



Kansas Attorney General Derek Schmidt

A GUIDE TO OPEN MEETINGS AND OPEN RECORDS

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Kansas Open Meetings Act K.S.A. 75-4317 *et seq.*



KOMA issues/concerns

- Executive sessions
 - Improper motions for executive sessions
 - Calling an executive session for one reason then discussing different subject matter in session
 - Inclusion of non-Commission/Council members in executive sessions
 - Extending an executive session without reconvening the open meeting, making a motion and voting
 - Failure to return to open meeting at the stated time/place after executive session
 - Revealing information discussed in executive session
- Serial communications
- Majority of membership of public body gathered together without notice
- Failure to provide notice of meetings



History of open meetings

- K.S.A. 19-218 – Every board of county commissioners “shall sit with open doors, and all persons conducting in an orderly manner may attend their meetings. . . .”
- First adopted in 1868; last amended in 1923
- KOMA adopted in 1982; provides rules that allow members of the public to observe the nearly 4,000 units of government in Kansas making decisions



Policy, construction, purpose

- K.S.A. 2016 Supp. 75-4317(a) - Meetings shall be open to the public because “a representative government is dependent upon an informed electorate. . . .”
- Law enacted for the “public benefit,” so construed broadly in favor of the public to give effect to its specific purpose of openness. *State ex rel. Murray v. Palmgren*, 231 Kan. 524, Syl. ¶ 4 (1982).
- KOMA interpreted liberally and exceptions applied narrowly to carry out purpose



Who is subject to KOMA?

- All legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, and other subordinate groups thereof receiving or expending and supported in whole or in part by public funds K.S.A. 2016 Supp. 75-4318(a)
- “Subordinate groups” – not defined; if created by a covered entity or the group has become an extension of a covered entity, most likely covered



Who is subject to KOMA?

- State bodies
 - State Legislature, its committees and subcommittees unless the rules state otherwise
 - State administrative bodies, boards and commissions
 - State Board of Regents
 - Supreme Court nominating commission
- Local Governments
 - Cities, counties and townships
 - School districts
 - Fire districts
 - District judicial nominating commission



Who is not subject to KOMA?

- An otherwise covered entity when exercising a "quasi-judicial" function - K.S.A. 2016 Supp. 75-4318(g)(1)
- Hearings conducted under the Kansas Administrative Procedures Act (KAPA) - K.S.A. 2016 Supp. 77-523(f); K.S.A. 2016 Supp. 75-4318(g)
- Judiciary
- Private organizations
- Staff meetings of a covered entity



What is a meeting?

- Any gathering or assembly in person, through the use of a telephone, or any other medium for interactive communication
- By a majority of the membership of a public body or agency subject to the act
- For the purpose of discussing the business or affairs of the public body or agency

K.S.A. 2016 Supp. 75-4317a



Gathering or assembly

- May conduct meetings by telephone or other medium (conference call, video, skype, go to meeting) if comply with all KOMA requirements
- Informal discussions before, after or during a recess of a public meeting may be subject to the KOMA
- Name of the gathering is irrelevant



"Serial communications"

- Interactive communications outside of a noticed meeting may be a meeting under KOMA if:
 - Collectively involve a **majority of the membership** of the public body or agency
 - Share a **common topic** of discussion
 - Are **intended** by any or all participants to **reach an agreement on a matter that requires binding action** to be taken by the public body or agency
- K.S.A. 2016 Supp. 75-4318(f)
- Emails, calling trees, use of an agent (staff member)
 - Tip - DO NOT REPLY ALL, DO NOT FORWARD



Majority of the membership

- Next whole number greater than one-half the total number of members
- Can be different than a quorum



Discussion

- Binding action or voting not necessary
- Meeting includes all gatherings at all stages of the decision making process
- Social gatherings
- Retreats and meetings held in private
- Educational conference/seminar
 - Tip – when traveling to such meetings, avoid discussing business or affairs of the public body



Notice

- *Contrary to popular belief*, KOMA does not require notice of meetings to be published in a newspaper or on a website
 - Must request notice of meetings
 - No formalities to requesting notice – can be verbal or written
 - A request is valid for one fiscal year
 - Must notify of expiration before terminating notice
 - Presiding officer has duty to provide notice, but duty may be delegated
 - Provide date/time/location where public body will meet to person requesting notice a "reasonable time" before meeting
 - Group request for notice – provide to designated individual
- K.S.A. 2016 Supp. 75-4318(b)



Example

- Six member city council plus mayor
- Mayor and four council members attended a Town Hall meeting
- Mayor and four council members discussed city business including concerns over utility increases, a new parking lot and rumors
- No notice to those who requested notice of all city council meetings
- Violation?



