

Gallatin County Attorney
Audrey Cromwell, County Attorney



Gallatin County Attorney's Office
502 S. 19th Ave, Suite 102
Bozeman, Montana 59718

Attorney General Knudsen
Montana Department of Justice
215 North Sanders
Helena, MT 59620
Sent via email to christian.corrigan@mt.gov

April 6, 2026

Re: *Response to April 2, 2026 Correspondence Regarding CCJI*

Dear Attorney General Knudsen,

I hope you and your family had a joyous Easter.

I write in response to your April 2, 2026 correspondence regarding alleged policies and the dissemination of confidential criminal justice information (CCJI).

Before turning to the substance of your letter, I will note that I would have welcomed the opportunity to discuss this matter with you directly. A simple phone call from you or a member of your team could have clarified the facts and avoided unnecessary public confusion. Instead, this issue was advanced publicly without that professional courtesy, which is disappointing given the importance and complexity of the legal issues involved.

At the outset, I want to be clear: **there is no Gallatin County policy – formal or informal – restricting cooperation with federal agencies, including U.S. Immigration and Customs Enforcement (ICE).** The County Attorney's Office does not create county policy. That authority rests solely with the Gallatin County Commission. Our role is to provide legal advice to county departments to ensure compliance with Montana law.

The communication referenced in your letter arose from a single, case-specific legal inquiry from the Records Department last fall regarding a request for nonpublic CCJI. My civil division attorneys reviewed the inquiry, and a legal assistant relayed guidance. It addressed one discrete factual scenario, did not establish policy, and should not be construed as a directive of general applicability. Legal assistants in my office do not and cannot set countywide policy.

The request at issue involved ICE seeking confidential criminal justice information for a civil administrative immigration purpose, not for a criminal investigation or prosecution. Under Montana law, dissemination of CCJI is restricted to criminal justice agencies acting within

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the “administration of *criminal* justice,” or to those authorized by law or by a district court upon a written finding that the merits of disclosure outweigh individual privacy interests. See § 44-5-303(1), MCA. The statutory definition of “administration of *criminal* justice” is tied to criminal processes such as detection, apprehension, prosecution, and adjudication of *criminally* accused persons or *criminal* offenders. See § 44-5-103(2), MCA.

While ICE includes both civil and criminal components, this distinction is critical. The Enforcement and Removal Operations (ERO) agency of ICE primarily performs civil immigration enforcement functions, while the Homeland Security Investigations (HSI) agency conducts criminal investigations. The request at issue was civil in nature and therefore did not fall within the statutory framework requiring dissemination of CCJI to a criminal justice agency engaged in criminal enforcement activity. Federal law likewise recognizes that immigration proceedings are civil administrative proceedings, not criminal prosecutions. *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984).

Montana law provides a clear and consistent process when an entity seeks access to confidential criminal justice information outside the statutory framework. A district court may authorize dissemination upon a written finding that the merits of disclosure outweigh individual privacy interests. § 44-5-303(1), MCA. This process is routinely used by members of the public, media organizations, and government agencies. In that discrete, case-specific instance last fall, my civil division determined that ICE was required to follow the same judicial process applicable to all such requests, ensuring judicial oversight and protection of Montanans’ constitutional privacy rights.

Montana’s constitutional and statutory framework places a high value on individual privacy. CCJI includes sensitive information such as criminal histories, dismissed or deferred criminal action, identifying data, and arrest records. As County Attorney, I have a legal and ethical obligation to ensure that this information is not improperly disclosed. That obligation applies equally regardless of the requesting entity.

To the extent your office seeks information regarding county policy or records practices, those matters are properly directed to the Gallatin County Commission or the Records Department, respectively. The County Attorney’s Office provides legal advice but does not control the release of records or establish county policy.

Your letter characterizes Gallatin County as implementing an “illegal sanctuary policy.” That assertion is incorrect. There is no policy. The communication at issue was case-

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specific legal advice, and Montana law requires individualized analysis of each request for confidential criminal justice information.

Given the importance of this issue and the need for statewide clarity, I am formally requesting an opinion from your office pursuant to § 2-15-501(7), MCA. Please see the attached request.

My office remains committed to protecting the privacy rights of Gallatin County residents, providing accurate legal guidance grounded in Montana law, and supporting lawful cooperation with criminal law enforcement agencies.

If your office would like to discuss this matter further, I am available at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Cromwell".

Audrey Cromwell
Gallatin County Attorney

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FORMAL REQUEST FOR ATTORNEY GENERAL LEGAL OPINION

TO: Austin Knudsen, Montana Attorney General, via email austin.knudsen@mt.gov

FROM: Audrey Cromwell, Gallatin County Attorney

DATE: April 6, 2026

RE: Dissemination of Confidential Criminal Justice Information (CCJI) to Federal Agencies, specifically ICE, for Civil or Administrative Purposes

Pursuant to § 2-15-501(7), MCA, I formally request a legal opinion on whether Montana counties may lawfully disseminate individuals' non-public Confidential Criminal Justice Information (CCJI) to Federal Agencies, specifically ICE, upon receiving non-criminal civil or administrative requests without a court order.

This request specifically asks your office to determine if such disclosures, absent the judicial balancing test under the Montana Criminal Justice Information Act, violate the fundamental right to privacy guaranteed by Article II, Section 10 of the Montana Constitution.

A formal opinion would provide the legal certainty so county governments can properly evaluate non-criminal administrative or civil requests from federal partners while remaining in strict compliance with Montana's statutory and constitutional privacy protections.

A handwritten signature in blue ink, appearing to read "ASC", is written over the signature line.

Audrey Cromwell
Gallatin County Attorney