

# Personnel Records

## 1026.1 PURPOSE AND SCOPE

This section governs the maintenance, retention, and access to peace officer and member personnel files in accordance with established law. It is the policy of this Department to maintain the confidentiality of peace officer and member personnel records pursuant to the exemptions listed in subsections of RCW 42.56.

## 1026.2 PERSONNEL FILES DEFINED

Peace officer and member personnel records shall include any file maintained under an individual deputy's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history, including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the deputy participated, or which the deputy perceived, and pertaining to the manner in which the deputy performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

## 1026.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

**Department File** - That file which is maintained in the office of the Sheriff as a permanent record of a employment with this department.

**Supervisor File** - Any file which is separately maintained internally by an employee's supervisor(s) within an assigned division for the purpose of completing timely performance evaluations.

**Human Resources File** - That file which is maintained by the Department of Human Resources as a permanent record of a member's employment with Kitsap County.

**Training File** - Any file which documents the training records of an employee.

**Internal Investigation Files** - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

# Kitsap County Sheriff's Office

## *Personnel Records*

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**Medical File** - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

Pre-employment personnel files, including background information psychological and polygraph results, will also be maintained in the office of the Sheriff or his/her designee. Such files shall be kept in the Department File for hired members. Medical and psychological records for hired members shall be maintained in the medical file by the Department of Human Resources. All pre-employment investigation records for individuals not hired by the Department shall be maintained in a separate file by the Office of Professional Standards.

All employee records will be secured and available only to persons authorized to access such information.

### **1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES**

In general, unless expressly stated by statutory exception, personnel files are subject to public disclosure. To the extent possible, all personnel records, whether or not subject to public disclosure, should be maintained as private records. Access to personnel files should be limited to only those local government employees who are needed to maintain the files and those who have a legitimate need for access or legal right to access. All of the personnel records listed in PERSONNEL FILES DEFINED shall be deemed private, and access to such files will be limited to only those Department or County employees who are needed to maintain the files and those who have a legitimate need for access. Nothing in this section is intended to preclude review of personnel files by the Deputy Prosecuting Attorney or other attorneys or representatives of the County in connection with official business.

### **1026.5 REQUESTS FOR DISCLOSURE**

All records kept by Washington State public agencies are considered public unless they are covered by specific disclosure statutes (RCW 42.56.070).

- (a) Private personnel records that are exempted from public disclosure include:
  - 1. Applications for public employment (RCW 42.56.250).
  - 2. Residential addresses and telephone numbers (RCW 42.56.250).
  - 3. Performance evaluations which do not discuss specific instances of misconduct.
  - 4. Medical information (RCW 70.02).
  - 5. Industrial insurance (workers' compensation) claim files and records (RCW 51.28.070).
  - 6. Employee identification numbers.
  - 7. Taxpayer information, such as tax withholding data (RCW 42.56.230(4)).

# Kitsap County Sheriff's Office

## *Personnel Records*

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- (b) Records that are not covered by other specific disclosure exemption statutes must be made available for inspection and copying. This includes the following private personnel records:
1. Employee advancement or discipline reports.
  2. Personnel complaint investigations after such investigations have been completed or are no longer under review or deliberation.
  3. Department reports to CJTC regarding the separation from employment of a deputy.

When complaint investigations are complete and found to be unsubstantiated (not-sustained, exonerated or unfounded) the names and identifying information of the subject employee is protected from public disclosure. In such cases, the name and other identifying information of the subject employee may be redacted before the document or documents are released.

All requests for the disclosure of any information contained in any deputy's personnel record shall be documented in writing and promptly brought to the attention of the employee's Division Chief, the Support Services Supervisor or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made. Notification shall be consistent with any applicable Collective Bargaining Agreement.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

### 1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved deputy or written authorization of the Sheriff or his/her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor.

The disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the deputy who is the subject of the investigation (or the deputy's representative) publicly makes

# Kitsap County Sheriff's Office

## *Personnel Records*

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a statement which is published in the media and which the deputy (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement.

