



## POLICY MANUAL

<b>Section:</b>	<b>I – Administration Information Technology &amp; Records Management</b>	<b>Approved:</b>  Matt Salka, Chair
<b>Policy No.:</b>	<b>I.B.2.</b>	 Marsha Porter-Norton, Vice Chair
<b>Originating Dept.:</b>	<b>Administration</b>	 Clyde Church, Commissioner
<b>Subject:</b>	<b>Public Records Policy</b>	
<b>Effective Date:</b>	<b>June 15, 2022</b>	
<b>Replaces:</b>	<b>Public Records, I.B.2, dated August 28, 2018</b>	

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I. **Purpose.** To establish a protocol under which public documents will be made available in response to a Colorado Open Records Act (“CORA”) request, and a reasonable fee assessed by La Plata County (“the County”) pursuant to C.R.S. § 24-72-205. This policy is subject to modifications of CORA or other federal or state statutes, which may supersede any conflicting provisions in this policy.

### II. Policy Statement.

A. **Records available on County Website.** A substantial number of the County’s public records are available free of charge on La Plata County’s website ([www.co.laplata.co.us](http://www.co.laplata.co.us)). Those records include, but are not limited to, the County’s budget, agendas and minutes of meetings of the Board of County Commissioners or the Planning Commission, property records, recorded documents, press releases and other information. In lieu of completing a CORA request for information available on the County’s website, County staff may direct persons to the on-line location of responsive documents without assessing a fee. For those documents not available on the County’s website, in accordance with our statutory responsibility, the County is committed to ensuring public access to the County’s public records within a reasonable time and at a reasonable cost.

B. **Records Subject to the Colorado Criminal Justice Records Act.** The inspection of some public records, including certain records maintained by the La Plata County Sheriff’s Office, District Attorney and Coroner, may be governed by the Colorado Criminal Justice Records Act (“CCJRA”), rather than by CORA. Production of criminal justice records pursuant to CCJRA is governed by a separate County policy.

### III. Definitions.

A. “Custodian” means and includes the official custodian or any authorized person having personal custody and control of the public records in question.

**B.** “Public Records” means and includes all writings made, maintained, or kept by the County, subject to the exceptions set forth in C.R.S. § 24-72-202(6)(b).

**C.** “Writings” means books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings includes digitally stored data, including without limitation email messages, but does not include computer software. C.R.S. § 24-72-202(7).

**D.** “Work Product” has the same definition as that set forth in C.R.S. § 24-72-202(6.5).

**E.** The definitions found in C.R.S. § 24-72-202, as amended from time to time, otherwise are incorporated herein unless the context of this policy clearly requires a different meaning.

**IV. Applicability.** This policy applies to all departments and offices of La Plata County, except where the records subject to any request are governed by the CCJRA, as discussed above in section II.B. A department or elected official may set a fee for reports, maps, or products that are produced through the manipulation of data for the benefit of a requesting party. However, any request for manipulation of data or the creation of a new document may be refused as such are not required by CORA.

**V. Compliance.** Each elected official and/or department head is responsible for ensuring compliance with this policy.

#### **VI. General Provisions.**

**A. Right to Inspect Public Records.** All public records shall be open for inspection by any person, at reasonable times, except as otherwise provided by law or in Part 2 to Article 72 of Title 24 of the Colorado Revised Statutes. C.R.S. § 24-72-203(1)(a). If the requesting party wishes to review original documents, the custodian of the records may request that the requesting party follow certain procedures to protect the integrity of the public record including, but not limited to, supervision by a county employee where the records are stored and/or made available for viewing.

#### **B. Requests for Inspection and/or Copies of Public Records.**

**1. Procedure for Requesting Public Records.** Other than the two exceptions set forth below, all requests made pursuant to CORA must be submitted using the official Public Records Request Form, which is available on the La Plata County website at <https://forms.laplata.co.us/Forms/PublicRecordsRequest>, or may be obtained by calling the County Administration Department at (970) 382-6214.