Example

- Yes, a KOMA violation occurred
 - Met the definition of a meeting
 - Failed to provide notice of the date, time and place of the meeting
- Penalty
 - Obtain at least one hour of KOMA training
 - Individually pay the cost of obtaining training
 - Not engage in any further violations



Penalties/Remedies

- Civil penalty up to \$500 per person for each violation
- Require completion of AG approved training
- Order to cease and desist from further violation
- Comply with the KOMA
- Reasonable expenses, investigative costs and attorney fees
- Remedy - voiding action
 - Must be filed within 21 days of the meeting where the alleged violation occurred



Meeting conduct

- KOMA does not address meeting procedures
- Agenda
 - Not required to create
 - Any agenda must include topics planned for discussion (if known) but may be amended during a meeting unless a statute or rule prohibits an amendment
 - If an agenda exists, must make agenda available to any person requesting the agenda
 - Agenda does not have to be mailed out in advance of meeting – may simply place the agenda in a public place



Meeting conduct

- Use of cameras, photographic lights and recording devices
 - Public may record meeting as long as not disruptive
 - Use subject to reasonable rules to ensure orderly conduct of the meeting
- No public right to speak, but only to listen and observe
- Location of meeting - is it accessible to the public?
- No secret ballots
- Minutes – only required to record motion to go into executive session, but bylaws, ordinances, policies, etc., may require minutes to be kept



Executive sessions

- Permits discussion of certain enumerated matters outside of public view
- An open meeting must be convened first and then **recess** into executive session
- No binding actions may be taken in an executive session, but a consensus is allowed
- If a consensus is achieved, an open and formal vote must be taken in open session



Example

- Executive session - personnel matters of non-elected personnel
- Public body reached a consensus to terminate the employment of an employee
- Public body did not hold a public vote on the matter when it returned to open meeting
- Violation of the KOMA?



Example

- Yes, a KOMA violation occurred
 - Termination of employment occurred before the public vote
 - Public's right to know effectively was denied
- Penalty
 - Obtain at least one hour of KOMA training
 - Individually pay the cost of obtaining training
 - Not engage in any further violations



Who may attend?

- Only members of the public body
- Mere observers may not attend
- Staff, agents or other non-public body individuals have no right to attend
- Public body may invite individuals who will:
 - Aid the discussion
 - Provide information on a permissible topic or participate in the discussion



Executive sessions

- Must be a formal motion seconded and carried; **complete** motion recorded in the minutes
 - Permanently retain minutes
 - Parts of the motion for executive session:
 - ✓ Statement of the subject(s) to be discussed (without revealing confidential information)
 - ✓ Justification (from the statute)
 - ✓ Time/place open meeting will resume
- K.S.A. 2016 Supp. 75-4319, as amended



Executive sessions

Commonly used justifications:

- Personnel matters of non-elected personnel
- Consultation with the public body's attorney
- Employer - Employee negotiations
- Confidential data relating to the financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorship (economic development)
- Matters affecting a student, patient or resident of a public institution
- Preliminary discussions relating to the acquisition of real property
- Security measures

K.S.A. 2016 Supp. 75-4319, as amended



Executive sessions

Justification allowed:

Personnel matters of non-elected personnel

- To protect the privacy interests of the employee
 - Does not include independent contractors, appointments to boards or committees, or public officers
 - May discuss applicants for employment
- K.S.A. 2016 Supp. 4319(b)(1), as amended



Executive sessions

Justification allowed:

Consultation with the body's attorney

- The attorney must be present
- The communication must be privileged in the attorney-client relationship
- No third parties may be present (breaks privilege)

K.S.A. 2016 Supp. 75-4319(b)(2), as amended



Executive sessions

Justification allowed:

Employer-Employee negotiations

- For the purpose of formal negotiations – not general employee meetings or discussions
 - School boards have special rules
- K.S.A. 2016 Supp. 75-4319(b)(3), as amended



Executive sessions

Justification allowed:

Confidential data relating to the financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorship

- Called the economic development exception, but make sure that the data being reviewed is confidential or a trade secret

K.S.A. 2016 Supp. 75-4319(b)(4), as amended



Executive sessions

Justification allowed:

Matters affecting a student, patient or resident of a public institution.

