



## Release and Disposition of Records

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3.05.0201

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**Related Policies:**

3.07.0104

### PURPOSE

This policy establishes guidelines and procedures for the release and maintenance of State Patrol records and for their eventual disposition or disposal.

### DEFINITION(S)

**Case File** is a collection of, but not limited to, all field reports, documentation, photographs, and digital media relating to a particular case.

**Completed Internal Investigation File** means all documentation related to an incident of alleged misconduct involving any members, including the final agency decision and upon completion of any appeals processes, that is open for public inspection upon request pursuant to C.R.S. § 24-72-303 (4).

**Criminal Justice Records** means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are produced, 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, including but not limited to, the results of chemical biological substance testing to determine genetic markers conducted pursuant to Colorado Revised Statutes (C.R.S.) sections 16-11-102.4, 16-23-104, 19-1-302(2), and 24-72-302(3).

**Custodian** means the official records custodian or any State Patrol member authorized to have personal custody or control of criminal justice records or public records in question.

**Expungement** as used in C.R.S. § 19-1-306 means the designation of juvenile delinquency records whereby such records are deemed never to have existed.

**Field Report** means a report that documents State Patrol involvement or official actions taken by State Patrol members. Field reports include, but are not limited to arrests, crash investigations, agency assists, critical incidents, case reports (CSP 80), evidence, pursuits, use of force incidents, and for all traffic contacts for which more than one document is generated.

**Health Information** means any information, whether oral or recorded in any form or medium, that– (A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and (B) relates to the past, present, or future physical or mental health or condition of any individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

**High Profile Incident** means any incident or situation that is likely to attract state or national media attention. These incidents can include but are not limited to incidents involving public figures, any incident that is outlined in the critical incident manual, and any incident for which an official State Patrol position (e.g., proposed legislation) is requested.

**Individually Identifiable Health Information** means information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) That identifies the individual; or (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

**Juvenile** is a child under the age of eighteen.

**Manipulation of Data** means compiling information from an established computer database and rearranging the information to generate a special report not normally in use by the State Patrol.

**Official Action** means an arrest; indictment; charging by information; disposition; pretrial or post-trial release from custody; judicial determination of mental or physical condition; the 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.

**Official Records Custodian** is the manager of the Central Records Unit (CRU).

**Person** means any individual, corporation, limited liability company, partnership, firm, or association.

**Person of Interest** means the person who is the primary subject of a criminal justice record or any representative designated by the said person by the power of attorney or notarized authorization except if the subject of the record is under legal disability, "person of interest" means and includes the subject's parents or duly appointed legal representative.

**Personal Identifying Information (PII)** means information that may be used, along with or in conjunction with any other information, to identify a specific individual, including but not limited to:

- Name
- Date and place of birth
- Social Security number or tax identification number

- Password or passcode
- Official government-issued driver's license or identification card number
- Information contained in a permanent resident card
- Vehicle registration information
- License plate number
- Photograph, electronically stored photograph, or digitized image
- Fingerprint
- Record of a physical feature, a physical characteristic, a behavioral characteristic, or handwriting
- Government passport number
- Health insurance identification number
- Employer, student, or military identification number
- Financial transaction device
- School or educational institution attended
- Source of income
- Medical information
- Biometric data
- Financial and tax records
- Home or work addresses or other contact information
- Family or emergency contact information
- Status as a recipient of public assistance or as a crime victim
- Race, ethnicity, national origin, immigration or citizenship status, sexual orientation, gender identity, physical disability, intellectual and developmental disability, or religion

PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified.

**Public Information Officer (PIO)** means a person who serves as a central source of information for release by the State Patrol and responds to requests for information by the news media and the community.

**Public Record** means all writings made, maintained, or kept by the state, any agency, institution, nonprofit corporation, or political subdivision of the state for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds, regardless of form or format. It does not include criminal justice records or personnel files, mail, or other documentary materials pursuant to the Colorado Open Records Act (CORA), Title 24, Article 72, Part 2 of the Colorado Revised Statutes.

**Redact** means to censor or obscure sensitive information. This can be done by utilizing Adobe Pro software or by physically using a permanent marker on the document and making a photocopied version of the redacted document to deliver to the customer. If using Adobe Pro to redact data, the meta-data must also be removed from the document from this same program by going into Tools>Protection>Hidden Information>Remove Hidden Information and Sanitize Document. The redacted document must be saved in order for the changes to be permanent.

**Sealing Order** is an order sealing arrest and conviction records and does not deny access to the criminal records of a defendant by any court, law enforcement agency, criminal justice agency, prosecuting attorney, or party or agency required by law to conduct a criminal history record check on an individual. An order sealing conviction records is not construed to vacate a conviction. An arrest or conviction sealed pursuant to this section may be used by a criminal justice agency, law enforcement agency, court, or prosecuting attorney for any lawful purpose relating to the investigation or prosecution of any case, including but not limited to any subsequent case that is filed against the defendant, or for any other lawful purpose within the scope of their duties. C.R.S. § 24-72-703 (4)(a) and C.R.S. § 24-72-709.

