

**KOMA/KORA COMPLAINTS RECEIVED BY THE  
ATTORNEY GENERAL'S OFFICE  
REPORT PURSUANT TO K.S.A. 2008 SUPP. 75-753**

July 2008 through June 2009

**KORA COMPLAINTS**

**STATE AGENCIES**

**Kansas Department of Corrections**

Contact: An inmate had requested financial documents about the inmate benefit funds. The inmate contacted this office in December 2008.

Allegation: The record request had not been acted upon in a timely fashion and not all of the requested documents were provided.

Action Taken: This office contacted the Department of Corrections about the requested records. The Department acknowledged that the initial response was three days late. We believe a technical violation occurred and no further action was taken on that issue. Because of the volume of the records requested and cost to copy them, the requestor agreed to annual summaries of the documents.

**Kansas Department of Social and Rehabilitation Services/Children Service League**

Contact: A citizen contacted this office by mail in November, 2008 about her inability to obtain medical records that were a part of her adoption file.

Allegation: The requested records were not supplied.

Action Taken: This office contacted both SRS and the Children's Service League because the Children's Service League originally arranged the adoption. The Children's Service League responded. Although as a private organization they are not subject to KORA, they agreed to provide assistance with a petition to the court under the Kansas Adoption and Relinquishment Act. (K.S.A. 59-2122.) No further action was taken by this office.

### **Kansas Department of Highway Patrol**

Contact: A reporter contacted this office in November, 2008 concerning the response received from the Kansas Department of Highway Patrol.

Complaint: The requestor made a request for expenditures from Homeland Security Grant funds. The Highway Patrol denied the request K.S.A. 2008 Supp. 45-221(45).

Action Taken: This office contacted the Kansas Highway Patrol and reviewed the cited KORA exception. The Highway Patrol agreed to provide the expenditure information, but to withhold information about where the acquired items were located or any other details that might breach security. The compromise was acceptable to the requestor.

### **Kansas Department of Legislative Services**

Contact: An inmate contacted this office in March, 2009 concerning the lack of a response from Legislative Services.

Allegation: The inmate had requested copies of any reports of the Kansas Parole Board since 1995 and had never received a response.

Action Taken: This office contacted Legislative Services and learned that no request had been received. Additionally, they had no documents response to the request. Legislative Services suggested either Legislative Research or the Parole Board would be a more appropriate source. That information was provided to the inmate.

### **Kansas Highway Patrol**

Contact: A citizen contacted this office by mail in February, 2009 concerning a request for copies of audio and video tapes, as well as dispatch materials.

Allegation: The Highway Patrol had denied copies of the materials because the records were part of a criminal investigation file, as well as an internal personnel investigation that could result in disciplinary action. The citizen also asserted that the response was not timely.

Action Taken: This office contacted the Kansas Highway Patrol and learned that the Highway Patrol had denied access to the materials because of an ongoing criminal and personnel investigation as permitted in K.S.A. 2008 Supp. 45-221(a)(10) and (4). Additionally, the Highway Patrol is not required to make copies of video or audio recordings pursuant to

K.S.A. 45-219(a). The initial response was timely as required by K.S.A. 45-218, as an acknowledgment was provided, but not the requested documents. The Highway Patrol permitted the requestor to watch and record the materials when the investigation was completed. Paper copies of the dispatch log were provided after a delay because of some confusion about the request. The matter was closed based upon the Highway Patrol's agreement to provide access.

### **Kansas Supreme Court**

Contact: A citizen contacted this office in March, 2009 concerning Kansas Supreme Court Administrative Order 156.

Allegation: The citizen believed Supreme Court Administrative Order 156 violated KOMA and asked for the opinion of this office.

Action Taken: The citizen was provided a copy of our policies regarding opinion requests. We are not able to provide opinions to citizens. The matter was closed.

### **Kansas Parole Board**

Contact: An inmate, the same individual who complained about Legislative Services earlier, contacted this office in April, 2009 regarding testimony the Kansas Parole Board during the 2009 legislative session.

Allegation: The response was not provided in the statutory period, the documents were not complete, and a dispute over the amount of the fees.

Action Taken: This office contacted the Kansas Parole Board with the concerns. It was determined that the initial response was delayed beyond the statutory requirement, but it was a technical violation. The staff agreed to modify its procedures for incoming mail in order to assure compliance with KORA for any future requests. After examining the other claims, it was determined that no violation had occurred. Additionally, fee disputes with executive branch agencies are handled by the Secretary of Administration pursuant to K.S.A. 45-219(c)(5).

### **Kansas Technology Enterprise Corporation**

Contact: A state senator contacted this office in April, 2009 by telephone and followed up by mail regarding a request for information from KTEC.

Allegation: KTEC had not been responsive to a request for documents and information.

Action Taken: This office contacted KTEC and reviewed the request with legal counsel and staff. It was determined that several of the requested items were not documents subject to KORA, they were requests for analysis and evaluations. KTEC agreed to provide all of the requested materials, whether subject to KORA or not. No further action was taken.

### **Kansas Department of Highway Patrol**

Contact: A citizen contacted this office in June, 2009 by mail.

Allegation: The Highway Patrol had denied access to a videotape.

Action Taken: This office reviewed the response provided by the Highway Patrol. Access was denied based upon a criminal investigation pursuant to K.S.A. 2008 Supp. 45-221(a)(10). This closure was explained to the requestor and the appropriate remedy for disputes is provided within KORA, a petition to the district court to review the documents. No further action was taken.

### **Kansas Board of Regents**

Contact: A newspaper editor contacted this office in June, 2009 by mail.

Allegation: The Board of Regents had inappropriately withheld a report concerning an exit analysis of the Kansas State President citing the personnel exception of KORA.

