

Public Records Law & The Tax Office

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Local TV station records lawsuit underscores North Carolina's text message troubles

Via Pixabay

A PAIR OF NORTH CAROLINA sheriff's offices, in Ashe and Union counties, have a couple things in common. Each is on the receiving end of open records requests from an investigative TV reporter named Nick Ochsner, who asked for copies of text messages sent by law enforcement officials. And each office is pushing back against those requests to different degrees.

Wake schools sent postcards containing Social Security numbers

Posted December 3, 2009 9:45 p.m. EST
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RALEIGH, N.C. — Wake County schools sent out thousands of postcards to parents that inadvertently contained their children's Social Security numbers, officials said Thursday.

Michael Evans, a spokesman for the Wake County Public School System, said the postcards were reminders for parents who opted to send their children to magnet or traditional calendar schools to let the district know if they want to keep their children there.

"A programming error caused Social Security numbers to be printed on some address labels," Evans said.



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Two Very Different Public Records Questions

1. Do I have to **disclose** this record?
2. Can I **destroy** this record?

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Which of the following are public records that must be made available upon request?

Emails about a taxpayer sent to the assessor from your home computer on a Saturday.

Emails about which stores had toilet paper available over the weekend send from your work computer on a Monday morning.

Both

Neither

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Content is King

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What are public records?

G.S. 132-1

- All documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material **regardless of physical form or characteristics**

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What are public records?

G.S. 132-1

- made or received pursuant to law or ordinance in connection with the transaction of public business (*ie., created while carrying out lawful duties*)
- by any agency of N.C. government or *its subdivisions*



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Basic Policy: Open Access

- Public records and public information compiled by the agencies of North Carolina government or its subdivisions are the *property of the people.*



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Basic Policy: Open Access

- It is the policy of the state that people may obtain copies of public records and public information free or at minimal cost **unless otherwise specifically provided by law.**

What tax information is NOT public?

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- Local tax records showing income or gross receipts
- Inventory lists, asset & liability statements, etc. related to listing and appraisal of property
- Social security numbers and other “personal identifying information”
- Public enterprise customer billing information



Confidential and Non-Public Info

- Listing and Appraisal Supporting Info:
 - May not release
- Income/Gross Receipts:
 - May release after redaction
- Utility Billing Info:
 - May release after redaction
- Social Security Numbers or “PII”:
 - Must release after redaction

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Non-Public Information

- Coach K visits your finance office and demands to see the most recent water and sewer bill for Coach Roy. He thinks Roy is getting an illegal discount.
- How may you respond?

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How do you respond?

Redact any personal identifying info and release the records.


Refuse the request.

Either answer is okay.

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You receive an unpleasant call from a county commissioner who is furious that the county includes names and addresses of law enforcement officers on its tax website. She claims that this information is putting those officers at risk. The commissioner demands that you remove all such information from the tax website.

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May you remove the law enforcement officers' info from the county tax website?

Yes, assuming the county board and/or manager approve.

No.

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§ 153A-98.

Privacy of employee personnel records

(c4) Even if considered part of an employee's personnel file, the following information regarding any sworn law enforcement officer shall not be disclosed to an employee or any other person . . .

(1) Information that might identify the residence of a sworn law enforcement officer.

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Copy of Taxpayer's Check: What is Confidential?

New Account Owner 45 Money Street Atlanta, GA 55545 (111) 555-1234	Date _____	6100
Pay to the Order of _____	\$ <input type="text"/>	
Amount _____		Dollars
For _____	Signature _____	
:123456711 : 123451234543: 6100		

Routing Account Check
Number Number Number

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What parts of a copy of a check are confidential?

- All of it. Copies of checks may not be disclosed.
- None of it. The unredacted document must be disclosed.
- The address, phone number, routing number, and bank account number are confidential.
- The phone number and account number are confidential.
- Only the account number is confidential.

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Occupancy Taxes

- **§ 160A-215. Uniform provisions for room occupancy taxes.**
- (d) Administration. - . . . A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

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A hotel operator asks for a list of all businesses that have paid occupancy taxes in the past year. May you provide this list?

Yes, so long as you do not disclose the amount of taxes paid by each business.

No.

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An individual request public records by completing a form available in your office. He provides his name as "Mickey Mouse." Must you process the records request?

Yes.

No.


Only if he can prove that he's married to Minnie.

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Geraldine has asked for copies of all property record cards from her block and from the block on which the county manager lives, which would total roughly 75 record cards. May you . . .

- Ask why she wants them?
- Require that she put her request in writing?
- Charge her for the time you'll spend at the copy machine?
- Tell her you'll get her the copies four weeks from now?
- Only provide the records via email?

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Geraldine is back. She thinks you were too grumpy while responding to her last request and is *very* upset. Now she wants to see the following—must you comply?

- Her neighbor's payment plan agreement that includes a SSN
(she thinks that old coot is a cheater, too)
- The salaries for all employees in the collector's office
(she thinks y'all are way overpaid)
- Property tax payment records for all registered Democrats
(she is really mad that Hillary won her precinct)

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The newspaper requests a list of all homes assessed at \$1 million or more. How do you respond?

“We do not have such a list and do not need to create one.”

You run a database query and produce the requested list.


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RMV Tax Records



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Which of the following should NOT be disclosed to the public?

- Year, make and model of RMV listed for taxation.
- Value of RMV listed for taxation.
- License plate number of RMV listed for taxation.

All of the above are confidential and should not be disclosed to the public.

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The Skinny on Socials

- SS #'s obtained from taxpayers:
 - May be REQUIRED
 - May not disclose to general public
 - Must provide “Statement of Purpose”
 - **May only use as indicated in statement**
- SS #'s obtained from ANY other source:
 - May not disclose to general public
 - May use for any other lawful purpose
 - May share with other government agencies

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May the tax collector . . .

- Include SSNs on the tax bills its sends to taxpayers?
- Disclose SSNs to a bank to attach an account?
- Disclose a business's federal EIN?
- Share SSN w/ another local gov. tax collector?
- Tell taxpayer that the collector obtained the taxpayer's SSN from Accurint?

Two Very Different Public Records Questions

1. Do I have to **disclose** this record?
2. Can I **destroy** this record?

If a document is a public record,

- It must be saved for at least 3 years.
- It must be saved for at least 10 years.
- You might be able to destroy it immediately
- Don't give it to your new quarantine puppy to use as a chew toy.

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“When Can I Get Rid of This Junk?”

- The **Division of Archives and History** of the N.C. Department of Cultural Resources is charged with the responsibility of how and when public records may be destroyed.
- “Retention Schedules”
- <https://archives.ncdcr.gov/government/retention-schedules/local-government-schedules>

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“When Can I Get Rid of This Junk?”

- Real Property Record Cards:
 - 10 years or 2 reval cycles, whichever comes first
- “Public Records With Short-Term Value”:
 - drafts, fax cover sheets, etc.
 - destroy after reference value ends

**Your county is scheduled for a reval in 2021.
In October 2020, the board votes to
postpone the reval until 2024. Are the
assessments from the partially completed
reval public records?**

Yes

No

Yes, but the county could have destroyed them after the reval was postponed.



Frayda's Framework