

2022

Kansas Open Meetings Act Kansas Open Records Act Annual Report

Kansas Fiscal Year 2022

(July 1, 2021 – June 30, 2022)

Pursuant to K.S.A. 75-753

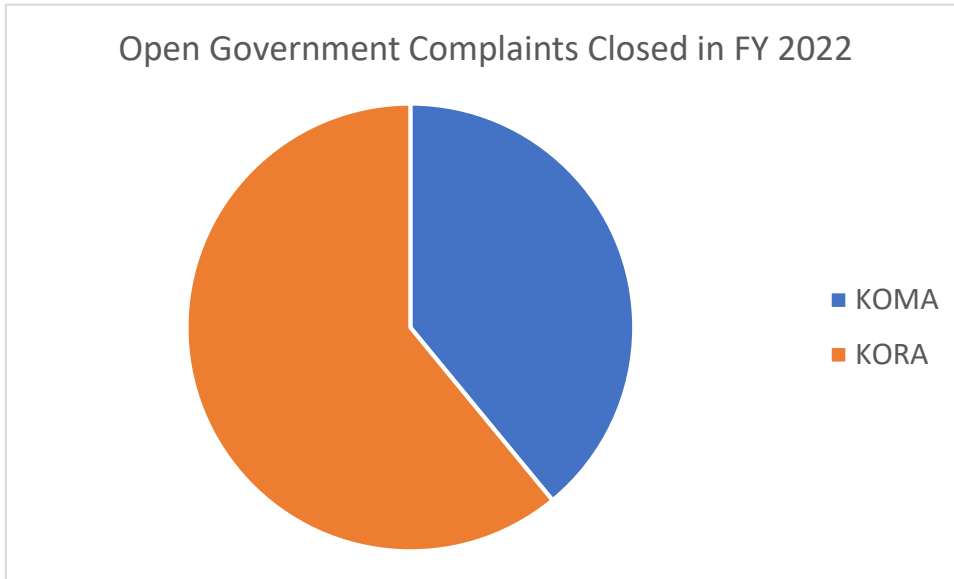


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Overview of Complaints

Total Number of Complaints: 251

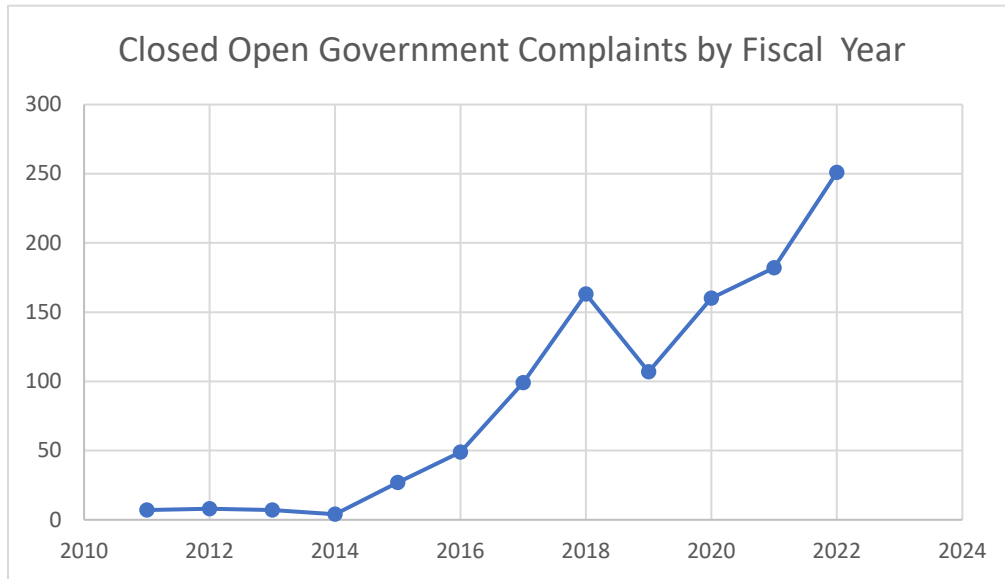


Kansas Open Meeting Act (KOMA) Complaint Outcomes

Violation Found or Informal Resolution:	11
Referred to County/District Attorney:	10
No Violation Found:	65
Complaint Not Related to KOMA:	12

Kansas Open Record Act (KORA) Complaint Outcomes

Violation Found or Informal Resolution:	17
Referred to County/District Attorney:	12
No Violation Found:	106
Complaint Not Related to KOMA:	18



Kansas Open Meetings Act Complaints

COMPLAINTS AGAINST STATE AGENCIES RESULTING IN CORRECTIVE ACTION

Kansas Racing and Gaming Commission

Complaint: The commission's general counsel self-reported to this office a violation of the Kansas Open Meetings Act (KOMA). Following the shutdown due to the COVID-19 pandemic, the commission began conducting meetings by telephone because video meetings were unreliable given differences in internet services for various attendees. To avoid attendees who would not be in the executive sessions spending long periods listening to dead air, the commission began holding its executive sessions prior to the beginning of the meetings. The commission's meeting notices on the Public Square website advised of this fact and stated that the items to be discussed would be "Attorney/Client Privilege" and "Background Reports." The commission also announced at the beginning of the regular meetings that the executive sessions had occurred and that no action was taken.

Resolution: Upon review, it was determined that the commission violated the KOMA by following incorrect procedures for entering into executive sessions during the pandemic. The commission subsequently revised its procedures to comply with the KOMA and special provisions of the Racing and Gaming statutes.

COMPLAINTS AGAINST CITIES RESULTING IN CORRECTIVE ACTION

City of Augusta

Complaint: A city employee filed a complaint self-reporting that the city violated the KOMA. The complaint stated that as part of an effort to reorganize its boards and committees, the city discovered that the Augusta Housing Authority was holding its meetings on a different date and time than specified in its bylaws. The Authority did not notify the city of this change, nor did it amend its bylaws to reflect the change. Since the city provides meeting notices on behalf of the Authority to anyone requesting notice under K.S.A. 75-4318(b), the city's meeting notices on the Authority's behalf had been wrong for more than two years.

Resolution: Upon review, this office determined that the sending of incorrect meeting notices on behalf of the Authority for more than two years was a violation of the KOMA. In mitigation, the city took remedial measures to bring the Authority into compliance with its bylaws or require it to amend its bylaws to state the actual meeting date and time. The city also established a process requiring city staff to contact each board and committee to verify meeting dates annually. Finally, the city undertook efforts to provide educational information about the KOMA and the KORA to members of its

boards and committees, as well as city staff. There was nothing to suggest that the failure to provide the correct meeting date and time was intentional or a subterfuge to defeat the purposes of the KOMA. Instead, it appeared to be more of a clerical error. In addition, this office did not receive any complaints about the city providing the wrong date and time for the authority's meetings. Because the city readily admitted its mistake and implemented remedial action to ensure that the situation did not reoccur, this office declined to pursue any formal enforcement action to resolve this KOMA violation.

Harper City Council

Complaint: An individual filed a complaint with this office alleging that on October 26, 2020, the city council held two executive sessions using as a justification the need to discuss data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships. According to the complainant, the executive sessions were improper for two reasons: (1) the city administrator was able to protect the identity of the potential business projects while still describing the purpose of the executive session when speaking to the complainant after the sessions took place, and (2) the potential businesses did not request that the matters be discussed in executive session.

Resolution: Upon investigation, this office learned that the justification for each motion for executive session during the meeting was the need to discuss "confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts and individual proprietorships [pursuant to] K.S.A. 75-4319(b)(4)." The subject was "to discuss third party trade secrets." The city attorney stated that the purpose of the executive sessions was to discuss infrastructure questions raised by a couple who were interested in a particular property owned by the county. The guidance from the council would have to also consider equal treatment for a possible relocation of another person's business to the city. The business discussed during the executive sessions related in part to confidential data pertaining to the county's involvement/plans with the property and the potential business relocation. None of the individuals or entities involved sought to protect any information or discussion as "data relating to financial affairs." The city attorney indicated that an "open meeting on this matter would have disclosed the county's confidential involvement/plans with the property and collaterally the confidentiality the city wanted to preserve regarding its involvement with the other individual's inquiries." There were reasons that weighed for and against public discussion. However, based on the facts in this case, this office concluded that a discussion of city infrastructure needs did not constitute data relating to the financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships, especially where a business did not request the use of an executive session to protect its interests. This office concluded that the council violated the KOMA when it recessed into executive session using the "data relating to "financial affairs or trade secrets" justification, but the violation did not appear to be a deliberate attempt to subvert the KOMA's principle of openness. Therefore, this office determined that formal enforcement action was not warranted but requested that the city council undergo KOMA training, which it did.

Larned City Council

Complaint: An employee of the city filed a complaint with this office with several allegations about a July 13, 2021, special meeting, including failure to provide notice of the meeting to the public and to a third party who had requested notice; stating the meeting's agenda was "a cover up to the actual true reason for the 'special meeting'"; and failure to record a vote on a motion to enter executive session in the meeting's minutes.

Resolution: Upon investigation, this office determined that the council did not violate the KOMA by not giving public notice of the special meeting, because the KOMA only requires a public body to give notice to individuals who request it. In addition, the complainant provided no information regarding the third party who allegedly requested but did not receive notice of the meeting. Based on the information the complainant provided and our review, this office not identify a violation of the KOMA with regard to the agenda. With regard to the motion to enter executive session, while the council substantially complied with the KOMA because it made the motion for executive session, and the public was aware of the need and reason for the executive session, several statutory elements were missing, and the council failed to record the vote for the executive session in the minutes, which are technical violations of the KOMA. This office notified the council of the technical violations and required it to establish and use a checklist or other similar protocol/process to ensure the council meets all the statutory elements for recessing into executive session each time it calls for such a session; consult with the clerk to ensure that the complete motion is recorded in the meeting minutes; and provide this office with a written report describing the executive session procedure review the council undertook, along with a copy of the checklist the council has adopted for use. The council complied with these requirements.

Liberal City Commissioners Denoyer, Harrison, Aragon & Martinez

Complaint: An individual made a complaint to this office that Commissioners Joe Denoyer, Dave Harrison, Dean Aragon, and Tony Martinez violated the KOMA by engaging in serial communications on or about September 1, 2017 by having private conversations outside of an open meeting about former city manager Mark Hall's employment contract.

Resolution: Because the parties were engaged in litigation regarding matters that closely related to or intertwined with the allegations in the complaint at the time it was filed, this office held the complaint open until final resolution of the litigation. By the time the litigation was resolved, significant time had passed and three of the four commissioners complained about were no longer a part of the commission. As a result, this office declined to pursue a formal investigation. However, this office advised the city attorney and the county attorney about the complaint and encouraged the city attorney to provide the current commission with training on the KOMA's requirements.

Lyndon Planning and Zoning Commission

Complaint: An individual filed a complaint alleging the commission violated the KOMA. The complaint alleged that the complainant attempted to attend the commission's November 2, 2020, meeting, but the commission's secretary asked if complainant would mind not going in. Because of this, complainant did not attend the meeting.

Resolution: Upon investigation, this office learned that the commission held a meeting in its usual meeting location, which is a relatively small area. The commission admitted that due to the number of people scheduled to speak at the meeting, the chairperson "also 'discouraged' members of the public from attending the meeting that were not scheduled to speak due to inability to social distance in the meeting location. However, no one was prohibited from attending the meeting, and the doors remained open/unlocked throughout the meeting." The commission noted that this meeting took place "during the height of the pandemic." Although the commission indicated no one was prohibited from attending the meeting, it essentially denied the complainant access to the meeting when it "discouraged" complainant from attending and complainant therefore did not attend. Because of this, this office found that the commission violated the KOMA. Because access to a public meeting is a fundamental aspect of the KOMA, this was more than a technical violation. The complainant did not suggest that the commission's actions were an attempt to avoid or evade the requirements of the KOMA, and this office found nothing to suggest that was the case. However, the commission could have moved its meeting to another location, as it did on other occasions, cancelled the meeting, or undertaken efforts to broadcast its meeting in some way, but did not do so. The commission requested and completed KOMA training from this office. Because this office believed training was the proper remedy, this office declined to pursue other formal enforcement action.

Manhattan City Commission

Complaint: The city attorney file a self-report with this office of an "inadvertent violation" of the KOMA by the commission. The city attorney reported that the commission failed to provide notice of briefing sessions held prior to its regular meetings to eight individuals who requested notice of meetings be sent via email, stating that the issue likely began in 2019. The mistake was discovered by an audit of notice practices after a member of the media complained about not receiving notice. The city attorney reported that the commission took remedial actions to ensure it properly provided notice in the future, including altering the form of email notices so that they contain the meeting date, time and location in the message text rather than in an email attachment; altering the format of the meeting agenda to include briefing session details; the city attorney's office providing KOMA training to city staff; and the city staff auditing notice practices to ensure compliance.

