

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

ROC NATION, LLC)
540 W 26th St)
New York, NY 10001)

MIDWEST INNOCENCE PROJECT)
300 E 39th St)
Kansas City, MO 64111)

Plaintiffs,)

v.)

UNIFIED GOVERNMENT OF)
WYANDOTTE COUNTY/KANSAS)
CITY, KANSAS,)
Custodian of Records)
710 N 7th St)
Kansas City, KS 66101)

KANSAS CITY, KANSAS, POLICE)
DEPARTMENT)
Custodian of Records for the Kansas)
City, Kansas Police Department,)
700 Minnesota Avenue)
Kansas City, KS 66101)

Defendants.)

Case No. _____

**PETITION FOR DECLARATORY JUDGMENT AND/OR OTHER APPROPRIATE
RELIEF PURSUANT TO THE KANSAS OPEN RECORDS ACT**

COME NOW Plaintiffs Roc Nation, LLC and Midwest Innocence Project (“Plaintiffs”),
by and through their undersigned counsel, and allege as follows against Defendants Unified
Government of Wyandotte County, Kansas City, Kansas (“Unified Government”) and the Kansas
City, Kansas Police Department (“KCKPD”) (together, “Defendants”).

NATURE OF THE ACTION

1. This is an action for declaratory and/or other necessary and appropriate relief relating to Defendants' unjustified failure to comply with their disclosure obligations under the Kansas Open Records Act ("KORA") with respect to Plaintiffs' KORA request for records relating to a longstanding pattern and practice of abuse and misconduct by members of the Kansas City, Kansas Police Department ("KCKPD") and the KCKPD's corresponding institutional failure to address and rectify that abuse and misconduct.

2. For decades, communities in Kansas City, Kansas—particularly minority and immigrant communities—have been subjected to an alarming pattern of abuse and other serious misconduct by the KCKPD.

3. Kansas City residents have suffered enormously as a result of KCKPD abuses. Some have been framed for crimes they did not commit; some have been coerced into providing false testimony; some have been sexually assaulted; some have endured brutal beatings; and some have even been killed.

4. Serious consequences against the offenders within the KCKPD are rare. In fact, on information and belief, in many instances, the KCKPD officers responsible for these terrible abuses have not been disciplined by the KCKPD for their conduct.

5. Rather than promoting a culture of transparency and accountability, the KCKPD has a long history of turning a blind eye to (at best) and even covering up (if not worse) abusive and/or corrupt conduct by its officers.

6. KCKPD's failure to hold its officers accountable for their misconduct not only encourages further abuses against the people of Kansas City, it is also a betrayal of the public trust.

7. As a result of this lack of accountability, significant segments of the Kansas City population (including some of the most vulnerable members of this community) do not trust, and indeed are afraid of, the institution that is duty-bound to protect and serve them—that is, the KCKPD.

8. As the adage goes, sunlight is the best disinfectant. The best and, indeed, only way to restore the public trust is to bring to light the full extent of the varied, pernicious misconduct by members of the KCKPD, as well as the KCKPD’s institutional failure and/or inability to address and rectify misconduct among its ranks.

9. To that end, in November 2023 (a year ago), Plaintiffs made a joint KORA request to Defendants for law enforcement records that Plaintiffs reasonably believed would, if provided, shed necessary light on widespread abuses and misconduct by KCKPD officers (particularly against vulnerable persons and communities), identify root problems within the department, and thereby promote the transparency and accountability necessary to reform the KCKPD and rebuild the public trust.

10. Various officials in Kansas City, Kansas, including the current Mayor and Chief of Police, have professed support for greater transparency and accountability,¹ but Defendants’ failure to comply with Plaintiffs’ KORA request says otherwise.

¹ Andy Alcock, *Kansas City, Kansas Mayor Calls for Independent Investigation of Police Department, County Government*, KMBC 9 News (Nov. 7, 2023), <https://www.kmbc.com/article/kansas-city-kansas-mayor-calls-for-independent-investigation-of-police-department-county-government/45771195> (recounting Kansas City, Kansas Mayor Garner’s statement inviting an independent investigation of the KCKPD and the Unified Government); KMBC 9 News Staff, *Former KCK Detective Accused of Exploiting Women Arrested Thursday by the FBI*, KMBC 9 News (Sept. 15, 2022), <https://www.kmbc.com/article/kansas-city-kansas-kckpd-detective-roger-golubski-arrested-sexual-assault-lamonte-mcintyre/41230386> (reporting Mayor Garner’s statement “welcom[ing] any independent outside investigations into any allegations of criminal misconduct by anyone within the Unified Government” and “commit[ing] to bring greater transparency and accountability to all aspects of local

11. Instead of providing the documents as required by KORA, which is to be “liberally construed” in favor of disclosure, K.S.A. § 45-216(a), Defendants have stonewalled Plaintiffs for almost a year. Contrary to KORA’s requirements, Defendants have relied on improper and unsubstantiated boilerplate objections to Plaintiffs’ requests.

12. Compounding Defendants’ non-compliance with their obligations under KORA, Defendants have gouged Plaintiffs on fees, presumably in an attempt to discourage them from pursuing the records at issue. Defendants initially charged Plaintiffs more than \$2,200 in fees for their purported costs.²

13. For the sake of obtaining the requested records, Plaintiffs paid the excessive fees demanded by Defendants. Defendants then failed to make any meaningful response to most of Plaintiffs’ requests.

14. To date, Defendants have produced only 225 documents, and 193 of those are simply personnel locator records showing KCKPD officer assignments and shifts.

government, including public safety”); Steve Vockrodt, *KCKPD Chief Defends Internal Review of Golubski’s Cases: ‘Who Better to Clean Their Own House?’*, KCUR 89.3 (Nov. 21, 2022), <https://www.kcur.org/news/2022-11-21/kckpd-chief-defends-internal-review-of-golubskis-cases-who-better-to-clean-their-own-house> (detailing KCKPD’s purported plan to re-examine 155 cases that former KCKPD officer Roger Golubski “investigated or had a hand in during his time as a detective for KCKPD”); Dave D’Marko, *Wyandotte County Tentatively Approves \$1.7M, Tied to Investigate Former KCK Cop*, FOX 4 News (Nov. 17, 2022), <https://fox4kc.com/news/ug-commissioners-tentatively-approve-1-7-million-effort-tied-to-investigate-former-kck-detective/> (detailing Wyandotte County District Attorney Mark Dupree’s request for \$1.7 million from the Unified Government Board of Commissioners to digitize 4000 boxes of court case files from the past 70 years to make them searchable, in an effort to “bring more transparency and accountability”); Luke Nozicka, *Wyandotte County has Scanned Thousands of Files to Prepare for Roger Golubski Review*, The Kansas City Star (Sept. 15, 2023), <https://www.kansascity.com/news/local/crime/article279370894.html> (reporting that “[m]ore than 1,300 boxes of records have been scanned as part of the Wyandotte County district attorney’s effort to digitize decades-old files, in part to review cases touched by an indicted former detective”).

