

RULE CHANGE 2020(34)
COLORADO RULES OF CRIMINAL PROCEDURE

Rule 55.1. Public Access to Court Records in Criminal Cases

(a) Court records in criminal cases are presumed to be accessible to the public. Unless a court record or any part of a court record is inaccessible to the public pursuant to statute, rule, regulation, or Chief Justice Directive, the court may deny the public access to a court record or to any part of a court record only in compliance with this rule.

(1) Motion Requesting to Limit Public Access to Court Record Not Previously

Filed. A party may file a motion requesting that the court limit public access to a court record not previously filed or to any part of such a court record by making it inaccessible to the public or by allowing only a redacted copy of it to be accessible to the public. The motion must be accompanied by the court record the moving party seeks to make inaccessible or partially inaccessible to the public, must be served on any opposing party, and must be identified on the publicly available Register of Actions as a motion to limit public access. An opposing party wishing to object to the motion must file a response within 14 days after service of the motion unless otherwise directed by the court. Upon receiving the motion, the clerk shall make the subject court record inaccessible to the public pending the court's resolution of the motion, except that if a party seeks to make inaccessible to the public only parts of the subject court record, then the party must also submit a redacted version of the court record with the motion and the clerk shall make the redacted version of the court record accessible to the public without undue delay. The clerk shall also make the motion and the response inaccessible to the public pending the court's resolution of the motion, except that, in its discretion, the court may order that the motion and the response, or redacted versions of the motion and the response, be accessible to the public during that timeframe.

(2) Motion Requesting to Limit Public Access to Court Record Previously

Filed. A party may file a motion requesting that the court limit public access to a court record previously filed (including one not yet made accessible to the public) or to any part of such a court record by making it inaccessible to the public or by allowing only a redacted copy of it to be accessible to the public. The motion must identify by title and date of filing the court record the moving party seeks to make inaccessible or partially inaccessible to the public, must be served on any opposing party, and must be identified on the publicly available Register of Actions as a motion to limit public access. An opposing party wishing to object to the motion must file a response within 14 days after service of the motion unless otherwise directed by the court. Upon receiving the motion, the clerk shall make the subject court record inaccessible to the public pending the court's resolution of the motion, except that if a party seeks to make inaccessible to the public only parts of the subject court record, then the party must submit a redacted version of the court record with the motion and the clerk shall make the redacted version of the court record accessible to the public without undue delay. The clerk shall also make the motion and the response inaccessible to the public pending the court's resolution of the motion, except that, in its discretion, the court may order that the motion and

the response, or redacted versions of the motion and the response, be accessible to the public during that timeframe.

(3) Title and Contents of Motion and Response. A motion to limit public access shall identify the court record or any part of the court record the moving party wishes to make inaccessible to the public, state the reasons for the request, and specify how long the information identified should remain inaccessible to the public. A response to a motion to limit public access shall state the reasons why the motion should be denied in whole or in part. The motion shall be titled, "Motion to Limit Public Access"; the response shall be titled, "Response to Motion to Limit Public Access."

(4) Orders Entered on Court's Own Motion. The court may, on its own motion, make a court record or other filing inaccessible to the public or order that only a redacted copy of it be accessible to the public. If the court does so, it must provide notice to the parties and the public via the publicly available Register of Actions and must also comply with paragraphs (a)(6), (a)(7), (a)(8), (a)(9), and (a)(10) of this rule. The clerk shall make the subject court record or filing inaccessible to the public pending the court's final decision, except that, in its discretion, the court may order a redacted version of the court record or filing accessible to the public during that timeframe. In its discretion, the court may hold a hearing in accordance with paragraph (a)(5) of this rule before ordering on its own motion a court record or any part of a court record inaccessible to the public.

(5) Hearing. The court may conduct a hearing on a motion to limit public access to a court record or to any part of a court record. Notice of the hearing shall be provided to the parties and the public via the publicly available Register of Actions. The court may close the hearing or part of the hearing if it finds that doing so is necessary to prevent the public from accessing the information that is the subject of the motion under consideration. If the court closes the hearing or part of the hearing, it shall enter appropriate protective orders regarding the transcript or recording of the proceeding and any evidence introduced during the hearing. Any such orders shall be modified or vacated if the court ultimately denies, in whole or in part, the request to limit public access.

(6) When Request Granted. The court shall not grant any request to limit public access to a court record or to any part of a court record, or enter an order on its own motion limiting such public access, unless it issues a written order in which it:

(I) specifically identifies one or more substantial interests served by making the court record inaccessible to the public or by allowing only a redacted copy of it to be accessible to the public;

(II) finds that no less restrictive means than making the record inaccessible to the public or allowing only a redacted copy of it to be accessible to the public exists to achieve or protect any substantial interests identified; and

(III) concludes that any substantial interests identified override the presumptive public access to the court record or to an unredacted copy of it.

(7) Duration of Order Granting Request. Any order limiting public access to a court record or to any part of a court record shall indicate a date or event certain by which the order will expire. That date or event shall be considered the order's expiration date or event.

(8) Public Access to Order Granting Request. The order limiting public access to a court record or to any part of a court record pursuant to this rule shall be accessible to the public, except that any information deemed inaccessible to the public under this rule shall be redacted from the order.

(9) Review of Order Granting Request. The court shall review any order limiting public access to a court record or to any part of a court record pursuant to this rule at the time of the expiration of the order or earlier upon motion of one of the parties. The court may postpone the expiration of such an order if, in a written order, it either determines that the findings previously made under paragraph (a)(6) of this rule continue to apply or makes new findings pursuant to paragraph (a)(6) of this rule justifying postponement of the expiration date or event. If the court postpones the expiration of the order, it must set a new expiration date or event.

(10) Limited Access to Original Court Record When Request Granted. If a court limits public access to a court record or to any part of a court record pursuant to this rule, only judges, court staff, parties to the case (and, if represented, their attorneys in that case), and other authorized Judicial Department staff shall have access to the original court record.

(11) When Request Denied. When denying a motion to limit public access to a court record or to any part of a court record under this rule, the court must ensure, without undue delay, that the public is given access to: the subject court record or the parts of that court record previously made temporarily inaccessible to the public pending resolution of the motion; the motion; any response; and, as to any hearing held, the transcript or recording of the proceeding and any evidence introduced during that proceeding.

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Amended and Adopted by the Court, En Banc, December 17, 2020, effective May 10, 2021.

By the Court:

**Carlos A. Samour, Jr.
Justice, Colorado Supreme Court**