Resolution: Upon review, this office determined that the commission's failure to provide meeting notice resulted in a denial of access to meetings that was more than a technical violation of the KOMA. Although some of the parties that requested notice received it by another means, even one individual's inability to attend a public meeting due to the failure to provide notice effectively denies that individual's right to know about

what a public body is doing. However, the reported failure to provide notice does not appear to be the result of any concerted effort by staff or the commission to avoid or evade the requirements of the KOMA, but rather the result of human error. Because the commission readily admitted its failure to provide notice and has taken remedial measures designed to ensure this situation will not reoccur, and because this office did not receive any other formal complaints regarding the matter, this office declined to pursue any further enforcement action to resolve this KOMA violation.

City of Spivey, Mayor and Council Members

Complaint: An individual file a complaint with this office raising concerns about an August 18, 2020, city council meeting. The complaint alleged that the city council failed to comply with the requirements for recessing into executive session.

Resolution: Upon review, this office determined that the council violated the KOMA by failing to comply with the statutory requirements for recessing into executive session. A review of the meeting minutes revealed that nearly all the statutory elements for recessing into executive session were missing. First, the mayor simply announced that the council was recessing into executive session; the council did not make or vote on a motion to recess into executive session. Because there was no motion, the minutes do not record who made and seconded it, or how the council voted. The mayor’s announcement did not include the subject matter to be discussed, a justification, or the place the open meeting would resume. The one element that was arguably partially present related to the time the open meeting would resume: the minutes recorded that at 6:16 p.m., the mayor announced the council would recess into executive session for 10 minutes. By “doing the math,” the public was at least aware of what time the open meeting would resume. Based on the totality of the circumstances, this office concluded this was more than a technical violation of the KOMA. Nevertheless, this office determined that formal enforcement action was not required, in part due to the change in the membership of the council, as well as the fact that it acknowledged its failures and took prompt remedial action, including receiving KOMA training. Moreover, the council has no prior KOMA violations. However, this office determined that an additional remedial action was required: establishment and use of a check list or other similar protocol/process to ensure the council meets all the statutory elements for recessing into executive session each time it calls for such a session, including instances where the initial time is insufficient to complete its discussion and additional time is needed. The council complied with this requirement.

**COMPLAINTS AGAINST COUNTIES
RESULTING IN CORRECTIVE ACTION**

Marshall County Commission

Complaint: The county attorney referred a complaint from an individual to this office, which alleged that the commission had violated the KOMA. The complaint raised multiple concerns, including that “it was unclear what the actual topic” was for certain executive sessions that took place between October 7, 2019, and October 12, 2020.

Resolution: Upon investigation, this office determined that only the concern regarding executive sessions warranted further review under the KOMA. Virtually all of the motions for executive session this office reviewed from these meetings were missing the required elements related to subject(s) to be discussed and the place the open meeting would resume. Because its motions for executive session on the dates identified in the complaint did not meet all the statutory requirements for recessing into executive session, this office determined that the commission violated the KOMA. While this office concluded the violations were technical in nature, this office requested that the commission take remedial actions to ensure that it complies with all statutory requirements for recessing into executive session: establishing and using a check list or other similar protocol/process to ensure the council meets all the statutory elements for recessing into executive session each time it calls for such a session, and receiving KOMA training. The council complied with these requirements.

COMPLAINTS AGAINST OTHER AGENCIES RESULTING IN CORRECTIVE ACTION

USD 475 Board of Education (Geary County Schools)

Complaint: An individual filed a complaint with this office alleging the board violated the KOMA. The complaint alleged that on August 4, 2021, after an executive session to discuss a Level Five employee grievance, the board returned to open meeting and then adjourned. The board then mailed the grievance decision to all the involved parties, but never voted in an open meeting to approve its decision on the grievance.

Resolution: Upon investigation, this office determined that the board violated the KOMA when it failed to hold a public vote to approve the consensus decision it reached in executive session on August 4, 2021, resolving a Level 5 grievance. This violation occurred in large part due to a mistake by the board. The board believed it was acting in good faith to accommodate the requirements of its negotiated agreement with the Junction City Education Association to issue a written decision on a Level 5 grievance to protect the grievant's privacy interests. However, the requirements of a negotiated agreement, while important, do not outweigh the public policy interests set forth in the KOMA related to transparency in government actions. This office determined that formal enforcement action was not warranted. However, we requested that the board take remedial action, including a public vote to ratify its consensus on August 4, 2021, and the grievance decision letter dated August 11, 2021. The board complied with this requirement.

USD 497 Board of Education (Lawrence)

Complaint: Counsel for the board self-reported a violation of the KOMA. During its May 24, 2021, meeting, the board recessed into executive session using as the justification the need for consultation with an attorney for the public body which would be deemed privileged in the attorney-client relationship. The superintendent called the executive session to provide an update to the board concerning two recently filed lawsuits.

However, no attorney was present during the executive session to provide legal advice or counsel.

Resolution: This office determined that this was more than a technical violation of the KOMA. In mitigation, the board promptly reported the violation on the board's behalf and were forthcoming concerning the board's error. This office received no other complaints raising concerns about the board's improper executive session on this occasion. Considering the totality of the circumstances, this office concluded that formal enforcement action was not warranted, but remedial actions were required to ensure that the board, as well as its motions, comply with the KOMA: establish and use an updated checklist or other similar protocol/process to ensure the board meets all the statutory elements for recessing into executive session each time it calls for such a session; review and amend as necessary board policies that discuss executive sessions; and attend at least one hour of refresher KOMA training.

REFERRALS TO COUNTY OR DISTRICT ATTORNEY OFFICES

- **Clearwater Recreation Commission** (Johnson County) – serial communication
- **Shawnee City Council** (Johnson County) – serial communications; notice
- **City of Smith Center and City of Smith Center Economic Development Board** (Shawnee County) – executive sessions (three complaints from same complainant)
- **USD 229 (Blue Valley) Board of Education** (Johnson County) – access to meeting
- **USD 259 (Wichita)** (Sedgwick County) – improper application of K.A.R. 16-20-1 (two complaints)
- **USD 262 (Valley Center)** (Sedgwick County) – prohibited public from recording meeting by video or audio
- **Butler County Community College** (Butler County) – executive sessions (complaint also filed with county attorney)

COMPLAINTS RESULTING IN A FINDING OF NO VIOLATION

Public Body or Agency	Alleged Violation(s)	Resolution
USD 265 (Goddard)	KOMA – failure to post special meeting notice and agenda until day of the meeting	<p>The KOMA does not require that a public body create a meeting agenda. The KOMA also does not require that a public body post meeting agendas on its website or otherwise take steps to let the general public know about upcoming agenda items.</p> <p>The KOMA requires meetings of a public body to be open to the public, but it does not require that the public be allowed to speak or to have an item placed on the agenda.</p> <p>A public body must give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.</p>
Artesian Valley Health System Hospital Board	KOMA – failure to provide public notice of meetings	A public body must give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.
Brian Kinzie, Labette County Commission	KOMA – failure to include subject of executive session in motion	This office declined to investigate. The sole individual named in the complaint was recalled in a special election in December 2021; this office advised the county counselor of the complaint and that he needed to review the content of motions for executive sessions.
USD 454 (Burlingame)	KOMA – meeting notice	Complaint was withdrawn.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
USD 454 (Burlingame)	KOMA – meeting notice; meeting minutes	<p>The KOMA requires a public body to give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.</p> <p>With the exception of a motion to enter executive session, the KOMA does not govern the content of meeting minutes. A public body is free to determine what information to record in its meeting minutes. The board’s alleged failure to record any votes after its executive sessions did not violate the KOMA.</p>
Johnson County Commissioners	KOMA – did not permit public comment during live stream of meeting on Facebook	The KOMA requires meetings of a public body to be open to the public, but it does not require that the public be allowed to speak or to have an item placed on the agenda, or to submit comments on Facebook.
City of Attica	KOMA – executive sessions	Complainant did not respond to request for additional information and supporting documents.
Jefferson County Water District #10	KOMA – held meeting without a majority present	<p>The gathering held by two board members did not meet all the elements of a meeting as defined by the KOMA because a majority of the board was not present. A gathering that does not satisfy all the elements of a meeting is not subject to the KOMA.</p> <p>Whether the board violated its bylaws when two of the board members conducted business without a majority present is a corporate governance issue outside the scope of the KOMA.</p>
Nancy Griffiths Norton, Kansas City Attorney	KOMA – denied ability to participate in city council meeting	This office did not have jurisdiction because the complaint was previously resolved by the county attorney.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
City of Paxico	KOMA – serial communications	The first element of serial communications is that the communications in question must be interactive. For the purposes of the KOMA, an interactive communication requires a mutual or reciprocal exchange of ideas between members of a body or agency subject to the KOMA. Without more, an exchange of information with a staff member for the public body, even when other members of the body are copied on the email, is not a mutual or reciprocal exchange of information or ideas within the meaning of the KOMA.
City of Basehor	KOMA – unknown	The KOMA applies to public bodies and agencies, but not individuals who are not members of a public body. While a city council meets the definition of a public body, a special counsel and an interim city attorney do not.
City of Wichita	KOMA – refused to provide names of committee members; no public agenda; no posted meeting minutes; did not invite public input or provide public notice of meetings	<p>The KOMA requires a public body to give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.</p> <p>The KOMA does not require that a public body create a meeting agenda. The KOMA also does not require that a public body post meeting agendas on its website or otherwise take steps to let the general public know about upcoming agenda items.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
City of Haven	KOMA – amended agenda	<p>The KOMA does not require a public body to create a meeting agenda. If the public body chooses to create an agenda listing the items it will discuss during the open meeting, the agenda must include topics planned for discussion if known at the time the agenda is prepared. A public body may amend its agenda at any time during the meeting during the meeting unless there is a statute or rule prohibiting amendment. If an agenda exists, the public body must make it available to any person requesting it prior to the meeting.</p> <p>The KOMA does not set forth any rules concerning the order of a public meeting or the reconsideration of matters that the public body discussed at an earlier time during the meeting or during a previous meeting. The order of the meeting and agenda are left to the public body to determine.</p>
City of Paxico	KOMA – failure to provide notice of meetings	A meeting subject to the KOMA’s requirements of openness and notice occurs when three elements are present: (1) a gathering or assembly in person or through the use of a telephone or any other medium for interactive communication; (2) a majority of the membership of a public body or agency must participate; and (3) the gathering must be for the purpose of discussing the business or affairs of the public body or agency. All these elements must be present for a “meeting” as defined by the KOMA to occur and the notice requirements to apply.
Osage Fire District #7	KOMA – failure to provide public notice of meetings	The KOMA requires a public body to give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.
City of McCracken Board of City Commissioners	KOMA – failure to provide notice of meetings	Complainant did not respond to request for clarification and supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
City of McCracken Board of City Commissioners	KOMA – failure to provide notice	Complainant did not respond to request for clarification and supporting documents.
City of Paxico	KOMA – improperly discussed complainant during an executive session	<p>Even assuming the city council discussed complainant during an executive session, being a student, patient or resident of a public institution is not the only reason a public body may discuss matters involving individuals during an executive session, as complainant alleged. One reason a public body may recess into executive session is for “consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship.” A public body may discuss with its attorney any necessary matter to assist it in obtaining legal advice. Likewise, an attorney may discuss any necessary matter with his client when providing legal advice.</p> <p>The KOMA does not require that a public body create a meeting agenda. The KOMA also does not require that a public body post meeting agendas on its website or otherwise take steps to let the general public know about upcoming agenda items.</p> <p>With the exception of a motion to enter executive session, the KOMA does not govern the content of meeting minutes. A public body is free to determine what information to record in its meeting minutes. The board’s alleged failure to record any votes after its executive sessions did not violate the KOMA.</p>
Lyon County Commissioners	KOMA – failure to answer question related to running meetings	The KOMA does not establish any rules governing the conduct or procedure of the meetings of public bodies. Each public body is free to govern itself and establish its own rules of procedure, including seating arrangements. Therefore, the commission’s decision to permit nonelected officials to sit on the dais with other elected officials does not violate the KOMA.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Johnson County Commissioners	KOMA – one commissioner held a meeting that the public could not attend	A meeting subject to the KOMA’s requirements of openness and notice occurs when three elements are present: (1) a gathering or assembly in person or through the use of a telephone or any other medium for interactive communication; (2) a majority of the membership of a public body or agency must participate; and (3) the gathering must be for the purpose of discussing the business or affairs of the public body or agency. A meeting as defined by the KOMA does not occur when only one member of a public body holds a meeting.
Johnson County Commissioners Shirley Allenbrand and Ed Eilert	KOMA – denied access to meeting	A meeting subject to the KOMA’s requirements of openness and notice occurs when three elements are present: (1) a gathering or assembly in person or through the use of a telephone or any other medium for interactive communication; (2) a majority of the membership of a public body or agency must participate; and (3) the gathering must be for the purpose of discussing the business or affairs of the public body or agency. A meeting as defined by the KOMA does not occur when only one member of a public body holds a meeting.
Johnson County Commissioners	KOMA – denied access to meeting	A meeting subject to the KOMA’s requirements of openness and notice occurs when three elements are present: (1) a gathering or assembly in person or through the use of a telephone or any other medium for interactive communication; (2) a majority of the membership of a public body or agency must participate; and (3) the gathering must be for the purpose of discussing the business or affairs of the public body or agency. A meeting as defined by the KOMA does not occur when only one member of a public body holds a meeting.
Labette County Commissioners	KOMA – public comment	The KOMA requires meetings of a public body to be open to the public, but it does not require that the public be allowed to speak or to have an item placed on the agenda.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Jackie Kennedy, McCracken Mayor	KOMA – public not permitted to speak during city commission meetings	Complainant did not respond to request for additional information.
Severance City Council	KOMA – three city council members met or were seen together	Complainant was not present at meeting and only presented hearsay; did not respond to request for additional information.
City of Elbing	KOMA – failure to provide public notice of change in meeting date	Complainant did not respond to request for additional information and supporting documents.
USD 332 (Cunningham)	KOMA – binding action in executive session	Complainant did not respond to request for additional information and supporting documents.
Severance City Council	KOMA – did not have a quorum for a meeting	The city is a city of the third class. Its governing body is comprised of a mayor and five council members. The membership of the body in a mayor-council form of municipal government does not include the mayor for purposes of determining the minimum number of persons that can constitute a meeting. A majority is “the number [that is] one greater than half the number of members of the governing body.” Thus, for a city council comprised of five members, three members constitutes a majority of the membership of the body for purposes of the KOMA. The quorum requirement was removed from the KOMA in 2009. Here, because three of five members of the body were present for the council meeting, it had sufficient members to conduct business.
Severance City Council	KOMA – failure to give public notice of meeting	The KOMA requires a public body to give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Johnson County Police Chiefs' and Sheriff's Association	KOMA – denied access to meetings and agendas	To be subject to the KOMA, a public body must be a legislative or administrative body of the state or one of its political or taxing subdivisions, or is subordinate to such a body; and the body receives, expends, or is supported in whole or in part by public funds, or in the case of subordinate groups, has a parent or controlling body which is so supported. A review of the origins and purpose of the association indicated it is not a subordinate group within the meaning of the KOMA. The association was not created by a governmental entity, statute or other legislative enactment, and is not subject to governmental oversight. It does not appear that any governmental entity has any role in the selection or election of its officers or members. It also does not appear that the association receives any direct public funding to carry out its "objects and purposes." It is a not-for-profit organization devoted to promoting a spirit of cooperation and closer association between Johnson County law enforcement agencies. Because the association is not a subordinate group within the meaning of the KOMA, it is not required to allow public access to its meetings or meeting agendas.
Severance City Council	KOMA – three city council members met or were seen together	Complainant did not respond to request for additional information
City of McCracken	KOMA – unknown	Complainant did not respond to request for additional information and supporting documents