² Just a few weeks ago, on October 22, 2024, Defendants remitted a portion of the more than \$2,200 charged to Plaintiffs (\$715.08), which still leaves an excess charge of almost \$1,500.

15. The remaining 32 documents consist primarily of field manuals and other training materials and various departmental policies.

16. Defendants' production also included a barebones "Deaths in Custody" list and, for each deceased detainee, a similarly basic "letter of incarceration" verifying that the person was, in fact, incarcerated at the time of his or her death. However, Defendants produced no information regarding the circumstances of each person's death, including whether the death was purportedly due to natural causes or foul play.³

17. Defendants have produced zero documents relating to any complaint or investigation into even a single instance of misconduct by any member of the KCKPD.

18. When the government fails to comply with KORA, the statute expressly authorizes members of the public to pursue legal remedies to secure the government's compliance.

19. As detailed below, Defendants have failed to comply with KORA.

20. Accordingly, Plaintiffs, as members of the public and on behalf of the public, hereby respectfully petition the Court, pursuant to K.S.A. §§ 45-222(a) and 60-257, for a judgment:

- a) declaring that Defendants have failed to comply with KORA by both interposing improper, unsubstantiated objections and unreasonably failing to produce requested documents;
- b) declaring that the requested documents are subject to disclosure under KORA;
- c) declaring that the fees charged by Defendants are excessive and unreasonable;

³ See K.S.A. § 19-1935 (requiring the Kansas Bureau of Investigation (KBI) to investigate the death of any person who dies in custody unless the cause of death is determined to be natural by a qualified autopsy or the deceased inmate was regularly attended by a licensed physician).

- d) ordering Defendants to produce all requested documents to the extent subject to disclosure under KORA;
- e) ordering Defendants to remit to Plaintiffs the fees unreasonably charged; and
- f) awarding Plaintiffs their attorneys' fees and costs incurred in connection with this action.

1. PARTIES

21. Plaintiff Roc Nation is a full-service limited liability company founded in 2008. Roc Nation is incorporated under the laws of Delaware and has its principal place of business in New York, New York. Roc Nation has an active philanthropy division—Team Roc—that is committed to social justice, while working to affect positive change, raise awareness of injustice, and bring about collective action in communities across the United States.

22. Plaintiff Midwest Innocence Project is a not-for-profit organization with its principal place of business in Kansas City, Missouri. Midwest Innocence Project represents people wrongly convicted and/or incarcerated for crimes they did not commit in Missouri, Kansas, Arkansas, Iowa, and Nebraska. Midwest Innocence Project works to support and empower freed and exonerated people post-release. It also advocates for meaningful reform to the criminal legal system in the Midwest to prevent people, especially the most vulnerable members of our communities, from being wrongfully convicted in the first place.

23. Defendant Unified Government was established in 1997 following a vote to consolidate the Unified Governments of Wyandotte County and Kansas City, Kansas. The Unified Government's offices are located at 710 N. 7th Street, Kansas City, Kansas 66101.

24. Defendant KCKPD is the police department for Kansas City, Kansas. KCKPD's headquarters are located at 700 Minnesota Avenue, Kansas City, Kansas 66101.

2. JURISDICTION AND VENUE

25. This Court has jurisdiction pursuant to K.S.A. §§ 45-215 *et seq.* and 45-222(a).

26. Venue is proper because the public records are in Wyandotte County, Kansas, the county in which this Court sits. K.S.A. § 45-222(a) (“The district court of any county in which public records are located shall have jurisdiction to enforce the purposes of this act with respect to such records, by injunction, mandamus declaratory judgment or other appropriate order, in an action brought by any person.”).

3. BACKGROUND

27. For decades, residents of Kansas City, Kansas have repeatedly raised substantial concerns about abuse, misconduct, and corruption by the KCKPD. These concerns were substantiated by a Federal Bureau of Investigation (“FBI”) report from the 1990s that Plaintiffs received in 2021 pursuant to a Freedom of Information Act (“FOIA”) request to the U.S. Department of Justice. The report exposed a long and disturbing history of heinous crimes and other significant misconduct by KCKPD officers and detectives and thereby helped uncover a pattern of civil rights violations by the KCKPD and/or its members. The FBI report highlighted the depth of these issues, noting that citizen complaints concerning violations of their civil rights are “only the tip of the iceberg.” The evidence collected during these investigations affirmed this perception, underscoring the entrenched and unchecked culture of misconduct within the KCKPD.

28. The KCKPD conduct at issue is serious and wide-ranging. It includes threats, intimidation, and other coercive actions; sexual harassment and sexual assault; excessive force and other forms of physical assaults and beatings, and even murder. [Ex. A - Rick Behrens Declaration and Ex. B - Trena Cooper Declaration].

29. Making matters worse, much of the KCKPD's most egregious conduct appears to be motivated by bias based on the victim's age, race, gender, nationality, or is otherwise intended to target members of vulnerable communities.

30. Numerous KCKPD police officers, including, but not limited to, former KCKPD Detectives and/or officers Roger Golubski (who, as further alleged below, is currently awaiting trial on a raft of federal charges relating to his egregious abuses of power as a member of KCKPD), David Toland, and Marcus Johnson, have been accused of serious criminal conduct, including abuse of power, for years. These problem officers are not alone. They are just a few of a larger group of KCKPD officers who have for decades abused, brutalized, and taken advantage of the Kansas City communities they were sworn to protect. They are likewise symptomatic of the more pernicious, systemic dysfunction affecting the KCKPD in its interaction with, in particular, marginalized residents of Kansas City, Kansas.

31. These particular individuals—thanks in part to community activists calling for investigations and, where appropriate, prosecutions, including, notably, at the federal level—may finally be held accountable for their long histories of criminality.⁴

32. But, standing alone, externally imposed consequences for these “bad apples” are not enough to correct the problem, particularly given the deep-seated culture of misconduct and lack of accountability within the KCKPD. Nor will long overdue consequences for those former KCKPD members root out the problematic officers remaining within the KCKPD, including its leadership.

⁴ See, e.g., Sealed Indictment, *United States v. Golubski*, No. 5:22-cr-40055 (D. Kan. Sept. 14, 2022) ECF 1; Sealed Indictment, *United States v. Brooks, et al.*, No. 5:22-cr-40086 (D. Kan. Nov. 10, 2022) ECF 1.