## **POLICY STATEMENT(S)**

The Central Records Unit Manager is the official custodian of records, including, but not limited to, crash reports, arrest reports, DUI/DUID reports, and digital media for the State Patrol and will coordinate with troop/section commanders and any necessary staff support personnel to assist with custodial matters. Digital media are audio, video, texts, and photographs captured by electronic devices including dash cameras, body-worn cameras, unmanned aircraft system (UAS), and small unmanned aircraft system(sUAS) footage.

Members will not release any information that would jeopardize an active investigation, prejudice an accused person's right to a fair trial, or violate any law or order. Troop offices may release basic crash reports with appropriate juvenile redactions. All other requests for agency criminal justice records should be directed to the Central Records Unit (CRU). Members will refer to C.R.S. §§ 16-11-102.4, 16-23-104, 19-1-302(2), 24-31-902, 24-72-203, 24-72-205, 24-72-302(3), 24-72-303, 24-72-305, 24-72-306, and 24-74-105 when releasing any information to the public.

The Criminal Justice Records Act provides that records of official actions as defined by C.R.S. § 24-72-302 are available to any person who makes a request unless the record is actively being used, is in storage, and not available at the time of the request, or as otherwise protected by law.

Official records custodians or the official records custodian's designee will make a good-faith effort to provide public access to any criminal justice record covered by C.R.S. § 24-72-305.

All criminal justice records, at the discretion of the official records custodian, may be open for inspection by any person at reasonable times, except as otherwise provided by law, and the official records custodian of any such records may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian and their troop/section office.

Members will cooperate with the media and maintain an atmosphere of open communication. Information will be released to the media in an impartial, accurate, and timely fashion.

Media requests for information regarding incidents, local directives, or other information which is related only to the local troop/section may be handled by a supervisor or designated representative of that troop/section.

Information request(s) regarding any case or investigation that has been turned over to another agency (such as a District Attorney's office or a local law enforcement agency) will be referred to said agency.

Records of juveniles, including basic identification information, will be conspicuously identified and marked as juvenile records and will not be inspected by, or disclosed to the public even though the record is public, the names of the juveniles will be redacted on all forms and reports.

Pursuant to C.R.S. § 19-1-303, juvenile records will be released on a "need to know" basis, meaning those records will only be released to those agencies or individuals who need access to certain information for the care, treatment, supervision, or protection of a child.

All case files, including juvenile case files, will be stored in a manner pursuant to Policy 3.07.0104 (Records Security) and maintained in accordance with the CDPS retention schedule.

Unless requested or required to be sent to the local district attorney's office, members shall not knowingly release individually identifiable health information that was obtained through the use of any Health Insurance Portability and Accountability Act (HIPAA) release forms or court orders. These forms include but are not limited to, the CSP 815 (Physician's Report of Serious Bodily Injury), the CSP 816 (Patient's Consent for Disclosure of Protected Health Information), and the CSP 817 (Request for Protected Health Information).

In compliance with Colorado Revised Statute 24-72-502 the Colorado State Patrol is committed to protecting online users' privacy. Protection of personal privacy on the Internet promotes citizen confidence, increases participation in online activities, and supports the effective delivery of services. The purpose of our policy is to inform you about the types of information we gather when you visit our site, how we may use that information, and whether we disclose it to anyone.

Personal information submitted voluntarily to us through online web forms, email subscriptions, and messages, or through interactive web-based applications will be used to respond to your message and to help us respond to your requests. The information you submit will remain private; however, as a governmental agency, we are governed by the Colorado Open Records Act. Unless otherwise protected by law, any information that we receive through the use of our site is subject to the same provisions as information provided on paper. This information is not reported or used in any manner that would reveal personally identifiable information, and will not be released to any outside parties unless the State is legally required to do so.

We do not share personal identifying information with any third party without your permission. We disclose only in aggregate form our statistical analyses or demographics of users to third parties. This information is not reported or used in any manner that would reveal personally identifiable information, and will not be released to any outside parties unless we are legally required to do so in connection with law enforcement investigations or other legal proceedings.

Comments, concerns, or other feedback on compliance with the privacy act should be directed to the "talk to Us" link on the Colorado State Patrol web page.

