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## 0126 Open Public Records for Colorado

Colorado Legislative Council

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## 0126 Open Public Records for Colorado





OPEN PUBLIC RECORDS  
" FOR COLORADO

Colorado - Legislative Council  
Report to the  
Colorado General Assembly

# COLORADO GENERAL ASSEMBLY



## LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL  
DENVER, COLORADO 80203  
222-9911 - EXTENSION 2285  
AREA CODE 303

November 27, 1967

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VICE CHAIRMAN

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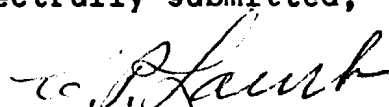
To Members of the Forty-sixth General Assembly:

Under direction of House Joint Resolution No. 1024, 1967 regular session, the Legislative Council appointed a committee to conduct a one-year study of the public records maintained by state and local agencies to determine which classes of records should be made available to the public and which should be maintained as private or confidential. The report of this committee, including a draft of suggested open records legislation, is submitted herewith.

The committee submitted its report and draft of the proposed bill on November 27, 1967, at which time the report was accepted by the Legislative Council for transmittal to the General Assembly.

The Legislative Council requests that the Governor include the committee's recommended bill among the items for consideration by the General Assembly during the Second Regular Session.

Respectfully submitted,

  
Representative C. P. (Doc) Lamb  
Chairman

CPL/mp

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REP. JOSEPH CALABRESE  
REP. CARL GUSTAFSON  
REP. RAYMOND WILDER

November 27, 1967

Representative C. P. (Doc) Lamb  
Chairman  
Colorado Legislative Council  
341 State Capitol  
Denver, Colorado 80203

Dear Mr. Chairman:

Your committee appointed to study open records submits the accompanying report, containing a draft of suggested open records legislation.

The committee's report indicates that there is a need for legislative action to establish guidelines for determining which records should be available to the public and which should be held confidential.

Respectfully submitted,

/s/ Representative Ray H. Black,  
Chairman, Committee on Open  
Public Records

RHB/mp

## FOREWORD

Under direction of House Joint Resolution No. 1024, 1967 session, the Legislative Council appointed a committee to study the public records in state and local agencies to determine the records which should be open to public inspection and those which should be closed. The members of the committee appointed to carry out this assignment were:

Representative Ray H. Black,  
Chairman  
Senator Ruth Stockton, Vice  
Chairman  
Senator George L. Brown  
Senator Ed Scott  
Representative Don Friedman

Representative Palmer L. Burch  
Representative Bill Gossard  
Representative Harold L. McCormick  
Representative Kenneth Monfort  
Representative Lowell E. Sonnenberg  
Representative Ronald H. Strahle  
Representative Ted L. Strickland

Representative C. P. (Doc) Lamb, chairman of the Legislative Council, also served as an ex officio member of the committee.

During the course of its one-year study the committee held six meetings. Three of the meetings were devoted to hearing from representatives of the news media and of state and local agencies, who expressed their respective views on open records legislation in light of Senate Bill 217, 1967 session. The other three meetings were devoted to committee policy decisions in an effort to construct an effective open public records bill.

Janet L. Wilson, senior research analyst for the Legislative Council, had primary responsibility for the staff work and bill drafting services for the committee, with the aid of Bettyann Brooks, research assistant.

November 27, 1967

Lyle C. Kyle  
Director



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The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses and income. The text suggests that a systematic approach to record-keeping is essential for identifying trends and making informed decisions.

In addition to record-keeping, the document highlights the need for regular reconciliation. This process involves comparing the internal records with external statements, such as bank statements, to identify any discrepancies. Regular reconciliation helps in catching errors early and ensures that the books are balanced. The text also mentions the importance of keeping records for a sufficient period to comply with legal requirements and for future reference.

The document further discusses the role of technology in modern accounting. It notes that while traditional methods were used in the past, the use of software and digital tools has significantly improved efficiency and accuracy. However, it also cautions against over-reliance on technology, suggesting that a solid understanding of the underlying principles remains crucial. The text provides some guidance on selecting appropriate software and implementing it effectively.

Finally, the document touches upon the importance of seeking professional advice when needed. It acknowledges that accounting can be a complex field, and there are many situations where the expertise of a professional accountant is invaluable. The text encourages readers to consult with a professional to ensure that they are following best practices and staying up-to-date with the latest regulations and standards.

exception rather than the rule, and the burden in contested cases would be on the public official to show that he has specific authority to deny access to a particular record.

6. Senate Bill 217, introduced in the 1967 legislative session, was an attempt to establish the principle of open public records in the Colorado statutes. This bill was in some ways incomplete, however -- the exceptions were inadequate and there were no procedures for denial of access, appeal, or enforcement. The committee in the course of its study has found it necessary to make extensive revisions in order to arrive at what it believes is a workable bill, taking into consideration the people's right to know, the individual's right of privacy, and the public interest.

## COMMITTEE RECOMMENDATIONS

The committee recommends favorable consideration of the open records bill included in this report and requests that the bill be included in the Governor's list of items for consideration by the General Assembly in 1968. (See pp. xix-xxv for the language of the bill. The major provisions are described below.)

### Declaration of Policy

The bill begins with a statement of policy to the effect that all public records shall be open for inspection by any person at reasonable times, except as provided by this bill or as otherwise specifically provided by law. This statement clearly eliminates any requirement that a person show a special interest in order to be permitted access to particular public records. It also establishes the basic premise that in the absence of a specific statute permitting the withholding of information, a public official has no authority to deny any person access to public records.

The term "public records" is defined in Section 2 of the bill. It includes all writings of public agencies.

The term "person" is also defined in Section 2. There is no requirement for residency or citizenship.

Section 3 of the bill authorizes the official custodian to make rules and regulations to cover inspection "at reasonable times" as provided in the policy declaration. An earlier draft contained a provision for inspection "without charge" but this was deleted. It was felt that in some cases the custodian's rules and regulations might include the establishment of nominal fees.

Specific exceptions where public records are not necessarily open for public inspection are enumerated in Section 4 of the bill. Numerous other statutes governing the availability of specific types of records (see Appendix C) will remain unaffected under the provisions of this bill.

### Definitions

Public records. The definition of "public records" is especially important because it determines the general reach of the bill. The committee has chosen to define the term very broadly so that it covers all "writings" (see below) of public agencies:

The term "public records" means and includes all writings made, maintained or kept by the state or any agency, institution, or political

subdivision thereof for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.

This definition is in keeping with the general concept of freedom of information. It is in contrast to some definitions in which public records are restricted to such items as formal records of completed transactions and records required by law to be kept.

Writings. The term "writings" is defined to include books, papers, maps, photographs, recordings, or other documentary materials, regardless of physical form or characteristics. This is intended to cover all things that could possibly be considered records of an agency. Nothing is to be excluded on the ground that it does not fit the historical description of a written record.

Political subdivision. The definition of public records extends to writings of political subdivisions of the state. To avoid questions as to what units of government are included, "political subdivision" is defined to include every county, city and county, city, town, school district, and special district within the state.

Official custodian and custodian. To differentiate between the head of the department or agency (who is responsible for making the rules and regulations, setting the fee for copies of public records, and deciding when to go to court for permission to withhold a record) and the person having the physical custody and control of particular public records on a day-to-day basis, the committee has added definitions of "official custodian" and "custodian."

The term "official custodian" includes any officer or employee who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.

The term "custodian" includes the official custodian or any authorized person having personal custody and control of the public records in question.

Person. The bill utilizes the usual definition of the word "person" as including any natural person, corporation, partnership, firm or association.

### Public Records Open to Inspection

Rules and regulations. Subsection (1) of Section 3 contains authorization for reasonable rules and regulations to accompany the policy declaration that all public records shall be open for inspection by any person at reasonable times. The official custodian may make "such rules and regulations with reference to the inspection of

such records as shall be reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office."

The committee feels that these rules and regulations could include the establishment of nominal fees in some cases even though the bill contains no specific mention of fees except for copying or photographing.

When records not in custody or control. The bill provides that if the records requested are not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact, stating why the records are not in his custody or control, where they are, and what person then has them. This does not constitute denial of access.

When records are in active use or storage. If the request has been made to the proper person but the records are unavailable at the moment because they are in active use or in storage, the custodian must forthwith notify the applicant of this fact. The applicant may require the custodian to set a time within three days when the records will be available for inspection.

#### Allowance or Denial of Inspection - Grounds - Procedure - Appeal

Allowance of inspection and basic grounds for denial. Subsection (1) of Section 4 provides that the custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except where such inspection would be contrary to any state statute, contrary to any federal statute "or regulation issued thereunder having the force and effect of law," or is prohibited by order of court.

Federal regulations "having the force and effect of law," i.e., published in the Federal Register, were included among the grounds for denial of inspection because in some cases disclosure by a state or local agency contrary to federal regulation might result in loss of federal funds.

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.

Court orders are grounds for denial of inspection. Orders under subsection (6) of Section 4 would be included.

Authority to deny inspection when contrary to the public interest. Subsection (2) of Section 4 lists the types of records for which the custodian may deny inspection on the ground that disclosure to the applicant would be "contrary to the public interest."



Law enforcement -- First among records of this class are "records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, district attorney, police department, or any investigatory files compiled for any other law enforcement purpose."

This language is designed to continue the present discretionary policies of law enforcement officials in releasing active criminal investigation records, confidential communications from other states, and procedures for handling major crimes and civil disturbances. Administrative and fiscal records of law enforcement offices would be open to public inspection.

The committee has not attempted to find a legislative solution to the problem of pre-trial release and publication of information in criminal cases. Instead, the decision on release of criminal investigation records has been left with the district attorneys and the police. This is a matter too sensitive and complicated to be the subject of an inflexible statute at the present time. The courts, the bar, and the press are attempting to develop general guidelines in this area but no final decisions have been reached.

Test questions -- Other writings subject to denial of inspection in the discretion of the custodian include "test questions, scoring keys, and other examination data prior to administration of a licensing examination, examination for employment, or academic examination." The reason for denial in these cases is obvious, since premature disclosure of such information would defeat the purpose of the examination.

Research projects -- Because of the nature of university research and the danger of premature release of incomplete data or data which is not necessarily public property, the "specific details of research projects being conducted by a state institution of higher learning" may be withheld in the discretion of the custodian. The fact that a project is being conducted on a particular subject could not be withheld, however; only the specific details may be exempted from disclosure.

Real estate appraisals -- The custodian may deny access to the contents of real estate appraisals made for a public agency relative to the acquisition of property for public use, until such time as the property has been acquired. However, the contents of the appraisal shall be available to the owner of the property at any time.

This provision was in response to the contention of the State Highway Department that complete disclosure of appraisals would be contrary to the public interest.

Provision for equal availability to news media. The committee has included in subsection (2) of Section 4 (the discretionary



"public interest" section) a provision that if the right of inspection is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it must be allowed to all.

Mandatory denial; availability to person in interest; consent. Subsection (3) of Section 4 provides that the custodian shall deny the right of inspection of certain specified records unless otherwise provided by law. Most of these records are of a privileged, confidential, personal or private nature.

Medical, psychological, and scholastic achievement data -- Where medical, psychological, and scholastic achievement data on individual patients, clients, and students are held by public agencies, the custodian may not release such data except to the person in interest or to others if the person in interest has given his consent. Disclosure of records in this category might constitute an invasion of personal privacy.

Personnel files -- Except for applications and performance ratings (which are to be made available for public inspection), the personnel files of employees in public agencies may not be released except to the person in interest and to the duly elected and appointed public officials who supervise his work. Upon consent of the person in interest, however, the files may be made available for inspection by others. Here too the disclosure might constitute an invasion of personal privacy.

Letters of reference -- Letters of reference held by public agencies may not be released, even to the person in interest. The committee feels that disclosure to the person in interest will discourage honest evaluations.

Trade secrets, privileged information, etc. -- Included in the category of records not to be released by the custodian are "trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person." This extends to various types of government-held information essentially private in nature.

Library and museum material -- Library and museum materials contributed by private persons are to be withheld to the extent of the limitations placed thereon as conditions of such contributions.

Written statement of grounds for denial. Subsection (4) of Section 4 provides that if the custodian denies access to any public record, the applicant may require a written statement of the grounds for the denial.

Appeal; court costs and attorney fees. Subsection (5) contains the appeal provisions. Any person denied the right to inspect any public record may apply to the district court for an order

directing the custodian to show cause why he should not permit the inspection of such record. Unless the court finds that the denial was proper, it shall order the custodian to permit such inspection. Upon a finding that the denial was "arbitrary or capricious," the court may order the custodian personally to pay the applicant's court costs and attorney fees.

Request for order permitting custodian to restrict disclosure; public interest. Subsection (6) gives the official custodian the opportunity to request an order permitting him to restrict disclosure of a public record. If, in the opinion of the official custodian, disclosure would do "substantial injury to the public interest," notwithstanding the fact that said record might otherwise be available to public inspection, he may apply to the district court for an order permitting him to restrict such disclosure. After hearing, the court may issue such an order upon a finding that disclosure would cause substantial injury to the public interest. The burden of proof would be on the custodian and the person seeking permission to examine the record would be notified of the hearing and would have the right to appear and be heard.

#### Copies or Photographs of Public Records

Copies furnished by custodian. In all cases in which a person has the right to inspect any public record, he may request that he be furnished copies or photographs of such record. The custodian may furnish copies for a reasonable fee to be set by the official custodian, not to exceed \$1.25 per page.

Copies made by applicant. If the custodian does not have facilities for making copies or photographs, then the applicant must be granted access for the purpose of making his own copies or photographs. He must make them while the records are in the possession, custody, and control of the custodian. Arrangements for other facilities may be made if necessary; the cost must be paid by the person desiring to copy or photograph the records. The official custodian may establish a reasonable schedule of times and may charge the same fee for the services rendered in supervising the copying or photographing as he may charge for furnishing copies.

#### Violation - Penalty

Any person who willfully and knowingly violates the provisions of the act is guilty of a misdemeanor. The penalty for violation is not to exceed \$100 fine or up to 90 days in the county jail, or both.

#### Effective Date

The effective date of the bill is July 1, 1968.

Recommended Bill to Provide  
Open Public Records for Colorado

A BILL FOR AN ACT

1 PROVIDING FOR INSPECTION OF PUBLIC RECORDS AND FOR THE COPY-  
2       ING OR PHOTOGRAPHING OF SUCH RECORDS.

3 Be it enacted by the General Assembly of the State of Colorado:

4       SECTION 1. Declaration of policy. It is declared to be  
5 the public policy of this state that all public records shall  
6 be open for inspection by any person at reasonable times, ex-  
7 cept as provided herein or as otherwise specifically provided  
8 by law.

9       SECTION 2. Definitions. (1) As used in this act:

10       (2) The term "public records" means and includes all  
11 writings made, maintained or kept by the state or any agency,  
12 institution, or political subdivision thereof for use in the  
13 exercise of functions required or authorized by law or adminis-  
14 trative rule or involving the receipt or expenditure of public  
15 funds.

16       (3) The term "writings" means and includes all books,  
17 papers, maps, photographs, recordings, or other documentary  
18 materials, regardless of physical form or characteristics.

19       (4) The term "political subdivision" means and includes  
20 every county, city and county, city, town, school district, and  
21 special district within the state.

1           (5) The term "official custodian" means and includes  
2 any officer or employee of the state or any agency, institu-  
3 tion, or political subdivision thereof, who is responsible for  
4 the maintenance, care and keeping of public records, regard-  
5 less of whether such records are in his actual personal custody  
6 and control.

7           (6) The term "custodian" means and includes the official  
8 custodian or any authorized person having personal custody and  
9 control of the public records in question.

10          (7) The term "person" means and includes any natural  
11 person, corporation, partnership, firm, or association.

12          SECTION 3. Public records open to inspection. (1) The  
13 official custodian of any public records may make such rules  
14 and regulations with reference to the inspection of such rec-  
15 ords as shall be reasonably necessary for the protection of such  
16 records and the prevention of unnecessary interference with the  
17 regular discharge of the duties of the custodian or his office.

18          (2) If the public records requested are not in the cus-  
19 tody or control of the person to whom application is made, such  
20 person shall forthwith notify the applicant of this fact, in  
21 writing if requested by the applicant. In such notification  
22 he shall state in detail to the best of his knowledge and belief  
23 the reason for the absence of the records from his custody or  
24 control, their location, and what person then has custody or  
25 control of the records.

26          (3) If the public records requested are in the custody  
27 and control of the person to whom application is made but are  
28 in active use or in storage, and therefore not available at

29

1 the time an applicant asks to examine them, the custodian shall  
2 forthwith notify the applicant of this fact, in writing if re-  
3 quested by the applicant. If requested by the applicant, the  
4 custodian shall set a date and hour within three working days at  
5 which time the records will be available for inspection.

6 SECTION 4. Allowance or denial of inspection - grounds -  
7 procedure - appeal. (1) The custodian of any public records  
8 shall allow any person the right of inspection of such records  
9 or any portion thereof except on one or more of the following  
10 grounds or as provided in subsection (2) or (3) of this section:

11 (a) Such inspection would be contrary to any state statute;

12 (b) Such inspection would be contrary to any federal statute  
13 or regulation issued thereunder having the force and effect of  
14 law; or

15 (c) Such inspection is prohibited by rules promulgated by  
16 the supreme court or by order of any court.

17 (2) (a) The custodian may deny the right of inspection of  
18 the following records, unless otherwise provided by law, on the  
19 ground that disclosure to the applicant would be contrary to the  
20 public interest:

21 (i) Records of investigations conducted by, or of intelli-  
22 gence information or security procedures of, any sheriff, dis-  
23 trict attorney, police department, or any investigatory files  
24 compiled for any other law enforcement purpose;

25 (ii) Test questions, scoring keys, and other examination  
26 data prior to administration of a licensing examination, exami-  
27 nation for employment, or academic examination;

28 (iii) The specific details of research projects being  
29

[The page contains extremely faint and illegible text, likely bleed-through from the reverse side of the document. No specific content can be transcribed.]

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses and income. The text suggests that a systematic approach to record-keeping is essential for identifying trends and making informed decisions.

In addition to record-keeping, the document highlights the need for regular audits. Audits help to verify the accuracy of the records and identify any discrepancies or errors. It is recommended that audits be conducted at regular intervals, such as quarterly or annually, depending on the nature of the business. The text also notes that audits can provide valuable insights into the financial health of the organization and help to prevent fraud.

Another key aspect of financial management is the use of budgeting. A budget provides a clear picture of the organization's financial goals and helps to allocate resources effectively. The document explains that a budget should be based on realistic assumptions and should be updated regularly to reflect changes in the business environment. It also suggests that budgeting can help to control costs and improve overall financial performance.

Finally, the document discusses the importance of transparency and communication in financial management. It stresses that all stakeholders should have access to accurate and timely financial information. This includes providing regular reports to management and investors, as well as being open to questions and feedback. The text concludes by stating that a transparent and communicative financial management system is essential for the long-term success of any organization.



1 action the burden of proof shall be upon the custodian. The  
2 person seeking permission to examine the record shall have  
3 notice of said hearing served upon him in the manner provided  
4 for service of process by the Colorado Rules of Civil Procedure  
5 and shall have the right to appear and be heard.

6 SECTION 5. Copies or photographs of public records. (1)

7 In all cases in which a person has the right to inspect any  
8 public record, he may request that he be furnished copies or  
9 photographs of such record. The custodian may furnish such  
10 copies or photographs for a reasonable fee to be set by the of-  
11 ficial custodian, not to exceed one dollar and twenty-five cents  
12 per page. Where fees for certified copies or other copies or  
13 photographs of such record are specifically prescribed by law,  
14 such specific fees shall apply.

15 (2) If the custodian does not have facilities for making  
16 copies or photographs of records which the applicant has the  
17 right to inspect, then the applicant shall be granted access to  
18 the records for the purpose of making copies or photographs.  
19 The copies or photographs shall be made while the records are  
20 in the possession, custody, and control of the custodian thereof  
21 and shall be subject to the supervision of such custodian. When  
22 practical, they shall be made in the place where the records are  
23 kept, but if it is impractical to do so, the custodian may allow  
24 arrangements to be made for this purpose. If other facilities  
25 are necessary, the cost of providing them shall be paid by the  
26 person desiring to copy or photograph the records. The offi-  
27 cial custodian may establish a reasonable schedule of times for  
28 making copies or photographs and may charge the same fee for

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1 the services rendered by him or his deputy in supervising the  
2 copying or photographing as he may charge for furnishing copies  
3 under subsection (1) of this section.

4 SECTION 6. Violation - penalty. Any person who willfully  
5 and knowingly violates the provisions of this act shall be  
6 guilty of a misdemeanor and, upon conviction thereof, shall be  
7 punished by a fine not to exceed one hundred dollars, or by  
8 imprisonment in the county jail not to exceed ninety days, or  
9 by both such fine and imprisonment.

10 SECTION 7. Effective date. This act shall take effect  
11 July 1, 1968.

12 SECTION 8. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

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## INTRODUCTION

Public business is the public's business. The people have the right to know. Freedom of information is their just heritage. Without that the citizens of a democracy have but changed their kings.<sup>1</sup>

Serious concern over public access to public information has developed relatively recently. Only in the last twenty years has the public (and the news media in particular) become significantly conscious of the importance of legal as well as philosophical recognition of "the people's right to know." Harold L. Cross, in a study conducted for the American Society of Newspaper Editors in 1953, expressed this developing concern in these terms:

Citizens of a self-governing society must have the legal right to examine and investigate the conduct of its affairs, subject only to those limitations imposed by the most urgent public necessity. To that end they must have the right to simple, speedy enforcement procedure geared to cope with the dynamic expansion of government activity.<sup>2</sup>

As public functions and public expenditures at all levels of government have grown, more and more information of public interest has been added to government records and files. Yet much of this information is available only at the discretion of public officials -- officials who may be protecting themselves from public scrutiny or who may choose to withhold information merely for convenience and ease of administration.

Fear of the ultimate dangers of such increased administrative discretion in the handling of public information has led to vigorous campaigns for legislative action in Congress and in the

1. Harold L. Cross, The People's Right to Know: Legal Access to Public Records and Proceedings (New York: Columbia University Press, 1953), p. xiii.

2. Loc. cit.

state legislatures. The statutes sought would establish the basic principle that governmental information is open to the public unless otherwise specifically provided by legislative enactment. In Congress such a "freedom of information" bill was adopted in 1966 (effective July 4, 1967); in the states, the legislatures have been considering and adopting proposed "open records" and "open meetings" bills for several years.

### The Basic Issues

The legislative task in dealing with statutes granting or restricting access to government-held information is to weigh conflicting policy considerations and try to arrive at agreement as to what constitutes a proper balance.

It is essential that the constitutional principles of freedom of speech and of the press be upheld. But in the zeal for open information care must be taken not to disregard the rights of the individual. Further, in striking a balance between these two conflicting interests, a responsible legislative body must also keep in mind a third consideration -- whether or not disclosure (or non-disclosure) of the information would be contrary to the public interest on grounds which may extend beyond the interests of the press on the one hand and the privacy of the individual on the other.

Freedom of the press. The First Amendment to the U. S. Constitution, and Article II, Section 10 of the Colorado Constitution, guarantee freedom of speech and of the press. Few would deny the importance of this freedom to our democratic system.

Although the constitutional language does not specifically mention "freedom of information" or "the right to know," there is basis for the contention that these are necessary components of the guarantee of freedom of the press.

Freedom of information is the very foundation for all those freedoms that the First Amendment of our Constitution was intended to guarantee. ...The news function can rise no higher than its source -- the right of the people to know.<sup>3</sup>

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3. Ibid., pp. xiii and xiv.

Because freedom of information is so vital to the press function, the press has been at the vanguard of the effort to gain legislative recognition for the principle of open records.

Rights of the individual. Conflicting with the principle of complete access to government-held information are the private rights of individuals who deal with the government. Records in the hands of governmental agencies frequently contain confidential and personal information the disclosure of which might be considered an invasion of individual privacy.

There is no mention of the right of privacy as such in the Constitution, but it is receiving increasing recognition from the U. S. Supreme Court.<sup>4</sup> Even without specific constitutional backing, the courts traditionally have acted to protect individuals against unwarranted intrusions in a variety of circumstances involving both public and private interests.

Those concerned with the right of privacy recognize the problems that arise when other important rights are at stake:

There are many valuable interests which conflict with privacy. Free speech to one man is unwanted disclosure to another. Telling the news may involve unwanted publicity. Business ventures may involve ascertaining facts which others prefer to remain unknown. Ways must be found to weight competing interests to determine which are entitled to protection. It is only for very good cause that the exercise of freedom to see, to learn, to speak, should entail legal peril....<sup>5</sup>

When information is in the hands of a public agency in connection with a public purpose, the conflicts are even more pronounced. The initial responsibility for weighing the competing interests in these situations seems to rest with the legislature in establishing policy guidelines. The responsibility then extends

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4. Griswold v. State of Conn., 85 S.Ct. 1678, 381 U.S. 479, 14 L. Ed.2d 510. In the majority opinion, Justice Douglas refers to the "penumbral right" of privacy -- a "zone of privacy created by several fundamental constitutional guarantees."
  5. Hyman Gross, Privacy -- Its Legal Protection (Oceana Publications, 1964), p. ix.

to the administrative officials who apply the guidelines and to the courts where contested cases are decided. At each point the decisions are understandably difficult.

It is sometimes argued, for example, that a public employee, a recipient of governmental services, or a person in trouble with the law sacrifices his right to privacy when he goes to work for, accepts services from, or violates the laws of a public agency and that he should expect that the records kept on him will be made available to the public. Under this philosophy, the public's right to know takes precedence over the individual's right of privacy because public funds and public records are involved. However, there is not general agreement on the extent to which this rationale will justify full access to what would otherwise be private information.

Another individual right to be protected is the right of a defendant in a criminal action to a fair and impartial trial. The relation between this right and the freedom of the press has been the subject of much controversy since the recent U. S. Supreme Court holdings relating to the effect of pre-trial publicity. This particular problem is at the moment in the hands of the courts, the bar, and the press, and there is no immediate attempt to impose a legislative solution at the state level.

Public interest. The concept of the public interest as a policy consideration in determining access to public records is not as easily articulated as the right to know or the right of privacy. It might be described as similar to the concept of public policy sometimes used by the courts, but even that description would not be entirely accurate.

It might be said that the term "public interest" refers to what is in the best interests of the community at large, taking into consideration the role and purpose of government itself. Government, along with the press and the individual, contributes to the well-being and security of the community and therefore should be one of the elements weighed in determining the over-all public interest.

Although the concept of the public interest is perhaps the most sensitive element in the determination of what government-held records should be withheld from general public scrutiny, it nevertheless cannot be overlooked. It involves consideration of the fundamental purposes for which a particular public agency keeps certain kinds of records. It requires value judgments regarding the over-all effect on these purposes and on the public welfare generally if the information were made open to the public.

The public interest may best be served, for example, if restrictions are placed on access to certain active police files or on real estate appraisals during negotiations for acquisition of property for public use. It may be in the public interest to

restrict access where the information is to be used for an unlawful purpose. The public interest may require the withholding of information which was received in confidence or pursuant to a federal statute prohibiting disclosure. In these and numerous other situations it is necessary to consider the possibility that disclosure may lead to undue interference with the business of government.

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. (Distrust of administrators' objectivity in handling the release and non-release of information is what has brought the problem to the legislatures.) 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.

### The Common Law

In the absence of statute, the state of the law on inspection of public records is somewhat uncertain. It appears (although there is some authority to the contrary) that reliance on the common law alone will not afford the extensive and universal access sought by those supporting open records legislation.

Although it is sometimes said that the right of inspection exists at common law, it is usually limited to persons having a special interest. Generally, there is no common law right of inspection when inspection is sought merely to satisfy curiosity or to further an improper or useless end or purpose.<sup>6</sup> In the absence of a showing of special interest, there is little likelihood that a remedy can be found at common law when access is denied.

There is authority to the effect that according to the English common law there is no right in all persons to inspect public documents or records. It is, however, to be noted that the English courts have seldom been called upon to enforce a private individual's right to inspect public documents and records except where the inspection was desired to secure evidence in a pending or prospective suit. Accordingly, there was formulated the following common

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6. 76 C. J. S. Records § 35, p. 133 et. seq.

law doctrine: Every person is entitled to the inspection, either personally or by his agent, of public records, including legislative, executive, and judicial records, provided he has an interest therein which is such as would enable him to maintain or defend an action for which the document or record sought can furnish evidence or necessary information. This rule, it is said, is not so much a denial of the right of every citizen to inspect the public records and documents as a declaration of the interest which a private individual must have to avail himself of the extraordinary writ of mandamus to enforce his right. In theory the right is absolute, yet in practice, it is so limited by the remedy necessary for its enforcement that it can be denominated only a "qualified right."

