

CHIEF JUDGE ADMINISTRATIVE ORDER #2008-001
STATE OF COLORADO
22nd JUDICIAL DISTRICT

FILED IN DISTRICT COURT
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RECEIVED
CLERK

IN THE MATTER OF PUBLIC ACCESS TO COURT RECORDS

ORDER

WHEREAS, Chief Justice Directive 05-01 issued April 8, 2005, revised and effective July 1, 2007, adopted a Public Access to Court Records policy for the Colorado Judicial Department; and,

WHEREAS, section 4.60 of that Directive lists information in court records that is not to be accessible, including but not limited to:

Section 4.60 – COURT RECORDS EXCLUDED FROM PUBLIC ACCESS

- (a) Information in court records is not accessible to the public if protected by federal law, state law, court rule, court order, case law or this policy.
- (b) Court records in the following case types are not accessible to the public, unless the court orders otherwise:
 - (1) Relinquishment cases
 - (2) Juvenile Delinquency cases
 - (3) Mental Health cases
 - (4) Judicial Bypass cases
 - (5) Dependency & Neglect cases
 - (6) Adoption cases
 - (7) Paternity cases
 - (8) Truancy cases
- (c) Court records in the following cases are not accessible to the public, unless the court orders otherwise:
 - (1) Expunged cases
 - (2) Sealed cases
 - (3) Individual cases or documents within a case that have been sealed by the court
- (d) The following documents or information are examples of commonly filed court records that are not accessible to the public, unless the court orders otherwise:
 - (1) Deposited wills

- (2) Genetic testing information
- (3) Drug/Alcohol treatment information, evaluations and reports
- (4) Paternity tests
- (5) HIV/AIDS testing information
- (6) Driver history reports
- (7) Juror questionnaires
- (8) Criminal history record checks
- (9) Credit reports
- (10) Medical and mental health information
- (11) Psychological and intelligence test information
- (12) Scholastic achievement data on individuals
- (13) Probation ICON/Eclipse files
- (14) Draft opinions, notes or internal memos
- (15) Files/fields/codes concerning the deliberative process
- (16) Materials or exhibits which are dangerous or contraband
- (17) Drugs
- (18) Items when possession is illegal
- (19) Pre-sentence reports
- (20) Separation Agreements
- (21) Parenting Plans
- (22) Sworn Financial Statements/Financial Affidavits
- (23) 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.); Allocation of Parental Responsibilities (§14-10-127 C.R.S.)
- (24) Child abuse investigation reports that the court finds are personal and confidential to the parties and that do not fulfill any requirement of necessity of public knowledge court.

(e) Requests for access to pleadings or documents that contain the following information will be provided after the information is redacted. Such a request will be handled administratively and shall not require a court order unless otherwise required in Section 4.60(b), (c), or (d). Refer to the forms in Addendum D.

- (1) Pleadings or documents that contain victim identifying information in sexual assault cases
- (2) Data or information restricted by court order in specific cases
- (3) Social Security numbers
- (4) Driver license numbers
- (5) Personal identification numbers (e.g., passport, student ID, state ID, etc.)
- (6) Financial account numbers.

WHEREAS, the Twenty-second Judicial District already protects the confidentiality of much of the information listed and is taking additional reasonable steps as set forth in this Order to protect the confidentiality of the remainder of the information, but due to budgetary constraints that have required the Clerk's Office and other offices within the District to operate at reduced hours and with significantly reduced staff in comparison to the needs of the positions, and

WHEREAS, due to these resource limitations it is essentially impossible to provide court staff to review and remove all information in the thousands of court files and microfiche files that are stored in the district's facilities, and given the volume of public access requests for files: and

WHEREAS, the court may order part or all of a file sealed pursuant to C.R.C.P. 121, §1-5, upon a finding that harm to the privacy of a person in interest outweighs the public interest, and

WHEREAS, the Clerks of Court for Montezuma District and County courts and Dolores County, the Chief Judge of the District, the Court Administrator, after consulting with other judicial officers in the district, have devised a compliance plan that takes reasonable steps toward full implementation within the financial resources available; and

WHEREAS, the policies and procedures set forth herein have been reviewed and approved by Chief Judge Sharon L. Hansen pursuant to section 4.60 of the Directive.