## **OPERATIONAL PROCEDURES**

### **A. General guidelines for all information requests**

1. When contacted by any person for criminal justice records information, members should immediately refer the person or request to an appointed custodian.
2. Appointed official records custodians should refer or forward all requests for information regarding State Patrol policy, training, personnel issues, rules, critical or high-profile incidents, and official records to the Central Records Unit (CRU).
3. The commander of the troop/section in which the records are held in the physical custodian and will ensure all records are stored in a manner pursuant to Policy 3.07.0104 (Records Security). Troop/section commanders should be contacted for any questions or comments.
4. Information may be exchanged with the courts, district attorney's office, and other law enforcement agencies.
5. A CSP 402 (Request for Records Inspection) must be signed before records may be released to the public except as outlined in this policy.
  - Forward all completed CSP 402 requests to the Central Records Unit to document the release of the record.
6. Members will not knowingly release material that is used for the purpose of intelligence information or security procedures, federal civil immigration enforcement, prohibited by statute, court order, or when such disclosure would be contrary to the public interest.
7. Members will not release significant information that was originated by another agency or by a private enterprise, such as criminal history information, driver's license or vehicle registration information, medical records, etc.

### **B. Requests for information concerning local State Patrol cases currently under investigation**

1. In most circumstances, requests for information concerning active cases will be handled by a member from the troop/section in which the case was generated.
2. Members will not release any information that would impede the successful conclusion of an investigation or jeopardize the safety of affected persons.

As a general guideline, the following information may be released concerning active investigations:

- I. Basic information about a crime or incident;
- II. Basic information about victims, except as excluded by law;
- III. Basic description of weapons and vehicles used;
- IV. Description of suspects;

- V. Basic description of injuries and condition of victims;
  - VI. The name, age, city/county of residence, and other basic information of arrestees and the charges against them; and
  - VII. Information contained in arrest affidavits and other applicable crime or incident reports.
3. The following information, unless authorized by the Chief or designee, shall not be released concerning active investigations:
- I. Names, addresses, and any other information that would identify the victim of a sex offense, child abuse, or any other crime where the privacy of the victim is protected by law;
  - II. Names, addresses, and other identifying information of juvenile arrestees. Identities of minors involved in a crash may not be released if they are being charged with a violation;
  - III. Active criminal investigative information, active criminal intelligence information, and surveillance techniques;
  - IV. Names of informants and information provided by them;
  - V. Supplemental and investigative reports;
  - VI. Details regarding Professional Standards Section investigations;
  - VII. Names of witnesses;
  - VIII. The identity of critically injured persons prior to the notification of next-of-kin;
  - IX. The identity of deceased persons in coordination with the coroner's office, prior to the notification of next-of-kin;
  - X. Home address, telephone numbers, and familial information of law enforcement personnel;
  - XI. Names of undercover personnel; and
  - XII. Any other information prohibited by state law from public disclosure.
4. Reports and records involving juveniles
- I. Records regarding juveniles under the age of 18 who are being investigated for violations of Title 42 are public.
  - II. Even though the record is public, the names of the juveniles will be redacted on all forms and reports.
  - III. Criminal investigations, psychological profiles, intelligence test results, or any information referencing sexual abuse are not public records.

IV. Records regarding juveniles who are being investigated or charged for committing a delinquent act are not public.

5. Records regarding juveniles under the age of 16 are generally not considered public.

6. Hard copies of records which contain any juvenile offender or victim identifying information, excluding the exceptions listed in section B.3.a, will be conspicuously identified by stamping "Juvenile" after the case number and on every item contained inside the case file.

- Electronic case files will be conspicuously identified by placing the letter "J" after the case number when scanning the files into CSP Intranet.

4. Juvenile records will not be inspected by or disclosed to the public without redaction except:

- I. To the juvenile and their parent, guardian, or legal custodian;
- II. To other law enforcement agencies who have a legitimate need for such information;
- III. To any person authorized by the district attorney;
- IV. When a juvenile has escaped from an institution to which they have been committed; and
- V. By order of the court.

C. Reports and records involving child abuse or neglect

1. The name and address or any other identifying information of a child, family, or informant contained in reports shall be confidential and will not be considered public record.

2. Disclosure of the name and address of a child and family and other identifying information involved in reports will be permitted only when authorized by a court. Disclosure is permitted without a court order when:

- I. There is a death of a suspected victim of child abuse, and the death becomes a matter of public record (e.g. - fatal crash);
- II. The child is the subject of an arrest; and/ or
- III. The child is the subject of the filing of a formal charge.

3. Only the following persons or agencies will be given access to information regarding any child abuse or neglect case, which will apply to any reports or records containing the name, address, and any other identifying information of any child, family, or informant: a. Law enforcement agency;

- I. District Attorney;
- II. Coroner;
- III. County or district department of social services;



IV. A physician who is caring for a child victim whom the physician reasonably suspects to be abused or neglected;

4. Any person named in the report or record that was alleged as a child to be neglected or abused, or if the named child is a minor or is incompetent at the time of the request, the information will be provided to the child's appointed guardian;
5. An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, legal custodian, or another person responsible for the health or welfare of a child named in a report;
6. The identity of the person reporting or providing information about the child abuse or neglect must be protected from disclosure.
7. Other such persons as a court may determine; or
8. All members of a child protection team.