In this country, the person asking inspection must have an interest in the record or paper of which inspection is sought and the inspection must be for a legitimate purpose, but interest as a citizen and a taxpayer is sufficient in some instances.<sup>7</sup>

It is not entirely clear what constitutes a "public record" at common law for purposes of the right of inspection. Frequently the right of inspection has been denied on the ground that the record requested is not one which is specifically required by law to be kept. In many jurisdictions the courts have expanded this concept, however, and now it is not uncommon to find a holding that those writings which are a convenient and appropriate mode of discharging the duties of the office, whether or not expressly required by law to be kept, are "public records" for purposes of inspection.

It is said that a public record is one required by law to be kept, or necessary to be kept, in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done. In all instances whereby law or regulation a document is filed in a public office and required to be kept there,

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7. 45 Am. Jur. Records and Recording Laws § 17, pp 427-8.

it is of a public nature, but this is not quite inclusive of all that may properly be considered public records. For whenever a written record of the transactions of a public officer in his office is a convenient and appropriate mode of discharging the duties of his office, it is not only his right, but his duty, to keep that memorial, whether expressly required so to do or not; and when kept it becomes a public document which belongs to the office rather than to the officer"...8

From the point of view of those who seek assurances of general public access to all public information, the statutory approach is much more desirable than reliance on the common law. Whether a statute merely attempts to codify the common law or whether it enlarges the common law right to include all public writings and access for all persons regardless of interest, it will offer more definite and current guidelines for all to know and follow.

### Statutory Provisions for Open Public Records

Many states have statutory provisions establishing the general principle of open inspection for all public records. The committee has reviewed the language and philosophy of such over-all policy statutes in other states and at the federal level.

Other states. Excerpts from the statutes of other states are included in Appendix A of this report. The statutes included are those which govern public access to records currently held by state or local agencies. Archives statutes which define public records in terms of archival or historical value (that is, those records which are no longer needed by the agency but are still too valuable to be destroyed) have not been included.

Certain general provisions are common throughout these statutes. For example, most states provide for open public access to public records "unless otherwise provided by law." Specific provisions outside the over-all policy statutes are too numerous to reproduce in this report. However, it must be kept in mind that the broad statements in the quoted statutes may be subject to specific limitations with respect to particular types of records.

In a few cases, specific exemptions have been designated in the open records law itself. Among the more common specific ex-

8. 45 Am. Jur. Records and Recording Laws § 2, p. 420.



emptions are records concerning investigations (legislative or police), psychiatric or medical histories, tax returns, and records of public assistance recipients.

Open records laws in most states allow access to public records for any ordinary citizen under the proper conditions. Kentucky is one exception to this general rule, as its statute provides that the records are to be opened to inspection "by any interested person" subject to reasonable rules and regulations. (Emphasis added.)

Copying and photographing are usually permitted wherever inspection is permitted. Reasonable regulations and fees are authorized in most cases.

Most states having extensive open records laws include a penalty provision which applies to any custodian who unlawfully refuses to let a person exercise his right of free access to public records. A few of the statutes contain civil enforcement procedures.

Appendix A includes basic open records statutes from the following 35 states:

Alabama	Minnesota
Alaska	Missouri
Arizona	Montana
Arkansas	Nebraska
California	Nevada
Connecticut	New Jersey
Florida	New Mexico
Georgia	North Carolina
Hawaii	North Dakota
Idaho	Ohio
Illinois	Oklahoma
Indiana	Oregon
Kansas	Pennsylvania
Kentucky	South Dakota
Louisiana	Tennessee
Maine	Utah
Massachusetts	Wisconsin
Michigan	

Federal government. After several years of consideration, Congress in 1966 adopted a "freedom of information" bill. The bill, Public Law 89-487, took effect July 4, 1967. (See Appendix B of this report.)

This was not the first federal legislation on public records. In 1946, Congress enacted what is now Chapter 19 of Title 5,

U.S.C.A., the Administrative Procedure Act, which covered the handling of public records as well as many other administrative procedural matters. This act was the first step at the federal level toward encouraging the issuance of general regulations rather than the determination of rights and liabilities on a case by case basis.

In the 1966 bill, Congress amended Section 3 of the Administrative Procedure Act, the public information section, in an attempt to correct what many felt were weaknesses. The amendment eliminated the "properly and directly concerned" test as a means of determining who is entitled to access, turning instead to the concept that the great majority of the records should be open to all persons. The amendment contained a general statement that agencies shall make records promptly available to "any person" in accordance with published rules and regulations and subject to the following list of exceptions:

- (1) matters specifically required by executive order to be kept secret in the interest of the national defense or foreign policy;
- (2) matters related solely to the internal personnel rules and practices of any agency;
- (3) matters specifically exempted from disclosure by statute;
- (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;
- (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency;
- (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party;
- (8) matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible

for the regulation or supervision of financial institutions; and

- (9) geological and geophysical information and data (including maps) concerning wells.

Congress apparently concluded that unless certain phrases such as "good cause found" and "in the public interest" were replaced by more specific provisions, numerous agencies would interpret these phrases to meet their own needs or desires for secrecy.

Commenting on the bill at congressional hearings in 1965, Eugene Patterson, editor of the Atlanta Constitution and chairman of the Freedom of Information Committee of the American Society of Newspaper Editors, said:

It contains three essentials of sound policy: First, it affirmatively establishes the public's right to fullest possible knowledge of the workings of their Government; second, it specifies with relative clarity the exceptions that can guide and justify Government officials in the legal withholding of sensitive information, ... and third, it provides for court action to require compliance in what I would expect to be those relatively rare instances of actionable denial and legal challenge. Under the prospect of judicial review, however, the main burden would pass to the shoulders upon which it should rest -- those of Government agencies -- to justify their withholding of information, instead of weighing any longer on the American public to prove it has a right to information the agencies alone may choose to withhold.<sup>9</sup>

It is interesting to note that throughout the consideration of this bill most of the federal agencies were persistent in their opposition to both the general concept and the proposed language.

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9. Hearings before the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, United States Senate, Eighty-ninth Congress, First Session, May 12, 13, 14, and 21, 1965, p. 132.

## The Law in Colorado

Colorado has no general statute declaring an open records policy. There are, however, many specific statutes providing for disclosure and non-disclosure of particular types of records. There have also been a few cases in which the Colorado Supreme Court has discussed the inspection and copying of public records.

Statutory law. Many agencies are governed by specific rules, written into the statutes, forbidding public access to records. Examples are the laws on the Department of Employment which require that information gained from an employing unit with respect to persons employed by it must be held confidential and not open to public inspection, other than to public employees in the exercise of their public duties;<sup>10</sup> laws relating to the State Tax Commission which prohibit open inspection of documents supplied to the Commission by the public utilities;<sup>11</sup> laws on the Inheritance Tax Division which hold records confidential containing information set forth in any return required by law;<sup>12</sup> and laws on the Department of Public Welfare which follow federal, as well as state, policies of non-disclosure of information concerning applicants or recipients of federal or state welfare programs.<sup>13</sup>

In addition to statutes which prohibit public access to public records, there are those which require records to be open to public inspection. Examples of this are laws which require school boards to maintain records of their financial transactions and to keep these records open for public inspection;<sup>14</sup> and similar laws on the records and accounts of city manager cities<sup>15</sup> and the cash book of the county treasurer.<sup>16</sup>

As was stated above, Colorado has no general law dealing with open public records. However, in Article 3 of Chapter 131, C.R.S. 1963, there is an archives law which deals with records taken out of circulation due to the fact that they are no longer useful in the current business of the agency but are too valuable to be discarded. The definition of "records" in section 131-3-1 served as the basis for the definition of "public records" in Senate Bill 217.

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10. 82-3-7, C.R.S. 1963.
  11. 137-5-22, C.R.S. 1963.
  12. 138-4-14, C.R.S. 1963.
  13. 119-3-11, C.R.S. 1963.
  14. 123-33-2 (2), C.R.S. 1963 (1965 Supp.).
  15. 139-5-17, C.R.S. 1963.
  16. 35-7-18, C.R.S. 1963.

Appendix C contains a list of the Colorado statutes relating to records of state and local agencies which are open to public inspection and those which are closed. The list confirms that there are many interpretations in Colorado law as to what records are "public records" and what are the appropriate ways of handling them.

The provisions listed in Appendix C are those which specifically require or prohibit public access to records of state and local agencies. Citations which have not been included are: those giving specific officials access to records, unless provisions indicate the exclusion of the general public from access to such records; those requiring minutes, except where minutes are included in a list of records to be opened or where there is a special provision that minutes must be open to the public; those which require reports to be published and submitted to the public, e.g., annual reports, reports sold to the public, and pamphlets for distribution; and notices required to be published in newspapers, listings (unless the publication of such is prohibited), mailing lists, and information required to be posted in a public place.

Summarizing the Colorado statutory provisions as listed in Appendix C, the records designated as closed include the following:

(1) Records which contain information concerning financial operations having a direct relationship to the welfare of the state; for example, the records of the Banking Department concerning the stability of banks and savings and loan associations are closed to inspection by the public.

(2) Records the disclosure of which could be considered an invasion of an individual's privacy; these include recordings of adoption proceedings, illegitimate births, individual test scores, and financial aid to individuals.

(3) Financial recipient records; these are closed except to the individuals specifically concerned. The Department of Public Welfare, for example, may allow an applicant or recipient, or his counselor, to have access to the records which affect him.

Some of the categories of records which are declared open to the public under Colorado statute include:

(1) Records which show the end result of a study or audit; for example, the state auditor's report on an agency is open to the public after it has been submitted to the governor, the legislative audit committee, and the agency involved.

(2) Records related to registration or filing of deeds, petitions, etc., with county officials; however, the statute does not grant the general public access to pleadings or other papers filed in any cause pending in court.

(3) Records dealing with the procedure of boards of directors of various political subdivisions, including special districts such as water, sewage, and local improvement districts; for example, records pertaining to contracts, certificates, and corporate acts are to be opened to property owners or "other interested persons."

(4) Records showing the budgets, office expenditures and other fiscal procedures of state and local offices; generally, fiscal information is required to be open because it is a matter of public concern and disclosure would not be an invasion of privacy or contrary to the public interest.

The statutes contain a few provisions which delegate to the agency head the authority to use his discretion in determining the use and availability of the records in his custody. Examples of agency discretion can be found in the statutes on the Department of Revenue, the Department of Public Health, and the Department of Public Welfare.

Case law. Several of the Colorado cases on public records have been on the question of abstracters' rights of access to the records of the county clerk. The issues have included: (1) denial of mandamus as a means of enforcement in the absence of statute;<sup>17</sup> (2) the power of the county clerk to make reasonable rules and regulations on hours for inspection of records;<sup>18</sup> and the inability of the county clerk to charge abstracters a fee, in the absence of statute, for photographing tract indices.<sup>19</sup> The statutes have been revised frequently to deal with these and other problems with respect to abstracters' use of public records. In general, abstracters now have the right to inspect and copy public records in the clerk's office, subject to reasonable rules, regulations, and fees established by the clerk.

In the Treat case (1961), the Colorado Supreme Court discussed the right to inspect and copy public records, noting:

At common law, due to land ownership by a very limited number of people, there was no general public right to inspect or copy public records. However, this concept later gave way, particularly in the United States, to a recognition of such a right due to our belief in widespread ownership of real property.

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17. Bean v. People, 7 Colo. 200, 2 P. 909.

18. Upton v. Catlin, 17 Colo. 546, 31 P. 172.

19. Treat v. McDonough, 148 Colo. 603, 367 P. 2d 587.

The court, in concluding that there could be no fee in the absence of statute, also considered whether tract indices fit the definition of "public records." They found that, although not required by law to be kept, tract indices were "such an appropriate mode of discharging the clerk's duties that it was not only his right but his duty to keep them" and therefore they should be considered public records.

Dissenting from the majority holding that without statutory authority the clerk was prohibited from charging a fee, Justice Day (joined by Justice McWilliams) stated:

The majority opinion states as the law, for which I see no authority quoted thereon, that what is in a public office is also available to a member of the public for the mere asking, unless there is a statute prohibiting the same. I think, rather, that the converse is true. Unless the law specifically makes the particular subject available to a member of the general public, then one cannot claim it unto himself as a matter of public right....

The most recent Colorado case relating to public access to public information was Times-Call Pub. Co. v. Wingfield, 410 P. 2d 511 (1966). In this case the plaintiff, a newspaper, sought access to the pleadings and other papers in the court file relating to a school bond election which was being contested. The case turned on the construction of a statute providing that "no person, except parties in interest, or their attorneys, shall have the right to examine pleadings or other papers filed in any cause pending in such court."<sup>20</sup> The Supreme Court found that this section, in full context, was not a mandatory prohibition against all public access but rather that it granted the clerk of court discretionary authority to grant or refuse access as necessary. The court went on to rule that "...the election contest... is a matter of wide public interest in the area served by the plaintiff... Times-Call, in the discharge of its duty to report fairly the facts on matters of public interest to the residents of the school district, was entitled to examine the papers filed in the election contest, and, under the interpretation of the statute which we announce in this opinion, to refuse permission to examine the pleadings and other papers on file would be an abuse of discretion...".

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20. Section 35-1-1, Colorado Revised Statutes 1963.

## Proposals for Change

During the First Regular Session of the Forty-sixth General Assembly (1967), a bill was introduced in the Senate to provide for access to all public records except where such access is specifically forbidden by law or by action of court. This bill, Senate Bill 217 (see Appendix D), was passed by the Senate without amendment but was indefinitely postponed by the House State Affairs Committee.

Senate Bill 217 was not the first legislative attempt to pass a law to provide an open records policy for Colorado. In 1959, House Bill 121 provided for records to be opened to citizens unless specifically prohibited by law. The bill passed the House with a unanimous vote of those present, but was postponed indefinitely after being reported favorably by the Senate Committee on State Affairs.

In 1963, two open records bills were introduced. One, Senate Bill 32, was basically the same as the 1967 bill. The other, House Bill 346, defined which records should be closed to the public. After being reported favorably from the Senate Committee on State Affairs and the House Committee on Local Government, both bills were postponed indefinitely by their respective houses, never coming to the floor for a vote.

## The Committee's Assignment

When Senate Bill 217 was postponed in 1967, the Legislative Council was charged with designating a committee to conduct a one-year study of the provisions of the bill "to determine those records of our state and local governments that should be open to public review and those that should have only limited access to such review or should be maintained solely for review by governmental officials in the course of their assigned duties."

If Senate Bill 217 had become law as written, all books, papers, and other official documentary materials made or received by a state agency or political subdivision in pursuance of law or in connection with the transaction of "public business" and preserved or appropriate for preservation as evidence of its organization, function, policies and procedures would have been open for personal inspection by any citizen of this state. Library and museum reference materials and stocks of publications and processed documents would have been excluded from the definition of "public records" and the term "public business" would have been defined as "any transaction involving the expenditure of funds derived by the collection of any tax."

Under the bill the lawful custodian of the records could not have refused access to a citizen unless the inspection were specifically prohibited by law or court order. The penalty for violation



of this provision was a \$100 fine or up to 90 days in jail, or both. In all cases where a person had access to records, he would also have had the right to copy or photograph the records under the supervision of the custodian. The bill would have taken effect July 1, 1968.

Senate Bill 217 was believed to give almost unlimited public access to records at the state and local levels. Some felt the bill would pose problems with respect to personnel records, examination data, and especially records of law enforcement agencies where confidentiality of information was considered necessary to the success of investigations. Many observers were of the opinion that if Senate Bill 217 had become law without enumerating any exceptions, it would have opened the door to a series of disputes, both in and out of the courts. Although in some cases the law is explicit on the status of certain classes of records, there was concern that controversies would arise in the gray areas where there have been no statutory provisions or court rulings.

With these problems in mind, the committee has undertaken to rewrite Senate Bill 217. Hearings were held, written comments were solicited, and several sessions were spent attempting to agree on changes in the bill. The final recommended bill, incorporating some of the original provisions and some additional provisions, is the result of this effort.

## COMMITTEE PROCEDURE

### Generally

The committee held its first meeting early in June. Several representatives of the press were asked to present their reasons for supporting "open records" legislation as embodied in Senate Bill 217.

At this meeting the committee adopted a general policy statement that its purpose was to draft an open records bill for submission to the 1968 session of the General Assembly. The committee also agreed to send a one-page questionnaire, along with a copy of Senate Bill 217, to the various state and local agencies which would be affected. Responses were requested by July 1.

After the replies to the questionnaires had been received and compiled, the committee invited several of the respondees, including representatives of police and sheriffs' departments, to come to a question-and-answer session. At this session, held in mid-August, the committee heard numerous criticisms of and pleas for changes in Senate Bill 217.

The hearing phase of the study was completed at the September meeting when the committee heard from several district attorneys and others interested in law enforcement records. Subsequent meetings have been devoted to consideration of specific provisions for inclusion in the committee's recommended draft of an open records bill.

### Meeting on June 2 -- General; The Press

In the opening discussion of the study assignment, the committee adopted a policy statement to the effect that it is the committee's purpose to finally draft an open records bill to be submitted to the 1968 session of the General Assembly. It was generally agreed that this would involve careful consideration and weighing of suggested exemptions.

The committee agreed to send a letter and questionnaire, along with a copy of Senate Bill 217, to an extensive list of state and local agencies that would be affected by open records legislation. The letter and questionnaire asked for information about the present status of records and solicited comments about the proposed legislation.

Because representatives of the press had been the most vocal supporters of Senate Bill 217, several of them were invited to make formal statements to the committee.

Mr. Zeke Scher. Mr. Zeke Scher, assistant city editor of the Denver Post and a national director of Sigma Delta Chi, professional journalism society, made the following statement:

"The threat of our times to democratic government is not communism or corruption. It is secrecy -- growing secrecy in government and a resulting inability of the electorate to govern intelligently.

"The need of our times is to make freedom more meaningful so that the public can govern, rather than be governed.

"In our nation and state, the responsibility of our times falls heavily on the free press to furnish adequate information for our people to make intelligent decisions.

"That's why there are press members leading off your inquiry today into the need for the proposed open-records law in Colorado -- and not because it is special-interest law aimed at only helping the press.

"There is some irony in our having to stand here and tell public servants that there should be a public law enforcing the public's right to have access to public records on public business.

"It seems that you as legislators and representatives of the people of Colorado would be in the vanguard of this effort to provide some measure of the protection to the public's right to know. Thirty-eight other states already have such a law in force -- and you have been provided with that long list.

"Safeguards are abundant in the proposed law. It provides that records 'specifically prohibited by law' for inspection or records 'designated by law to be confidential' or records closed by 'a court acting pursuant to lawful authority' need not be open.

"Last June 20 in Washington, the House of Representatives voted 307 to 0 in approving a similar open-records law which covers the entire federal government. Two weeks later President Johnson signed it into law.

"It simply lays stress on the fact that every record is a public record unless there is a law on the books that says otherwise. Its exemptions, listed in nine simple categories, are clear. They are listed in the excellent memorandum supplied the committee by the Legislative Council staff.

"The people of Colorado should have similar assurances on the lawbooks that no state or local official or employee will be permitted to withhold information as confidential unless expressly authorized to do so.

"Good government functions best in the light of full publicity. And the servants of the people -- the government employees

and elected officials -- should never have the power to arbitrarily decide what and how much information they should dole out to the public.

"Without an open-records law to provide public protection, public servants may take advantage of the ambiguities of present law to block the right of the public to know of the actions of its public servants.

"California is currently considering an open-records law. It set up a legislative committee to make a study such as yours. I quote from their recommendation:

On the basis of the responses to the committee questionnaire and the decisions of the courts in interpreting the law providing for inspection of public records, the committee supports the enactment of general legislation providing for access based on the public's right to know. Such legislation should apply to all governmental agencies and require all records to be open to the public except where public policy as expressed by statute requires confidentiality. The committee also recommends continued review of statutes granting to specific agencies a privilege of nondisclosure with respect to certain of their records.

"The primary purpose of this committee hearing is to assess the need for enacting a new public records law. It would seem that there should no longer be any need to defend the premise that arbitrary governmental secrecy is bad. The idea that each citizen has the right to know about the operations of his government is the central concept of our democratic system.

"In fact, after our successful experience with the Legislature in 1963, I thought these topics of persuasion would be unnecessary in Colorado for a long time. You will recall that in 1963 the General Assembly approved -- and the governor -- John Love in his first year -- signed into law the open-meetings law. This law now resides as 1963 CRS 3-19-1, proclaiming loudly that public officials shall not conduct public business in secrecy.

"The law has been invoked only a few times, all with beneficial effects. No problems at all have resulted from its enactment to my knowledge.

"I was chairman of the Sigma Delta Chi freedom of information committee that submitted the model bill to a member of this committee, Senator George Brown, who with former Representative Rex Howell in the House, was the moving force behind its passage. He will recall that the present open-records bill was a companion measure that unfortunately fell by the wayside at the time.

"Certainly there are gray areas when specific exemptions are studied. But the parties seeking exemption -- not the governing public -- should bear the burden of proving the right to secrecy by providing specific, valid reasons.

"In the state of Washington, a committee on public records put down in black and white these guidelines:

1. Free access to public records is of paramount importance if the public is to be fully informed, and the bench, bar and press have an equal interest in and responsibility to see that this access is maintained.
2. Except where confidentiality is specifically provided for in statutes, all records which must be maintained by law are clearly open to the public.
3. Every effort should be made to educate not only those among the bar, bench and press but other public officials as well as to the statutes, Supreme Court decisions, attorney general opinions and other authorities bearing on the subject of public records.
4. Any effort by an individual or group to suppress or conceal a public record should be resisted and exposed by the bench, bar and press.
5. The committee should work toward persuading all persons involved to transcribe public records as quickly as possible and make them available to the public.
6. In cases involving matters of public interest, it is entirely proper for the judge writing the opinion or decision to summarize his holding in a paragraph or two to aid the news media in properly interpreting the decision to the public. This is especially important in cases where the opinion is technical or involved.
7. Members of the bench and bar should make every effort to be available to answer questions by communications media representatives regarding public records, and representatives of the media should be sufficiently trained to properly interpret legal actions.

8. The committee urges that public records by arresting officers, whether state, county or city, be kept in numbered sequence.

"Passage of the open-records bill as proposed may not solve every problem in the area of public access to government documents but it will accomplish two very important objectives.

"It will revise the existing philosophy under which the law presently operates. By defining all government documents, with certain stated exceptions, as public records, it will eliminate the complicated subjective tests being used and substitute the same fresh-air approach as enacted in the 1966 federal statute.

"More importantly, no longer will the citizen seeking information from a government office be left in doubt whether he should be able to view a certain document."

Mr. Frank Brown, Jr. Mr. Frank Brown, Jr., publisher of the Summit County Journal in Breckenridge, presented the following statement on behalf of the Colorado Press Association:

"The Summit County Journal is a member of the Colorado Press Association along with 161 other Colorado newspapers representing a combined circulation of approximately 1,200,000.

"I am here today as a representative of these newspapers of the Colorado Press Association. I am here to speak in favor of open records legislation for the state of Colorado and its citizens and hope my presentation will point out why we need such legislation and our reasons for supporting it.

"A preface for my remarks should be both unnecessary and obvious; yet our republic and our state are not the first political institutions where pointed emphasis of even the most basic and obvious concepts have required repeated emphasis and attention for their viable preservation.

"I am speaking, of course, of a cornerstone in our society -- the concept that the government is of, by, and for the people, and derives its just powers from the consent of the governed. I am sure there is no one here who does not subscribe wholeheartedly to these principles, and, further, recognizes that these principles cannot operate without knowledge on the part of the public as to how our government is governing us, and what the administrative agencies set up to serve us are doing. We would like to think that no employee of a political subdivision, whether a department administrator or minor bureau functionaire, would contest these principles.

"It has been said that power corrupts, and absolute power corrupts absolutely. The public passes power from themselves to administrative and executive agencies for efficiency's sake -- they

cannot escape the passing of power if the agency is to serve. Yet here is where a problem arises as agencies grow, as under Parkinson's law, in number, in power, in services, and in involvement. In this inevitable, and apparently irreversible, growth process, another growth occurs: a growth of distance and separation between the governed and the 'governors', and with it a growth of feeling on the part of administrators and bureau functionaires that have something separate and apart from the people; a living organism, by itself, if you will, that knows better what is good for the people than the people themselves. Concomitant with this feeling grows a belief in the necessity of the agency's performing its function more or less in secret, without the meddlesome and often embarrassing questions of the public. If the development of the 'big brother' attitude may seem far fetched or remote, the examples I will soon cite should remove all skepticism.

"There is only one way for the people to retain their power over their governors in this age of exponentially advancing technology where expertise is ever more at a premium. It is to keep what they are doing public and open, not only to the public at large, but to the press which acts as the vital communications link. Without public and open records, and the reporting from them by us, the press, even you, gentlemen, our legislators, our 'last line of defense' would be seriously handicapped in keeping executive and administrative agencies from becoming an unelected government of their own.

"The problem in Colorado is not unique. There are now thirty-seven states in the Union which have laws providing that the public may inspect the records of public bodies and officials. Even though we, like many in those thirty-seven states must have felt, feel the large body of records are now, indeed, public, and accordingly rightfully within the public's right of inspection, open records legislation is still necessary.

"I have mentioned the tendency of agencies to keep more and more of what they are doing from public view. Neither the public, nor the press, should have to depend on a Sherlock Holmes expertise to find out what a public body is doing. Nor should they have to stand at the court house door with writ in hand and a lawyer at their side in order to get information from public records. The open records bill, of which you have a copy, complete with the penalty provision included therein, should remedy this situation by providing an unequivocal statement of the legislature on the 'open' nature of the records kept and maintained by even the most recalcitrant bureau functionaire.

"The first section of the open records bill which we propose deals with the definition of what are public records. This definition comes from CRS, 1963, 131-3-1, enacted into law in the archives section of the Colorado statutes.

"In this section we also have the key phrases of the entire proposed statute. 'In pursuance of law' (or those records required

by law to be kept), and 'in connection with the transaction of public business.' 'Public business' is defined as 'any transaction involving the expenditure of funds derived by collection of any tax.'

"Section 2 states that all such records shall be open for inspection at reasonable times. This section also states that records already specifically closed by previous statute will remain so closed until the legislature chooses to change the law. It also excepts records closed by courts acting pursuant to lawful authority.

"Section 3 calls for a penalty for violations of the bill, clearly a necessity if the bill is to have any vitality at all.

"Section 4 calls for reasonable rules regarding the photographing of records and provides an equally reasonable charge under certain circumstances for such copying of records.

"There is a need for open records in Colorado. Let me state some real situations that are happening in Colorado:

"(1) The legislature directed a state university to hire a national public accounting firm to make a study of the university accounting practices, at a cost not to exceed \$35,000. The study is made by Price-Waterhouse and the resulting report brings on a resignation of the treasurer of the university and the hiring of a new treasurer. The president of the university refuses to make the report public, after a direct request, on grounds that the report is a personal (not personnel) matter and not a public matter. It would certainly appear that this report, for which the taxpayers are spending \$35,000, is a public matter.

"(2) A northern Colorado school district refuses to release for publication the school lunch menus. The parents -- and others who are non-parents -- are paying for the school, and the lunch, directly and indirectly through taxes. It is a public school, set up by the public, and it certainly should be for the public -- not for the private bailiwick of a group of administrators, no matter how well motivated, and no matter how well convinced they are that they know what's best for the public. Certainly the public is entitled to know what kind of food their taxpaying dollar is buying for their children.

"(3) Another northern Colorado school situation involved the administrator of the school district who would not release the salary contracts of teachers to a newspaper for publication. Here again, there are apparently administrators who need an open records bill to remind them that both they -- and the teachers they hire -- exist and perform their tasks in the last analysis for the taxpaying public of Colorado, not for their private selves. There cannot be a question under our form of government that the salaries should be public information.



"(4) In the San Juan area of Colorado a police magistrate issues summons to citizens who have not complied with a local dog ordinance. The town clerk refuses to release the list of names of the violators who received the summons. Don't the citizens who complied have a right for all other citizens to know that they were not the violators? How can the public tell whether or not the police magistrate and the town are doing their proper job? How can the public tell whether or not this is the ordinance they want or not? And if they can't tell this, how are they going to be able to advise their elected representatives one way or the other? In yet better words, how can the governed properly or intelligently delegate their power to govern?

"(5) In the same town a rape occurred. A man was arrested. The sheriff was asked what the charge was against the arrested man, and he refused to cite the charge. It was necessary to get a judge to force the sheriff to release this very basic information. Is this not a secret arrest, and is it not too, unlike methods of enforcement applied by police states? Here, too, how can the public, which is, remember, the reservoir of power and consent in our Republic, correct abuses, or see that laws are changed or enacted, when, in cases like these, those who are supposed to be the public's servants are able to withhold such information?

"(6) Also in southwestern Colorado a newspaper asked the school district for a copy of the school audit for the final six months of 1966. The audit was finally produced after several weeks and repeated requests to the superintendent and the school board. In the audit the CPA mentioned an accompanying letter as a part of the report. When the newspaper asked to see the letter they were informed the letter was a personal matter between the school board and the superintendent of schools. Are not the auditing and the accounting of public funds a matter of public concern?