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
<p>Jim MacGregor Wabaunsee County Economic Development</p>	<p>KOMA – denied access to meeting; serial communication</p>	<p>The KOMA applies to members of a public body; it does not apply to individuals who are not members of a public body. Because the director of economic development for Wabaunsee County is not a member of a public body, the KOMA does not govern his actions and provides no remedies that apply to him.</p> <p>Based on the information provided, it did not appear that the group of individuals who met to discuss a flood risk mitigation plan is a subordinate group subject to the KOMA’s requirements, but is more akin to a staff meeting that is gathering information for further submission to, and discussion by, relevant public bodies. Because it is not a subordinate group, it is not subject to the KOMA, and any meetings it has are not required to be open to the public.</p> <p>The information provided indicated that the city clerk individually forwarded to all city council members a document, but did suggest that the city council members exchanged emails with each other or otherwise discussed or made decisions about this information outside of an open meeting. Meetings by means of a serial communication are subject to the KOMA’s requirement of openness. K.S.A. 75-4318(f) provides that “. . . interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.” All four conditions must be met. A review of the actions described do not meet all the elements of a serial communication.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
City of Paxico Employees Ryan Theel & Linda Flanary	KOMA – denied access to meeting	The KOMA applies to members of a public body. It does not apply to individuals who are not members of a public body. Because a city employee and a city clerk are not members of a public body, the KOMA does not govern their actions and provides no remedies that apply to them.
City Council of Paxico	KOMA – serial communications	The information provided indicated that the city clerk individually forwarded to all city council members a document, but did suggest that the city council members exchanged emails with each other or otherwise discussed or made decisions about this information outside of an open meeting. Meetings by means of a serial communication are subject to the KOMA’s requirement of openness. K.S.A. 75-4318(f) provides that “. . . interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.” All four conditions must be met. A review of the actions described do not meet all the elements of a serial communication.
Jackie Kennedy, McCracken Mayor	KOMA – adopted new ordinance without voting on it	Complainant did not respond to request for additional information
City of McCracken Board of City Commissioners	KOMA – not allowed to speak during council meeting; slander	Complainant did not respond to request for additional information

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Osage Township Board	KOMA – failure to provide public notice of meetings; content of meeting minutes; failure to provide meeting notice to another board member; failure to follow audit recommendations	Complainant did not respond to request for additional information and supporting documents
Osage Township Board	KOMA – failure to provide public notice of meetings; failure to provide meeting notice to another board member; held executive session for consultation with an attorney without the attorney present; form of executive session motion	Complainant did not respond to request for additional information and supporting documents
Lyndon City Council	KOMA – did not permit public comment; agenda; individual removed for disrupting the meeting	<p>The KOMA requires meetings of a public body to be open to the public, but it does not require that the public be allowed to speak or to have an item placed on the agenda.</p> <p>It is not a violation of the KOMA to remove a person from a meeting based on the person’s disruptive comments or actions. A public body may adopt reasonable rules designed to insure the orderly conduct of a meeting.</p> <p>The KOMA does not require that a public body create a meeting agenda. The KOMA also does not require that a public body post meeting agendas on its website or otherwise take steps to let the general public know about upcoming agenda items.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Ashland Hospital Board	KOMA – notice	<p>The KOMA requires a public body to give notice of its meetings to any individual requesting notice. There is no duty to provide notice unless it has been requested.</p> <p>Whether a public body complies with any other statutory requirements for providing notice, such as those contained in K.S.A. 80-2512, is outside the scope of the KOMA.</p>
Rice County Commissioners	KOMA – notice of meetings	No response received from county attorney re referral
Johnson County Charter Commission	KOMA – ended meeting early; clerk did not record meeting or take public comments	<p>A public body may take action to ensure the orderly conduct of its proceedings.</p> <p>The KOMA does not require a public body to record or post recordings of its meetings. The KOMA also does not require that the public be allowed to speak at a public meeting or to submit public comments.</p>
USD 202 (Turner)	KOMA – conducting business without convening a meeting	The public was permitted to be present in person. The board offered members of the public who did not wish to comply with the board’s mask requirements the ability to observe the meeting via Zoom.
City of McCracken	KOMA – content of meeting minutes	Complainant did not respond to request for clarification and supporting documents

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Johnson County Commissioners	KOMA – failure to hold a public meeting	Investigation showed that the audit committee held, and discussed its business during, an open meeting. It also voted in public to approve the proposed audit plan. The interim county auditor presented the proposed audit plan to the commission for approval, and the vote to approve the plan took place in an open meeting. These actions are consistent with the KOMA. There was nothing to suggest that the approved proposed audit plan was altered before the interim county auditor presented it to the full commission for approval on December 16, 2021. This office was unable to identify a violation of the KOMA.

Kansas Open Meetings Act Complaints, continued

<p>Lyndon Planning & Zoning Commission</p>	<p>KOMA – secret vote on variance</p>	<p>The KOMA applies to public bodies and public agencies. However, individuals who are not members of a public body, such as the planning and zoning secretary and the city attorney, do not.</p> <p>Whether the commission or the city clerk failed to comply with the zoning ordinance is outside the scope of the KOMA.</p> <p>While the meeting minutes may not reflect the content of all public comments or city council discussions, this is not a violation of the KOMA. A public body is only required to keep meeting minutes recording matters related to executive session. It is up to a public body to determine the form and content of its meeting minutes.</p> <p>A mayor in a city of the third class is required to be “active and vigilant in enforcing all laws and ordinances for the government of the city,” and “shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty.” However, whether a mayor failed to comply with the provisions of K.S.A. 15-301 or respond to concerns about “illegal construction” is outside the scope of the KOMA. Moreover, a mayor is not authorized to investigate alleged violations of or to enforce the open meetings act; the KOMA provides that the attorney general and county/district attorneys have jurisdiction to investigate and resolve any alleged violations of the Act.</p> <p>The KOMA does not govern city zoning and building matters. A city is free to adopt ordinances and other rules that govern zoning and building.</p> <p>Investigation showed that the commission conducted its quasi-judicial deliberations outside of public view as permitted by the KOMA. It later returned to its open meeting to announce its decision to recommend the variance, but the members of the public had already left the area. However, simply because the public decided to leave the meeting does</p>
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Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
		<p>not mean the commission acted in secret. Based on our review, the BZA’s actions were generally consistent with the KOMA.</p>
<p>Lyndon Planning & Zoning Commission</p>	<p>KOMA – denied access to open meeting</p>	<p>Upon investigation, this office learned that the commission held a meeting in its usual meeting location, which is a relatively small area. The commission admitted that due to the number of people scheduled to speak at the meeting, the chairperson “discouraged’ members of the public from attending the meeting that were not scheduled to speak due to inability to social distance in the meeting location. However, no one was prohibited from attending the meeting, and the doors remained open/unlocked throughout the meeting. Because the complainant was allowed to attend, no violation was found with respect to complainant.</p> <p>The KOMA does not require a public body that is meeting in person to live stream its meetings or record them for later broadcast.</p>
<p>Lyndon Planning & Zoning Commission</p>	<p>KOMA – made decision in private meeting</p>	<p>Upon investigation, this office learned that the commission conducted a hearing and held discussions and deliberations and reached a decision in open meeting. However, the chairperson wished to retype the decision form to make it more legible because it had crossouts, etc. As a result, the decision form was not completed until two days later. Although no changes were made to the form, and thus no violation of the KOMA was found, this office notes that the commissions actions on this occasion led the public to question the legitimacy of its decision and suggested that it made its decision in secret. This office brought this matter to the attention of the county counselor so he could work with the commission to avoid such situations in the future.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
City of Paxico	KOMA – discussing city business before meeting convened	It is not a violation of the KOMA for members of a public body to arrive early to prepare themselves for the meeting. It is also not a violation of the KOMA for members of a public body to engage in friendly discussions or talk about matters that are not related to the business or affairs of the body. Complainant was unable to provide evidence that the members discussed business prior to the start of open meetings.
City of Paxico	KOMA – bidding process; failure to properly record action in minutes	<p>Complainant was concerned about the perceived lack of discussion by the city council concerning bids or for letters to be sent concerning municipal code violations. However, it was not clear that any public discussion or action was necessary or required for what appeared to be routine city business. Complainant did not provide any additional information that indicated a violation of the KOMA.</p> <p>Whether a public body followed any statutory or other bid letting process is outside the scope of the KOMA.</p> <p>Under the KOMA, a public body is only required to keep meeting minutes when it recesses into executive session. Except for the statutory requirements for minutes relating to executive sessions, it is up to a public body to determine the form and content of meeting minutes. The city council’s alleged failure to correctly record or reference its actions in its meeting minutes is not a violation of the KOMA.</p>
City of Paxico	KOMA – failure to provide notice	K.S.A. 15-106 describes, in part, how a city of the third class may call a special meeting. These statutory requirements are separate and distinct from the KOMA. Whether a city council in a city of the third class complied with the requirements of K.S.A. 15-106, as alleged in this complaint, is outside the scope of the KOMA.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
<p>City of Paxico</p>	<p>KOMA – serial communication; meeting without notice</p>	<p>The KOMA applies to discussion by a majority of the membership of the body about the business or affairs of the public body. However, discussions concerning merely procedural issues are not the type of interactive discussions contemplated by the KOMA. Procedural matters include establishing agenda items, determining when members are available to meet, or providing meeting or meeting access information. Essentially, as long as the members of a public body do not debate or take part in an interactive exchange of ideas about the business or affairs of the body, determining when to meet or what items to discussed does not constitute a meeting subject to the KOMA.</p> <p>The emails submitted with the complaint show city staff attempting to ascertain when council members would be available, council member responses concerning their availability, and exchanges of information related to technical aspects of access to and participation in the Zoom meeting. City council members did not engage in any discussion of the substantive issues to be presented during the Zoom meeting. Such exchanges about merely procedural matters do not violate the KOMA.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
<p>City of Paxico</p>	<p>KOMA – continued meeting after adjourning; not permitted to speak during open meeting</p>	<p>The KOMA does not require that the public be allowed to speak or have any item placed on the agenda. Thus any action taken by the mayor to restrict or limit public comment does not violate the KOMA. Whether the council complied with its own rules, if any, concerning public participation or comment, is outside the scope of the KOMA.</p> <p>The KOMA applies only when a body subject to the Act holds a meeting as defined by law. All three elements must be present for there to be a meeting subject to the KOMA. It is not a violation of the KOMA for a majority of a public body to be in the same place at the same time outside of an open meeting or after the conclusion of a meeting as long as members of the public body do not discuss the business or affairs of the body. However, when members of a public body do find themselves together, they must remain vigilant in their efforts to avoid speaking about the business or affairs of the body.</p> <p>Here, the city attorney, who was present, stated that council members did not conduct city business after the meeting adjourned. Instead, the members were essentially engaged in social mingling. Complainant left the meeting after it concluded and did not offer any other information or evidence to suggest that council members discussed the business or affairs of the body. In the absence of such evidence and given the statements of the city attorney, we concluded that the city council members did not violate the KOMA when they mingled socially after the conclusion of the meeting. The city attorney advised the council that in the future, they may wish to avoid mingling after the meeting to avoid any appearance of a KOMA violation.</p>