- With this subject, any hearing must be open if requested by the person involved

K.S.A. 2016 Supp. 75-4319(b)(5), as amended



Executive sessions

Justification allowed:

Preliminary discussions relating to the acquisition of real property

- Acquisition only – not sale
- Remember – no binding action in executive sessions

K.S.A. 2016 Supp. 75-4319(b)(6), as amended



Executive sessions

Justification allowed:

Security Measures

- If discussion at open meeting would jeopardize security measures that protect infrastructure and the public; includes intelligence information, tactical plans, resource deployment and vulnerability assessments

K.S.A. 2016 Supp. 75-4319(b)(13), as amended



Kansas Open Records Act

K.S.A. 45-215 *et seq.*



KORA issues/concerns

- Calculation and explanation of the "reasonable" fee/actual costs
- Records provided did not meet requester's expectations
- Requester believes there should be existing public records, but none are found
- Is agency/entity covered by KORA, and if not, why not?
- Failure to respond within 3 business days
- Failure to provide the requested records
- Access to criminal investigation records



Policy, construction, purpose

- "Public records shall be open for inspection by any person unless otherwise provided, and this act shall be liberally construed and applied to promote such policy" – K.S.A. 45-216(a)
- KORA enacted in 1984; it replaced version enacted in 1957
- KORA provides the procedure for the public to view and make copies of governmental records
- KORA also defines and categorizes records



Public record defined

- Any recorded information, regardless of form, characteristics or location, which is made, maintained or kept by or is in the possession of:
 - Any public agency
 - Any officer or employee of a public agency pursuant to the officer's or employee's official duties and which is related to the functions, activities, programs or operations of any public agency
 - Includes written records, photographs, computer data, and email
- K.S.A. 2016 Supp. 45-217(g)



Public record defined

- Does not include:
 - Records which are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds
 - Private person – if someone is an officer or employee of a public agency and is acting pursuant to their official duties, they are not a private person
 - Records made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state
 - Records not in existence at time of request
- Do not need to create records in order to fulfill a request
K.S.A. 2016 Supp. 45-217(g)



What is a “public agency?”

- The state
- Any political or taxing subdivision of the state, or any office, agency or instrumentality thereof, or
- Any other entity receiving or expending or supported in whole or in part by public funds appropriated by the state or political/taxing subdivision
- Instrumentality – not defined in KORA; if created by a covered entity or the group has become an extension of a covered entity, most likely covered
K.S.A. 2016 Supp. 45-217(f)(1)



What is not a “public agency?”

- Private companies, even if they receive public funds in exchange for goods and services
- Municipal or state judge/justice
K.S.A. 2016 Supp. 45-217(f)(2)



Applying KORA to a request

- KORA is, in part, a procedural statute
- Best illustrated by reviewing the sequence of actions that should take place



KORA requirements for public agencies

- Appoint a Freedom of Information (FOI) officer to assist with KORA requests
- Display, distribute or otherwise make available a brochure describing requester rights, public agency responsibilities and procedures for inspecting or obtaining copies of public records
- Include the name/title of records custodian, fees and office hours available for anyone to make a request
K.S.A. 45-226 and K.S.A. 45-227



Who may make a request?