"(7) Back to a northern Colorado school district, another one, where school officials still refuse access to financial disbursements of the district. One official remarked to the newspaper editor, 'What the public around here don't know won't hurt them.' In another district where executive sessions became almost a fetish, one school board member stated that 'the school board's business is nobody's but its own.'

"(8) In a northwestern part of the state the school district spends in excess of \$1 million and is the largest dispenser of funds in the county. The editor says, and I quote, 'to find out how they are spending \$1 million tax dollars is virtually impossible. To determine who gets what and how much is like asking an anemic for a pint of blood. We get the run-a-round because they don't want local taxpayers prying into the public expenditures of tax dollars.'

"(9) A southeastern Colorado editor printed an article in his paper that the local chief of police didn't like. To retaliate the chief closed all police news to the newspaper editor. If the chief was libeled by the editor he had a right for redress in the

courts. He should have no more right to close off this information than he would have if he had socked the editor in the mouth.

"(10) Also in southern Colorado a county assessor refuses to release the valuation list to the local paper. There was introduced in this very last session of the legislature a bill requiring that assessors make such information public by posting or publication. We believe there is no doubt that the taxpayers have a right to see that the valuations on all assessed properties are equitable!

"(11) In my own area of Colorado's high country, a decision of the State Highway Department, in collusion with the U.S. Bureau of Public Roads, over the routing of Interstate 70 through Summit County was effectively kept even from the Board of Commissioners for over a year. In fact, one member of the State Highway Commission said that the Commission had 'not necessarily made a recommendation', while another member, the chairman, stated that the Commission had not made a recommendation at all. The danger of such secret keeping to the public is most apparent here where a fait accompli can be almost accomplished -- along with a large expenditure of public funds -- before the public even knows how their money is being spent, and for what. An even further danger is illustrated in this case, in that had it not been for what really amounted to 'luck', the window dressing of the public hearing would have been held without the public hardly knowing about it.

"There are now 62 citations under 'Public Records' in the indexing of the 1963 Colorado Revised Statutes. These listings illustrate that through the years it was the intent of the people, through their legislators, except where specific provision is made otherwise, to have public records open for public inspection.

"Additional evidence of this legislative intent might be found where there is cause for records NOT being open to the public; the legislature has specifically spelled this out in applicable statutes.

"Certain classes of welfare payments, certain filings in pending cases, adoption proceedings, illegitimate births in hospitals, income tax forms - in these specific areas the statutes provide that these matters shall not be public records, although it is required that they be kept.

"The statutes would seem to show that whenever and wherever the laws have been written requiring that records be kept by elected or appointed officials, and other representatives of the people, if the legislature has considered it advisable, by way of the protection of rights of individuals, that the records NOT be public, they have without fail, written such a restriction into the statutes.

"On the one hand we have those records the legislature has classed as open records, and at the other extreme we have those several statutes where the General Assembly has specifically closed

certain records. And here's what we're talking about, that great body of statutory records - records of transactions of the public's business - for which the legislatures in the past have somehow omitted to state specifically that these are public records.

"There are almost 100 chapter and section listings in CRS indexing under 'Records', that require that records be kept but that do not duplicate the 'Public Records' index listing. There are over 300 such listings of required records under 'Reports' that are not under the 'Public Records' listing. There are many hundreds of references to required record keeping that are not listed in CRS indexing under records. We think that past legislators intended that the majority of all these records, requiring the keeping of records of public business, were to be public and open records, even though the legislators didn't specifically say so.

"We submit to you that this problem we have with us today, in Colorado, will become inconsequential whenever the legislature declares that it is their intention that all records of public business are public and open records, unless expressly closed by statute. It may be likened to the issue of closed meeting that was handled by an open meeting statute four years ago... we have no problem in Colorado now, the meetings are open.

"Summarizing very briefly, gentlemen, the passage of the open records bill is really a test of the true measure in which we really hold the principles which we so often espouse. Do we really believe that our state, our republic, is a society in which those that govern get their powers by the consent of the governed? Do we really believe this familiar phrase of government of, by, and for the people, or is it simply a high-sounding phrase used to emotionalize at 4th of July picnics?

"People cannot govern themselves, or properly give their consent to those that do govern unless they know, and continue to know what those who govern are doing, and how they are doing it. This has to mean open records legislation. You can't do, you can't act, unless you have the facts.

"If it is said that the records are public now, then we need even more so to make it clear to the custodians of them with this open records bill. Getting the information to participate in a free republic should not depend upon how clever one is, or how much money one has available to engage in court conflicts.

"We believe you and all of us believe in our principles of government which are indeed, lofty. Enactment of the open records bill gives us an opportunity to do something concrete about it.

"Gentlemen, the Colorado Press Association appreciates this opportunity to appear before you and present our position."

Mr. Ned Van Cise. Mr. Ned Van Cise, representing the Colorado Broadcasters' Association, did not have a prepared statement.

He prefaced his commentary by saying that broadcasters, unlike newspapers, are regulated and licensed and are required by the Federal Communication Commission to keep their own records open to public inspection. Thus the broadcasters are not asking public agencies to do more than they themselves are required to do.

Mr. Van Cise indicated his feeling that there should be a broad public policy statement in the law to the effect that all public records should be open. Continuing, he said that the legislature has the responsibility for spelling out the exceptions to a public records law within the context of the broad policy statement; for example, exceptions are probably needed in the area of tax returns and public welfare records.

Mr. Van Cise observed that the "little bureaucrat," rather than the department head, creates much of the problem. Frequently the clerks in the front office are overzealous in the execution of their duties. He stated that the broadcasters feel it might be helpful to have a statutory statement of policy concerning the availability of open records, even though they feel public access is a common law right and as such exists without a statute.

Others. Others present who offered comments at this meeting included Mr. Preston Walker of the Grand Junction Daily Sentinel, Mr. Calvin Frazier of the Colorado Association of School Boards, Mr. Colbert Cushing of the Colorado Education Association, and Mr. Gil Strickert of the American Federation of State, County, and Municipal Employees, AFL-CIO.

#### Meeting on August 11 -- State and Local Agencies; Police

The agenda for this meeting was arranged to provide opportunities for discussion of some of the major open record problems of state and local agencies as indicated in the questionnaire responses received by the committee. Areas covered were: records of a personal and private nature; records involving business and financial data; work in process; school records; county records; and law enforcement records.

Civil Service Commission. Mr. William Hilty, Personnel Director, said that current examination questions, salary survey data received in confidence, and individual employees' records (including medical records) are not now available to the general public. He stated that individuals' test results, confidential evaluations by previous employers, and statements by supervisors concerning employees are matters which should be closed to the public. He said that although public employees work for the public, they should not be deprived of their right to their private lives. His feeling is that confidential evaluations need not be open to review by all taxpayers, since each employee must answer to his immediate supervisor.

Division of Commerce and Development. Mr. Dwight Neill, Director, stated that files developed in working with prospective new industry are handled in a confidential manner. He said that any new legislation on open records should include an exception for such files.

Department of Public Health. Dr. Roy Cleere, Director, stated that medical records of individuals are and should remain confidential. Specifically he mentioned birth, death and legitimation records, reports of communicable disease made by physicians to health departments, reports and records made by health personnel in contact investigations of communicable diseases such as venereal disease and tuberculosis, and medical records of diagnosis and treatment involving crippled children, epilepsy, tuberculosis, and other clinics conducted by the health department. He pointed out that to open some of these records would be to discourage complete and accurate reporting.

Dr. Cleere expressed his concern over the all-inclusive terms of Senate Bill 217. He said that not all of the above-mentioned records are presently closed by statute.

Department of Education. Dr. Raymond McGuire, Assistant Commissioner, stated that the Department is primarily interested in the confidential records of individual students and teachers. In regard to teacher data, he said that university transcripts are usually declared confidential by the universities themselves; that job evaluations may be more indicative of personality conflicts than of actual ability; and that unsubstantiated complaints in teachers' files could be libelous. Dr. Otto Ruff, Director of teacher Certification, added that teacher personnel records are more appropriately obtained at the local level or directly from the college or university rather than from the State Department of Education.

In discussing the present practice of not releasing school dropout rates, Dr. McGuire said this practice resulted from initial agreements with school districts when the Department began gathering the information. The districts felt that the varying dropout rates could be mininsterpreted.

When questioned about the confidentiality of research proposals, Dr. McGuire replied that there is danger that a new and creative proposal, if open to the public, will be copied and submitted by someone else for finding. Also, premature release might be unwise in view of the uncertainty of federal and foundation funding.

Department of Institutions. Mr. David Hamil, Director, said that hospital patient records in state institutions should be held confidential. Apart from this, Mr. Hamil said, the Department attempts to make all information available to the public. Mr. Hamil stated that he does not recall a single instance when information

not now protected by law was requested by any citizen when it was not made immediately available to him.

Department of Insurance. Mr. Richard Barnes, Commissioner, stated that it is the policy of the Insurance Department to allow only "interested parties" to have access to the records and to resist meddling by others. Most of the Department's records are regulated by state law. Mr. Barnes suggested the adoption of new statutory language to provide that information supplied to the Department in connection with reasons for terminating an agent could not be used as evidence in a libel suit. This would help overcome the companies' fear that their statements could be used against them, he said.

Banking Department. Mr. Harry Bloom, Commissioner, reported that the Banking Department is governed by state and federal banking laws which he feels are adequate to protect those records which should be kept confidential.

Industrial Commission. Mr. James Shaffer, Chairman, stated that information dealing with private business is held confidential. Concerning building inspection reports, Mr. Shaffer said that records concerning buildings such as school buildings or other public buildings are not closed.

Department of Revenue. Mr. Myron McGinley expressed concern over the difficulty of keeping records intact and in order if the general public were allowed to wander through them arbitrarily. He said that when the Revenue Department sells lists of individuals to industry to be used for promotion purposes, the cost is determined by the amount of microtape sold.

Mr. Frank Mansheim of the Motor Vehicle Division suggested that the provision in Senate Bill 217 concerning photographing and copying of records be changed so that the custodian, not the person requesting access, would have the first option to make photographic copies.

Department of Highways. Mr. Charles Shumate, Chief Engineer, asked the committee to consider three types of exemptions: (1) real estate appraisals for rights-of-way; (2) personnel records; and (3) financial statements from contractors seeking to qualify for bids.

Commenting on the confidentiality of real estate appraisals, Mr. Shumate said that publicity on an appraisal prior to final negotiation could endanger the Department's position. He would prefer withholding the appraisal until the case goes to court, but he has less objection to disclosing the appraisal to the individual landowner involved if it is not made general public knowledge. Mr. Shumate said that the state of Maryland at one time had made appraisals open to public inspection but ran into such problems that the law was repealed.

Department of Public Welfare. Mr. Tom Nelson, attorney for the Department, stated that the Department's disclosure policies are governed by federal and state laws. He explained that the so-called "Jenner amendment" modified the earlier strict "no access" laws to allow states to grant greater public access to welfare records. Colorado laws have not been amended to reflect this change, however. The U. S. Department of Health, Education, and Welfare is not in sympathy with the philosophy of extended access to welfare data.

Civil Rights Commission. Mr. James Reynolds, Director, said that by statute the filing of a complaint with the Commission cannot be made public until the point of public hearing. The person against whom the complaint is filed is of course notified of the charges. Frequently the complainant discloses the facts prior to hearing; the prohibition against disclosure applies only to the Commission itself.

Inheritance Tax Division. Mr. Neil Tasher, Commissioner, commented that all inheritance tax returns are closed. By law, probate records are confidential except to "persons in interest," who are not necessarily the same as "persons interested therein," according to court decisions.

Colorado Association of School Administrators. Dr. Edward Pino, Superintendent of Schools, Cherry Creek, spoke on behalf of CASA and the Colorado Education Association. He stated that since public schools are public business, as much information as possible should be available to the public. So far, Dr. Pino observed, there have been few statutes on open or closed records at the local school district level.

Business records of the school district should be open to the public, he said, but certain confidential student and faculty records should be closed. He registered the opinion that not all student and faculty records need be closed, but that confidential information from parents and placement offices should be open only to administrative personnel and the individuals involved. If evaluations of teachers were open to the public, he said, unfavorable evaluations would not be freely given and honest evaluations would go underground. Teachers' background records are available to the school board members as a matter of district policy, Dr. Pino said. Dr. Pino also expressed concern over the problem of allowing access to unsubstantiated charges in a teacher's file.

Colorado Association of County Commissioners. Mr. J. Fred Schneider said that all of the county commissioners' records are open to the public by state law. He feels the right of privacy does not include those things done in a public office. Financial records in particular should be open. Counties are required by law to make public all expenditures. County personnel records are likewise open to the public.

Colorado State Patrol. Chief Gilbert Carrel said that the Patrol has over 500 different report forms for use in its operations. Reports such as summonses, warning tickets, and penalty assessment tickets are withheld from the public until proceedings are finalized. Incident reports, personnel records, and efficiency evaluation files are considered confidential. Other records, such as messages received through the law enforcement teletype system cannot be disclosed without consent from outside sources. If information coming into Colorado from other states were declared open to the public, the Patrol would lose the privilege of this communication.

The manual containing the Patrol's rules and regulations is not open to the public. Chief Carrel feels if it were open and available to everyone the officers would be faced with law suits for non-compliance with regulations.

Colorado Association of School Boards. Mr. Frank Miles presented a summary of replies to questionnaires he had sent to school board members and superintendents of schools. (The summary is contained in Appendix E of this report.)

Mr. Miles noted that the basic question in this study is how to balance the interest of the public against the rights of the individual. He pointed out that a majority of the replies to his questionnaire reflected the view that personnel and pupil records of a personal and private nature should be closed. He also noted that many school board members believe that the results of standardized tests should not be made public, even in terms of over-all group results. Concerning the problem of individual complaints against a teacher, school board members generally feel that if unsubstantiated complaints were made public, the teachers involved would lose their effectiveness in the classroom even though the charges were untrue.

Colorado Sheriffs' and Peace Officers' Association. Mr. A. S. Reeder, Secretary, stated that law enforcement officers are not opposed to Senate Bill 217 in toto; they are merely asking for certain exceptions to the general provisions, i.e., criminal investigation reports. Law enforcement officers are concerned that innocent people might be hurt and are further concerned that informants would no longer cooperate with the police if all records were open to the public.

Sheriff Guy Van Cleave of Adams County also expressed his concern that Senate Bill 217 contains no provision exempting criminal and intelligence records from the open records requirement. Law enforcement agencies have a nationwide private line communication system, and all states participating in the system must guarantee that information received is confidential. To open records which include information from this source would mean the end of this communication for Colorado, he said.



Chief Harold Dill of the Denver Police Department noted that the Department feels it has a good working relationship with the press. There are some restrictions on records such as accident and offense reports, in that the details of the offense are blocked out to prevent the casual observer from gathering information which at a later time is shown to be false. The follow-up and continuation reports are subject to greater restrictions. On these the police follow the guidelines from the district attorney's office. Arrest records are now a sensitive area because of F.B.I. restrictions making them available only to other law enforcement agencies.

Colorado Bureau of Investigation. Mr. James Shumate said that the local law enforcement agencies will hesitate to submit information to the newly established C.B.I. if the information were available to the public. He observed that if reports of evidence were made available to "any citizen," the information frequently could be used to the criminal's advantage. Opening police investigative records would reduce the effectiveness of the investigation and would mean the loss of F.B.I. assistance.

Others. Others making informal statements on law enforcement records included Chief Spencer Garrett, Aurora Police Department; Harold Davis, Colorado Springs Police Department; Chief George Hedrick, Rifle Police Department; and Sheriff George Martin, Powers County.

#### Meeting on September 26 -- District Attorneys; Bar Association

At the morning session the committee completed its hearings. The afternoon was devoted to work on the language of the bill.

District Attorneys' Association. Mr. Rex Scott, District Attorney in Boulder, commented that recent U. S. Supreme Court decisions have led law enforcement agencies to bend too far toward completely closing their records. Between the two constitutional principles of free press and the individual's right to a fair and impartial trial, there should be a balance which could be agreed to by all sides.

The district attorneys' primary objection to Senate Bill 217 is that the definition of public records is not restricted to records required by law to be kept and does not exclude law enforcement records. If law enforcement records were excluded from the definition, the remainder of the bill would be acceptable.

Mr. Scott expressed his opinion that a great deal can be done by the representatives of the press and the bar in reaching an agreement as to which records will be available and under what conditions. With an agreement of this sort there might not be need for a statute.

Mr. Ed Juhan, District Attorney for the First Judicial District, in a formal statement, referred to the problem of information

secured from an informant. He said the disclosure of either the records or the identity of the informant would make it difficult for the government to secure similar information in the future. The public interest to be protected in this case, he said, is that of the government being able to acquire information necessary for the efficient conduct of the public's affairs.

Mr. Juhan said that, as a rule, a record should not be kept from the public solely because it is found in the office of an agency whose activities include law enforcement. It is the nature of the particular record and the interests to be protected in its disclosure or nondisclosure that should be determinative.

He recommended that the bill should spell out explicitly in what situations government records are available to the public. It should set forth the limits and standards by which the administrators can be guided. In particular, the various conditions under which one may obtain information from peace officers and district attorneys' files should be expressly spelled out, Mr. Juhan said.

Mr. Greg Mueller, Assistant District Attorney in Denver, presented a statement from Mr. James McKeivitt, Denver District Attorney. Mr. McKeivitt said that certain records of district attorneys, the police departments and other criminal investigative agencies should be made an exception to the proposed legislation for the following reasons: (1) It has the effect of impairing the advocacy system in our courts, in that defense attorneys would have the unfair advantage of access to all records of the district attorney while the work product of the defense would be protected by the attorney-client privilege; (2) Certain records are now available to defense attorneys subject to the discretion of the court to insure a fair trial, and this procedure is adequate; (3) Many times people suspected of crimes are later cleared through investigation and for their benefit this type of record should be kept confidential; and (4) Criminal prosecutors should be exposed to no different rules or requirements as to their work product than defense attorney or civil trial lawyers regarding the confidentiality afforded them, subject to the rules of discovery set forth by the court.

Mr. Ray Harward, District Attorney from Canon City, said that accusations found in law enforcement records could be used for blackmail purposes whether or not founded in fact. He stated that there is no reason why records containing information about public officials' performance of duty or administrative records of a department should not be open to public inspection. He added that investigative records become public records when a case goes to court.

Colorado Bar Association. Mr. Hardin Holmes, Vice President of the Colorado Bar Association, reported that he is chairman of a committee made up of representatives of the Bar Association and the press which is trying to arrive at some solution to the problem of accessibility to and use of law enforcement records. The committee

is trying to develop guidelines, with emphasis on the professional responsibility of the people involved. Mr. Holmes feels a great deal can be done informally, without a statute, by developing a more sensitive approach among newsmen and lawyers when dealing with information which could be prejudicial.

Mr. Holmes cited the state of Washington as being one state in which basic guidelines have been adopted by the bar and the press. His committee hopes to develop something similar for Colorado.

Others. Others making brief presentations at this meeting were Captain Doral Smith of the Denver Police Department and Mrs. Norma Hessler. Captain Smith reiterated the concern of police departments over the possibility of having certain records open to public inspection; names of informants, offense reports, intelligence records, and plans for handling major crimes and riots. He presented a resolution from the Western Area Network Telecommunications System, stating that communications would no longer be forwarded to Colorado if Senate Bill 217 is adopted. (See Appendix F.)

Mrs. Hessler urged that all records on fiscal matters should be open to ensure agency fiscal responsibility.

#### Other Meetings -- Drafting a Bill

Subsequent meetings were held on October 4 and 9 and November 1. These were primarily committee work sessions devoted to consideration of the language of the bill and committee report.

## QUESTIONNAIRES AND REPLIES

In early June the committee mailed a letter and questionnaire, along with a copy of Senate Bill 217, to an extensive list of state agencies, representatives of local governmental units, and others interested in the effects of the proposed bill. (See Appendix G for a copy of the letter and questionnaire.)

The questionnaire asked what records in the agency or office are presently closed; whether they are closed by law or administratively; and, if closed administratively, what the reasons are. The committee also asked for the respondents' opinion on whether the records listed should be closed by law.

Further questions covered the role of federal laws and regulations and the practice of opening records only to particular sectors of the public such as the press.

### Summary of Replies from State and Local Agencies

The responses from state and local agencies are summarized below. (Because of the special interest of law enforcement agencies in Senate Bill 217 and its implications, the replies from police departments and sheriffs' offices have been included in a separate section.)

Approximately 90 replies were received from the state and local agencies which might be affected by open records legislation. Some common factors could be noted among the replies:

(1) There seemed to be general agreement that individual files on employees, students, patients, and clients are records of a private and personal nature and should not be open to the general public. Files in this category include health, medical, and social records, transcripts and test scores, and letters of evaluation. Personal financial information might also be included in this "invasion of privacy" category.

(2) Another area of general concern involved confidentiality in testing and examinations, whether for professional licensing, in an educational setting, or in testing for employment. Test questions and keys, notes of examiners, and individual scores were items often mentioned as inappropriate for public disclosure.

(3) In view of the possible interpretation of the proposed statutory language as including all types of correspondence, working materials, and files, several agencies mentioned the problem of timing. Premature release of investigatory data, work in process, purchase negotiations, industrial development information, etc., while the project or publication is still in its tentative stages, was frequently listed as one of the dangers. The general

feeling was that in these instances public disclosure should await final approval, disposition, or formal release date.

(4) Those agencies which deal with financial, commercial, and "trade secret" type information obtained from businesses and individuals strongly favored keeping such information confidential. They emphasized the possibilities of misuse of such information by competitors and others.

(5) The replies contained numerous pleas for a law which would allow administrative discretion in determining which records should be open to the press and the public, at what times, and under what conditions. There was concern about the possible burden of providing facilities and services for those requesting access to records and about the possibility of abuse and harassment by individuals without a legitimate purpose or need for the information. Another area of concern was the release of lists of names which may be used by commercial agencies as "sucker lists."

(6) There was some thinking that geological and production information on water, oil, etc., could be misused if complete open public access were provided by law. An exception along these lines was amended into the federal "Freedom of Information" law which recently went into effect.

(7) It should be noted that many of those replying to the questionnaire felt they are adequately covered by present state and federal statutory provisions relating to records handling, and therefore would be unaffected by the proposed new law as long as it provides for retention of present statutory exceptions.

More detailed and specific comments will be found in the summaries and excerpts that follow:

Abstracters Board of Examiners. Examination papers of individuals seeking Certificates of Competency are closed administratively because of the personal nature of the examination. The board feels that information should not be given out unless cause is given for the need.

The board cites a letter from the Attorney General's office to the effect that a listing of qualified abstracters and a copy of the rules may be obtained from the board by the person requesting it, but that the annual reports must be obtained through the Governor's office. This letter further states, "...to examine any records of the Board of Examiners of Abstracters, an individual must have a valid reason for examining such records and not be examining them simply out of idle curiosity."

Board of Accountancy. All personal records of Certified Public Accountants, Registered Accountants, and candidates sitting for examinations are closed because they are of a personal nature. If they cannot remain closed administratively, they should be closed by law, the board feels. Certain of these records are open

to governmental agencies in investigations for security reasons and employment, etc., but are closed to all others. Personal files on individuals contain college transcripts, letters of moral character, letters concerning work experience, examination grades, and personal data, and should be privileged.

All other records are public and open to inspection.

Division of Accounts and Control. The following records are closed to the public by administrative ruling: individual employee records, including civil service ratings and garnishments; budget data and the annual budget documents, prior to submission to the General Assembly; confidential reports or memos prepared for the use of the Governor's office; studies and surveys in the preparation stage; fiscal notes, prior to distribution to the General Assembly, or to legislators requesting such information; fiscal rules being prepared; data being processed for another state agency; incoming and outgoing mail; and specific data on flood audits, emergency or disaster plans or federally supported studies or projects.

The Division states that if there is to be a law covering the information listed above it should provide that agency information should be subject to release at such time as is convenient or appropriate. Personnel data on individual employees and data on files being processed for another agency should be confidential. If individual employee information is to be available to the public, it should only be for the purpose of compiling general statistical data; otherwise, it should be subject to release only upon approval by the employee.

Under most circumstances, depending upon the particular time, most information is available to anyone requesting it. It is felt by the Division that the agency head should be allowed some discretion as to making all records available to everyone.

Subordinates within a department or agency should be authorized to release the requested information only upon specific approval by the agency or department head. Each agency or department should have some written policy covering the release of such information and the procedure for handling it if the agency or department head is not available to authorize its release.

Certain programs are subject to federal laws and regulations and, as such, any information would be subject to whatever control was imposed by the federal government. This would include the Flood Audit program, emergency or disaster plans, and special projects or studies.

Department of Agriculture. Several of the divisions have restrictive statutory provisions or administrative regulations against disclosure, to keep competitive businesses from using the

information to unfair advantage. Specific records are available only to those financially involved but data on a total basis can be made available to the public.

In the Weights and Measures Division it has been an administrative policy not to reveal information as to violations and disciplinary actions against any individual or company, as it might be used by competitors unethically.

Personal business and financial data are kept confidential.

Anatomical Board. The board's file of forms signifying the desire of the signer to give his body, after death, to the board or the medical school for research, is not open to the public. The board feels these forms are in the nature of wills and are personal and confidential.

The board does not feel it would be appropriate to close these files by law, since on specific occasions it is necessary to reveal the information to officers of courts, welfare personnel, police, or to medical personnel.

Board of Examiners of Architects. The board feels that past performance records of individuals are tendered in confidence, and since they could be misused, they should not be available to the public. This includes applications, affidavits, grades, etc. Basic records required by law are open to the public.

Division of Archives and Public Records. As far as the records of the archives agency itself are concerned, none are closed to the public. However, consideration should be given to time and place and available agency personnel so as to disrupt the regular course of business as little as possible.

As for the records deposited in the archives, the problems of administration are manifold and complex. As public trustee of those records, the archivist stands in place of the original legal custodian and follows the same rules or statutes as bind the legal custodian.

A very small percentage of records are considered to be privileged or restricted and these, in the main, are those which have been so designated by statute. There are also some which are administratively closed for general public research until a specified date, but it is generally understood that if a specific piece of information is needed, the archivist will research the question if the person can demonstrate a valid use or need for such information.

"Unfortunately, not every individual who seeks to use the public record is necessarily altruistically motivated; nor are all motivated by legitimate business or official purpose. A considerable number seek information to be used for vicious or malicious purposes... When the Archivist is aware of such perverted intention

for use of records he is bound to exercise some evaluative judgment ... If such an individual should feel unfairly treated or discriminated against he has recourse by statute to appeal the Archivist's ruling to the Governor. Or, he can resort to due process of law."

The archivist expresses concern over any law which does not permit discretion, judgment, or common sense regarding orderly and appropriate use of the public record. There are moral and ethical questions involved in how and for what purpose the information is obtained. The constitutional right of privacy of individuals is involved.

"There is presently in the New York courts a suit which we are watching with interest, a suit brought to prevent the State of New York from continuing to sell its annual list of over six million vehicle registrants to the highest bidder. It is charged that the sale constitutes an 'invasion of privacy' resulting in the car owners being flooded with 'junk mail and merchandising solicitation.'"

Colorado Assessors' Association. The personal property schedules and exhibits attached thereto are closed as provided by the general property tax law.

Department of Auditing. Work papers supporting audits of state agencies, and files and papers on audits in process or prior to release, are closed by administrative action.

In appropriate cases, work papers covering prior audits are made available to outside C.P.A. firms engaged to make audits of a designated agency.

Banking Department. All records of the department are closed with the exception of charter applications on commercial and industrial banks, reports of condition published in newspapers, and annual reports published by finance companies under the consumer finance laws.

Employees are required by law to take an oath to keep secret all information acquired in the discharge of their duties.

Federal rules on non-disclosure also apply to some of the information of the department.

Improper disclosure of information by the Banking Department could have the following results:

- (1) Adversely affect the stability and welfare of the banks or other financial institutions to which the information relates.
- (2) Unreasonably and improperly interfere with confidential business relationships of banks and other financial institutions.
- (3) Constitute a breach of confidence between the Commis-



sion and the Banking Board and those dealing with them, thus impeding the collection of information which cannot be obtained except on a voluntary and confidential basis.

(4) Permit speculators and others to obtain information which might be used for their own personal advantage.

(5) Cause misunderstanding which might result in impairment of public confidence in a bank or other financial institution.

The Commissioner also states that proceedings concerning the removal of an officer or director of a bank would seriously affect the soundness of an institution if disclosed to the public.

Publications containing statistical information are normally available to all persons properly and directly concerned.

State Cemetery Board. All records are closed administratively. It is felt that the person having a need to secure the information can secure it through the cemetery involved.

Chiropractic Board. By administrative ruling of the board, the grades of examinations are not public. The board feels an individual may pass a subject with just a passing grade and suit could be brought against him using evidence that this was a weak subject.

Although all records are closed to the public, press people have been given certain information on request if the information will not harm an individual.

