



ADMINISTRATIVE REGULATION  COLORADO DEPARTMENT OF CORRECTIONS		REGULATION NUMBER 1350-04	PAGE NUMBER 1 OF 4
		CHAPTER: Public Relations	
		SUBJECT: Open Record Requests	
RELATED STANDARDS: ACA Standards - 4-4099 and 2-CO-1E-07		EFFECTIVE DATE: February 1, 2017	
		SUPERSESION: 05/01/16	
OPR: OLS	REVIEW MONTH: November	 Rick Raemisch Executive Director	

I. POLICY

The Colorado Department of Corrections (DOC) governs access to its records and responds to requests for record reviews and photocopies, in accordance with Colorado Revised Statutes (C.R.S.) 24-72-301 *et seq.* and 24-72-201 *et seq.* as applicable.

II. PURPOSE

The purpose of this administrative regulation (AR) is to establish procedures for routing and responding to requests for record inspections and photocopies. This administrative regulation also establishes standard fees associated with these requests.

III. DEFINITIONS

- A. Colorado Criminal Justice Records Act: The statute located at C.R.S. 24-72-301, *et seq.*, governing the maintenance, access, and dissemination of criminal justice records maintained for law enforcement purposes in the state of Colorado.
- B. Colorado Open Records Act: The statute located at C.R.S. 24-72-201, *et seq.*, governing the accessibility of public records maintained by a public agency.
- C. Criminal Justice Records: All books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, which are made, maintained, or kept by the DOC for use in the exercise of functions required or authorized by law or administrative rule. This includes all records generated for law enforcement purposes, including certain professional standards investigations. **Electronic correspondence of employees may be a public record under public records law and may be subject to public inspection.** C.R.S. 24-72-302(4).
- D. Media: Journalists (including free-lance and blog), print, wire service, broadcast reporters, web based outlets and technical crews for any public information medium engaged in news gathering for bona fide public access or distribution purposes. Media also includes public affairs programming staff and “talk shows” that air on stations holding FCC licenses.
- E. Official Action: An arrest; indictment; charging by information; disposition; pretrial or post-trial release from custody; judicial determination of mental or physical condition; decision to grant, order or terminate probation, parole or participation in correctional or rehabilitative programs; and any decision to formally discipline,

CHAPTER	SUBJECT	AR #	Page 2
Records	Open Record Requests	1350-04	EFFECTIVE 02/01/17

reclassify or relocate any person under DOC sentence.

- F. Open Record: May be a public record or a criminal justice record and is a record which is subject to inspection and/or release to the public. **Electronic correspondence of employees may be a public record under public records law and may be subject to public inspection.**
- G. Public Record: All writings made, maintained, or kept by the state or any agency, institution, or political subdivision thereof for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt of expenditure of public funds, as defined by C.R.S. 24-72-203. **Electronic correspondence of employees may be a public record under public records law and may be subject to public inspection under C.R.S. 24-72-203.**
- H. Records Custodian: A specifically identified DOC employee, who has physical custody of or responsibility for a particular category of DOC records and **is the only party authorized to release such records and respond to records requests.**

IV. PROCEDURES

A. General information

1. The Department of Corrections is a criminal justice agency which maintains both public records and criminal justice records. Requests will be evaluated and responded to according to the appropriate applicable portion of the open records statutes.
2. Any request to inspect or receive a copy of a document, which cites the Colorado Open Records Act, the Criminal Justice Records Act, The Freedom of Information Act, or is otherwise clearly requesting to inspect or have produced, copies of a DOC record or document of any kind, should be treated as an open records request.
3. When responding to an open records request, the DOC will make every effort to provide an acknowledgement of receipt with a proposed delivery date within three working days.
 - a. The three-day response time begins the first working day following receipt of the request by the records custodian.
 - b. A request received by the records custodian after 3pm or any day that the DOC is officially closed will be considered received as of the next business day (i.e., a request received at 3:09 p.m. on Monday will be considered received Tuesday and will be responded to by close of business Friday).
4. Offender health care records may not be released without a completed AR Form 950-02A, Authorization for Use and Disclosure of Health Information form. For information on release of offender health care records refer to AR 950-02, *Health Records/Confidentiality/Access*.
5. Offender requests for documents contained in the offender's electronic records are processed according to the procedures defined in AR 950-05, *Offender Access to Records*.

