

**From:** [Rachel Askeland](#)  
**To:** [STACY LYNNE](#)  
**Cc:** [Delynn Coldiron](#); [Rita Knoll](#)  
**Subject:** RE: Open Records Request  
**Date:** Tuesday, December 17, 2019 10:00:49 AM  
**Attachments:** [image001.png](#)  
[121619 Noah Beals Job Title & Pay Grade Changes.xls](#)

**DATE FILED:** May 26, 2020 3:35 PM  
**FILING ID:** 7DA2BDCAE6892  
**CASE NUMBER:** 2020CV116

Hello Ms. Lynne,

I have attached the documents of record you asked for in your updated request sent December 12, 2019 seeking any and all department transfers, job title changes, and pay grade changes, for Noah Beals from December 2017 through December 2019. Noah's job title and pay grade changed on April 23, 2018 due to the implementation of a new organization-wide job and pay structure. This change impacted all regular City jobs and employees.

The performance evaluation narratives are exempt personnel files pursuant to C.R.S. 24-72-202(4.5). The City still believes that releasing Mr. Beals' performance evaluation narratives would cause substantial injury to the public interest pursuant to C.R.S. 24-72-203(6)(a).

Regards,  
Rachel

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**Rachel Askeland**  
HR Operations Supervisor  
[City of Fort Collins](#)  
215 N. Mason  
970-221-6829 office  
[raskeland@fcgov.com](mailto:raskeland@fcgov.com)



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**From:** STACY LYNNE <stacy\_lynne@comcast.net>  
**Sent:** Thursday, December 12, 2019 4:53 PM  
**To:** Rachel Askeland <raskeland@fcgov.com>  
**Cc:** Delynn Coldiron <DECOLDIRON@fcgov.com>; Rita Knoll <RKNOLL@fcgov.com>; Carrie Daggett <CDAGGETT@fcgov.com>; stacy lynne <stacy\_lynne@comcast.net>; Wade Troxell <WTroxell@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Ross Cunniff <rcunniff@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>  
**Subject:** RE: Open Records Request

Ms. Askeland,

Thank you for responding. I included the elected body on this email, as well as this

morning's email, because my goal is to avoid the time and expense required for both parties if this CORA request is forced into district court. As I mentioned recently during public comments to city council and staff leadership, sometimes communication barriers cause problems that might be resolved if the involved parties had more complete information about the issue. Tied closely to those communication issues are decision-making processes that can be faulty. The city council is integral to this open records violations procedure because the statutes require that they be served notice of intent when it gets to that stage. It makes sense because of the trajectory of this case as we slide closer to the notice of intent that the elected body have a basic understanding of where they are headed.

The CORA filed on December 4, 2019, serves multiple purposes:

1. Public records laws are in place to add meaningful depth to transparency and accountability measures when public money is used. There is a discrepancy in official records that I am trying to clarify with this CORA. This discrepancy could be caused by something as simple as a clerical error, or it could be more significant than that, so let's try it this way: please provide any and all department transfers, job title changes, and pay grade changes -- including the dates of any and all changes -- for Noah Beals using these search dates: December 2017 through December 2019.
2. Recently, the records custodian for the Larimer County Sheriff's Office testified in district court about performance evaluation narratives, claiming that releasing a deputy's employment file narratives would cause injury. After that hearing on a motion for order to show cause, Larimer County provided to me those employment file narratives. This is why employment file narratives are public records: a numerical ranking or rating (for example using a scale of 1 to 10), or a single word ranking or rating (for example "satisfactory" or "insufficient"), is not meaningful to the public. What does a "1" mean? What does "insufficient" mean? Those are vague ratings that do not provide an accurate measure of an employee's performance. An employee's performance is exactly relevant to the public and it is most meaningful when the public can observe through employment file narratives how public money is being spent.
3. Additionally, when Larimer County Attorney David Ayraud refused to produce public records because he claimed that the records were exempt from disclosure under CORA, I filed a motion for order to show cause with the district court. The district court judge ordered Larimer County to produce the withheld records for in camera review. After the judge reviewed the withheld records, the judge ordered Larimer County to produce the records as I had requested. Additionally, the district court judge ordered Larimer County to pay my associated fees and costs because the records were improperly withheld.

I can appreciate how public employees might be uncomfortable with their employment file narratives being released to the public, and while I am sensitive to the nature of the request for narratives, this is precisely what public records are intended to do: to show the public how their money is spent.

The record requested in enumerated paragraph 1 above will not require much time or effort. I look forward to receiving that answer.

