

## OFFICE OF THE ATTORNEY GENERAL



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MAR - 6 1995

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Honorable Jeanne Stanfield  
Executive Secretary  
State of Alabama  
Hearing Instrument Dealers Board  
400 South Union Street  
Suite 125  
Montgomery, AL 36130-3010

Hearing Instrument Dealers  
Board - Public Information -  
Public Records - Complaints

The Hearing Instrument Dealers Board may adopt a policy of not releasing information concerning written complaints received by the Board while the complaints are being investigated.

Dear Ms. Stanfield:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Are complaints filed against licensees with the Alabama Hearing Instrument Dealers Board public records which should be released at the request of the public?

FACTS AND ANALYSIS

In your request for an opinion, you set forth:

This board has received requests from attorneys at law, the general public and other interested parties requesting the release of information as to complaints filed against certain licensed fitters, dealers or dispensers.

Alabama's public records law provides that every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute. Code of Alabama 1975, § 36-12-40. However, the courts have recognized that recorded information received by a public officer in confidence, sensitive personnel records, pending criminal investigations, and records the disclosure of which would be detrimental to the best interests of the public are some of the areas which may not be subject to public disclosure. Stone v. Consolidated Pub. Co., 404 So.2d 678, 681 (Ala. 1981). The Attorney General has recognized that police investigations may be kept confidential, that there are sound policy reasons for keeping reports confidential, and that police departments may adopt uniformly applied policies of confidentiality of records. Attorney General's opinion to Frank Roberts, dated August 9, 1976; Attorney General's opinion to Richard Calhoun, dated April 2, 1990, A.G. No. 90-00020; Attorney General's opinion to David Stout, dated February 23, 1989, A.G. No. 89-00193.

The Board of Hearing Instrument Dealers has been charged with the duty of investigating written complaints filed against its licensees to determine whether the charges warrant a hearing thereon. Code of Alabama 1975, § 34-14-9(a). By conferring these police powers upon the board, the legislature has required the board to fulfill the essential government function of protecting the public from persons who are not qualified to practice the profession or who have in some way violated the standards of practice. Code of Alabama 1975, § 34-14-9(c). While investigating complaints and making the determination of whether to proceed upon charges, it may be that the board determines that their investigation would be hampered by making the complaint public information. The Board may determine to keep its complaints confidential at that stage.

We note, however, in closing, that the Board is subject to the Alabama Sunshine Law, codified at Code of Alabama 1975, § 13A-14-2(a). If the investigation of a written complaint results in the Board filing charges against the licensee, that fact becomes public knowledge. As such, the

Board should make public the identity of a licensee who has been disciplined, the factual basis for the discipline and the nature and term of the discipline imposed. Attorney General's opinion to William Beidleman, dated June 21, 1993, A.G. No. 93-00268. Further, transcripts of hearings which are open to the public are public records and should be disclosed. Attorney General's opinion to Sarah Hines, dated December 17, 1985, A.G. No. 86-00095.

CONCLUSION

The Hearing Instrument Dealers Board may adopt a policy of not releasing information concerning written complaints received by the Board while the complaints are being investigated.

I hope this sufficiently answers your question. If our office can be of further assistance, please contact Jane L. Brannan of my staff.

Sincerely,

JEFF SESSIONS  
Attorney General

By:



JAMES R. SOLOMON, JR.  
Chief, Opinions Division

JS/JLB/jho  
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