Kansas Open Meetings Act Complaints, continued

<p>USD 332 - Cunningham</p>	<p>KOMA – improper use of executive session</p>	<p>The complainant was concerned that the board did not use a justification set out in the KOMA to recess into executive session. A review of the meeting minutes for the board’s October 25, 2021, special meeting showed that the purpose of the meeting was to allow the board to conduct separate executive sessions to interview three construction companies, hold a public discussion and then approve one of the companies. The language used in each of the motions for executive session was similar, and announced the subject and justification as required by the KOMA.</p> <p>Based on its agenda and meeting minutes, the board is utilizing the CMAR or construction management at-risk project delivery procedures described in K.S.A. 72-1155. This statute specifically describes the process a school board must use if it chooses to utilize the CMAR process. This includes a Phase III interview. In this phase, “the selection recommendation committee shall interview each of the firms in executive session, allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions. All other discussion and any action taken in the selection process shall be held in an open meeting. . .”</p> <p>There is no specific justification in the KOMA that would permit a school board to conduct CMAR interviews in executive session. However, the language of K.S.A. 72-1155(d)(4) specifically provides that the selection recommendation committee “shall interview each of the firms in executive session.” Given this, as well as the language recognizing that the KOMA “shall not apply . . . if otherwise provided by state . . . law,” we concluded that the KOMA permits the interviews in the CMAR process described in K.S.A. 72-1155(d)(4) to be held in executive session. To conclude otherwise would make this provision meaningless and thwart the legislative intent in including this provision.</p>
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Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
		<p>However, during our review, we identified a concern related to the board’s motions to recess into executive session not raised by the complainant: they did not include a place where the open meeting would resume. We brought this to the attention of the school board’s attorney. The board agreed to take remedial action, including modifying its motions for executive session to ensure they contain all the required elements and adopting the Kansas Association of School Boards’ standardized BCBK Executive Session policy.</p>
<p>Johnson County Charter Commission</p>	<p>KOMA – not permitted to post public comments on Facebook during charter commission meeting</p>	<p>The charter commission broadcast its meeting on Facebook. Although it appears that initially individuals were permitted to post public comments on the Facebook page, there is a post that appeared to have been posted on the day of the meeting indicating that, “Johnson County is disabling commenting on this post. Visitors to this page are always welcome to direct message us or contact us at [email address].”</p> <p>The KOMA requires meetings of public bodies and agencies to be open to the public. A public body may take action to ensure the orderly conduct of its meetings. The KOMA does not require a public body to allow members of the public to speak at a meeting or to submit public comments. Unless some other law requires it, whether to allow the public a chance to speak at or post public comments during a public meeting is a policy decision. Thus, any alleged failure by the board to allow public comment does not violate the KOMA.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
USD 484 (Fredonia)	KOMA – refused to broadcast meeting	<p>The complaint alleged that the board refused to allow “telecommute to open meeting.” The complainant did not provide any other information to explain their concerns or to describe and support their complaint; nor did complainant indicate that they were an employee of the district. This office believed the complainant was attempting to allege that the board did not livestream its special meeting. Investigation showed that the meeting at issue was held in person and was open to the public.</p> <p>The KOMA does not require a public body to livestream its meetings or record them for later broadcast. However, in 2020 the Attorney General adopted an administrative regulation governing compliance with the KOMA during an emergency declaration. This regulation requires, in part, that a public body conducting an open meeting “utilizing solely a telephone or another medium for interactive communication rather than by members of the body . . . gathering in person at a physical location shall” meet certain requirements. This includes using a “medium for interactive communication that, at a minimum, allows members of the public, without cost, to listen to the meeting, and, if available, also allows video observation of the meeting. . .” Here, based on publicly available information, there was no emergency declaration in effect. Even assuming that one was in effect during the relevant time period, the board held its meeting in person in a physical location. Because of this, the requirements of K.A.R. 16-20-1 did not apply. Thus, the board was not required to livestream or broadcast its meetings.</p>
USD 434 (Santa Fe Trail)	KOMA – unknown	The complaint was withdrawn.
USD 420 (Osage City Schools)	KOMA – serial communications	Complainant did not respond to request for clarification and supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
USD 454 (Burlingame)	KOMA – notice of meetings; binding action in executive session; superintendent implemented decision	Complainant did not respond to request for clarification and supporting documents.
McPherson County Fire District #4 Board of Directors	KOMA – failure to give notice of meeting to public or firefighters; not providing a copy of agenda to public	<p>The KOMA does not require a public body to provide notice of its meetings to the general public or the press, or to post notice of meetings on its website, in a newspaper, etc. While a public body must give notice of its meetings to any individual requesting notice, there is no duty to provide notice unless an individual has requested notice. Thus, the board’s alleged failure to provide the public with notice of its meeting did not violate the KOMA.</p> <p>The complaint alleged that the board changed its meeting minutes during its secret meeting. A public body is only required to keep meeting minutes when it recesses into executive session. Otherwise, it is up to the public body to determine the form and content of its meeting minutes. Thus, the board’s alleged action to amend or change its meeting minutes does not violate the KOMA.</p> <p>The KOMA does not require a public body to create an agenda. If an agenda exists, a public body must make it available to any person requesting a copy of the agenda. Because the complainant did not allege that they made a request for an agenda, the board did not violate the KOMA.</p> <p>Whether the board complied with its adopted bylaws is outside the scope of the KOMA.</p>
City of Paxico	KOMA – form of executive session motions	This office declined further review due to pending litigation

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Melissa Schoen, Norton County Attorney	KOMA – appeal of decision concerning KOMA complaint	This office did not have jurisdiction, as the complaint was previously resolved by the county attorney.
City of McCracken Board of City Commissioners	KOMA – meeting issues, commissioner conduct	Complainant raised multiple issues related to the conduct of meetings and other issues related to the commission; however, none of them stated a violation of the KOMA.

Kansas Open Records Act Complaints

COMPLAINTS AGAINST STATE AGENCIES RESULTING IN CORRECTIVE ACTION

Kansas Department of Labor

Complaint: An individual filed a complaint with this office alleging the department violated the KORA by not providing “an appropriate or thorough response” to complainant’s KORA request.

Resolution: Complainant requested five categories of records or information related to complainant’s claim for unemployment. In a separate paragraph, complainant requested information relating to statewide unpaid claims. The department responded to the request by advising that the provisions of K.S.A. 45-221(a)(1) and K.S.A. 44-714(e) did not permit the department to release unemployment information in response to a KORA request, even to the individual who is the subject of the records. It advised that complainant may be permitted to access complainant’s unemployment insurance benefit records if complainant submitted a specific form to the department. Additionally, the department advised that it was not required to answer questions, conduct research, or create a record in response to one of the numbered requests. The department closed the request without responding to the separate paragraph asking for information and records. This office asked the department to explain why it did not respond to the separate paragraph of the request that contained additional requests for records. According to the department, while it did discuss internally responding to this portion of the request, ultimately it did not do so due to an administrative oversight. Once this office brought this to the department’s attention, it emailed complainant a response to this portion of the request, which advised it did not have records responding to two categories of records sought and requested clarification for the remainder of the request. Complainant did not respond to the request for clarification. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research and provide answers to questions. The KORA also permits a public agency to seek clarification of a records request to ensure that it understands what records are being sought. The department’s actions were generally consistent with the KORA. While the department did overlook a portion of the request due to an administrative oversight, it promptly provided a response when this office brought this oversight to the department’s attention. Because of this, this office declined to pursue any formal enforcement action to resolve this matter.

**COMPLAINTS AGAINST CITIES
RESULTING IN CORRECTIVE ACTION**

Abilene Police Chief Anna Hatter

Complaint: An individual filed a complaint with this office alleging the chief violated the KORA by denying a request for records for all video, audio and documents relating to a particular case.

Resolution: This office spoke with the city attorney regarding the complaint. The city attorney advised that complainant had requested all records related to a particular person and indicated that the department responded to an incident involving the person during a certain date range. The department found no records related to the person during that time frame but sent a letter to the complainant saying the records were “exempt” rather than that no records were found. When the department reviewed the copy of the complaint this office forwarded, they noticed the complainant listed a different date for the incident. A search of that date uncovered responsive records. The city asserted that the records it located were criminal investigation records. K.S.A. 2020 Supp. 45-221(a)(10) provides that a public agency shall not be required to disclose criminal investigation records. However, in an effort to resolve this matter, the city was willing to provide complainant with a copy of the incident report and allow complainant to view the body camera recordings at the city’s office. In addition, the city indicated it would implement additional safeguards to ensure that its responses are accurate, including conducting a review of current requests and giving the city attorney a more active role in reviewing and responding to KORA requests, and would attend and encourage its staff members to attend KORA training.

City of Paxico

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA by denying access to a municipal court complaint and the job description for the city clerk.

Resolution: A review of complainant’s request revealed that much of it involved asking for answers to questions or other information. The KORA establishes a process for the public to inspect or obtain copies of records. However, it does not require a public agency to answer questions asking for information or to conduct research for a requester. The city attorney’s response to the request generally complied with the KORA, including offering records that might provide the information complainant sought. However, the city attorney asserted that records of the municipal court were not subject to the KORA. This office contacted the city attorney, who agreed to request the city clerk and clerk of the municipal court to provide the requested records after complainant paid a fee for copies.

City of Paxico

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA by not providing some of the records she requested.

Resolution: Upon investigation, it appeared that in some cases, the city did not have the records the complainant requested, including emails between third parties. A public agency cannot provide records it does not have. The city also denied complainant's request for a copy of a project bid because the bid had not been rejected or accepted by the city. Under K.S.A. 45-221(a)(28), the KORA does not require a public body to provide a copy of the bid until it accepts a bid or all bids are rejected. In other cases, the city believed the complainant had already received the requested documents but were willing to provide them upon payment of copying fees. In light of this informal resolution, this office did not pursue a formal enforcement action.

Kansas City, Kansas Police Department

Complaint: An individual filed a complaint with this office alleging that the department violated the KORA by refusing to produce some requested records, not producing others when they were promised, and not responding to a second request.

Resolution: This office contacted senior counsel for the Unified Government of Wyandotte County/Kansas City, Kansas. He advised that one request was for the Standard Operating Procedures (SOP) for a certain type of crime that was in effect during a certain year. The department was having difficulty identifying which of several similar SOPs was in effect that year. The senior counsel offered to provide the complainant a copy of each version of the SOP free of charge. The senior counsel advised that they had not received complainant's second request, which was for various police reports and warrants. He advised that the department would provide the requested records with some exceptions. The first exception was that the department did not have some of the requested records, which the department said may be in the possession of other agencies. A public agency cannot provide records that it does not have in its possession. Second, the department asserted that some of the requested records are criminal investigation records, and thus it was only willing to provide complainant with the front page of the Kansas Standard Offense Report. It asserted that the remaining responsive records are not required to be disclosed based on the exceptions to disclosure for criminal investigation records set out in K.S.A. 45-221(a)(10)(A), (B), and (F). This is consistent with the KORA. Under the criminal investigation records exception to disclosure, a public agency cannot be compelled to disclose such records without judicial review. Essentially, the statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure. Because the KORA has in place a process that can be used to determine whether criminal investigation records should be released in response to a KORA request, this office declined to supplant this process or substitute our judgment for that of a district court, especially where the parties have not had an opportunity to argue why the records should or should not be released. Finally, the department was willing to provide certain of the requested records subject to redaction of personal identifiers based on the exceptions to disclosure found in K.S.A. 45-221(a)(1) and (30) and K.S.A. 38-2310. After reviewing the redacted records the department was willing to release, as well as the asserted exceptions to disclosure, we concluded these actions

were consistent with the KORA. Because the senior counsel agreed that the police department would provide complainant with the records it located, subject to redaction and exceptions recognized by the KORA, this office did not pursue any formal enforcement action.

COMPLAINTS AGAINST COUNTIES RESULTING IN CORRECTIVE ACTION

Cheyenne County

Complaint: An individual filed a complaint with this office alleging the county clerk and the county attorney violated the KORA because the county clerk refused to respond to a KORA request unless it was submitted on a particular form, at the direction of the county attorney.

Resolution: This office consulted with the Cheyenne County Attorney about the complaint. This office was later advised that the county provided complainant with the requested records. Therefore, this office declined to pursue any formal enforcement action.

Johnson County Sheriff's Office

Complaint: An individual filed a complaint with this office alleging the sheriff's office violated the KORA by not providing the roster of jail employees that included the employee's title and salary complainant requested.

