

Law Enforcement Personnel Records Being Open Records

The opening of Law Enforcement personnel records can be very problematic. Below will be issues created by opening such records. Currently, specific types of violations are reported to KSCPOST for the board to decide if the LEO should receive discipline and if discipline is given, the record of that discipline is open record.

1. Under KSA 45-221. Certain records not required to be open; (a) (4) – Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.
2. The current statute allows for personnel records to be exempt from Open Records. This is all employees not just LEO's.
3. What happens when a LEO is accused of a use of force and facts, evidence and/or camera footage actually clears the LEO of any wrong-doing?
4. What happens if a LEO has a 20 year career and has been involved in use of force issues several times in that 20 year career and they have been cleared or one (1) was sustained?
5. Use of Force includes soft and hard hand techniques, Defense Tactics involving wrist locks or arm bars. Most of the use of force complaints is using these techniques not the use of baton, mace, taser or the discharge of a firearm. LEO's engage individuals on a daily basis that do not comply or resist. The LEO uses least amount of force necessary for compliance. Most agencies have a USE of Force form that has to be completed after every incident. These forms become part of their personnel or Internal Affairs file. Does this mean that when their files are opened up they will

be accused of being too aggressive and should be fired? In states that have opened the records that is exactly what is going.

6. If an LEO works for a smaller agency next to a sprawling urban area. This small agency only has 10 LEO's working a shift. A LEO over a two year time frame is involved in 3 deadly force incidents. The District Attorney has cleared the deputy of any wrong-doing and has charged the suspects in the case. The agency investigates internally and no policy violations occurred. The file is released and the public cries out for the LEO's firing. What does that do to the agency, the LEO and all the other LEO's on this agency?
7. Name another profession where their personnel files are open for public scrutiny? It does not exist.
8. If files are opened up law enforcement agencies are going to have a harder time recruiting, hiring and retaining. LEO agencies in Kansas are already having this issue.
9. If the commission decides to go forth with this proposal, then this should apply to all public employees. Judges, Attorneys, Doctors, Nurses, Politicians etc.

Law enforcement agencies across the State of Kansas conduct investigations every day into LEO misconduct. Serious misconduct has to be reported to KSCPOST. The KSA, KPOA and KACP believe opening these records will be very detrimental for policing in Kansas.