Colorado Open Records Act
What is a “Public Record?”
All “___________” are open for inspection (with some exceptions). CRS §24-72-301(1).

“Public records” include all records made, maintained, or kept by a local government, or involving the receipt or expenditure of public funds. CRS § 24-72-202(6).

The term also includes digital data such as emails. C.R.S. § 24-72-202(7); 24-72-204.5.
Emails are “public records” if the message was used in performance of public functions or involves public funds.

Insufficient to show that the email was merely sent by a public official or employee or a government computer was used.

A personal diary of a County Manager was not a public record (despite having been referenced in a public grievance hearing) when made in the Manager’s individual capacity, the diary was not maintained by the county, diary was not used in daily functioning of the manager’s office, county did not require manager to keep a diary, and the County Manager kept the diary locked and in his possession.
Denver Post Corp. v. ________, 255 P.3d 1083 (Colo. 2011)

Personal cell phone records of the Governor were not automatically public records.

Key Facts: Governor kept and used the billing statements only for payment of the bills, State did not reimburse him for those bills, and the bills were never turned over to any other State agency or official for use by them.
When a local government readily has access to records held by a 3\textsuperscript{rd} party, those 3\textsuperscript{rd} party records may be accessible under CORA
records are public records.

“Correspondence” is defined as communication sent or received by specifically defined individuals, can be produced in written form (e.g., mail, email, etc.). C.R.S. § 24-72-202(1).
What is a NOT a Public Record?
Exception:
Includes records that are deliberative or advisory in nature that were “assembled for the purpose of assisting elected officials in reaching a decision within their authority.” C.R.S. § 24-72-202(6.5)(a) (e.g., background information provided in notices or memos; preliminary drafts and discussion copies).

Does not include final versions of reports/documents or materials that were circulated to members of the public body for use or consideration in a public meeting.
University was entitled to claim a privilege for attorney-client communications and attorney work product by reason of relationship between university counsel and special review committee appointed to obtain information on payments received by employees from a foreign government in connection with university contracts to establish a hospital and medical school in foreign country, but by disclosing information to state auditor and district attorney as potential adversaries of employees, university waived right to claim a privilege to protect information on behalf of employee.

City council members' individual review forms and the spreadsheet the city attorney prepared based on those forms were “advisory,” and thus, these documents constituted “work product” and did not need to be disclosed to newspaper under Colorado Open Records Act (CORA).
Correspondence

Exception: Correspondence to and from elected officials, when such correspondence “clearly implies by its nature or content that the constituent expects that it is confidential or that it is communicated for the purpose of requesting that the elected official render assistance or information related to a personal and private matter that is not publicly known.”
Custodian MUST deny access
MUST DENY:
“...”s” are defined as “home addresses, telephone numbers, financial information and other information maintained because of the employer-employee relationship. C.R.S. § 24-72-202(4.5)

Exceptions (thus disclosable): applications of past or current employees, employment agreements, performance ratings, compensation paid, and any amount paid or benefit provided in connection with termination. C.R.S. § 24-72-202(4.5).

Exception: To the person in interest and those elected and appointed officials who supervise the person’s work. C.R.S. § 24-72-204(3)(a)(ii)(A).
1) Local government cannot use “personnel file” exception by merely placing a document in a personnel file.

2) The information must be of the same general nature as an employee's home address and telephone number or personal financial information.

3) City's records relating to complaints of sexual harassment, gender discrimination, and retaliation were not exempt from disclosure under CORA.
CORA does not, *ipso facto*, exempt personnel files of employees from discovery in civil litigation.
“Finalist” Records for applicants of ____________ on are disclosable (except for letters of reference or medical, psychological and sociological data concerning the finalist). CRS § 24-72-204(3)(a)(XI)(A)

Finalist records for Chief Executive Officer positions must be made public "no later than 14 days prior to any appointment or employment" of one of the applicants.
The Open Records Act prohibits inspection of ______ by anyone other than the person in interest.

C.R.S. § 24-72-204(3)(a)(III)
Notes taken during a call with references were “letters of reference” within meaning of CORA.
Trade Secrets

privileged information, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person cannot be accessed by the general public.

C.R.S. § 24-72-204(3)(a)(IV).
The custodian of records cannot release names, addresses, telephone numbers, or personal financial information of past or present users of public utilities, public facilities, or municipal recreational or cultural services. C.R.S. § 24-72-204(3)(a)(ix).

Exception: federal agencies and criminal justice agencies.

Exception: information pertaining to users in an aggregate or statistical form (so long as "the identification, location, or habits of individuals" is not released). C.R.S. § 24-72-202(1.3)
After Daniels held that complaints and investigations were not shielded from release under the "personnel files" exception, the General Assembly clarified these records are protected from release. CRS §24-72-204(3)(a)(X)(A)

Exception: investigation agencies and complainant and person subject to complaint (provided redactions are made to prevent identification of “any individual involved”)
Process Privilege shields certain documents from release that are "so candid or personal in nature that public disclosure is likely to stifle honest and frank discussion within the agency."