NOW THEREFORE IT IS ORDERED THAT:

1. The Court will designate two distinctions for access to pleadings, Restricted Access and Controlled Access. Open Access files will be understood as a designation, but not distinctly indicated. All pleadings, from the date of this order and forward, will be reviewed by any court clerk who handles the document and the pleading will be processed according to Restricted or Controlled Access designations.
2. The Controlled Access limitations do not apply to parties to a case or their lawyers regarding access to the court record in their specific case, unless there is a specific court order to seal any part of the record.
3. The Restricted Access limitations pertaining to documents, is defined as "No" access and applies to public persons and all parties.
4. These policies apply to paper, scanned files and microfilm files in the Clerk of Court's offices. Paper documents printed from microfilm, CD and the e-file system will be handled in the same manner as paper filed documents. As multiple cases are retained on CD's and microfilm, Judicial Assistants shall assist with equipment, review the contents and monitor direct public access.
5. Established fees for copies and research are charged according to JDF 1 Filing Fees, Surcharges, and Costs in Colorado State Courts and in CJD 06-01 including the Identification of Departments/Agencies & Fees Assessed.
6. For purposes of this Order, "old" files are cases filed prior to the effective date of this Chief Judge Order, and "new" files are cases filed after the effective date of this order.

Management of Old Files on-site

The policies and procedures as outlined in this Chief Judge Administrative Order apply to pleadings which pre-date this order. Clerks shall charge a \$5.00 search fee to persons who are not a party to a case and who request to see any file which contains or may contain Controlled Access documents (see CJD 06-01). If extensive review or research, including the actual redaction of documents is required in order to provide the information requested an additional fee of \$25.00 per hour will be assessed.

The clerk who reviews and redacts information from the on-site "old" files shall re-organize the pleadings in the same manner the "new" files are handled.

The "old" files which do not require review and redaction may remain as they are, unless reviewed by Judicial Assistants who determine the file should be re-organized according to this policy.

Files which were closed and re-opened shall be re-organized according to this policy.

Management of New Files

The Montezuma County and District courts will allow open access to files in as many case types as possible. Pleadings will be reviewed upon filing and if Controlled Access is required the document will be marked for special handling, utilizing a stamp indicating "CONTROLLED ACCESS" and stamped in the lower left hand corner of the document. Controlled Access documents will be placed on the left side of the file, in file date order with Yellow Colored paper on top.

If an order or other document re-states Controlled Access information, and would otherwise be considered an Open Access document, it shall be marked for special handling, utilizing the "Controlled Access" stamp and placed on the left side of the file, in file date order, the most current date on top. Access to these documents will be limited to parties to the case and attorneys of record. Other parties wishing access may petition the court.

Some documents considered to be Restricted Access may include court notes, work product, draft opinions, notes or internal memos, files/fields/codes concerning the deliberative process, rap sheets or Probation ICON/Eclipse files. Judicial Officer's work product is only available to the Judicial Officer and their designated Legal Research Attorney. If Restricted Access is required the document will be placed on the left side of the file with Red Colored paper on top and "RESTRICTED ACCESS" stamped in the lower left hand corner of the document. The clerk will organize these papers in date order, the most current on top. These documents shall be removed before handing to any party, attorney or person requesting the case file. Note: Rap sheets may not be reviewed by the subject of the record without requesting and obtaining permission from the FBI or state of record.

Restricted Access files

Definition:

Access to files will be limited to parties to the case and attorneys of record. People who are not parties to the case who wish access may petition the court. Research fees apply pursuant to CJD 06-01.

Case types designated Restricted Access to include:

Juvenile – All cases including JD, D & N, EP

Mental Health cases

Judicial Bypass cases

Expunged cases

Any file sealed pursuant to C.R.C.P. 121, §1-5.

Controlled Access files

Definition:

Access will be allowed for all persons once the file has been reviewed and protected information removed or redacted. Research fees apply pursuant to CJD 06-01.

Case types designated Controlled Access to include:

Domestic Relations cases

Probate cases

Criminal cases

Misdemeanor cases

Traffic Cases

Any case in which specific documents have been sealed pursuant to C.R.C.P. 121, §1-5

Open Access files

Definition:

Public may have full access to files once sealed or protected information (Controlled and Restricted Access, if any) are removed.

