

Notice of Intent to File Suit - CORA Requests

3 messages

Harry Cooper <coop.7th@gmail.com>

Wed, Dec 11, 2024 at 9:56 AM

To: clerk@pueblo.us

Dear City Clerk,

Please find attached a Notice of Intent to File Suit regarding multiple CORA requests submitted to your office. I request that you review the document and respond promptly to avoid further legal action.

Thank you,

Harry Cooper

File: Notice of Intent to File Suit under the Colorado Open Records Act (CORA) Date_.pdf

 78K

Lisa Macchietto <LMacchietto@pueblo.us>

Thu, Dec 12, 2024 at 1:18 PM

To: "coop.7th@gmail.com" <coop.7th@gmail.com>

Cc: Marisa Stoller <MStoller@pueblo.us>

Hello Mr. Cooper,

The City is in receipt of your email below and attachment. Staff is available to meet with you tomorrow at 2 pm in the Legal Department.

Cordially,

Lisa A. Macchietto

Lisa A. Macchietto

Assistant City Attorney

City of Pueblo Department of Law

One [City Hall Place](#) Pueblo, CO 81003

719.562.3895 Office 719.562.3889 Fax

LMacchietto@pueblo.us

Treasurer— Pueblo County Bar Association "



**Notice of Intent to File Suit under the Colorado Open Records Act
(CORA) Date:**

December 11, 2024

To: Pueblo City Clerk's Office

Address: #1 City Hall Place, Pueblo, CO 81003

From: Harry Cooper

112 W. 7th Street Pueblo, CO 81003

coop.7th@gmail.com

719-717-7191

Dear City Clerk, This Notice of Intent to File Suit is issued in relation to the City's handling of multiple Colorado Open Records Act (CORA) requests submitted by me. The requests in question are as follows:

CORA-2024-363: Submitted November 4, 2024, seeking communications related to Pueblo PD Incident #24019623. An invoice totaling \$330.96 was issued, but no detailed breakdown has been provided to justify this cost.

CORA-2024-380: Submitted November 13, 2024, seeking internal communications regarding CORA-2024-363 and CCJRA-2024-379. The invoice for this request totals \$703.28, yet the justification for these charges remains vague and lacks an itemized breakdown.

CORA-2024-401: Submitted December 4, 2024, requesting employee information, including salaries, benefits, and other compensation for staff tasked with processing CORA requests. This request, in particular, is strikingly straightforward and should require minimal effort to fulfill. The estimated fee of **\$1,530.69** to provide basic salary and benefits data for likely only two employees is not only excessive but entirely unjustifiable for public information that should be readily accessible at no cost.

Summary of Concerns: Excessive Costs: The estimated fees for processing these requests appear unreasonable and lack transparency. Itemized invoices and clarifications requested on December 9, 2024, have not been satisfactorily addressed. The \$1,530.69 charge for CORA-2024-401, in particular, demonstrates a failure to adhere to CORA's principles of transparency and accessibility.

Delays: The City has failed to meet statutory deadlines under CORA, including the three-day timeline for initial responses and any permissible extensions.

Non-Compliance: Despite narrowing the scope of my requests as suggested, the City has not demonstrated a good-faith effort to fulfill them promptly or cost-effectively.

Unaddressed Communications: Multiple follow-up emails sent to the City Clerk's Office seeking clarification and resolution have gone unanswered, reflecting a lack of responsiveness and willingness to resolve the matter collaboratively.

Relief Requested: To resolve this matter without litigation, I demand the following actions within seven (7) calendar days of receipt of this notice:

Provide an Itemized Cost Breakdown: For each request, including hourly rates, time allocation per task, and descriptions of tasks performed for: CORA-2024-363 (\$330.96) CORA-2024-380 (\$703.28) CORA-2024-401 (\$1,530.69).

Expedited Compliance: Fulfill all outstanding requests by delivering responsive records digitally or in print. **Justify Fees:** Provide legal justification for any fees charged or invoiced that exceed reasonable costs allowed under CORA.