33. As noted in the press, the use of excessive force and other problematic and potentially unconstitutional tactics by members of the KCKPD against Kansas City residents persists despite several arrests. See e.g., Katie Moore, *KCK Police Slammed Handcuffed Man to Ground After Report of Gun at Hotel: Lawsuit*, The Kansas City Star (June 12, 2023), <https://www.kansascity.com/news/local/article276319081.html> (detailing KCKPD officer's use of excessive force against handcuffed man); Brianna Lanham et al., *Police Detain Walmart Shopper, Kneel on His Neck for Not Showing Pizza Receipt, Video Shows: 'I'm Just Terrified,'* Fox59 (June 13, 2023), <https://fox59.com/news/national-world/police-detain-walmart-shopper-kneel-on-his-neck-for-not-showing-pizza-receipt-video-shows-im-just-terrified/> (detailing KCKPD officer's use of excessive force against Walmart shopper); Bek Shackelford-Nwanganga, *Kansas City Man Reportedly Thrown to Ground by KCPD Settles Lawsuit for \$500,000*, NPR (Jul. 17, 2023), <https://www.kcur.org/news/2023-07-17/kansas-city-man-reportedly-thrown-to-ground-by-kcpd-settles-lawsuit-for-500-000> (detailing multiple KCKPD officers' use of excessive force against Kansas City resident); Peggy Lowe, *Deeper Than Golubski: A Culture of Corruption Defined the Kansas City, Kansas Police Department*, NPR (Nov. 23, 2022), <https://www.kcur.org/news/2022-11-23/deeper-than-golubski-a-culture-of-corruption-defined-the-kansas-city-kansas-police-department> (detailing KCKPD's long history of police misconduct and corruption).

34. As also reported in the local press, Kansas City residents have died in police custody. One recent example involved the unexplained death of a 42-year-old man held on a probation violation at the Wyandotte County Jail. See Bill Lukitsch, *Prisoner at Wyandotte County Jail Dies in Custody Sunday; Investigation Under Way*, The Kansas City Star (Apr. 10, 2023), <https://www.kansascity.com/news/local/crime/article274189965.html>.

35. There are also numerous reports of KCKPD officers sexually harassing and raping women of color, including Black women. *See, e.g.,* Daniel Johnson, *5 Women Allege Kansas City Police Officers Raped Black Women With Impunity*, Black Enterprise (Nov. 4, 2023), <https://www.blackenterprise.com/5-black-women-kansas-city-police-sexual-assault/> (reporting allegations that KCKPD officers have repeatedly harassed and sexually assaulted Black women).

Plaintiffs' KORA Requests

36. As part of their effort to bring long-overdue and much-needed transparency and accountability to policing in the Kansas City area, Plaintiffs submitted the KORA request attached hereto as Exhibit C to Defendants on November 16, 2023 ("KORA Request"). [Ex. C – November 16, 2023 KORA Request].

37. In their KORA Request, which was brought in the public interest, Plaintiffs sought various categories of information relating to the wide-ranging police misconduct, corruption, and abuse alleged herein. The categories, which are summarized below, generally sought:

- a) complaints and investigations against specified current and former KCKPD detectives and officers;
- b) complaints against other KCKPD detectives and officers by members of the public;
- c) documents relating to investigations of KCKPD by the Federal Bureau of Investigation ("FBI") and/or the Kansas Bureau of Investigation ("KBI");
- d) documents relating to suspicious or otherwise unexplained deaths of individuals while in KCKPD custody or in the Wyandotte County Jail; and
- e) KCKPD field manuals, training materials, and specified policy documents.

38. Plaintiffs made their KORA Request in the public interest and in accordance with the long-held “public policy of the state” of Kansas that public records be open for inspection by any person, K.S.A. § 45-216(a).

39. But, contrary to public policy and applicable law, the Unified Government—responding on behalf of itself and the KCKPD (that is, both Defendants in this action)—has failed to comply with the KORA Request in any substantial way.

40. The Unified Government has relied on obstructionist tactics to stonewall, delay, and avoid producing the requested records.

41. One tactic deployed by the Unified Government was the imposition of unreasonable fees. Specifically, shortly after receiving Plaintiffs’ KORA Request, the Unified Government demanded advance payment of more than \$2,200 in fees as a precondition to producing the requested records.⁵

42. In so doing, the Unified Government attempted to justify the exorbitant fee by representing to Plaintiffs that its response to the KORA Request would be “extensive” and “voluminous.” [Ex. D – December 12, 2023 Message from Unified Government].

43. Reasonably taking the Unified Government’s statements about an “extensive” and “voluminous” response to mean that the Unified Government would substantially comply with their KORA Request, Plaintiffs paid the more than \$2,200 fee to the Unified Government.

44. Perhaps not expecting anyone to actually pay such a high upfront fee, the Unified Government responded to Plaintiffs’ payment of the fee not by making a good faith production.

⁵ A fee of more than \$2,200 is unreasonable and cost-prohibitive for most people seeking to obtain records from the government.

Instead, on January 11, 2024, the Unified Government turned around and denied in full 11 of the 16 individual requests included in Plaintiffs' KORA Request. [Ex. E – January 11, 2024 Letter from Unified Government].

45. In rejecting the requests, the Unified Government deployed another improper tactic to avoid compliance with KORA. Specifically, the Unified Government improperly asserted boilerplate objections and exemptions (typically nothing more than a single sentence or a naked reference to the statute) without the specificity required by statute. [*Id.*].

46. As further detailed below, the Unified Government claimed that essentially all of the requested records are exempt from disclosure under one or more KORA provisions, including: K.S.A. § 45-221(a)(4) (personnel records, performance ratings, or individually identifiable records pertaining to employees); § 45-221(a)(10) (criminal investigation records); § 45-221(a)(11) (records of agencies involved in administrative adjudication or civil litigation); § 45-221(a)(30) (public records containing information of a personal nature where disclosure would constitute a “clearly unwarranted invasion of personal privacy”); and § 45-219(a) (audio and visual records, including video tapes or films, unless they were shown or played to a public meeting of the public agency’s governing body). *See id.*

47. The Unified Government made these exemption claims in broad, undifferentiated strokes that, for example, failed to distinguish between records relating to pending and closed investigations and failed to acknowledge that virtually all legitimate privacy concerns could be resolved through redactions. As such, the Unified Government’s exemption claims were unsubstantiated and insufficient for purposes of meeting the Unified Government’s obligations under KORA. K.S.A. § 45-221(a)(10) requires custodians of criminal investigation records, upon request, to identify which factors(s) in (A) – (F) are applicable to the record(s) being closed under

the exception. Without specificity, it is unknown whether the KCKPD's decision to close the records is warranted.

48. As of the date of the filing of this action, Plaintiffs' KORA Request has been pending for almost a year. And yet, to date, the Unified Government has produced only 225 documents (1,851 pages in total).

49. As noted above, of the 225 documents produced by the Unified Government, 193 are merely personnel locators—that is, records showing KCKPD officer assignments and shifts, and the remaining 32 documents consist almost entirely of policies and procedures and a few barest-of-barebones documents identifying persons who died in police custody.