D. Completed internal investigation files of uniformed members

1. Completed internal investigations that allege misconduct of a trooper, port of entry officer, or peace officer from another agency involving a member of the public are not considered personnel files.
2. The entire internal investigation file regarding the alleged misconduct of a peace officer (State Trooper, Port of Entry Officer, or peace officer from another agency), while in uniform or on duty, that involved a member of the public will be open for public inspection upon request utilizing the CSP 402D (Peace Officer Internal Investigation File Request). This includes the following:
  - I. Witness interviews;
  - II. Video and audio recordings;
  - III. Transcripts;
  - IV. Documentary evidence;
  - V. Investigative notes; and
  - VI. Final departmental disposition: unfounded, exonerated, not sustained, sustained, closed.
3. For investigations involving alleged misconduct of a uniformed member made by another peace officer, civilian, or non-profit organization, the State Patrol shall release upon request all unedited video and audio recordings of the incident, including those from body-worn cameras, dash cameras, or otherwise collected through investigation, to the public within twenty-one (21) days after the State Patrol received the complaint of misconduct pursuant to C.R.S. § 24-31-902(2)(a).
  - I. All video and audio recordings depicting a death must be provided upon request to the victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant

other, or another lawful representative, and such person shall be notified of his or her right, pursuant to C.R.S. § 24-4.1-402.5(1)(j.8), to receive and review the recording at least seventy-two (72) hours prior to public disclosure.

- II. Any video that raises substantial privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants shall be redacted or blurred to protect the substantial privacy interest while still allowing public release, including a video depicting:
    - i. Nudity;
    - ii. A sexual assault;
    - iii. A medical emergency;
    - iv. Private medical information
    - v. A mental health crisis
    - vi. A victim interview;
    - vii. A minor, including any images or information that might undermine the requirement to keep certain
    - viii. Any personal information other than the name of any person not arrested, cited, charged, or issued a written warning, including a government-issued identification number, date of birth, address, or financial information;
    - ix. Significantly explicit and gruesome bodily injury, including dead bodies and body parts, unless the injury was caused by a peace officer; or
    - x. The interior of a home or treatment facility.
  - III. Unredacted footage shall not be released without the written authorization of the victim or, if the victim is deceased or incapacitated, the written authorization of the victim's next of kin.
  - IV. If redaction or blurring is insufficient to protect the substantial privacy interest concern for criminal defendants, victims, witnesses, or informants, the State Patrol shall, upon request, release the video to the victim, or, if the victim is deceased or incapacitated, to the victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or lawful representative within twenty (20) days after the receipt of the complaint of misconduct pursuant to C.R.S. § 24-31-902.
    - In cases in which the recording is not released to the public pursuant to C.R.S. § 24-31-902 (2)(b)(II)(B), the State Patrol shall notify the person whose privacy interest is implicated, if the contact information is known, within twenty (20) days after receipt of the complaint of misconduct, and inform the person of his or her right to waive the privacy interest.
1. The following information shall be redacted or removed from the investigation file prior to its inspection:

- I. All personally identifying information;
  - II. All identifying or contact information related to confidential informants, witnesses, or victims;
  - III. The home address, personal phone number(s), and personal email address of any peace officer;
  - IV. Any information prohibited for release by State or Federal law;
  - V. Medical or mental health information;
  - VI. Any identifying information related to a juvenile; and
  - VII. Any non-final disciplinary recommendations.
2. The official records custodian may also redact the following information:
- I. Any compelled statements made by a trooper, port of entry officer, or peace officer from another agency;
  - II. Any video interviews if an official transcript is produced;
  - III. The identity of officers who volunteered information related to the internal investigation but who are not a subject of the investigation; and
  - IV. Specific information that would reveal confidential intelligence information, confidential security procedures of a law enforcement agency, or that, if disclosed, would compromise the safety of a peace officer, witness, or informant.
    - Information describing or depicting the use of force by a peace officer on a member of the public shall not be redacted or withheld.
3. Upon request, the official records custodian shall provide a written explanation of any information that was redacted.
4. Any witness, victim, or criminal defendant may waive their individual privacy interest that may be implicated upon public release.
- I. A CSP 404 (Waiver of Individual Privacy Interest) shall be provided in writing.
  - II. Upon receipt of a CSP 404 (Waiver of Individual Privacy Interest) accompanying any request for public release, the official records custodian may not redact or withhold release to protect the waived privacy interest.
  - III. A witness, victim, or criminal defendant shall be afforded the right to be heard in any request for the public release of records involving their individual privacy interest pursuant to C.R.S. § 24-4.1.302.5, and the hearing shall be considered a critical stage in the criminal justice process.