Case types designated Open Access to include:

District Court Civil

County Court Civil

Small Claims

Search Warrants: Consider sealed until executed. If/when case is opened, place in case file in Controlled Access section if information within requires redaction, unless parties have moved and been granted a Motion to Seal.

Orders for Arrest Warrants: Unexecuted Orders for Arrest Warrant are considered Public Access.

Local Business Practices:

County Court

For Traffic (T), Misdemeanor (M) and Infraction (R)

1. Summons/Tickets are received and all information is input into the system
2. Confidential information on the summons/ticket will be blacked out once they have been entered. (i.e. – social security number and drivers license number)
3. Any other information received that contains confidential information will be place in a confidential envelope.
4. This shall include but not limited to the following documents
 - Arrest/booking sheet
 - Express consent affidavit
 - First page of arrest affidavit that contains SS#
 - Applications for public defender/court appointed counsel
 - Victim information containing SS# or Driver's license #
 - Drug/alcohol/psi/dv evaluations
 - Any treatment reports
 - Any other documents deemed to be confidential

For Civil (C), Small Claims

1. Any documents that contain confidential information shall be place in a confidential envelope
2. this shall include but not limited to the following documents
 - Interrogatories
 - Writ of garnishment (all types)
 - Copies of checks that are part of the complaint
 - Any Financial information
 - Any other documents deemed to be confidential

For Felony cases


3. Follow the District Court procedure for public access.

District Court (Including County Court Felony cases)

- Clerk staff will organize all protected documents on the left side of the file in date order with the most current date on top and with Yellow and Red Colored paper separating the categories of Controlled or Restricted Access, including but not limited to all documents listed in CJD 05-01 4.60(a) and (d) and jail booking sheets, court appointed counsel application, Motions to Proceed In Forma Pauperis, Writs of Garnishment and Answers to Writs of Garnishment.

- Before giving the file to the public to view, clerk will review the file and remove any Restricted Access protected documents from the case file. Access to court ordered **sealed** documents is not provided to anyone without a court order. Controlled Access pleadings are available to the party to the case or attorney of record (and the attorney's administrative staff).
- Before giving a file to the public to view, clerk will review the file for Controlled Access documents. Clerk will advise requesting person of the applicable timeline, fees to research and redact the information, including but not limited to documents listed in CJD 05-01 4.60(e). If the requesting person does not require copies, the redacted set will remain in the case file. If the requesting person does require copies, the applicable fee for copies will be applied and the redacted set will remain in the case file.
- The Confidential Victim Information sheet, created to attach to the Order of Restitution, is considered a Restricted Access document. The Order of Restitution and Confidential Victim Information will be provided to a Defendant's Attorney upon distribution of the Order of Restitution. The attachment will not be provided to the defendant directly. If the Defendant is Pro Se, only the Order of Restitution will be distributed to the Defendant.
- A Statement and Agreement of Confidentiality shall be obtained from the Clerk of Court if a party must be assisted by a non-party because they are unable to see or have a barrier to understand the written language. Proof of disability shall be filed with the Clerk of Court. (Addendum A)
- The Request to Access Pleadings Requiring Redaction forms are adopted as part of this Administrative Order. The Request to Access Pleadings or Documents form is to be utilized by non-parties to a case who request access to Controlled Access documents. (Addendum B)
- A Motion for Access to Court Records Not Accessible Except by Court Order should be utilized by parties to a case, their attorney's or any other person who requires access to documents designated as Restricted or Sealed. (Addendum C)

Done at Cortez, Colorado this 15 day of January, 2008.



 Sharon L. Hansen, Chief Judge
 Twenty-Second Judicial District

STATEMENT AND AGREEMENT OF CONFIDENTIALITY

Upon signing this Statement and Agreement of Confidentiality, you have been given permission by the Clerk of Court to review the file named herein for and in the attendance of the qualified party to the case.

All or parts of the file you are about to review have controlled or restricted public accessibility. Information which would normally be redacted to allow public access is not being redacted.

The purpose of your participation is ONLY for you to personally assist the party because they are unable to see or have a barrier to understand the written language.

As you obtain access to this information, by signing this Agreement of Confidentiality, you shall comply with the agreement and keep the information contained within any and all documents of this case CONFIDENTIAL.