Civil Rights Commission. Information pertaining to the filing and processing of a complaint, up to and including efforts to effect a conciliation, is closed by statute.

Civil Service Commission. Examination books and questions, test resource files, and test scoring keys are all closed administratively. Completed test papers and test record cards are items of a personal nature and should be open only to applicants and authorized personnel.

Names of applicants are not released prior to an examination in order to avoid undue influence or pressure and to protect applicants from possible adverse reactions of present employers. However, applications of individuals on eligible lists have been made available for inspection to the press and persons representing groups such as employee associations or unions when requested. This has usually only been in cases when a higher level position of special interest is involved or when a question had been raised about the results of an examination.

Reference material obtained on applicants is confidential. Employers are reluctant to provide information on any other basis except when only favorable comments are made.

Medical history and related data are normally only obtained with permission of the applicant and are highly personal in nature. They should be closed by law.

Names of oral board members prior to completion of an examination are not released in order to avoid possible improper contacts. Comments on oral board members (regarding the future use of such persons on oral boards) are of a personal nature and should be closed.

Personnel folders containing material of a confidential nature should be closed, although some information might be pulled out for release where appropriate to the press, employee representatives, or others with a legitimate interest.

Salary data which identifies sources, particularly private employees, has not been released because most private employees consider their salaries confidential and would not participate in surveys unless the confidentiality of data is protected.

Collection Agency Board. All records regarding collection agency licensees are very confidential and should not be open to public inspection. A complete financial record of each licensee is maintained by the board; these and matters involving complaints are all very confidential.

Colorado Association of School Administrators. In the schools, students' and teachers' personnel records are closed administratively because they are of a confidential and personal nature and are privileged information. Perhaps they should be closed by law.

All vital statistics such as name, birthdate, address, academic record, etc., are now open to the public both in the school district and in the State Department of Education.

Colorado Education Association. Student and staff personnel files in the public schools are closed administratively. They frequently contain personal data about the individual which should not be made generally available. Further, the material in the files is frequently of a technical nature requiring a level of competence for appropriate interpretation. A single item, such as a test score, cannot be appropriately construed to provide conclusive data unless it is understood in the total context. The present statutory language (123-1-12 (3), C.R.S. 1963, 1965 Supp.) spells out both a precedent and a reasonable answer to the question of the extent to which personnel records should be open.

Teacher personnel files include such information as health records, supervision records, performance records, and letters of confidential evaluation. To make such records generally available to the press would first be an inappropriate invasion of privacy, and secondly would cause such records either to go out of existence or be driven underground.

Colorado Federation of Teachers. The CFT expressed its concern that teacher personnel records might be considered public records. A teacher's personnel file at whatever level should be available for his own and his superiors' inspection but should not be open for personal inspection by any citizen.

Division of Commerce and Development. Files developed in working with prospective new industry are generally closed. "To be effective in working with potential new industry, it is essential that our contacts and files be handled in a highly confidential manner."

The division refuses to distribute lists of respondees to promotional advertising. Requests for this information come from real estate agents, local employment agencies, etc.

The division requests that administrative discretion be permitted in the above areas.

Board of Cosmetology. The examiners' notes and grade sheets on the practical examination are personal and could serve to embarrass the student. Therefore the board feels the results of the practical examination should be closed to the public. All other records are public.

County Clerks. (Answers were given for Denver only.)

Records are open to the public with restrictive measures as to the use of records by persons securing same. This is by administrative authority only.

Because of the volume of business and work load, the clerk's office restricts photographing and viewing of all records with the exception of title companies, which the statute provides for, and their jurisdiction rights, news media, or other agencies of government and needs for individuals and companies, providing the individuals and companies do not use the records for commercial use.

Board of Dental Examiners. No records of the board are closed. Information is available for the press or the public, providing any one of the examiners is present for explanation.

Office of Economic Opportunity. All records are open for inspection at any time.

Department of Education. Student test scores and records concerning individuals are closed by law.

Records closed administratively are: (1) teachers' transcripts, teachers' medical and psychological reports, and certain types of legal matters; (2) school and district dropout rates; and (3) research proposals being formulated or submitted. Library records closed administratively are: (1) the borrower registration file; (2) the circulation file; (3) the employee data file; and

(4) files containing correspondence of a "confidential" nature.

Teacher and student records are confidential and are the personal property of either the teacher or student or the Department.

Research proposals are closed administratively to avoid plagiarism of ideas and to avoid unnecessary anticipation by the public as to whether or not a proposal may be funded.

Speaking in behalf of local school districts, the Department recommends that individual student records and test scores and individual teacher records such as transcripts, letters of recommendation, evaluation reports, and medical and psychological reports be closed by law to protect the students and teachers from unnecessary damage to reputations.

Department of Employment. The Department cites the present statutory provision on the confidentiality of its records and interprets it to mean that all departmental records relating to individuals or employing units for whom the Department renders services are confidential and can be disclosed only to public employees in the performance of their public duties. This protects employers from unfair competitive advantage in such matters as payroll tax rates and employees pay scales and it prevents the pirating of skilled individuals by one employer from another. It also prevents the disclosure of personal information relating to claimants and applicants.

Impersonal statistical material will be compiled and made available to any sectors of the public who request or desire it.

Federal rules apply to the disclosure policies of the Department.

State Engineer. The State Engineer reports that lists of water priorities have in the past been considered as not public information but are now being opened to the use of engineers and attorneys who need them.

Personnel records relating to employees' status are denied the public.

Lists of employees which might be used for sales purposes or "sucker lists" have been denied to industrial firms.

Correspondence with attorneys and engineers regarding controversial matters which are expected to go into litigation have been denied the public.

Information provided by operators and well drillers regarding ground water matters with the understanding that it would not be made public, is kept confidential.

Department of Game, Fish and Parks. Records of a personal nature in personnel files and records concerning negotiations for land acquisition are administratively closed. The Commission feels that these files should remain closed to the public.

Governor's Office. Records of inmates in institutions and correspondence are closed administratively to protect the inmates and their families. There are many persons writing to the Governor's office who make statements which would not otherwise be made if the statements were open to the public. It is felt these records should be closed by law.

Department of Public Health. The department feels "Senate Bill 217 is entirely too broad and compliance with its provisions would likely result in infringement upon the common law and statutory rights of individuals. It fails to cover all matters wherein there has been a privileged communication between physician and patient and attorney and client... It would open up a question as to every confidential record in this department, including those which prior statutes have declared to be accessible only upon court order or consent of the person or persons affected."

Records the department feels require protection as to confidentiality from the public at large include: medical reports pertaining to individuals, social records based on confidential information gained through interviews with the person and/or members of his intimate family, in the areas of the alcoholism program, crippled children's program, mental retardation, mental health, venereal disease control, tuberculosis control, pesticide studies, laboratory reports covering the whole spectrum of chemical and bacteriological analysis and vital statistics records and allied information. These kinds of records have historically been protected as to confidentiality. Administratively, certain vital statistics information has been made available to persons who appear to have a need to know the contents.

Generally speaking, the department states, all federal laws providing protection of personal and individual rights and civil rights must be taken into account, along with the new federal "freedom of information" law which will affect loans, grants, and projects involving expenditure of federal funds through the department.

"It is not believed too practical or expedient to legislate specifically as to all kinds and types of records that are to be open to the public and those to be treated with some degree of security and to define those different degrees. The department head with advice from legal counsel where there is any doubt is the person most knowledgeable to make the determination of need to know and the character of the information contained in the record as well as the facts and circumstances under which the information was obtained..."

"If there is a determined effort to legislate on the matter at all, it should be an endeavor to categorize and delineate in general terms those kinds of records, reports, statistical data and other categories that the press and public can expect to find as classified with some degree of confidentiality by law or by the custodian. This would put the public generally on notice that it has no blanket right to information just because certain information is within the files and confines of a public office irrespective of the legal rights of persons it would affect... It is believed that our administrators will properly carry out their duties in this area without such legislation."

Commission on Higher Education. The Commission expressed concern that the bill's broad definition of "public records" could be construed to include any staff document or working notes affecting internal operations of a state agency, including plans or proposals still under very tentative discussion, on which public disclosure might be either premature or not in the best interests of the public. Some provision should be made for the protection of such staff documents or working papers.

Documents or records of testimony given in confidence in executive session would be closed by law.

Documents of institutions of higher learning which involve the rights of individuals to protection against invasion of privacy, or the professional privilege of staff persons such as medical and counseling personnel, are commonly treated as confidential. These would include such documents as personnel records of employees, candidates for employment, students, and prospective students, involving health records, test scores, and evaluations given in confidence by references. They would also include classified records of a confidential nature reflecting personnel actions, supervisors' evaluations, and the like, affecting the welfare or reputation of individuals.

It would appear appropriate to rely on the professional judgment of those administratively charged with responsibility for records administration, and attempt to specify only broad categories.

Department of Highways. Practically all of the Department's records are open to public inspection, with the exception of the following:

- (1) Real estate appraisals made in connection with right-of-way acquisitions;
- (2) Portions of personnel records relating to private matters of the employees;
- (3) Confidential information contained in the pre-qualification statements from independent contractors.

As for real estate appraisals, the Department spends a great deal of taxpayers' funds to pay for these appraisals and if they were made available to the public, the information might be used to further private interests. For example, land speculators purchasing land along new highway routes may take advantage of the appraisals. Also, public knowledge of appraisals would put the Department at a great disadvantage in adversary proceedings for the acquisition of rights-of-way in condemnation cases.

State Historical Society. Some library and museum materials are old and delicate and access to such materials must be subject to some discretion. Also, some materials are given to the Society with express restrictions as to use (for a specified length of time usually based on lives of persons who might be embarrassed by public revelation of the material).

Industrial Commission. All records of the Apprenticeship Council are closed. They contain confidential information relating to wages, hours, working conditions, program content, and names of employees receiving skilled training, including personnel selection methods -- all of which the Apprenticeship Council feels should be made available only by consent of the program sponsor.

The Industrial Commission is required by law to keep confidential certain information obtained from employers and employees. Information gathered through inspections is also confidential.

In connection with workmen's compensation, the medical records are confidential but generally the claim files are a matter of public record.

The Commission has no objection to full disclosure of non-privileged information such as statistical matter or overall operational and budgetary reports.

Inheritance Tax Division. All records are closed, some by law and some administratively. Those specifically closed by law are intermingled with others, so that none are open to the public.

Insurance Department. All reports which the statute requires be filed with this office are maintained as public records, available to any member of the public during normal office hours, provided the viewing at any particular moment does not seriously interfere with the operations of the office.

Pursuant to an Attorney General's opinion, written complaints from policyholders or claimants and written statements respecting insurance companies are considered confidential and are not available for review by any member of the public.

In addition, the Department has treated reinsurance treaties which are requested by the Commissioner, but not required by statute, as confidential records. The Attorney General has upheld the

confidentiality of these materials on the basis that they are not public records required by law.

The department has been interested in a bill which would have specifically classed as prejudiced information anything filed in connection with the termination of an agent, but in light of Senate Bill 217, the bill was not introduced. However, such a statute would assist the department in obtaining more accurate and complete information in connection with a company's reason for terminating an agent.

Joint Budget Committee. Records are open to the public except:

- (1) Executive session notes.
- (2) Materials of a personal and private nature, such as members' correspondence from constituents.

Judicial Department. The constitution provides for the confidential and privileged nature of papers filed with the new commission on judicial qualifications.

The statutes restrict disclosure of adoption, relinquishment, and other juvenile records and case files.

By statute (35-1-1), no person, except parties in interest or their attorneys, has the right to examine pleadings or other papers filed in any cause pending in district or county court. This statute was construed in Times-Call Publishing Company v. Lindsey R. Wingfield and William M. Gardner, Colorado Supreme Court No. 22168, January 31, 1966. The court held that the statute "does not mean that judges and clerks of courts of record are prohibited from allowing persons other than parties in interest or their attorneys to examine the pleadings or other papers on file in such courts... Times-Call Publishing Company, in the discharge of its duty to report fairly the facts on matters of public interest to the residents of the school district, was entitled to examine the papers filed in the election contest, and...to refuse permission to examine the pleadings and other papers on file would be an abuse of discretion on the part of the defendants."

Records of the Grievance Committee and the Judicial Nominating Commissions are restricted by supreme court rule.

Some court records are suppressed by order of the court for a particular reason, e.g., a filing might be suppressed until a summons is served to assure that the defendant does not leave the state prior to service.

The Supreme Court and Judicial Administrator are concerned over the possible damage to litigants and defendants if court records were subjected to indiscriminate perusal by curious members



of the public who have no legitimate reason for making such examination.

Association of Junior College Presidents. Student, faculty, and staff personal records are closed administratively to protect the rights and privacy of the individual.

Current legislation gives the public ample opportunity to inspect documents in which they have a legitimate interest, namely board minutes, financial records and statements.

Board of Land Commissioners. All records are open to the press and the public.

Board of Law Examiners. All records are closed by ruling of the Supreme Court. Only the judges and the F.B.I. have access.

Legislative Council. The Council is concerned about access to two types of materials: (1) the files of individual legislators' requests, which are of a confidential nature unless the legislator consents to release; and (2) the research work in process of preparation and prior to receipt by legislators and release at a public meeting. The time for public release of such materials should be subject to the discretion of the director.

Information in personnel files which is of a personal and private nature might also be withheld at the director's discretion.

Legislative Reference Office. Requests from members of the General Assembly and from the Governor for the drafting of bills or resolutions are by law kept confidential until the bill or resolution is introduced.

Liquor Control Division. Reports from licensees showing the sales volume or quantity of liquor sold or stamps purchased or customers served are kept confidential. Other records are open.

Division of Local Government. As for the Division itself, only personnel records are closed. This is done administratively but perhaps could be closed by law if necessary.

As for local governments generally, local government records should be opened to the public as a rule. Only in extreme cases can one justify the closing of a municipal or county record. Police records may be an exception.

One unanswerable question is, how does the public administrator protect himself and the public record from exorbitant demands and from the demands of the public pest and nuisance?

Board of Medical Examiners. All records are closed to the public administratively. Records of the board are available to official agencies with relevant interest.

State Military Department (Including Civil Defense). Only classified defense information is closed to the public. Classified documents are available on a need to know basis and then only to persons with proper clearance as established by federal law.

Bureau of Mines. Current mineral production figures from producing properties are presently closed to the public by administrative order. The bureau feels they should be closed by law.

The mineral operators have requested that the bureau not disclose their private matters without their authorization.

Colorado Municipal League. The League emphasized its difficulty in attempting to speak for its member municipalities but did offer some general comments and suggestions.

To minimize the problem of harassment by individuals, the League suggested, any legislation along the lines of Senate Bill 217 should be carefully drafted "with more specificity than has been contained in previous measures introduced."

Generally, municipal officials do not make available to open public inspection the following categories of records:

- (1) Criminal investigation reports (non-traffic) by police personnel where no arrests have been made and no court case has been filed;
- (2) Records and correspondence relating to purchase negotiations for municipal land acquisition;
- (3) Sealed bids on public works construction projects;
- (4) Municipal personnel records detailing individual performance observations and evaluations; also included under this category would be personnel entry and promotional examinations;
- (5) Sales tax records which indicate the volume of business and type of sales made by individual business concerns.

The League says it may be possible to provide limited access in the case of personnel records and sales tax information, but the other categories listed above should remain closed.

Except for the common records (traffic accident records, utility bills, court records, council and board minutes and staff reports, etc.) of interest and use to the general public, the League prefers to have particular sectors of the public (mass communication media representatives) singled out as having access to public records, to insure that municipal personnel will not be harassed by private individuals who have little or no need for such information and no legitimate purpose in mind.

Division of Natural Resources. The Coordinator stated that he does not know of any departments or agencies under the division that do not furnish information at the public's request. He feels all agencies not dealing in classified fields should furnish material that is specifically asked for.

He does not think departments should divulge information at the time they are negotiating for property, or that the general public should have personal access to all state files and records for curious perusing.

Board of Nursing. Records involving confidential medical information obtained upon the basis of a signed medical release are not made public. Board minutes contain information obtained by signed medical releases regarding individuals. Records also contain transcripts of hearings involving the revocation of a license. Employers report suspicions involving narcotics, emotional illness, etc., some of which upon investigation cannot be proved. This type of record should be confidential. The Attorney General's office has told us we cannot share confidential medical information with anyone.

The list of all professional registered nurses in the state is not now available to advertisers, insurance salesmen, etc., because of previous abuses. It is available to the nursing organizations, the medical society, and the armed services.

The board's newsletter is sent to persons and groups associated with hospitals and nursing. It contains Attorney General's opinions and opinions by the board concerning nursing practices, and also the names of proven imposters.

The names of individuals licensed are furnished to newspapers following examinations and the board will furnish information as to whether an individual is licensed.

Oil and Gas Conservation Commission. All records are open to the public except logs of exploratory wells, which may be kept confidential for six months if requested.

Oil Inspection Department. All records are open to the public.

Board of Optometric Examiners. All records are open to the public.

Passenger Tramway Safety Board. Routine inspection reports have always been available to the public although no one has ever requested to see them.

Reports concerning accidents are made available only to those people having a legitimate interest therein, so as not to let the records be used for the convenience of "ambulance chasers."

Board of Pharmacy. The Board of Pharmacy has an open record policy up to the point where information in the minutes could be used to defame the character of a party if it received general distribution.

Board of Practical Nursing. Some of the information in the application and licensing files of individuals is kept confidential. Complaints, for example, are not public information although revocation or suspension of a license resulting from complaints will be made public.

Information on schools of practical nursing which have been surveyed by the board is kept confidential. Accreditation reports are made available to the State Board for Vocational Education.

Licensing examinations are subject to security measures. Results are available only to the candidate and the school from which he graduated.

Lists of licensed practical nurses are not made available to commercial agencies, since there have been unfortunate experiences with the use they put to the lists.

Public Employees' Retirement Association. Records concerning the investments of the association are open to the public generally speaking, and an annual report is published each year showing the assets and liabilities of each division.

The individual files of the members, including designation of beneficiary, age, service and amount in deposit, together with any general correspondence, are not open to public inspection. Being designated by law as a trust fund, the board is responsible for a certain amount of discretion in releasing such information.

The money in the trust fund is not public money in the sense that although the employer share of contribution is derived from public fund budgets, it cannot be used for any purposes other than those set forth in the retirement law.

If the committee determines to draft open public records legislation, appropriate safeguards should be included to protect against possible abuse of any such law. There should be a general prohibition of inspection of such personal information as may be deemed privileged and confidential by the board or chief executive officer of any public agency or organization.

Public Utilities Commission. All official records and documentary materials of the Commission are open to the public; however, certain work in process and staff studies, which are not actually official records, are administratively closed to the public.

The Commission states that no distinction is made, nor

should be made, between particular sectors of the public in regard to open records.

Division of Public Works. All records in this division are open to the public.

Division of Purchasing. All records in the division are open to public review. Bids are publicly opened.

Racing Commission. All records are open to the public except for two items. Each Racing Association is required to furnish its annual financial report and a list of its stockholders. These two items are treated as privileged information.

Real Estate Commission. The commission requests statutory language in the real estate law to assure confidentiality of certain records: "Applications, examination papers, and results of examinations; complaints under investigation, and evidence secured pursuant to investigations, and results of investigations prior to hearing, shall be confidential and shall not be considered public records." These records are presently held confidential with the support of common law or case law, but the commission would prefer a statutory provision.

Limited access to a real estate salesman's application is granted to the employing broker of such salesman.

Department of Rehabilitation. Case records are all classed as confidential by state law and federal regulations.

Department of Revenue. State law provides that the Department is prohibited from divulging or making known in any way any information disclosed in any document, report or return filed in connection with the income tax, withholding tax, gross ton mile tax, passenger mile tax, motor fuel tax, special fuel tax, cigarette tax, sales tax, or use tax. In administering the sales tax law, the Department maintains a ledger containing the business name, type of business and location of same licensed under the sales tax licensing provisions. All other information remains confidential but this ledger (the same as is contained on their license posted at their place of business) is open to inspection by the public during regular business hours.

"It is the opinion of the Department that any conclusions or determinations by your Committee or any other legislative committee, should not alter, amend, repeal or provide sections which would in any way alter the current structure of the returns and documents covered by this section of the statute."

The motor vehicle law provides that all public records shall be open to inspection by the public during business hours under reasonable rules and regulations. It provides a method by which any individual may procure a photostatic copy of a specified record

or accident report made a public record by the statute upon the payment of seventy-five cents. The Department has established administrative procedures for those records of the Motor Vehicle Division which are made public records to be supplied to the public generally.

The motor vehicle records which by statute are made public records includes: driver licensing records, including history folders; accident reports; transcripts, etc., contained in such driver's individual records; motor vehicle titles and liens recorded thereon; and motor vehicle registration and prorations. Financial responsibility records are public records except that they may not be used in any court action. Also, accident reports filed by the investigating officer; motor vehicle dealers and salesmens' licensing records and bonds; and official inspection station licenses are public records. Confidential investigative reports by departmental personnel are of a confidential nature and not available to the public generally.

Savings and Loan Department. All reports filed by associations in compliance with law or at request of Commissioner and reports of examinations and audits made by Commissioner are closed by law. The annual financial report of the department is available to the public.

School for the Deaf and the Blind. Records dealing with students and staff members are presently closed to the public. This was done administratively and was to protect our students and members of our staff as well as those people who have furnished us confidential information regarding these people. The superintendent feels that these records should be closed by law, for the sake of protection of the staff members and pupils.

Division of Securities. The statutes now provide that information filed with an application or registration statement shall be made available to the public under such rules as the commissioner prescribes.

When information concerning an applicant or his background is received "in confidence," it is felt that such confidence should be respected and, therefore, that some discretion and delegation of authority should be left with the agency director. The same is true of investigation files pending determination or disposition of the proceedings.

The division states that the provisions of Senate Bill 217 are much too broad and omnibus, and potentially perilous, and that some provision or exemption should be made for the "receiving" or filing of confidential matter, and for some discretionary authority on the part of the department or agency head.

Board of Shorthand Reporters. No records are closed to the public either by law or administratively.

Special Districts. (Representative Grimshaw of Calkins, Kramer, Grimshaw & Carpenter was asked to reply.)

Many records in many districts are closed administratively, but the only justified closing involves technical data before projects are bid.

Department of State. Corporation records kept in the department are open to the public but a person seeking information must list the name of the corporation he desires to investigate.

The Secretary of State would be against any legislation which would permit the overall investigation of all the documents in his custody, unless the legislature would give the department the necessary appropriation and facilities for compiling statistically the entire filing and recording of the documents.

Colorado State Fair Commission. The Colorado State Fair Commission replied that its records are open to everyone.

Colorado State Patrol. The records and documents of the State Patrol by the very nature of the duties and responsibilities of the Department have not been in the past and should not be in the future open to the public. The policy of the Department and the laws, rules and regulations governing State Patrol operation require records and documents to be confidential except that they may be released to proper persons at the discretion of the Chief or be obtained through either the office of the D.A. or the court. These records and documents in the main are evidence in pending violation cases. Furthermore, the state statute of limitations for civil action arising from the accidents and action of the State Patrol is seven years. Public knowledge of information concerning these cases might be prejudicial to proper adjudication.

Colorado statutes provide that accident reports made to the Chief by members of the State Patrol shall not be public records. Later, when the accident report is sent to the Department of Revenue, it becomes a public record.

Radio logs, written or taped, should remain confidential. A considerable amount of information contained in these records can be misconstrued or taken out of context. Public airing of the contents of some of these messages would be in violation of F.C.C. regulations.

All personnel records pertaining to all members of the department should not be open to the public, especially since they could be used in some instances by persons who have vindictive reasons for publishing such personal information.

At present, on approval of the Chief, newsworthy information and documentary releases may be furnished to the news media and

other persons who have a justification to substantiate the need for the information.

Committee on Statute Revision. Except for confidential letters concerning the hiring of personnel, all records are open to the public.

Board of Stock Inspection Commissioners. Records are open to any responsible person. It is possible the board would require a court order on evidence pertaining to the larceny of livestock, especially if the case has not been completed.

Supreme Court Library. All records are open, including briefs of cases argued in the Supreme Court.

Colorado Tax Commission. By law, all statements filed by public utilities containing information which is used to determine the actual value of the utility are classed as confidential.

Records of the Tax Commission which are open to the public include: petitions for abatement and refund of taxes; determination of tax exemption; abstract of assessment; county budgets and levies; school district budgets and levies; and special district budgets and levies.

Department of the Treasury. No records are closed to the public.

Trinidad State Nursing Home. Records closed to the public are personal, physical and case history information of welfare recipients and other residents of the Home.

Personnel records are also closed.

All payroll records, personnel policies, budget, rules and regulations are a matter of public information and could be made public if necessity called for it. However, there may be a real danger in indiscriminately telling the public that they have a right to demand and see these records at their slightest whim.

Trustees of State Colleges. The type of information kept by the Trustees is primarily for the purposes of internal operation; therefore, it has meaning only in terms of the specific internal purposes it serves. Much of the information as it applies to students and to the faculty is highly confidential and should be protected by law.

The Trustees have never thought college records should be open for "willy nilly" inspection without regard to proper use. The Trustees follow the practice of making records, or certified copies thereof, available to the Governor, legislative committees and to citizens with responsible reasons for their uses. To make the records of the colleges available indiscriminately on demand



would be violating the constitutional rights of the individual concerned.

In spite of the need to exercise discretion in providing for the use of public records, there are very few occasions when it is found necessary to refuse access to records. Within the bounds of protecting the individual's rights and the public interest, the Trustees make the records available on a broad basis. There is in reality only a small percentage of the records which are privileged or restricted in their use -- these are records concerning students, faculty members and internal operations.

Notwithstanding these comments the Trustees would like to support Senate Bill 217 with reservation that it be amended to clearly exempt personal records of students and the personnel records of employees from the general provisions.

University of Colorado. Students' academic, medical and personnel records are not available for public inspection without the student's consent.

Personal portions of faculty and staff personnel records, such as letters of evaluation, job evaluations, etc., have not been made available for the same reason. On the other hand, biographical data, salaries and all information pertaining to their university position are traditionally available.

The only exception to this policy is in cases involving law enforcement agencies.

Federally supported projects occasionally require concurrence of the sponsoring agency prior to public news releases.

Also, there are some private contracts involving consulting and research, as well as economic and industrial inquiries regarding industrial plant locations, which the university feels should not be released without the consent of the parties involved.

University of Colorado Medical Center. Patients' records are closed by case law and should be closed by statutory law if necessary.

Department of Veterans Affairs. All records and files pertaining to veterans, their dependents and survivors are closed by federal statute and cannot be released without a court order.

Colorado State Veterans Center. Patient records containing information as to physical condition of individuals and records reflecting the financial situation of individuals are classified as confidential, both by the state agency and by the U. S. Veterans Administration.

Since this agency serves as a trustee agency for handling and safeguarding private funds of individuals, information as to size or amount of deposits of individuals should not be released, as to do so would violate good banking procedure.

The Veterans Center must comply with federal regulations in order to remain eligible for federal funds.

Personnel records of the agency do contain information which, if indiscreetly released, could result in persons being victimized or placed on sales lists, etc. The policy has been to verify employment of individuals but not to release other information without the approval of the employee concerned.

Board of Veterinary Medicine. None of the records are closed to the public.

Board of Vocational Education (name now changed). The only records not open to the public are the personnel records of reimbursed vocational teachers, and applications of proprietary schools for approval which include financial or personal data. In many instances references which accompany teaching applications for vocational credentials are secured only after assuring the writer that his comments will be kept confidential.

Water Conservation Board. None of the records are closed to the public.

Department of Public Welfare. The federal government requires adequate safeguards to protect the confidential nature of information secured with respect to applicants for or recipients of public assistance. Similar provisions are found in the Colorado statutes, except that the Welfare Appropriation Act provides for the publication of the names, addresses and awards made to recipients of Class B pensions which are financed entirely from state funds with no federal financial participation.

Provision also is made by law and by the courts for confidentiality of adoption and other records pertaining to children.

The department believes it is proper for the laws to prohibit the disclosure of information as set forth above and strongly believes that the names of needy persons and families should not be publicized without their consent. The department also considers it proper to prohibit disclosure of information concerning children in need of child welfare services through the welfare departments or through the courts. Information concerning the personal and medical problems of recipients should be held in confidence.

Federal funds would be jeopardized if these records could not be kept confidential.

## Summary of Replies from Law Enforcement Agencies

Rather than attempt to speak for all local law enforcement agencies, the Colorado Peace Officers' Association asked each local police department and county sheriff's office to reply to the committee's questions. These replies are summarized below.

As might be expected, there were common threads of interest running throughout the replies received from these law enforcement agencies. With the exception of juvenile records, the law enforcement records which are closed to the public are closed administratively. The records most commonly closed by administrative decision are investigative reports, personal background records, routine contact reports, intelligence reports, and inter-jurisdictional correspondence (F.B.I. "rap sheets"). In a few departments complaint reports are open to public inspection, although this is not the general rule.