50. None of the documents produced respond to Plaintiffs' request for complaints regarding serious misconduct by KCKPD officers or any related investigations (pending or closed) relating to any such misconduct, whether by KCKPD itself, KBI, the FBI, or DOJ.

51. Moreover, while the Unified Government is entitled to charge a fee in connection with responding to KORA requests, the statute specifies that the fee must be "reasonable." K.S.A. § 45-219(c); [Ex. F - Chet Epperson Declaration].

52. Requiring advance payment of more than \$2,200, as the Unified Government did here (especially for what turned out to be a largely insubstantial production of only 225 documents) is not reasonable.⁶

Plaintiffs' Pre-Suit Dispute Resolution Efforts

⁶ And that is putting aside the chilling effect that such a fee would have on most people seeking records under KORA.

53. As set forth below, Plaintiffs have attempted in good faith to secure Defendants' compliance with their KORA Request without judicial intervention, but those efforts have been unsuccessful.

54. As noted above, on January 11, 2024, the Unified Government sent a letter to Plaintiffs (through their respective counsel) asserting boilerplate objections and exemption claims with respect to most of Plaintiffs' requests, and subsequently provided on a rolling basis the ancillary documents previously described.

55. On April 1, 2024, Plaintiffs sent a detailed letter to the Unified Government reiterating their demands and the basis therefor, inquiring about the status of the Unified Government's production, and challenging the insufficient-on-their-face objections and exemptions asserted by the Unified Government. [Ex. T - April 1, 2024 Letter from Plaintiffs].

56. On April 15, 2024, the Unified Government responded by letter. In its letter, the Unified Government doubled down, reiterating its boilerplate objections and, for the most part, simply copying and pasting the full text of the statute into its response. And even when the Unified Government provided some narrative statement, the statement was conclusory and failed to distinguish between the different kinds of documents within each requested category and the extent to which the claimed exemption may or may not properly apply. [Ex. G – April 15, 2024 Letter from Unified Government].

57. Even in the few instances in which the Unified Government did not make an improper blanket denial of a particular request, it still ultimately failed to provide the requested documents. For example, in response to Request No. 6, which sought information regarding FBI and DOJ investigations into KCKPD, the Unified Government acknowledged that it had collected

more than 23,000 emails responsive to the search terms that the Unified Government itself had decided upon.

58. Remarkably, with respect to Request No. 6, the Unified Government took the position, based on its self-described “cursory” review of only 30 randomly selected emails, that the more than 23,000 collected emails were not relevant. On that basis, the Unified Government refused to produce the emails (and, as a practical matter, any other documents responsive to Request No. 6) unless Plaintiffs agreed to narrow their requests and, incredibly, to advance-pay additional fees.

59. On October 23, 2024, Plaintiffs sent a letter to the Unified Government in a further attempt to resolve this matter without judicial intervention. In that letter, as to the Unified Government’s boilerplate objections to Request Nos. 1-5, Plaintiffs asked the Unified Government to provide, as required by KORA, a sufficiently detailed explanation of each claimed exemption. As to Request No. 6, Plaintiffs offered additional search terms to help the Unified Government identify the squarely responsive emails within the Unified Government’s previously identified set of more than 23,000 potentially responsive emails. The letter set a compliance date of November 13, 2024. [Ex. U – October 23, 2024 Letter from Plaintiffs].

60. On October 28, 2024, the Unified Government acknowledged receipt of Plaintiff’s October 23, 2024 letter and stated in effect that it had closed Request No. 6 because Plaintiffs had not agreed to narrow the request, but that the Unified Government would reopen and extend the request to November 13, 2024. [Ex. V – October 28, 2024 Message from Unified Government].

61. On November 6, 2024, Plaintiffs wrote to the Unified Government again to confirm whether the Unified Government was taking substantial steps toward compliance. In particular, as to Request No. 6, Plaintiffs asked the Unified Government to advise regarding the status of the

modified ESI searches, including any resulting “hit” count. As to Request Nos. 1-5, Plaintiffs asked the Unified Government to advise as to whether it intended to amend its position on any of the requests or to make any supplemental production. [Ex. W – November 6, 2024 Message from Plaintiffs].

On November 12, 2024, the Unified Government responded to Plaintiffs, but not by complying with KORA. Instead, the Unified Government doubled down on its previous boilerplate and therefore legally insufficient objections to Request Nos. 1-5, offering only a conclusory assertion that the undifferentiated body of responsive documents would somehow “disclose personnel records” or “constitute a clearly unwarranted invasion of personal privacy.” [Ex. X – November 12, 2024 Message from Unified Government].

62. As to Request No. 6, the Unified Government did not claim in its November 12, 2024 response that it does not have responsive documents or that the disclosure of the documents would violate some important privacy interest. Instead, the Unified Government claimed that the modified search terms⁷ caused some unspecified and unquantified “technical issues that impacted the [KCKPD’s] email system.” [*Id.*]

63. On this threadbare, unsubstantiated basis, the Unified Government denied Request No. 6 in its entirety, unequivocally refusing to even run further searches and/or review any documents for responsiveness:

⁷ Plaintiffs proposed modified search terms at the request of the Unified Government. The modified search terms that Plaintiffs proposed were not complex. As set forth in Plaintiffs’ October 23, 2024 letter, Plaintiffs simply proposed “adding the terms ‘and complaint or investigation or violation’ (or some good faith construction thereof)” to the search terms self-selected by the Unified Government to help the Unified Government reasonably narrow the population of emails responsive to Request No. 6. [Ex. U].

Running further searches and/or reviewing the over 23,000 results of the original search places an unreasonable burden on the department. Thus, this request is denied pursuant to KSA 45-218(e).

[*Id.*].

64. Thus, despite Plaintiffs' reasonable, good faith efforts to resolve this dispute without resort to litigation, the Unified Government has made that impossible. As further detailed below, contrary to the public professions of commitment to greater transparency and accountability with respect to the KCKPD, the Unified Government has relied on, and continues to rely on, obstructionist tactics to improperly avoid its obligations under KORA.

65. Accordingly, Plaintiffs bring this action for such declaratory and other relief as is necessary to enforce KORA.

4. CLAIMS FOR RELIEF

1. Count I: Violation of KORA With Respect to Request No. 1

66. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

67. In summary, Request No. 1 of Plaintiffs' KORA Request seeks any complaints, whether formal or informal, against members of the KCKPD, including any members of its investigative division, relating to specified misconduct that warrants public interest. The specified misconduct includes: (1) providing, stealing, procuring, or selling illicit drugs; (2) harassing or retaliating against residents during patrols; (3) inappropriate relationships with, or sexual assaults, harassments, or rapes of community members; (4) tampering with or destroying evidence; (5) knowingly eliciting false information or testimony; (6) failing to document exculpatory witness statements; (7) failing to document exculpatory or impeachment evidence favorable to a suspect or defendant; (8) failing to properly investigate; and (9) any other misconduct by members of the

KCKPD Detective Bureau. [Ex. A; Ex. B; Ex. C; Ex. H – Michelle McCormick Declaration; Ex. I – Lora McDonald Declaration.].