8. The official records custodian may first provide a CSP 403 (Completed Internal Investigation Summary).
  - I. If, after reviewing the summary, the requestor provides an additional request for access to the investigation file by filing a CSP 402D (Peace Officer Internal Investigation File Request), the official records custodian shall provide access to the entire investigation file.
  - II. If the requestor requests specific items from the internal investigation file, the CSP 402A (Schedule of Fees for the Provision of Public and Criminal Justice Records) will apply to any provided items.
9. The official records custodian may deny inspection of internal investigation files under the following circumstances:
  - I. There is an ongoing criminal investigation or criminal case against the trooper, port of entry officer, or peace officer from another agency related to the internal investigation;
    - i. Any video that would substantially interfere with or jeopardize an active or ongoing investigation may be withheld from the public; except that the video shall be released no later than forty-five (45) days from the date of the allegation of misconduct.
    - ii. In all cases when a release of a video is delayed in reliance on subsection C.R.S. § 24-31-902 (2)(b)(III), the prosecuting attorney shall prepare a written explanation of the interference or jeopardy that justifies the delayed release, contemporaneous with the refusal to release the video.
    - iii. Upon release of the video, the prosecuting attorney shall release the written explanation to the public.
  - II. If criminal charges have been filed against any party to the incident under investigation, that party must file any constitutional objection to the release of the recording in the pending criminal case before the twenty-one (21) day period expires.
    - i. Only in cases in which there is a pending criminal investigation or prosecution of a party to the incident, the twenty-one (21) day period shall begin from the date of appointment of counsel, the filing of an entry of appearance by counsel, or the election to proceed pro se by the defendant in the criminal prosecution made on the record before a judge.
    - ii. If the defendant elects to proceed pro se in the criminal case, the court shall advise the defendant of the twenty-one (21) day deadline for the defendant to file any constitutional objection to the release of the recording in the pending

criminal case as part of the court's advisement. The court shall hold a hearing on any objection no later than seven (7) days after the objection is filed and shall issue a ruling no later than three (3) days after the hearing.

- Upon dismissal of all charges or upon a sentence imposed by a conviction, the investigative file shall be open for inspection.

III. The inspection is prohibited by rules or promulgated by the Colorado Supreme Court or by a court order; or

IV. Disclosure of the investigation file would be contrary to public interest or law.

10. Internal investigations that were initiated prior to April 12, 2019, are not subject to the requirements of Section F of this policy.

11. Statements by a trooper, port of entry officer, or peace officer from another agency that were compelled as a result of an internal investigation may not be used against the peace officer in a criminal investigation.

E. Completed internal investigation files of civilian members

1. Completed internal investigations that allege misconduct of a civilian member that involves a member of the public are not considered personnel files.
2. The entire internal investigation file regarding alleged misconduct while on duty that involves a member of the public will be open for public inspection by any person at reasonable times upon request pursuant to C.R.S. § 24-72-903 utilizing the CSP 402C (Public Record Request). This file includes the following:
  - I. Witness interviews;
  - II. Video and audio recordings, including body-worn camera and dash camera recordings;
  - III. Transcripts;
  - IV. Documentary evidence;
  - V. Investigative notes; and
  - VI. Final departmental disposition: unfounded, exonerated, not sustained, sustained, closed.
3. The following information shall be redacted or removed from the investigation file prior to its inspection:
  - I. All personally identifying information;
  - II. All identifying or contact information related to confidential informants, witnesses, or victims;

- III. The home address, personal phone number(s), and personal email address of any peace officer;
  - IV. Any information prohibited for release by State or Federal law;
  - V. Medical or mental health information;
  - VI. Any identifying information related to a juvenile;
  - VII. Any non-final disciplinary recommendations; and
  - VIII. Any video that raises substantial privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants shall be redacted or blurred to protect the substantial privacy interest while still allowing public release, including a video depicting:
    - i. Nudity;
    - ii. A sexual assault;
    - iii. A medical emergency;
    - iv. Private medical information
    - v. A mental health crisis
    - vi. A victim interview;
    - vii. A minor, including any images or information that might undermine the requirement to keep certain
    - viii. Any personal information other than the name of any person not arrested, cited, charged, or issued a written warning, including a government-issued identification number, date of birth, address, or financial information;
    - ix. Significantly explicit and gruesome bodily injury, including dead bodies and body parts, unless the injury was caused by a peace officer; or
    - x. The interior of a home or treatment facility.
4. Unredacted footage shall not be released without the written authorization of the victim or if the victim is deceased or incapacitated, the written authorization of the victim's next of kin.
    - If redaction or blurring is insufficient to protect the substantial privacy interest concern for criminal defendants, victims, witnesses, or informants, the State Patrol shall, upon request, release the video to the victim, or, if the victim is deceased or incapacitated, to the victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or lawful representative.
  5. The official records custodian may also redact the following information:
    - I. Any video interviews if an official transcript is produced;
    - II. The identity of members who volunteered information related to the internal investigation but who are not a subject of the investigation; and