- Any person may make a request
- The person need not be a resident
 - *But see McBurney v. Young*, US Sup. Ct., April 2013 (Not a violation of privileges and immunities clause to limit access to public records to citizens of Commonwealth of Virginia)
- The person need not provide a reason for their request



Form of the request

The public agency may require:

- The request to be in writing
- Only the requester's name and address
- Proof of identification
- Written certification that the requester will not use names and addresses obtained from the records to solicit sales or services



Rights of the requester

- Unless closed by law, the public has the right to review all public records
- Any person may make abstracts or request copies of records
- If copies cannot be made where the record is located, arrangements must be made to allow copying
- If portions of a record are closed, the remainder must be made available to the requester



Limitations on requester's rights

- Requester may not remove a public record without the written consent of the custodian
- Public agency not required to make copies of radio or recording tapes or discs, video tapes or films, pictures, slides, graphics, illustrations unless shown at a public meeting
- Copyrighted materials may not be reproduced without the permission from the copyright holder, but must be available for viewing or listening.



Responding to the request

- The request must be "acted upon" as soon as possible, but not later than the end of the 3rd business day following date request is received – K.S.A. 45-218(d)
- The three acceptable responses:
 1. The record is provided (in the form requested, if possible)
 2. The request is under review and the records, if permitted, will follow
 3. The request is denied, with a detailed explanation for the denial

Telegram Publishing Co., Inc. v. Kansas Department of Transportation, 275 Kan. 779, ¶ 4 (2003)



Example

- KORA request submitted
- Records clerk directed to not fulfill the request until advised to do so
- Requester followed up by email and phone multiple times with no response
- One page of records released 53 days after initial request
- Violation of the KORA?



Example

- Yes, a KORA violation occurred
 - Public agency possessed records responsive to the request
 - Failed to respond to request within 3 business days
 - Discretionary exemption to disclosure existed
- Penalty
 - At least one hour of KORA training for all staff responsible for KORA compliance
 - Civil penalty - \$100.00
 - Not engage in any further violations



Penalties

- Civil penalty up to \$500 for each violation
- Require completion of AG approved training
- Order to cease and desist from further violation
- Comply with the KORA
- Reasonable expenses, investigative costs and attorney fees



Allowable fees and charges

- Public agency may only recover actual costs to provide the requested records
 - These costs include staff time to retrieve, review and redact information from a record
 - Fees may be estimated and collected before the records are provided
- K.S.A. 45-218(f) and K.S.A. 2016 Supp. 45-219(c)(5)



Categorizing records

- Presumption of openness
- Requested public records must be released unless an exemption to disclosure applies
- Burden rests on public agency to prove the requested records are exempt from disclosure
- Exemptions to disclosure – discretionary or mandatory closure



Redaction

- If a record contains material that is not subject to disclosure, the agency “shall separate or delete such material” and make the record available
- Public agency can charge for staff time to redact

K.S.A. 2016 Supp. 45-221(d)



Policy reasons records may be closed

- Personal privacy
- Safety/security
- Internal communications while policies are developed or administrative procedures are underway



Discretionary closure – personal privacy

- Medical, psychiatric, psychological or alcoholism/drug dependency treatment records pertaining to identifiable patients – K.S.A. 2016 Supp. 45-221(a)(3)
- Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants EXCEPT exemption shall not apply to:
 - Names of employees
 - Positions/Titles
 - Salaries or actual employment contracts, including employment related contracts or agreements
 - Length of service
 - K.S.A. 2016 Supp. 45-221(a)(4)



Example

- KORA request for a blank copy of the evaluation tool used by a city council to evaluate the job performance of the city manager
- City declined to produce record
 - Created specifically to evaluate city manager
 - Personnel record
 - Only used and discussed in executive session to negotiate a contract with city manager
- Violation of the KORA?



Example

- Yes, a KORA violation occurred
 - Generic evaluative tool publicly available on the internet is not exempt from disclosure
 - Assume that the city council used a completed form to negotiate with the city manager
 - A blank copy of the form is not exempt from disclosure even if a completed copy of the form was discussed during executive session



Example

- Penalty
 - At least one hour of KORA training for all city staff responsible for KORA compliance
 - Civil penalty - \$250.00
 - Provide a copy of the record to the requester
 - Not engage in any further violations



Discretionary closure – personal privacy

- Clearly unwarranted invasion of personal privacy
 - Information that would be highly offensive to a reasonable person, including information that may pose a risk to a person or property and is not of legitimate concern to the public.
 - Examples – Mother’s maiden name, DOB, street address, phone number
- K.S.A. 2016 Supp. 45-221(a)(30)



