

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL



OPINIONS
DIVISION

July 16, 2014

The Honorable Delbert Hosemann
Secretary of State
Post Office Box 136
Jackson, Mississippi 39205

Re: Mississippi Public Records Act of 1983

Dear Secretary Hosemann:

Attorney General Jim Hood has received your request for an Official Opinion regarding redaction of personal information from pollbooks and has assigned it to me for reply. Please be advised that Section 7-5-25 of the Mississippi Code prohibits the issuance of an Official Opinion "after suit is filed" As you know, lawsuits have been filed on this issue.

For your information, it has been our position and advice to local officials that the provisions of the Mississippi Public Records Act are indicative of a general policy of the state with regard to the release of sensitive personal information, including social security numbers and birth dates, which appear in public records. In a previous opinion to Berryman dated March 22, 2013, we stated:

We do not generally opine with regard to federal law. However, we note that in certain contexts, the release of personal information like social security numbers and birth dates may be a violation of federal law. If it is determined that the release of such information violates federal law, then the information is exempt under the provisions of Section 25-61-11. MS AG Op., Thompson (August 8, 2008).

With regard to Mississippi law, Section 25-1-111 addresses social security

numbers found in records in the possession of state agencies and provides:

When any state agency mails, delivers, circulates, publishes, distributes, transmits, or otherwise disseminates, in any form or manner, information or material that contains the social security number of an individual, the agency shall take such steps as may be reasonably necessary to prevent the inadvertent disclosure of the individual's social security number to members of the general public or to persons other than those persons who, in the performance of their duties and responsibilities, have a lawful and legitimate need to know the individual's social security number. State agencies shall be in compliance with this section on or before July 1, 2003.

Section 23-15-165 addresses social security numbers and dates of birth found in voter registration files and provides:

(6)(a) Social security numbers, telephone numbers and date of birth and age information in statewide, district, county and municipal voter registration files shall be exempt from and shall not be subject to inspection, examination, copying or reproduction under the Mississippi Public Records Act of 1983.

*2 (b) Copies of statewide, district, county or municipal voter registration files, excluding social security numbers, telephone numbers and date of birth and age information, shall be provided to any person in accordance with the Mississippi Public Records Act of 1983 at a cost not to exceed the actual cost of production.

We are aware that exceptions to the Mississippi Public Records Act are to be narrowly construed. However, we find that Sections 25-1-111 and 23-15-165 are in pari materia with the provisions of the Mississippi Public Records Act and are indicative of a general policy of the state with regard to the release of sensitive personal information, including social security numbers and birth dates, which appear in public records. See *Lopez v. Holleman*, 219 Miss. 822, 69 So.2d 903 (Miss. 1954). As such, we opine that Sections 25-1-111 and 23-15-165 are applicable to all public bodies as defined in Section 25-41-3(a). This opinion is consistent with previous opinions of this office. See MS AG Ops., *Beech* (November 15, 2002) and *McGinnis* (November 3, 2008).

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Section 25-1-111 allows limited disclosure of social security numbers to persons "who, in the performance of their duties and responsibilities, have a lawful and legitimate need to know the individual's social security number." Permitting such limited disclosure requires that the public body or public officer in possession of the records exercise careful judgement in determining whether the requestor's need for the records is consistent with the language of Section 25-1-111.

It is a matter of common knowledge that social security numbers and birth dates are used for the purpose of committing identity theft, which is a felony under Section 97-19-85. Oftentimes, a legitimate request seeking a record for the purpose of determining or confirming a social security number, which has previously been provided to the requestor by an individual, can be satisfied by redacting the first five or six digits and leaving only the last few digits visible.

We note that the poll books have a field for each voter that contains their voter identification number, which is a unique number. It would appear that these numbers can be used to distinguish between persons with identical names.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By: 
Phil Carter *by ck*
Special Assistant Attorney General