68. The Unified Government rejected the Request in its entirety, improperly relying on blanket, inapt invocations of K.S.A. §§ 45-221(a)(4) (personnel records), (a)(10) (criminal investigations), (a)(11) (records of agencies involved in administrative adjudication or civil litigation if disclosure would interfere with a prospective administrative adjudication or proceeding or reveal a confidential source), and (a)(30) (public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy). [Ex. E]. But the Unified Government’s sweeping reliance on those exemptions (some of which are qualified, not absolute) is misplaced.

69. With respect to (a)(4), the Request does not seek personnel records or performance ratings. It seeks complaints (formal or informal) regarding alleged serious criminal conduct by members of KCKPD.

70. To the extent documents responsive to the Request contain individually identifiable information pertaining to an employee for purposes of § (a)(4), that information can be redacted so that the rest of the subject documents can be disclosed. *See* K.S.A. § 45-221(d) (“If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions that are subject to disclosure.”). Blanket refusal to produce otherwise non-exempt records is improper and contrary to KORA.

71. Further, the Unified Government’s claimed exemptions should not be construed to broadly shield *from the public* disclosure about complaints *by the public* about alleged criminal activity by members of law enforcement, especially without any showing that disclosure would

run afoul of the factors listed in §§ (a)(10)(A)-(F), including, without limitation, that disclosure is in the public interest, would not interfere with any prospective law enforcement action, criminal investigation or prosecution, and would not reveal confidential investigative techniques or procedures not known to the general public. The Unified Government has made no such showing in its invocation of an exemption under § (a)(10).

72. Nor could the Unified Government make such a showing under § (a)(10) with respect to all referenced complaints and related documents. Even as a threshold matter, not every subject complaint against a member of the KCKPD is, as the statute specifies, subject to *prospective* law enforcement action, criminal investigation, or prosecution. Complaints that have already been closed pursuant to some completed action, investigation, or prosecution are, by definition, outside the scope of § (a)(10), as are complaints for which the statute of limitations has already expired. The Unified Government's blanket invocation of the § (a)(10) criminal investigation exemption is, thus, patently overbroad.

73. The Unified Government likewise fails to engage with the specific factors listed in parts (A)-(F) of the statute and, therefore, fails to substantiate its exemption claim with respect to any records, let alone records relating to the complaints that are *not* subject to *prospective* law enforcement action, criminal investigation, or prosecution—likely the vast majority of complaints.

74. Even if some records include information that is arguably exempt from disclosure under applicable law (*e.g.*, records that would reveal the identity of any confidential source or undercover agent, records that would reveal the identity of any victim of a sexual offense, or records that would reveal confidential investigative techniques), that concern can be addressed through appropriate redactions. *See* K.S.A. § 45-221(d).

75. The Unified Government also makes the blanket assertion, without reference to any actual complaint or investigation, that the “[r]elease of unfounded allegations are an unwarranted invasion of personal privacy.” [Ex. G].

76. As an initial matter, again, even if there were legitimate concerns about the “personal privacy” of KCKPD members who have been accused of serious misconduct, including against residents of Kansas City, those concerns can be properly addressed through redactions. *See* K.S.A. § 45-221(d).

77. More important, the Unified Government’s blanket assertion about “unfounded allegations” is insufficient and reveals the heart of the problem when the public trust in law enforcement is broken. The Unified Government’s position would require Plaintiffs and the broader public to accept on faith the government’s own behind-closed-doors determination that allegations of misconduct by the KCKPD are “unfounded.”

78. But the historic and present lack of transparency and accountability with respect to misconduct by the KCKPD and its officers makes such faith impossible. Indeed, one of the reasons Plaintiffs’ KORA Request is vital to the public interest is that the public does not have faith that KCKPD is willing and able to police itself and its membership. This lack of trust is further underscored by the strong community response to the Plaintiffs’ petition, which has garnered over 7,800 signatures urging the Department of Justice to open a Pattern-or-Practice Investigation into KCKPD. *See* Change.org, *Urge the DOJ: Open a Pattern-or-Practice Investigation into the Kansas City KS Police Dept* (last accessed Oct. 30, 2024), <https://www.change.org/p/the-department-of-justice-urge-the-doj-open-a-pattern-or-practice-investigation-into-the-kansas-city-ks-police-dept>. Notably, more than 900 of those signatures come from Kansas residents,

underscoring the local demand for transparency and accountability and reflecting deep-rooted concerns within the very community KCKPD is meant to serve and protect.

79. For at least these reasons, even if personally identifying information is redacted in deference to the privacy interests of the accused KCKPD officers, information regarding the number and nature of the subject complaints is necessary for the public to have some understanding of how complaints were handled, including how determinations that allegations were “unfounded” were made.

80. But instead of meeting its obligations under KORA, which is to be liberally construed in favor of disclosure, K.S.A. § 45-216(a), the Unified Government has doubled down on its boilerplate objections and exemption claims and refused to substantiate them.

81. Accordingly, the Unified Government has violated KORA with respect to Request No. 1. Plaintiffs thus request a declaration that the Unified Government has failed to meet its burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

2. Count II: Violation of KORA With Respect to Request No. 2

82. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

83. Request No. 2 of Plaintiffs’ KORA Request seeks “[a]ny and all complaints, whether formal or informal, written or oral” against 30 members of the KCKPD. [Ex. C].

84. The complaints at issue here are not limited to complaints relating to crimes or abusive conduct directed at the communities that KCKPD is responsible for policing. This Request is broader, including seeking complaints about conduct within the KCKPD.

85. For example, in 2018, a female police cadet filed a complaint with the Equal Employment Opportunity Commission and the Kansas Human Rights Commission against the KCKPD, then-Chief of Police Terry Zeigler, and her supervising officer. In her complaint, she alleged that Police Chief Zeigler fired her in retaliation for reporting that she had been sexually harassed and sexually assaulted by her supervising officer (who was subsequently found guilty of sexual battery). Katie Bernard, *KCK Police Fired Cadet After She Reported Sexual Assault by Her Supervisor: Lawsuit*, The Kansas City Star (May 22, 2019), <https://www.kansascity.com/news/local/crime/article230711104.html>.

86. This is not the only instance in which it has been alleged that Police Chief Zeigler (at best) failed to take appropriate action to address serious misconduct by a member of the KCKPD.

87. Disclosure of the kinds of complaints sought by Request No. 2 are in the public interest because Plaintiffs reasonably expect that such records will shed much-needed light on the permissive culture and lack of appropriate institutional controls within the KCKPD with respect to the conduct of its members.

88. The Unified Government denied Request No. 2 in its entirety on the same purported basis as Request No. 1, citing K.S.A. §§ 45-221(a)(4), (a)(10), (a)(11), and (a)(30). [Ex. E].