### **1026.6 EMPLOYEE ACCESS TO OWN FILE**

Employees may be restricted from accessing files containing any of the following information:

- (a) Background information, letters of recommendation, test results, and promotional assessments.
- (b) Ongoing Internal Affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline, consistent with applicable law.
- (c) Confidential portions of Internal Affairs files which have not been sustained against the employee.

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Sheriff through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed. If the contested item is not removed from the file, the employee's request and the department's written response shall be retained with the contested item in the employee's personnel file (RCW 49.12.250).

### **1026.7 TYPES OF PERSONNEL FILES**

Peace officer personnel files can be located in any of the following places:

#### **1026.7.1 DEPARTMENT FILE**

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisors and signed by the affected employee shall be permanently maintained.
- (b) Disciplinary action;
  - 1. Summary of disciplinary action resulting from sustained complaints or observation of misconduct shall be permanently maintained in the individual employee's department file when the sanction amounts to a written reprimand or greater. A copy shall also be retained in the Supervisor's File.
  - 2. Disciplinary action resulting from a sustained complaint shall be maintained in the Internal Investigation file pursuant to the Washington State Law Enforcement Records Retention Schedule when the sanction amounts to a verbal reprimand or less. A copy shall also be retained in the Supervisor's File.

# Kitsap County Sheriff's Office

## *Personnel Records*

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3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal investigation file.
- (c) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee(s). A copy should also be retained in the Supervisor's file.
- (d) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status.
- (e) A photograph of the employee.
- (f) Pre-employment/background records and materials except medical and psychological records.

### 1026.7.2 HUMAN RESOURCES FILE

The Human Resources file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisors and signed by the affected employee shall be permanently maintained.
- (b) Disciplinary action;
  1. Summary of disciplinary action resulting from sustained complaints or observation of misconduct shall be permanently maintained in the individual employee's department file when the sanction amounts to a written reprimand or greater.
  2. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal investigation file.
- (c) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee(s). A copy should also be retained in the Supervisor's file.
- (d) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status.
- (e) Medical Records, maintained separately, by the Department of Human Resources, as outline in under Medical Files.

All records sent to the Department of Human Resources shall be routed through the Office of Professional Standards to ensure the complete records are sent and avoid unnecessary duplication. Payroll/fiscal records need not be routed through the Office of Professional Standards.

# Kitsap County Sheriff's Office

## *Personnel Records*

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### 1026.7.3 INTERNAL INVESTIGATION FILE

The internal investigation file shall be maintained under the exclusive control of the Office of Professional Standards in conjunction with the office of the Sheriff. Access to these files may only be approved by the Sheriff or the supervisor of the Office of Professional Standards. These files shall contain the complete investigation of all formal complaints of employee misconduct regardless of disposition.

- (a) Each investigation file shall be sequentially numbered within a calendar year with an alphabetically arranged index cross-referenced for each involved employee.
- (b) At a minimum, investigation files shall be retained pursuant to the Washington State Law Enforcement Records Retention Schedule.

### 1026.7.4 TRAINING FILES

An individual training file shall be maintained by the Training Unit for each employee. Training files will contain records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification. Upon separation from employment, the training file will be included in the Department File.

- (a) It shall be the responsibility of the involved employee to provide the Training Officer or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Officer or supervisor shall ensure that copies of such training records are placed in the employee's training file.

### 1026.7.5 MEDICAL FILE

The Medical file shall be maintained by the Department of Human Resources separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

# Kitsap County Sheriff's Office

## *Personnel Records*

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### 1026.7.6 SUPERVISOR FILES

The Supervisor File should contain, but is not limited to, supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file.

Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.

Once the permanent performance evaluation form has been made final, a copy of the evaluation and the underlying foundational material(s), and/or duplicate copies shall be retained until the completion of the following annual review and then shall be purged.

All rules of confidentiality and disclosure shall apply equally to the supervisor file.