- III. Specific information that would reveal confidential intelligence information, confidential security procedures of a law enforcement agency, or that, if disclosed, would compromise the safety of a peace officer, witness, or informant.
  - Information describing or depicting the use of force by a peace officer on a member of the public shall not be redacted or withheld.
6. Upon request, the official records custodian shall provide a written explanation of any information that was redacted.
7. Any witness, victim, or criminal defendant may waive their individual privacy interest that may be implicated upon public release.
  - I. A CSP 404 (Waiver of Individual Privacy Interest) shall be provided in writing.
  - II. Upon receipt of a CSP 404 (Waiver of Individual Privacy Interest), the official records custodian shall not redact, remove, or withhold records that protect the waived privacy interest.
8. The official records custodian may first provide a CSP 403 (Completed Internal Investigation Summary).
  - I. If, after reviewing the summary, the requestor provides an additional request for access to the investigation file by filing a CSP 402C (Public Record Request), the official records custodian shall provide access to the entire investigation file.
  - II. If the requester requests specific items from the internal investigation file, the CSP 402A (Schedule of Fees for the Provision of Public and Criminal Justice Records) will apply to any provided items.
9. The official records custodian may deny inspection of internal investigation files under the following circumstances:
  - I. There is an ongoing criminal investigation or criminal case against the member related to the internal investigation;
    - Upon dismissal of all charges or upon a sentence imposed by a conviction, the investigative file shall be open for inspection.
  - II. The inspection is prohibited by rules or promulgated by the Colorado Supreme Court or by a court order; or
  - III. Disclosure of the investigation file would be contrary to public interest or law.
10. Internal investigations that were initiated prior to April 12, 2019, are not subject to the requirements of Section F of this policy.

## F. Challenge to accuracy and completeness of reports

Only the person of interest will have the right to challenge the accuracy and completeness of official actions or other records insofar as they pertain to that person. All challenges should be directed to the investigating member.

- The right to challenge the accuracy and completeness of these reports is not applicable to internal member investigations.

## G. Sealing of records

- I. When a person of interest petitions the court of the district where the records are located and the court orders that such records be sealed, the following applies:
  - i. Basic identification information (name, birth date, last-known address, physical description, sex, and fingerprints of any person) will not be sealed;
  - ii. The records must be records of official actions involving a criminal offense for which the said person of interest was not charged, the case was completely dismissed, or the said person of interest was acquitted;
  - iii. If any person requests an inspection of a record that has been sealed, the custodian may properly reply that "no such record exists with respect to the person" pursuant to C.R.S. § 24-72-702;
  - iv. After sealing the records of official actions, the court must authorize any subsequent inspection;
  - v. The sealing of records will not be construed to authorize the physical destruction of any criminal justice record; and
  - vi. The sealing of records does not apply to any records pertaining to:
    - a. Any class A or class B traffic infraction;
    - b. Any class 1 or class 2 misdemeanor traffic offense;
    - c. Any sexual assault case where a plea of guilty or nolo contendere has been entered, a plea agreement has been made, arrangements have been made for deferred judgment, a deferred prosecution or deferred sentencing agreement has been made, or where the defendant has been convicted of the offense;
    - d. A conviction for driving under the influence, driving while impaired, or driving with excessive alcoholic content pursuant to C.R.S. § 42-2-1301(1) or (2);
    - e. A conviction for child abuse pursuant to C.R.S. § 18-6-401; or
    - f. A conviction that is subject to one or more of the sentencing provisions for crimes listed in C.R.S. § 24-72-709(2)(a)(VI).
- II. All sealed records will be forwarded to the Central Records Unit for storage and a sealed record notice must be placed in the front of the file, or if already stored, the sealed record notice must be ensured to be in place in the front of the file.



## H. Expungement of Juvenile Records

- I. Upon the entry of an expungement order, custodians will properly indicate that "no such record exists with respect to the person" pursuant to C.R.S. § 24-72-702.
- II. Expungement shall be effectuated by physically sealing or conspicuously indicating on the face of the record or at the beginning of the computerized file of the record that said record has been designated as expunged.
- III. Basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile, as they appear from the records, shall not be open to the public but shall be available to a district attorney, local law enforcement agency, and the department of human services, except that such information shall not be available to an agency of the military forces of the United States.
- IV. Records designated as expunged may only be inspected by order of the court after a hearing and good cause have been shown. Notice of the said hearing shall be given to all interested parties at least five days in advance of such hearing.
- V. Any record that is ordered expunged shall be available to any judge and the probation department for use in any future juvenile or adult sentencing hearing regarding the person whose record was expunged, notwithstanding any such order for expungement.

## I. Manipulation of data

- I. Upon specific requests for information that is legally releasable under the Colorado Open Records Act (CORA) which is contained in any computer database, the information will be provided.
- II. Upon a specific request for information contained in any computer database and the request is for data in a form not normally used by the State Patrol, a fee will be established by the official records custodian based on Research/Processing fees and costs of maintaining and building the database.
- III. Data may only be provided in a locked, protected or otherwise non-editable format.