89. The Unified Government's response to Request No. 2 is improper and inadequate for the same reasons as its response to Request No. 1.

90. Plaintiffs incorporate the allegations of Paragraphs 67-81, as if fully set forth herein, into this Count with respect to Request 2.

91. Accordingly, the Unified Government has violated KORA with respect to Request No. 2. Plaintiffs thus request a declaration that the Unified Government has failed to meet its

burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

3. Count III: Violation of KORA With Respect to Request No. 3

92. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

93. Request No. 3 seeks documents reflecting certain information about the complaints sought by Request Nos. 1 and 2. That information includes: (1) the date, time, and location of the alleged incidents in the complaint, along with any related video footage; (2) the age, race, ethnicity, and gender of each individual involved; (3) the division, rank, age, race, and gender of all officers named in the complaint; (4) whether any of the alleged incidents in the complaint resulted in civil litigation, criminal charges, or criminal convictions; (5) whether any KCKPD officers were witnesses to any of the alleged incidents in the complaint; and (6) the occupation of the complainants, if known. [Ex. C].

94. The Unified Government denied Request No. 3 in its entirety on the same purported basis as Request No. 1, citing K.S.A. §§ 45-221(a)(4), (a)(10), (a)(11), and (a)(30). [Ex. E].

95. The Unified Government's response to Request No. 3 is improper and inadequate for the same reasons as its responses to Request Nos. 1 and 2.

96. Plaintiffs incorporate the allegations of Paragraphs 67-81, and 91, as if fully set forth herein, into this Count with respect to Request No. 3.

97. The Unified Government also objected to Request No. 3 stating that, under K.S.A. § 45-219(a), a public agency is not required to provide copies of video unless it was "shown or played to a public meeting of the governing body thereof."

98. But, again, the Unified Government failed to substantiate its objection. Not only did the Unified Government fail to confirm or deny the existence of any video(s) relating to the subject complaints, but the Unified Government failed to state whether any potentially responsive video(s) had been “shown or played to a public meeting” of the relevant governing body. [Ex. G].

99. To meet its burden here, the Unified Government cannot rely on a naked reference to § 219(a). The Unified Government must determine in the first instance whether there are responsive videos and then, for each, determine whether it is exempt under § 219(a) because it was not “shown or played to a public meeting of the governing body thereof.” To the extent any responsive video was shown or played, it must be disclosed.

100. There is no indication that the Unified Government has done the work to make those determinations and, thus, there is no indication that the Unified Government’s invocation of any exemption under § 219(a) is well-founded.

101. Accordingly, the Unified Government has violated KORA with respect to Request No. 3. Plaintiffs thus request a declaration that the Unified Government has failed to meet its burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

4. Count IV: Violation of KORA With Respect to Request No. 4

102. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

103. Request No. 4 of the Request seeks “[d]ocuments pertaining to any investigation, including any internal or administrative investigation, against any member of the KCKPD investigative division for engaging in any activity complained of in Request No. 1 and 2.” [Ex. C].

104. The Unified Government denied Request No. 4 in its entirety on the same purported basis as Request Nos. 1-3, citing K.S.A. §§ 45-221(a)(4), (a)(10), (a)(11), and (a)(30). [Ex. E].

105. The Unified Government's response to Request No. 4 is improper and inadequate for the same reasons as its response to Request Nos. 1-3.

106. Plaintiffs incorporate the allegations of Paragraphs 67-81, 91, and 97-101, as if fully set forth herein, into this Count with respect to Request 4.

107. Accordingly, the Unified Government has violated KORA with respect to Request No. 4. Plaintiffs thus request a declaration that the Unified Government has failed to meet its burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

5. Count V: Violation of KORA With Respect to Request No. 5

108. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

109. Request No. 5 seeks "[d]ocuments pertaining to any disciplinary actions . . . against any member of the KCKPD investigative division arising from or alleging any activity identified in Request No. 1 and 2." [Ex. C].

110. The Unified Government denied Request No. 5 in its entirety on the same purported basis as Request Nos. 1-4, citing K.S.A. §§ 45-221(a)(4), (a)(10), (a)(11), and (a)(30). [Ex. E].

111. The Unified Government's response to Request No. 5 is improper and inadequate for the same reasons as its response to Request Nos. 1-4.

112. Plaintiffs incorporate the allegations of Paragraphs 67-81, 91, 97-101, and 107, as if fully set forth herein, into this Count with respect to Request 5.

113. Accordingly, the Unified Government has violated KORA with respect to Request No. 5. Plaintiffs thus request a declaration that the Unified Government has failed to meet its burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

6. Count VI: Violation of KORA With Respect to Request No. 6

114. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

115. Request No. 6 seeks “all documents and communications in reaction to the FBI’s investigations into KCKPD,” and “all documents and communications concerning complaints of civil rights violations allegedly committed by members of the investigative or patrol divisions of the KCKPD that were submitted to the FBI and/or DOJ pursuant to a 2006 Memorandum of Understanding between the Unified Government of Wyandotte County/Kansas City, Kansas, and the DOJ” (“2006 MOU”). [Ex. D]

116. In contrast to Request Nos. 1-5, the Unified Government did not interpose a host of objections and exemptions claims in response to the Request. But the end-result was the same. The Unified Government has failed to produce any of the requested documents.

117. In its initial response to Plaintiffs’ KORA Request on January 11, 2024, the Unified Government stated only that the Request No. 6 was “under review.” [Ex. E.]

118. On April 1, 2024, Plaintiffs (through their counsel) sent a letter to the Unified Government that, among other things, requested an update and clarification regarding the Unified Government’s position on Request No. 6.

119. In its April 15, 2024 response, the Unified Government acknowledged that it had collected more than 23,000 emails responsive to the search terms that the Unified Government itself had decided upon. [Ex. T]. The Unified Government stated in its letter that it had conducted a “cursory” review of 30 randomly selected emails from the collection set and determined that they were not relevant. [*Id.*]. On that basis, the Unified Government refused to produce the emails (and, as a practical matter, any other documents responsive to Request 6) unless Plaintiffs agreed to narrow their requests and, incredibly, to advance-pay additional fees. [*Id.*].

120. Plaintiffs did not agree to narrow Request No. 6; and having already advanced more than \$2,200 in fees at the demand of the Unified Government without receiving any substantial production, Plaintiffs declined to do so again.

121. Plaintiffs did, however, as a final effort to resolve this dispute without judicial intervention, send a letter to the Unified Government on October 23, 2024, proposing additional search terms to help the Unified Government identify the most squarely relevant documents within the set of potentially relevant documents already identified by the Unified Government itself.⁸ Plaintiffs’ good faith effort was met with more obstruction from the Unified Government. Specifically, on November 12, 2024, citing unspecified and unsubstantiated “technical issues” supposedly affecting KCKPD’s email system, the Unified Government asserted that Request No. 6 imposed an unreasonable burden on the Unified Government and, therefore, denied the request in its entirety. [Ex. X].