B. Requesting Records for Inspection or Photocopying

1. The preferred format for requests to view or purchase copies of records is written.
 - a. Requests submitted via E-mail are acceptable.

CHAPTER	SUBJECT	AR #	Page 3
Records	Open Record Requests	1350-04	EFFECTIVE 02/01/17

- b. If any DOC employee receives an oral request to view or purchase records, the DOC employee will continue to process the request as outlined in this policy and ask the requestor (the individual or entity making the records request) to document the request in writing.
 2. Requests should be sent directly to the Office of Legal Services through DOC_open_records@state.co.us and must include the identifying information:
 - a. Requestor's name.
 - b. Specifically identify the records sought.
 - c. Requestor's contact information.
- C. Routing Requests to View or Purchase Records
1. **All requests for open records will be submitted to the office of legal services at DOC_open_records@state.co.us for tracking and routing.**
 2. Upon receipt of a request for records, the recipient will **immediately forward the request**, or detailed information regarding a verbal request, to DOC_open_records@state.co.us.
 3. The request will then be routed to the appropriate records custodian for response.
- D. Responding to Requests for Open Records
1. Upon receipt of a request, the office of legal services will:
 - a. Send a written acknowledgment, to the requestor, within three days of receiving the request for records.
 - b. Work with the appropriate records custodian to determine whether any records exist that are responsive to the request.
 - c. **The Office of Legal Services will determine which records are releasable.**
 - d. **Employees should never assume a record is exempt from release. All responsive documents must be reviewed by the Office of Legal Services to ensure appropriate redaction and/or denials.**
 - e. The following are examples of types of information that are generally *not* releasable and will be redacted from any documents they are printed on or may be withheld in their entirety.
 - 1) Sexual assault victim names, addresses, phone numbers, social security numbers or other identifying information.
 - 2) Victim names, addresses, phone numbers, social security numbers or other identifying information for victims being tracked by the DOC Victim Services Unit.
 - 3) Employee addresses, phone numbers, social security numbers or other identifying information.
 - 4) Offender FBI number, State Identification Numbers (SID) number, and Social Security number.
 - 5) Private citizens' names, addresses, phone numbers, social security numbers or other identifying information.
 - 6) Mental health information.

CHAPTER	SUBJECT	AR #	Page 4
Records	Open Record Requests	1350-04	EFFECTIVE 02/01/17

- 7) Substance abuse information.
 - 8) Medical information.
 - 9) Any record that is part of an open, ongoing investigation.
 - 10) Any record, the release of which would be contrary to existing law or court order.
 - 11) Any record, the release of which would be contrary to the public interest.
 - 12) Any record subject to privilege.
 - 13) Child victim names.
- f. The list above is not exhaustive. There may be additional items that may be determined not releasable in accordance with prevailing case law and other factors. Please consult the Office of Legal Services for assistance.
2. When the production or review of records in a specific format would interfere with the regular discharge of duties of DOC employees or would levy an undue burden upon the DOC, the Office of Legal Services in conjunction with the records custodian, will determine the appropriate format for the records to be produced.
 3. Records maintained electronically may be produced electronically.
 4. The DOC may require that members of the public or media be allowed to review only copies of the documents when the records custodian determines that allowing access to originals could interfere with the regular discharge of duties of the DOC or its employees or production of original records could jeopardize the condition of the records.

E. Fees

1. The DOC charges an hourly fee for the research, retrieval, and preparation of records. The first hour of research, retrieval, and preparation are without charge. Beyond the first hour, the fees may vary depending on the type of record and the discretion of the custodian but will not exceed \$30 per hour.
2. In addition to the research, retrieval and production fees, there is a \$.25 per page fee for any paper copies requested.
3. There will be no copy fee charged for documents that are maintained in an electronic format and provided to the requestor via electronic mail, however, the \$30 per hour fee for review and preparation still applies.
4. Any fees due are payable in advance. Responsive documents will not be produced until payment has been received.
5. Payment may be made via check or money order made payable to the Colorado Department of Corrections. If payment is not received within 30 days of notice to requestor, the request will be deemed closed.