## J. Handling records of official actions, criminal justice records, and all public records

- I. All public records will be open to inspection at reasonable times as determined and posted by the official records custodian.
- II. Records, including all copies, will be maintained in the control of the custodian.
  - When records are destroyed, they must be destroyed in accordance with guidelines established by the official records custodian.
- III. All reports and records must be inspected or copied in the view of the custodian.

- IV. A CSP 402 (Request for Criminal Justice Information), a CSP 402C (Public Record Request), and/or a CSP 402D (Peace Officer Internal Investigation File Request) must be signed each time a request is made to inspect criminal justice records.
- This request serves as a waiver informing the applicant that the information is not to be used for monetary gain pursuant to C.R.S. § 24-72-305.5 or to be used for federal immigration enforcement pursuant to C.R.S. §24-74-105 or for the purpose of obtaining records or information that includes personal identifying information pursuant to C.R.S. § 24-74-106.
    - i. Facsimiles of these forms will be acceptable when accepting phone requests for criminal justice records.
    - ii. Known media personnel will not be required to sign the form(s) when they are obtaining information from Incident Report Blotters.
    - iii. Legal investigations/communications concerning agency files are allowed provided that the pecuniary gain affirmation, the non-assistance with federal immigration enforcement affirmation, or the nondisclosure of personal identifying information has been signed and/ or acknowledged.

K. Requests for records

- I. When records are legally available for release, they must be provided unless otherwise exempted from open records laws.
  - i. The name of any victim of sexual assault or alleged sexual assault or child victim shall be redacted from any record prior to its public release.
  - ii. Requests for data that are solely related to federal civil immigration enforcement shall be denied.
- II. When records exist but inspection is denied pursuant to the open records law, the applicant must be informed of the reason for denial.
- III. The requested documentation must be provided to the requestor within three (3) business days.
  - An extension of up to seven (7) business days may be requested by the custodian to provide the requested documentation.
- IV. When records are not available due to being actively in use, in storage, or otherwise currently not in the custody or control of the custodian to whom an application has been made, the applicant will be informed of this fact.
  - If the applicant asks for written notification, the notification will state, to the best of the custodian's knowledge and belief, the reason for the absence of the records from the custodian's custody or control, the location of the records, and which person has custody or control of the records. The applicant shall be provided written notification by a member of the Central Records Unit.

- V. If the requested records are not in the custody and control of the State Patrol but are in the custody and control of a central repository for criminal justice records pursuant to law, the custodian shall forward the request to the central repository.
  - Pursuant to C.R.S § 24-72-304, if such a request is to be forwarded to the central repository, the criminal justice agency receiving the request shall do so forthwith and shall so advise the applicant forthwith. The central repository shall forthwith reply directly to the applicant.
- VI. If a record is in storage and the applicant requests a time to view the record, the custodian shall schedule a date, time, and location for viewing the record within three (3) working days of the request.
- L. Fees for providing public and criminal justice record information
  - I. A schedule of fees (CSP 402A) has been established for all branches and districts. The schedule should be posted in a conspicuous location. A person making an application must be able to view the schedule or be presented with the fee schedule at the time the application for inspection is made.
  - II. The research/processing fee as set in the schedule will apply to all requests for copies or inspection of public records.
    - i. The fees may be reduced or waived by the official records custodian when inspections or copies are for a public purpose, including public agency program support, nonprofit activities, journalism, or academic research. The time required to complete the request and the amount of material provided may be considered in a request to reduce or waive fees.
    - ii. Exceptions must be applied uniformly whenever costs are reduced or waived.
    - iii. The official records custodian should obtain a statement of inability to pay from a person or organization requesting a reduction or waiver of fees.
- M. Disposition/Destruction of adult and juvenile records to include electronic records containing Personal Identifying Information (PII)
  - I. Refer to the Department of Personnel and Administration (DPA) retention schedule.
  - II. Records that are confidential in nature or that contain Personal Identifying Information must be destroyed by shredding or by a professionally bonded company that can certify the security destruction of records.
    - i. Destruction of files/records will ensure that the contents of the file/record are permanently eradicated (e.g. - shredding).
    - ii. In accordance with CDPS Policy 7.1.06.001 (Records Management and Retention), a Colorado State Archives Certificate of Records Disposal form must be completed and forwarded to the Central Records Unit for processing.

- III. No records pertaining to any pending legal case, claim, action, or audit shall be destroyed under the DPA retention schedule.
- N. All offices will maintain reasonable security procedures and practices in order to protect PII.
  - I. Prior to releasing PII to the federal government or a third party, and when practicable, members shall notify the Chief through channels.
    - i. The member shall receive written authorization prior to granting the request.
    - ii. If the request is timely or urgent in order to protect public safety, members shall, as soon as possible, notify the Chief or their immediate supervisor that the request for information was granted.
  - II. For additional procedures regarding records containing PII, see [CDPS Policy 7.1.02.020 \(Personally Identifiable Information\)](#).
  - III. In the event of a data breach, notice will be provided to all affected parties and the Attorney General's office.