It was generally felt by the law enforcement officers that criminal investigation reports should be withheld from public view. These officials observed that after a case comes to trial, the reports offered in evidence become part of the public record. There was concern on the part of the police officers and sheriffs that public intrusion into these records would hamper investigations, and, in addition, would create the danger of ruining the reputation of a suspect who might prove to be innocent.

Information contained in personal background reports and personnel records could only serve to embarrass the individuals concerned if the public were allowed to wander indiscriminately through this type of record, the law enforcement agencies contended.

Routine contact reports, reports made by an officer in the daily exercise of his duty, were believed by the police to be of little value to the general public. This stems from the fact that these reports contain the names of all persons who come in contact with a peace officer. This information, if used unwisely, could also result in the embarrassment of an innocent individual.

Law enforcement officers felt the records classed as "intelligence records" should be closed to the public and the press. This type of record includes information dealing with law enforcement's check on criminal and subversive activities. It was felt that public knowledge of these records would be detrimental to the welfare of the public and would cut the effectiveness of law enforcement.

In line with their view that these records should be protected from public scrutiny, the majority of peace officers asked that law enforcement records be excluded from open public records legislation as proposed in Senate Bill 217. A few agencies, however, stated that not all of these records should necessarily be closed by law, but rather some discretion should be left to the law enforce-

ment agencies involved. A number of replies registered the opinion that all administrative records of police departments and sheriff's offices should be open to the public.

Concerning the possibility of opening records to particular sectors of the public, some agencies expressed approval of this idea, provided that the sectors are specifically designated by statutory provision. Other agencies preferred that their records not be open to any sector of the public. It should be pointed out that many law enforcement agencies have made special exceptions to their closed records policy by allowing what they consider to be the "responsible press" to have access to these records. This appeared in those agencies which have indicated a successful relationship with the local press.

The common philosophy behind the police stand on open public records appears to be twofold: concern that indiscriminate public access to records would be harmful to innocent individuals or those individuals who have "gone straight" since earlier conflicts with the law; and concern that public knowledge of criminal investigations would result in tying the hands of the police department, thereby cutting its investigatory effectiveness.

#### Police Departments

Aurora. All investigation reports, offense reports naming suspects, and reports of a person being questioned, arrested or released, are closed to the public; however, these reports are always open to the individual concerned. When a loss is involved which is covered by insurance, and a suspect is named in the text of the report, the record is made available to the insurance company with the deletion of the name of the suspect. All reports, except police blotters and traffic accident reports, are closed to the general public, and information in the records can only be released with the permission of the Administrator of the Records Division or the Chief of Police.

Records are closed to the general public for the protection of the individual concerned. Information contained in the records of the Aurora Police Department showing that a person has been questioned, has been a suspect, or has been arrested but not charged, should not hamper that individual in obtaining employment or embarrass him by having his name published in the newspapers. Certain information is released to the press through the chief of police.

We cannot favor a statute entitling "particular sectors of the public" to free access of these records without limitations being imposed.

In cases where a federal prisoner is involved, all informa-

tion concerning the prisoner and the case can only be released to the public by federal agents.

Aspen. Records which are closed to the general public include personnel reports, files of cases under confidential investigation, and criminal records. These records are closed to the public administratively. An exception to this policy is in cases where a current employer specifically requests information contained in the files. In instances where such information would not be prejudicial to the investigation, or to informants whose confidence might be compromised, such records are open to the press and other news media.

Public access to files of police cases under confidential investigation could jeopardize the investigation, as well as innocent persons whose names might appear in such reports. Information from criminal records, if open to the public, might be used by some individuals for extortion and blackmail.

[The decision as to which records should be open to certain sectors of the public]... should be left to the judgment and discretion of the head of the agency concerned.

Arvada. Juvenile and active investigation records are closed to the public, by law and administratively. This administrative procedure is for the protection of the integrity of the investigators. It is felt by the department that these records should be closed to the public by law.

Complaint reports are open to the news media. Accident reports are available to the public on request.

Boulder. Most of the department's records are generally closed to the public; however, any person of proper identification can review his own records. The press and radio have access to all records, but are not at liberty to search through the files. According to statutory provisions, all juvenile records are closed to the public.

We feel that all arrest records, traffic records, etc., of a personal nature should not be open to the public.

Brighton. Criminal investigations, from complaint to confinement or acquittal, personnel records of employment, disciplinary actions, etc., are closed to the public administratively as it is felt by the department that justice would not be served by permitting disclosure of such information to the public.

Buena Vista. Records are administratively closed to the public as these files could be used to degrade or embarrass the person involved.

Canon City. All records of this department are closed to the public administratively, except traffic accident reports which may be copied and viewed by insurance adjusters, the press and to any person involved. The press obtains information for news items only.

Colorado Springs. Records of individuals, accident reports, criminal case reports and investigations are withheld from the general public. The reasons for such administrative control by the police is to protect persons that may have been accused of a crime but not charged, to protect persons not wishing to be identified as informants in criminal matters, to prevent information on an investigation from getting out to the criminal element, to avoid leaking of information regarding evidence to be used in a criminal trial, and to prevent the escape from the jurisdiction of persons wanted for criminal matters.

Police records by their very nature must contain many statements that are merely allegations, suspicions, etc., and when these are pointed at a specific individual, organization, business, etc., it would be unfair to permit their contents to be perused by the general public who would not have the full knowledge of their use.

Under some conditions the above records would be given to others outside the general public, such as news media, insurance firms, victims of the crime being investigated, and other persons who are involved in, and have a legitimate interest in the outcome of the case. These records are also available to all courts, district attorney's officers, probation officers, federal agencies checking security, and other law enforcement agencies.

Since all police records are a matter for determination by the courts, either civil or criminal, it is felt the present laws controlling the use of these records by the police are sufficient.

Commerce City. All records are closed to the public except accident reports and the original copy of offense reports. They are closed administratively since a citizen who comes into the office wishing to acquire a list of criminal suspects might not realize the suspect could be innocent and could possibly brand him a criminal.

The police department comes under federal regulation in regards to dealing with federal prisoners or federal offenses.

Craig. Criminal investigation cases prior to trial are presently closed to the public by administrative policy. These records should be closed by law.

Denver. Investigative and personnel records, juvenile arrest, complaints, and identification or criminal records are closed to the public. The department feels they should be closed by law. Offense and accident records should be available to parties involved or to their agents but not to other individuals.

Dove Creek. Records concerning criminal evidence and information in cases pending are closed to the public by administrative procedure. The department feels these records should be kept closed until the case is tried.

Durango. The City Charter states that records of the Durango Police Department are not a public record but may be examined upon request made to the mayor of the city; he in turn gives written consent to the department to allow such examination.

We feel records should be closed because I have had many requests from various people to go through the records of which they could not show any legal or legitimate reason for doing so, and where there has been legitimate reason the Mayor has always given us written permission to allow persons access to information in files in which inquiry is being made.

All accident reports are available to the press at any time, and anyone who has an interest in them is provided copies. A party who has legal reason to make inquiry into the files, particularly in an investigative report, is afforded the opportunity to see the files. The news media, and the public through them, is entitled to have some information in regard to crimes committed and what the police are doing in regard to its investigations, but is not entitled to have complete access to investigative reports before the case is completed and before it goes to trial.

Estes Park. Accident reports, fingerprint cards, case investigations, gun registrations, and calls received by the department are closed to the public. Accident reports and part of investigations are given to the press on request.

Fairplay. Criminal and civil actions are closed by administrative procedure. Concerning criminal cases under investigation, the police feel they could not build a case if information was open to the public. Civil records are closed to the public to protect individuals against libel.

Fort Collins. Under most conditions, all records are closed to the public. This rule is to keep information from being obtained by persons having no basic right to it. This is done by administrative ruling rather than by law. The press has access to the records concerning a specific case when so requested. Record checks are allowed to prospective employers with proper identification.

Fountain. All records dealing with criminal cases pending or under investigation are closed to the public administratively. The only information released to the press concerns closed cases or cases without the name of the suspect.

Fruita. Juvenile records, investigation files, until cleared by arrest or by court action, are closed to the public. The department feels that statutory provisions should, in all cases, specify what, when, how, and to whom records should be open.

Golden. Investigation folders, criminal and civil, are closed to the public. Records should be closed except to members of law enforcement or investigative agencies.

Grand Junction. Arrest records, investigative reports, reports from informants, and complainant's name are closed administratively to protect the citizens from having improper use made of the information. These records are generally available to the press with the exception of the names of informants, investigative reports, etc. Employers are also given information concerning an employee's prior arrests and convictions after the employee has given his permission for the release of this information. The press and employers can receive such information since it is felt by the department that these groups are not likely to use it for ulterior purposes.

Gunnison. All records are closed to the public administratively for the protection of a person's right to remain anonymous and free from the news media until they are proven guilty of a crime.

If the records are open to the news media, the department feels it should be only to report events and should not involve the names and faces of the people involved. It is felt that if the records of most of the cases law enforcement agencies are working on were thrown open to the public it could only be detrimental to the case in proving the innocence or guilt of the person accused.

Holyoke. Administrative and investigative records are closed to the public by administrative ruling. Juvenile records are closed by state law.

Ignacio. While records are open to the press, very seldom is there anyone checking them. This department favors closing records by statutory provision.

Lamar. Complaint reports, investigation and arrest reports are closed to the public administratively. This allows better efficiency in police investigations. The press is given information after the investigation is completed.

Leadville. All records of this department are closed to the public administratively. They are closed since it is felt only the



parties involved and their attorneys have an interest in these records. These records should be closed to the public by law.

Littleton. Administrative policy governing closed records is confined to those records which contain information gathered as a result of police investigations and of such a nature the releasing of which would not be in the best interest of law enforcement and the public welfare. Other records are released to parties having a legitimate interest in a particular case and to the news media upon request.

This Department wishes to express to the committee on "Open Public Records" that it feels that those police agency records which contain information of the nature mentioned in the foregoing that are presently closed to the public by this police agency should, in the interest of proper law enforcement and the best interest of the public, be excluded from Senate Bill No. 217.

Longmont. All complaints and offense reports are closed by administrative action. Such confidential information includes the names of informants and complainants against other individuals, which if known, might cause damages to the complainant.

The department has a good working relationship with the press and in many instances the press is allowed access to reports because of their experience in knowing what information should be released to the public. It is felt by the department that if the press were to start printing information which would hinder investigations, the police should be able, through its administrative control, to give the press only basic information until a better working relationship could be worked out.

Louisville. For better handling of cases under investigation, and to keep false information from being made public, information concerning current cases are closed to the public administratively. If information, to be released to the public, would not harm the case or the people involved, giving out information would be permissible; but, until all the facts are verified it is felt by the department that the information should be closed to the public.

Loveland. Only criminal investigation files are closed administratively. It is believed that information concerning some criminal cases should be closed until the trial has been held. The department has no objection to files, other than those dealing with criminal investigations, being open.

Manitou Springs. Records concerning active cases, in addition to correspondence and personnel files, are closed administratively. The reason for this policy is due to the damages which

could result from publicity. This department favors a statutory provision closing all such records.

Monte Vista. All of the police records are closed to the public by administrative action. It is felt by the department that these records should be regulated by law. Some records are open to members of the press, military authority, the Federal Bureau of Investigation and other police agencies in the function of their respective jobs. This is an administrative procedure the department wishes to maintain.

Ordway. Offense and complaint reports are closed by administrative ruling. These records are open to the press upon completion of investigation.

Pueblo. All records pertaining to suspects in vice, i.e., narcotic sellers, prostitution and gambling and communistic persons, are closed by administrative order to the public. The press may see any report except those listed.

Rifle. Accident records, juvenile records, and investigation reports are closed by law and administratively. The records are closed for security reasons and for the protection of the public.

Rocky Ford. Confidential records and police officers' daily reports are closed by administrative action in order to protect the citizens and to aid the department in its investigations. These records are not open to any particular sector of the public.

Steamboat Springs. Confidential and investigative records are closed administratively for the protection of the person involved. It is the feeling of the department that these records should be closed by law, without statutory provision entitling certain sectors to free access to the records.

Sterling. Case files are not open to the general public, nor are investigation reports. They are closed administratively to prevent "snoopers" from going through the files and to avoid the exposure of confidential information. These records should be closed by law, the department believes.

The Department does not feel that files or investigation reports should be open to the press or to the general public until the case has gone to court, and, if the case does not go to court because of lack of evidence, these records should not be open to inspection.

Thornton. All records are closed to the public by administrative policy. These records should be closed by law as an open record policy concerning law enforcement records would hamper investigations. After a case has been filed, the district attorney should make the decision as to which records pertaining to a case should be open to certain individuals or to a particular sector of the public.

Westminster. Any records concerning cases under active investigation which have not been closed by exception or arrest are closed to the public administratively. Public access to these records would hamper investigation and apprehension of persons involved in crimes under investigation. The Department prefers these records be closed by law.

Wray. The Wray Police Department reports that none of its records are closed to the public.

### Sheriffs' Departments

Adams County. The following records of the Adams County Sheriff's Department are closed administratively: investigation reports of criminal allegations made by a citizen; personal background information; contact reports made by officers in the field; intelligence records; juvenile records. These records are not open to the public at any time. The press has access to other records not mentioned above, i.e., the original complaint report stating the crime, the complaint and facts surrounding the crime or suspects.

The sheriff's office is not opposed to open public records with the exclusion of the law enforcement agencies.

Alamosa County. Investigations are closed to the public by law. Administrative records are open. The records should be closed by law rather than administrative policy for the protection of the citizens served.

This office is in favor of a statute specifying a particular sector of the public as being entitled to free access to these records.

Arapahoe County. All jail files, with the exception of the jail register, and complaint files are closed to the public by administrative order. These records are closed because of the potential of jeopardizing the character and reputation of individuals. If need be, these records should be closed by law.

The sheriff's office does not favor any particular sector being given access to records over another.

Boulder County. Investigation files, intelligence records, records pertaining to juveniles and personnel files are currently closed to the public by administrative ruling. The reason for this ruling is that public access to these files could hamper police investigations. All of these records should be closed by law.

Chaffee County. Records concerning criminal investigations, from original complaint through final disposition of the matter, are closed to the public by law and administrative order. This action is to protect the innocent. The sheriff's office believes

the records should be closed by law. There is no objection to anyone inspecting the administrative records of the office.

...information concerning the above mentioned criminal investigation records should be relayed to the public thru the news media in the manner that courts are setting forth by use of certain guidelines.

Crowley County. Offense reports, sex offenses, radio logs and complaints are administratively closed to the public. It is believed that these records are for a specific purpose, not for general public information, and should be closed by law.

Delta County. To protect the innocent public and to protect the investigation from untimely publicity, individual, personnel, investigative records of crimes committed, and complaints against citizens are administratively closed to the public. These records should be closed by law.

The Federal Bureau of Investigation furnishes individual record sheets on known criminals which are open only to law enforcement agencies.

Dolores County. Information and evidence in cases which are pending are closed to the public administratively. These records should be closed to the general public by law.

Douglas County. All records pertaining to criminal investigations are closed to the public as a matter of administrative policy, and it is felt that these same records should be closed by law.

The only criminal investigative records open to anyone are offense reports requested by insurance companies representing victims. This office does not favor any law specifying a particular sector of the public as having free access to public records; however, certain records, possibly administrative records, could be made open to certain sectors of the public.

Eagle County. The records of this office which are closed to the public are the personal notes on investigations, and information given by individuals as confidential. This is information that if given to the public would make it next to impossible to be able to get a fair and impartial jury, or to even take the case to court.

This office is against "throwing" open the entire records to the public or the press. The officers do not think that records on law enforcement should be included in the open records category as it would only be an aid to the criminal element in our state and serve to further handcuff the police.

El Paso County. The only records held in this department which are not open to the public are criminal investigation supplements pertaining to a case which the district attorney has indicated will be taken to court for prosecution.

Several court opinions throughout the county have indicated that all facets of a case, which if made public knowledge prior to any case going to trial, hampers the possibility of the defendant being given a fair and just opportunity in court because of the possibility of prospective jurors being influenced in one way or another by pre trial publicity.

Accessibility to these reports should be limited, unless otherwise ordered by the court of jurisdiction.

Grand County. All records are closed to the public as an administrative policy to protect the innocent. All statements coming from this office are approved by the deputy district attorney or the sheriff.

Gunnison County. The following records are closed to the public by administrative ruling of the sheriff's office: incomplete criminal investigations, records for possible evidence in criminal cases, some juvenile cases, family troubles, and attorneys' files relating to their cases pending in court. This is done out of the belief that the public must be protected.

Should the public be given access to police records every suspected criminal in the country would be "tipped off", thereby cutting law agencies effectiveness.

Jefferson County. All criminal, investigative and intelligence records are closed to the public, including records requested by those who become in some way involved. These records are administratively closed because any sheriff or chief of police would immediately fall into an extremely libelous position. If these records were open to the general public law enforcement effectiveness would be cut by approximately 75 percent.

Certain records have been open to the public; however, only the news media and a very few citizens have shown a desire to check them.

Administrative Records and daily routine matters should be open to public access providing the person demanding such information has a valid reason coupled with his request.

Lake County. All records of the Lake County Sheriff's Office are closed to the general public by administrative policy.

La Plata County. All records are closed to the public administratively. These records are closed to protect and preserve evidence, and to protect and preserve confidential material and to prevent the misuse of both. This office does not feel all of these records should be closed by law.

Since the policy is to keep confidential all files and records, information given from these files and records is given only with the sheriff's approval. Only partial information is given by an official of this department to members of the press, etc., and the actual files and records are not opened.

Logan County. All books, ledgers, etc., [books which could be classified as administrative] are open to the public. Case files and investigation reports being "work products" of the office and which contain highly personal information, are not open to the public. This is to prohibit "snoopers" or other persons from gaining confidential or harmful personal information pertaining to citizens who have been subject to investigation.

Court decisions indicate some information which cannot be released. Further, the possibility of personal civil law actions dictate that certain complaints or investigative work not be released to general public. However, all of our records are open to all bona fide governmental or law enforcement agencies.

As this office has had excellent cooperation with the press, practically all of the files and records are open to the local press. In the event of a breach of this trust, the office would certainly close a portion of the records in accordance with recent supreme court decisions.

Mesa County. The reports on active criminal cases under investigation are closed to the public administratively. Juvenile cases are closed by order of the courts. Most criminal cases and information concerning investigation of such cases should be closed to the public.

Certain parts of records should be open to the press and insurance companies and possibly other groups. This office would favor specifying by statute certain individuals to have access to some records.

Mineral County. Investigation records, and complaints are closed administratively to the public for the protection of the defendants. It is felt that these records should be closed by law.

The sheriff stated that:

I am not entirely opposed to bill 217, but I am as far as letting anyone, regardless, of

having access to the records of the sheriff's office.

Moffat County. Criminal investigation cases prior to trial are presently closed to the public under administrative procedure. This office feels that these records should be closed by law. It would agree to having records open to certain sectors of the public if this was expressed in the law.

Morgan County. The records that are closed to public are active investigations and attempted suicides. This office feels that opening active investigations would hinder law enforcement to a great extent. The office stated it could discontinue the suicide files, although they may be of service at a later date.

Ouray County. All of the records are closed to the public by administrative policy. This office feels that all except administrative records should be closed by law.

Park County. The only record closed at this time is criminal investigations from complaint to imprisonment or acquittal. Administrative records are open and this office feels that they should remain open.

Pueblo County. Juvenile records are closed to the public by law. Investigation records are closed to the general public by administrative rules.

Generally, the press is allowed to scan through the records, but the agreement with the press is such that only released data is utilized. This office does not favor specifying, by statute, a particular sector of the public as entitled to free access to these records.

Rio Blanco County. Records concerning criminal investigations are closed to the public but not by law. Certain items in some records, along with methods of investigation, if disclosed, would hinder law enforcement. Administrative records are open to the public.

Routt County. All records are closed to the public by administrative policy. If these were open records the situation could lead to blackmail, undue harassment, and gossip of citizens who have made good after one mistake in younger years.

Summit County. Records on current felony investigations are administratively closed to the public. To open these would hamper law enforcement investigation. This office believes these records should be closed by law.

## District Attorneys

Twentieth Judicial District (Boulder). All files are closed to the public as a matter of policy. Some information is released to the press, so long as it will not prejudice the defendant's rights to a fair trial; however, the District Attorney's office does not permit the press to read through the file concerned.

This office does not favor specifying by statute particular sectors of the public as being entitled to free access to the records. It is believed that what information is released should be at the discretion of the head of the agency.

## Public Defenders

Denver. The records in the Public Defender's office are closed to the public by administrative policy. The principal reason is that the office feels it owes all the clients it represents a confidential relationship. The Public Defender believes these records should remain closed since his role is no different from that of the private attorney who is barred by law from revealing confidential communications.

On occasion, voluntary statements have been made to the press, but not if it would violate the relationship owed to a client.

Adams County. All records in the office of the Public Defender are closed to the public. The records fall within the attorney-client privilege of confidential information.



## APPENDIX A

### Open Public Records Laws in Other States

#### Code of Alabama - Title 41

Sec. 145. Every citizen entitled to inspect and copy public records. Every citizen has a right to inspect and take copy of any public writing of this state, except as otherwise expressly provided by statute.

Sec. 146. Refusal of public officer to permit examination of records. Any public officer, having charge of any book or record, who shall refuse to allow any person to examine such record free of charge, must, on conviction, be fined not less than fifty dollars.

Sec. 147. Public officers bound to give copies. Every public officer having the custody of a public writing, which a citizen has a right to inspect, is bound to give him, on demand, a certified copy of it on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing.

#### Alaska Statutes - 09.25.110 and 09.25.120

Sec. 09.25.110. Inspection and copies of public records. Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

Sec. 09.25.120. Inspection and copying of public records. Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50.010 -- 18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for

the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees.

Arizona Revised Statutes - 39-121

39-121. Inspection of public records. Public records and other matters in the office of any officer at all times during office hours shall be open to inspection by any person.

Arkansas -- Act 93 of 1967

Section 3. Definitions. "Public records" are records made, maintained or kept by any public or governmental body, board, bureau, commission or agency of the State or any political subdivision of the State, or organization, corporation or agency, supported in whole or in part by public funds, or expending public funds....

Section 4. Examination and copying of public records. Except as otherwise specifically provided by laws now in effect, or laws hereafter specifically enacted to provide otherwise, all state, county, township, municipal and school district records which by law are required to be kept and maintained shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records. It is the specific intent of this Section that records such as state income tax returns, medical records, scholastic records, adoption records and other similar records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this Act.

Reasonable access to these records and reasonable comforts and facilities for the full exercise of the right to inspect and copy such records shall not be denied to any citizen.

If the record is in active use or in storage and, therefore, not available, at the time a citizen asks to examine it, the custodian shall certify this fact in writing to the applicant and set a date and hour within three days at which time the record will be available for the exercise of the right given by this act.

Section 6. Enforcement. Any citizen denied the rights granted to him by this Act may appeal immediately from such denial to the Pulaski Circuit Court, or to the Circuit Court of the residence of the aggrieved party, if an agency of the State is involved, or to any of the Circuit Courts of the appropriate judicial districts when an agency of a county, municipality, township or School District, or a private organization supported by or expending public funds is involved. Upon written application of the person denied the rights provided for in this Act, or any interested party, it shall be mandatory upon the Circuit Court having jurisdiction, to fix and assess a day the petition is to be heard within seven days of the date of the application of the petitioner, and to hear and determine the case. Those who refuse to comply with the orders of

the Court shall be found guilty of contempt of court.

(Act 93 was recently passed by the 1967 session of the Arkansas legislature following a 1966 Legislative Council study on rules which would be applicable to meetings and records of public agencies to assure public access to such meetings and records. Since Colorado already has passed open meeting legislation, that part of the Arkansas law was deleted.)

California - Civil Procedure Code - § 1888 and 1892

Section 1888 - Public Writings Defined. Public writings are: (1) The written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this State, of the United States, of a sister State, or of a foreign country....

Section 1892 - Right to inspect and copy; exception; every citizen entitled to inspect and copy public writings. Every citizen has a right to inspect and take a copy of any public writing of the State, except as otherwise expressly provided by statute.

General Statutes of Connecticut - Title 1, Chapter 3

Sec. 1-19. Access to public records. Except as otherwise provided by any federal or state statute or regulation, all records made, maintained or kept on file by any executive, administrative, legislative or judicial body, agency, commission or official of the state, or any political subdivision thereof, whether or not such records are required by any law or by any rule or regulation, shall be public records and every resident of the state shall have the right to inspect or copy such records at such reasonable time as may be determined by the custodian thereof. Each such executive, administrative, legislative and judicial body, agency, commission or official shall keep and maintain all public records in his custody at his regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such body, agency, commission or official shall be kept in the office of the town clerk or the secretary of the state, as the case may be.

Sec. 1-20. Refusal of access. Appeal. Notwithstanding the provisions of section 1-19, the body, agency, commission or official who has custody or control of any such public record shall refuse permission to so inspect or copy such record or records if such inspection or copying would adversely affect the public security or the financial interests of the state or any of its political subdivisions or if such denial is necessary to provide reasonable protection to the reputation or character of any person. Any such denial of such right of inspection shall be made to such resident, in writing, generally stating the reason therefor within fifteen days of the request for such inspection. Any person aggrieved by such denial may appeal therefrom, within fifteen days, to the circuit court for the circuit wherein such body, agency, commission or offi-

cial is located. If such court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter such order for disclosure as it deems proper. Such appeals shall be privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by or on behalf of the state, including informations on the relation of private individuals. Nothing in this section shall deprive any person of any rights he may have had at common law prior to January 1, 1958.

#### Florida Statutes 1965 - Chapter 119

119.01 Public records open to examination by citizens. All state, county and municipal records shall at all times be open for a personal inspection of any citizen of Florida, and those in charge of such records shall not refuse this privilege to any citizen.

119.02 Penalty. Any official who shall violate the provisions of § 119.01 shall be subject to removal or impeachment and in addition shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding three months.

119.03 Photographing public records. In all cases where the public or any person interested has a right to inspect or take extracts or make copies from any public record, instruments or documents, any such person shall hereafter have the right of access to said records, documents or instruments for the purpose of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy. Such work shall be done under the supervision of the lawful custodian of the said records, who shall have the right to adopt and enforce reasonable rules governing the said work. Said work shall, where possible, be done in the room where the said records, documents or instruments are by law kept, but if the same in the judgment of the lawful custodian of the said records, documents or instruments be impossible or impracticable, then the said work shall be done in such other room or place as nearly adjacent to the court house as may be, to be determined by the board of county commissioners of the said county. Where the providing of another room or place is necessary, the expense of providing the same shall be paid by the person desiring to photograph the said records, instruments or documents. While the said work hereinbefore mentioned is in progress, the lawful custodian of said records may charge the person desiring to make the said photographs for the services of a deputy of the lawful custodian of said records, documents or instruments to supervise the same, or for the services of the said lawful custodian of the same in so doing at a rate of compensation to be agreed upon by the person desiring to make the said photographs and the custodian of the said records, documents or instruments, or in case the same fail to agree as to the said charge, then by the board of county commissioners of said county.

Code of Georgia Annotated - Chapter 40-27

40-2701. Right of public to inspect records. All State, county and municipal records, except those, which by order of a court of this State or by law, are prohibited from being open to inspection by the general public, shall be open for a personal inspection of any citizen of Georgia at a reasonable time and place, and those in charge of such records shall not refuse this privilege to any citizen.

40-2702. Supervision of persons photographing records; charge for services of deputy. In all cases where a member of the public interested has a right to inspect or take extracts or make copies from any public records, instruments or documents, any such person shall hereafter have the right of access to said records, documents or instruments for the purpose of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy. Such work shall be done under the supervision of the lawful custodian of the said records, who shall have the right to adopt and enforce reasonable rules governing the said work. Said work shall be done in the room where the said records, documents or instruments are by law kept. While the said work hereinbefore mentioned is in progress, the lawful custodian of said records may charge the person desiring to make the said photographs for the services of a deputy of the lawful custodian of said records, documents or instruments to supervise the same, or for the services of the said lawful custodian of the same in so doing at a rate of compensation to be agreed upon by the person desiring to make the said photographs and the custodian of the said records, documents or instruments.

Revised Laws of Hawaii, 1965 Supp. - Chapter 7A

Sec. 7A-1. Definitions. (b) The term "public record" means any written or printed report, book or paper, map or plan of the State or of a county and their respective subdivisions and boards, which is the property thereof, and in or on which an entry has been made or is required to be made by law, or which any public officer or employee has received or is required to receive for filing, but shall not include records which invade the right of privacy of an individual.

Sec. 7A-4. Public records. All public records shall be available for inspection by any person during established office hours unless public inspection of such records is in violation of any other state or federal law, provided that, except where such records are open under any rule of court, the attorney general and the responsible attorneys of the various counties may determine which records in their offices may be withheld from public inspection when such records pertain to the preparation of the prosecution or defense of any action or proceeding, prior to its commencement, to which the State or county is or may be a party, or when such records do not relate to a matter in violation of law and are deemed necessary for the protection of the character or reputation of any person.

