

	KANSAS CITY, MO POLICE DEPARTMENT PERSONNEL POLICY	DATE OF ISSUE 5/12/2021	EFFECTIVE DATE 5/12/2021	NO. 934
	SUBJECT Policy Series 900: General 934 – Records Management Retention & Disposal			AMENDS
REFERENCE MO Secretary of State Office – Local Records Retention Schedules RSMo. 109 & 610 (Missouri Sunshine Law) P.I. Internally Recorded Digital Media Records BOPC Resolution – Records Management		RESCINDS D.M. 14-03		

I. INTRODUCTION

This written directive provides guidelines and procedures relating to records management, retention and disposal. The records management process will be handled in accordance with all State and Federal regulations, including the applicable Local Retention Schedules developed by the Missouri Secretary of State's Office.

II. POLICY

- A. It is the policy of the Kansas City Police Department (Department) to establish administrative, management, privacy, security and control procedures within statutory guidelines, for the orderly maintenance, backup, retention, distribution retrieval, release and destruction of documents in order to ensure records accountability and maintain compliance with the law.
- B. The Custodian of Records is designated by the Board of Police Commissioners.
- C. The Office of the Custodian of Records (OCR) will be located in the Information Management Unit.
- D. For information regarding recordings and reproduction of video generated on department-owned equipment, refer to the Procedural Instruction entitled, "Internally Recorded Digital Media Records."

III. TERMINOLOGY

- A. **Active Record** - A record that is still being used in daily operations or is still current by contract, agreement, or criminal/civil litigation.
- B. **Administrative Hold** - A hold that may be placed on a record for an administrative function.
- C. **Audit Hold** - A hold placed on a record awaiting the completion of an audit.

- D. **Convenience Copy** - A copy of a document that is not the official record copy.
- E. **Department Record Retention Schedule** - A supplemental retention schedule that may be developed by units to extend the period of time for retention of specific types of records or provide retention periods for records not listed on the Local Records Retention Schedule.
- F. **Electronic Record** - Any information that is recorded in machine readable form. Electronic records include numeric, graphic, audio, video, and text information, which is recorded or transmitted in analog or digital form (i.e., electronic spreadsheets, word processing files, databases, electronic mail, instant messages, scanned images, digital photographs, and multimedia files).
- G. **Expungement Record** - A court order to strike out, blot, obliterate, delete or cancel part of a record which identifies the offender named in the order.
- H. **Inactive Record** - A record that is no longer used.
- I. **Litigation Hold** - A hold placed on a record to preserve documents and data that may be relevant to a criminal or civil process.
- J. **Local Records Board** - A board chaired by the Missouri Secretary of State, under RSMo 109.230 & 109.255, to establish retention schedules for all local government bodies.
- K. **Local Records Retention Schedules** - Retention schedules set by the Local Records Board establishing the minimal retention requirements for public records under the Sunshine Law.

The schedules include:

1. General Records Retention Schedule
 2. Police Clerks Retention Schedule
 3. Public Safety Answering Point (911)
- L. **Record** - Any document, book, paper, photograph, sound recording, video recording, or other material, regardless of physical form or characteristic, including electronic, made or received pursuant to law or in connection with the transaction of official business.

- M. **Records Coordinators** - A member within a unit designated to coordinate the fulfillment of Sunshine Law requests or release of records.
- N. **Records Oversight Committee** - A six (6) member committee established by the Chief of Police to oversee and control the management, retention, storage and disposition of Department records in accordance with the law.

III. GUIDELINES

This directive has been arranged in annexes for easy reference.

- ANNEX A Performance of Duties
- ANNEX B Retention and Destruction of Records
- ANNEX C Migration of Electronic Records
- ANNEX D Preservation of Permanent Records
- ANNEX E Department Holds
- ANNEX F Sunshine Law: Release of Records
- ANNEX G Court Ordered Expungement of Records



Richard C. Smith
Chief of Police

Adopted by the Board of Police Commissioners this 28 day of April, 2021.



