

1973 S.C. Op. Atty. Gen. 85 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3493, 1973 WL 20956

Office of the Attorney General

State of South Carolina

Opinion No. 3493

March 13, 1973

\*1 Honorable Colden R. Battey, Jr.  
Chairman  
County Council of Beaufort County  
Post Office Box 1031  
Beaufort, South Carolina 29902

Dear Mr. Battey:

Thank you for your letter of February 27, 1973, inquiring whether the Jail Book, which records all prisoners in the jail and contains specific charges against them, is open to examination by the public.

It is my opinion that these records must be made available to the public under the provisions of Section 1–20.1, Code of Laws, 1962, as amended, which constitutes the Freedom of Information Act enacted in 1972. If it is considered that the disclosure of such information will not best serve the public interest, such contention must be sustained in an action which may be brought to compel disclosure, as authorized by the Freedom of Information Act. It is my view that the failure to disclose on the grounds that the public interest would not thereby be best served is of doubtful validity.

Disclosure of the Jail Book records must also be considered in the light of a directive that has been issued by the Supreme Court of South Carolina. I am enclosing a copy of that directive for your information. It was distributed generally to all law enforcement officers in the State and Sheriff Wallace is familiar with it.

You ask additionally whether County Council, as governing body of the County, can pass an ordinance that would establish information contained in the Jail Book as being privileged. The Freedom of Information Act excludes from its definition of public records those records ‘which by law are required to be closed to the public.’ It is my opinion that the County Council most probably does not have the authority to make specific documents within its custody immune from public scrutiny. I view the phrase ‘which by law’ as meaning statutes of general application; otherwise, a county or a city could avoid the application of the Freedom of Information Act by making all of its records privileged. The anomalous result would also be that identical records in one county or city would be open to public inspection, whereas the identical documents in another county or city would not be available to the public even though both contained the same information.

While I think that such a prohibitive ordinance would be impossible to sustain, I think also that various officers of the County, such as the sheriff, would be required to comply with such ordinances unless and until they may be declared void.

Very truly yours,

Daniel R. McLeod  
Attorney General

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