

1977 WL 37394 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 7, 1977

*1 Sheriff Frank Powell
Sheriff of Richland County
Columbia, SC

QUESTION:

Does § 30-3-10 et seq., Code of Laws of South Carolina (1976), also known as the Freedom of Information Act, require the civil and criminal records of the Richland County Sheriff's Office to be open for inspection by the public?

AUTHORITIES:

30-3-10 et seq., Code of Laws of South Carolina (1976), also known as Freedom of Information Act; 1972-73 Atty. Gen. Op. No. 3490, p. 80; 1972-73 Atty. Gen. Op. No. 3348, p. 187; 66 Am.Jur.2d, Records and Recording Laws § 27.

DISCUSSION:

You have requested an opinion from this office concerning whether the Office of the Sheriff of Richland County must open for public inspection criminal and civil records as required by § 30-3-10 et seq., Code of Laws of South Carolina (1976) more commonly known as the Freedom of Information Act. Section 30-3-20 of the Code provides:

'Public records' means the records of meetings of all public agencies . . . Records such as income tax returns, medical records, scholastic records, adoption records and other records . . . shall not be deemed to be open to the public under the provisions of this chapter, nor shall the definition of public records include those records concerning which it is shown that the public interest is best served by no disclosing them to the public. (emphasis added).

In an opinion by Daniel R. McLeod, Attorney General, he noted that complaints filed in writing with a police department and sheriff's department were most probably not public records as 'the disclosure of such matters is contrary to the public interest . . . ' 1972-73 Atty. Gen. Op. No. 3490, p. 80. Further, the Attorney General in a 1972 opinion stated that the determination of whether or not the public interest will be adversely affected by the disclosure of information must be made by the public body concerned. If this determination is questioned, the public body must satisfy the court in appropriate injunctive proceedings that such non-disclosure is in the public interest. 1972-73 Atty. Gen. Op. No. 3348, p. 187.

It is the opinion of this office that the civil and criminal records of the office of Sheriff of Richland County need not be opened to the public for inspection since such disclosure most probably would be adverse to the public interest. This same view is expressed in 66 Am.Jur.2d, Records and Recording Laws § 27:

The right of inspection does not extend to all public records or documents, for public policy demands that some of them, although of a public nature, must be kept secret and free from common inspection, such as diplomatic correspondence and letters and dispatches in the detective police service, or otherwise relating to apprehension, prosecution, and detention of criminals.

CONCLUSION:

The Freedom of Information Act does not require the office of the Richland County Sheriff to open its civil and criminal records for inspection, since disclosure of the same most probably would not be in the public interest.

*2 Richard P. Wilson
Assistant Attorney General

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