W. Don Wagner
Board President

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PERFORMANCE OF DUTIES

A. Custodian of Records

1. The Commander of the Information Management Unit is designated as the Department Custodian of Records. The Custodian of Records is responsible for the implementation of processes and procedures to ensure that the Sunshine Law and records retention schedules are followed by the Department.
2. The Custodian of Records and/or their designee will contact unit commanders to obtain their designated Records Coordinators for each unit. The Custodian of Records will maintain the current list of all Records Coordinators for the Department.
3. The Custodian of Records and unit commanders will be responsible for developing unit specific benchmarks for the managing and purging of records, as well as long-term storage of records.
4. The Custodian of Records may request the assistance of a bureau commander to conduct periodic audits to ensure compliance with this written directive and prescribing local, state, and federal laws.
5. The Custodian of Records ensures that department records are destroyed in a clear and systematic manner and enables the Department to suspend disposals as needed, as in the case of pending litigation, audit requirements and cold cases.
6. The Custodian of Records is responsible for the disposal of department records.
7. The Custodian of Records will approve Records Disposal Forms, Form 52 P.D.

B. Records Coordinators:

1. Are designated by the division commanders and will work with the Custodian of Records or designee.
2. Will ensure their unit follows the current record retention schedules, and that records that are created or maintained within the unit are stored consistently in a manner that protects against misuse, misplacement, damage and unauthorized destruction.
3. Will initiate the process for disposal of records that meet the prescribed retention period within their unit, at least annually.

4. Where appropriate will separate inactive records from active records each year, unless an extension or exception is approved by the Records Oversight Committee.

C. Records Oversight Committee

1. The Custodian of Records will be the Chair of the Records Oversight Committee.
2. In addition to the Custodian of Records, the Chief of Police will designate members from the following Department units:
 - a. Office of General Counsel
 - b. Internal Affairs Unit
 - c. Violent Crimes Division
 - d. Regional Crime Laboratory
 - e. Human Resources Division
 - f. Information Services Division

D. The Records Oversight Committee will perform the following functions, including but not limited to:

1. Oversight and control of the retention and disposition of Department records in accordance with local, state, and federal law.
2. Review unit requests for retention periods longer than the Local Retention Schedule Guidelines.
3. Review unit requests to set retention periods for records not listed in the Local Retention Schedule, which require final approval from the Local Records Board.
4. Meet once a year or at the request of the Custodian of Records to:
 - a. Designate categories of records.
 - b. Discuss methods of handling records.
 - c. Review request for disposal of records.
 - d. Address records related issues.

RETENTION AND DESTRUCTION OF RECORDS

A. Creation of Records

1. Records are created and captured whenever the contents relate to a business need for information.
2. When the Department refers to a record maintained for retention, it is referring to the original/official record.
 - a. A convenience copy does not require retention scheduling or destruction authorization. A convenience copy may be destroyed immediately after the needs have been satisfied.
 - b. If a convenience copy contains confidential or sensitive information, the copy must be destroyed securely.

B. Active Records

1. An active record may not be disposed of by the Department.
2. A record remains active as long as it is being utilized or subject to a Department hold. If subject to more than one (1) Department hold, the record remains active until the last hold is lifted from the record.
3. A record may also move from inactive status to active status if a record becomes used again for daily operations.
4. Convenience copies are not typically active records. However, if the copy becomes the original record, the record will follow disposal procedures.

C. Inactive Records

1. Only records that are inactive and meet the designated retention period may be disposed of by the Department.
2. Once records are moved to inactive status by the Records Coordinators, they must continue to be held until the end of the designated retention period found in the prescribed retention schedule.
3. If an inactive record becomes active again, such as used for litigation matters, the record would remain active until the end of such event. At the end of the event or release of hold, the record becomes inactive and is held for the designated retention period.

D. Retention of Records

1. Once the record is inactive, the retention period begins for a record.
2. Retention periods cannot be less than those established by the Local Records Retention Schedule.
3. Retention periods may be extended beyond the Local Records Retention Schedule:
 - a. Provided for by federal or state law, or
 - b. Approved by the OCR to fit the need of a unit.

