



Records Management Guidance

Text Messages on Personal Cell Phones or Other Personal Devices

Electronic text messages on personal devices are considered public records if they relate King County business and are sent or received within the scope of employment. It is the employee's responsibility to preserve any public records that are on personal devices, in accordance with applicable records retention schedules. This document provides guidance on creating and managing these records. Text messages on County-issued devices are covered in a separate guidance document.

Text messages on personal devices are public records if created by an employee within the scope of their employment with King County.

If a text message relates to the conduct of public business (which means it is about the work of King County), and it was sent or received within the scope of employment, then it satisfies the definition of a public record in chapter 40.14 RCW and chapter 42.56 RCW.

State law requires such text messages to be retained and managed properly. Unless the content of the text message is statutorily exempted or prohibited from public access, the records are subject to disclosure under the Public Records Act, chapter 42.56 RCW.

Case law (*Nissen v. Pierce County*) determined that text messages sent or received by a public employee within the scope of employment are public records under the Public Records Act (PRA), ***even if the employee is using a personal cell phone or other device.***

Text messages are sent "within the scope of employment" if (1) the job requires it, (2) the employer directs it, or (3) it furthers the employer's interests.

It does not matter if the device involved is personally owned; the records are still public records.

Keep text message communications transitory

Text messages can be challenging to capture, retain, or produce for public disclosure or legal discovery. Therefore, it is recommended that King County employees refrain from using personal cell phones or other personal devices for King County business. At a minimum, text messages should remain transitory in nature, meaning non-substantive communications. For example, messages such as "Will you be joining our meeting at 2pm?" or "I am picking up a cake for John's retirement party" are considered transitory.

Use other official county applications whenever possible

If substantive communications need to be sent using a personal cell phone or other personal device, do so via email using your King County Outlook email account via the Outlook app. The County Outlook app stores the record on a county system and not on the cellphone, which ensures the messages are searchable in the event of disclosure or discovery and can be retained for their required retention period. You can also use the Teams app for transitory chat



King County Records Management Program
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www.kingcounty.gov/recordsmanagement

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communications. You can download either app to your phone from Google Play or the App Store and link your King County account.

How to capture text messages for retention

If you choose to, or have used, text messaging on a personal phone for County business, you have a responsibility to retain the messages for their retention. Contact the Records Management Program for assistance if you have questions on retention requirements. In the event of a public records request contact your department's Public Records Officer or the Public Records Program for instruction on how best to manage and produce those records.



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