Resolution: This office consulted with the sheriff's legal adviser regarding the complaint. Following our discussions, the sheriff's office provided complainant with the requested record. Therefore, this office declined to pursue any formal enforcement action.

Labette County

Complaint: An individual filed a complaint with this office alleging the county clerk and the county attorney violated the KORA because the county clerk refused to respond to a KORA request unless complainant first completed a form agreeing not to use the private information the clerk said was contained in the records for commercial purposes, at the direction of the county attorney. Complainant alleged the request was not for records containing private information.

Resolution: This office consulted with the Labette County Counselor about the complaint. This office was later advised that the county provided complainant with the requested records. Therefore, this office declined to pursue any formal enforcement action.

Osage County Sheriff's Office

Complaint: An individual filed a complaint with this office alleging the sheriff's office violated the KORA by denying complainant's request for dispatch calls for service records.

Resolution: This office consulted with the Osage County Counselor about the complaint. This office was later advised that the county provided complainant with the requested records. Therefore, this office declined to pursue any formal enforcement action.

Saline County Attorney's Office

Complaint: An individual filed a complaint with this office alleging the county attorney's office violated the KORA by not responding to complainant's KORA request for certain records related to a criminal case.

Resolution: Upon investigation, this office learned that the county attorney's office received complainant's requests but did not respond. After receiving the investigative inquiry from this office, the county attorney searched for responsive records but did not find any. Because he had not been involved with the case, which was prosecuted by a prior county attorney, he was not able to determine whether the office had ever received the records or who else might have them. He further stated that even if he had located records, they might not have to be disclosed based on the criminal records and personal information exceptions of the KORA. The KORA provides that a public agency must produce records in existence at the time of the request, subject to any statutory restrictions. A public agency cannot provide records that it does not have. However, this does not excuse the office's failure to respond (apparently as the result of an oversight), which violated the KORA. So that such oversights do not reoccur, this office asked the county attorney's office to review its internal procedures to ensure that it accurately identifies and timely responds to all KORA requests.

Sherman County Clerk's Office

Complaint: An individual filed a complaint with this office alleging the county clerk violated the KORA by denying the complainant access to a dispatch log and recording of a 911 call.

Resolution: This office consulted with the Sherman County Attorney regarding the complaint. He had advised the clerk's office to deny the request based on his interpretation of an exception to the KORA that states a public agency shall not be required to disclose "information that would reveal the identity of any undercover agent or any informant reporting a specific violation of law." After speaking with this office, the county attorney determined that the exception did not apply. He agreed to provide a copy of the records, subject to redactions of information this office agreed was confidential

under state and federal law. Therefore, this office declined to pursue any formal enforcement action.

Wabaunsee County

Complaint: An individual filed a complaint with this office alleging the county violated the KORA by improperly denying a request for copies of certain grants even though county employees or officials periodically discussed applying for the grants during open meetings held by the county commission

Resolution: We consulted with the Wabaunsee County Attorney concerning the complaint. The county attorney believes the county invoked a valid exception to disclosure because the requested records concerned unfunded grant proposals. Nevertheless, the county agreed to provide the complainant with the records once the estimated fees for producing the records were paid. Therefore, this office declined to pursue any formal enforcement action.

Wilson County Sheriff's Office

Complaint: An individual filed a complaint with this office alleging the sheriff's office violated the KORA by refusing access to a video recording made by the sheriff on his personal phone.

Resolution: This office consulted with the county attorney concerning the complaint. The county attorney advised that the sheriff's office was willing to allow the complainant to review the video recording. Under the KORA, a requester may inspect or obtain copies of public records by paying a fee. However, the KORA does not require a public agency to provide copies of video recordings, unless they were shown or played to a public meeting of the governing body. Here, there was nothing to suggest that the sheriff or any authorized individual showed or played the phone recording during any public meeting held by the Wilson County Commission. Therefore, the sheriff's office was not required to provide complainant with a copy of this recording, only to allow complainant to view it. Because the complainant received access to the requested record, this office declined to pursue any formal enforcement action.

Wyandotte County

Complaint: An individual filed a complaint with this office alleging the county clerk violated the KORA by not responding to a KORA request.

Resolution: This office consulted with the Unified Government Legal Department about the complaint. This office was later advised that the county provided complainant with the requested records. Therefore, this office declined to pursue any formal enforcement action.

Wyandotte County District Attorney's Office

Complaint: An individual filed a complaint with this office alleging the district attorney's office violated the KORA by not responding to two KORA requests.

Resolution: This office consulted with the Chief Deputy District Attorney about the complaint. He said it appeared complainant's KORA requests were inadvertently misdirected because the complainant did not use the county's system for submitting and tracking KORA requests. The requests also arrived at the office when it was partially closed due to COVID-19. Once it became aware of the request following our inquiry, the district attorney's office searched for emails that might be responsive to the requests and located two items, which the district attorney's office was willing to provide to complainant. He further advised that the emails being requested likely spanned a period of six years, and the district attorney's office did not have access to emails for that entire period. Assuming any records existed, he believed the Information Technology Division of the Unified Government of Wyandotte County/Kansas City, Kansas may be able to access older emails for the district attorney's office, and he agreed to provide the complainant with contact information for that agency. Therefore, this office declined to pursue any formal enforcement action.

Wyandotte County Jail

Complaint: An individual filed a complaint with this office alleging the jail violated the KORA by not responding to a KORA request for personnel information.

Resolution: This office consulted with the legal advisor for the sheriff, who is responsible for the jail operation. After the sheriff's office received our inquiry, it searched the county's system for submitting and tracking KORA requests and its paper files in an attempt to locate complainant's KORA request. The sheriff's office was not able to locate any correspondence from complainant, leaving it to conclude it did not receive complainant's mailed KORA request. The sheriff's office then attempted to locate records responsive to the complainant's request. It determined that it did not have a specific record containing the requested information. Although the KORA does not require a public agency to create a document to respond to a request for records, in a good faith attempt to respond, the sheriff's office prepared a document containing the requested information. Therefore, this office declined to pursue any formal enforcement action.

COMPLAINTS AGAINST OTHER AGENCIES RESULTING IN CORRECTIVE ACTION

There were no corrective actions taken against other agencies during FY 2022.

REFERRALS TO COUNTY OR DISTRICT ATTORNEY OFFICES

- **Johnson County Election Office** (Johnson County) – denied access to records.
- **Sedgwick County Election Office** (Sedgwick County) – denied access to records.
- **USD 229 (Blue Valley)** (Johnson County) – denied access to records; unreasonable fee
- **City of Smith Center** (Shawnee County) – complainant disagreed with the records that were released in response to a KORA request (referred to Shawnee County District Attorney to avoid appearance of a conflict because of a separate criminal prosecution being handled by this office)

Kansas Open Records Act Complaints, continued

- **USD 231 (Gardner Edgerton)** (Johnson County) - failure to provide records; excessive fees
- **USD 231 (Gardner Edgerton)** (Johnson County) – redaction; district magnified documents to charge more fees
- **Kansas Behavioral Sciences Regulatory Board** (Sedgwick County) – failure to provide records after paying fees (referred to Sedgwick County District Attorney to avoid appearance of a conflict as this office represents the board)
- **USD 512 (Shawnee Mission)** (Johnson County) – failure to provide requested records
- **USD 259 (Wichita)** (Sedgwick County) – failure to provide records; excessive fees
- **USD 259 (Wichita)** (Sedgwick County) – failure to provide records
- **Johnson County Election Office** (Johnson County) – failure to answer questions and provide records
- **City of Emporia** (Lyon County) – failure to provide records

COMPLAINTS RESULTING IN A FINDING OF NO VIOLATION

Public Body or Agency	Alleged Violations	Resolution
NE Kansas Multi-County Health Departments, Inc.	KORA – failure to provide requested records	Complaint withdrawn
Overland Park Police Department	KORA – fees and executive order 18-05	Executive Order 18-05 establishes open records copy charges for the Office of the Governor and all executive branch departments, agencies, boards, and commissions under the governor’s jurisdiction. The police department is not under the governor’s jurisdiction. The KORA permits a public agency, such as the police department, to establish reasonable fees for providing access to or copies of records in response to KORA requests.
Kansas Commission on Peace Officers' Standards & Training (KSCPOST)	KORA – denied access to records	The CPOST central registry includes all records received or created by the commission, as well as all records related to violations of the law enforcement training act and complaints that are received or maintained by the commission. K.S.A. 74-5611(a)(3) provides that all records contained in the registry are confidential and shall not be disclosed pursuant to the KORA, except certain limited summary information.
Topeka Police Department	KORA – denied access to records	With certain exceptions, the KORA does not require criminal investigation records to be disclosed. A public agency must justify its decision to discretionarily close criminal investigation records by providing a written citation to the specific provisions of this statute that necessitate closure. Once the agency provides this written citation, it cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Baxter Springs Municipal Court	KORA – failure to provide records	The key to triggering the procedural requirements and protections of the KORA is receipt of a request that clearly invokes its provisions.
USD 484	KORA – failure to respond	The key to triggering the procedural requirements and protections of the KORA is receipt of a request that clearly invokes its provisions.
Department of Corrections	KORA – failure to provide records	Complainant did not respond to request for additional information
Robin Somer Sedgwick County District Attorney's Office	KORA – failure to provide records	<p>An individual is not a public agency within the meaning of the KORA, and thus cannot be found to have violated its provisions or held responsible for the actions of the public agency.</p> <p>The key to triggering the procedural requirements and protections of the KORA is receipt of a request that clearly invokes its provisions. In this case, the request was not received by the agency because it was misaddressed.</p>
Dickinson County Sheriff's Office	KORA – denied access to records	<p>The key to triggering the procedural requirements and protections of the KORA is the receipt of a request that clearly invokes its provisions.</p> <p>A public agency that receives a request that invokes the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research questions.</p>
Steve Howe Johnson County District Attorney	KORA – failure to respond	The KORA does not require a public agency to answer questions asking for information or to research questions. It also does not require the creation of a document to respond to a KORA request.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Steve Howe Johnson County District Attorney	KORA – failure to provide records	With certain exceptions, the KORA does not require criminal investigation records to be disclosed. A public agency must justify its decision to discretionarily close criminal investigation records by providing a written citation to the specific provisions of this statute that necessitate closure. Once the agency provides this written citation, it cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.
Department of Wildlife & Parks	KORA – failure to timely provide records; fees	Complainant did not respond to request for additional information; complainant advised they received a refund as well as the records
Republic County District Court	KORA – failure to provide requested records	The key to triggering the procedural requirements and protections of the KORA is the public agency’s receipt of a request that clearly invokes its provisions.
City of Wichita	KORA – failure to provide records	Complainant did not respond to request for additional information and supporting documents
Dale Pike Lane County Attorney		Complaint sought review of county attorney's resolution of his KORA complaint. This office does not have jurisdiction to review complaints previously resolved by a county or district attorney.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
City of Fairway	KORA – failure to respond	<p>The key to triggering the procedural requirements and protections of the KORA is the public agency’s receipt of a request that clearly invokes its provisions.</p> <p>A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research questions.</p>
Melissa Ruttan	KORA – enrolled in research studies as a human subject without his consent	No violation stated.
Marleen Mowry Severance City Clerk	KORA – failure to provide requested records	<p>The key to triggering the procedural requirements and protections of the KORA is the public agency’s receipt of a request that clearly invokes its provisions. A public agency is not required to assume every request for information that it receives has been made under the KORA. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research questions. It also does not require a public agency to create a record to respond to a request.</p>
Jackie Kennedy McCracken Mayor	KORA – unknown	<p>An individual is not a public agency within the meaning of the KORA.</p> <p>The key to triggering the procedural rights and protections of the KORA is the receipt of a request that clearly invokes its provisions.</p>
Jessica Gerlach Conway Springs Mayor	KORA – discussed open criminal case with the city council during executive session	<p>An individual is not a public agency within the meaning of the KORA.</p> <p>The KORA does not contain any provisions that govern how the employees of a public agency review or utilize its records to carry out the business functions of the agency.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Brad Loveless, Kansas Department of Wildlife, Parks and Tourism	KORA – unknown	Complainant did not respond to request for additional information and supporting documents
Jason Lane Harvey County Prosecutor	KORA – denied access to records	With certain exceptions, the KORA does not require criminal investigation records to be disclosed. A public agency must justify its decision to discretionarily close criminal investigation records by providing a written citation to the specific provisions of this statute that necessitate closure. Once the agency provides this written citation, it cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.
City of Richmond, Kansas	KOMA – held meeting without notice	Complainant did not respond to request for additional information and supporting documents
Tesla Bayles Woodson County Clerk	KORA – excessive fees; agenda emails not received timely	Complainant did not respond to request for additional information and supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
City of Topeka	KORA – failure to respond	<p>The KORA requires a public agency to respond to a KORA request within three business days after the day that a requester submits the request.</p> <p>The KORA does not require a public agency to post copies of its records, including any meeting minutes, on its website. It is not a violation of the KORA if a public agency does not update its website or post copies of meeting minutes. It is not a violation of the KORA when a web link on a public agency’s website does not work.</p> <p>The key to triggering the procedural requirements and protections of the KORA is the public agency’s receipt of a request that clearly invokes its provisions. A public agency is not required to assume that every request for information or records is a KORA request. A public agency that receives a request that invokes the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research questions.</p>
Overland Park Police Department	KORA – failure to provide records; unreasonable fees	Complainant did not respond to request for additional information and supporting documents
Cherokee County Clerk Office	KORA – failure to provide records	Complainant did not respond to request for supporting documents
Brett Mangan Sherman County Attorney	KORA – unknown	Complainant did not respond to request for clarification/supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Department of Wildlife & Parks	KORA – failure to provide records	A public agency is not required to disclose unfunded grant proposals. However, under this rule, an unfunded grant proposal must be provided in response to a KORA request if it is publicly cited or identified in an open meeting or in an agenda of an open meeting. But this “exception to the exception” does not refer to just any meeting. The unfunded grant proposal must be publicly cited or identified in an open meeting or the agenda of an open meeting as defined by the Kansas Open Meetings Act (KOMA).
Goodland Police Department	KORA – failure to provide records	The key to triggering the procedural requirements and protections of the KORA is the receipt of a request that clearly invokes its provisions. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research and provide answers to questions.
Sedgwick County District Court	KORA – failure to provide records	The key to triggering the procedural requirements and protections of the KORA is the public agency’s receipt of a request that clearly invokes its provisions. A public agency is not required to assume that every request for information or records is a KORA request. A public agency that receives a request that invokes the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research questions.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Michael Lollar Ridgeway Township	KOMA – failure to provide public notice of meetings	<p>The KOMA does not require a public body to provide notice of its meetings to the general public or the press, to post notice of its meetings on its website, or to publish notice in a newspaper. The KOMA only requires a public body to give notice of its meetings to any individual requesting notice.</p> <p>The KOMA requires meetings of a public body to be open to the public; it does not require that the public be allowed to speak or to have an item placed on the agenda.</p>