⁸ Plaintiffs reject any effort by the Unified Government to shift the ultimate responsibility for identifying, collecting, and producing non-exempt responsive documents to Plaintiffs. That responsibility lies with the Unified Government, and the Unified Government still has not satisfied its obligations under the statute.

122. In short, despite Plaintiffs' efforts, the Unified Government still has not produced any of the emails. In fact, the only document the Unified Government has produced in its purported response to Request No. 6 is the March 9, 2006 Resolution of the Commission of the Unified Government endorsing the 2006 MOU and directing its execution and the development of an implementation plan.

123. The requested documents are of significant public interest, including because they relate to the civil rights violations and other malfeasance by the KCKPD or its members that formed the basis for the 2006 MOU; the persistence of such conduct notwithstanding the 2006 MOU; and the efforts, if any, by the KCKPD or any other part of the Unified Government to rectify such matters and/or otherwise effectuate the goals set forth in the 2006 MOU.

124. Moreover, as evidenced by the fact that the Unified Government did not interpose any objections or exemptions claims (timely or otherwise), the requested documents must be deemed non-exempt and thus subject to disclosure. But the Unified Government still has not produced the requested documents.

125. Accordingly, the Unified Government has violated KORA with respect to Request No. 6. Plaintiffs thus request a declaration that the Unified Government has failed to meet its burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

7. Count VII: Violation of KORA With Respect to Request Nos. 8 and 9

126. Plaintiffs reallege and incorporate by reference all of the foregoing allegations as though fully set forth therein.

127. Request Nos. 8 and 9 seek documents relating to retired and federally indicted KCKPD Detective Roger Golubski, who is scheduled to be tried soon on a raft of federal crimes committed under color of law as a member of the KCKPD.

128. Specifically, Request No. 8 seeks “[a]ny documents concerning any complaints or investigations pertaining to Golubski,” a former detective of the KCKPD; and Request No. 9 seeks “[a]ll communication with or regarding Golubski regarding: (i) Golubski’s work or conduct for the KCKPD investigative division or Detective Bureau or (ii) Golubski’s actions or role as a reserve officer from 2010 until terminated from that role in approximately 2014 or 2015.” [Ex. C].

129. The disclosure of these documents is of great public interest given the nature of the crimes that Golubski is alleged to have committed, including corruptly leveraging the power and authority vested in him as a member of the KCKPD. For example, Golubski is alleged to have sexually abused women and teenage girls, intimidated and coerced women, and protected sex traffickers for decades. The requested documents are necessary to identify and remedy the various injuries and injustices (e.g., wrongful convictions) resulting from Golubski’s misconduct. They are also necessary to shed light on the cultural deficiencies and lack of institutional controls within the KCKPD that allowed Golubski (and others like him) to operate with impunity for so many years.

130. As the federal indictments against Golubski make clear, there was *ample* evidence of his rampant criminality. Nevertheless, given the cover-up culture within the KCKPD, it took federal intervention for Golubski (who was allowed to retire from the KCKPD) to face any real threat of accountability for his decades-long criminal campaign against the people of Kansas City, Kansas.

131. As with Request Nos. 1-5, the Unified Government denied Request Nos. 8-9 in their entirety, again relying on improper *en masse*, boilerplate objections and exemption claims under K.S.A. §§ 45-221(a)(4), (a)(10) and (a)(11). [Ex. E].

132. Plaintiffs incorporate the allegations of Paragraphs 67-81, 91, 97-101, and 107, as if fully set forth herein, into this Count with respect to Request Nos. 8 and 9.

133. Further elaborating with respect to § (a)(4), the Requests do not seek personnel records or performance ratings; rather, they seek documents relating to complaints and investigations relating to Golubski's alleged rampant misconduct during his decades-long run as a member of the KCKPD.

134. Given the public nature of the allegations against Golubski, Plaintiffs submit that disclosure of the requested complaints and related investigative records in which Golubski is personally identified would not run afoul of § (a)(4). Moreover, to the extent anyone other than Golubski is identified in those records, their personally identifying information can be redacted and the remainder of the document produced in accordance with K.S.A. § 45-221(d).

135. Moreover, as to the Unified Government's claimed exemptions, they are not intended to, and should not be construed to, broadly shield *from the public* any and all disclosure about complaints *by the public* about alleged criminal activity by members of law enforcement, especially without any showing that disclosure would run afoul of the factors listed in §§ (a)(10)(A)-(F), including, without limitation, that disclosure is in the public interest, would not interfere with any *prospective* law enforcement action, criminal investigation or prosecution, and would not reveal confidential investigative techniques or procedures not known to the general public. The Unified Government has made no such showing in its blanket invocation of an exemption under (a)(10).

136. Here, while Plaintiffs acknowledge that there may be records that are reasonably exempt because they relate to *prospective* law enforcement actions, criminal investigations, or prosecutions against Golubski, and therefore could run afoul of any of the interests articulated in §§ (a)(10)(A)-(F), the Unified Government has made no such showing in its blanket invocation of an exemption under § (a)(10).

137. Nor could the Unified Government make such a showing under § (a)(10) with respect to Golubski. For example, not every responsive complaint filed or otherwise lodged against Golubski over his 30-plus year career is the subject of *prospective* law enforcement actions, criminal investigations, or prosecutions. Complaints and/or investigations that are closed or that have effectively timed-out due to the running of the applicable statutes of limitations are, by definition, outside the scope of § (a)(10). Thus, the Unified Government's blanket invocation of the § (a)(10) criminal investigation exemption, even with respect to federally indicted Golubski, is plainly overbroad and insufficient.

138. And, again, even if some records include information that is arguably exempt from disclosure under applicable law (*e.g.*, records that would reveal the identity of any confidential source or undercover agent, records that would reveal the identity of any victim of a sexual offense, or records that would reveal confidential investigative techniques), that concern can be addressed through appropriate redactions. *See* K.S.A. § 45-221(d).

139. Accordingly, the Unified Government has violated KORA with respect to Request Nos. 8-9. Plaintiffs thus request a declaration that the Unified Government has failed to meet its burden with respect to its exemption claims and otherwise failed to comply with KORA; that the requested documents are subject to disclosure; and that the Unified Government must produce them to Plaintiffs within 30 days.

8. Count VIII: Violation of KORA By Imposing Unreasonable Fees

140. Plaintiffs reallege and incorporate by reference all the foregoing allegations as though fully set forth therein.

141. On November 16, 2023, Plaintiffs submitted the KORA Request.

142. On November 26, 2023, the Unified Government notified Plaintiffs that it had estimated fees in the amount of \$2,202.48 to produce the requested records. [Ex. D].