## **ADMINISTRATIVE PROCEDURES**

### **A. Member**

- A. Receive requests to view or copy public records (e.g. - CORA request).
  - Immediately forward requests through channels to the local troop/section commander or the Central Records Unit (CRU).
- B. Receive request to provide a copy of a crash report, officer's notes, audio/video tape, photographs, or other material. Troop offices may only release completed and approved basic crash reports with appropriate juvenile redactions. All other records requests should be forwarded to the Central Records Unit (CRU).
  - Produce approved and requested materials and assess the appropriate fee according to a CSP 402A (Schedule of Fees for the Provision of Public and Criminal Justice Records) and/or a CSP 402 (Request for Criminal Justice Information).
    - a. The CSP 402 (Request for Criminal Justice Information) will be used as a waiver that applicants requesting inspection of public and criminal justice records must sign pursuant to C.R.S. §24-72-305.5. A pecuniary gain, non-assistance with federal immigration enforcement, and non-disclosure of personal identifying information acknowledgment are acceptable in lieu of the CSP 402. It is not necessary for known media personnel to sign this form when they are obtaining motor vehicle crash information from blotters.
    - b. Forward all completed CSP 402 requests to the Central Records Unit to document the record's release.

3. For requests for PII, request written authorization prior to release.

B. Troop/Section Commander or designee

1. Review records request.
2. Ensure the request complies with State Patrol policies and applicable Federal and State laws.
3. Consult with the Central Records Unit and the CCIC coordinator as appropriate prior to the release of information.
4. Ensure that files/records comply with all orders to seal or to expunge and that information is appropriately redacted, if applicable, prior to the release of information.
5. Produce the requested materials and assess the appropriate fee. If a release of records is approved, produce them according to the CSP 402A (Schedule of Fees for the Provision of Public and Criminal Justice Records) and/ or a CSP 402 (Request for Criminal Justice Information).
  - The CSP 402 (Request for Criminal Justice Information) will be used as a waiver that applicants requesting inspection of public and criminal justice records must sign according to C.R.S. §24-72-305.5. A pecuniary gain, non-assistance with federal immigration enforcement, and non-disclosure of personal identifying information acknowledgment are acceptable in lieu of the CSP 402. It is not necessary for known media personnel to sign this form when they are obtaining motor vehicle crash information from blotters.
6. Upon receipt of a court order to seal or expunge a record, comply with the order and advise the Central Records Unit and the CCIC coordinator.
  - All sealed records will be forwarded to the Central Records Unit for storage and a sealed record notice must be placed in the front of the file, or if already stored, the sealed record notice must be ensured to be in place in the front of the file.
7. Dispose of or archive files/records per the CDPS retention schedule.

C. Central Records Unit

1. Review records requests and ensure compliance with State Patrol policies and any applicable Federal and State Laws.
2. Gather all available requested documentation.
3. Consult affected troop/section commanders, the CCIC coordinator, CBI, the Attorney General, and others as necessary.
4. Inform the party making the request of the approval or the denial of the request or if a continuation is needed within three (3) business days of the request.
  - An extension may be requested by the custodian of up to seven (7) business days to provide the requested documentation.

5. Ensure records compliance if records are sealed, expunged, or redacted and inform the CCIC coordinator, affected custodians, applicable outside vendors or agencies, and the Staff Services Branch.

D. CCIC Coordinator

1. Comply with requests from troop/section commanders and/or Central Records Unit.
2. Request Communications Branch and CBI to remove or restrict access to any sealed, expunged, or redacted information from databases as necessary.

E. Staff Services Branch

- Remove or restrict access to any sealed, expunged, or redacted information from databases as necessary.

F. Communications Branch

- Place the notation “RECORD SEALED, DO NOT RELEASE” in the CAD incident indicating that the record has been sealed and the date it was sealed.

G. Chief’s Office

- Review any request for the release of Personally Identifiable Information (PII) and if required, provide written authorization.

**RELATED RESOURCES AND FORMS**

Resource or Form Number	Title	Office of Professional Responsibility
CSP 402	Request for Criminal Justice Information	PAR
CSP 402A	Schedule of Fees for the Provision of Public and Criminal Justice Records	PAR
CSP 402C	Public Record Request	PAR
CSP 402D	Peace Officer Internal Investigation File Request	PAR
CSP 403	Completed Internal Investigation Summary	PAR
CSP 404	Waiver of Individual Privacy Interest	PAR

CSP 815	Physician's Report of Serious Bodily Injury (SBI)	PAR
CSP 816	Patient's Consent for Disclosure of Protected Health Information	PAR
CSP 817	Request for Protected Health Information	PAR
CDPS Policy 7.1.02.020	Personally Identifiable Information	CDPS
CDPS Policy 7.1.06.001	Records Management and Retention	CDPS
Certificate	Certificate of Records Disposal	DPA/ Colorado State Archivist