Kansas Open Records Act Complaints, continued

<p>Robin Somer Sedgwick County District Attorney's Office</p>	<p>KORA – failure to provide records</p>	<p>As an attorney, a district attorney is governed by Kansas Supreme Court Rule 240, Section 4.2, Communication with Person Represented by Counsel. This rule provides that “a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another layer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order.” This rule ensures that lawyers to not interfere with the client-lawyer relationship, and applies even when the represented person initiates or consents to the communication.</p> <p>With certain exceptions, the KORA does not require criminal investigation records to be disclosed. A public agency must justify its decision to discretionarily close criminal investigation records by providing a written citation to the specific provisions of this statute that necessitate closure. Once the agency provides this written citation, it cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.</p> <p>K.S.A. 2022 Supp.45-219(a) provides that a public agency is not required to provide copies of pictures or similar visual items unless such items were shown in a public meeting of the agency.</p> <p>Under Supreme Court Rule 108, “court records” include all original court records, documents, and filings, including electronic transmissions, and they are under the authority of the chief judge. While generally the public may access public records electronically or through other means, Supreme Court Rule 22 provides that not all public case records will be available to the public due to their sensitive nature. Under Rule 22, certain documents are inaccessible through public portals, including trial exhibits. Based on these rules, it is clear there is limited access to trial exhibits.</p>
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Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Severance City Council	KORA – failure to provide requested records	The key to triggering the procedural requirements and protections of the KORA is the public agency’s receipt of a request that clearly invokes its provisions.
Severance City Council	KORA – failure to provide requested records	Complainant did not respond to request to complete complaint form and provide additional information
City of Olsburg	KORA – failure to respond	No violation; records were provided
Shane Crane Crane Law	KORA – failure to provide records	An attorney in private practice, even one who takes appointments to represent indigent individuals as a portion of the attorney’s practice, is not a public agency within the meaning of the KORA. Therefore, the KORA does not apply to that attorney’s records
City of Paxico	KORA – failure to provide records and notice of court hearing	A court hearing is not a meeting as defined by the KOMA. Therefore, municipal courts are not required to provide notice of court hearings to people who have requested notice of city meetings.
Department of Labor	KORA – failure to receive unemployment compensation	No violation stated.
Johnson County Commissioners	KOMA – conflict of interest	No KOMA violation identified; complaining about conflict of interest, which is outside the scope of the KOMA.
City of Fredonia	KORA – unknown	Complainant did not respond to request to complete form and provide supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
USD 418 McPherson	KORA – denied access to unredacted records	<p>The KORA establishes certain discretionary exemptions to disclosure. If a public agency asserts one of these exemptions to disclosure, the next step in the process is to consider whether it can redact the records. Under the KORA, if the records contain a mix of information—some of it open, but other parts that are closed by law—the public agency is required to redact the record to eliminate the closed information and provide the remaining portions of the public record.</p> <p>A governing body cannot officially act except in an official meeting. When the body is not in session, individual members who have not otherwise been authorized to act on behalf of the body have no more legal authority than do private citizens. The KORA does not grant members of governing bodies unlimited ability to access the body’s records.</p>
El Dorado Correctional Facility	KORA – failure to respond	The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records, is a public agency’s receipt of a request for records that clearly indicates the KORA’s provisions are being invoked. However, a public agency under the KORA does not include any entity solely by reason of payment from public funds for property, goods, or services of such entity.
City Attorney for Wichita, Mayor Brandon Whipple & Wichita City Council	KORA – failure to provide records	Case closed due to no jurisdiction (prior district attorney resolution of a formal KORA complaint concerning the same allegations)

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Fredonia Police Department	KORA – failure to respond	The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request for records that clearly indicates a requester is invoking the KORA. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information, to research and provide answers to questions, or to create a record to respond to the request.
Wilson County Sheriff's Office	KORA – failure to respond	The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request for records that clearly indicates a requester is invoking the KORA. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information, to research and provide answers to questions, or to create a record to respond to the request.
USD 420, Osage City Schools	KORA – failure to provide records	Complainant did not respond to request for additional information and supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Sedgwick County Regional Forensic Science Center	KORA – denied access to records	<p>The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request for records that clearly indicates a requester is invoking the KORA. The KORA does not require a public agency to answer questions asking for information, to research and provide answers to questions, or to create a record to respond to the request.</p> <p>With one exception that was not applicable in this case, the KORA does not provide an administrative appeal process. However, it does permit a requester to file a complaint with this office or a county/district attorney; a requester may also file an enforcement action in district court. The KORA does not require public agencies to explain how to file a complaint with this office or a county/district attorney; nor is it required to explain how to file an action in district court to enforce the KORA.</p>
Aramark Food Corp	KORA – failure to provide records	A public agency under the KORA does not include an entity solely by reason of payment from public funds for property, goods, or services of such entity.
Centurion, KDOC Medical Provider	KORA – failure to provide records	A public agency under the KORA does not include an entity solely by reason of payment from public funds for property, goods, or services of such entity.
Meade District Hospital	KORA – failure to provide records	<p>The KORA does not require a public agency to seek out information related to nonpublic records in order to respond to a KORA request.</p> <p>The KORA does not govern how a public agency organizes or decides what to include in a particular file, such as a personnel file.</p>
Fredonia Police Department	KORA – failure to provide response within three business days	Complainant did not respond to request for clarification and supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Miami County Health Department	KORA – delay in providing responsive records	Complainant did not respond to request for clarification and supporting documents
Fredonia Police Department	KORA – failure to provide records or allow inspection	Complainant did not respond to request for clarification and supporting documents
Arkansas City Police Department	KORA – failure to respond	Complainant did not respond to request for clarification and supporting documents
Lawrence School Board	KORA – failure to release copy of settlement	Complainant did not respond to request for clarification and supporting documents
Patrick Schmitz Bert Nash Community Mental Health Center	KORA – failure to provide records	Complainant did not respond to request for clarification and supporting documents
Phillips County Clerk & Attorney	KORA – failure to provide records	Complainant filed a complaint with county attorney, then requested that we intervene due to county attorney's alleged delay in resolving the complaint. This office declined further review due to no jurisdiction.
Sedgwick County DA's Office	KORA – denied access to records	Pursuant to K.S.A. 45-221(a)(4), personnel records and individually identifiable records pertaining to employees are not required to be open.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Newton City Attorney's Office	KORA – denied access to records	<p>An individual is not a public agency within the meaning of the KORA, and thus cannot be found to have violated its provisions or held responsible for the actions of the public agency.</p> <p>The KORA, with certain exceptions, does not require criminal investigation records to be disclosed. Under this exception to disclosure, a public agency cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.</p> <p>The KORA is not a substitute for discovery in a criminal or civil case. Discovery in criminal and civil cases may provide greater access to records. The KORA does not give individual defendants or those with possible civil claims a special status or greater rights of access to public records simply because the public records may be about them or related to individual interests.</p>
Children's Mercy Hospital	KORA – failure to respond	The hospital is not a public agency within the meaning of the KORA. It was created and is operated by private individuals. It does not provide a strictly governmental service. Any public funds it receives are in the form of reimbursements from Medicare and Medicaid for services provided to patients.
Norton Correctional Facility	KORA – failure to provide records	Complainant did not respond to request for additional information and supporting documents
Hutchinson Correctional Facility	KORA – failure to provide records	Complainant did not respond to request for additional information and supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
City of Paxico	KORA – failure to provide records	A public agency cannot provide records that it does not have or that do not exist. Moreover, a public agency is not required to conduct research or answer questions asking for information. It is also not required to create documents to satisfy a KORA request.
City of Arma	KORA – failure to provide records	The KORA requires a public agency to provide copies of public records if requested under the Act, unless the record is exempt from disclosure. A public agency cannot provide copies of records that do not exist or it does not have in its possession.
Sedgwick County Sheriff's Office	KORA – did not receive all expected records	Complainant did not respond to request for additional information and supporting documents
Cheryl Stewart Attorney at Law	KORA – failure to respond	An attorney in private practice, even one who takes appointments to represent indigent individuals as a portion of the attorney's practice, is not a public agency within the meaning of the KORA. Therefore, the KORA does not apply to that attorney's records
City of Paxico	KORA – failure to provide complete response; excessive fees	Complainant did not respond to request to provide supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
USD 489	KORA – failure to provide records	<p>An individual is not a public agency within the meaning of the KORA, and thus cannot be found to have violated its provisions or held responsible for the actions of the public agency.</p> <p>The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request for records that clearly indicates the requester is invoking the KORA. A public agency is not required to assume that every request for records it receives is a KORA request. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research and provide answers to questions.</p>
Wabaunsee County	KORA – failure to provide records	Complainant did not respond to request to provide supporting documents
Cowley County Sheriff's Office	KORA – failure to provide records	Complainant filed a complaint with the county attorney before filing a complaint with this office. This office declined further review because the county attorney still has an open investigation.
City of Gaylord	KORA – failure to respond	<p>The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request that clearly indicates the requester is invoking the KORA. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to research and provide answers to questions.</p>
Department of Emergency Management	KORA – failure to provide requested records	Complainant did not respond to request for supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
City of Arma	KORA – failure to provide records	Complainant filed a second complaint raising same concerns as raised in complainant’s first complaint; this office declined to reconsider our conclusions.
City of Cedar Vale	KORA – failure to provide records	Asking a requester to submit a written request for records and requiring advance payment of fees to provide records is consistent with the KORA
Lyon County Planning/ Zoning/Floodplain Management Director	KORA – failure to provide records; lying	<p>An individual is not a public agency within the meaning of the KORA, and thus cannot be found to have violated its provisions or held responsible for the actions of the public agency.</p> <p>The KORA provides a procedure that allows the public to request access to and copies of public records held by a public agency. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not establish any record retention requirements.</p>
Kelley Zellner City of Fredonia	KORA – excessive fees	Complainant did not respond to request for clarification and supporting documents
Lyon County Controller	KORA – failure to provide requested records	<p>An individual is not a public agency within the meaning of the KORA, and thus cannot be found to have violated its provisions or held responsible for the actions of the public agency.</p> <p>The KORA provides a process for the public to access records made, maintained, kept by, or in the possession of a public agency. However, a public agency cannot provide records that it does not have or that do not exist, even though the public believes records should exist.</p>
Finney County Sheriff’s Office	KORA – failure to respond	Complainant did not respond to request for additional information and supporting documents

