

## STATE RECORD BOARD

October 28, 2010, 8:30 a.m.

Kansas State Historical Society

Center for Historical Research

6425 SW 6<sup>th</sup> Ave., Executive Conference Room, 2<sup>nd</sup> Floor

### Minutes

*Present:* Michael Smith, Attorney General's Office; Duncan Friend, Department of Administration; Bill Sowers, State Library; Matt Veatch, Pat Michaelis, Scott Leonard, Kansas Historical Society

*Guests:* Laura Graham, KBI; Mary Chambers, Roger Bonner, Department of Corrections; David Clark, Dorothy Tenney, KDHE; Susan Maxon, Mike Johnston, John Culbertson, Department of Transportation; Sabrina Wells, Tish Becker, Kansas Insurance Department; Marcella Wiget, Kansas Historical Society

- 1 Minutes moved for approval by Bill, Duncan seconded, unanimously approved
- 2 KDHE Bureau of Child Care & Health Facilities
  - 2.1 Moving to a more automated / electronic system; needed adjustments to retention schedules for 3 series. Pat moved for approval, Matt seconded, unanimously approved
- 3 Dept. of Corrections, Central Office and superseded series
  - 3.1 Superseding numerous investigation report series with a single series – work product is the same result; standardized retention for all these series and placed only under Central Office (about 1.5 years ago the Investigative Unit was consolidated from individual units at each facility into single office at Central Office). Eliminates numerous additional copies of “death files.” Medical records maintained separately; CD duplicates paper files. Matt commented that the KHS is initiating review of inmate files with DoC and that will be coming up in future meetings; focus also on electronic versions. Matt moved for approval, Bill seconded, unanimously approved changes.
- 4 KDOT, Bureau of Design
  - 4.1 Records used and related by KDoT, Highway Patrol, Dept. of Revenue, & KCC related to motor carriers' permits. Duncan asked for clarification about which agency holds the record copy of these materials (electronic systems); Susan explained that records are being consolidated and will still be accessible to all who needs access. Pat asked if project management records have been scheduled on the general schedule. Minor change to BOPRS outputs series to align with system's retention of 5 years, from “retain until no longer needed”; changed language from “its” to “end of BOPRS' useful life” in comments. Michael Smith asked for clarification on what outputs were. Pat moved for approval as amended, Matt seconded, unanimous approval.
- 5 KBI, superseded series (addenda – other series to be discussed)
  - 5.1 Instead of revising current series, taking general schedule entry instead. Laura Graham of KBI explained context of revisiting investigative case files (0001-083), expressing their concerns over losing control of these files (retain in office 3 years, at SRC for 60 years, then transfer to archives), which led to review of other series in their schedule.
  - 5.2 Duncan asked for clarification about legal framework of restricting

investigative records; Mike discussed KORA (specifically KSA 45-221(a)(10), which has its 70 year restriction before being opened. Mike noted that generally burden is on agency to prove why records should be restricted, but (a)(10) requires that burden fall on requester within that 70 year restriction (court order necessary). Mike also noted that this 70-year time limit restriction has not yet been challenged (but we're coming up to the 70 years, so there will in future likely be challenges). Matt Veatch asked for clarification on the time limit and whether those restrictions automatically disappear after end of time limit (the word "notwithstanding" in subsection F); Mike explained that privilege is assumed to continue to exist as long as the client is living (whether client is a person or an organization), but that he currently has no good answer. Matt asked Laura about space at the KBI to hold these records; she explained that they want to look into developing an electronic recordkeeping plan in order to clean up the paper files.

- 5.3 Laura explained Summary Reports schedule (0003-083)—was obsolete but still appeared on public schedule; Scott said it will remain obsolete and will be withdrawn.
- 5.4 DNA Files (0009-083): KSHS staff wanted clarification of what information is in series and what might potentially be transferred to the State Archives. Laura described what is found: expert witness files (reference material; nothing formal), AG opinions, expungement information (process to seek expungement of DNA profile—one piece that could be considered personally identifiable information). Amended title to "DNA Reference Materials" to clarify type of information found in series.
- 5.5 Matt Veatch moved approval of initial schedule changes, with two amendments; Bill Sowers seconded, unanimously approved.
- 5.6 New entries: many have changed retention from 1 calendar year to "Retain until no longer useful, then destroy," which raised questions for KHS staff. Laura explained that many of these records are retained by local agencies; KBI is extracting non-identifiable (statistical) data and entering it into system to be passed onto FBI. Pat & Scott suggested amending schedule to say "Retain until data is extracted for reporting purposes, then destroy." Change affects all series listed under "Incident Based Reporting" (series 0034, 0023, 0004, 0024-083). AFIS Project Files (0031-083) falls only under Information Services Division; Assistant Director position has been eliminated; Laura agreed to Matt's request to withdraw this series for any changes (disposition will continue "transfer to archives to purging"). Pat moved approval as amended for these series; Matt Veatch seconded, unanimously approved.
- 5.7 Division Files (0014-083) under Special Ops Division, Assistant Director—this position has also been eliminated; Assistant Director is over Special Operations & Field Operations Divisions. Pat suggested that many of the records listed under this series are probably in the general schedule; Laura agreed. Board takes no action on this series at this meeting; Laura will come back when and as needed.
- 5.8 Special Agents Investigation Files (0001-083) again: Mike summarized, the Board is okay with KBI holding onto the records until the 70 years KORA restriction ends (changing period from 63 to 70 years), but not with KBI holding onto the records permanently. Mike is not aware of any