F. Special Instructions for Requests for Offender Files

1. Any access to an offender record will be recorded on the chronological recording sheet by the records custodian allowing such access. The information shall contain, at a minimum, the name of the records custodian, the date of the access, the person/agency making such access, and a brief statement of what information was accessed. The information it contains should never be altered or erased.

CHAPTER	SUBJECT	AR #	Page 5
Records	Open Record Requests	1350-04	EFFECTIVE 02/01/17

2. ***The DOC's policy, procedure, and practice provide that offender case records are safeguarded from unauthorized and improper disclosure. Therefore, attorneys and other parties who require access to offender file information that would ordinarily not be releasable through an open records request or required to be released pursuant to statute, must obtain a signed release from the offender using AR Form 1350-04A, Release of Information Consent [4-4099] [2-CO-1E-08][2-CO-1E-07].***
3. Prior to disclosing otherwise protected information related to an offender to any outside party, case managers must ensure that there is a properly executed release (AR Form 1350-04A, Release of Information Consent Form) between the offender and the party requesting the information.

V. RESPONSIBILITY

- A. It is the responsibility of the Office of Legal Services to review this administrative regulation annually and revise as needed.
- B. Is is the responsibility of the Office of Legal Services to establish and maintain a centralized tracking system or database of all open records requests.

VI. AUTHORITY

- A. *City of Colo. Springs v. White*, 967 P.2d 1042 (Colo. 1998)
- B. C.R.S. 24-72-301, *et seq.* Colorado Criminal Justice Records Act,
- C. C.R.S. 24-72-201, *et seq.* Colorado Open Records Act,

VII. HISTORY

May 1, 2016
August 1, 2014
April 1, 2014
January 1, 2013

ATTACHMENTS:

- A. AR Form 1350-04A, Release of Information Consent Form
- B. AR Form 100-01A, Administrative Regulation Implementation/Adjustments



Release of Information Consent Form

I, _____, DOC # _____, authorize representatives of the Department of Corrections (DOC) or designees to exchange written information with:

(Individual/Agency/Provider) (Address)

Purpose: _____

Specific information to be released:

- | | |
|------------------------------|------------------------------|
| _____ Admission Data Summary | _____ Parole Board Action |
| _____ Diagnostic Summary | _____ Referral Information |
| _____ Progress Assessment | _____ Drug Detection Screens |
| _____ Grievances | _____ Other (Specify) |
| _____ Other (Specify) | |

I understand that the information to be released may include HIV infections and drug and alcohol documentation. I certify that this request has been made voluntarily and that the information given above is accurate to the best of my knowledge. I understand that I may revoke this authorization at any time, except to the extent that action has already been taken to comply with it. This release will remain in effect until the discharge of my sentence, unless specified in writing for a shorter time period. My sentence discharge date is: _____.

I make this consent upon the premise that all discharges made pursuant to the authority granted by this consent will be accomplished by a written notice that states the following:

“This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal Regulation (42 CFR, part 2) prohibits you from making any further disclosure of it without specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.”

I hereby release DOC from any liability that may result from furnishing the information requested as authorized in this release.

I have read the above and foregoing Consent for Disclosure of Confidential Information and I do hereby acknowledge that I am familiar with and fully understand the terms and conditions of this consent.

(Offender Signature) Date _____

(DOC Employee Witness - Printed and Signature) Date _____

Distribution: Electronic File; Medical File; Offender

ADMINISTRATIVE REGULATION
IMPLEMENTATION/ADJUSTMENTS

AR Form 100-01A (04/15/08)

CHAPTER	SUBJECT	AR #	EFFECTIVE
Records	Open Record Requests	1350-04	01/01/17

(FACILITY/WORK UNIT NAME) _____
WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN NOT APPLICABLE WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT
OF THE AR

(SIGNED) _____ (DATE) _____
Administrative Head