

OFFICE OF THE ATTORNEY GENERAL ⁸⁶⁻⁰⁰⁰³⁸



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OCT 31 1985

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Dallas County Commission
P. O. Box 529
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Counties - Public Records - Right
of Privacy

The governing body of Dallas
County may release information
concerning salary or other
payroll compensation of county
employees.

Dear Mr. Blackwell:

The Attorney General is in receipt of your recent request for an opinion on behalf of the Dallas County Commission. Your question is as follows:

May the governing body of Dallas County release information concerning salary or other payroll compensation of employees of the county.

The answer to your question is yes. Public writings are defined in § 41-13-1 Code of Alabama 1975 and the right of the citizens of this state to inspect and take a copy of any public writing, except as otherwise expressed and provided by statute is established by § 36-12-40 Code of Alabama 1975.

The Alabama Supreme Court has further defined public writings and the right of the public to inspect public writings in Stone v. Consolidated Publishing Company, 404 So. 2nd 678 (1981).

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It is the opinion of the Attorney General that "salary or other payroll compensation" of employees of Dallas County is a matter of public record and the public is entitled to inspect that record.

The Court in Stone, supra at 681 noted that "sensitive personnel records" may be some of the records that are not subject to public disclosure. It is the opinion of the Attorney General that "salary or other payroll compensation" is not such a sensitive personnel record so that it is entitled to protection. The Court further noted in Stone, supra at 681 that it was required to

"...balance the interest of the citizens in knowing what their public officers are doing in the discharge of public duties against the interest of the general public and having the business of government carried on efficiently and without undue interference."

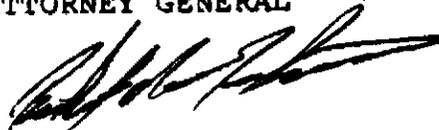
We believe that when balancing the interest of public employees against the rights of the general public to know what their government is doing then salary or other compensation data pertaining to a public employee is a public record and is due to be disclosed.

The Attorney General has further addressed this issue in an opinion addressed to Commissioner John W. Hodnett of the Department of Conservation and Natural Resources. (A copy of this opinion is attached hereto for your information.)

We hope that we have fully and completely answered your question and if we may provide you with further information concerning this matter, please feel free to contact us at any time.

Sincerely yours,

CHARLES A. GRADDICK
ATTORNEY GENERAL



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Hon. John W. Hodnett
Commissioner
Department of Conservation and
Natural Resources
64 North Union Street
Montgomery, Alabama 36130

Public Records - State
Agencies - Conservation and
Natural Resources - Privacy

The Alabama Supreme Court has designated confidential information and sensitive personnel files as areas which may not be subject to public disclosure.

Dear Commissioner Hodnett:

We have received your request for an opinion from our office regarding access to records. Your specific questions were as follows:

1. Is the personnel officer for the Department of Conservation and Natural Resources required to furnish information or copies of documents contained in department personnel files to a member of the general public or the news media upon request?
2. If there is no requirement that the requested information be released, is there any prohibition against the release of information or documents contained in the personnel files of department employees?

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As you know, the right of citizens to inspect "public writings" is embodied in Code of Alabama, 1975, § 36-12-40. "Public records" are defined in § 41-13-1 as follows:

As used in this article, the term "public records" shall include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transaction of public business and shall also include any record authorized to be made by any law of this state belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer.

The Alabama Supreme Court has further defined these "public writings" within the meaning of § 36-12-40 to be "such a record as is reasonably necessary to record the business and activities required to be done or carried on by a public officer so that the status and condition of such business and activities can be known by the public." [See Stone v. Consolidated Publishing Company, 404 So.2d 678 (1981).]

The Court went on to say 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 disclosure.

In light of this discussion, it is our opinion that public policy as well as case law favor disclosure of information. If, however, you deem the information requested to be of a sensitive nature or to fall into one of the categories enumerated by the Supreme Court in Stone, there is no requirement that you release the information. We might point out that if challenged on a

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refusal to release information, the burden falls on the agency to show that it properly refused access.

We are in the business of serving the public and if a reasonable request is made for information not in the categories set out by the Court, then every effort should be made to comply with the demand for access.

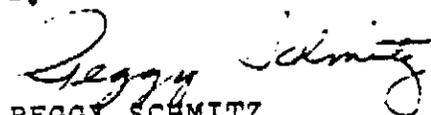
In answer to question two, the law is intended to prevent exploitation of the individual by those with a speculative purpose or idle curiosity. Thus the prohibition would be the protection of the privacy of the individual. Absent legislative limitation as to which records fall within the purview of § 36-12-40, keep in mind that the judiciary can balance the interests of the parties and determine what areas are subject to public disclosure.

We hope this information will assist you. If we may be of further help, please contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-



PEGGY SCHMITZ
Assistant Attorney General

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