E. Disposal of Inactive Records

1. When reviewing the disposal request form the OCR will consider, but not be limited to, the following:
 - a. Local Records Retention Schedule
 - b. Department Records Retention Schedule
2. A unit seeking to dispose of an inactive record must complete the Records Disposition Form, Form 52 P.D., and submit it to the Custodian of Records and/or their designee. The Custodian of Records maintains the final completed Form 52 P.D. as a permanent record.
3. If the Form 52 P.D. is approved by the OCR the form will be:
 - a. Signed and returned to the appropriate unit for completion.
 - b. Forwarded to the Custodian of Records within ten (10) business days of the date of destruction.
4. Shredding is the recognized method for secure disposal of paper documents containing any personal identifying information, financial information, or sensitive police information.
5. Documents containing confidential or sensitive information as determined by the unit and/or as designated in the retention schedule will be destroyed securely.
6. When disposing of records, the member will work in conjunction with the Records Coordinator or designee assigned to each element.

7. The Department has a CJIS/MULES vetted contractor for the disposal of sensitive records managed by the Building Operations Unit.
8. If the Form 52 P.D. is not approved the Custodian of Records will return the Form 52 P.D. to the Records Coordinator to be filed with the documents.
9. The disposal of electronic records will be treated the same as paper records, (i.e., digital photographs, hardware, spreadsheets, DVD, CD) to include the completion of Form 52 P.D.
10. If electronic records cannot be shredded, then the inquiring Records Coordinator must contact the Information Services Division's Records Coordinator for assistance.

MIGRATION OF ELECTRONICS RECORDS

- A. As technology changes, digital files stored long-term will be migrated to a new platform or format according to technology requirements in order to retain full accessibility.
- B. The Information Services Division will be responsible for the migration of electronic records as referenced above and the subsequent long term storage of those records.
- C. When a unit learns of electronic records that need to be migrated into a readable form, the unit's Records Coordinator must notify the Information Technology Unit or the OCR.
- D. All migration of records will require documentary affidavit or certification by the vendor to be maintained according to the Local Records Retention Schedule. The original document should be maintained with the third party contract file. A copy should be provided to the Office of General Counsel.
- E. All hard drives will be removed and crushed with the gun disposal, unless the equipment is being traded in for a discount on a purchase.
- F. Equipment being used as a trade in for a discount must have a Department of Defense sanitation wipe performed on all hard drives. Procedures must be documented in writing and submitted to KCPD's CJIS Local Agency Security Officer as per CJIS policy 5.8.3 and 5.8.4.
- G. At the completion of migration, all affidavits will be maintained in the Information Services Division according to the record's retention schedule.

PRESERVATION OF PERMANENT RECORDS

- A. Records that have been identified as permanent requiring special handling and storage will be transferred to another storage area deemed by the Records Coordinator in connection with the Custodian of Records.
- B. The Department must work to maintain records in a readable format. If a record is destroyed by decay, vermin, fire, water or other means, the Custodian of Records must be contacted so a notification can be sent to the Local Records Program, Office of the Missouri Secretary of State.

DEPARTMENT HOLDS

- A. Department holds may include but are not limited to: litigation holds, administrative holds, or audit holds.
 - 1. Once a hold is applied, the content is prohibited from change or deletion, until the hold is removed.
 - 2. Holds are placed as needed on any record affected.

- B. Litigation Holds
 - 1. A litigation hold directive overrides any record retention schedule that may have otherwise called for the transfer and/or disposal of the relevant documents until the hold has been lifted by the Office of General Counsel (OGC).
 - 2. A litigation hold memorandum will be generated whenever litigation is reasonably anticipated or pending against the Board, the Department, or any of its members acting in the course and scope of their employment. Reasonable anticipation of litigation is determined on a case-by-case basis considering the facts and circumstances known at the time.
 - 3. Only OGC may determine that a litigation hold is necessary and issue a litigation hold memorandum.
 - 4. OGC will forward the litigation hold memorandum to each unit reasonably believed to have possession, custody, or control over relevant records.
 - 5. Unit actions upon receipt of a litigation hold memorandum:
 - a. The unit commander will identify the member(s) within their chain of command with the knowledge of the relevant records.
 - b. The member(s) will locate and/or gather the relevant records.
 - c. The unit commander will consider the following:
 - (1) When a member's unit file must be held, the litigation hold memorandum will be placed in front of the file. Unit file documents may not be purged until the release of the hold.