Certified copies of extracts from public records shall be given by the officer having the same in custody to any person demanding the same and paying or tendering 20 cents a folio of one hundred words for such copies or extracts.

Sec. 7A-6. Application to circuit court. Any person aggrieved by the denial by the officer having the custody of any public record of the right to inspect such records or to obtain copies of extracts thereof may apply to the circuit court of the circuit wherein the public record is found for an order directing such officer to permit the inspection of or to furnish copies of extracts of such public records. The court shall grant such order after hearing upon a finding that the denial was not for just and proper cause.

Idaho Code - 59-1009 and 9-301

Section 59-1009 - Official records open to inspection. The public records and other matters in the office of any officer are, at all times during office hours, open to the inspection of any citizen of this state.

Section 9-301 - Public Writings - Right to inspect and take copy. Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute.

Illinois Annotated Statutes, 1966 Supp.

Sec. 43.5 Definitions. For the purposes of this Act:

"Record" or "records" means all books, papers, maps, photographs, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed or received by any agency in the State in pursuance of state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this Act....

Sec. 43.6 Public policy as to records -- Exception

All records of the expenditure or receipt of public funds, including but not limited to, warrants, vouchers, invoices, purchase orders, requisitions, payrolls, records of receipts and similar documents made, created, or filed by or on file with any public officer of the State or any agency of the State are public records and shall be open to public inspection, except as otherwise provided pursuant to law, at all reasonable times. Nothing in this Section

shall be construed to limit any right given by statute or rule of law with respect to the inspection of other types of records.

Sec. 43.7 Right of access by public -- Reproductions -- Fees

Any person shall have the right of access to any public records of the expenditure or receipt of public funds as defined in Section 3 for the purpose of obtaining copies of the same or of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy. The photographing shall be done under the supervision of the lawful custodian of said records, who has the right to adopt and enforce reasonable rules governing such work. The work of photographing shall, when possible, be done in the room where the records, documents or instruments are kept. However, if in the judgment of the lawful custodian of the records, documents or instruments, it would be impossible or impracticable to perform the work in the room in which the records, documents or instruments are kept, the work shall be done in some other room or place as nearly adjacent as possible to the room where kept. Where the providing of a separate room or place is necessary, the expense of providing for the same shall be borne by the person or persons desiring to photograph the records, documents or instruments. The lawful custodian of the records, documents or instruments may charge the same fee for the services rendered by him or his assistant in supervising the photographing as may be charged for furnishing a certified copy or copies of the said record, document or instrument....

Indiana Statutes Annotated - Chapter 6

Sec. 57-601. Construction of act. Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principal that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the state of Indiana that all of the citizens of this state are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those whom the people select to represent them as public officials and employees.

To that end, the provisions of this act §§ 57-601 -- 57-606 shall be liberally construed with the view of carrying out the above declaration of policy.

Sec. 57-602. Definitions. As used in this act: (1) The term "public records" shall mean any writing in any form necessary, under or required, or directed to be made by any statute or by any rule or regulation of any administrative body or agency of the state or any of its political sub-divisions....

Sec. 57-603. Right of inspection of public records. Except as may now or hereafter be otherwise specifically provided by law, every citizen of this state shall, during the regular business hours of all administrative bodies or agencies of the state, or any

political subdivision thereof, have the right to inspect the public records of such administrative bodies or agencies, and to make memoranda abstracts from the records so inspected.

Sec. 57-605. Exceptions to act - Confidential records - Executive sessions of administrative body or agency. Nothing in this act contained shall be construed to modify or repeal any existing law with regard to public records which, by law, are declared to be confidential. Nor shall anything in this act be construed to modify or repeal any existing law, rule or regulation, with regard to the holding of executive sessions by any administrative body or agency. Provided, however, that no administrative body or agency shall, under the guise of holding an executive session, conduct public proceedings in such a manner as to defeat the declared policy of this act as set forth in section 1 § 57-601 hereof.

Sec. 57-606. Violation of act by official - Penalty. Any public official of the state, or of any political sub-division thereof, who denies to any citizen the rights guaranteed to such citizen under the provisions of sections 3 and 4 §§ 57-603, 57-604 hereof, and any public official who, under the guise of participating in an executive session of the administrative body or agency of which he is a member, attempts to defeat the purposes of this act §§ 57-601 - 57-606 as set forth in section 1 § 57-601 hereof, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than \$50.00 nor more than \$500.00 to which may be added imprisonment in the county jail for a term not to exceed 30 days.

Kansas Statutes Annotated - 45-201 - 45-203

Sec. 45-201. Official public records open to inspection; exceptions. All official public records of the state, counties, municipalities, townships, school districts, commissions, agencies and legislative bodies, which records by law are required to be kept and maintained, except those of the juvenile court which shall be open unless specifically closed by the judge or by law, adoption records, records of the birth of illegitimate children, and records specifically closed by law or by directive authorized by law, shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen.

Sec. 45-202. Same; photographing records, when; rules. In all cases where the public or any person interested has a right to inspect or take extracts or make copies from any such public records instruments or documents, any such person shall have the right of access to said records, documents or instruments for the purpose of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy. Such work shall be done under the supervision of the lawful custodian of the said records who shall have the right to adopt and enforce reasonable rules governing the said work. Said work shall, where possible, be done in the room where the said records, documents or instruments are by law kept, but if the same in the judgment of



the lawful custodian of the said records, documents or instruments be impossible or impracticable, then the said work shall be done in such other room or place as nearly adjacent as may be available.

Sec. 45-203. Same; penalties for violations. Any official who shall violate the provisions of this act shall be subject to removal from office and in addition shall be deemed guilty of a misdemeanor.

Kentucky Revised Statutes - Section 171.650

Sec. 171.650. Public nature of agency records. Unless otherwise provided by law, all papers, books, and other records of any matters required by law or administrative rule to be kept by any agency, and all records arising from the exercise of functions authorized thereby, are public records and shall be open to inspection by any interested person subject to reasonable rules as to time and place of inspection established under KRS 12.080. A certified copy of any public record, subject to any such rules in effect, shall be furnished by the custodian thereof, to any person requesting it, upon the payment of such reasonable fee therefor as may be prescribed by law or by administrative rule.

Louisiana Revised Statutes - Title 44

Sec. 1. General definitions. All records, writings, accounts, letters and letter books, maps, drawings, memoranda and papers, and all copies or duplicates thereof, and all photographs or other similar reproductions of the same, having been used, being in use, or prepared for use in the conduct, transaction or performance of any business, transaction, work, duty or function which was conducted, transacted or performed by or under the authority of the Constitution or the laws of this state, or the ordinances or mandates or orders of any municipal or parish government or officers, or any board or commission or office established or set up by the Constitution or the laws of this state, or concerning or relating to the receipt or payment of any money received or paid by or under the authority of the Constitution or the laws of this state are public records, subject to the provisions of this Chapter except as hereinafter provided.

Sec. 2. Records involved in legislative investigations. Subject to the proviso set forth in Sub-section B of R.S. 44:3, the provisions of this Chapter shall not apply to any records, writings, accounts, letters, letter books, photographs or copies thereof, in the custody or control of any attorney or counsel whose duties or functions are performed by or under the authority of the legislature and which concern or hold relation to any case, cause, charge or investigation being conducted by or through the legislature, until after the case, cause, charge or investigation has been finally disposed of.

After final disposition, the records, writings, accounts, letters, letter books, photographs or copies thereof, are public

records and subject to the provisions of this Chapter.

Sec. 3. Records held by investigating officer or agency.

A. This Chapter shall not apply to public records when they are held by any sheriff, district attorney, police officer, investigator or investigating agency of the state as evidence in the investigation or prosecution of a criminal charge, until after the public records have been used in open court or the criminal charge has been finally disposed of. This section shall not be construed as forbidding the officers or agencies to make public anything they are otherwise legally authorized to make public.

This Chapter shall fully apply to all public records concerning the administration, management, conduct, direction and business of the office or department or force of any sheriff, district attorney, police officer or investigating agency, in every way not in conflict with the special exception of matters concerning or relating to a criminal charge or investigation as specified in this Section.

B. In all cases set forth in this Section and in R.S. 44:2, upon petition filed against the custodian of the records by one or more citizens in the district court of the parish where the record is so held, the district judge shall determine summarily in open court or in chambers whether the record is bona fide held for investigation of any violation of the laws of this state or as evidence in the prosecution of a criminal charge. No appeal shall lie from the decision of the judge.

Sec. 4. Tax returns; records relating to old age assistance; dependent children; liquidation proceedings; banks; insurance ratings. This Chapter shall not apply:

(1) To any tax returns.

(2) To the name of any person or any other information from the records, papers or files of the state or its political subdivisions or agencies, concerning persons applying for or receiving old age assistance, aid to the blind, or aid to dependent children.

(3) To any records, writings, accounts, letters, letter books, photographs or copies thereof, in the custody or control of any officer, employee, agent or agency of the State whose duties and functions are to investigate, examine, manage in whole or in part, or liquidate the business of any private person, firm or corporation in this state, when the records, writings, accounts, letters, letter books, photographs or copies thereof, pertain to the business of the private person, firm or corporation, and are in their nature confidential.

(4) To any records, writings, accounts, letters, letter books, photographs or copies thereof in the custody or control of the state bank commissioner or agent, insofar as the records relate to solvent banks engaged in the banking business at the time of application for inspection.

(5) To any daily reports or endorsements filed by insurance companies doing business in this state with the Louisiana Casualty and Surety Rating Commission in accordance with the laws of this state.

(6) To any records, writings, accounts, letters, letter books, photographs or copies or memoranda thereof in the custody or control of the Supervisor of Public Funds unless otherwise provided by law.

Sec. 5. Records in custody of governor. This Chapter shall not apply to any of the books, records, writings, accounts, letters, letter books, photographs or copies thereof, ordinarily kept in the custody or control of the governor in the usual course of the duties and business of his office.

The provisions of this Section shall not prevent any person otherwise herein authorized so to do from examining and copying any books, records, papers, accounts or other documents pertaining to any money or moneys or any financial transactions in the control of or handled by or through the governor.

Sec. 7. Hospital records. The charts, records, reports, documents and other memoranda prepared by physicians, surgeons, psychiatrists, nurses and employees in the public hospitals of Louisiana to record or indicate the past or present condition, sickness or disease, physical or mental, of the patients treated in the hospitals are exempted from the provisions of this Chapter, except when the condition of the patient is due to an accident, poisoning, negligence or presumable negligence resulting in any injury, assault or any act of violence or a violation of the law.

The governing board or commission of each public hospital administered by such a body, or the chief medical, surgical or psychiatric officer of public hospitals that have no governing board or commission or similar body of administrators, may make and enforce rules under which these charts, records, reports, documents or other memoranda may be exhibited or copied by or for persons legitimately and properly interested in the disease, physical or mental, or in the condition of patients.

Sec. 31. Right to examine records. The right to examine, copy, photograph and take memoranda of any and all public records, except as otherwise provided in this Chapter, may be exercised by:

(1) Any elector of the state.

(2) Any taxpayer who has paid any tax collected by or under the authority of the state if payment was made within one year from the date the taxpayer applies to exercise the right.

(3) Any duly authorized agent of paragraphs (1) and (2) above.

Sec. 32. Duty to permit examination. All persons having

custody or control of any public record shall present it to any person who is authorized by the provisions of this Chapter and who applies during the regular office hours or working hours of the person to whom the application is made. The persons in custody or control of a public record shall make no inquiry of any person authorized by this Chapter who applies for a public record, beyond the purpose of establishing his authority; and shall not review nor examine or scrutinize any copy, photograph or memoranda in the possession of any authorized person; and shall give, grant and extend to the authorized persons all reasonable comfort and facility for the full exercise of the right granted by this Chapter.

Sec. 33. Availability of records. If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it. If the public record applied for is not immediately available, because of its being in active use at the time of the application then the chief of the office, or the person next in authority among those present, shall promptly certify this in writing to the applicant, and in his certificate shall fix a day and hour within three days for the exercise of the right granted by this Chapter.

The fact that the public records are being audited shall in no case be construed as a reason or justification for a refusal to allow inspection of the records except when the public records are in active use by the auditor.

Sec. 34. Absence of records. If any public record applied for by any authorized person is not in the custody or control of the person to whom the application is made, such person shall promptly certify this in writing to the applicant, and shall in the certificate state in detail to the best of his knowledge and belief, the reason for the absence of the record from his custody or control, its location, what person then has custody of the record and the manner and method in which, and the exact time at which it was taken from his custody or control. He shall include in the certificate ample and detailed answers to all inquiries of the applicant that may facilitate the exercise of the right granted by this Chapter.

Sec. 35. Suits to enforce provisions; preference. Any suit brought in any court of original jurisdiction to enforce the provisions of this Chapter shall be tried by preference and in a summary manner. All appellate courts to which the suits are brought shall place them on its preferential docket and shall hear them without delay. The appellate courts shall also render a decision in these suits within ten days after hearing them.

Sec. 37. Penalties for violation by custodians of records. Any person having custody or control of a public record, who violates any of the provisions of this Chapter, or any person not having such custody or control who by any conspiracy, understanding or cooperation with any other person hinders or attempts to hinder the inspection of any public records declared by this Chapter to be

subject to inspection, shall upon first conviction be fined not less than one hundred dollars, and not more than one thousand dollars, or shall be imprisoned for not less than one month, nor more than six months. Upon any subsequent conviction he shall be fined not less than two hundred fifty dollars, and not more than two thousand dollars, or imprisoned for not less than two months, nor more than six months, or both.

Sec. 38. Penalties for violation by electors and taxpayers. Any elector or taxpayer, or any agent of either, who after exercising the right granted by this Chapter violates any of its provisions shall be fined not less than twenty-five dollars, nor more than two thousand dollars, or be imprisoned not less than ten days, nor more than two months, or both, and he shall forfeit the right granted by this Chapter for a period of six months from the day of the conviction.

Maine Revised Statutes Annotated - Chapter 13

Sec. 405. Minutes and records available for public inspection. Every citizen of this State shall, during the regular business or meeting hours of all such bodies or agencies, and on the regular business premises of all such bodies or agencies, have the right to inspect all public records, including any minutes of meetings of such bodies or agencies as are required by law, and to make memoranda abstracts or photographic or photostatic copies of the records or minutes so inspected, except as otherwise specifically provided by statute.

Massachusetts General Laws Annotated 1966 Supp. - Chapter 66

Section 10 - Public inspection of records; fees for copies. Every person having custody of any public records shall, at reasonable times, permit them to be inspected and examined by any person, under his supervision, and shall furnish copies thereof on payment of a reasonable fee. In towns such inspection and furnishing of copies may be regulated by ordinance or by-law, and the fees therefor shall be as provided by clause (65) of section thirty-four of chapter two hundred and sixty-two.

Michigan Statutes - Section 28.760

Sec. 28.760. Inspection and use of public records - copies; removal orders. Any officer having the custody of any county, city or township records in this state who shall when requested fail or neglect to furnish proper and reasonable facilities for the inspection and examination of the records and files in his office and for making memoranda of transcripts therefrom during the usual business hours, which shall not be less than (4) hours per day, to any person having occasion to make examination of them for any law-

ful purpose shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than one year, or by a fine of not more than 500 dollars: Provided, That the custodian of said records and files may make such reasonable rules and regulations with reference to the inspection and examination of them as shall be necessary for the protection of said records and files, and to prevent interference with the regular discharge of the duties of such officer: Provided further, That such officer shall prohibit the use of pen and ink in making copies of notes of records and files in his office: Provided further, That no books, records and files shall be removed from the office of the custodian thereof for any purposes whatever, except by the order of the judge of any court of competent jurisdiction, or in response to a subpoena duces tecum issued therefrom.

Minnesota Statutes 1965 - Chapter 15

Sec. 15.17 Official records. Subdivision 4. Accessible to public. Every custodian of public records shall keep them in such arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records, provided that a suitable means for public inspection of the records is provided by the agency maintaining the records. Except as otherwise expressly provided by law, he shall permit all public records in his custody to be inspected, examined, abstracted, or copied at reasonable times and under his supervision and regulation by any person; and he shall, upon the demand of any person, furnish certified copies thereof on payment in advance of fees not to exceed the fees prescribed by law.

Revised Statutes of Missouri, 1965 Supp. - 109.180 - 109.190

Sec. 109.180. Public records open to inspection -- refusal to permit inspection, penalty. Except as otherwise provided by law, all state, county and municipal records kept pursuant to statute or ordinance shall at all reasonable times be open for a personal inspection by any citizen of Missouri, and those in charge of the records shall not refuse the privilege to any citizen. Any official who violates the provisions of this section shall be subject to removal or impeachment and in addition shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars, or by confinement in the county jail not exceeding ninety days, or by both the fine and the confinement.

Sec. 109.190. Right of person to photograph public records - regulations. In all cases where the public or any person interested has a right to inspect or take extracts or make copies from any public records, instruments or documents, any person has the right of access to the records, documents or instruments for the purpose of making photographs of them while in the possession,

custody and control of the lawful custodian thereof or his authorized deputy. The work shall be done under the supervision of the lawful custodian of the records who may adopt and enforce reasonable rules governing the work. The work shall, where possible, be done in the room where the records, documents or instruments are by law kept, but if that is impossible or impracticable, the work shall be done in another room or place as nearly adjacent to the place of custody as possible to be determined by the custodian of the records. While the work authorized herein is in progress, the lawful custodian of the records may charge the person desiring to make the photographs a reasonable rate for his services or for the services of a deputy to supervise the work and for the use of the room or place where the work is done.

### Revised Code of Montana - Title 93

Sec. 93-1001-1. Writings, public and private. Writings are of two kinds:

1. Public; and,
2. Private.

Sec. 93-1001-2. Public writings defined. Public writings are:

1. The written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country;
2. Public records, kept in this state, of private writings.

Sec. 93-1001-4. Every citizen entitled to inspect and copy public writings. Every citizen has a right to inspect and take a copy of any public writings of this state, except as otherwise expressly provided by statute.

Sec. 93-1001-5. Public officer bound to give copies. Every public officer having the custody of a public writing, which a citizen has a right to inspect, is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing.

### Revised Statutes of Nebraska

Sec. 84-712. Public records; free examination; memorandum and abstracts. Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, are hereby fully empowered and

authorized to examine the same, and to make memoranda and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business.

Sec. 84-712.01. Public records; right of citizens; full access. Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt or other record of receipt, cash or expenditure involving public funds is involved in order that the citizens of this state shall have full rights to know of, and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

Sec. 84-712.02. Public records; claimants before federal veterans agencies; certified copies free of charge. When it shall be requested by any claimant before the United States Veterans' Bureau or any claimant before the United States Bureau of Pensions, his or her agent or attorney, that certified copies of any public record be furnished for the proper and effective presentation of any such claim in such bureau, the officer in charge of such public records shall furnish or cause to be furnished such claimant, his or her agent or attorney, a certified copy thereof free of charge.

Sec. 84-712.03. Public records; denial of rights; remedies; violation; penalties. Any person denied any rights granted by sections 84-712 to 84-712.03 may file for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county or political subdivision officer who has custody of said public record can be served. Any official who shall violate the provisions of sections 84-712 to 84-712.03 shall be subject to removal or impeachment and in addition shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding three months.

#### Nevada Revised Statutes - Chapter 239

Sec. 239.010. Public books, records open to inspection; penalty. 1. All public books and public records of state, county, city, district, governmental subdivision and quasi-municipal corporation officers and offices of this state (and all departments thereof), the contents of which are not otherwise declared by law to be confidential, shall be open at all times during office hours to inspection by any person and the same may be fully copied or an abstract or memorandum prepared therefrom, and any copies, abstracts or memoranda taken therefrom may be utilized to supply the general public with copies, abstracts or memoranda of the records or in any other way in which the same may be used to the advantage of the owner thereof or of the general public.



2. Any officer having the custody of any of the public books and public records described in subsection 1 who refuses any person the right to inspect such books and records as provided in subsection 1 is guilty of a misdemeanor.

Sec. 239.020. Certified copies of public records to be provided without charge to Veterans' Administration. Whenever a copy of any public record is required by the Veterans' Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans' Administration, the official charged with the custody of such public record shall, without charge, provide the applicant for the benefit of any person acting on his behalf or the representative of the Veterans' Administration with a certified copy or copies of such records.

Sec. 239.030. Certification of prepared copies of public records. Whenever any person shall present to the custodian or other person authorized to make and certify copies of any public record or document in any and all counties of the state not divided in 1909 a printed or typewritten copy of any such record or document, or any part thereof, such custodian or person shall forthwith compare such copy with the original thereof and make the same a true and correct copy thereof and shall officially certify the same as such. The fees and compensation legally chargeable or receivable therefor shall only be one-third of what the fees or compensation would have been if the custodian or person had made and certified the copy.

New Jersey Statutes Annotated - 1966 Supp.

Sec. 47:1A-2. Public records; right of inspection; copies; fees. Except as otherwise provided in this act or by any other statute, resolution of either or both houses of the Legislature, executive order of the Governor, rule of court, any Federal law, regulation or order, or by any regulation promulgated under the authority of any statute or executive order of the Governor, all records which are required by law to be made, maintained or kept on file by any board, body, agency, department, commission or official of the State or of any political subdivision thereof or by any

public board, body, commission or authority created pursuant to law by the State or any of its political subdivisions, or by any official acting for or on behalf thereof (each of which is hereinafter referred to as the "custodian" thereof) shall, for the purposes of this act, be deemed to be public records. Every citizen of this State, during the regular business hours maintained by the custodian of any such records, shall have the right to inspect such records. Every citizen of this State shall also have the right, during such regular business hours and under the supervision of a representative of the custodian, to copy such records by hand, and shall also have the right to purchase copies of such records. Copies of records shall be made available upon the payment of such price as shall be established by law...

Sec. 47:1A-3. Records of investigations in progress. Notwithstanding the provisions of this act, where it shall appear that the record or records which are sought to be examined shall pertain to an investigation in progress by any such body, agency, commission, board, authority or official, the right of examination herein provided for may be denied if the inspection, copying or publication of such record or records shall be inimical to the public interest; provided, however, that this provision shall not be construed to prohibit any such body, agency, commission, board, authority or official from opening such record or records for public examination if not otherwise prohibited by law.

Sec. 47:1A-4. Proceedings to enforce right to inspect or copy. Any such citizen of this State who has been or shall have been denied for any reason the right to inspect, copy or obtain a copy of any such record as provided in this act may apply to the Superior Court of New Jersey by a proceeding in lieu of prerogative writ for an order requiring the custodian of the record to afford inspection, the right to copy or to obtain a copy thereof, as provided in this act.

#### New Mexico Statute 1953 - Chapter 71

Sec. 71-5-1. Right to inspect public records - exception. Every citizen of this state has a right to inspect any public records of this state except records pertaining to physical or mental examinations and medical treatment of persons confined to any institutions and except as otherwise provided by law.

Sec. 71-5-2. Officers to provide opportunity and facilities for inspection. All officers having the custody of any state, county, school, city or town records in this state shall furnish proper and reasonable opportunities for the inspection and examination of all the records requested of their respective offices and reasonable facilities for making memoranda abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them for any lawful purpose.

Sec. 71-5-3. Penalties for violation of act. If any officer having the custody of any state, county, school, city or town records in this state shall refuse to any citizen of this state the right to inspect any public records of this state, as provided in this act 71-5-1 to 71-5-37, such officer shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), or be sentenced to not less than sixty (60) days nor more than six (6) months in jail, or both such fine and imprisonment for each separate violation.

#### General Statutes of North Carolina - Chapter 132

Sec. 132-1. Public records defined. Public records comprise all written or printed books, papers, letters, documents and maps made and received in pursuance of law by the public offices of the State and its counties, municipalities and other subdivisions of government in the transaction of public business.

Sec. 132-2. Custodian designated. The public official in charge of an office having public records shall be the custodian thereof.

Sec. 132-6. Inspection and examination of records. Every person having custody of public records shall permit them to be inspected and examined at reasonable times and under his supervision by any person, and he shall furnish certified copies thereof on payment of fees as prescribed by law.

#### Code of North Dakota - Section 44-04-18

Sec. 44-04-18. Access to public records. Except as otherwise specifically provided by law, all records of public or governmental bodies, boards, bureaus, commissions or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.

#### Ohio Revised Code Annotated - Chapter 149

Sec. 149.43. Availability of public records. -- As used in this section, "public record" means any record required to be kept by any governmental unit, including, but not limited to, state, county, city, village, township, and school district units, except records pertaining to physical or psychiatric examinations, adoption, probation, and parole proceedings, and records the release of which is prohibited by state or federal law.

All public records shall be open at all reasonable times for inspection. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time.

Sec. 149.55. Availability of records in centers and archival institutions. -- Any state records center or archival institution established pursuant to sections 149.31 and 149.331 (149.33.1) of the Revised Code is an extension of the departments, offices, and institutions of the state and all state records transferred to records centers and archival institutions shall be available for use by the originating agencies and agencies or individuals so designated by the office of origin. The state records administrator and the state archivist shall establish regulations and procedures for the operation of state records centers and archival institutions respectively.

Sec. 149.00. Penalty. -- Whoever violates section 149.43 or 149.351 (149.35.1) of the Revised Code shall forfeit not more than one hundred dollars for each offense to the state. The attorney general shall collect the same by civil action.

#### Oklahoma Statutes Annotated - Chapter 1

Sec. 24. Records open for public inspection. It is hereby made the duty of every public official of the State of Oklahoma, and its subdivisions, who are required by law to keep public records pertaining to their said offices, to keep the same open for public inspection for proper purposes, at proper times and in proper manner, to the citizens and taxpayers of this State, and its subdivisions, during all business hours of the day; provided, however, the provisions of this act shall not apply to Income Tax Returns filed with the Oklahoma Tax Commission, or other records required by law to be kept secret.

#### Oregon Revised Statutes, 1965-1966 Replacement - Chapter 192

Sec. 192:005 - Definitions. As used in this chapter, unless the context requires otherwise:

....(5) "Public record" means a document, book, paper, photograph, file, sound recording or other material, regardless of physical form or characteristics, made in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use. "Public records" includes correspondence, public records made by photocopying and public writings, but does not include:

(a) Records of the Legislative Assembly, its committees, officers and employes.

(b) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

(c) Extra copies of a document, preserved only for convenience of reference.

(d) A stock of publications.

(6) "Public writing" means a written act or record of an act of a sovereign authority, official body, tribunal or public officer of this state, whether legislative, judicial or executive.

Sec. 192.010 - Right to inspect public writings. Every citizen of this state has a right to inspect any public writing of this state, except as otherwise expressly provided by statute.

Sec. 192.020 - Public officers bound to give copies. Every public officer having the custody of a public writing which a citizen has a right to inspect is bound to give him on demand, a certified copy of it, on payment of the legal fees therefor.

Sec. 192.030 - Right to inspect public records. The custodian of any public records of the state or a political subdivision, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in his office and reasonable facilities for making memoranda or abstracts therefrom during the usual business hours, to all persons having occasion to make examination of them. The custodian of the records may make reasonable rules and regulations necessary for the protection of the records and to prevent interference for the protection of the records and to prevent interference with the regular discharge of his duties.

#### Pennsylvania Statutes - Title 65, Section 66

Sec. 66.1 - Definitions. In this act the following terms shall have the following meanings:

(2) "Public Record." Any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, That the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties or any record, document, material, exhibit pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or which would operate to the prejudice or impair-

ment of a person's reputation or personal security, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

Sec. 66.2 - Examination and inspection. Every public record of any agency shall at reasonable times, be open for examination and inspection by any citizen of the Commonwealth of Pennsylvania.

Sec. 66.3 - Extracts, copies, photographs or photostats. Any citizen of the Commonwealth of Pennsylvania shall have the right to take extracts or make copies of public records and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof or his authorized deputy. The lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats.

Sec. 66.4 - Appeal from denial of right. Any citizen of the Commonwealth of Pennsylvania denied any right granted to him by section 2 or section 3 of this act, may appeal from such denial to the Court of Common Pleas of Dauphin County if an agency of the Commonwealth is involved, or to the court of common pleas of the appropriate judicial district if a political subdivision or any agency thereof is involved. If such court determines that such denial was not for just and proper cause under the terms of this act, it may enter such order for disclosure as it may deem proper.

#### South Dakota Code of 1939 - Title 48

Sec. 48.0701 - Records open to inspection. In every case where the keeping of a record or the preservation of a document or other instrument is required of an officer or public servant under the laws of this state, such record, document, or other instrument shall be kept available and open to inspection by any person during the business hours of the office or place where the same is kept.

This section shall not apply to any office where such records and files relate to criminal actions or matters, except where such actions or matters are completed, and then only at the discretion of the officer having such records and files in his office or under his control. This section shall not apply to such records as are specifically enjoined to be kept secret by the laws requiring them to be so kept.

