

**OPINION NO. 76-089**

**Syllabus:**

The financial disclosure statement to be filed annually pursuant to Canon 6 (C) of the Code of Judicial Conduct and R.C. 102.02 is a public record to be made available to the press if requested and may be divulged without the written consent of the Board of Commissioners on

Grievances and Discipline of the Supreme Court of Ohio or the Ethics Commission.

To: John F. Holcomb, Butler County Pros. Atty., Hamilton, Ohio  
By: William J. Brown, Attorney General, January 30, 1976

I have before me your request for an opinion in which you ask whether the financial disclosure statement to be filed annually pursuant to Canon 6(C) of the Code of Judicial Conduct is a public record and, construing 102.02, whether the same may be made available to the press if requested. You have also asked whether the disclosure statement may be divulged without the consent in writing of the Ethics Commission.

Canon 6(C) of the Code of Judicial Conduct to which you refer in your request reads as follows:

**"C. Public Reports.**

"A judge should file annually the disclosure statement required by R.C. 102.02 and a report of the date, place, and nature of any quasi-judicial or extra-judicial activity for which he received compensation, and the name of the payor and the amount of compensation so received for such quasi-judicial or extra-judicial activity with the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio and with the clerk of the court on which he serves. The report required to be filed with the Board of County Commissioners on Grievances and Discipline shall be filed by April 15 of each year on forms provided by the Board."

R.C. 102.02 reads in pertinent part:

"(A) Every person who is elected to . . . a state, county, or city office . . . and every person who is appointed to fill a vacancy for an unexpired term in such an elective office . . . shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing: . . .

"(7) . . .

"A statement filed under this section shall be subject to public inspection."  
(Emphasis added.)

From the foregoing it is apparent that the disclosure statement to be filed pursuant to both Canon 6 (C) of the Code of Judicial Conduct and R.C. 102.02 is a public record under the general provisions of R.C. 149.43 ("Availability of Public Records") which reads in part:

"As used in this section, 'public record' means any record required to be kept by any governmental unit, including, but not limited to, state, county, city, village, township, and school district units, except records pertaining to physical or psychiatric examina-

tions, adoption, probation, and parole proceedings, and records the release of which is prohibited by state or federal law." (Emphasis added.)

As such it is also apparent that the disclosure statement is to be made available to the public, including the press and other news media pursuant to other provisions of R.C. 149.43:

"All public records shall be open at all reasonable times for inspection. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time." (Emphasis added.)

The general rule in Ohio in regard to public records is that, subject to proper regulations and restrictions and any statutory provisions to a different effect, the public records are open to inspection by any and all persons who choose to examine them, regardless of whether or not they have any definite interest in the subject matter thereof. State, ex rel. Louisville Title Ins. Co. v. Brewer, 147 Ohio St. 161 (1946); Krickenberger v. Wilson, 3 Ohio N.P. (n.s.) 179 (1905). In other words, public records are the people's records and, as such, are open to inspection by anyone at all proper times for all proper purposes. State, ex rel. Withworth Bros. Co. v. Ditty, 12 Ohio N.P. (n.s.) 319 (1911); Wells v. Lewis, 12 Ohio N.P. 170 (1901); subject only to the limitation that such inspection does not endanger the safety of the record, or unreasonably interfere with the discharge of the duties of the officer having custody of the same. State, ex rel. Sullivan v. Wilson, 24 Ohio L. Abs. 208 (1937); State, ex rel. Patterson v. Ayers, 171 Ohio St. 369 (1960).

Uncertainty in this area arises due to the fact that information, other than that on the disclosure statement, gathered pursuant to investigation of complaints by the Ethics Commission and the Ohio Supreme Court's Grievance and Disciplinary Board, is not public but, instead, confidential. R.C. 102.06; see R.C. 102.07.

R.C. 102.06 sets forth the powers and duties of the Ethics Commission and further provides that the disclosure statement required under R.C. 102.02 shall be filed with the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, which Board shall have the same powers and shall proceed in the same manner as the Ethics Commission.

R.C. 102.06 states in pertinent part:

"The ethics commission shall investigate complaints and charges presented to it and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 of the Revised Code, if the information sought is directly relevant to a complaint received by the commission pursuant to this section. Such information is confidential . . . ." (Emphasis added.)

Said section provides that proceedings of the Commission in connection with an investigation conducted pursuant to R.C. Chapter 102 shall be kept confidential, and further provides that if the Commission does not find, based upon a preponderance of the evidence that the facts alleged in a complaint are true and constitute a violation of R.C. 102.02, 102.03, or 102.03, it shall dismiss the complaint and:

" . . . upon the request of the accused person, make public report of that finding, but in such case, all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request by the accused person, the commission shall make the evidence and the record available for public inspection." (Emphasis added.)

From the language of R.C. 102.06 itself there can be little question that information gathered in pursuit of complaint investigation is different than the disclosure statement and has been carved out by law as an exception to the "public record" definition contained in R.C. 149.43.

Thus, I conclude that the confidentiality provisions of R.C. 102.06 apply to Commission and Board investigations, and do not apply to financial statements required to be filed under R.C. 102.02, wherein it is specifically provided that such statements are to be open to public inspection.

Accordingly, and in specific answer to your request it is my opinion and you are so advised that the financial disclosure statement to be filed annually pursuant to Canon 6 (C) of the Code of Judicial Conduct and R.C. 102.02 is a public record to be made available to the press if requested and may be divulged without the written consent of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio or the Ethics Commission.