Discretionary closure – personal privacy

- Records that would disclose the name, home address, email address, phone/cell number, or other contact information for concealed carry licensees, applicants or persons enrolled in or who completed weapons training – K.S.A. 2016 Supp. 45-221(a)(53)
- Records “shall not be disclosed unless otherwise required by law”
- Records relating to persons issued licenses, applicants or persons denied a license shall be confidential and cannot be disclosed pursuant to KORA; disclosure a class A misdemeanor – K.S.A. 2016 Supp. 75-7c06(b)
- Records of person whose license suspended or revoked subject to public inspection under KORA – K.S.A. 2016 Supp. 75-7c06(c)



Discretionary closure – safety / security

- Records that would reveal the identity of an undercover agent or any informant reporting a specific violation of law– K.S.A. 2016 Supp. 45-221(a)(5)
- Records concerning emergency or security information or procedures of a public agency if disclosure would jeopardize the security of the public agency – K.S.A. 2016 Supp. 45-221(a)(12)



Discretionary closure – safety / security

- Plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications if disclosure would jeopardize the security of the public agency, building or facility
K.S.A. 2016 Supp. 45-221(a)(12)



Discretionary closure – safety / security

- Information that would reveal the location of a safe house or shelter for abused persons or the name, address, location or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault
K.S.A. 2016 Supp. 45-221(a)(47)



Discretionary closure – safety/security

Criminal investigation records

- Protects innocent persons whose names might be involved in an investigation as suspects or informants
 - Protects integrity of an on-going case and investigative techniques
 - Built in standard of review
 - Definition
 - Every audio or video recording made and retained by law enforcement using a body camera or vehicle camera
 - Records of investigatory agency or criminal justice agency compiled in the process of preventing, detecting or investigating violations of criminal law
- K.S.A. 2016 Supp. 45-221(a)(10)



Discretionary closure – safety/security

Criminal investigation records

- Every audio or video recording made and retained by law enforcement using a body camera or vehicle camera
- Following categories of people may request to listen or view, and law enforcement agency shall allow listening or viewing:
 - Subject of recording
 - Parent/legal guardian of subject under 18 years of age
 - Attorney for subject of recording or parent/legal guardian
 - Heir at law, executor or administrator of decedent who is subject of recording
- Law enforcement agency may charge a reasonable fee



Discretionary closure – safety/security

Criminal investigation records

- What is a criminal investigation record?
 - Standard arrest reports – K.S.A. 2016 Supp. 22-4701(b); AGO 98-38
 - Mugs shots – AGO 87-25
 - Log of breath test machine results – AGO 87-63
 - Records pertaining to vehicular homicides
 - Coroner reports filed with the clerk of the district court which are designated as a criminal investigation record – K.S.A. 22a-232
 - Records of death investigations may be closed even if the death turns out to be from natural causes as long as there was initially a criminal investigation



Discretionary closure – safety/security

Criminal Investigation Records

- What is not a criminal investigation record?
 - Police blotter entries
 - Wanted posters
 - Court records of public proceedings or published opinions
 - Inmate rosters for jails/correctional/detention facilities
 - Violations of any traffic law other than vehicular homicide
 - Front page of Standard Offense Report but redact the name/identifying information of the victims of sex offenses and portions that constitute clearly unwarranted invasion of privacy
 - Custody time



Discretionary closure – safety/security

Criminal Investigation Records

- (A) Is in the public interest; *must be in the public interest – mere curiosity is NOT enough*
- (B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;
- (C) would not reveal the identity of any confidential source or undercover agent;
- (D) would not reveal confidential investigative techniques or procedures not known to the general public;
- (E) would not endanger the life or physical safety of any person; and
- (F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.



