereby vacated.

Date: October 3, 2016

BY THE COURT:



James F. Hartmann
Chief Judge, 19th Judicial District