



Michelle LaJoye-Young  
SHERIFF

Bryan Muir  
UNDERSHERIFF

## Kent County Sheriff's Office Policy and Procedure

Subject: <b>Records Access and Control</b>	General Order: 1 . 8 . 1
Effective Date: 10/24/2023	Distribution:
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### I. PURPOSE

To establish procedures for the systematic review, recording, maintenance, control, retention, and retrieval of records under the purview of the Kent County Sheriff's Office (KCSO)

### II. POLICY

The KCSO is dedicated to the responsible management of a records system that is fully compliant with relevant state and federal laws. In alignment with the Department's mission and operational objectives, we aim to maintain, distribute, and provide access to records efficiently, securely, and confidentially. This policy serves as a framework for safeguarding sensitive information while meeting our community's and stakeholders' informational needs.

### III. DEFINITIONS:

- A. **Protected Information:** Any information or data collected, stored, or accessed by members of the KCSO and is subject to any access or release restrictions imposed by law, regulation, order, or use agreement. This includes all information contained in federal, state, or local law enforcement databases that is not accessible to the public.
- B. **Public Records (Record):** A writing prepared, owned, used, in possession of, or retained by a public body in the performance of an official function from the time it is created. Public record does not include computer software. Public records can either be exempt or not exempt from disclosure based on law.
1. These records may include but are not limited to arrest records, incident reports, criminal records, traffic violations, logs, mugshots, witness/victim statements, or other records listed in the KCSO Retention Schedule

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**(Appendix Q1).**

- C. **Writing:** Handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.
- D. **Written Request:** A writing that requests information, and includes a writing submitted in person, a writing submitted via mail, or a writing submitted via facsimile, electronic mail, or other electronic means, including Kent County's FOIA Portal.

#### IV. PROCEDURES

A. Records Custodians

1. The Commanders or supervisors of the following divisions and subdivisions of the KCSO shall be official custodians of records created and retained by the department and its members:
  - a. The Office of the Sheriff
    - Finance/Accounting Division
    - Public Information
    - Information Technology
  - b. Corrections Division
    - Compliance
    - Support Services
    - Court Services
  - c. Road Patrol Division
    - Mobile Field Force Team
    - Canine Unit

- Mounted Unit
  - Honor Guard
  - Dive Team
  - Marine/Parks Patrol
- d. Investigative Division
- Professional Standards Division
  - Detective Bureau
  - KANET
  - Crime Scene Unit
  - Property Management Unit
  - Court Security Division
- e. Support Services Division
- Records Unit
  - Training Unit
  - Community Policing Unit
  - Technology and Operations Support
  - Emergency Management
  - Animal Control
  - Tactical Apprehension and Confrontation Team
- f. Crime Intelligence and Technology Division
- Real-time Intelligence Center
  - Crime Intelligence Unit

- Emergency Communications Unit
- g. Facilities Management
2. Responsibilities of Records Custodians
- a. A Custodian of Records shall maintain all records created by or collected by personnel of the KCSO. The following are exceptions:
- Personnel files.
  - Confidential investigative files.
  - Other records as designated by the Office of the Sheriff.
- b. Conducting inventories of records.
- c. Evaluating records to determine their useful life in the operation of the specific unit and the Department.
- d. Applying the appropriate retention period for each category of records the custodian maintains.
- e. Providing for safekeeping of the retained records.
- f. Providing for access to and retrieval of retained records,
- g. Providing for proper destruction and disposal of records.
- B. Confidentiality
1. All records shall be maintained with the strictest confidentiality.
2. Any database or system (i.e., Flock, EIS, Axon, TLO), including the Records Management System (RMS), personnel have access to during their employment with the KCSO should be restricted to approved personnel. Access to these records will require a username and password, and each agency user will have unique traceable access permissions.
3. Access to any system with CJIS or law enforcement sensitive information and dissemination of the information will be regulated by applicable State and Federal law.

4. Access to records is restricted to sworn deputies and other designated KCSO personnel for official purposes in accordance with applicable KCSO and Kent County policies and procedures.

C. Juvenile and Non-Public Records

1. All juvenile court arrest and other legally exempt records shall be maintained as non-public records.
2. Upon notification from the court that a case is non-public, the following procedures shall be followed:
  - a. The physical file will be stamped "Non-Public," and the electronic record will be marked as "Non-Public" in the Records Management System (RMS) and the Jail Management System
  - b. For manually received orders from the court, a supplement shall be added in the RMS indicating the report is Non-Public. A supplement will not be added for cases automatically set aside.
  - c. Releasing of non-public records is prohibited unless allowed by law (MCL 780.623).

D. Records Checks

A Records Unit Clerk shall process requests for records checks for employment from certain federal government agencies, law enforcement agencies, and the military.

E. Freedom of Information Act (FOIA)

The Freedom of Information Act (FOIA) (MCL 15.231 et seq.) was enacted to strengthen the rights of citizens to receive full and complete information regarding the official acts of government, including the right to inspect government records. The law requires disclosure of all public records unless an exemption applies. This section establishes department policy to implement the FOIA and access to public records held by the KCSO.