Discretionary closure – safety / security

Other criminal investigation records issues:

- Victims and defendants – no special status in terms of obtaining these records under KORA; may be other laws/cases that apply to release of information to defendant in the criminal context
- Criminal investigation records don't necessarily become "open" if criminal charges are never filed – discretionary closure still exists



Discretionary closure – internal communications or procedures

- Records privileged under rules of evidence, unless consent – K.S.A. 2016 Supp. 45-221(a)(2)
- Records of an investigation conducted under civil litigation or administrative adjudication, if disclosure interferes with the procedure – K.S.A. 2016 Supp. 45-221(a)(11)
- Correspondence between a public agency and a private individual, unless intended to give notice of a public agency action, policy or determination – K.S.A. 2016 Supp. 45-221(a)(14)



Discretionary closure – internal communications or procedures

- Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed **except** where such records are publicly cited/identified in an open meeting or in an agenda of an open meeting – K.S.A. 2016 Supp. 45-221(a)(20)
- Attorney work product - K.S.A. 2016 Supp. 45-221(a)(25)



Discretionary closure – internal communications or procedures

- Appraisals/engineering/feasibility estimates/evaluations by or for a public agency relating to acquisition *or disposal* of property, prior to the award of formal contracts – K.S.A. 2016 Supp. 45-221(a)(13)
- Specifications for competitive bidding, until officially approved by the public agency - K.S.A. 2016 Supp. 45-221(a)(27)
- Sealed bids and related documents until a bid is accepted or all bids rejected – K.S.A. 2016 Supp. 45-221(a)(28)



Mandatory closure of records

- There are records that are required to be closed by federal or state statute that are not found in KORA
- KORA will look to other statutes first
- Records custodian must be familiar with those records and what must be separated into the open and closed portions of a record



Mandatory closure of records

- Juror lists – addresses of prospective jurors are not longer included in list filed in the office of the clerk of the court
 - List of names of prospective jurors is a public record
- Electronic recording of custodial interrogation at a place of detention when interrogation concerns a homicide or felony sex offense



Mandatory closure of records Search and arrest warrants

Accessing warrants executed before July 1, 2014

- Closed to the general public
- Affidavits and sworn testimony given to obtain warrant were closed without a written court order
- Exception - the defendant or defendant's counsel – K.S.A. 22-2302(b) (arrests); K.S.A. 22-2502(d) (searches)



Mandatory closure of records Search and arrest warrants

Accessing warrants executed on or after July 1, 2014

- Any person may file request with *Clerk of the Court*
- Clerk must "promptly notify" defendant or defendant's counsel, the prosecutor, and the magistrate that such request was filed
- Prosecutor shall promptly notify any victim
 - Victim includes victim of any alleged crime that resulted in issuance of warrant OR
 - Victim's family if victim is deceased
 - Family defined in K.S.A. 74-7335



Mandatory closure of records Search and arrest warrants

Grounds for magistrate to redact or seals affidavit(s) or sworn testimony

- Jeopardize physical, mental or emotional safety / well being of victim, witness, confidential source or undercover agent or cause destruction of evidence
- Reveal information from wiretap or unexpired warrant for a tracking device
- Interfere with any prospective law enforcement action, criminal investigation or prosecution
- Reveal identity of any confidential source or undercover agent
- Reveal confidential investigative techniques or procedures not known to general public
- Endanger life / physical safety of any person



Mandatory closure of records Search and arrest warrants

Grounds for magistrate to redact or seal affidavit(s) or sworn testimony


- Reveal identifying information of victim of any sexual offense
- Reveal name of minor
- Reveal DOB, phone numbers, DL#, ID#, SSN, EIN, taxpayer ID #, VIN or financial account information
- Constitute clearly unwarranted invasion of personal privacy
 - Revealing information that is highly offensive to a reasonable person AND
 - Is totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public



Mandatory closure of records Search and arrest warrants

Disclosure of warrants executed on or after July 1, 2014

- Judge orders disclosure with redactions – affidavit/sworn testimony part of court record that is accessible to the public
- Judge seals – affidavit/sworn testimony part of court record that is not accessible to the public
- Any request for disclosure of affidavit/sworn testimony is part of court record and is accessible to the public



Mandatory closure of records Search and arrest warrants

- Criminal disclosure of an arrest or search warrant – K.S.A. 2016 Supp. 21-5906
 - Making public that warrant applied for or issued
 - Content of affidavit or testimony supporting warrant
 - Penalty - disclosure is a class B non-person misdemeanor
- LEO can disclose arrest or search warrant:
 - To gain assistance in executing warrant
 - To encourage the person named in the warrant to voluntarily surrender
 - Where warrant is issued in a case involving the abduction of a child unless such disclosure is specifically prohibited by court issuing the warrant