#### Tennessee Code Annotated, 1966 Supp. Title 15

Sec. 15-304. Records open to public inspection. -- All state, county and municipal records shall at all times, during business hours, be open for personal inspection by any citizen of

Tennessee, and those in charge of such records shall not refuse such right of inspection to any such citizen, unless otherwise provided by law or regulations made pursuant thereto.

Sec. 15-305. Confidential records. -- The medical records of patients in state hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the state, shall be treated as confidential and shall not be open for inspection by members of the public. The information contained in such records shall be disclosed to the public only in compliance with a subpoena or an order of the court. The records, documents and papers in the possession of the military department which involve the security of the United States and/or the state of Tennessee, including but not restricted to national guard personnel records, staff studies and investigations, shall be treated as confidential and shall not be open for inspection by members of the public.

Sec. 15-306. Violation of §§ 15-304 -- 15-307 a misdemeanor. -- Any official who shall violate the provisions of §§ 15-304--15-307 shall be deemed guilty of a misdemeanor.

Sec. 15-307. Right to make copies of public records. -- In all cases where any person has the right to inspect any such public records, such person shall have the right to take extracts or make copies thereof, and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof, or his authorized deputy; provided, however, the lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats.

Utah Code Annotated 1953 - Title 78, Chapter 26

Sec. 78-26-1 -- Classes of public writings. Public writings are divided into four classes:

- (1) Laws.
- (2) Judicial records.
- (3) Other official documents.
- (4) Public records, kept in this state, of private writings, which such records may be made by handwriting, typewriting, or as a photostatic, microphotographic, photographic, or similar reproduction of such private writings.

Sec. 78-26-2 -- Right to inspect and copy. Every citizen has a right to inspect and take a copy of any public writing of this state except as otherwise expressly provided by statute.

Sec. 78-26-3 -- Officials to furnish certified copies. Every public officer having the custody of a public writing which a citizen has the right to inspect is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor.

Wisconsin Statutes 1965 - Chapter 18

Sec. 18.01 - Custody and delivery of official property and records. (1) Each and every officer of the state, or of any county, town, city, village, school district, or other municipality or district is the legal custodian of and shall safely keep and preserve all property and things received from his predecessor or other persons and required by law to be filed, deposited or kept in his office, or which are in the lawful possession or control of himself or his deputies or to the possession or control of which he or they may be lawfully entitled as such officers.

(2) Except as expressly provided otherwise, any person may with proper care, during office hours and subject to such orders or regulations as the custodian thereof may prescribe, examine or copy any of the property or things mentioned in subsection (1).

(4) Any person who violates any of the provisions of this section shall, in addition to any other liability or penalty, civil or criminal, forfeit not less than twenty-five nor more than two thousand dollars; such forfeiture to be enforced by a civil action on behalf of, and the proceeds to be paid into, the treasury of the state, municipality or district as the case may be.



## APPENDIX B



Public Law 89-487  
89th Congress, S. 1160  
July 4, 1966

### An Act

80 STAT. 250

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

Public information, availability.  
5 USC 1002.

“Sec. 3. Every agency shall make available to the public the following information:

“(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

“(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided*, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either

made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

“(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

“(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

“(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

“(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

“(g) PRIVATE PARTY.—As used in this section, ‘private party’ means any party other than an agency.

“(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act.”

Approved July 4, 1966.

APPENDIX C

Summary of Colorado Laws Governing  
Open and Closed Records

Colorado Revised Statutes 1963, including 1965 Supplement\*

<u>Section</u>	<u>Office or Agency Involved and Provisions for Open or Closed Records</u>
3-3-17 (8) (1965 Supp.)	<u>Accounts and Control</u> -- nothing in "Information Coordination Act" shall be construed to establish censorship or control of news of actions by public employees, or to restrict public access to public records.
3-4-3 (2)	<u>Division of Purchasing</u> -- bids are <u>open</u> to public after contract has been awarded.
3-16-12 (7)	<u>Agencies in general</u> -- concerning rule changes under Administrative Code: individual petitions for issuance, amendment or repeal of an agency rule to be <u>open</u> .
3-16-2 (11)	<u>Agencies in general</u> -- concerning agency rules under Administrative Code: copy of rule change kept in the office for inspection by any person.
3-21-3 (2) (1965 Supp.)	<u>State Auditor</u> -- all audit reports are <u>open</u> to public inspection after filed with the audit committee, governor, and the agency involved; provided, that portions containing recommendations, comments, and narrative statements shall be released only upon approval of majority of committee.
6-2-6	<u>State Department of Agriculture</u> -- concerning agriculture statistics: reports made to commissioner by firms and individuals are <u>confidential</u> and not for the purpose of disclosing personal or corporate affairs.
7-3-19 (2)	<u>Commissioner of Agriculture</u> -- records of processors and distributors requested by the commissioner concerning marketing orders are <u>confidential</u> .

\*The 1966 and 1967 enactments are covered in later sections.

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<u>Section</u>	
7-4-12 (2)	<u>Commissioner of Agriculture</u> -- concerning the records of commission merchants: records open only to the <u>confidential</u> inspection of the commissioner and the consignor.
7-5-20	<u>Commissioner of Agriculture</u> -- concerning fruit and vegetable inspection: all information gained from inspection is <u>confidential</u> .
7-8-4	<u>Commissioner of Agriculture</u> -- concerning poultry sales records: open to peace officers and inspectors on demand.
7-10-7	<u>State Board of Stock Inspection</u> -- concerning turkey brands: turkey brand books <u>open</u> to public at all times.
8-3-23	<u>State Board of Stock Inspection</u> -- concerning livestock transportation: inspection report, filed with sheriff, <u>open</u> to any person.
8-4-6	<u>Brand Inspector</u> -- concerning estrays: records of sales of estrays and the description thereof is <u>open</u> to the public.
8-11-11	<u>State Board of Stock Inspection</u> -- concerning sales rings: operator's records open to board
8-12-6	<u>State Board of Stock Inspection</u> -- concerning auctioneer records: <u>open</u> to all persons.
8-14-11 (1965 Supp.)	<u>Commissioner of Agriculture</u> -- concerning commercial feeds: information on production, sales of feeds is <u>confidential</u> .
8-15-4	<u>State Board of Stock Inspection</u> -- concerning butchers: records of brands and carcasses purchased are required to be <u>open</u> .
10-1-7 (2)	<u>State Board of Examiners of Architects</u> -- concerning register of applicants and official proceedings: records declared to be <u>public</u> .
11-3-9 (3) (1965 Supp.)	<u>State Bank Commissioner</u> -- concerning debt adjusters: records <u>open</u> to commissioner.
13-2-6 (1)	<u>Department of Revenue</u> -- all motor vehicle records made public records by any provision of

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chapter 13 shall be open, under rules and regulation set by the director.

- 13-5-26                    Motor Vehicle Division -- concerning accident reports required from driver or owner: for confidential use of Department (Revenue), except in cases where it is the only proof of a person's identity, or upon denial of his presence at an accident. Reports of investigation by sheriffs, police, coroners, etc. are public records under 13-2-6, however.
- 13-5-139 (5)              Department of Revenue -- concerning conviction reports and penalty assessments: declared to be public, open.
- 13-6-21 (1)(b)           Director of Revenue -- concerning records on mortgages on motor vehicles: records are to be open.
- 13-6-40                    Director of Revenue -- concerning records on title to motor vehicle: public records, open.
- 13-7-53  
(1965 Supp.)              Director of Revenue -- records of motor vehicle division on individuals, furnished to insurance carrier, open to public.
- 13-18-7                    State Inspector of Oils -- concerning antifreeze: inspector may provide list of brands of antifreeze inspected and found to be in compliance.
- 13-23-2  
(1965 Supp.)              State Inspector of Oils -- concerning brake fluid: shall, upon request, furnish a list of brands inspected and approved.
- 14-2-1 (4)                Department of Banking -- commissioner and deputies required to take oath to keep secret all information acquired by them in the performance of their duties.
- 14-2-2 (8)                Department of Banking -- members of the banking board required to take an oath to keep secret all information acquired by them.
- 14-2-12 (1)               Department of Banking -- concerning information from bank records: revealed only to the banking board -- any party entitled to appear in a hearing on application for a bank charter has access to applicant's

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notice of intention and supporting materials.

- 14-13-9      Department of Banking -- concerning banking information: commissioner shall not divulge information acquired in the discharge of duty, except as provided by law.
- 14-19-3      Department of Banking -- concerning funeral contract trust funds: trust instruments and escrow instruction on file with commissioner are public records.
- 15-1-12      Board of Examiners of Barbers -- concerning register: contains all persons who are licensed or take examination, open.
- 16-1-11      Colorado School of the Deaf and the Blind -- books and records of the secretary-treasurer are open to the trustees, superintendent, state officers, and members of the General Assembly.
- 16-2-26      Department of Public Welfare -- concerning aid to blind: rule making power of Department includes making rules on the custody, use, preservation of records -- prohibits publication of lists of aid recipients -- applicant and counsel have opportunity to examine all pertinent records.
- 23-1-10      State Board of Chiropractic Examiners -- concerning board register: all applications for licensing, licensed chiropractors and all proceedings are public records.
- 27-1-18 (5)      Collection Agency Board -- concerning financial statement of collector agencies: confidential.
- 27-1-20      Collection Agency Board -- concerning collection agency licenses: requires records of applications for licenses, bonds required to be filed prior to licenses issued, licenses or certificates which have been revoked, renewal applications and renewal licenses be open for inspection.
- 29-3-2      Water Conservancy District Board -- concerning minutes, certificates, contracts: open to property owners as well as other interested parties.

<u>Section</u>	<u>Office or Agency Involved and Provisions for Open or Closed Records</u>
29-5-2 (2)	<u>Water Conservancy District Board</u> -- concerning dissolution of district: data, plans and estimates are <u>open</u> to any person interested.
31-2-14	<u>Secretary of State</u> -- concerning interrogatories by secretary of state concerning compliance with corporation code: shall not be open to public inspection.
32-1-10 (1) (1965 Supp.)	<u>State Board of Cosmetology</u> -- concerning records of proceeding, applications: public records.
35-1-1 (1)	<u>County Sheriffs, Clerks, - Treasurers, Clerks of District and County Courts</u> -- all books and papers required to be in these offices are to be <u>open</u> ; however, no one except interested parties, or their attorneys have access to pleadings or other papers in pending cases.
35-1-1 (2)	<u>County Offices</u> -- persons making abstracts have right, subject to rules of officer concerned, to inspect and make copies or memoranda for their business.
35-3-20	<u>Board of County Commissioners</u> -- clerk of the board (county clerk) shall deliver in demand a certified copy of any record or account in the office.
35-4-19	<u>County Clerk</u> -- concerning records of writs of attachment: record containing description of property attached open to inspection of all persons.
35-6-13	<u>County Coroner</u> -- concerning coroner's inquest where crime involved: results of inquest not open to public until after arrest.
35-7-9	<u>County Treasurer</u> -- concerning account books: <u>open</u> to board of county commissioners and <u>all</u> county and state officers.
35-7-11	<u>County Treasurer</u> -- concerning unpaid county warrants: notices of warrants due are <u>open</u> to inspection.
35-7-18	<u>County Treasurer</u> -- concerning treasurers' cash book: record of all money received <u>open</u> to public.
35-7-19	<u>County Treasurer</u> -- concerning registry of county orders: open to inspection.

<u>Section</u>	<u>Office or Agency Involved and Provisions for Open or Closed Records</u>
35-10-7 (3) (1965 Supp.)	<u>County Superintendent of Schools</u> -- concerning protest proceedings on petition to abolish the office: all records and hearings are public.
36-8-3	<u>Board of County Commissioners</u> -- concerning inventory of county assets: kept as a public record.
36-15-7 (1)	<u>Board of Review on County Building Code</u> -- concerning building codes: records of examinations and other official acts are public records.
36-18-3	<u>Secretary of State</u> -- concerning Denver charter amendments: Secretary of State to keep <u>open</u> for public inspection.
37-1-21	<u>Courts of Record</u> -- concerning judgment dockets: <u>open</u> to public.
39-7-10	<u>Courts of Record</u> -- concerning criminal case dismissals: writings supporting motion for dismissal are <u>open</u> .
39-17-3 (1)	<u>State Board of Parole</u> -- provides information gathered on parolees is <u>confidential</u> .
42-1-20	<u>State Board of Dental Examiners</u> -- provides that secretary of board to keep record of licenses and other matters; <u>open</u> .
46-5-6	<u>Domestic Relations Counselor</u> -- provides counseling proceedings, interviews and conferences be private; communications held <u>confidential</u> .
47-2-5	<u>Drainage District Board</u> -- provides records of board shall be <u>open</u> to inspection.
47-4-1 (2)	<u>Drainage District Board</u> -- provides reports of assessments for benefits be filed with secretary of board and <u>open</u> for inspection.
47-12-25	<u>Grand Junction Drainage District</u> -- provides records of board be <u>open</u> to inspection.
49-4-25	<u>County Clerk</u> -- provides election registration books be <u>open</u> .



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<u>Section</u>	
49-5-12	<u>County Clerk</u> -- provides certificates of designation, petitions, acceptances, etc., in relation to elections be <u>open</u> to inspection.
49-9-7	<u>County Clerk</u> -- provides list of the judges elected be <u>open</u> to inspection to any electors.
49-21-51 (3)	<u>Secretary of State and County Clerk</u> -- concerning campaign expenses: statements filed are <u>open</u> for inspection.
49-25-21 (7) (1965 Supp.)	<u>Municipal Clerk</u> -- provides municipal nomination petition be <u>open</u> for public inspection -- under proper regulation by the clerk with whom they are filed.
49-25-30 (1965 Supp.)	<u>Municipal Clerk</u> -- provides list of municipal election judges be <u>open</u> to inspection.
49-25-99 (3) (1965 Supp.)	<u>Municipal Clerk</u> -- provides that recording of a rejected absentee vote be opened under proper regulation.
51-1-6 (13)(g) (1965 Supp.)	<u>State Board of Registration for Professional Engineers</u> -- provides roster of board containing names of engineers, etc., be furnished on request.
56-5-8	<u>Clerks of Courts</u> -- provides fee books to be <u>open</u> to public inspection, like all other records in this office.
61-3-7 (3) (1965 Supp.)	<u>Board of Funeral Directors and Embalmers</u> -- provides that the board receive and examine reports of cemetery authority.
61-3-8 (2) (1965 Supp.)	<u>Board of Funeral Directors and Embalmers</u> -- provides board has free access to books and records relating to endowment care funds.
63-2-12	<u>County Clerks</u> -- providing that legislative journals maintained by county clerks be <u>open</u> to inspection.
63-3-8	<u>Legislative Reference Office</u> -- all books, documents, accessible to all legislators and other state and municipal officers and to the public for reference purposes.

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<u>Section</u>	
63-3-9	<u>Legislative Reference Office</u> -- provides the requests for drafting bills shall be <u>confidential</u> .
63-4-7	<u>Legislative Council</u> -- minutes available to any member of the General Assembly.
66-5-5	<u>Department of Public Health</u> -- provides records of illegitimate children be held <u>confidential</u> .
66-8-14 (4) and 66-8-15 (2)	<u>Department of Public Health</u> -- concerning adoption and legitimation cases: original birth certificates are sealed and can be opened only by a court order.
66-8-16 (4)	<u>Department of Public Health</u> -- concerning child of unknown parentage: foundling report to remain <u>confidential</u> if regular birth certificate is found.
66-8-17 (3)(4)	<u>Registrar of Vital Statistics</u> -- all certificates are <u>open</u> unless otherwise stated by law; state registrar shall not permit inspection of records unless applicant has a direct and tangible interest in the matter. Records may be used for research purposes, but cannot identify an individual.
66-14-9 (4)	<u>State Board of Registration for Professional Sanitarians</u> -- provides that <u>all</u> records of board proceedings and registrations be public.
70-1-9 (2)	<u>Initiative and Referendum</u> -- all records and hearings protesting sufficiency of petitions are <u>open</u> .
71-1-4 (12) (1965 Supp.)	<u>Clerk of the Court</u> -- concerning short term involuntary hospitalization and proceedings: records of a person committed, then released, are sealed by the clerk of the court until name is removed from the index and respondent has been adjudicated under provision for long term involuntary commitment.
71-1-33 (1965 Supp.)	<u>Department of Institutions</u> -- concerning central records on orders of adjudication: maintained by director available to public officials, attorneys, and persons having a bonafide business dealing with respondent.

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- 72-1-3 (5) Department of Insurance -- provides records are open to anyone on application, except as provided elsewhere in law.
- 72-1-11 (1) Department of Insurance -- concerning examination of companies found to be insolvent: prohibits commissioner from making information public before suspending the authority of company to do business.
- 72-2-11 Department of Insurance -- concerning application for receivership: examination and hearing not made public.
- 72-4-8 (1)  
(1965 Supp.) Commissioner of Insurance -- concerning annual financial report of insurance officer: names and addresses of subscribers are not filed nor part of public record.
- 72-7-30 Commissioner of Insurance -- concerning fraternal benefit society: he shall make no financial statements until a copy has been served on the society.
- 72-11-4 (3) Department of Insurance -- concerning rates of fire and inland marine insurance: any supporting information is open to public (see 72-11-5 (2)).
- 72-11-5 (2) Commissioner of Insurance -- prior to filing of supporting information provided for in 72-11-4 (3) the information is deemed confidential.
- 72-12-4 (3) Department of Insurance -- concerning rates of motor vehicle insurance. Information open to public subsequent to filing (12-12-5 (2)).
- 72-12-5 (2) Department of Insurance -- prior to filing -- confidential.
- 73-3-11 (1) Commissioner of Banking -- concerning regulations: every order is indexed and shall be a public record.
- 75-1-3 (5) Liquor Licensing Authority -- concerning fermented malt beverages: provides all records of acts and transactions to be open.
- 75-2-6 (5) Liquor Licensing Authority -- concerning liquor code of 1935: provides all records be open, except those showing sales volume or quantity

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of liquor sold or stamps purchased, or customers served.

- 77-1-12            Sheriff -- concerning writs of execution: book showing receipt of writ shall be a public record open to inspection.
- 78-3-6            Jury Commissioner -- concerning jury lists: (counties over 100,000) open to public.
- 78-4-6            Jury Commissioner -- concerning jury list (40,000 to 100,000): open to public.
- 80-1-8            Industrial Commission -- concerning proceedings: record of commission proceedings to be public.
- 80-1-19 (1)       Industrial Commission -- concerning investigations by the commission: commission may treat the information as confidential -- may be used in statistical form.
- 80-4-8 (2)(a)     Industrial Commission -- concerning complaints of unfair labor practices: name of complainant not disclosed by commission if in its judgment it would prejudice the interest of the person.
- 81-6-3            Industrial Commission -- concerning reports of injury: all information required by commission is confidential -- cannot be used in court unless commission is a party in the action.
- 81-14-25          Industrial Commission -- concerning proceedings records: transcript available to anyone upon payment.
- 82-3-7 (1)        Department of Employment -- concerning employment unit information required by Department provides information gained from units and individuals be confidential.
- 85-2-6            City Clerk -- concerning transient dealers: papers dealing with licenses issued shall be open to public inspection.
- 88-1-9 (1)        Local Government -- concerning budget law: provides that the proposed budget shall be open to public inspection.

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- 88-6-6 (2)(3)  
(1965 Supp.)      Local Government -- concerning audit report: provides report be maintained for public inspection -- also requires state auditor to maintain a copy for public inspection.
- 89-1-13      Board of Directors of a District -- concerning domestic waterworks district: provides that records of meetings, contracts, maps, plans and documents relating to waterworks be open to inspection.
- 89-3-11 (1)      Board of Directors of a District -- concerning metropolitan districts: provides minutes, certificates, contracts, and all corporate acts be open to inspection of all property owners of the district, as well as to all interested parties.
- 89-4-9      Board of Directors of a District -- concerning improvement districts: provides minutes, certificates, contracts, and all corporate acts be open to all property owners of the district, as well as to all interested parties.
- 89-5-10 (1)      Board of Directors of a District -- concerning water and sanitation districts: provides minutes, certificates, contracts, and all corporate acts be open to all property owners of the district, as well as to all interested parties.
- 89-6-11 (1)      Board of Directors of a District -- concerning fire protection districts: provides minutes, certificates, contracts, and all corporate acts be open to all property owners of the district, as well as to all interested parties.
- 89-12-11 (1)      Board of Directors of a District -- concerning metropolitan recreation districts: provides minutes, certificates, contracts, and all corporate acts be open to all property owners of the district, as well as to all interested parties.
- 89-14-4 (1)(b)      Board of Directors of a District -- concerning hospital districts: provides minutes, certificates, contracts, and all corporate acts be open to all property owners of the district, as well as to all interested parties.

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- 89-15-5 (7)(c) Board of Directors of a District -- concerning metropolitan sewage disposal districts: provides the book of resolutions and orders be a public record.
- 89-17-1  
(1965 Supp.) Colorado Tax Commission -- concerning special districts: provides the list of all local improvement district be a public record, except those organized under Article 2 (Special Improvement Districts in Cities and Towns - 1923 Act) and Article 4 (Improvement Districts in Cities and Towns - 1949).
- 90-1-8 County Clerk and Records -- concerning applications for marriage licenses: all records connected therewith are public records.
- 91-1-13 (1) State Board of Medical Examiners -- concerning applicants examinations: provides that test papers not disclose the name of the applicant.
- 91-1-15 County Recorder -- concerning medical license: provides register of license and description of license be kept for public inspection.
- 91-6-5 State Board of Physical Therapy -- concerning register of licensed physical therapists: provides the annual list be available to any person upon application and payment of fee.
- 92-2-8 Chief Inspector of Coal Mines -- concerning examination papers: provides that the examination papers of all applicants be a public record.
- 92-7-4 Chief Inspector of Coal Mines -- concerning mine maps: provides maps in the office of the chief inspector be open to interested persons, provided examination is made in presence of the chief inspector -- no copies of maps can be made without consent of owner.
- 92-28-14 Board of County Commissioners -- concerning mine drainage districts board records and accounts: provides all records and accounts be open to public inspection.

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- 92-32-8                    Bureau of Mines -- concerning bureau records: provides records, books and papers are public records.
- 92-32-14                  Commissioner of Mines -- concerning investigations of metallurgical processes, ore bodies, or deposits of ore, etc.: provides that officers be removed from office for failure to keep records confidential -- information may be released by way of official reports.
- 93-1-5 (4)                Moffat Tunnel Commission -- concerning board proceedings: provides that records be open to the inspection of all owners of property within the district, as well as to interested parties.
- 93-1-14 (2)              Moffat Tunnel Commission -- concerning records of real estate assessments in each county of the district: provides assessment records, filed with county treasurer, be open to public.
- 99-1-19                  County Clerk -- concerning board of county commissioners approval of official bonds: provides records showing the boards approval of all official bonds be open to the public.
- 100-2-8 (2)              State Inspector of Oils -- concerning records of fuel products: provides inspection records be open to the public.
- 100-5-7 (2)              State Inspector of Oils -- concerning investigation of accidents at installations using liquefied petroleum gas: provides that in cases where inspector chooses to investigate, a written record of finding will be available to public.
- 100-6-7 (5)              Oil and Gas Conservation Commission -- concerning rules, regulations and orders: provides they be recorded in full and open to the public.
- 100-6-15 (1)(c)         Oil and Gas Conservation Commission -- concerning well logs, directional surveys, etc.: provides that wild-cat wells marked "confidential" remain so for six months, unless operator gives written permission to release at an earlier date.

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- 101-1-22      State Department of Public Welfare -- concerning recipients of old age assistance: rule making power of department includes power to establish rules concerning the use of records, papers, files and communications of state and county departments.
- Subsection 3 -- makes it unlawful to use lists of recipients derived from records of state or county.
- Subsection 4 -- allows applicant and his counsel to examine records concerning applicant.
- 102-1-10      State Board of Optometric Examiners -- concerning examination papers: provides that papers, including grades, be kept by the secretary for two years for inspection.
- 105-7-18      County Sheriff -- concerning jail records: provides daily records of commitments and discharges be open to the public.
- 106-2-3 (1)    County Planning Commission -- concerning proceedings: provides records be open to inspection.
- 106-2-16 (4)   Boards of Adjustment -- concerning procedure before the board: provides minutes, showing the vote of each member or absence or failure to vote, shall be a public record.
- 106-2-24      County Clerk -- concerning zoning ordinance, regulation or maps: provides copies to be accessible to the public.
- 112-2-6        State Board of Land Commissioners -- concerning maps and plats retained by board register: provides that records be opened.
- 112-3-10      State Board of Land Commissioners -- concerning maps and plats required: provides these be open to public inspection.
- 115-3-3 (1)    Public Utilities Commission -- concerning public utility rates, tolls, rentals, etc.: provides schedules to be open to public inspection.



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<u>Section</u>	
115-3-4 (1)	<u>Public Utilities Commission</u> -- concerning changes in schedule: provides that new schedules be available for public inspection.
117-1-4 (1) (as amended 1965 Supp.)	<u>Real Estate Commission</u> -- concerning records kept by Secretary of State: provides that these records shall be <u>open</u> , in such a manner as may be prescribed by the Secretary of State.
117-1-18	<u>County Clerk</u> -- concerning lists of real estate licenses issued by the Secretary of State: provides that list be a public record.
118-3-13 (1)	<u>Public Trustee (County)</u> -- concerning deeds of trust: provides that books containing notices of sale of real property be <u>open</u> for inspection by the public.
118-10-50	<u>Registrar of Titles</u> -- concerning registering of conveyances and other instruments affecting land titles: provides that all records pertaining to registered land in this office be <u>open</u> to public inspection.
119-2-20	<u>State Department of Public Welfare</u> -- concerning aid to indigent tuberculars: provides applications and case records of recipients be <u>open only</u> by rules and regulations of the Department.
119-3-11	<u>State Department of Public Welfare</u> -- concerning welfare funds: provides the Department with rulemaking power to regulate use of records -- makes it unlawful to disclose any lists of names of person applying for or receiving aid -- applicant has access to his own records.
119-6-25	<u>State Department of Public Welfare</u> -- concerning aid to needy disabled: provides the Department with rulemaking power to regulate use of records -- unlawful to disclose any list of names of persons applying for or receiving aid -- applicant has access to his own records.
119-7-12 (1965 Supp.)	<u>State Department of Public Welfare</u> -- concerning medical assistance for the aged: provides this information be <u>confidential</u> .

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- 120-10-15 (5) Colorado State Patrol -- concerning accident reports: provides these reports to be confidential.
- 122-5-7 State Commissioner of Savings and Loan Associations -- prohibits Commissioner and other officials from disclosing information acquired by them in the discharge of their duties.
- 123-1-12 (3)  
(1965 Supp.) Commissioner of Education -- concerning personal information about applicants for employment, employees, or pupil test scores: provides these records be held confidential in nature -- each teacher has a right to inspect all information pertaining to himself.
- 123-2-2 (3)  
(as amended  
1965) County Superintendent of Schools -- concerning those counties which retain the office: all records are open to public inspection -- in those counties which abolish it the records are transferred to the school district or the state archivist.
- 123-30-9 (4)  
(1965 Supp.) School District Boards -- provides that current bylaws, policies, and rules and regulations be made available to the public.
- 123-32-11 (1)  
1965 Supp.) Board of Education -- provides that budgets and appropriation resolutions be placed on file and be open for public inspection.
- 123-33-2 (2) Board of Education -- concerning financial accounting and reporting: provides records be open for public inspection.
- 123-33-5 Board of Education -- concerning financial accounting and reporting: provides that accounts showing money derived from school sponsored activities be easily assessible to the public.
- 124-11-7 (1) State Board of Agriculture -- concerning transactions of the board and Colorado State University: provides that records showing transactions of the Board and C.S.U. be open to any citizen of the state.
- 124-22-4 (1) Commission on Higher Education -- provides that records of the Commission's proceedings be open to the public.

<u>Section</u>	<u>Office or Agency Involved and Provisions for Open and Closed Records</u>
125-1-24 (2)	<u>Division of Securities</u> -- provides that the register of all applications for registration, denials, suspensions, or revocations be <u>open</u> to the public.
125-1-24 (3)	<u>Division of Securities</u> -- provides that information on file be made available to the public under such rules as the securities commissioner prescribes.
132-3-4	<u>State Treasurer</u> -- provides the register of warrants be <u>open</u> to every person desiring to inspect it.
136-1-6	<u>County Clerk</u> -- concerning survey notes: copies of field notes available for public inspection.
137-3-8 (1965 Supp.)	<u>Colorado Tax Commission</u> -- concerning office procedure: provides that minutes of meetings be <u>open</u> to public inspection.
137-4-3 (1) (1965 Supp.)	<u>Public Utilities</u> -- concerning information on public utilities' property: provides all statements filed are available <u>only</u> to the Tax Commission.
137-5-20 (1965 Supp.)	<u>County Assessor</u> -- concerning personal property tax schedules: provides schedules be considered as private documents, and available <u>only</u> to the assessor and the Tax Commission.
137-9-2 (2) (1965 Supp.)	<u>State Board of Equalization</u> -- concerning board procedure: provides that minutes of meetings be <u>open</u> to public inspection.
138-2-12	<u>Director of Revenue</u> -- any information gained by the Director or his agents concerning distributors and transportors of motor fuel is to be <u>confidential</u> .
138-4-14	<u>Inheritance Tax Commission</u> -- concerning gift tax: unlawful for the Commissioner, Attorney General, or any deputy to divulge particulars in any return required under this article -- <u>except</u> in classified or statistical forms without identification of individuals.