1. Administrative Responsibilities
  - a. KCSO shall appoint a FOIA Coordinator and/or Assistant FOIA Coordinator(s) to respond to requests for public records in a manner that ensures that all persons are entitled to full and complete information under the Freedom of Information Act.

- b. Equally important to proper disclosure of all public records of the Department is the responsibility to ensure that the privacy of individuals identified in those public records is preserved. To ensure that the proper balance between disclosure and privacy is met, the Office of the Sheriff will delegate the task of responding to and maintaining all FOIA requests to the Records Unit.

## 2. Records Unit Responsibilities

A person wishing to inspect or receive a copy of a public record shall make a **written request** for the public record. The request must sufficiently describe the public record so the Records Unit staff can find it. The use of the FOIA portal is highly encouraged; however, citizens are not required to use the portal. All requests received by any other method of communication (e.g., mail, fax) other than the FOIA portal will be uploaded by Records Unit staff to the FOIA portal for processing, tracking, and auditing purposes.

- a. When a request is submitted the FOIA portal assigns it a request ID. This number serves as a unique identifier for the request and it is used for tracking and auditing. After which, the FOIA staff works diligently to locate the requested records.
- b. The FOIA staff must review each request thoroughly to ensure that appropriate exemptions are applied. The FOIA permits numerous exemptions, which allow public bodies to withhold certain information because it is statutorily prohibited from release, for security, law enforcement, or privacy reasons.
- c. A formal response letter is sent to the requester informing them whether their request for records has been granted, partially granted/denied, or denied. If the request in its entirety or any part of the request is denied, a reason for the denial is provided.
- d. The FOIA Coordinator or their designee calculates an estimate of the costs to fulfill a FOIA request in accordance with the Michigan Freedom of Information Act statute law, specifically MCL 15.234, Section 4. KCSO will require a good faith deposit before providing the public records to the requester if the fee estimate or charge authorized exceeds \$50.00.
- e. The rate charged for FOIA requests must not exceed the hourly wage of the lowest-paid staff member capable of fulfilling the request. Additionally, material costs, such as paper and media

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storage, are included in the final cost.

- MCL 15.234, Section 4 (2) allows for a waiver of the first \$20.00 of the fee, if the requester submits an affidavit stating they are indigent and receiving public assistance, or if not receiving public assistance, stating facts showing an inability to pay the cost because of indigency.
- f. The Records Unit Command Staff member or their designee shall consult with the Sheriff or their designee before releasing any information critical to the community, of particular concern to the Sheriff's Office, or likely to affect the community substantially.
3. Employee Responsibilities
- a. FOIA law allows the public to request records from any employee of the KCSO.
- Any employee who receives a request, subpoena, court order, or discovery motion for a public record is obligated to accept it. Subsequently, they shall forward the request to the Records Unit immediately for processing due to statutory mandated response deadlines
    - i. All requests must be in writing.
    - ii. The preferred process is to refer the requestor to the FOIA Portal.
- b. Requests for public records from a defendant, defense attorney, suspect, insurance company, other members of the public, or the media shall be considered a FOIA request and will be forwarded to the Records Unit.
- c. Requests for records from employees of law enforcement agencies, prosecutor's offices, and other government agencies are considered "Law Enforcement Partner" requests and shall be referred to the "Law Enforcement Partner" section of the Kent County's FOIA Portal for processing and official release.
- d. Personnel other than those authorized to do so in the Records Unit are not permitted to release records.
- Command Staff may authorize the release of incident

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reports or other pertinent information to law enforcement agencies when there is an exigent or critical law enforcement need.

- The staff member responsible for releasing records should consult with the Commander in charge of the Records Unit for guidance in cases where it is unclear whether records should be released

#### 4. Division Commander Responsibilities

- a. Given the agency's multiple custodians of records, Division Commanders are responsible for promptly retrieving and delivering records they oversee within the timeframe established by the staff member making the request. Additionally, divisions are tasked with communicating any concerns regarding the release of records or portions thereof to the FOIA staff member processing the request. However, the Sheriff or their designee shall make the final determination regarding the release of records.

#### 5. FOIA Appeals

FOIA Appeals are managed by corporate counsel. The FOIA coordinator and assistant coordinators will collaborate with corporate counsel to resolve the appeal and ensure compliance with the outcome.

#### F. License to Purchase Firearms Issuance

1. The KCSO Records Unit will issue a License to Purchase a Firearm to residents who live in parts of Kent County not a City, Township, or Village of Kent County who do not have an organized Police Department.
  - a. If a resident of a City, Township, or Village with an organized Police Department in Kent County, or outside of Kent County but in the State of Michigan, wishes to obtain a purchase permit, they should be referred to the law enforcement agency that has jurisdiction over their address of residence to obtain the permit.
  - b. If the requesting individual resides in the State of Michigan and demands that the KCSO process their application, the Records Unit shall make reasonable efforts to accommodate the request.

