

September 18, 2015

VIA E-MAIL ([christopher.ryan@judicial.state.co.us](mailto:christopher.ryan@judicial.state.co.us))

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**Re: Public Comments on Proposed Rule Governing Public  
Access to the Judicial Department’s Administrative Records**

Dear Honorable Justices of the Colorado Supreme Court:

This law firm represents the Colorado Press Association, the Colorado Broadcasters Association, and the Colorado Freedom of Information Coalition. A brief description of each organization is attached hereto as **Appendix A**. On behalf of all three organizations, we write to submit these written comments regarding the proposed Rule 2 to Chapter 38, entitled “Public Access to Records and Information” (hereinafter “Rule”).

**Overview of Comments and General Concerns**

Before getting “into the weeds” and addressing specific concerns these organizations have with particular provisions in the proposed Rule, we wish to set those comments against the backdrop of these organizations’ overarching concern with the approach taken by the Judicial Branch in adopting an access regime that materially differs from the Colorado Open Records Act (“CORA”). These three organizations – comprised of 35 television stations and 207 radio stations licensed in Colorado, and more than 150 newspapers statewide, as well as a variety of public interest and public education non-profits – and their members are among the most frequent users of this state’s open record laws.

As the Court is well aware, the constitutional mission of the free press is to inform the citizenry about the conduct of its government, and as the Supreme Court has recognized, “official records and documents open to the public are the basic data of government.” *Cox Broad. Corp. v. Cohen*, 420 U.S. 469, 92 (1975); *id.* at 491-92 (“[I]n a society in which each individual has but limited time and resources with which to observe first hand the operations of his government, he relies necessarily upon the press to bring him in convenient form the facts of those

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operations. . . . Without the information provided by the press most of us and many of our representatives would be unable to vote intelligently or to register opinions on the administration of government generally.”). Accordingly, these organizations, and the readers, viewers, and listeners they serve, appreciate that in the wake of *Gleason v. Judicial Watch*, 292 P.3d 1044 (Colo. App. 2012), the Judicial Branch has engaged in the rule-making process, to impose upon itself a rule that provides public access to the records that memorialize, reflect, and shed light upon the operations of taxpayer-funded public servants.

This Court has repeatedly recognized the crucial role that providing the citizenry with timely and accurate information about the operations of government institutions plays in a self-governing democracy. *See, e.g., Wick Commc’ns Co. v. Montrose Cty. Bd. of Cty. Comm’rs*, 81 P.3d 360, 364-66 (Colo. 2003) (recognizing that the purpose of CORA is to “facilitat[e] a forum of open and frank discussion about issues concerning public officials and the citizenry they serve”). So, too, the State’s Attorney General has previously declared:

The Colorado Open Records Act gives people in Colorado a very important right. It allows them to learn – very quickly and completely – what their government is doing. It empowers everyone to understand how Colorado’s government affects their lives in matters big and small. The citizens of Colorado want an open government, and this statute is the most basic embodiment of that goal.

Colo. Att’y Gen. Op. 01-1 (July 5, 2001).

When considering what should be the appropriate policy for accessing governmental records, these three commenting organizations start from the premise that the decisions, first put in place and later revised, over decades of experience, by the Legislative and Executive Branches, in the Colorado Open Records Act (CORA), are time-tested guidelines for appropriately balancing the competing public and private interests implicated whenever governmental records are subject to requests for public scrutiny. Indeed, this Court has repeatedly recognized the value of such balancing of competing interests by a representative governmental body that is responsive and accountable to the electorate. *See, e.g., Civil Serv. Comm’n v. Pinder*, 812 P.2d 645, 649 (Colo. 1991) (“To the extent that these situations can be identified in advance, it may be *advisable for the legislature to decide what is contrary or injurious to the public interest. . . . If there is need for additional determinations* – if the legislature is unable to identify every possible situation where disclosure would be contrary to the public interest – *the courts* with their experience along these lines might be the logical place for decision.” (emphasis added) (quoting COLO. LEGIS. COUNCIL, RESEARCH PUBL’N NO. 126, OPEN PUBLIC RECORDS FOR COLORADO 5 (1967))).

