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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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Honorable Terry L. Davis  
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101 Line Avenue  
Post Office Box 537  
Boaz, Alabama 35957

Public Records – Fees – Marshall County

A mugshot in a computer database is a public record that must be provided to bail bonding companies under the Open Records Law unless it falls within a recognized exception.

A reasonable fee may be assessed for the actual cost of providing copies or for retrieving information.

Dear Chief Davis:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

1. Do mugshots in a police computer database have to be provided to bail bonding companies?
2. If so, can a maximum fee be charged?
3. Would any privacy rights be violated?

FACTS AND ANALYSIS

Alabama law promotes the public's right to access records. Section 36-12-40 of the Code of Alabama states that "[e]very citizen has a right to take a copy of any public writing of this state, except as otherwise expressly provided by statute." ALA. CODE § 36-12-40 (2001). The Supreme Court of Alabama has held that "[i]t is clear from the wording of § 36-12-40 that the legislature

intended that the statute be liberally construed. In addition, statutes intended for the public benefit are to be construed in favor of the public. *Gant v. Warr*, 286 Ala. 387, 240 So. 2d 353 (1970).” *Chambers v. Birmingham News Co.*, 552 So. 2d 854, 856 (Ala. 1989).

The leading Alabama open records case is *Stone v. Consolidated Pub. Co.*, 404 So. 2d 678 (Ala. 1981). In *Stone*, the Supreme Court of Alabama considered privacy interests under the Open Records Law, choosing to “balance the interest of the citizens in knowing what their public offices are doing in the discharge of public duties against the interest of the general public in having the business of government carried on efficiently and without undue interference.” *Id.* at 681. The Court stated the following exceptions to the general rule of disclosure: (1) recorded information received by a public officer in confidence; (2) sensitive personnel records; (3) pending criminal investigations; and (4) records the disclosure of which would be detrimental to the best interests of the public. *Id.* at 680.

This Office has long recognized that the front side of an arrest report, not containing investigatory information, is a public record. *See, e.g.*, Opinion to Honorable Tommy Ed Roberts, State Senator, dated October 7, 1999, A.G. No. 2000-004. This Office has also stated that an executed arrest warrant is a public record [Opinion to Honorable Samuel H. Monk, II, Circuit Judge, Seventh Judicial Circuit, dated December 7, 1989, A.G. No. 90-00067], as is information contained in a computer database [Opinion to Honorable Ira J. Silberman, Director, Alabama Development Office, dated June 4, 1998, A.G. No. 1998-157]. Public records are available to a business to the same extent as for a private individual [Opinion to Honorable David S. Maxey, Attorney, Plumbers and Gas Fitters Examining Board, dated March 1, 2001, A.G. No. 2001-107]. It is the opinion of this Office that a mugshot is a public record.

A reasonable fee for supplying the mugshot is permissible. In an opinion issued to Tim Parker Jr., this Office stated the following:

Custodians for public records must provide free access to public records. If copies of records are requested, when necessary due to budgetary constraints, a reasonable charge may be assessed based upon a recoupment of actual costs of providing copies or for retrieving the information. Such charges cannot be imposed to restrict public access.

Opinion of the Attorney General to the Honorable Tim Parker Jr., Member, House of Representatives, dated June 12, 1998, A.G. No. 98-00161. A reasonable fee can be charged for computer records as for any other records. Opinions to Honorable Bobby M. Junkins, Probate Judge, Etowah County, dated July 18,

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2000, No. 2000-196; Honorable Lucy Baxley, State Treasurer, dated July 17, 1995, A.G. No. 95-00266.

CONCLUSION

A mugshot in a police computer database is a public record that must be provided to bail bonding companies under the Open Records Law unless it falls within a recognized exception. A reasonable fee may be assessed for the actual cost of providing copies or for retrieving information.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING  
Attorney General

By:

A handwritten signature in cursive script that reads "Carol Jean Smith".

CAROL JEAN SMITH  
Chief, Opinions Division

TK/WB  
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