The following offices have separate public records requests policies and procedures, and should be contacted directly with requests for public records in their custody, as follows:

- a. La Plata County Sheriff's Office:** All requests should be made to the Sheriff's Office, 283 Girard St, Durango, CO 81303, (970) 247-1157, [https://www.co.laplata.co.us/divisions/administration/records/records\\_request\\_-\\_ccjra.php](https://www.co.laplata.co.us/divisions/administration/records/records_request_-_ccjra.php).

- b. The Department of Human Services: All requests should be made to the Department of Human Services, Tech Center Plaza, 10 Burnett Court, First Floor, Durango, CO 81301, (970) 382-6150.
- c. 6<sup>th</sup> Judicial District Attorney's Office: All requests should be made to the District Attorney's Office, 1060 E 2<sup>nd</sup> Avenue, Durango, CO 81301 (970) 247-8850, <https://forms.laplata.co.us/Forms/CJRR-Form>.

Each County department and/or each Elected Official must appoint a CORA liaison as the person responsible for CORA requests' fulfillment. The appropriate CORA liaison(s) will collaborate with the County Administration Department to conduct all procedures set forth herein.

**2. Time for Inspection of Records.** The County will produce the public records requested for inspection, or copies of records, upon payment of the charges detailed below in section VI.C, within three business days of the official Public Records Request Form's submittal, or within seven business days where extenuating circumstances exist as provided in C.R.S. § 24-72-203(3)(b). The County will notify the requesting party in writing if extenuating circumstances prevent the County from fulfilling the request within three business days. Extenuating circumstances include:

- a. Where a broadly-stated request encompasses a large category of records, and the request is without sufficient specificity to allow the appropriate custodian of records reasonably to prepare or gather the records within three business days; or
- b. Where the custodian must devote all or substantially all of its resources to meet an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
- c. Where a request involves such a large volume of records, or such obscure records, that the custodian cannot reasonably prepare or gather the records within three business days, without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities.

C.R.S. § 24-72-203(3)(b).

In the event the County requests a deposit from the requesting party of a portion of the fees required pursuant to section VI.D ("Deposit") below, the three or seven business day period for the County's production of the requested records should not begin to run until the County receives that deposit.

### **C. Fees.**

**1.** La Plata County charges the full hourly statutory amount allowed by C.R.S. § 24-72-205(6) (referred to herein as the "applicable rate") for research and retrieval functions performed by elected officials and/or staff to fulfill a CORA request and retrieval of responsive records. The current applicable rate is \$33.38 per hour/per elected official and staff but, pursuant to C.R.S. § 24-72-205(6), the applicable rate is updated every five years from July 1, 2019. There is no charge, however, for the first hour of elected official and/or staff time. If a requesting party's research of original records must be supervised by a county employee or elected official, time spent on supervision shall be charged at the applicable rate.

2. For requests for hard copies of public records, the County charges \$0.25 per standard (black and white, 8.5" x 11") page. For color and other non-standard format copies, e.g., media on CD or DVD, the County charges a fee not to exceed its actual cost for producing those copies. C.R.S. § 24-72-205(5)(a). The per-page cost for producing the hard copies, and/or the actual cost of producing non-standard format copies, is in addition to the applicable rate for staff time devoted to locating, retrieving, and copying the records requested.

3. The requesting party must pay the County's actual cost for delivery of public records by United States mail, other delivery service, or facsimile. There is no charge for delivering public records by electronic mail. C.R.S. § 24-72-205(1)(b). In many instances, the County may transmit electronic copies using document management software called "Laserfische," for which there also is no transmittal fee. *Please note, the County will not accept a CD, thumb drive, or other storage media from the person requesting the records to avoid viruses and/or system contamination.*

**D. Deposit.** Whenever the cost of staff time and/or the production of documents is anticipated to exceed two hours, the County may require a deposit of 50% of the total cost, payable before the County begins to research and retrieve responsive records, and before the three or seven day deadline to produce the records commences.

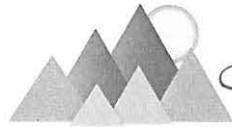
**E. Payment.** Payment of the total, actual cost of staff time and/or the production of documents is required before the requesting party may inspect, or receive copies of, the records requested.