143. In so doing, the Unified Government did not explain how it had calculated the fee. Instead, the Unified Government indicated that it had (arbitrarily) landed on \$2,202.48 as (i) twice the fee charged in connection with a previous KORA request by Plaintiff Roc Nation in April 15, 2021 and because (ii) the new KORA request (the one at issue here) is “twice as voluminous.”

144. The Unified Government demanded that Plaintiffs pay the fee in advance.

145. On December 20, 2023, Plaintiffs asked the Unified Government for instructions on how to remit payment. [Ex. J – December 20, 2023 Message from Plaintiffs].

146. On December 21, 2023, Plaintiffs asked the Unified Government to provide an estimate of the volume of its anticipated production and confirmed that the required payment was forthcoming.

147. Having received no response from the Unified Government, Plaintiffs sent a follow-up message on January 1, 2024, reiterating their request for remittance instructions. [Ex. K – January 1, 2024 Message from Plaintiffs].

148. On January 3, 2024, the Unified Government responded to Plaintiffs’ requests for remittance instructions and further stated that “[a]ny overpayment will be refunded, and if additional payment is due, we will notify and invoice you accordingly before release of additional records.” [Ex. L – January 3, 2024 Message from Unified Government].

149. On January 3, 2024, Plaintiffs reiterated their request for an estimate regarding the volume of the Unified Government's anticipated production. [Ex. M – January 3, 2024 Message from Plaintiffs].

150. On January 4, 2024, the Unified Government responded that it had not yet determined the total number of documents that it would provide. [Ex. O – January 4, 2024 Message from Unified Government].

151. On January 9, 2024, in accordance with the payment instructions provided by the Unified Government, Plaintiffs remitted payment online via credit card in the amount of \$2,202.48.

152. On January 11, 2024, the Unified Government made its first production of documents related to Request Nos. 10, 12, 13 and 16. [Ex. P – January 11, 2024 Email from Unified Government].

153. The Unified Government did not produce documents responsive to any of Plaintiffs' other Requests. Instead, that same day, January 11, 2024, the Unified Government issued its letter setting forth its boilerplate objections and exemption claims. [Ex. E].

154. The Unified Government made additional productions relating to Request No. 16 on a rolling basis over the next three months. [Ex. Q – February 27, 2024 Email from Unified Government; Ex. R – March 7, 2024 Email from Unified Government; Ex. S – March 15, 2024 Email from Unified Government].

155. As noted above, to date, despite previously representing that its anticipated production would be "voluminous" and "extensive" (and demanding payment in advance of a correspondingly steep record fee), the Unified Government's production has been anything but voluminous.

156. To date, the Unified Government produced only 225 documents (1,851 pages in total).

157. Of those 225 documents, 193 are simply personnel locator records (the records the Unified Government produced on a rolling basis over a three-month period). The remaining 32 documents consist primarily of field manuals and other training materials and various departmental policies, as well as a handful of barebones “Deaths in Custody” records. *See, supra*, ¶¶ 14-16.

158. On April 1, 2024, Plaintiffs sent the Unified Government a letter noting the stark discrepancy between the anticipated “voluminous” production, the actual production, and the fee charged and asking the Unified Government to substantiate the fee. [Ex. T – April 1, 2024 Letter from Plaintiffs]. The Unified Government failed to do so.

159. Because the Unified Government refused to produce the vast majority of the records sought by Plaintiffs’ KORA Request, however, the Unified Government eventually (in July 2024) refunded a portion (\$715.08) of the \$2,202.48 records fee for which the Unified Government had demanded as advance payment.⁹

160. The resulting net charge of \$1,487.40 to produce 225 documents is still excessive.

161. K.S.A. § 45-219(c) allows public agencies to “prescribe reasonable fees for providing access to or furnishing copies of public records.”

162. Pursuant to the statute, fees for copies of records may not exceed the actual cost of furnishing copies, including cost of staff time. K.S.A. § 45-219(c)(1).

163. Further, the statute specifies that “a fee for copies of public records which is equal to or less than \$.25 per page shall be deemed a reasonable fee.” *Id.*

⁹ Plaintiffs did not actually receive that partial refund payment until a week ago, on October 22, 2024.

164. Here, the Unified Government has failed to substantiate its original fee or the net fee after the partial refund.

165. The Unified Government ultimately (after a partial refund) charged Plaintiffs \$1,487.40 to produce 225 ancillary documents totaling 1,851 pages.

166. This fee is especially unreasonable for members of the public seeking access to information under KORA, as it imposes a significant barrier to transparency and discourages individuals from exercising their right to obtain public records.

167. A reasonable cost for such records should not exceed \$0.25 per page, which would have totaled a comparatively reasonable and less chilling fee of \$462.75 (1,851 x \$0.25).

168. The Unified Government's imposition of excessive advance fees in connection with the public records request is unreasonable and violative of KORA.

1. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court enter a judgment:

A. Declaring that Defendants have failed to assert their claimed exemptions with the specificity required by KORA and, thus, have failed to substantiate their claimed exemptions.

B. Declaring that the records sought in Plaintiffs' KORA Request are subject to disclosure pursuant to K.S.A. § 45-218(a), including because Defendants have failed to substantiate their claimed exemptions;

C. Declaring that the disclosure of the requested records would not violate any of the interests articulated in K.S.A. §§ 45-221 (a)(10)(A)-(F) and, therefore, are subject to disclosure;

D. Declaring that Defendants have failed to comply with their obligations under KORA by failing to timely interpose properly substantiated objections;

E. Declaring that Defendants have failed to comply with their obligations under KORA by failing to timely produce all requested records subject to disclosure under KORA;

F. Declaring and ordering that Defendants must produce within 30 days all the records sought in Plaintiffs' KORA Request that are subject to disclosure pursuant to K.S.A. § 45-218(a);

G. Declaring that the Unified Government's demand for advance payment of \$2,202.48 as a records fee was unreasonable under K.S.A. § 45-219(c)(5);

H. Declaring that the fees charged by the Unified Government in connection with KORA requests are unreasonable;

I. Declaring that the reasonable amount of the fee charged by the Unified Government for the records produced through the date of the filing of this complaint is not more than \$462.75;

J. Declaring that the Unified Government practice of requiring advance payment of unreasonable fees in connection with KORA requests is unlawful;

K. Declaring and ordering that the Unified Government must remit to Plaintiffs the excessive fee charged for the Unified Government's production through the date of this filing;

L. Declaring and ordering Defendants to complete training approved by the Kansas Attorney General regarding KORA compliance pursuant to K.S.A. § 45-222(a);

M. Awarding Plaintiffs their attorneys' fees and costs in connection with this action; and

N. Ordering such further relief in favor of Plaintiffs and against Defendants as this Court deems reasonable and necessary under the circumstances.

DATED: November 19, 2024

Respectfully submitted,

One of Plaintiffs' Counsel

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Pro Hac Vice Motions Forthcoming