#### G. Personnel Files

1. Kent County Human Resources shall maintain and secure all personnel files.
2. Any additional employee files (i.e., shift files, employment records, training records) maintained by the KCSO shall be secured at the discretion of the Office of the Sheriff.

#### H. Records Retention and Disposal

##### 1. General Information

- a. The Records Retention Schedule for the KCSO is approved by the Sheriff, the Michigan DTMB, and the State Administrative Board.
- b. As Per MCL 750.491, official books, papers, or records created by or received by the state of Michigan or its political subdivisions are considered property of the people of this state. Therefore, it will be the responsibility of the Division Commanders of the Kent County Sheriff's Office to ensure all public records within their control are saved and disposed of per the **Records Retention Schedule (Appendix Q1)**.

##### 2. Non-Record Materials

- a. The KCSO may dispose of non-record materials as soon as they have served their intended purpose.
  - Each division or unit of the KCSO that generates or maintains records during official operations, or serves as the custodian of records created by the department or its members, is responsible for determining the retention period of all non-record materials based on the unit's functions and responsibilities.
- b. Types of Non-Records

The following types of records are considered non-records of the KCSO.

- Extra copies of documents kept solely for convenience—such as “for your information” memos, follow-up correspondence, word-processed files where the official printed copy is retained by the department, or duplicate

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copies of records when the official version is maintained by the department or another appropriate custodian.

- Publications, forms, and printed documents, including those that are superseded or outdated.
- Preliminary drafts of letters, memoranda, reports, worksheets, and internal notes (including typed or word-processed ones) that do not represent significant basic steps in creating or preparing official records.
- Shorthand notes and other notes or recordings that have been transcribed or incorporated into another format for official retention purposes.
- Miscellaneous notices or memoranda, including e-mail messages, that do not relate to the legal and operational responsibilities of the department, such as notices of organizational events, employee benefits, holidays, etc.
- Software used for printing or reproducing records in any format.
- Catalogs, trade journals, and other publications or papers received from outside sources that are not essential to the agency's operations.

c. Working Copies

- KCSO employees will utilize a working copy of all records throughout the course of their investigation.
  - i. The working copy shall not be released unless required by statute or court order. If a FOIA request is received, all applicable exemptions under the Freedom of Information Act will be invoked to withhold or restrict disclosure of the working copy.
- Upon completion of the investigation, the employee shall update the copy of the record with any new information and ensure the working copy is destroyed.

3. Review of the Records Retention and Disposal Schedule

- a. Regular Review: Each Division Commander is responsible for conducting a biennial assessment of the KCSO Records Retention Schedule to ensure its continued relevance in alignment with the evolving needs of KCSO and prevailing legal mandates.
- b. Schedule Modifications: If a Division Commander determines that additions or changes to the Retention Schedule are necessary, a collaborative process shall be initiated. The Division Commander shall coordinate with the Support Services Commander or their designee to implement the required updates.

Approval Process: Once revisions are finalized, the updated Records Retention Schedule shall be submitted to the Office of the Sheriff. The Office of the Sheriff will then initiate the approval process through the Michigan DTMB and the State Administrative Board, ensuring compliance with regulatory standards and best practices in records management.

#### 4. Exceptions to the Records Retention and Disposal Schedule

- a. All records shall be destroyed in accordance with the Schedule unless the KCSO:
  - Receives a Freedom of Information request.
  - Anticipates a litigation hold.
    - i. All major incidents—such as in-custody deaths, use of force, or pursuits resulting in death or serious bodily harm—that a records custodian could reasonably expect to be subject to litigation shall be retained until the Office of the Sheriff, or their designee, determines they no longer need to be preserved.
  - Is notified that an investigation or litigation has commenced.
- b. When any of the above criteria are met, the duration of retention shall be determined at the discretion of the Office of the Sheriff or their designee.

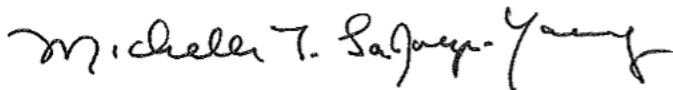
#### I. Disposition of Records

1. Records custodians shall ensure vital and confidential records are destroyed only by authorized personnel and in such a manner as to prevent inadvertent disclosure to unauthorized persons.
2. Other records may be destroyed or otherwise disposed of in a manner approved by the commander of the Support Services Division.

**V. CANCELLATIONS**

**1.8.1 – Records Access and Control (10/24/2023)**

Authorized by:



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Michelle LaJoye-Young  
Sheriff

Index as:

Standard 1.8.1

*Application: This directive constitutes department policy and is not intended to enlarge the employer's or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims insofar as the employer's or employee's legal duty as imposed by law.*

**Appendix Q1 – Records Retention Schedule**

**KENT COUNTY SHERIFF'S OFFICE**