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- 139-3-9      City Auditor -- concerning audit of claims against the city: provides auditor keep accounts, vouchers and documents, settled by him, open to the public.
- 139-3-12     City Engineer -- concerning inspection of construction of public works: all maps, notes, surveys, books, papers and documents of this office shall be open to all citizens.
- 139-5-17     City Offices (Second Class Cities) -- all records and accounts of offices and departments of the city are open to inspection under rules established by city manager -- except records the disclosure of which would tend to defeat the lawful purpose for which they were intended.
- 139-6-2      Town Board of Trustees -- records of all proceedings, rules and ordinances passed by the board are open to electors.
- 139-14-5     City Council -- journal of proceedings are to be open to any citizen.
- 139-34-6     City Clerk -- concerning ordinance codes adopted by reference: kept in the clerks office, open for inspection while the ordinance is in force.
- 139-40-4     City Treasurer -- concerning registry of city or town orders: orders, warrants, or other certificates of city indebtedness, presented to treasure for payment are open to examination by any person.
- 139-48-7     Firemen's Civil Service Commission -- all records and documents filed by the commission shall be filed as public records -- minutes, kept separate, are to be open to the public.
- 139-51-11    Board of Trustees of Waterworks -- concerning board procedure: minute books, together with all contracts, maps, plans and documents relating to management of waterworks are open to the public.
- 139-58-7     Pawnbrokers -- concerning book required to be kept: provides books to be open to mayor, marshal or chief of police, or any person authorized in writing by the mayor, or marshal or chief of police.

Office or Agency Involved and Provisions  
for Open and Closed Records

<u>Section</u>	
139-59-4	<u>Municipal Planning Commission</u> -- provides commission's resolutions, transactions, findings and determinations be public record.
139-80-14	<u>Board of Trustees of the Firemen's Pension Fund</u> -- treasurer of board shall keep books and accounts for inspection by board, or any interested person.
139-81-12	<u>Board of Trustees of the Policemen's Pension Fund</u> -- treasure of board shall keep books and accounts for inspection by board, or any interested person.
141-1-6	<u>Secretary of State</u> -- concerning record of trademarks: kept for public inspection.
141-4-5 (1965 Supp.)	<u>Secretary of State</u> -- concerning trademarks, business and farm names: Secretary to keep for public inspection.
142-2-3 (3)(b) (as amended 1965 Supp.)	<u>State Electrical Board</u> -- concerning national electrical code: to be kept in the office of the board, <u>open</u> to inspection.
146-2-5	<u>Department of Rehabilitation</u> -- concerning rule-making power of director: provides for possible rules protecting confidential information received by the Department.
148-11-11	<u>State Engineer</u> -- concerning reports of engineers or geologists to State Engineer on plans and specification of any dam: provides that these reports be filed with other official records pertaining to such dam, constituting a public record.
148-12-5 (5)	<u>Irrigation Division Engineer</u> -- all records collected by division engineer are <u>open</u> to the public -- <u>except</u> when engineer is absent.
150-2-11	<u>Board of Directors of Irrigation Districts</u> -- requires records of meetings to be <u>open</u> to general public inspection.
150-4-7	<u>Board of Directors of Internal Improvement Districts</u> -- requires <u>all</u> records of the board must be <u>open</u> to any elector during business hours.

Office or Agency Involved and Provisions  
for Open and Closed Records

Section

150-7-6 Board of Directors of Colorado River Conservation District -- requires minutes of meetings be open to any elector of the district.

150-8-6 Board of Directors of Southwestern Water Conservation District -- requires minutes of meetings be open to any elector of the district.

153-1-14 Wills, Estate and Heirship -- books and accounts of any deceased person or mental incompetent are subject to inspection of all persons interested therein.

Session Laws of 1966

Chapter 36,  
Section 15 Board of Director of Local Improvement and Service District -- provides legislative action be recorded in the resolution book to be a public record -- records of minutes, certificates, contracts, bonds given by officers, and all corporate acts are also classed as public records -- accounts kept by treasurer also are public.

Chapter 45,  
Section 8 (2)(d) State Department of Public Health -- concerning air pollution variance board: any information gathered regarding secret process, or methods of manufacture shall be confidential.

Laws Enacted During 1967

H.B. 1001,  
Children's Code  
22-1-11 (1)(a) Courts of Record -- records of court proceedings open to parents or guardian, attorney, or other parties in proceedings before the court, and to any agency with legal custody of child -- except as provided in 22-4-4 (see below).

22-1-11 (1)(b) Courts of Record -- records, with consent of court, may be open to child, persons with legitimate interest in the proceedings, and persons conducting pertinent research studies -- except as provided in 22-4-4.

Office or Agency Involved and Provisions  
for Open and Closed Records

<u>Section</u>	
22-1-11 (1)(c)	<u>Probation Counselors</u> -- records and all other social and clinical studies are not to be open -- <u>except</u> by consent of court.
22-2-2 (5)(a)	<u>Law Enforcement Officials</u> -- records concerning children are maintained separate from records of arrests and may not be inspected by public -- <u>except</u> by court order, or when there is a criminal conviction.
22-2-2 (6)	<u>Law Enforcement Officials</u> -- no information concerning identity of child shall be transmitted to the Federal Bureau of Investigation -- <u>except</u> when court orders child to be held for criminal proceedings.
22-4-4 (1)	<u>Juvenile Court</u> -- records and papers of relinquishment and adoption proceedings are <u>confidential</u> .
119-8-7 (3)	<u>Department of Public Welfare</u> -- child care centers keeping records concerning a child are to keep the records <u>confidential</u> .
119-9-16 (1)	<u>Department of Public Welfare</u> -- rule making power of department includes power to establish rules governing use and custody of records.
119-9-16 (3)	<u>Department of Public Welfare</u> -- provides that applicant and his counsel has access to pertinent records concerning the applicant.
H.B. 1161, Section 8 (1)	<u>Use and Disposal of Dead Animals - Commissioner of Agriculture</u> -- information concerning disposal plant inspections are to be kept for <u>confidential</u> use of Department only.
H.B. 1225, 136-4-9	<u>Land Surveyors and Land Surveys - County Clerk</u> -- concerning land survey monuments: monument record to be <u>open</u> to public.
H.B. 1226, 145-1-5 (3)(c)	<u>Veterinary Medicine - State Board of Veterinary Medicine</u> -- all board records, except as otherwise provided by law, shall be <u>open</u> to public inspection.
H.B. 1238, 66-12-4	<u>Tuberculosis - Department of Public Health</u> -- case register of tubercular cases is not open to any person other than health officials -- no reports can be divulged so as to disclose identity of individuals.

Office or Agency Involved and Provisions  
for Open and Closed Records

Section

- 66-12-5      Department of Public Health -- records of clinical or laboratory examinations are confidential.
- H.B. 1306,  
137-5-29      General Property Tax - County Assessor -- tax warrants containing assessment roles, relating to persons in whose name taxable property has been listed and the class of such property shall be made readily available to the general public.
- H.B. 1323,  
Section 1      Municipal Corporations - Division of Local Government -- maintain as a public record a file listing names of incorporated towns, cities, or cities and counties of the state.
- H.B. 1375      Landscape Architects - State Board of Examiners of Landscape Architects -- secretary of the board shall keep record of board proceedings which shall be available to the public.
- H.B. 1533,  
138-9-12 (4)(a)      Records of Taxpayers - Director of Revenue -- Director shall not divulge information in connection with any tax covered by this article (deals with specific taxes).
- 138-9-12 (5)      Director of Revenue -- nothing in this section shall prohibit the publication of statistics classified as to prevent identification of individuals.
- H.B. 1536,  
150-10-6      Rio Grande Water Conservation District - Board of Directors of the District -- requires that minutes be available to any elector of the district.
- H.B. 1548,  
Section 8      State Planning Activities - State Planning Advisory Board -- to provide public access to the Colorado plan the governor shall file the plan with the Secretary of State.
- S.B. 102  
3-16-2 (12)      Rules Issued by Administrative State Agencies - Supreme Court -- regulations of state agencies to be delivered to the Supreme Court from the Secretary of State's office where it shall be available for public inspection.
- S.B. 116,  
Section 5 (7)      Wiretapping - Courts -- all information obtained by wiretapping shall be disclosed by no one, unless such information has previously become a matter of public record in criminal or civil action.



Office or Agency Involved and Provisions  
for Open and Closed Records

Section

S.B. 157,  
149-1-16

Water Conservancy Board -- Colorado Water Conservation Board -- concerning results of studies to be embodied in written reports: provides reports be held as a public record by the board.

S.B. 170,  
100-5-5

Minimum Standards for Liquified Petroleum Gas - State Inspector of Oils -- provides that copies of pamphlets containing minimum standards be maintained in inspector's office for inspection by anyone.

S.B. 302,  
119-1-8 (5)

Central Registry of Parents of Abandoned Children - Department of Public Welfare -- provides that records from boards, bureaus, and agencies concerned be available only to Department, the attorney general, district attorney, county attorneys, and courts having jurisdiction in abandonment actions.

S.B. 383,  
66-8-13 (3)

Vital Statistics - Department of Health -- concerning new certificate of birth following adoption, legitimation, and paternity determination: provides that certificates be closed, except as provided by regulation or upon court order -- information obtained from opening sealed certificate by court order may be withheld from public view.

APPENDIX D

First Regular Session

Forty-sixth General Assembly

STATE OF COLORADO

BY SENATORS BROWN, SCOTT, ANDERSON, ARMSTRONG, BIRMINGHAM, BRADLEY, CISNEROS, DeBERARD, DECKER, DENNY, DONLON, ENSTROM, GARNSEY, GILL, HEWETT, HOBBS, HODGES, JACKSON, KEMP, LOCKE, LUCAS, MASSARI, NICHOLSON, OLIVER, ROCKWELL, SAUNDERS, SCHIEFFELIN, TAYLOR, THOMAS, VOLLACK, AND WILLIAMS; ALSO REPRESENTATIVES BAER, NEAL, FOWLER, CALABRESE, AND FARLEY.

SENATE BILL NO.

217

LOCAL GOVERNMENT

A BILL FOR AN ACT

1 PROVIDING FOR ACCESS TO PUBLIC RECORDS AND FOR THE PHOTOGRAPHING  
2 OF SUCH RECORDS.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Definitions. (1) For the purpose of this act:

5 (2) "Public records" means all books, papers, maps, photo-  
6 graphs, or other official documentary materials, regardless of  
7 physical form or characteristics, made, produced, executed, or  
8 received by any office, officer, agency, or institution of this  
9 state, or by any office or officer of any political subdivision  
10 of the state, in pursuance of law or in connection with the trans-  
11 action of public business, and preserved or appropriate for preser-  
12 vation of that office, officer, agency, or institution, or its  
13 successor, as evidence of the organization, function, policies,  
14 decisions, procedures, operations, or other activities of the  
15 state, or political subdivision, because of the information con-  
16 tained therein. Such term does not include library and museum  
17 material made or acquired and preserved only for convenience of  
18 reference, or stocks of publications and processed documents.

19 (3) "Public business" means any transaction involving the  
20 expenditure of funds derived by the collection of any tax.

21 SECTION 2. Public records open to inspection. All public  
22 records of the state, or of any political subdivision shall be

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

1 open for personal inspection by any citizen of this state at  
2 reasonable times and without charge. The lawful custodian of  
3 any public records shall not refuse this privilege to any citizen  
4 unless the inspection of such records is specifically prohibited  
5 by law or by action of a court acting pursuant to lawful authority,  
6 or unless such records are designated by law to be confidential  
7 records.

8 SECTION 3. Violation - penalty. Any person who violates  
9 the provisions of this act shall be guilty of a misdemeanor and,  
10 upon conviction thereof, shall be punished by a fine not to ex-  
11 ceed one hundred dollars, or by imprisonment in the county jail  
12 not to exceed ninety days, or by both such fine and imprisonment.

13 SECTION 4. Photographing public records. (1) In all cases  
14 in which a person has the privilege of inspecting public records,  
15 such person shall have the right of access to such records for  
16 the purpose of obtaining copies or taking photographs of the  
17 records. Such photographs shall be taken while the records are  
18 in the possession, custody, and control of the lawful custodian  
19 thereof, or his authorized deputy, and shall be subject to the  
20 supervision of such custodian. Such custodian may establish a  
21 reasonable schedule of times for photographing.

22 (2) When practical, the photographs shall be taken in the  
23 place where the records are kept, but if it is impractical to do  
24 so, the custodian may allow arrangements to be made for this pur-  
25 pose. If other facilities are necessary, the cost of providing  
26 them shall be paid by the person desiring to photograph the  
27 records.

28 (3) The lawful custodian of the records may charge the same  
29

1 fee for the services rendered by him or his deputy in supervis-  
2 ing the photographing as he may charge for furnishing a certified  
3 copy or copies of the public record being photographed. When,  
4 in the judgment of the lawful custodian of the records, it is  
5 advisable to furnish photographs of the record in lieu of allow-  
6 ing the record to be photographed, he may furnish such photo-  
7 graphs for a fee of one dollar per page. If fees for copies of  
8 any instrument are specifically fixed by law, such specific fee  
9 shall apply.

10 SECTION 5. Effective date. This act shall take effect  
11 July 1, 1968.

12 SECTION 6. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

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## APPENDIX E

COLORADO ASSOCIATION OF SCHOOL BOARDS  
1165 Broadway Boulder, Colorado 80302

### SUMMARY OF REPLIES TO OPEN PUBLIC RECORDS QUESTIONNAIRE

Received as of August 10, 1967

228 School Board Members representing 114 School Districts in 54 Counties

121 Superintendents representing 121 School Districts in 55 Counties

- I. Do you believe the Constitutions of our State and Nation provide adequate guidelines for determining which records of public agencies should be classified as public records, open to the public for inspection and available to the press for publication?
- |                     |            |          |                      |
|---------------------|------------|----------|----------------------|
| Board Members . . . | Yes -- 128 | No -- 71 | Did not answer -- 29 |
| Superintendents . . | Yes -- 66  | No -- 39 | Did not answer -- 15 |
- II. Do you believe a law is needed which would further insure the public's right to know what takes place in the public agencies of the State?
- |                     |           |           |                      |
|---------------------|-----------|-----------|----------------------|
| Board Members . . . | Yes -- 93 | No -- 106 | Did not answer -- 29 |
| Superintendents . . | Yes -- 37 | No -- 74  | Did not answer -- 9  |
- III. Do you believe Colorado law should provide that all financial records or documents in possession of the school district should be classified as public records, open for inspection and available to the press?
- |                     |            |          |                     |
|---------------------|------------|----------|---------------------|
| Board Members . . . | Yes -- 156 | No -- 67 | Did not answer -- 5 |
| Superintendents . . | Yes -- 77  | No -- 42 | Did not answer -- 1 |
- IV. Do you believe Colorado law should provide that all school district policies and details about operational practices should be classified as public records?
- |                     |            |          |                     |
|---------------------|------------|----------|---------------------|
| Board Members . . . | Yes -- 184 | No -- 40 | Did not answer -- 4 |
| Superintendents . . | Yes -- 96  | No -- 22 | Did not answer -- 1 |
- V. Do you believe Colorado law should provide that all records and documents in possession of the school district which pertain to the pupil should be classified as public records, open for inspection and available to the press?
- |                     |           |           |
|---------------------|-----------|-----------|
| Board Members . . . | Yes -- 16 | No -- 213 |
| Superintendents . . | Yes -- 28 | No -- 102 |

Colorado Association of School Boards

Summary of Replies to Open Public Records Questionnaire . . page 2

VI. Do you believe Colorado law should provide that all records and documents in possession of the school district which pertain to personnel should be classified as public records, open for inspection and available to the press?

Board Members . . . Yes -- 33      No -- 193      Did not answer -- 3  
 Superintendents . . Yes -- 27      No -- 94

VII. Do you believe it is in the best interest of the school district that the Board of Education be authorized to discuss certain matters in executive session?

Board Members . . . Yes -- 221      No -- 6      Did not answer -- 1  
 Superintendents . . Yes -- 117      No -- 4

VIII. Do you believe it is in the best interest of the school district that all decisions of the Board of Education be made in public sessions?

Board Members . . . Yes -- 149      No -- 77      Did not answer -- 2  
 Superintendents . . Yes -- 96      No -- 22      Did not answer -- 3

IX. How frequently does your Board meet in executive session?

See page 34 of COMMENTS.

X. Please indicate how you believe the following records or documents in possession of the school district should be classified:

	Should be open for public inspection	Should not be open for public inspection	Did not answer
1. Pupil I.Q. records, etc. . . . .			
Board Members . .	10	215	3
Superintendents .	2	119	0
2. Salaries of individual employees . . . . .			
Board Members . .	173	51	4
Superintendents .	91	27	3
3. Test scores of groups of pupils . . . . .			
Board Members . .	157	65	6
Superintendents .	60	60	1

Colorado Association of School Boards

Summary of Replies to Open Public Records Questionnaire . . page 3

		Should be open for public inspection	Should not be open for public inspection	Did not answer
4. Test scores of individual pupils . . . . .				
	Board Members . .	<u>11</u>	<u>213</u>	<u>4</u>
	Superintendents .	<u>4</u>	<u>116</u>	<u>1</u>
5. College transcripts of teachers . . . . .				
	Board Members . .	<u>78</u>	<u>158</u>	<u>1</u>
	Superintendents .	<u>15</u>	<u>106</u>	<u>0</u>
6. Personal records about employees . . . . .				
	Board Members . .	<u>33</u>	<u>191</u>	<u>4</u>
	Superintendents .	<u>7</u>	<u>112</u>	<u>2</u>
7. Pupil grades . . . . .				
	Board Members . .	<u>20</u>	<u>204</u>	<u>4</u>
	Superintendents .	<u>11</u>	<u>110</u>	<u>0</u>
8. Letters of recommendation received by the district . . . . .				
	Board Members . .	<u>74</u>	<u>150</u>	<u>4</u>
	Superintendents .	<u>13</u>	<u>107</u>	<u>1</u>
9. Letters of recommendation sent out by district officials . . . . .				
	Board Members . .	<u>72</u>	<u>151</u>	<u>5</u>
	Superintendents .	<u>11</u>	<u>108</u>	<u>2</u>
10. Teacher grade books . . . . .				
	Board Members . .	<u>45</u>	<u>180</u>	<u>1</u>
	Superintendents .	<u>29</u>	<u>92</u>	<u>0</u>
11. Records of school psychologists or social workers . . . . .				
	Board Members . .	<u>18</u>	<u>206</u>	<u>4</u>
	Superintendents .	<u>5</u>	<u>116</u>	<u>0</u>
12. Cumulative records of pupil progress, growth and development . . . . .				
	Board Members . .	<u>60</u>	<u>166</u>	<u>2</u>
	Superintendents .	<u>8</u>	<u>111</u>	<u>2</u>
13. Lists of applicants for employment . . . . .				
	Board Members . .	<u>144</u>	<u>81</u>	<u>3</u>
	Superintendents .	<u>75</u>	<u>44</u>	<u>2</u>

Colorado Association of School Boards

Summary of Replies to Open Public Records Questionnaire . . page 4

	Should be open for public inspection	Should not be open for public inspection	Did not answer
14. Race, creed, ethnic background of employees .			
Board Members . .	<u>92</u>	<u>133</u>	<u>3</u>
Superintendents .	<u>41</u>	<u>88</u>	<u>1</u>
15. Records of employees' memberships in organizations . . . . .			
Board Members . .	<u>106</u>	<u>118</u>	<u>4</u>
Superintendents .	<u>41</u>	<u>79</u>	<u>1</u>
16. Pupil health records . . . . .			
Board Members . .	<u>45</u>	<u>182</u>	<u>1</u>
Superintendents .	<u>16</u>	<u>105</u>	<u>0</u>
17. Employee health records. . . . .			
Board Members . .	<u>61</u>	<u>164</u>	<u>3</u>
Superintendents .	<u>21</u>	<u>103</u>	<u>0</u>
18. Employee progress and evaluation data and reports . . . . .			
Board Members . .	<u>60</u>	<u>165</u>	<u>3</u>
Superintendents .	<u>16</u>	<u>105</u>	<u>0</u>
19. Records of financial transactions. . . . .			
Board Members . .	<u>211</u>	<u>17</u>	<u>0</u>
Superintendents .	<u>114</u>	<u>6</u>	<u>1</u>
20. Files of business letters sent or received by public employees . . . . .			
Board Members . .	<u>139</u>	<u>93</u>	<u>6</u>
Superintendents .	<u>48</u>	<u>68</u>	<u>5</u>
21. Minutes of Board meetings . . . . .			
Board Members . .	<u>213</u>	<u>11</u>	<u>4</u>
Superintendents .	<u>119</u>	<u>2</u>	<u>0</u>
22. Policies of the school district . . . . .			
Board Members . .	<u>225</u>	<u>2</u>	<u>1</u>
Superintendents .	<u>120</u>	<u>1</u>	<u>0</u>



Colorado Association of School Boards

Summary of Replies to Open Public Records Questionnaire . . page 5

	Should be open for public inspection	Should not be open for public inspection	Did not answer
23. Administrative directives relative to school district operation . . . . .			
Board Members . .	<u>200</u>	<u>26</u>	<u>2</u>
Superintendents .	<u>118</u>	<u>3</u>	<u>0</u>
24. Data contained in reports to the Department of Education etc. . . . .			
Board Members . .	<u>195</u>	<u>28</u>	<u>5</u>
Superintendents .	<u>108</u>	<u>9</u>	<u>4</u>
25. Board-Superintendent communications. . . . .			
Board Members . .	<u>97</u>	<u>130</u>	<u>1</u>
Superintendents .	<u>42</u>	<u>72</u>	<u>6</u>
26. Personnel communications . . . . .			
Board Members . .	<u>59</u>	<u>164</u>	<u>5</u>
Superintendents .	<u>16</u>	<u>101</u>	<u>4</u>
27. Contract provisions -- individual employees			
Board Members . .	<u>154</u>	<u>72</u>	<u>2</u>
Superintendents .	<u>83</u>	<u>35</u>	<u>3</u>
28. Contract provisions other than employment .			
Board Members . .	<u>189</u>	<u>37</u>	<u>2</u>
Superintendents .	<u>100</u>	<u>17</u>	<u>4</u>
29. Credentials of prospective employees . . . .			
Board Members . .	<u>69</u>	<u>156</u>	<u>3</u>
Superintendents .	<u>9</u>	<u>110</u>	<u>2</u>
30. Others . . . . .			
Board Members . .			
Building Plans, Architect Drawings	<u>1</u>	<u>0</u>	<u>0</u>
Garnishment . . .		<u>1</u>	
Superintendents .			
Superintendent's pay and contract	<u>1</u>	<u>0</u>	<u>0</u>

APPENDIX F

SCOTTSDALE, ARIZONA  
1967  
AMENDED RESOLUTION NO. I  
ENTITLED

WHEREAS

The State of Colorado during the year 1967 did draft and present in the form of a Senate Bill No. 217 entitled, "A Bill for an Act Providing for Access to Public Records and for the Photographing of such Records" which in essence makes all records of law enforcement and other governmental agencies a matter of public information and

WHEREAS

We the following Western States - Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming are united in an association known as Western Area Network Telecommunications System of which Colorado is an active member and

WHEREAS

Confidential information is requested by and supplied to law enforcement agencies within the state of Colorado for official use only and

WHEREAS

The adoption of the proposed legislation would require this confidential information to become public knowledge upon request to any citizen

NOW THEREFORE BE IT RESOLVED

This organization goes on record that upon passage of the proposed legislation we as participating members could be prohibited by law and local policy from forwarding official teletypewriter communications of a confidential nature to any law enforcement agency in the State of Colorado and

BE IT FURTHER RESOLVED

Upon ratification of each participating State, a copy of this resolution will be forwarded to the board of directors of the Law Enforcement Teletypewriter System, The International Association of Chiefs of Police, The National Sheriff's Association, and the National Crime Information Center.

s/s D.L. Carroll  
Line G  
WANTS-Coordinator  
Salt Lake City, Utah  
(by J.R.) 1700 mdt 9-22-67

APPENDIX G

COLORADO GENERAL ASSEMBLY



LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL  
DENVER, COLORADO 80203  
222-9911 - EXTENSION 2285  
AREA CODE 303

June 7, 1967

OFFICERS

REP. C. P. (DOC) LAMB  
CHAIRMAN  
SEN. FLOYD OLIVER  
VICE CHAIRMAN

STAFF

LYLE C. KYLE  
DIRECTOR  
DAVID F. MORRISSEY  
PRINCIPAL ANALYST  
JANET WILSON  
SENIOR ANALYST  
STANLEY ELOFSON  
SENIOR ANALYST  
RAY M. FREEMAN  
SR. RESEARCH ASSISTANT  
DAVID HITE  
SR. RESEARCH ASSISTANT  
RICHARD LEVENGOOD  
SR. RESEARCH ASSISTANT

MEMBERS

LT. GOV. MARK HOGAN  
SEN. FAY DEBERARD  
SEN. FRANK KEMP  
SEN. VINCENT MASSARI  
SEN. RUTH STOCKTON  
SPEAKER JOHN D.  
VANDERHOOF  
REP. BEN KLEIN  
REP. RAY BLACK  
REP. JOSEPH CALABRESE  
REP. CARL GUSTAFSON  
REP. RAYMOND WILDER

As you are probably aware, a bill was introduced during the 1967 legislative session which would have provided that, except for records specifically closed by law or by court action, all public records of the state and its political subdivisions must be open for inspection by any citizen of the state at reasonable times and without charge. Any person having custody of such records who refused to permit free inspection would be guilty of a misdemeanor and subject to a fine or imprisonment, or both.

A copy of the bill, Senate Bill 217, is enclosed for your convenience. This bill was not enacted into law, although it did pass the Senate with only one dissenting vote. The House State Affairs Committee, after a hearing and discussion on the bill, suggested that further study was needed.

Pursuant to the suggestion of the House State Affairs Committee, the General Assembly directed the Legislative Council to appoint an interim study committee to conduct a one-year study of open public records. The committee's assignment under S.J.R. No. 42 is as follows:

A study of the provisions of S.B. No. 217, 1967 session, to determine those records of our state and local governments that should be open to public review and those that should have only limited access to such review or should be maintained solely for review by governmental officials in the course of their assigned duties.

At its first meeting the committee decided to contact you and the many other officials and agencies involved, to find out: (1) which of your agency records are presently closed to the public, either by law or administratively; (2) which of your records you feel should be specifically closed, and why; and (3) which of your records (if any) are or in your opinion should be open only to particular sectors of the public, such as the press.

We solicit your cooperation in this phase of our study by asking that you complete and return the enclosed questionnaire no later than July 1. Your reply should be sent to:

Mr. Lyle C. Kyle, Director  
Colorado Legislative Council  
Room 341, State Capitol  
Denver, Colorado 80203

After the replies have been compiled by the Legislative Council staff, the committee plans to hold one or two meetings for the purpose of talking with representatives of agencies requesting that all or some of their records be closed to the public. If you have indicated in your reply that certain of your agency's records should be closed, you may be invited to discuss your reasons with the committee.

IF WE HAVE NOT RECEIVED YOUR REPLY BY JULY 1, 1967, WE WILL ASSUME THAT YOU HAVE NO OBJECTION TO LEGISLATION WHICH WOULD ASSURE THAT ALL RECORDS IN YOUR AGENCY WOULD BE OPEN TO THE PUBLIC.

Thank you for your help.

Very truly yours,

  
Representative Ray Black, Chairman  
Committee on Open Public Records

RB:mp

Enclosures 2

OPEN PUBLIC RECORDS

6/5/67

Questionnaire to State and Local Agencies  
For Use By  
Legislative Council Committee on Open Public Records

Name of agency \_\_\_\_\_

Person completing questionnaire \_\_\_\_\_  
Name  
Position

1. What records in your agency or office are presently closed to the public? Are they closed by law or administratively? If administratively, what are the reasons? Do you feel that all of these records should be closed by law?
2. If under certain conditions these records are open to particular sectors of the public, for instance the press, please specify. For what reasons are these records open to a part rather than all of the public? Do you favor specifying, by statute, particular sectors of the public entitled to free access to these records?
3. Are the operations of your agency subject to federal laws and regulations? If so, in what ways does the federal government control access to your records?

Please use additional sheets as needed. Send your reply to:

Mr. Lyle C. Kyle, Director  
Colorado Legislative Council  
Room 341, State Capitol  
Denver, Colorado