Thus, these submitting organizations firmly believe that the balancing of competing interests reflected in CORA’s definitions and exceptions should serve as a presumptive baseline against which this branch’s public records access rule should be assessed. And, as a necessary

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corollary, any divergence by the Rule from that baseline must be justified through an articulated explanation *why* the records reflecting the official conduct of the approximately 4,000 public employees within the Judicial Branch should be treated materially differently from that of the other two branches of Colorado's state government, and all political subdivisions of the State.

At the meeting of the Public Access Committee on April 8, 2015, at which the interim proposed Rule was discussed, only internally, by that Committee, Ms. Teresa Tate stated that the Committee was very conscious of the baseline provided by the CORA, yet at the same time it had concluded that the unique features of the Judicial Branch warranted significant deviations from that baseline. What was missing from that discussion, and is still very much needed, is a full and detailed articulation of *what those differences are*, and *why* they justify the particular deviations set forth in the proposed Rule.

For example, with respect to the dramatically different approach the Rule takes to public employees' "personnel files," the only statement provided by Ms. Tate at the April 8, 2015 committee meeting was that in the other two branches of government many of the employees are subject to Civil Service Commission rules and appellate procedures. Why that single fact should serve as the basis for treating the "personnel files" of some 4,000 employees of the Judicial Branch so dramatically differently from that of the other two branches is not self-evident. First, it is unclear why Civil Service rules and procedures would make basic records "maintained because of the employer-employee relationship" in those branches publicly accessible (with the exception of "personal demographic information" like "home address, telephone numbers" and personal financial information, other than public compensation and benefits).

In addition, many of the publicly-funded employees of the Judicial Department are entitled to extensive procedural protections in the Colorado Judicial System Personnel Rules that closely mirror those available to Civil Service employees. Accordingly, for there to be a legitimate and defensible justification for such a dramatic departure from the carefully balanced contours of "personnel files," contained in the CORA, the judiciary must provide a detailed and convincing justification for such differential treatment between employees of co-equal branches of government.

This singular example – personnel files – exemplifies these three submitting organizations' overarching concerns with each of the specific provisions of the Rule, several of which are discussed in greater detail below. To the extent that the Rule applies a "disclosure vs. withholding" regime concerning this branch's records that is materially different from the "disclosure vs. withholding" regime embodied in the CORA, the public legitimately deserves a detailed response to the question, "***Why should the records documenting the conduct of public business by employees and agents of this branch be treated differently from those of the other two branches of government (and of all the State's political subdivisions)?***" Undoubtedly, there are legitimate articulable reasons for treating *some* of this branch's records

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differently, as discussed below, but to date the public has not been provided an explanation for the sweeping categorical exemptions reflected in the Rule.

**Selected Provisions of Particular Concern to  
the Three Organizations Submitting These Comments**

With the discussion above serving as the backdrop, the Colorado Press Association, the Colorado Broadcasters Association, and the Colorado Freedom of Information Coalition respectfully urge the Court to revise and/or amend the following specific provisions of the Rule to bring them into conformity with the analogous provisions in the CORA, or, if not, to provide an explanation for *why* they should materially diverge from the analogous provisions of the CORA:

- **Two Public Offices Are Exempted from the Rule.** Notably, two offices within the Judicial Branch, (1) the Judicial Discipline Commission, and (2) the Independent Ethics Commission, are expressly exempted from the application of the Rule. Thus, in light of the Court of Appeals decision in *Gleason*, these two agencies of the Judicial Branch remain completely exempt from any statute or rules providing for public access to records concerning the conduct of public business. Moreover, the Judicial Discipline Commission has refused to disclose to a member of the press the annual budget of that office. With all due respect, such lack of transparency for the conduct of the public's business by government employees is inexplicable and irreconcilable with the principles espoused above. To the extent that these two agencies perform certain functions that require certain discreet records to be deemed confidential, any such exemptions from the default rule of transparency should be narrowly tailored to those discreet functions and appropriate records. Accordingly, these three commenting organizations respectfully urge that the Rule be amended to subject *all public agencies* within the Judicial Department to its records disclosure requirements.
- **No Right to Obtain Copies.** The Rule provides discretion to Judicial Branch records custodians whether to provide copies, and it does not include any standard to guide that discretion. Section 4(c)(1)(B). In contrast, the CORA guarantees a right to obtain copies of any records that are open for inspection. Once again, it is not obvious why the "public records" of the entire Judicial Branch should not be subject to the same *right to copy* regime embodied in the CORA. See § 24-72-205(1)(a), C.R.S. ("*In all cases* in which a person has the right to inspect a public record, *the person may request a copy*, printout, or photograph of the record." (emphases added)). These three commenting organizations respectfully urge that the Rule be amended to provide the public with a right to obtain copies of all Judicial Branch administrative records that are subject to inspection.
- **Personnel Files.** As discussed above, unlike the CORA, which expressly limits the scope of "personnel files" to matters that are personal and private and unrelated to the discharge

