

KINGMAN COUNTY SHERIFF'S OFFICE

POLICY AND PROCEDURE MANUAL

AUTHORITY: SHERIFF RANDY L. HILL

EFFECTIVE DATE: July 20, 2018

Number of Pages 7

SECTION 22.0 ACCESS TO PUBLIC RECORDS

TITLE

The Kansas Open Records Act guarantees any person the right to inspect and obtain copies of all public records – unless the records are closed consistent with specific provisions of law.

POLICY

Policy and procedure to obtain copies of or access to public records pursuant to the Kansas Open Records Act – KORA K.S.A. 45-215 SEQ.

OFFICE HOURS: 8 A.M. TO 5 P.M., Monday -Friday, excluding official County holidays

DESIGNATED CUSTODIAN: Randy L Hill, Sheriff

OTHER CUSTODIANS: The Undersheriff or the office manager.

FEES: Record requests that can be provided with less than one hour of staff time or less;

Walk-in one time per six months; Offense report under 10 pages free

Walk-in one time per six months; Accident report free

Other wise the fee is \$.25 per page up to 25 pages

By 1st class mail; Offense reports \$5.00

By 1st class mail; Accident reports \$5.00

AUDIO VIDEO RECORDINGS: \$20.00

PHOTOS (PER DISC): \$20.00

Other requests will add staff time to the costs.

STAFF TIME: Will be charged at the rate of pay for each person(s) whose time is used in order to assist and/or respond to a specific request. This may include the time spent to access records maintained on computer facilities, review records to determine whether closure exceptions apply and/or to redact open from closed information. Staff time will be charged at \$14 per hour.

ADDITIONAL FEES: Any other costs incurred by the agency in connection with complying with a record request may be assessed to the requester.

The agency will provide an estimate of the fees which shall be paid prior to the agency gathering the records. However, in order to assure payment, the final cost of providing access to or furnishing copies must be paid before the records are provided. If the final cost is less than the estimate, the requester will be reimbursed for the difference.

WRITTEN REQUEST

Persons may require that requests for access to or copies of records be made in writing, in order to adequately document the request and clarify exactly what records are being sought. All requests for records shall state the requester's name, mailing address, and a contact phone number. The requester should provide detailed information about the records being requested in order to aid the staff in determining if such records exist and are possessed by the agency. Requests for records not yet in existence or documents to be created prospectively cannot be honored.

RESPONSE TIME

The department will act upon requests as soon as possible, with some response being made to the requester no later than the third business day following the receipt of the request. If it appears that additional time will be needed, fees will be assessed, or some of the records may be closed by law, a written response will be provided as soon as the records have been located and reviewed.

What are your open record rights?

If you ask, any County agency will provide its "open records request procedure." If you want to learn more about the Kansas Open Records Act (KSA 45-215 *et seq.*), learn which agency may have records you seek, or if you have difficulty obtaining records from any County agency, contact the County's Freedom of Information Officer (FIO). If you feel an agency has wrongfully denied you access to records, you may ask the FIO to help resolve the dispute. You have the right to file a complaint with the Kingman County Attorney or with the Kansas Attorney General. If you wish to file a complaint, the FIO will provide contact information.

Exceptions

The Kansas Open Records Act recognizes that some records contain information which is private in nature. For this reason, the Act lists a number of exceptions.

Records that are closed for this reason may include:

- Personnel information of public employees
- Medical treatment records
- Records which are protected by the attorney-client privilege or the rules of evidence
- Records containing personal information compiled for Census purposes
- Notes and preliminary drafts
- Criminal investigation records
- Several other specific records

For a complete listing of exemptions, see K.S.A. 45-221.

What Sheriff records are available?

Kansas Open Records Act (KORA) only requires agencies to provide records that already exist. KORA does not require creating new records, compiling special research or statistical reports, or interpreting records.

Records often requested are listed below:

- Traffic accident reports
- Theft reports
- Other incident reports
- Jail log
- Report log book
- Mug shots

Public Access to in-car Video and Body Cam Video Files

As established by K.S.A 45-221 all in-car audio or video recordings made and retained by this law enforcement agency are considered closed criminal investigation records.

The following exceptions have been established by K.S.A 45-215:

1. A person who is a subject of the recording;
2. A parent or legal guardian of a person under 18 years of age who is a subject of the recording;
3. An attorney for a person described in 1 or 2 or;

4. An heir at law, an executor or an administrator of a decedent, when the decedent is a subject of the recording.

Persons meeting the exceptions listed in K.S.A. 45-215 may request to listen to an audio recording or to view a video recording retained by this law enforcement agency. This request shall be directed to the Sheriff or Undersheriff during regular business hours. Fees for this service will be charged as established by agency policy.
prosecutor

No copy(ies) will be made or give during active prosecution is open. Request would need to be made to the County Attorney's Office.