Enumerated paragraphs 2 and 3 are provided to you and to the governing body as relevant background and recent history in similar CORA requests. It makes the most sense (both logically and legally) for the City to provide the narratives as requested on December 4, 2019. Larimer County tried using the same excuse for denying the release of public records by claiming it would "cause substantial injury to the public interest" and Larimer County failed when it used that defense. I think the judge audibly scoffed when Larimer County claimed the same as you are claiming...that the public would be injured by reading about the job performance of a public employee. Notably, the record that Larimer County tried to withhold involved a deputy who was stealing property from the Larimer County Justice Center. The record I am requesting from the City of Fort Collins involves an employee in the zoning department. On a scale of which of the two records might "cause substantial injury to the public interest" (a city zoning department employee or a law enforcement officer), I think the City of Fort Collins might have a difficult time convincing a district court judge that the public will be substantially injured if it reads a zoning department employee's narratives. But if that is the way the City plans to go, I look forward to the courtroom testimony.

I do hope we can avoid the time required and costs involved with a motion for order to show cause.

Thank you,

Stacy Lynne  
Investigative Journalist

On December 12, 2019 at 2:31 PM Rachel Askeland <[raskeland@fcgov.com](mailto:raskeland@fcgov.com)> wrote:

Dear Stacy,

Pursuant to your December 4, 2019 CORA request, all relevant documents were provided in the email sent December 9, 2019.

There are no department transfers, job title changes or pay grade changes during the period of August 2018 and December 4, 2019.

Releasing Mr. Beals' performance evaluation narratives would cause substantial injury to the public interest pursuant to C.R.S. 24-72-203(6)(a). Additionally, the performance evaluation narratives are exempt personnel files pursuant to C.R.S. 24-72-202(4.5).

I'm not aware of any other documents responsive to your request at this time. However, if there is something specific you would like me to search for, please let me know and I will provide an estimate of cost to you.

Regards,

Rachel

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**Rachel Askeland**  
HR Operations Supervisor  
[City of Fort Collins](#)  
215 N. Mason  
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[raskeland@fcgov.com](mailto:raskeland@fcgov.com)

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**From:** STACY LYNNE <[stacy\\_lynne@comcast.net](mailto:stacy_lynne@comcast.net)>  
**Sent:** Tuesday, December 10, 2019 9:05 PM  
**To:** Rachel Askeland <[raskeland@fcgov.com](mailto:raskeland@fcgov.com)>  
**Cc:** Delynn Coldiron <[DECOLDIRON@fcgov.com](mailto:DECOLDIRON@fcgov.com)>; Rita Knoll <[RKNOLL@fcgov.com](mailto:RKNOLL@fcgov.com)>; stacy lynne <[stacy\\_lynne@comcast.net](mailto:stacy_lynne@comcast.net)>; Carrie Daggett <[CDAGGETT@fcgov.com](mailto:CDAGGETT@fcgov.com)>  
**Subject:** Re: Open Records Request

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December 10, 2019

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Dear Ms. Askeland,

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The CORA filed on December 4, 2019, requested production of specific records in Noah Beals' personnel/employment file but those records were not included in your response, even though the requested records fall within the parameters of public information. For example, I asked for records containing department transfers, performance evaluation narratives and any and all other documents that are not specifically exempt under the law.

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In previous CORA requests involving personnel/employment files, I have received the types of records that are missing from this current request.

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Please provide the following records, as requested on December 4, 2019:

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1. Department transfers (including job title changes and pay grade changes)

2. Performance evaluation narratives

3. Any and all other documents that are not specifically exempt under the law

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Thank you,

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Stacy Lynne

Investigative Journalist

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On December 9, 2019 at 2:47 PM Rachel Askeland <[raskeland@fcgov.com](mailto:raskeland@fcgov.com)> wrote:

Stacy,

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On December 4, 2019, you requested the personnel file of Noah Beals from August 2018 to December 4, 2019 pursuant to the Colorado Open Records Act (CORA).

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A "personnel file," as defined by C.R.S. 24-72-202 (4.5), is exempt from disclosure pursuant to C.R.S. 24-72-204 (3)(a)(II)(A). Under the terms of CORA, a records custodian is prohibited from releasing personnel file records. Attached are records the City is permitted to release and that are

responsive to your request. To the extent that any of the attached records include information that falls within the definition of “personnel file” pursuant to C.R.S. 24-72-202 (4.5), such information is redacted.

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Here is a list of documents the City is permitted to release with appropriate redactions:

- Applications
- Employment agreements
- Performance ratings
- Any compensation, including expense allowances and benefits

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Regards,

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**Rachel Askeland**

HR Operations Supervisor

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215 N. Mason

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