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of public duties (*e.g.*, “home address, telephone numbers, [and] financial information”), § 24-72-202(4.5), C.R.S.<sup>1</sup>, the Rule defines “personnel file” as “any records maintained because of the employer-employee relationship,” Section 1(g), and it prohibits disclosure of any such information, with the exception of five discrete enumerated items. Section 3(c)(2)(A)–(E). Thus, under the Rule, the public is entitled to discover only the “fact of discipline” that has imposed, but not *the reasons* therefor, nor the severity of the sanction. Nor is the public entitled to discover any Judicial Branch employee’s *actual* taxpayer-funded salary, only the salary range. This is in sharp contrast to the CORA which mandates disclosure of the actual salary of public employees is outside the “personnel files” exemption and must be publicly disclosed. § 24-72-202(4.5), C.R.S.

Moreover, the Rule expressly prohibits the disclosure of “any record of an internal personnel investigation.” Section 3(c)(22)(B). In contrast, under the CORA and CCJRA, internal investigations into employee misconduct, even when discipline is *not* imposed, are routinely disclosed and are not encompassed within the “personnel files” exemption. There are sound policy reasons for making such investigation files available for public inspection. *See, e.g., Denver Post Corp. v. Univ. of Colo.*, 739 P.2d 874, 879 (Colo. App. 1987) (“[A]ny possible danger of discouraging internal review is outweighed by the public’s interest in whether the internal review was adequate, whether the actions taken pursuant to that review were sufficient, and whether those who held public office . . . should be held further accountable.”); *see also* Colo. Att’y Gen. Op. 01-1 (“some of the aspects of the hiring and firing of individuals by government are open to the public, even though this information may be embarrassing or uncomfortable for the people involved”); *see also Nixon v. Administrator*, 433 U.S. 425, 457 (1977) (holding that a public official enjoys a right of privacy only with respect to government-held information concerning “matters of personal life *unrelated to any acts done by them in their public capacity*” (emphasis added)); *Kallstrom v. City of Columbus, Ohio*, 165 F. Supp. 2d 686, 695 (S.D. Ohio 2001) (finding no legitimate expectation of privacy in “disciplinary records . . . and other documents detailing how each officer is performing his or her job”); *Citizens to Recall Mayor James Whitlock v. Whitlock*, 844 P.2d 74, 77-78 (Mont. 1992) (rejecting as

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<sup>1</sup> The CORA defines “personnel files” as follows: “‘Personnel files’ means and includes home addresses, telephone numbers, financial information, and other information maintained because of the employer-employee relationship, and other documents specifically exempt from disclosure under this part 2 or any other provision of law. ‘Personnel files’ does not include applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports required under section 23-5-123, C.R.S., or any compensation, including expense allowances and benefits, paid to employees by the state, its agencies, institutions, or political subdivisions.” § 24-72-202(4.5), C.R.S. Applying the rule of *ejusdem generis*, Colorado’s Court of Appeals has construed the phrase “and other information maintained because of the employer-employee relationship,” as restricted to the same “type of personal, demographic information” as “home address” and “telephone number.” *See Daniels v. City of Commerce City*, 988 P.2d 648, 651 (Colo. App. 1999).

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“unreasonable as a matter of law” a public officer holder’s claimed expectation of privacy “in performance of his public duties”).