City of Colorado Springs v. White, 967 P.2d 1042 (Colo. 1998)
The _____ index (required when using deliberative process privilege) must provide a description of the document not being disclosed, including each document's author, recipient, and subject matter, and must explain why each document qualifies for the privilege (e.g., role played by document in deliberative).

Requires an affidavit to attest why disclosure of each document would be harmful. CRS §24-72-204(3)(a)(XIII)
“_______” generally includes the person subject of the record or any representative of such person. C.R.S. §24-82-202(4).
(1) Records protected by the deliberative process privilege are not subject to disclosure to a “person in interest” under CORA; and

(2) Records protected by the attorney-client privilege are not subject to disclosure to a “person in interest” under CORA.
Designated election official shall not allow any person, other than the person in interest, to inspect "_______" that contain an original signature, social security number, month of birth or "identification of that person," including electronic digital or scanned versions of the identifying information.

C.R.S. § 24-72-204(8)
Custodian MAY deny access
Contents of ______ appraisal made for the municipality concerning acquisition of property or any interest in property for public use, until the time that title passes to the municipality.

Exception: when a municipality acquires property through eminent domain proceedings, the contents of the appraisal must be made available to the owner of the property no later than one year after receipt by the condemning municipality. C.R.S. § 24-72-204(2)(a)(IV).
addresses provided by a person to a municipality "for the purpose of future electronic communications to the person" by the municipality. CRS §24-72-204(2)(a)(VII)
Specialized details of either ______ arrangements or investigations or the physical and cyber assets of critical infrastructure, including the specific engineering, vulnerability, detailed design information, protective measures, emergency response plans, or system operational data of such assets that would be useful to a person in planning an attack on critical infrastructure. C.R.S. § 24-72-204(2)(a)(VIII)(A).
CORA Process
Records policies that:

(1) Require requests be in writing,
(2) Set forth a specific process for inspection (including requiring appointments),
(3) Setting forth a research & retrieval fee; and
(4) Statements that records requests do not take priority over the custodian’s other work are all permissible.
Records requests must be returned in 3 days unless “circumstances” exist. If such circumstances exist, the custodian may extend the deadline up to 7 additional days.

The following are considered “extenuating circumstances:”

(1) A broad request that encompasses a large category of records and the request is without sufficient specificity to allow the custodian to reasonably gather/prepare records in 3 days;

(2) A broad request that encompasses a large category of records and the municipality is unable to gather/prepare records in 3 days because the municipality must devote all or substantially all of its resources meeting an impending deadline or is in a period of peak demand that is unique or occurs less than monthly; or

(3) A request involves a large volume of records that the custodian cannot reasonably gather/prepare records within 3 days without substantially interfering with custodian’s other responsibilities.

C.R.S. § 24-72-203(3)
There is nothing in CORA that requires the custodian to create an entirely new document or record to answer the question, or to "manipulate" existing public records in response to the request”.

If no single existing record answers the requestor's question, the requestor has the right to inspect any and all relevant public records that may help the requestor to piece together the answer to the question posed.
First hour is free.

After first hour, statute allows for $30.00 per hour. However, beginning on July 1, 2019 (which set it at $33.58) and every 5 years thereafter the Director of Research of the Legislative Council must adjust the fee based on the percentage change in the consumer price index for the Denver-Aurora-Lakewood area.

CRS § 24-72-205(6)

Upheld the requirement of a payment of a deposit before producing requested documents.

Upheld validity of research and retrieval fees.
Police records are not public records open to inspection by general public, but that where district attorney's office regularly received from police department lists of conviction records of prospective jurors, assumedly as possible check upon truthfulness of juror's answer on voir dire, defense attorneys, including public defender's office, were entitled to obtain such information in possession of prosecution.
Colorado Criminal Justice Records Act
records (regardless of format) that are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule.

CRS § 24-72-302(4)
are open for public inspection. CRS 24-72-303(1) “_________” means an arrest; indictment; charging by information; disposition; pretrial or posttrial 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, reclassify, or relocate any person under criminal sentence. CRS 24-72-302(7)
Disclosure of investigations after April 12, 2019, that involves conduct when the officer was in uniform or on-duty that involves a specific incident involving a member of the public must follow the process set forth in CRS 24-72-303(4)(a).

Disclosure for other internal affairs files, custodian must consider:

1. Privacy interests of individuals who may be impacted by disclosure;
2. Agency’s interest in keeping information confidential;
3. Agency’s interest in pursuing ongoing investigations without compromising them;
4. Public interest in disclosure; and
5. Other pertinent relevant factors.
Videos that were seized pursuant to a lawful warrant that were retained by the Sheriff’s Office were public Records and subject to inspection.