You shall not discuss the issues or contents of these documents with anyone, public or private, except the party you are working with.

Case Caption: _____ vs. _____

Name of qualified party to this case: _____

Case Number: _____ Montezuma District Court

Printed Name of person assisting Party Signature Date: _____

Clerk of Court Signature Date: _____

Request to Access Pleadings Requiring Redaction
Pursuant to CJD 05-01, Colorado Judicial Branch Public Access Policy
and Chief Judge Administrative Order _____

Date: _____

Court location: _____

Case Number: _____

Case Caption:

Vs.

List the name(s) of the pleading(s) that you would like to access:

1. _____

2. _____

3. _____

- I understand that there is a \$25 per hour redaction fee (per CJD 06-01) and I agree to pay. The rate will be pro-rated no less than the quarter hour at \$6.25.
- I require a copy of the documents indicated above and I understand that there is a 75 cent per page copy fee in addition to the redaction fee (per CJD 06-01).

Requestor: _____ Signature: _____
Print Name

Mailing Address: _____

City, State, and Zip Code: _____

Telephone/Cell Number: _____

to be completed by Clerk: _____ (Clerk Name)

_____ Date information provided to requestor

Addendum B to Chief Judge Administrative Order _____

<input type="checkbox"/> District Court <input type="checkbox"/> County Court _____ County, Colorado Court Address: <hr/> In Re: Petitioner/Plaintiff: Vs. Respondent/Co-Petitioner/Defendant:	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg.#: _____	Case Number: Division Courtroom
MOTION FOR ACCESS TO COURT RECORDS NOT ACCESSIBLE EXCEPT BY COURT ORDER	

I am the Petitioner/Plaintiff Respondent/Co-Petitioner/Defendant in this action OR
 I am not a party to this case.

I am requesting that:

(PLEASE PRINT CLEARLY.)

My reasons are:

Date: _____

Petitioner OR Respondent/Co-Petitioner

Address _____

City, State, Zip Code _____

(Area Code) Telephone Number (home and work) _____

Note: If you are not a party to this case, a Certificate of Service does not require completion.

CERTIFICATE OF SERVICE

I certify that on _____ (date) the original and one copy of this document were filed with the Court; and, a true and accurate copy of the *MOTION FOR* _____ was served on the other party by Hand Delivery OR Faxed to this number _____ OR by placing it in the United States mail, postage pre-paid, and addressed to the following:

TO: _____

(Your signature)

<input type="checkbox"/> District Court <input type="checkbox"/> County Court Montezuma County, Colorado Court Address: <hr style="border: 0; border-top: 1px solid black;"/> In Re: Petitioner/Plaintiff: vs. Respondent/Co-Petitioner/Defendant:	▲ COURT USE ONLY ▲ <hr/> Case Number: Division Courtroom
ORDER	

THIS MATTER comes before this Court upon the motion of the Petitioner/Plaintiff OR Respondent/Co-Petitioner/Defendant OR Non-party (check one.). The Court has considered the motion, any response filed, the court file and, being fully advised, makes the following findings and orders:

Dated: _____

BY THE COURT:

 District Court Judge
 District Court Magistrate

Xc: _____

By: _____

<input type="checkbox"/> District Court <input type="checkbox"/> County Court _____ County, Colorado Court Address: _____ In Re: Petitioner/Plaintiff: Respondent/Co-Petitioner/Defendant:	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg.#: _____	Case Number: Division _____ Courtroom _____
RESPONSE TO MOTION FOR: MOTION FOR ACCESS TO COURT RECORDS NOT ACCESSIBLE EXCEPT BY COURT ORDER	

I am the Petitioner Respondent/Co-Petitioner/Defendant in this action. I am requesting that:

My reasons are:

Date: _____

Petitioner OR Respondent/Co-Petitioner

 Address

 City, State, Zip Code

 (Area Code) Telephone Number (home and work)

CERTIFICATE OF SERVICE

I certify that on _____ (date) the original and one copy of this document were filed with the Court; and, a true and accurate copy of the *RESPONSE TO MOTION FOR* _____
_____ was served on the other party by Hand Delivery OR Faxed to this number
_____ OR by placing it in the United States mail, postage pre-paid, and addressed to the following:

TO: _____

(Your signature)