**VII. Denial of Inspection of Records.** In accordance with CORA, certain public records are either prohibited from disclosure or may be withheld from public inspection. Any denial of inspection of records will be specific and the justification for such denial, as authorized under CORA, will be provided in writing to the requestor. Where practicable, the County will redact portions of responsive documents rather than withholding the entire document.

**VIII. Format for Electronic Records.** CORA requires the County to produce electronic records in their native format (e.g., .doc, .xls, or .tif) unless producing the record in native format would violate the terms of any copyright or licensing agreement between the County and a third party or result in a release of a third party's proprietary information, or where the native format renders it technologically or practically infeasible to redact information that the County is required or allowed to withhold. If such redaction is infeasible, then the requesting party may direct the County either to withhold the entire record, or to produce it in a format which allows for redaction.

**IX. Retention and Archiving of Public Records.** The custodian of records is responsible to retain, archive, and/or purge records in accordance with the retention schedule established by the State Archivist or custodian for such records. With respect to electronic mail, each day the County's computer system routinely purges incoming and outgoing e-mails that are over 90 days old.

Questions concerning this policy should be directed to the County Administration Department. In the event any provision of this policy conflicts with CORA, the provisions of CORA shall control.



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## INSTRUCTIONS FOR RECORDS REQUESTS COLORADO OPEN RECORDS ACT (CORA)

1. Please provide a brief, but very specific description of the documents or information requested, noting the date of issuance and location of the document(s), if known. If needed, please attach one or more additional pages to list these items in detail. A request that is broad, vague, or voluminous may cause a delay in the time La Plata County requires to produce the records.
2. All requests must be submitted in writing as follows (If the request is delivered by mail or fax, it is advisable to call 970-382-6214 to confirm that the request was received).
  - Online through the County's website at:  
<https://forms.laplata.co.us/Forms/PublicRecordsRequest>
  - By mail or hand delivery: La Plata County Administration Department, 1101 E. 2<sup>nd</sup> Avenue, Durango, CO 81301; or
  - By fax at (970) 382-6299.
3. La Plata County charges a hourly research and retrieval fee at the then current rate allowed by law (currently \$33.38); however, there is no charge for the first hour of time spent. Requests for electronic records may be input by staff into the County's Laserfische system to allow for delivery without cost to the requesting party
4. If the records may be produced pursuant to C.R.S. § 24-72-201, *et. seq.*, the records generally shall be made available for inspection within 3 business days following receipt of the request. However, if extenuating circumstances exist so that the custodian cannot gather the records within the 3-business day period, the period shall be extended to 7 business days. The requestor shall be notified in writing of any such extension within the first 3 business days of receipt of the request. Please refer to La Plata County's Open Records Policy for complete information. The Policy is available at [www.co.laplata.co.us](http://www.co.laplata.co.us) or at the La Plata County Administration Department, 1101 E. 2<sup>nd</sup> Avenue, Durango, CO 81301.
5. Upon receipt of the request, staff will collect the records and notify the requestor when they are ready. If paper copies are requested, or documents have been requested that are not in electronic format, a time for review and inspection of the records may be scheduled. Reviews will take place during regular business hours in the custodian's office or the La Plata County Attorney's Office, 1060 E. 2<sup>nd</sup> Avenue, Durango, CO 81301, unless another location for review is designated by the custodian. The requestor may take notes, bring tape recording devices and/or portable computers. Outside photocopiers or scanners are not allowed, unless this prohibition is waived by the custodian of the records.
6. Should the requestor wish to obtain hard copies of documents, the cost per page for hard copies is \$0.25 per page single-sided (\$0.50 per page double-sided). If actual costs exceed \$0.25 per page (such as large format documents), actual costs will be charged. Costs for providing records electronically are outlined in the County's Public Records Policy. Payment in the form of cash, credit card, check, or money order made payable to the La Plata County Administration must be made in advance.
7. In the event the requestor does not make arrangements for a review of the documents, fails to appear for the review, or fails to prepay costs within 10-business days of notification of the availability of the records, the request will be deemed closed.