No recording shall be made during the viewing.

Criminal history record information

In general, County agencies cannot provide criminal history record information (CHRI) about individuals, whether to employers for applicants, to individuals about themselves, or to others. County employees who provide CHRI in violation of law may be terminated and prosecuted. However, records of adult convictions and trial proceedings within Kingman County are available from the District Court.

Individuals with proper identification can be provided with their own Local conviction data with the Sheriff's Office. Non-conviction data shall not be disseminated. Persons requesting criminal history information should be referred to the Kansas Bureau of Investigation Records or the Federal Bureau of Investigations records sections for their criminal History Information.

The Kansas Bureau of Investigation (KBI) is the central CHRI repository for Kansas, and regulates dissemination of CHRI to criminal justice agencies and all others. To the extent the law allows, the KBI provides CHRI to persons about themselves, to employers, and to others. Certain records checks can be submitted online for a fee, and further information is available at the KBI Web site.

Kansas Bureau of Investigation

Attn: Adult Records
1620 SW Tyler
Topeka, KS 66612-1837
785-296-8200
EMAIL: records@kbi.state.ks.us
WEB: <http://www.kansas.gov/kbi/>

OR Federal Bureau of Investigation: Phone Number 304-625-5590

Why Would My Request be Denied?

Although every attempt will be made to provide the information requested, it is not always possible to fulfill the request. There are a number of reasons that a request may be denied:

- The records may be another agency's responsibility.
- The records were never created, or cannot be found.
- The record was destroyed in the normal course of business, consistent with County policy and State law.
- The request was unclear or incomplete - please resubmit with needed detail.
- The record is closed to protect an important privacy interest or other interest authorized by KORA (see KSA 45-221) - the agency will explain and cite specific legal provisions.

Use of Public Records – Please Read Carefully

"No person shall knowingly sell, give or receive, for the purpose of selling or offering for sale, any property or service to persons listed therein, any list of names and addresses contained therein, or derived from public records..." K.S.A. 21-3914. Violation of this law is a Class C Misdemeanor and can subject the violator to prosecution and imprisonment up to 30 days and a fine of \$500.00. Violators will be reported for prosecution. By accessing this site, the user makes the following certification pursuant to K.S.A. 45-220(c)(2): "the requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed."

How do you request records?

1. Prepare your request. It may help to check with the Office Manager first to find out if the record you want is available, and what information is needed to obtain it. You will need to describe what you want in specific terms. *If you don't know which agency has the record(s) you seek, ask the Freedom of Information Officer.*

2. Submit your request. Simple requests for a few current records often can be handled while you wait.

For more complex and for restricted records, the agency may require a written request. Describe what you want as specifically as you can. You MAY want to use the form provided for mutual convenience, *but agencies cannot require that written requests be submitted on their forms.*

KORA allows an agency to ask your name and address. For restricted records, an agency may require proof of identity or other information sufficient to determine your right under law to access the records.

3. Agency responds. For most routine requests, agencies will produce records within three business days. Some records will require more time – within three business days agencies must tell you when and how they plan to provide you access and/or copies.

Your request may be denied, in whole or in part. *If the agency denies your request, it must specify the records denied, and cite legal basis for denial. Any denial will be made upon advice of legal counsel.*

The agency should respond within three business days.

**The Freedom of Information Officer for Kingman County Government
is...**

Carol Noblit, Kingman County Clerk/Freedom of Information Officer
130 N. Spruce
Kingman, Kansas 67068
(620) 532-2521

KINGMAN COUNTY SHERIFF'S OFFICE
REQUEST FORM FOR COPIES OF OPEN RECORDS

"You MAY want to use this form provided for mutual convenience, but you are NOT require so, written requests may be submitted on your form".

Date: _____ Department that records are requested from _____

Name: _____

Address: _____

City: _____ Zip: _____

Phone: _____

RECORD(S) SOUGHT:

Make sure your request is as specific as possible so that we can attempt to fulfill it accurately and completely. CERTIFICATE OF COMPLIANCE WITH K.S.A. 21-3914 & K.S.A. 45-220(c)

I, _____, understand that no person shall receive, for the purposes of selling or offering for sale any property or service to person listed therein, any list of names or addresses contained in or derived from a public record.

I also understand that violation of the statue prohibiting the unlawful use of names derived from a public record is a Class C misdemeanor.

In accordance with these provisions, I certify that I do not intend to, and will not, use any list of names or addresses contained in or derived from public records for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; neither will I sell, give, or otherwise make available to any person any list of names or addressed contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed, except under authority of the limited circumstances provided in K.S.A. 21- 3914.

KMSO 1/2011