Accordingly, these three commenting organizations respectfully urge that the Rule be amended, at a minimum, to provide for public access to all Disciplinary Actions entered as a matter of record pursuant to the Rule 29.C. of the Colorado Judicial Branch Personnel Rules, whether or not such Disciplinary Actions are appealed pursuant to Rules 29.C.10 and Rule 34. In addition, all written decisions entered by the Hearing Officer and by the Judicial Department Discipline Board of Review pursuant to Rules 34.A.6, 34.F.3 and 34G.5.d. should be declared to be public records, with only highly personal and private information redacted therefrom. *See, e.g., Freedom Colo. Info., Inc. v. El Paso Cty. Sheriff’s Dep’t*, 196 P.3d 892, 900 n.3 (Colo. 2008) (holding that it was appropriate, when disclosing internal investigation files of Sheriff’s deputy, for the custodian to redact only truly “personal” and “private” information – like the home address, home phone number – prior to disclosure: “[b]y providing the custodian of records with *the power to redact names, addresses, social security numbers, and other [similar] personal information*, disclosure of which may be outweighed by the need for privacy, the legislature has given the custodian an effective tool *to provide the public with as much information as possible*, while still protecting privacy interests when deemed necessary.” (emphases added)); *id.* (instructing that “[a] custodian *should redact sparingly to promote the [public records acts’] preference for public disclosure.*” (emphases added)).

- Deliberative Process Privilege. Under the CORA, this privilege, once it is properly invoked (through provision of *sworn* attestation of the need for confidentiality, also absent from the Rule), is not absolute, but defeasible if challenged in court and the judge finds that the public interest in disclosure outweighs the need for the candid exchange of opinions and recommendations within government. *See* § 24-72-204(3)(a)(XIII), C.R.S.<sup>2</sup> In contrast, under the Rule, the deliberative process privilege is absolute, *i.e.*, no public interest in the subject matter of the records can overcome the agency’s assertion of privilege, which also need not be attested to under oath. Section 3(c)(16) & (25). These organizations respectfully urge that the Rule be amended to incorporate the same public interest balancing test applicable to the two other branches’ and all political subdivisions’ deliberative process privileged records. At the same time, however, these submitting

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<sup>2</sup> Like the “work product” doctrine, discussed below, the common law also recognizes that the “deliberative process privilege” is waived by disclosure of the information outside the body deliberating on a policy decision. *See, e.g., Denver Post Corp. v. Univ. of Colo.*, 739 P.2d 874, 881 (Colo. App. 1987) (disclosure of investigative report to District Attorney waived work product privilege under CORA); *North Dakota ex rel. Allen I. v. Andrus*, 581 F.2d 177, 180-82 (8th Cir. 1978) (deliberative process privilege was waived when the government voluntarily permitted a third party to view the documents in question); *Shell Oil Co. v. IRS*, 772 F. Supp. 202, 207 (D. Del. 1991) (same).

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organizations understand and appreciate that communications between judicial officers, their law clerks, research librarians, staff, and others concerning the cases being adjudicated by the courts have always enjoyed the protection of confidentiality, such more narrowly limited exceptions should be more carefully tailored to account for that well-honored tradition.

- Work Product. Under the CORA, and the common law, the protection extended to work product (which under the CORA is expressly limited to materials assembled for the benefit of *elected* officials only) is waived if it is distributed for consideration or discussion at a public meeting, § 24-72-202(6.5)(c)(IV), C.R.S., or otherwise disclosed outside the agency.<sup>3</sup> Under both the common law and the CORA, as well, any document that is expressly referenced in a final agency action or policy is no longer subject to the “work product” doctrine. *See, e.g., Land Owners United, LLC v. Waters*, 293 P.3d 86, 97 (Colo. App. 2011) (“even pre-decisional material can lose its protected status if it is in fact incorporated into governmental policy or action”); § 24-72-202(6.5)(c)(IV), C.R.S. (excluding from “work product” any materials “cited and identified in the text of the final version of a document that expresses a decision by an elected official”). In contrast, under the Rule, work product is not limited to elected officials and there is no explicit recognition of the possibility of waiver, even if the records are discussed in a public meeting or are disclosed to third parties outside the Judicial Branch. Section 3(c)(24). These submitting organizations respectfully urge that the Rule be amended to subject the “work product” of judicial branch employees, other than judicial officers, to the same parameters of “work product” contained in the CORA.

Once again, however, these organizations recognize that judicial officers’ exchange of ideas and draft opinions/rulings with other judges, law clerks and staff (even before a judge has been elected through a retention vote) traditionally have to be subject to confidentiality, as recognized elsewhere in statutes and the Judicial Branch’s policies. *See, e.g.,* §§ 18-8-402, 18-8-405(b) C.R.S.; Code of Conduct – Colorado Judicial Branch (amended May 2011). Such exceptions to the general rule should, again, be appropriately narrowly tailored to those specific set of records within the judicial branch.