Fee Waiver Determination: Respond to my formal fee waiver requests for CORA-2024-363 and CORA-2024-380 in compliance with CORA guidelines. **Notice of Legal Action:** If the City of Pueblo fails to comply with the above demands within the specified timeframe, I will proceed with filing a lawsuit under C.R.S. § 24-72-204(5), seeking: An order compelling the City to produce the requested records. A judicial determination that the City's actions constitute a violation of CORA. Reimbursement of my legal costs and reasonable attorney fees, as permitted under the statute.

Proposed Conference: To meet the statutory prerequisite for a lawsuit, I propose a conference to discuss the status and resolution of my requests. I am available on

December 16, 2024, at 2:00 PM at City Hall or via phone. Please confirm your availability or propose an alternative time. I remain open to resolving this matter amicably and urge the City to demonstrate good faith by addressing these concerns promptly. Please contact me at your earliest convenience to confirm receipt of this notice and discuss next steps.

Sincerely, Harry Cooper

Confidentiality Notice: The information contained in this email message is information protected by attorney-client or attorney/work product privilege. It is intended only for the use of the individual named above, and the privileges are not waived by virtue of this having been sent by email. If the person actually receiving this email or any other reader of the email is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited.

From: Marisa Stoller <MStoller@pueblo.us>
Sent: Wednesday, December 11, 2024 9:59 AM
To: Lisa Macchietto <LMacchietto@pueblo.us>
Subject: FW: [External] Notice of Intent to File Suit - CORA Requests

-Marisa

From: Harry Cooper <coop.7th@gmail.com>
Sent: Wednesday, December 11, 2024 9:57 AM
To: Clerk Alias <clerk@pueblo.us>
Subject: [External] Notice of Intent to File Suit - CORA Requests

External email. Please use caution.

This e-mail transmission (including any attachments) contains information that is confidential and may be legally privileged. It is intended for the use of the addressee only. If you received this e-mail in error, we request that you contact us immediately by telephone or return e-mail, and that you delete this message from your computer. If you are not the intended recipient, please be advised that any dissemination, distribution, or copying of this e-mail is strictly prohibited. [CoP]

File: Notice of Intent to File Suit under the Colorado Open Records Act (CORA) Date_.pdf



Harry Cooper <coop.7th@gmail.com>
To: Lisa Macchietto <LMacchietto@pueblo.us>

Tue, Dec 17, 2024 at 2:04 PM

Subject: Challenge to Redactions, Missing Records, and Refusal to Include Responsive Items

Dear Records Custodian and Relevant Parties,

This letter serves as a formal challenge regarding the improper handling of my records requests (CCJRA-2024-379 and CORA-2024-363). Your office has provided records that are incomplete, improperly redacted, and failed to include items that clearly fall within the scope of my original requests. I am also challenging any attempt to charge additional fees for records that should have been included in your original response.

1. Records Involving Officer Pfeifer and the Reporting Officer

The records provided include:

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112 W. 7th Street Pueblo, CO 81003

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December 16, 2024, at 2:00 PM at City Hall or via phone. Please confirm your availability or propose an alternative time. I remain open to resolving this matter amicably and urge the City to demonstrate good faith by addressing these concerns promptly. Please contact me at your earliest convenience to confirm receipt of this notice and discuss next steps.

Sincerely, Harry Cooper

IA Summary 2024-0176: Officer Pfeifer's violation was sustained for releasing a domestic violence suspect improperly.

IA Summary 2023-0100: Officer Pfeifer failed to file a report as required, though the case was deemed unfounded.

It is clear from these records that another officer reported Pfeifer's misconduct, which resulted in an investigation and sustained findings. These records indicate:

Misconduct was substantiated (requiring full disclosure under CLEAA).

The reporting officer's actions demonstrate internal accountability, which directly relates to my request for misconduct investigations and systemic patterns of behavior.

Improper Redactions: The reporting officer's name and other relevant details have been redacted without valid justification. Redacting names of officers involved in investigations, especially when misconduct is sustained, violates the Colorado Law Enforcement Accountability Act (CLEAA) and CCJRA.

2. Missing Responsive Records

The records provided clearly suggest the existence of additional responsive records that were improperly excluded:

Corresponding Internal Affairs Files for Officer Pfeifer and the reporting officer.