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Douglas County Commissioners	KORA – excessive fees	Complaint withdrawn
City of Gaylord	KORA – records request denied	<p>Under the KORA, any person whose request for public records has been denied or impeded has statutory standing to enforce the purposes of the KORA. “Any person” refers to a person seeking access to public records by utilizing the procedures set out in the KORA. “Standing” refers to a party’s right to make a legal claim or seek judicial enforcement of a duty or right. To demonstrate standing and pursue a complaint or other remedies established under the KORA, a person must show he made a KORA request, and that a public agency denied or impeded his access to records.</p> <p>K.S.A. 2022 Supp. 45-217(j)(3)(B) provides that a public record does not include “records that are made, maintained or kept by an individual who is a member . . . of the governing body of any political or taxing subdivision of the state. . . .” Thus, any notes taken by a member of the city council are not public records within the meaning of the KORA.</p> <p>Under K.S.A. 45-221(a)(20), public bodies are not required to provide requesters with a copy of draft meeting minutes that have not yet been approved by the body.</p>
City Attorney for Wichita, Mayor Brandon Whipple & Wichita City Council	KORA – did not receive requested records; denied access to records	Complainant did not respond to request for additional information and supporting documents
City of Paxico	KORA – failure to provide records	Declined further review due to pending KOMA/KORA litigation
City of Paxico	KORA – failure to provide records	Declined further review due to pending litigation.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Marion County Commissioners	KOMA – denied access to meeting	While KOMA meetings must be open to the public, its requirement of openness cannot override the separately imposed requirements of a protection from abuse restraining order entered by a court. Only a court can modify a restraining order or conclude that the individual to whom it applies has violated its requirements. Members of a public body, its staff members, or other members of the public are not required to ignore the provisions of a known protection from abuse restraining order, and may call the police if they believe it is being violated. Based on the information provided, the commission’s meetings were open and there was an available alternative for complainant to access the meeting without potentially violating the restraining order against complainant.
Garden City Community College	KORA – failure to respond	Complainant did not respond to request for clarification and supporting documents
Overland Park Police Department	KORA – dissatisfaction with content of records; public agency would not answer questions or explain records	The KORA establishes a procedure that permits the public to obtain access to or copies of public records, subject to any applicable restrictions. Nothing in the KORA governs the content of records maintained by public agencies. The KORA also does not require a public agency to answer questions asking for information, conduct research to answer questions, or explain the content of records provided in response to a KORA request. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions.
City of Paxico	KORA – content of billing statements	Declined further review due to pending litigation.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
USD #494 Board of Education	KORA – failure to provide records	The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request for records that clearly indicates that the requester is invoking the KORA. A public agency is not required to assume that every request for records or information it receives is a KORA request. A public agency that receives a request invoking the KORA must only produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to answer questions asking for information or to conduct research in order to provide answers to questions. It also does not require a public agency to post public records online.
Topeka Police Department	KORA – failure to provide all requested records	Complainant did not respond to request for clarification and supporting documents
Overland Park Police Department	KORA – dissatisfaction with content of records; public agency would not answer questions or explain records	This office declined to reopen complainant’s first complaint, for which we found no violation.
Sedgwick County Sheriff’s Office	KORA – denied access to records	The KORA establishes a procedure that permits the public to obtain access to or copies of public records, subject to any applicable restrictions. K.S.A. 2022 Supp. 45-221 establishes certain exemptions to disclosure. K.S.A. 45-221(a)(1) provides that a public agency is not required to disclose records when another state law prohibits disclosure. K.S.A. 22-4707(a) provides in part that a criminal justice agency may not disseminate criminal history record information except in accordance with laws including applicable rules and regulations adopted pursuant to the act. Therefore, it is not a violation of the KORA for a criminal justice agency to decline to provide criminal history records in response to a KORA request in violation of the law.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Burns City Council, Mayor, City Clerk	KORA – denied access to records	Complaint raised allegations about a KORA request made by another individual; complainant did not have standing to pursue KORA complaint or remedy.
Sedgwick County DA's Office	KORA – denied access to records	<p>An individual is not a public agency within the meaning of the KORA, and thus cannot be found to have violated its provisions or held responsible for the actions of the public agency.</p> <p>With certain exceptions, the KORA does not require criminal investigation records to be disclosed. A public agency must justify its decision to discretionarily close criminal investigation records by providing a written citation to the specific provisions of this statute that necessitate closure. Once the agency provides this written citation, it cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.</p>
Ottawa County Clerk Office	KORA – failure to provide records	Complainant did not respond to request for additional information and supporting documents
Wichita Police Department	KORA – denied access to records	<p>With certain exceptions, the KORA does not require criminal investigation records to be disclosed. A public agency must justify its decision to discretionarily close criminal investigation records by providing a written citation to the specific provisions of this statute that necessitate closure. Once the agency provides this written citation, it cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Wichita Police Department	KORA – failure to respond	The KORA provides a procedure that allows the public to request access to and copies of public records held by a public agency. The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is a public agency’s receipt of a request that clearly indicates a requester is invoking the KORA’s provisions. An agency is not required to respond to a request it does not receive.
City of McCracken Board of City Commissioners	KORA – failure to provide records	Complainant did not respond to request for clarification and supporting documents
City of Sedan Government	KORA – failure to provide records	Complainant did not respond to request for clarification and supporting documents
Kansas Highway Patrol	KORA – can’t obtain discovery in a criminal case	<p>Under the KORA’s criminal investigation records exception to disclosure, a public agency cannot be compelled to disclose the records without judicial review. The statute sets out factors for a court to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure. A district court may order that the records to be disclosed only after an action is brought for that purpose and the court finds disclosure meets the conditions set out in K.S.A. 2021 Supp. 45-221(a)(10)(A)-(F).</p> <p>K.S.A. 2021 Supp. 45-221(a)(20) provides that a public agency is not required to disclose notes or other records in which opinions are expressed or policies or actions are proposed, except when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.</p> <p>A public agency cannot provide records that it does not have.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Aramark Tower	KORA – failure to respond	A public agency under the KORA does not include an entity solely by reason of payment from public funds for property, goods, or services of such entity
City of Pratt	KORA – unknown	Complainant did not respond to request for clarification and supporting documents

NOTE: In addition to the foregoing, the Office of the Attorney General received 30 complaints using the KOMA/KORA complaint form that did not state a violation of the KOMA or the KORA.

Counties Reporting KOMA/KORA Complaints

County	County or District Attorney	Report
Allen	Jerry B. Hathaway	No KOMA/KORA complaints to report
Anderson	Elizabeth Lee Oliver	No KOMA/KORA complaints to report
Atchison	Sherrri Becker	No KOMA/KORA complaints to report
Barber	Daniel O. Lynch	No KOMA/KORA complaints to report
Barton	M. Levi Morris	No report filed
Bourbon	Tiana McElroy	No report filed
Brown	Kevin M. Hill	<p>The county attorney received and investigated a complaint that the City of Hiawatha, including the mayor and two city commissioners, violated KOMA by engaging in discussions with the county sheriff outside of an open meeting; this resulted in the Hiawatha Chief of Police being terminated on December 27, 2021, without prior knowledge of the other two commissioners, the city administrator, and the city attorney that the same would be discussed at the commission's meeting. After an extensive investigation that included subpoenas to a cell phone company and depositions of several witnesses, the county attorney found that Hiawatha Mayor Bill Collins, Hiawatha Commissioner Evans Woehlecke, and Hiawatha Commissioner Brian Shefferd violated the KOMA by collectively engaging in serial communications with the Brown County Sheriff to discuss the job performance and ultimate termination of the Chief of Police. A Notice of Violation was served on the City of Hiawatha on March 1, 2022, and included a \$500 fine, completion of training on KOMA and KORA by an approved individual, execution of a resolution of their intent to comply with KOMA/KORA in the future, and an agreement to cease and desist from future violations. The City of Hiawatha complied with each of the conditions and the three city officials involved apologized publicly for their actions.</p> <p>No KORA complaints to report</p>
Butler	Darrin C. Devinney	No KOMA/KORA complaints to report
Chase	William F. Halvorsen	No report filed
Chautauqua	Ruth A. Rithaler	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Cherokee	Nathan R. Coleman	No KOMA/KORA complaints to report
Cheyenne	Leslie Beims	No report filed
Clark	Joseph H. Milavec	No report filed
Clay	Joel P. Mason	No report filed
Cloud	Robert A. Walsh	No KOMA/KORA complaints to report
Coffey	Wade H. Bowie II	<p>The two KOMA complaints were previously reported in the Annual Report for Fiscal Year 2021 (July 1, 2020 to June 30, 2021). However, the complaints were not resolved until Fiscal Year 2022 (July 1, 2021 to June 30, 2022). Thus, they are being re-reported in the correct Fiscal Year.</p> <p>A citizen filed two complaints against the Coffey County Housing Authority alleging violation of K.A.R. 16-20-1 by holding monthly meetings at the CCHA office, which did not allow for social distancing or livestreaming the meetings. Following an investigation, the county attorney concluded that the CCHA did not violate the KOMA. The KOMA does not require a public body or agency subject to the KOMA to livestream a meeting on YouTube or any other media platform as long as the public body or agency is otherwise meeting the requirements of KOMA. The main requirement related to “access” to a meeting under KOMA is that “all meetings [subject to KOMA] shall be open to the public.” The “KOMA does not dictate the location of the meeting, the size of the room, or other accommodation considerations.” The KOMA does require that a meeting be open to the public not be “at such an inconvenient location or in a room so small as to make it inaccessible for public attendance.” However, if a meeting is determined to be at an inconvenient location or in a small room inaccessible for public attendance, “the meeting might effectively be considered improperly closed under KOMA.” The CCHA’s response demonstrated that the meeting location was not inconvenient or inaccessible. The CCHA also provided an example where it relocated a regular meeting to accommodate increased visitor attendance. The CCHA also demonstrated that the regular meetings are historically only attended by the five board members, the Executive Director, and the Administrative Assistant but not the public.</p>

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
		No KORA complaints to report.
Comanche	Cynthia Long	No KOMA/KORA complaints to report
Cowley	Larry R. Schwartz	No KOMA/KORA complaints to report
Crawford	Reina J. Probert	The county attorney received a complaint involving a member of the governing body of the City of McCune. The member engaged in conversations outside of city council meetings. The members were new to city government. The county attorney addressed the issue with the individual involved. The Attorney General's Office provided KOMA training to the city council. All the members were new to the council and needed the training to learn their duties and responsibilities. No KORA complaints to report
Decatur	Steven W. Hirsch	No KOMA/KORA complaints to report
Dickinson	Sarah Ikena	No KOMA/KORA complaints to report
Doniphan	Charles D. Baskins	No KOMA/KORA complaints to report
Douglas	Suzanne Valdez	No KOMA/KORA complaints to report
Edwards	Mark Frame	No report filed
Elk	Jill R. Gillett	No KOMA/KORA complaints to report.
Ellis	Robert A. Anderson, Jr.	No KOMA/KORA complaints to report
Ellsworth	Paul J. Kasper	No KOMA/KORA complaints to report
Finney	Susan H. Richmeier	No KOMA/KORA complaints to report
Ford	Kevin B. Salzman	No report filed
Franklin	Brandon L. Jones	No KOMA/KORA complaints to report
Geary	Krista L. Blaisdell	No KOMA/KORA complaints to report
Gove	Mark F. Schmeidler	No KOMA/KORA complaints to report
Graham	Jill Elliott	No report filed
Grant	Kelly Premer Chavez	No report filed
Gray	Curtis E. Campbell	No KOMA/KORA complaints to report
Greeley	Charles F. Moser	No KOMA/KORA complaints to report
Greenwood	Jill R. Gillett	No KOMA/KORA complaints to report
Hamilton	Robert H. Gale, Jr.	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Harper	Richard Raleigh	No report filed
Harvey	Heather L. Figger	No KOMA/KORA complaints to report
Haskell	Lynn Koehn	No KOMA/KORA complaints to report
Hodgeman	Mark A. Cowell	No KOMA/KORA complaints to report
Jackson	Jeffrey Morrow	No report filed
Jefferson	Joshua Ney	No KOMA/KORA complaints to report
Jewell	Darrell E. Miller	No report filed
Johnson	Stephen M. Howe	<p>In May of 2021, the office received a complaint alleging the Blue Valley Board of Education violated the KOMA by denying in-person meeting access to anyone not wearing a mask. In September of 2021, the office closed the matter as the complaint was withdrawn, and no evidence of a KOMA violation was found.</p> <p>In May of 2021, the office received a complaint alleging the Blue Valley Board of Education violated the KOMA by denying in-person meeting access to anyone not wearing a mask. In September of 2021, the office closed the matter as a change in the meeting format resolved the issue presented in the complaint, and no evidence of a KOMA violation was found.</p> <p>In August of 2021, the office received a complaint alleging the Blue Valley School District violated the KOMA by limiting the number of attendees at the August 6, 2021, school board meeting. In October of 2021, the office sent a letter to the complainant concluding that after a thorough investigation, there were no actionable violations of KOMA.</p> <p>In January of 2022, the office received a complaint alleging the Olathe Board of Education violated the KOMA by prohibiting her from making public comments and prohibited her from remaining in a public meeting. In April of 2022, the office sent a letter to the complainant advising that after a thorough investigation, there were no actionable violations of the KOMA.</p>