Action Taken: This office contacted the Board of Regents and reviewed the document in question. The Board of Regents reconsidered and made the report available to the public. No further action was taken.

## **CITIES**

### **City of Otis** (Rush County)

Contact: A citizen contacted this office in October, 2008 by mail.

Allegation: The fee amount for the production of records exceeded the actual cost of producing the records and were used to discourage record requests and the City did not have the required brochure explaining the availability of records and costs.

Action Taken: Because of a conflict for the county attorney, this office contacted the city attorney. A written justification of the fees was provided and a copy of the brochure was produced. After reviewing the requirements of KORA and discussion of record-keeping practices for small communities, the matter was closed.

### **OTHER PUBLIC ENTITIES**

#### **Douglas County District Court**

Contact: Citizen. Letter received March, 2008.

Allegation: A subscription fee for providing access to court documents from locations outside of the courthouse violated KORA.

Action Taken: This office contacted the court and reviewed the arrangement. It was consistent with a similar one reviewed and approved in Attorney General Opinion No. 95-64. The opinion was provided to the citizen and no further action was taken.

#### **Rush County Fire District # 6**

Contact: Citizen. Letter received in March, 2009.

Allegation: The records, minutes of board meetings, were not being produced.

Action Taken: Because of a conflict for the Rush County Attorney, this office contacted the department. The matter was resolved and records produced.

#### **Osborne District Court**

Contact: Citizen. Letter received in January, 2009.

Allegation: The fee for documents were not justified and inconsistently applied.

Action Taken: After reviewing the information provided, it was determined that no further action was necessary.

**REFERRALS TO COUNTY OR DISTRICT ATTORNEYS**  
**Please See the County KOMA/KORA Report for Details**

City of Louisburg (Miami County) - failure to provide a requested document.

City of Tonganoxie (Leavenworth County) - failure to provide all of the requested records.

Thomas County Fair Board (Thomas County) - failure to provide requested documents.

Unified Government of Kansas City Kansas/Wyandotte County (Wyandotte County) - failure to provide requested records.

Reno County (Reno County) - failure to answer inquires.

City of Pleasanton (Linn County) - failure to provide requested documents.

Coffeyville Regional Medical Center (Montgomery County) - failure to provide requested information.

Grant and Stevens County Assessors (Grant County) - failure to provide requested information.

# **KOMA COMPLAINTS**

## **STATE AGENCIES**

### **Kansas Department of Corrections**

Complainant: A citizen. A letter was received in September, 2008.

Allegation: The citizen complained that she was not permitted to videotape her interview for employment with the Department of Corrections and the refusal was a violation of KOMA.

Action Taken: We explained by return letter that an interview conducted by staff members would not be subject to KOMA. There was no violation and no further action was taken.

### **Kansas Department of Insurance**

Contact: An out-of-state organization contacted this office by email in January, 2009.

Allegation: By participating in a national association of insurance commissioners meetings, the Commissioner of Insurance was in violation of KOMA.

Action Taken: This office contacted the Department of Insurance to affirm the facts. KOMA only applies to agencies, not to the chief official of an agency. No further action was taken.

## **COUNTIES**

### **Leavenworth County Commissioners**

Contact: The County Attorney referred a possible KOMA violation to this office by letter in September, 2008. A complaint was also filed by the local newspaper editor.

Allegation: The county commissioners may have engaged in serial communications regarding a reduction a reorganization plan, an inappropriate subject may have been discussed in an executive session, and, a telephone meeting may have occurred without providing notice.

Action Taken: This office investigated and determined that no serial communication had occurred regarding the proposed reorganization, the executive

session was proper because the topic was the discussion of individual employees, and, the telephone meeting had only included one commissioner. Therefore, there were no violations.

### **Ellis County**

Contact: The county counselor self-reported a KOMA violation by letter to this office in March, 2008.

Allegation: Inappropriate use of an executive session by discussing a legal matter without the attendance of the county counselor.

Action Taken: The facts were confirmed and a settlement agreement was reached for training.

### **CITIES**

#### **City of Garfield** (Pawnee County)

Contact: A citizen wrote to the is office in July, 2008.

Allegation: Failing to provide an agenda packet with notice and conducting meetings in an environment that made listening difficult.

Action Taken: This office reviewed the complaints and determined, and supported by formal opinions, that there is no requirement to mail out an agenda or materials prior to a meeting. The agenda must be available for all at the meeting. The city was notified of the difficulty of hearing the members of the body when a fan was on. The city agreed to make alternative arrangements. No violation was found.

## **OTHER ENTITIES**

### **Rush County Fire District # 6** (Rush County)

Contact: The Rush County Attorney referred a citizen complaint to this office because of a conflict in March, 2009.

Allegation: Potential violation of KOMA by not requiring a person attending the meeting to leave.

Action Taken: An investigation was conducted and determined that a person had requested notice of the board meeting. It was the practice of the fire board to conduct training prior to the meeting. The individual was not notified when the training would be completed and the meeting undertaken. It was determined a violation had occurred and a settlement agreement was signed for training.

**REFERRALS TO COUNTY OR DISTRICT ATTORNEYS**  
**Please See the County KOMA/KORA Report for Details**

Ford County Commissioners (Ford County) - failure to provide the required notice for a meeting.

City of Earlton (Neosho County) - failure to provide the required notice for a meeting.

City of Emporia (Lyon County) - conducting an informal meeting and potential serial communications.

City of Fairway (Johnson County) - several complaints concerning improper use of executive sessions and serial communications.

Barber County Fire District # 1 (Barber County) - serial communications to discuss personnel.

City of Syracuse (Hamilton County) - failure to return to an open meeting from an executive session at the appropriate time.