- (2) When a record cannot easily be held for a litigation hold by placing the litigation hold memorandum on top of the records, the records should be copied and provided to OGC with an Affidavit of Custodian Records, Form 67 P.D. Examples of such items that may be sent to OGC with an affidavit include: memorandums, notes, hard copy activity logs or photographs.
 - (3) Ensure any relevant unit videos (surveillance, BWC, etc.) have been uploaded to the proper server in order for the controlling unit to place a hold on the video.
- d. Records that are not sent to OGC with a business records affidavit will be held until OGC sends a notice releasing the litigation hold.
- e. Contact OGC with any questions pertaining to whether a record is relevant or preparing a business records affidavit.
6. The unit commander will hold records until either OGC requests the file from the unit or until a notice releasing the litigation hold has been received by the unit commander.
7. Upon conclusion of the anticipated or pending litigation, OGC will issue a notice to each involved unit lifting the litigation hold.
8. At the time the litigation hold is released, the Records Coordinator will then follow the applicable retention schedule.

C. Audit Holds

1. An audit hold will be placed on a record that is awaiting the completion of an audit before it is destroyed.
2. To suspend the disposition of a record beyond its scheduled disposition date, place the record on hold.
3. Each element's Record Coordinator will be responsible for forwarding the request for an audit hold to the OCR for approval.
4. Upon completion of the audit, the Unit Commander/Manager issuing the written audit hold will be responsible for notifying the appropriate units in writing of the release of the hold.

D. Administrative Holds

1. An administrative hold will be placed on a record that is awaiting completion of an administrative action before it is destroyed.
2. The member's Bureau Commander may approve or disapprove the issuance of the administrative hold.
3. The Bureau Commander will notify the appropriate personnel in writing when there is no longer a need for the administrative hold.

SUNSHINE LAW: RELEASE OF RECORDS

- A. The Department will follow the Missouri Sunshine Law in response to a request for the release of records.

- B. Obtaining Records
 - 1. The Custodian of Records is responsible for overseeing all Sunshine Law requests per RSMo. Chapter 610.
 - 2. After receiving a Sunshine Law Request, the Custodian of Records or his/her designee will forward Sunshine Law requests to the appropriate unit's Records Coordinator to handle requests for records.
 - 3. At the request of the Custodian of Records or their designee, the Records Coordinator will gather records within their unit and provide documents in a timely manner to the Custodian of Records or their designee.

- C. Sunshine Law Requests
 - 1. A request for a record may be made in writing, orally, or electronically. The words "sunshine law" do not have to be included in the request to trigger the requirements under the Missouri Sunshine Law.
 - 2. Upon receipt of a request for records, the member should document the date it was received and by whom. The record should be immediately routed to the Custodian of Records or their designee.
 - 3. If a member receives an electronic message (voice mail or email), the member will note the date the message was received and immediately forward it to the Custodian of Records or designee.
 - 4. If a member is approved by the Records Coordinator to handle a request for a record within their unit, it will be handled according to the Missouri Sunshine Law.
 - 5. Every reasonable effort will be made to respond to the request within three (3) business days. Due to the volume of Sunshine Records requests, if a response to a request cannot be fulfilled within three (3) business days upon receipt of request, the Records Coordinator or designee will make a good faith effort to notify the requestor that their request was received by the Department and provide them an estimated time to fulfill their request for records.

6. The Custodian of Records or designated Records Coordinator will immediately contact OGC's Law Clerk if there are questions whether the requestor is entitled to a particular record under the Missouri Sunshine Law.

COURT ORDERED EXPUNGEMENT OF RECORDS

- A. Depending on the type of expungement, the record may be destroyed or only closed to certain individuals by law.
- B. Court orders to expunge an individual's criminal record(s) will be strictly adhered to.
- C. The OGC will forward the Expungement Order to the Custodian of Records for completion.
- D. The Criminal Records Section will complete the Arrest Purged/Sealed Master Checklist, Form 5003 P.D., attach a copy of the Court Order, and forward to the appropriate unit(s).
- E. The Criminal Records Section will verify that the requested information is expunged and will then forward the completed Form 5003 P.D., to OGC.