- Authorization for Agencies to Override the Rule. Perhaps most troubling is the provision that *requires* the custodian to deny inspection of any record “that is confidential by law,

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<sup>3</sup> The CORA also expressly excludes from its definition of work product, “Any final version of a fiscal or performance audit report or similar document the purpose of which is to investigate, track, or account for the operation or management of a public entity or the expenditure of public money, together with the final version of any supporting material attached to such final report or document.” § 24-72-202 (6.5)(c)(II), C.R.S. Because they cannot imagine how such records and reports of this branch of government can be treated any differently, these submitting organizations respectfully urge that the Rule be amended to include this identical exemption from “work product.”

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*rule*, or order.” Section 3(b)(2) (emphasis added). In contrast, the CORA requires a custodian to withhold a public record only if disclosure would be contrary to any (1) “state statute,” (2) “rules promulgated by the supreme court,<sup>4</sup> or [(3)] by the order of any court.” §§ 24-72-204(a) & (c), C.R.S. The much broader language in the Rule would allow custodians to invoke not only state statutes, but “common law,” and, ostensibly, internally promulgated agency rules. *But see* COLO. LEGIS. COUNCIL, *supra*, at iv (“State regulations have not been included among the grounds for denial of access. To permit state administrative agencies to make regulations denying access to public records would be to defeat the purpose of the bill.”). These submitting organizations respectfully urge that the Rule be amended to conform to the more narrowly circumscribed exemption set forth in the CORA.

- **Time for Response.** Under the CORA, records that are readily available at the time of the request must be produced forthwith. Only records that are not readily available upon request are to be provided within three days, unless extenuating circumstances warrant a further extension of seven days. In contrast, under the Rule, all records are to be produced within ten days of the request. These submitting organizations respectfully urge that the Rule be amended to adopt the same response and production deadlines applicable to other government agencies under the CORA.
- **Research and Retrieval Fees.** Under the CORA, as amended in 2014, custodians of records may only charge for research and retrieval fees if they have a published schedule of such fees in place on the date of the request, and are thereafter limited to \$30 per hour after one hour free. In contrast, the Rule has no limits or restrictions on research and retrieval fees. These submitting organizations respectfully urge that the Rule adopt the same limitations on research and retrieval fees that were incorporated into the CORA in 2014.

### **Further General Recommendations to Guide This Court’s Actions in the Future**

We look forward to addressing the Court at the Public Hearing concerning the Rule on October 1, 2015. Allowing for input and comments from significant “stakeholders” in this matter, which includes the press and citizens of this great State, is vital to furthering two related objectives of adopting a policy for public access to the administrative records of this branch of government: (1) ensuring a more well-informed, multi-perspective balancing of competing interests in the “disclosure vs. withholding” calculus of each specific exemption of the Rule, and (2) fostering public respect for, acceptance of, and legitimacy of, the final Rule to be adopted.

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<sup>4</sup> See discussion, *infra*, about this Court’s ruling in *Office of State Court Administrator v. Background Information Services, Inc.*, 994 P.2d 420 (Colo. 1999).

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The discussion above focuses almost exclusively on accomplishing the first of these two objectives. The second objective – *i.e.*, fostering public trust in the *process* by which this branch of government subjects itself to public scrutiny and accountability – is equally critical. As the Court may be aware, this branch’s efforts to date in this area have been the focus of criticism by government transparency groups at the national level. *See, e.g., Finalists Announced for 2015 Golden Padlock Award*, IRE NEWS (June 6, 2015), <http://www.ire.org/blog/ire-news/2015/06/01/finalists-announced-2015-golden-padlock-award/> (announcement by Investigative Reporters and Editors that Colorado Judicial Branch’s policies and practices concerning access to its administrative records ranks it among the three “most secretive government agenc[ies] or individual[s] in the United States”). One meaningful mechanism to address this perceived shortcoming would be to consider more intentionally and overtly the views of all vested stakeholders in the *process* of formulating the policy.