other statutory restriction on criminal records beyond (a)(10). Duncan wanted to clarify that KSHS and the Records Board would prefer to keep the records at the Archives because they believe that Archives staff will open these records, unlike KBI. Pat suggested amending disposition as “Retain in agency or at State Records Center for 70 years after case is closed, then transfer to Archives.” Bill Sowers moved approval as amended, Matt seconded, Laura abstained from voting; Board voted approval.

6 Insurance Department superseded/obsolete series

6.1 Series 0042-331 and 0043-331: Scott wanted Board chance to discuss whether they wanted an electronic recordkeeping plan for these series. Amended restrictions to add KSA 45-221 to subsections on Agency Licensing Files (0042-331). Continuing Ed Compliance Records (0043-331) needed amendment of record copy as electronic. Matt moved approval as amended, Pat seconded, Board unanimously approved.

6.2 Producer Controlled Insurer Reporting Form: Tish from KID provided clarification of description. Duncan asked for definition of “Producer,” which essentially means an agency or agent (statutorily defined); Pat suggested addition to comments that definition of “producer” is provided in KSA 40-[etc]. Managing General Agent Documents: Amend retention to retain for five years for Appointment & Termination forms, and most recent Annual Report Form. Pat moved approval those series that had been sent out electronically as amended, Bill seconded, Board voted unanimous approval.

6.3 Two series were withdrawn for discussion; Sabrina wanted to hold off until electronic recordkeeping plan may take effect.

7 University of Kansas

7.1 KU has been using a records retention schedule that has not been formally approved by the State Records Board. Scott handed out copies of the schedule to Records Board members to peruse before the January meeting. Duncan asked about how to treat university archives and their relationships to the State Archives; Matt explained that universities are treated as independent entities in charge of their own records; Pat added that they do not have the authority to schedule their own records. Matt added that there has been a movement for years to develop a general schedule for Regents' institutions, but it has not been followed through. Some of the KU entries may also be useful to the State general retention schedule. Mike requested that a KU representative come to the next meeting for any discussion.

8 Electronic Recordkeeping Plan Discussion

8.1 Because of the development of KEEP, Scott wanted to discuss the future of electronic recordkeeping plans. If records are sent to KEEP, do they also need an ERP? One suggestion is to give the task to the Electronic Records Committee. Mike asked who retains ownership of records in KEEP; Matt explained that this is a thorny access because KEEP will be receiving records earlier in the life cycle than the State Archives typically receives records—who administers access? Duncan suggested thinking about it like the SRC vs. the State Archives. Matt wants to avoid a defined dual world where agencies have to either cooperate in KEEP or develop recordkeeping plan.

9 Other business

- 9.1 Scott received letter from Legislative Research Dept. regarding destruction of records maintained by the Legislative Research Dept. related to the nomination of an individual by the Senate. Legislative records do not fall within the Records Board's jurisdiction, which Scott informed the dept. Scott wanted to know if the Board wanted to create a formal response. Mike asked for clarification of statutes. KSA 75-4315(d) and 75-3504: he then said that the language suggests that the Board does have approval for disposition or keeping of these specific types of records, but that Board's authority does not extend any further than that. Mike suggested that the Board recommended that these records be shredded, as per the Archives' general policy for disposing of confidential records. KHS staff will draft something and Mike will sign it as head of the Records Board. Pat approved this as a motion, Matt seconded, unanimously approved by Board.
- 9.2 FY2010 statistical report: 56 records series were approved, 3 with archival disposition, 17 with permanent disposition. Pat mentioned that in speaking with a group she received a request to make the Board's actions easier to find, Duncan opened the discussion further to general concerns over Board's transparency, both before and after meetings. Scott has no concerns over putting up approved entries, minutes, agendas, but has hesitancy over putting up proposed entries publicly before they are approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew Veatch". The signature is written in a cursive, flowing style.

Matthew B. Veatch  
State Archivist and Secretary  
State Records Board