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
		<p>In September of 2021, the office received a complaint alleging the Blue Valley School District violated the KORA related to complainant’s request for emails sent to district employees containing key terms and phrases over a 16-month period. In February of 2022, the office sent a letter to the complainant advising that after a thorough investigation, there were no actionable violations of the KORA.</p> <p>In September of 2021, the office received a complaint alleging the Johnson County Department of Health and Environment violated the KORA related to complainant’s multiple requests for data related to Covid-19, including that the department did not fulfill complainant’s request in its entirety. In February of 2022, the office sent a letter to the complainant advising that after a thorough investigation, there were no actionable violations of the KORA.</p> <p>In October of 2021, the office received a complaint alleging the Johnson County Department of Health and Environment violated the KORA related to complainant’s request for the oath of office of Dr. Joseph LeMaster, MD. In April of 2022, the office sent the complainant a letter advising that after a thorough investigation, there were no actionable violations of the KORA.</p> <p>In October of 2021, the office received a complaint alleging the Gardner-Edgerton School District, USD 231, violated the KORA related to complainant’s request for records by charging unreasonable fees and responding in an unreasonable amount of time. In April of 2022, the office sent a letter to the complainant advising that after a thorough investigation, there were no actionable violations of the KORA.</p>
Kearny	Eloy Gallegos	No KOMA/KORA complaints to report
Kingman	Matthew W. Ricke	No KOMA/KORA complaints to report
Kiowa	Chay Howard	No report filed
Labette	Mandy Johnson	No KOMA/KORA complaints to report
Lane	Dale E. Pike	No report filed
Leavenworth	Todd Thompson	No KOMA/KORA complaints to report
Lincoln	Scott D. Wright	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Linn	Burton Harding	No report filed
Logan	Craig L. Uhrich	No KOMA/KORA complaints to report
Lyon	Marc Goodman	<p>No KOMA complaints to report</p> <p>In March 2021, the office received a complaint alleging the Lyon County Controller violated the KORA by failing to provide records responsive to complainant’s request for “all meeting material” from every meeting held by CARES committees and persons meeting in any capacity to discuss CARES fund allocation. In January 2022, the county attorney resolved the matter by a directive to individual departments to search for and provide the records.</p> <p>In March 2021, the office received a complaint alleging that Lyon County and Lyon County Planning violated the KORA when the complainant requested, but did not receive, a copy of the recordings of the planning board’s December 9, 2020, meeting, which had been destroyed. In January 2022, the county attorney resolved the matter by directing all relevant departments to verify the requested records no longer existed.</p> <p>In March 2021, the office received a complaint alleging an Assistant County Attorney violated the KORA by responding to a request and indicating that the communication being sought “was for personal use and is therefore not an open record.” The audio recording was subsequently destroyed. In January 2022, the county attorney resolved the matter by directing all relevant departments to verify the requested records no longer existed.</p>
Marion	Joel Ensley	No report filed
Marshall	Jennifer Bray	No report filed
McPherson	Jennifer Wyatt	No KOMA/KORA complaints to report
Meade	Clay A. Kuhns	No KOMA/KORA complaints to report
Miami	J. Collins Reynolds	No KOMA/KORA complaints to report
Mitchell	Mark J. Noah	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Montgomery	Melissa G. Johnson	No KOMA/KORA complaints to report (County Attorney during reporting period was Lisa D. Montgomery)
Morris	Laura E. Viar	No report filed
Morton	Paul F. Kitzke	No KOMA/KORA complaints to report (County Attorney during reporting period was A.T. Carey; report filed by County Counselor Clint Floyd.)
Nemaha	Brad M. Lippert	No KOMA/KORA complaints to report
Neosho	Linus A. Thuston	No report filed
Ness	Jacob T. Gayer	No KOMA/KORA complaints to report
Norton	Melissa M. Schoen	In October 2021, the office received a complaint alleging that the City of Norton violated KOMA and maybe KORA. Upon investigation, it was determined that the city did not violate KOMA, as they did not need to allow/accommodate complainant's request to appear by phone.
Osage	Jack J. Hobbs	No report filed
Osborne	Paul S. Gregory	No KOMA/KORA complaints to report
Ottawa	Richard A. Buck	No report filed
Pawnee	Douglas W. McNett	No KOMA/KORA complaints to report
Phillips	Melissa M. Schoen	No KOMA complaints to report In January 2022, the office received a complaint alleging that the County Clerk failed to provide requested records and the office did not intervene. As a resolution, the requested documents were sent by the County Clerk.
Pottawatomie	Sherri Schuck	No KOMA/KORA complaints to report
Pratt	Tracey T. Beverlin	No KOMA/KORA complaints to report
Rawlins	Isaac LeBlanc	No KOMA/KORA complaints to report
Reno	Thomas R. Stanton	No KOMA/KORA complaints to report
Republic	Justin Ferrell	No KOMA/KORA complaints to report
Rice	Remington S. Dalke	No KOMA/KORA complaints to report
Riley	Barry R. Wilkerson	In February 2022, the office received a complaint that on January 18th, 2022, during the 5:30 briefing session, City Commissioners, John Matta, Commissioner/Mayor Linda Morse and Commissioner Wynn Butler engaged in a brief conversation with City Manager Ron Fehr regarding funding for an Art and

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
		<p>Light project, funding and the impact on taxpayers. The conversation, though intentional, was not conducted to avoid public scrutiny. The conversation took place just prior to the 5:30 p.m. briefing session. The Riley County Attorney found the conversation did in fact violate KOMA. As the Riley County Attorney interprets the statutes governing KOMA, the meeting does not have to be pre-arranged to fall under the requirements of KOMA. Specific Commissioners found to be in violation were Commissioner Wynn Butler, Commissioner John Matta and Commissioner Linda Morse.</p> <p>The office also received a complaint about a second incident that occurred on January 18th, 2022. Following the 5:30 briefing and prior to the 7:00 p.m. regular meeting of the Manhattan City Commission, Commissioner Mark Hatesohl made a comment to Commissioners John Matta and Wynn Butler that they would not be welcome in Washington DC due to the vaccine passport. Commissioner Butler then commented that HRSB would be sending a letter to the city commission to recommend amending the non-discrimination ordinance regarding adding vaccine status to the non-discrimination ordinance. The regular 7:00 pm meeting had not yet started. Commissioner Usha Reddi overheard the comments and texted Mayor Commissioner Morse. Mayor Morse did not see the text nor did she participate in the conversation. The findings by the Riley County Attorney are that Commissioner Hatesohl, Commissioner Butler and Commissioner Reddi and Commissioner Matta violated KOMA. The intent was not to conduct business in secret however the conversations should not have occurred. The action will include a thirty minute course on KOMA and how to avoid violations of the KOMA.</p> <p>No KORA complaints to report</p>
Rooks	Danielle N. Muir	No KOMA/KORA complaints to report
Rush	Tony W. Rues	No KOMA/KORA complaints to report
Russell	Daniel W. Krug	No KOMA/KORA complaints to report
Saline	Jeffery Ebel	No KOMA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
		<p>In July 2021, the office received a complaint that the county attorney did not initially respond to a request for records from a prison inmate on an old case. The county attorney reviewed the KORA statutes and drafted policy for the office. No further action was taken.</p>
Scott	Laura L. Lewis	No KOMA/KORA complaints to report
Sedgwick	Marc A. Bennett	<p>In October 2021, the office received a complaint that the assistant superintendent of USD 262 made a statement prohibiting audio/video recording at a board meeting. A consent judgment was entered into in which USD 262 admitted the statements and board policy were contrary to K.S.A 75-4318(e). <i>See</i> 22CV116 in Sedgwick County District Court regarding the remedial measures agreed to by complainant.</p> <p>In March 2022, the office received a complaint with allegations concerning e-mails between Clearwater Recreation Commission board members. The complainant failed to provide documentation or other details from which an investigation could occur, and the complaint closed due to lack of cooperation by complainant.</p> <p>In July 2021, the office received a complaint that the City of Wichita failed to provide a report, which the city alleged did not exist. The complaint was withdrawn sometime after later by reporting district attorney's predecessor with no known objection by the complaining party.</p> <p>In July 2021, the office received a complaint that USD 261 delayed in providing requested payroll records of school district for prior school year. The requested records were provided upon payment of fees, and the complaint was closed with permission of complaining party.</p> <p>In July 2021, the office received a complaint that the Sedgwick County Election Office delayed in providing records. The requested records were provided upon payment of fees, and the complaint was closed with permission of complaining party.</p>

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
		In July 2021, the office received a complaint that the City of Wichita Economic Development Department and Law Department failed to provide responsive records to a KORA request. The matter was closed due to insufficient evidence of violation. An appeal was made to Kansas Attorney General's Office, which in December 2021 chose not to disturb the office's decision.
Seward	Russell W. Hasenbank	No KOMA/KORA complaints to report
Shawnee	Michael Kagay	In October 2021, the office reviewed a complaint that the City of Smith Center violated the KOMA by entering an improper executive session, improperly calling a special session, failing to create an accurate agenda for a meeting, and failing to approve acceptance of an anonymous donation. No violations were found by the District Attorney. In October 2021, the office reviewed a complaint that the City of Smith Center violated the KORA by releasing screen shots of text messages that a city council member had sent. No violation was found by the District Attorney. A government entity does not violate the KORA by releasing public documents.
Sheridan	Harry Joe Pratt	No KOMA/KORA complaints to report
Sherman	Bret Mangan	No report filed
Smith	Tabitha Owen	No KOMA/KORA complaints to report
Stafford	Michael C. Robinson	No report filed
Stanton	Clint Floyd	No report filed
Stevens	Paul F. Kitzke	No KOMA/KORA complaints to report
Sumner	Larry L. Marczynski II	No report filed
Thomas	Christopher A. Rohr	No KOMA/KORA complaints to report
Trego	Curtis Brown	No KOMA/KORA complaints to report
Wabaunsee	Timothy Liesmann	No KOMA complaints to report A complaint was filed with the Kansas Attorney General alleging that Wabaunsee County violated the KORA by failing to provide a copy of a grant request. Because the grant was not funded, the county withheld the records under the unfunded grant

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
		exception. The county ultimately disclosed after the grant was denied and concerns over release subsided. The Attorney General's office closed the file.
Wallace	Charles F. Moser	No KOMA/KORA complaints to report.
Washington	Elizabeth Baskerville Hiltgen	No KOMA/KORA complaints to report
Wichita	Laura L. Lewis	No KOMA/KORA complaints to report
Wilson	John J. Gillett	No report filed
Woodson	Zelda Schlotterbeck	No KOMA/KORA complaints to report
Wyandotte	Mark A. Dupree, Sr.	No KOMA/KORA complaints to report

Enforcement Actions

The Attorney General's Office took the following enforcement action and its requirements were satisfied during the 2022 fiscal year. Pursuant to K.S.A. 45-251(e) and K.S.A. 75-4320d(e), copies of the enforcement actions may be found at <http://ag.ks.gov/open-government/enforcement-actions>.

Bourbon County Commission

2021-OG-0002

Consent Order Entered Into on July 21, 2022

Requirements Satisfied on July 21, 2022

Kansas Open Meetings Act; Executive Sessions

Jeff Fischer for Conduct as a Commissioner on the Board of County Commissioners for Bourbon County

2022-OG-0001

Finding of Violation issued July 21, 2022

Kansas Open Meetings Act; Executive Sessions

Lincoln County Commission

2022-OG-0002

Consent Order Entered into on November 16, 2022

Requirements Satisfied on December 16, 2022

Kansas Open Meetings Act; Notice of Meetings

Regulations

Regulations are available on the Attorney General's website at <https://ag.ks.gov/open-government>.

Trainings Provided

Date	Event	Location	Attendees
7/9/2021	Law Enforcement Records Association - KORA Training	Shawnee	35
8/2/2021	Marshall County Commission - KOMA Training	Marysville	12
8/10/2021	Kansas Corporation Commission - KORA/KOMA Training	Topeka	50
8/19/2021	Johnson County Fire District #1 - KORA/KOMA Training	Virtual	5
8/25/2021	Northwest Kansas Library System Annual Meeting - KORA/KOMA Training	Oakley	60
10/16/2021	USD 497 (Lawrence) - KOMA Training	Lawrence	15
10/25/2021	City of Harper - KOMA Training	Harper	8
11/12/2021	City of McCune - KOMA Training	McCune	8
11/17/2021	Prairie Village Police Department Citizen Advisory Board - KOMA Training	Prairie Village	10
11/18/2021	Kansas Fire and Rescue Training Institute - KOMA Training	Virtual	20
2/15/2022	City of Paxico - KOMA Training	Paxico	12
2/25/2022	City of Lyndon - KORA/KOMA Training	Lyndon	22
3/15/2022	City of Paxico - KORA Training	Paxico	12
4/8/2022	Department of Administration Spring CLE - KORA/KOMA Training	Virtual	170
4/11/2022	USD 262 (Valley Center) - KOMA Training	Valley Center	20

Trainings Provided, continued

Date	Event	Location	Attendees
5/4/2022	Kansas County Clerks and Election Officials Association Annual Conference - KORA/KOMA Training	Salina	30
5/16/2022	Kansas Criminal Justice Information System Annual Conference - KORA Training	Wichita	70
5/24/2022	City of Phillipsburg - KORA/KOMA Training	Phillipsburg	35
6/3/2022	City Attorneys Association of Kansas CLE - KOMA Panel Discussion	Overland Park	100
6/16/2022	Kansas Highway Patrol - KORA Training	Topeka	18



Open Government Enforcement Unit

120 SW 10th Ave, 2nd Floor

Topeka, KS 66612-1597

(785) 296-4542

(785) 291-3767 (Fax)

www.ag.ks.gov/open-gov