Complete Disciplinary History of Officer Pfeifer and related records showing patterns of misconduct or failures to comply with policies.

IA Investigations and Disciplinary Records for Long-Term Officer Vahlbusch: Given Vahlbusch's lengthy tenure, it is reasonable to conclude that his complete IA history, if it exists, should have been included in my request.

Responsive Emails from Elizabeth Sexton Drake, Jason Bachlet, David Wyatt, Bella Trujillo, and Harley Gifford: These individuals are clearly involved in related discussions, and I request all responsive emails sent or received by them pertaining to this matter.

Internal Affairs (IA) Responses and Determinations: Any responses, findings, or final determinations from IA investigations involving Officer Pfeifer, the reporting officer, and any other involved personnel. These determinations are critical to understanding how these cases were resolved and any patterns of misconduct within the department.

IT Department Responses: The responses and results from the IT department regarding the initial email search for incident number 24019623 must be provided. Lisa Macchietto requested IT assistance in conducting this search, and any responses, preliminary item counts, or follow-up communications are clearly responsive to my request.

Additionally, I demand confirmation that the records provided include all complaints and misconduct reports involving the following officers:

2402 Berumen, Marquez J.

2218 Chongway, Dalton J.

2212 Duran, Marcus J.

2415 Markarian, Joseph H.

1809 Pfeifer Jr, Edward A.

2210 Proctor, Brennan M.

9602 Vahlbusch, Scott

Given their years of service and involvement in the provided records, it is highly improbable that these officers have so few complaints. I request Audit Logs of IA Records and confirmation that all complaints and records involving these officers have been included, as required under CLEAA and CCJRA.

These records clearly fall under the scope of my original request for misconduct investigations, IA reports, disciplinary findings, internal communications, and related responses. Excluding these records amounts to a failure to comply with the law.

3. No Additional Fees for Excluded Records

The exclusion of responsive records constitutes a shortcoming in your initial production. Charging additional fees for records that should have been included in the first place is unreasonable and unacceptable.

Under CORA and CCJRA, your office is required to provide:

A complete and accurate production of all responsive records.

Written justification for any redactions or exclusions, including the statutory basis for those decisions.

I will not pay any additional fees for records that were improperly withheld or excluded from the initial response. Any attempt to charge further fees will be seen as bad faith and obstruction of my lawful right to access these records.

4. Statutory and Legal Reasons for Redaction

I remind you that in my original request, I clearly stated that I require all statutory and legal reasons for any redactions or exclusions applied to the records. Your failure to provide this information further violates transparency requirements under CORA and CCJRA. I demand a full written explanation with specific statutory citations for any continued redactions or omissions.

5. Immediate Action Demanded

I demand the following within three business days:

Unredacted versions of all summaries, including IA Summary 2024-0176 and 2023-0100, with full disclosure of officer names.

All Internal Affairs Records related to Officer Pfeifer and the reporting officer.

Complete IA History for Officer Vahlbusch, including all investigations, complaints, and disciplinary actions.

All responsive emails sent or received by Elizabeth Sexton Drake, Jason Bachlet, David Wyatt, Bella Trujillo, and Harley Gifford regarding this matter.

All Internal Affairs Responses and Determinations for the investigations referenced in IA Summaries 2024-0176, 2023-0100, and any other relevant cases.

IT Department Responses related to the email search for incident number 24019623, including all communications, preliminary item counts, and search results.

Confirmation that the records include all complaints and misconduct reports involving the officers listed above.

Statutory justification for any continued redactions or omissions.

6. Legal Action for Non-Compliance

If you fail to comply with these demands or attempt to impose additional fees for records improperly excluded, I will immediately pursue legal action to enforce my rights under the Colorado Criminal Justice Records Act (CCJRA) and the Colorado Law Enforcement Accountability Act (CLEAA).

Your office's continued obstruction and failure to comply with Colorado transparency laws will not be tolerated.

Sincerely,

Harry Cooper

Email: coop.7th@gmail.com

Phone: 719-717-7191

Address: 112 West 7th Street, Pueblo, CO 81003

File: image001.png

