



Nathan Woodliff-Stanley, Executive Director
Mark Silverstein, Legal Director

May 1, 2013

Adrienne Jacobson, Policy Analyst
Office of Finance and Administration
Colorado Department of Corrections
2862 S. Circle Drive
Colorado Springs, CO 80906
By email to DOC_Open_Records@state.co.us

Re: Request for documents pursuant to CORA and CCJRA

Dear Ms. Jacobson:

This is a request for records pursuant to the Colorado Open Records Act and the Colorado Criminal Justice Records Act.

For the purpose of these requests, the term “records” refers to any recorded information, whether kept in written, electronic, or any other form, as defined by C.R.S. §§ 24-72-202(7) & 24-72-302(1) & (4).¹

The records requested are described as follows:

1. Records of communications to or from any pharmacy or pharmacist, including any compounding pharmacy or pharmacist, regarding lethal injection, drugs that may be used in lethal injection, or any of the following drugs: sodium thiopental, pentobarbital, pentothal, pancuronium bromide, potassium chloride, or any compounded drug that could be used in lethal injection.

This request includes, but is not limited to, the letter that Tom Clements wrote to compounding pharmacies in Colorado, as described in Tim Hoover’s article published on or about March 12, 2013, in The Denver Post, titled “Colorado asks pharmacist for help in securing lethal injection drug.”

2. Communications to or from any licensed physician or any other individual authorized to write prescriptions in Colorado, regarding lethal injection, drugs that may be used in

¹ This includes, but is not limited to all documents, books, papers, maps, photographs, cards, tapes, recordings, digitally stored data or records, electronic mail messages, or other documentary materials, regardless of physical form or characteristics, and every other means of recording upon any tangible thing for every form of communication or representation.

lethal injection, or any of the following drugs: sodium thiopental, pentobarbital, pentothal, pancuronium bromide, potassium chloride, or any compounded drug that could be used in lethal injection;

3. Communications to or from anyone who claims to be able to provide, obtain or supply drugs that may be used in lethal injection, or any of the following drugs: sodium thiopental, pentobarbital, pentothal, pancuronium bromide, potassium chloride, or any compounded drug that could be used in lethal injection; and
4. Communications to or from anyone outside of the Colorado Department of Corrections regarding drugs that may be used in lethal injection, or any of the following drugs: sodium thiopental, pentobarbital, pentothal, pancuronium bromide, potassium chloride, or any compounded drug that could be used in lethal injection.
5. Documents evidencing the identity of pharmacies, pharmacists, medical professionals with prescription authority, manufacturers, distributors, wholesalers, retailers, or other sources of any drug that may be used in lethal injection, including but not limited to any of the following drugs: sodium thiopental, pentobarbital, pentothal, pancuronium bromide, potassium chloride, or any compounded drug that could be used in lethal injection.
6. The subject of Department of Corrections Administrative Regulation 300-14 is listed as “Capital Punishment/Execution by Lethal Injection.” Section IV.K. of that regulation states as follows:

“A RESTRICTED DISTRIBUTION document exists to provide procedures and guidelines for carrying out a death sentence by lethal injection and will be distributed to DOC employees on a need-to-know basis.”

Please provide a copy of that “restricted distribution document,” as well as any updated or revised versions of that document.

This request is intended to cover the full scope of public records with the content as described above. “‘Public records’ means and includes all writings made, maintained, or kept by the state, any agency, institution, a nonprofit corporation incorporated pursuant to section 23-5-121 (2), C.R.S., or political subdivision of the state, or that are described in section 29-1-902, C.R.S., and held by any local-government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.” C.R.S. § 24-72-202(6)(a)(1) (emphasis added).

Pursuant to C.R.S. § 24-72-305.5, I affirm that the requested records will not be used for the direct solicitation of business for pecuniary gain. The ACLU of Colorado is a non-profit organization that seeks the records for a non-commercial public purpose, including non-profit activities, research, and/or journalism. If your office so provides, we request a reduced or waived fee pursuant to C.R.S. § 24-72-205(4).

If these records are not in your custody or control, please state to the best of your knowledge the reason for the absence of the records, their location, and what person or persons has custody or control of the records. See C.R.S. § 24-72-203(2)(a).

If you deny this request for records in whole or in part, I ask that you provide forthwith a written statement of the reasons for the denial that cites the law or regulation that you rely on. C.R.S. §§ 24-72-204(4) & 24-72-305(6). If any of the requested records are in active use, in storage or otherwise unavailable at this time, I likewise request that you provide forthwith a written statement and that the custodian set a date and hour at which time the records will be available for inspection. C.R.S. §§ 24-72-203(3)(a) & 24-72-303(3).

I look forward to your response at your earliest convenience, and no later than three business days, as required by Colorado law.

Please let me know if you have any questions. You can reach me at 720-402-3114 or msilverstein@aclu-co.org Thank you for your attention to this request.

Sincerely,



Mark Silverstein
Legal Director, ACLU of Colorado