These three commenting organizations acknowledge and appreciate that, even if the state Judicial Branch were to be expressly brought under the ambit of the CORA, this Court is the final arbiter of how that statute is interpreted and applied. In addition, this Court has previously ruled that any policy or rule adopted by the Public Access Committee pursuant to CJD 98-05 is a “rule[] promulgated by the supreme court” which thereby exempts any records declared confidential by such policy from public disclosure pursuant to §§ 24-72-305(1)(b) and 24-72-204(1)(c), C.R.S. *See Office of State Ct. Adm’r v. Background Info. Servs., Inc.*, 994 P.2d 420, 430-31 (Colo. 1999). Thus, by this Court’s Rules and judicial rulings, the Public Access Committee has been authorized to adopt policies that override the careful balancing of competing interests embodied in the CORA’s other enumerated exemptions from public disclosure.

Because the Public Access Committee apparently has been vested with such CORA-overriding authority<sup>5</sup>, it is all the more important that the Public Access Committee be expanded to include sitting, voting members from outside the Judicial Branch. More specifically, we urge the Court to designate at least one position on the Public Access Committee to a designated representative of a state or local organization dedicated to advocating for greater transparency in government. *See, e.g., H.B. 15-1285* (signed by the Governor on May 20, 2015) (establishing a state-wide study group to make recommendations to the General Assembly on policies concerning use of police body worn cameras).

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<sup>5</sup> It is unclear whether such authority exists when the General Assembly specifically directs that certain records are subject to public disclosure. *See Office of State Ct. Adm’r.*, 994 P.2d at 429 (“When the General Assembly wishes to address and resolve that balance, *its specific intent clearly governs* – as evidenced by mandates such as the requirement that the court registry of actions, the judgment record, and records of official actions in criminal cases be made public . . .” (emphasis added)). Indeed, several members of the General Assembly have publicly announced they are contemplating expressly subjecting the Judicial Branch to the CORA, and the legislature may also further amend the CORA to subject certain Judicial Branch records to public disclosure.

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Only by allowing the affected stakeholders “a seat at the table” and thereby the means of providing meaningful participation in the process of balancing competing interests embodied in Public Access Committee’s policies will such policies be afforded the legitimacy and acceptance by the general public, without which public confidence in this branch of government cannot be fully realized.

**Conclusion**

Once again, the Colorado Broadcasters Association, the Colorado Press Association, and the Colorado Freedom of Information Coalition welcome this opportunity to provide their perspective to this body and look forward to the public hearing on October 1, 2015, at which time the undersigned will be available to respond to any questions concerning these comments.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By:   
Steven D. Zansberg  
President  
Colorado Freedom of Information Coalition

on behalf of  
Colorado Broadcasters Association  
Colorado Press Association  
Colorado Freedom of Information Coalition

SDZ/cdh

Enclosure

cc: Justin Sasso, President and CEO, Colorado Broadcasters Association  
Jerry Raehal, CEO, Colorado Press Association  
Jeffrey Roberts, Executive Director, Colorado Freedom of Information Coalition

## APPENDIX A

**The Colorado Broadcasters Association** is a membership trade association, formed in 1949, that currently represents 35 FCC-licensed TV stations and 207 FCC-licensed radio stations based in Colorado. Combined, CBA's member stations provide information to approximately 3,750,000 Colorado residents. The CBA provides thousands of dollars for college scholarships, and works to provide media access to the courts and to public records.

**The Colorado Press Association** is an unincorporated association of more than 150 newspapers throughout Colorado, including the state's ten largest daily newspapers, all having a combined circulation in excess of 1 million copies. The Colorado Press Association seeks to protect the interest of the public in a free and vibrant working press, which serves to inform the citizenry of Colorado on matters of general and public concern.

**The Colorado Freedom of Information Coalition** ("CFOIC"), is a Colorado non-profit education corporation, devoted to serving as "the voice of open government in Colorado." The CFOIC is comprised of various organizational members, including the ACLU, Colorado League of Women Voters, Colorado Bar Association, Ethics Watch, the Independence Institute, Colorado Common Cause, as well as individuals. Through its website at <http://ColoradoFOIC.org>, its blog, tweets, and other publications and programs, the CFOIC assists member of the public in exercising their rights under Colorado's Sunshine Laws, helps bring attention to practices of government agencies across the state, and highlights the need for legislative reform. The positions set forth in the Public Comments do not necessarily represent the views of all members of the CFOIC.